

Darebin City Council

Local Government Investigations and Compliance Inspectorate Audit 16 – 20 January 2012

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| Reference | Darebin City Council |
| Version | Final |

Audit Background

The Local Government Investigations and Compliance Inspectorate (Inspectorate) is responsible for the delivery of a compliance audit program for all Victorian local councils. The audit framework is designed to assess local council compliance with the Victorian *Local Government Act 1989* (Act) and provide an independent appraisal of key processes surrounding council operations.

A key role of the Inspectorate is to promote voluntary compliance with the requirements of the Act and encourage best practice among councils. The Inspectorate is committed to assisting councils achieve clear, transparent governance and avoid possible breaches of the Act.

The compliance audit program encourages cooperation between the councils and the Inspectorate to promote an effective compliance culture and achieve transparent governance. The Inspectorate compliance team provides an assessment of current practices and timely advice on matters identified through the audit process. A further function of the Inspectorate is to identify best practice opportunities and provide advice for consideration to the broader local government sector.

The scheduled rolling audit program will see all 79 Victorian councils participate in a comprehensive audit process over the three year cycle.

Audit Process

The Inspectorate compliance team works with council staff to complete an audit checklist of individual audit topics derived from the Act to address areas identified as potential risks to council.

Prior to your council's audit, council staff were provided with a list of items to make available for the Inspectorate upon arrival. During the audit, the Inspectorate staff worked with key council staff members in order to source supporting evidence to confirm that council processes are compliant with the regulatory requirements of the Act.

This report includes an action plan providing recommendations for any areas of the audit in which council fell short of full compliance with the strict requirements of the Act. The findings and recommendations made by the Inspectorate are based solely upon the samples and material provided to the Inspectorate and examined for the purposes of this audit. Council is invited to respond to the recommendations made in the action plan.

The Inspectorate would like to thank you and your staff for assisting with the audit and hope that the process has assisted in promoting better practice within your council.

Performance Ratings

Each testing item was awarded one of three ratings depending on the council's level of compliance with the requirements of the Act. An explanation of each rating is below.

Compliant

The responses and supporting documentation supplied by council staff provide sufficient evidence that council has met the legislative requirements of the Act and there is no action required for this testing item.

Close to Compliant

Responses and supporting documentation supplied by council staff demonstrate that council has attempted to meet the requirements of the Act, however responses or supporting documentation may have fallen short of meeting the strict regulatory requirements of the Act and minor amendments to administrative procedures may be required.

Not Compliant

Responses and/or supporting documentation, supplied by council staff do not provide sufficient evidence that council has met the requirements of the Act, or were not supplied to the Inspectorate.

For each testing item where the Inspectorate identifies an area requiring action, the report offers recommendations for council to implement in order to achieve future statutory compliance. The report also provides comments or considerations for areas where the Inspectorate has identified an opportunity for council to achieve better practice.

Choose and Item Topic Summary

The following list is a summary of the testing items:

Compliant

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Not Compliant

No entries for this rating.

TESTING ITEMS

Councillor Code of Conduct

This item relates to section 76C of the Act.

Purpose

The purpose of this testing item is to confirm that a councillor code of conduct has been developed and approved, has been reviewed within the timeframes prescribed by the Act, has been provided to all councillors and is available for public inspection. The councillor code of conduct must:

- include the councillor code of conduct principles
- include provisions in respect of any matter prescribed for the purpose of section 76C of the Act.

In order to assess this item, the Inspectorate reviewed the councillor code of conduct document and consulted relevant staff about the details of the review process:

Rating

Compliant

It was noted that the *code of conduct was comprehensive, included the conduct principles and a copy of the code of conduct had been provided to each councillor for their reference upon being elected. The councillor code of conduct is also available on the councils internet site.*

Recommendations

There are no recommendations for this item.

Comments and Considerations

There are no further comments or considerations for this item.

Staff Code of Conduct

This testing item relates to section 95AA of the Act.

Purpose

The purpose of this testing item is to confirm that the CEO ensures that a council staff member code of conduct has been developed and implemented, is compliant with the requirements of the Act and that the document is available to all staff.

The staff code of conduct document is an essential guide for council to ensure that staff are fully aware of expectations concerning their conduct.

In order to assess this item, the Inspectorate reviewed council's staff code of conduct document to ensure compliance with the regulatory requirements of the Act.

Rating

Compliant

It was noted that the code of conduct was comprehensive, including the principles of conduct and that each staff member was made aware of the need to comply with the code and have ready access to a copy.

Recommendations

There are no recommendations for this item.

