

WELCOME to the final edition of the Local Government Investigations and Compliance Inspectorate (Inspectorate) newsletter for 2011.

In this issue we tell you about the conviction of former Brimbank councillor Tran Siu and make sure you know about your rights when dealing with the Inspectorate. We also talk special committees and take a look at the Inspectorate online. This month also sees the first electronic version of our newsletter so go to our website to [sign up](#) for enews. We hope you enjoy this edition and welcome your feedback. Get in touch at inspectorate@dpcd.vic.gov.au.

Inspectorate v Tran Siu - The breach and the conviction

The printing and distribution of unregistered how-to-vote cards is a breach of section 56 of the *Local Government Act 1989 (Act)*. Providing false or misleading information to an Inspector of Municipal Administration is a breach of section 223C of the Act. Both breaches carry serious penalties.

But that didn't stop former Brimbank councillor Tran Siu from doing just that.

More than two years after publicly denying it and lying to the Inspectorate, Mr Siu was convicted in Sunshine Magistrates' Court on 5 September 2011 for printing and distributing unregistered how-to-vote cards and providing false information and misleading the Inspectorate.

The conviction means Mr Siu is banned from standing for council or federal parliament, or from becoming a company director for seven years. He was also ordered to pay \$11,500 in fines and costs. Mr Siu had initially pleaded not guilty but, after a long investigation and in the face of compelling evidence, Mr Siu changed his plea to guilty.

During the investigation the Inspectorate sourced expertise from the Australian Federal Police (AFP) and an international agency to gather conclusive evidence that proved Mr Siu had in fact ordered and paid for the unregistered cards.

Statistics provided by the Victorian Electoral Commission showed that 95% of individuals who voted for Tran Siu followed the preferences on the unregistered cards, strongly suggesting they altered voting patterns and influenced Mr Siu's election to council.

"Distributing the unregistered how-to-vote cards clearly influenced the outcome of the election," said the Chief Municipal Inspector, David Wolf.

In his closing statement, Magistrate Peter Melas said if people lose faith in the system, the general public will begin to second guess what elected representatives are doing.

"The public, when they vote, are entitled to rely on the integrity of the system," said Magistrate Melas.

"There needs to be deterrents so that you don't cross this line again," he said before convicting Mr Siu of both offences.

"The Inspectorate works very hard to deter corrupt behaviour and breaches of the Act," said Mr Wolf.

"This outcome sends a strong message to local government councillors and candidates of the importance of the democratic electoral process and the ramifications for those who attempt to subvert it," he said.

The Inspectorate will be placing a high level of scrutiny on councils and candidates in the lead up to next year's elections to ensure public confidence in a fair and transparent democratic electoral process.

Right: The unregistered how-to-vote card printed by Tran Siu



Weaving a new web

The Inspectorate website has recently been overhauled and now has more information about the Inspectorate including jurisdiction, making a complaint, preparing for an audit, past case studies and much more.

Information is grouped under easy to follow, logical headings, to help you find out exactly what you need to know.

Whether you're a council CEO preparing for an audit or an individual wanting to know what complaints the Inspectorate can investigate, you can find everything you need online.

It's all just a few clicks away.



Special Committees, how many do you have?

After conducting compliance audits at more than 40 of Victoria's 79 local councils, the Inspectorate has discovered that the management of special committees is a common area requiring improvement across the local government sector with some councils unsure of just how many they actually have.

"We have seen examples of councils with over 40 special committees and others with none, which has highlighted the vast differences in the way councils use special committees," said Inspector of Municipal Administration Patti Thyssen.

Under section 86 of the [Local Government Act 1989 \(Act\)](#), a council may establish one or more special committees of councillors, council staff, other persons or any combination of these.

When a council delegates powers, functions or duties to a special committee, it hands over the power to make decisions on behalf of (or acting in place of) the council itself. This is why the Act subjects special committees to the same statutory procedures and conduct as the council.

The requirements Sections 81, 86, 87 and 98 of the Act outline the requirements council must adhere to when establishing and maintaining special committees. A comprehensive list of the special committee issues is covered in [our latest information bulletin](#) on our website.

The good news Wellington Shire Council in South Eastern Victoria was recently audited by the Inspectorate and provided an excellent example of an effective way of managing special committees.

"A key role of the Inspectorate is to promote examples of best practice to the local government sector so we can encourage a voluntary compliance culture and good governance; Wellington is one of those great examples," said Miss Thyssen.

Wellington Shire Council acting CEO, Paul Holton, said his council strives for best practice processes and was pleased with the Inspectorate's feedback.

"We take our responsibilities around special committees seriously and want to make sure that we meet all statutory requirements, as well as use best practice processes," said Mr Holton.

"We were pleased that the Inspectorate's audit confirmed that our practices are effective and we are doing the right thing," he said.

The fix If you haven't done so recently, now is the time to conduct an internal review of your council's special committees. Read our [latest information bulletin](#) to find out more, including tips straight from Wellington.

Out and About

The Inspectorate has been active across Victoria speaking with councils, particularly council administration, about the role of the Inspectorate and how we can work together. With the lead up to next year's elections and the focus on conflicts of interest, now is a good opportunity to meet with councillors and speak about what we do and what we have found.

If you would like the Inspectorate to visit your council, [get in touch today](#).

Dealing with the Inspectorate: Your rights

We understand that being the subject of an investigation can be stressful so it's important to know your rights and to remember that the Inspectorate conducts all investigations in accordance with best practice principles and procedural fairness. Natural justice is always afforded to participants.

Inspectors of Municipal Administration are appointed under section 223A of the [Local Government Act 1989 \(Act\)](#), with the powers of the Inspectorate stipulated in section 223B of the Act.

The Inspectorate investigates matters relating to council operations and breaches of the Act involving a councillor, a senior council officer or any individual subject to the conflict of interest provisions within the Act; or any individual where the matter relates to electoral provisions.

When the Inspectorate is investigating a matter, individuals accused of a breach may be invited to a voluntary interview under caution or may be required to appear under oath or affirmation.

Voluntary under caution means that you have agreed to take part in an interview voluntarily. You will be cautioned at the start of the interview that anything you say or do may be used in evidence against you in court proceedings. You will be informed of your rights and asked if you wish to exercise them. You are under no obligation to appear or to answer questions and you can leave at any time.

Required under oath or affirmation means that you are required to appear before the Inspectorate for interview under section 223B of the Act. Unless you have a lawful excuse, it is an offence to fail to appear. The Inspectorate will serve you with a notice in writing if you are required to appear.

A person appearing before the Inspectorate is entitled to be represented by another person and can exercise their privilege against self incrimination. This means the right to refuse to answer a question if the answer may incriminate the person.

In some circumstances interviews may be recorded. If you take part in a recorded interview, you will receive a copy of the recording.

Point of no returns

Did you know that if primary and ordinary returns are not submitted to council within the required timeframe, individual special committee members could be fined over \$7,000?

Primary and ordinary returns are designed to promote transparency and are a good tool to prevent conflict of interest issues arising when special committee members are making decisions.

Under section 81 of the Act, a member of a special committee must complete a primary return within 30 days of becoming a member, and subsequent ordinary returns twice a year, to the Chief Executive Officer, unless the member has been exempt by council from doing so.