Comments and Considerations

There are no further comments or considerations for this item.

Special Meetings

This testing item relates to sections 84 and 93 of the Act.

Purpose

The purpose of this item is to confirm that the operation of the special meetings is compliant with the regulatory requirements of the Act.

Adherence to the requirements under the Act for all matters discussed at special meetings promotes transparency and ensures that all matters discussed are recorded and reported to council.

In order to assess this item, the Inspectorate reviewed council's minutes of special meetings and notices to call meetings for the 12 months preceding the audit.

The following samples were reviewed:

| Notice/Resolution Date | Matters Listed for Discussion | Minutes Reflect Items Discussed as per Notice/Resolution |
|------------------------|--|--|
| 28/03/2011 | The Local Authorities Super Fund | Compliant |
| 9/05/2011 | Budget Referrals 2011/2012, Strategic Resource Plan 2011-2015 and Proposed Budget 2011/2012 | Compliant |
| 5/12/2011 | Mayoral and Councillor Allowances and Support, Election of the Mayor 2011/12, Standing Committees for 2011/12, Community Advisory Committees for 2011/12, Appointment of Councillor Representatives to Community Organisations for 2011/12, Adoption of Council & Committee meeting schedule for 2011/12 | Compliant |

Rating

Compliant

It was noted that notices and the relevant minutes of the meetings are maintained in accordance with the Act.

Recommendations

There are no recommendations for this item.

Comments and Considerations

There are no further comments or considerations for this item.

Insurance

This testing item relates to section 76A of the Act.

Purpose

The purpose of this testing item is to confirm that council holds a current insurance policy against public liability for at least \$30 million and a policy against professional liability for at least \$5 million.

A sufficient insurance policy is an essential business requirement of the council.

In order to assess this item, the Inspectorate reviewed council's insurance policies to ensure their compliance with the Act.

Rating

Compliant

It was noted that current insurance policies as listed above, are held for amounts in excess of those recommended by the Act.

Recommendations

There are no recommendations for this item.

Comments and Considerations

There are no further comments or considerations for this item.

Budget

This testing item relates to sections 127 and 130 of the Act.

Purpose

The purpose of this testing item is to assess the preparation and submission of the council budget to confirm that the procedures are compliant with the regulatory requirements of the Act, and that budgets are submitted to the Minister by 31 August.

Effective budget management is essential to good business operation for a council; councils have a duty to manage public funds with integrity and regulatory compliance.

In order to assess this item, the Inspectorate reviewed council's most recent budget to establish whether it contains all specifications required by the Act, and that it was submitted to the Minister within the statutory timeframe.

Rating

Compliant

It assessing this item it was noted that the budget was submitted to the Minister on 5 July 2011 and contained the relevant information as required by the Act. It was further noted that all relevant public notices were placed in accordance with the requirements of the Act.

Recommendations

There are no recommendations for this item.

Comments and Considerations

The Inspectorate regards the Victorian City Council Model Budget as a best practice guide for local government budget reporting and recommends that councils refer to the document to ensure their budgets are compliant.

Rates and Charges

This item relates to sections 154 through to 167 of the Act.

Purpose

The purpose of this testing item is to assess whether council has adopted a rate system applying to general rates, municipal charges, and service rates and charges that is compliant with the regulatory requirements of the Act.

Compliance with the requirements of the Act ensures that rates are levied in a consistent manner in order to protect ratepayers' financial interests.

In order to assess this item, the Inspectorate looked at the current years' rates notices and the current council processes to confirm that council's approach to rates meets the statutory requirements of the Act.

Rating

Compliant

It was noted that all information requirements were met and a robust process is in place to ensure relevant milestones are met annually.

Recommendations

There are no recommendations for this item.

Comments and Considerations

There are no further comments or considerations for this item.

Oath of Office

This item relates to sections 63 and 64 of the Act.

Purpose

The purpose of this testing item is to confirm that each councillor has taken the oath of office before the CEO (dated, signed and recorded) within three months of election to council, and that the process was recorded in the council meeting minutes.

The oath of office is a legal requirement in order to ensure elected councillors legitimately hold office in council.

In order to assess this testing item the Inspectorate reviewed the signed oaths and minutes of the relevant council meeting.

| Councillor Name | Original Document Provided | Date Oath Taken | Oath Taken Within 3 Months of Election |
|------------------------|-----------------------------------|------------------------|---|
| Diana Asmar | Yes | 10/12/2008 | Compliant |
| Stanley Chiang | Yes | 10/12/2008 | Compliant |
| Benjamin Morgan | Yes | 10/12/2008 | Compliant |
| Nick Katsis | Yes | 10/12/2008 | Compliant |
| Vince Fontana | Yes | 10/12/2008 | Compliant |
| Tim Laurence | Yes | 10/12/2008 | Compliant |
| Gaetano Greco | Yes | 10/12/2008 | Compliant |
| Trent McCarthy | Yes | 10/12/2008 | Compliant |
| Steven Tsitas | Yes | 10/12/2008 | Compliant |

Rating
Compliant

It was noted that each councillor had appropriately taken the oath of office on 10 December 2008.

Recommendations

There are no recommendations for this item.

Comments and Considerations

There are no further comments or considerations for this item.

Annual Report

This item relates to sections 131 & 134 of the Act, and regulation 17 of the Local Government (Finance and Reporting) Regulations 2004.

Purpose

The purpose of this item is to ensure that the council's current annual report complies with the regulatory requirements of the Act, is available for public inspection and is submitted to the Minister by 30 September of that year.

Council is responsible to the Minister and residents, and the annual report is an important tool to provide all parties with a transparent account of council operations.

In order to assess this item the Inspectorate checked that the most recent annual report was available for public inspection, and that it was submitted to the Minister by 30 September.

Rating

Compliant

It was noted that the annual report contained the standard and financial statements as necessary and were certified accordingly by two councillors. The annual report was submitted to the Ministers office on 30 September 2011.

In accordance with Local Government (Finance and Reporting) Regulations 2004, regulation 17 prescribes that a council must hold a meeting to consider the annual report within one month of providing the report to the Minister. The Council considered the annual report at a meeting held on 17 October 2011 which is within the timeframes prescribed by the Act.

Recommendations

There are no recommendations for this item.

Comments and Considerations

The 2010/2011 annual report states that 'the Community Grants Committee is an advisory committee appointed pursuant to section 86 of the Local Government Act 1989'. It was noted through information provided that the Community Grants Committee is an advisory committee and not a section 86 committee. Council should ensure that this is reported correctly in the next annual report.

Sale of Land to Recover Unpaid Rates or Charges

This item relates to section 181 of the Act.

Purpose

The purpose of this item is to ensure that council has complied with the regulatory requirements of the Act for the sale of land to recover any unpaid rates or charges.

Councils must ensure strict compliance with the regulatory provisions to ensure their residents are afforded fair and proper processes involving the sale of their personal property.

Rating

Compliant

The Inspectorate was advised that the council had not entered into the sale of land to recover unpaid charges within the previous 12 months.

| Property Address | Public Notice of Intention Placed At Least 4 Weeks Before Sale or Transfer | Valuation of Property is Made Not More than 6 Months Prior to Sale or Transfer | Notification to Person Holding Interest of When and Where Auction Will be Held | Notification to Person Holding Interest Forwarded At Least 14 Days Before Auction |
|------------------|--|--|--|---|
| N/A | N/A | N/A | N/A | N/A |
| N/A | N/A | N/A | N/A | N/A |
| N/A | N/A | N/A | N/A | N/A |

Recommendations

There are no recommendations for this item.

Comments and Considerations

There are no further comments or considerations for this item.

Delegations

This item relates to section 98 of the Act.

Purpose

The purpose of this item is to assess council compliance with the regulatory requirements of the Act concerning its ability to delegate powers, duties or functions to individuals or groups within the council and to review the delegated powers as necessary.

Adherence to the delegation process requirements under the Act will ensure council delegations are made correctly and legitimately.

In order to assess this item, the Inspectorate reviewed the delegations register to confirm that all delegations were recorded and reviewed in accordance with the Act.

Rating

Compliant

It was noted that the council maintains a register of delegations made to council staff and that the delegations have been reviewed according to legislative requirements. It was also noted that a process is in place to ensure delegated officers are aware of the requirement upon them not to exceed the powers of the delegation made to them.

Recommendations

There are no recommendations for this item.

Comments and Considerations

There are no further comments or considerations for this item.

Audit Committee

This item relates to section 139 of the Act.

Purpose

The purpose of this item is to ensure that the council has established an audit committee according to the *regulatory requirements* of the Act.

An independent audit committee is considered a fundamental component of a good corporate governance structure.

In order to assess this item, the Inspectorate reviewed the audit committee charter and the audit committee minutes for the preceding 12 month period to assess compliance with the requirements of the Act.

Rating

Compliant

It was noted that the council has established an audit committee in line with section 139 of the Act. It was further noted that the council has taken into consideration the Guide, appointing independent members to the committee who hold appropriate qualifications and experience and making the committees charter available on the councils website for public inspection. The council also performs annual reviews of the committees performance as recommended by the Guide.

Recommendations

There are no recommendations for this item.

Comments and Considerations

There are no further comments or considerations for this item.

Documents Available for Public Inspection

This item relates to Regulation 11 of the Local Government (General) Regulations 2004 (Regulations).

Purpose

The purpose of this item is to confirm that all documents and registers listed under the Regulations and the Act are compliant with statutory requirements and maintained in a manner that ensures they are readily available for public inspection.

Effective management of these documents promotes compliance, transparency and accountability in council process.

In order to assess this testing item, the Inspectorate reviewed the registers of documents available for public inspection to assess their compliance with the Regulations.

Rating

Compliant

It was noted that all required documentation was current, and maintained in a manner that allowed for public inspection upon request. It was further noted that the council maintains a list of documents to be made available for public inspection on their internet website as required by section 82A (c) of the Act.

Recommendations

There are no recommendations for this item.

Comments and Considerations

Responsible officers are to be commended for the manner in which this information is maintained. Records kept were very comprehensive.

Assembly of Councillors

This testing item relates to sections 76AA & 80A of the Act.

Purpose

The purpose of this item is to confirm that the operation of assemblies of councillors are compliant with the regulatory requirements of the Act.

Adherence to the requirements under the Act for all matters discussed at assemblies of councillors promotes transparency and ensures that matters discussed are recorded and reported to council.

In order to assess this item, the Inspectorate reviewed the records of assemblies of councillors held in the 12 months preceding the audit.

Rating

Compliant

It was noted that a comprehensive written record of all assemblies of councillors is maintained in accordance with regulatory requirements.

Recommendations

There are no recommendations for this item.

Comments and Considerations

There are no further comments or considerations for this item.

Restriction on Power to Sell Land

This item relates to section 189 of the Act.

Purpose

The purpose of this item is to check that where council has sold land, it was sold in accordance with the requirements of the Act.

Adherence to the requirements under the Act promotes a competitive process and ensures that land is not sold without public consultation.

In order to assess this item, the Inspectorate reviewed one contract of sale entered into in the past 12 months:

| Property Address | Public Notice of Intention Placed At Least 4 Weeks Before Sale | Date of Sale of Property | Valuation of Property is Made Not More than 6 Months Prior to Sale |
|--|--|--------------------------|--|
| 3-32 Livingstone Street & 4-26 cool Street Reservoir | Compliant | Yet to be finalised | Compliant |
| N/A | N/A | N/A | N/A |
| N/A | N/A | N/A | N/A |

Rating

Compliant

It was noted that all legislative requirements were met in terms of section 189 of the Act for the sale of the Livingstone Street and Cools Street properties.

Recommendations

There are no recommendations for this item.

Comments and Considerations

There are no further comments or considerations for this item.

Restriction on Power to Lease Land

This item relates to section 190 of the Act.

Purpose

The purpose of this item is to assess that where council enters into a contract for the lease of council land, the process is in accordance with the regulatory requirements of the Act.

Adherence to requirements of the Act promotes transparency to stakeholders, ensuring that land is not leased without consultation. It will also ensure that the integrity of the lease process is maintained.

In order to assess this item, the Inspectorate reviewed a selection of contracts entered into by the council in the 12 months preceding the audit.

The Inspectorate was advised that the council has not entered into any lease agreements within the previous 12 months.

| Property Address | Start Date of Lease | End Date of Lease | Rental Value of Lease | Public Notice of Proposed Lease Placed At Least 4 Weeks Prior |
|------------------|---------------------|-------------------|-----------------------|---|
| N/A | N/A | N/A | N/A | N/A |
| N/A | N/A | N/A | N/A | N/A |
| N/A | N/A | N/A | N/A | N/A |

Rating

Compliant

It was noted that all legislative requirements were met in terms of section 190 of the Act.

Recommendations

There are no further comments or considerations for this item.

Comments and Considerations

There are no further comments or considerations for this item.

Procurement

This item relates to sections 186, 186A and 208G of the Act.

Purpose

The purpose of this item is to assess compliance with the regulatory requirements of the Act.

Adherence to the regulatory requirements of the Act promotes transparency and accountability to all stakeholders and allows for competitive tender processes to be undertaken.

In order to assess this item, the Inspectorate conducts questioning of relevant staff members in regard to the overall procurement process, and completes a review of a number of randomly selected contracts.

In order to assess this item, the Inspectorate reviewed the following randomly selected contracts:

- Provision of Cleaning Services for Council facilities (CT-201069)
- Supply of machinery, Operator and Labour for Excavation and Preparation of Concrete and Asphalt Works (CT-201074)
- Provision of maintenance of traffic signals (CT 201025)

Rating

Compliant

In evaluating the councils procurement processes it was noted that:

- the council has prepared and approved a procurement policy, and have reviewed it within this current financial year as per section 186(A).
- relevant staff are compliant with the procurement policy in terms of section 186(A)(9).
- all contracts above the threshold as documented in section 186 are subject to a tender process.
- in accordance with section 208G of the Act, the council had given effect to the best value principles via the Annual Report.
- council procurement practices are in line with the documented policy and in compliance with sections 186, 186A and 208G of the Act

Recommendations

There are no recommendations for this item.

Comments and Considerations

There are no further comments or considerations for this item.

Local Laws

This item relates to sections 111 & 119 of the Act.

Purpose

The purpose of this item is to confirm that the creation of all local laws comply with the regulatory obligations under the Act.

Adherence to requirements under the Act ensures consistency with the procedure adopted in creating the local law and that consultation has occurred with stakeholders. Public consultation is a regulatory requirement and allows public interaction in the local law creation process.

In order to assess this item, the Inspectorate reviewed the existing local laws:

- Parking Local Law 2002
- General Local Law 2005
- Governance Local Law 2007

Rating

Compliant

It was noted that the local laws unit of the council is aware of what local law needs to be reviewed and when. Given that it can be a 12 month or more process to review or make a local law, the local laws unit is fully conversant and aware of when the local law is to be made and what guidelines are to be followed.

Recommendations

There are no recommendations for this item.

Comments and Considerations

There are no further comments or considerations for this item.

Primary and Ordinary Returns - Councillors

This item relates to section 81 of the Act.

Purpose

The purpose of this item is to assess the council process to ensure primary and ordinary returns are submitted according to the statutory requirements of the Act.

In order to assess this item, the previous three returns for all current councillors were reviewed

The returns sampled were:

| Name | Ordinary Return Dec-10 | Ordinary Return Jun-11 | Ordinary Return Dec-11 |
|---------------------|-------------------------------|------------------------------|------------------------------|
| Cr Diana Asmar | NOT FOR PUBLIC RELEASE | Compliant | Compliant |
| Cr Stanley Chiang | | Compliant | Compliant |
| Cr Vince Fontana | | Compliant | Compliant |
| Cr Gaetano Greco | | Compliant | Compliant |
| Cr Nick Katsis | | Compliant | Compliant |
| Cr Timothy Laurence | | Compliant | Compliant |
| Cr Trent McCarthy | | Compliant | Compliant |
| Cr Benjamin Morgan | | Compliant | Compliant |
| Cr Steven Tsitas | | Compliant | Compliant |

Rating

Close to Compliant

It was noted that of the councillor primary and ordinary returns sampled, all were submitted within the timeframes as prescribed under section 81 of the Act. However the December 2010 return for **NOT FOR PUBLIC RELEASE** was not witnessed.

Recommendations

Council needs to ensure that councillors are aware of their obligations under section 81 of the Act. This includes the requirement to sign all returns to be submitted and for those returns to be witnessed at the time of signing.

Comments and Considerations

Documentation and commentary were provided which demonstrated that the council has a robust process in place in terms of the initial communication with councillors and the subsequent follow up process. Responsible staff should be commended for their work in developing a sound administrative process for the submission of returns.

Primary and Ordinary Returns - Nominated Officers

This item relates to section 81 of the Act.

Purpose

The purpose of this item is to assess the council process to ensure primary and ordinary returns are submitted according to the statutory requirements of the Act.

In order to assess this item, the process is reviewed along with a random sample of three nominated officer returns for the previous three return periods.

The returns sampled were:

| Name | Primary Return | Ordinary Return Dec-10 | Ordinary Return Jun-11 | Ordinary Return Dec-11 |
|-------------------------------|----------------|------------------------|------------------------|------------------------|
| NOT FOR PUBLIC RELEASE | N/A | Compliant | Compliant | Compliant |
| | Compliant | N/A | Compliant | Compliant |
| | Compliant | N/A | Compliant | Compliant |

Rating

Compliant

It was noted that of the nominated officer primary and ordinary returns sampled, all were submitted within the timeframes as prescribed under section 81 of the Act.

Recommendations

There are no recommendations for this item.

Comments and Considerations

Documentation and commentary were provided which demonstrated that the council has a robust process in place in terms of the initial communication with nominated officers and the subsequent follow up process. Responsible staff should be commended for their work in developing a sound administrative process for the submission of returns.

Special Committees

This item relates to sections 81, 86 and 87 of the Act.

Purpose

The purpose of this item is to assess council compliance with the regulatory requirements of the Act for special committees, including their primary and ordinary returns and instruments of delegation.

Adherence to the requirements of the Act for special committees will ensure they are properly constituted and compliant with all statutory requirements of the Act.

In order to assess this item, the Inspectorate reviewed the instruments of delegations register, register of primary and ordinary returns and minutes of meetings. The Inspectorate assessed the statutory compliance for the following special committee(s) for the purpose of this audit:

| Committee Name | Members Exempted from Submitting Returns | Minutes of Meetings Held | Minutes of Meetings Signed | Delegations Reviewed |
|--|--|--------------------------|----------------------------|----------------------|
| Planning Special Committee | No | Compliant | Compliant | Compliant |
| Hearing of Submission Special Committee | No | Compliant | Compliant | Compliant |
| Bundoora Homestead Board of Management Special Committee | No | Compliant | Compliant | Compliant |

| Committee Member Name | Primary Return | Ordinary Return Dec-10 | Ordinary Return Jun-11 | Ordinary Return Dec-11 |
|---|-----------------------|-------------------------------|-------------------------------|-------------------------------|
| Diana Asmar Planning Special Committee | N/A | Compliant | Compliant | Compliant |
| Vince Fontana Hearing of Submissions Special Committee | N/A | Compliant | Compliant | Compliant |
| Heather Shand Bundoora Homestead Board of Management Special Committee | N/A | Compliant | Compliant | Compliant |

Rating

Compliant

It was noted that of the special committee member's primary and ordinary returns sampled, all were completed and submitted in accordance with section 81 of the Act. It was further noted that minutes for all special committee meetings were held by council and had been appropriately signed by the chairperson of each committee as required under section 93 of the Act. All delegations made to special committees were appropriately reviewed on 2 February 2009 (Planning and Hearing of Submissions Special Committees) and 16 March 2009 (Bundoora Homestead Board of Management Special Committee) in accordance with the Act.

Recommendations

There are no recommendations for this item.

Comments and Considerations

Documentation and commentary were provided which demonstrated that the council has a robust process in place in terms of the initial communication with special committee members and the subsequent follow up process. Responsible staff should be commended for their work in developing a sound administrative process for the submission of returns and for the extensive and comprehensive maintenance of special committee records.

Council Plan

This item relates to sections 125 and 126 of the Act.

Purpose

The purpose of this item is to assess whether council is compliant with the statutory requirements of the Act for the council four year plan.

The council plan is an important document for council to refer to and measure achievement, particularly when preparing the annual report. Properly addressing all statutory requirements of the Act will ensure council meets its responsibilities to residents.

In order to assess this item the Inspectorate reviewed the current four year plan to confirm it contains the information required by the Act, and that it was prepared and applied within six months of the last general election (or by 30 June following the election, whichever is later).

Rating

Compliant

It was noted that the council plan detailed the requirements as set out in sections 125 and 126 of the Act.

Recommendations

There are no recommendations for this item.

Comments and Considerations

There are no further comments or considerations for this item.

Power to Accept Gifts

This item refers to section 188 of the Act.

Purpose

The purpose of this item is to assess council process with regard to accepting gifts, to identify if these comply with statutory obligations.

Adherence to the requirements of the Act will ensure that any conditions placed upon the gift to council are met. Compliance with this statutory requirement promotes a transparent approach to council's receipt of gifts.

In order to assess this item the Inspectorate examined any register or document detailing the gift.

Whilst not a legislative requirement, in addition to the above review, the Inspectorate also carried out a review of any council staff and councillor gift policies, and viewed the register(s) that have been created to record the acceptance/decline of gifts.

Rating

Compliant

It was noted that the council had not accepted any devise (property from estate) of real property or any donation, gift or bequest in the previous 12 months.

Recommendations

There are no recommendations for this item.

Comments and Considerations

Council has a policy to address the acceptance of gifts by councillors and council staff, however these policies could be a little more comprehensive in outlining processes for the declaration of gifts to council (including bequests), gifts to council staff and gifts to councillors. This may include but is not limited to setting a gift threshold to help further define the policy around the acceptance of gifts. Council may wish to consider including on the gift declaration forms the reasoning behind the manager's decision to allow staff to retain any gift (or where appropriate return or donate the gift). Managers should consider the relationship between the gift provider and the gift recipient in making their decision and where appropriate it should also be recorded on the gift declaration form. Council may wish to consider providing training to staff and councillors around what is considered an acceptable gift and under what circumstances gifts may be accepted/declined etc. Council may wish to consider

undertaking routine audits of the gifts registers (both councillors and council staff) to ensure that all information required to be entered into the register is completed on the gift declaration forms. There were several instances where gift values were not filled out by councillors on the gift declaration form and therefore this information was not transferred to the gift register. Council may wish to consider implementing a process where by gift declaration forms are reviewed for completeness.

Employment of Senior Officers

This testing item relates to section 95A and 97A of the Act.

Purpose

The purpose of this item is to assess council compliance with the requirements of the Act for the employment of senior officers.

There is the possibility that any contracts not compliant with the requirements of the Act may be deemed void.

For the purposes of this audit, the Inspectorate reviewed all senior officer contracts.

| Senior Officer Name | Employment Tenure | | Performance Criteria | Performance Review (most recent) |
|---------------------|-------------------|-------------|----------------------|----------------------------------|
| | Start Date | Expiry Date | | |
| | | | Compliant | Compliant |
| | | | Compliant | Compliant |
| | | | Compliant | Compliant |
| | | | Compliant | Compliant |
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| | | | Compliant | Compliant |
| | | | Compliant | Compliant |
| | | | Compliant | Compliant |
| | | | Compliant | Compliant |

NOT FOR PUBLIC RELEASE

| Senior Officer Name | Employment Tenure | | Performance Criteria | Performance Review (most recent) |
|---------------------|-------------------|-------------|----------------------|----------------------------------|
| | Start Date | Expiry Date | | |
| | | | Compliant | Compliant |
| | | | Compliant | Compliant |
| | | | Compliant | Compliant |
| | | | Compliant | Compliant |
| | | | Compliant | Compliant |
| | | | Compliant | Compliant |
| | | | Compliant | Compliant |
| | | | Compliant | Compliant |

NOT FOR PUBLIC RELEASE

Rating
Compliant

In viewing the senior officer contracts it was confirmed that all senior officers are employed under fixed term contracts for a period no greater than 5 years and that each of the senior officers have had their performance reviewed within the last 12 months.

Recommendations

There are no recommendations for this item.

Comments and Considerations

Council may wish to review their terms for engaging external recruitment agencies to undertake the appointment of senior officers. It was noted that the paperwork in relation to all senior officer appointments since 2010 maintained by the council is limited and does not show who applied for the position, who was shortlisted and the reasons why and who was selected to take up the position and the reasons why. The lack of information maintained therefore does not demonstrate that the recruitment process was open and transparent. It was noted however that the council has complied with section 94B of the Act which relates to the advertising of senior officer positions.

Authorised Officers

This item relates to section 224 of the Act.


Purpose

The purpose of this item is to review council's authorised officers register to establish whether it complies with the statutory obligations of the Act.

The regulatory requirements placed upon the council ensure that all authorised officers have been provided with a current identity card for public identification and that all cards comply with the Act.

In order to assess this item the Inspectorate reviewed the register of authorised officers, identity cards.

The following sample of authorised officer cards was reviewed:

| Authorised Officer | Date Identity Card Issued | Card Contains Information Prescribed by Section 224(3) of Act |
|---|---------------------------|---|
|  | 31/08/2011 | Compliant |
| | 18/11/2005 | Compliant |
| | 8/12/2008 | Compliant |

Rating

Close to Compliant

It was noted that the council maintains a register detailing the names of all authorised officers and that all authorised officers are fully aware of their roles and responsibilities. Through documentation provided it was not demonstrated however that each authorised officer had been issued with an identity card as per section 224 of the Act.

It was noted that of the authorised officer identity cards sampled, all featured the information as prescribed by section 224 (3) of the Act.

Recommendations

Council need to implement a process to ensure that each authorised officer is issued with an identity card and that accurate records are maintained which outline the date the card was issued, the name of the card holder and when the card was returned by the authorised officer.

Comments and Considerations

There are no further comments or considerations for this item

Councillor and Mayoral Allowances

This item relates to section 74 of the Act.

Purpose

The purpose of this item is to ensure that council has adopted councillor and mayoral allowance in accordance with the Act.

Council compliance in regard to the payment of councillor and mayoral allowances is necessary to ensure that elected officials are receiving the correct entitlements.

In order to assess this item the Inspectorate reviewed council records detailing the councillor and mayoral allowances.

Rating

Compliant

It was noted that mayoral and councillor allowances have been reviewed and adjusted according to regulatory requirements.

Recommendations

There are no recommendations for this item.

Comments and Considerations

There are no further comments or considerations for this item.

Councillor Reimbursement Policy

This item relates to section 75B of the Act.

Purpose

The purpose of this item is to ensure that council has adopted and implemented a policy in relation to the reimbursement of councillors.

Council compliance in regard to the payment of councillor reimbursements is necessary to ensure these persons are receiving the correct entitlements.

In order to assess this item the Inspectorate reviewed the council policy.

Rating

Compliant

It was noted that a policy had been created which contained the prescribed procedures in relation to claiming out of pocket expenses in line with the regulatory requirements of the Act.

Recommendations

There are no recommendations for this item.

Comments and Considerations

There are no further comments or considerations for this item.

Election of Mayor

This item relates to section 71 of the Act.

Purpose

The purpose of this item is to ensure that council has complied with the statutory requirements of the Act to elect the council mayor.

In order to assess this item the Inspectorate reviewed council records detailing the minutes of the meeting in which the mayor was elected.

Rating

Compliant

It was noted that the most recent election of the mayor was conducted in accordance with the regulatory requirements of section 71 on 5 December 2011.

Recommendations

There are no recommendations for this item.

Comments and Considerations

There are no further comments or considerations for this item.

Darebin City Council Action Plan

This action plan addresses the testing topics where the Inspectorate has identified areas requiring council action to achieve regulatory compliance. Each action item has been allocated a time-priority according to its business impact, as defined in the table below.

Council should review the draft action plan and provide comment to the Inspectorate in the space provided. Comments should be received by the Inspectorate **by COB 24 February 2011**. Upon receiving the completed action plan from council the Inspectorate will forward the audit report containing the agreed action plan and overall findings to the CEO. It is recommended that a copy of this audit report be given to the mayor and the chair of the audit committee. The aim of the audit process is to provide council with the opportunity to achieve full compliance for current and future requirements within the agreed timeframes.

| Priority | Definition | Timeframe |
|-----------------|--|---------------|
| High Priority | High business impact. This condition requires urgent resolution by the council of the issue. | 1 – 8 Weeks |
| Medium Priority | Medium business impact. This condition requires prompt resolution by the council of the issue. | 8 – 12 weeks |
| Low Priority | Low business impact. This condition has minimal impact on the business of council. The recommendation should be implemented in a measured timeframe. | 12 – 16 weeks |

Darebin City Council Action Plan 2011

| Testing Item | Recommendation | Priority |
|---|---|-------------|
| Primary and Ordinary Returns - Councillors | Council needs to ensure that councillors are aware of their obligations under section 81 of the Act. This includes the requirement to sign all returns to be submitted and for those returns to be witnessed at the time of signing. | High |
| Council Comment: (Agree/Disagree – Why?) | Following the submission by a Councillor of an unwitnessed declaration in February 2011, the process for managing submissions was reviewed to improve the information provided to form recipients, and to introduce a follow up process in the event of an incomplete form being submitted. | |
| Action(s) to be Undertaken | This issue was addressed in the review of the process in early 2011 and no non complying forms have since been submitted. No further action is warranted. | |
| Timeframe for Completion | These actions were completed in June 2011. | |

Darebin City Council Action Plan 2011

| Testing Item | Recommendation | Priority |
|---|---|-------------|
| Authorised Officers | Council need to ensure that there are processes in place to ensure that each authorised officer is issued with an identity card and that there is documentation maintained which demonstrates that each authorised officer has been issued with an identity card. | High |
| Council Comment: (Agree/Disagree – Why?) | Council's existing process includes a register of authorised officers containing their original signed "instrument of appointment and authorisation". Following the Inspectorate's identification of this issue during the audit, the process has been reviewed and the register now also includes a copy of their signed identity card as evidence that it has been. | |
| Action(s) to be Undertaken | This issue was addressed in the review of the process in February 2012 and identity cards are no longer issued to authorised officers unless they sign a register to acknowledge receipt. No further action is warranted. | |
| Timeframe for Completion | These actions were completed in February 2012. | |

Inspectorate acknowledgement

The Inspectorate provides this report to promote compliance with the governance requirements of the Act. The findings and recommendations made by the Inspectorate are based solely upon the samples and material provided to the Inspectorate and examined for the purposes of this audit.

The Inspectorate consents to take no further action on the basis that the council action plan is implemented within the stated timeframes and supporting written confirmation is provided in relation to the items audited.

CEO acknowledgement

I accept the recommendations contained in this report and commit to the implementation of the council action plan. Written advice will be provided to the Inspectorate within the required timeframes to demonstrate our level of compliance.

Signed _____ **Date** _____

(Chief Executive Officer/or Delegate)

Council _____