

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Inquiry into Fraud and Corruption Control in Local Government: A Follow Up of Two Auditor-General Reports

Melbourne – Monday 31 March 2025

MEMBERS

Sarah Connolly – Chair

Nicholas McGowan – Deputy Chair

Jade Benham

Michael Galea

Mathew Hilakari

Lauren Kathage

Aiv Puglielli

Meng Heang Tak

Richard Welch

WITNESS

Mike Gooley, Executive Director, Local Government Victoria.

The CHAIR: I declare open this hearing of the Public Accounts and Estimates Committee and ask that mobile telephones please be turned to silent.

I begin by acknowledging the traditional Aboriginal owners of the land on which we are meeting, and we pay our respects to them and their elders past, present and emerging, as well as elders from other communities who may be here with us today.

On behalf of the Parliament the committee is conducting this Inquiry into Fraud and Corruption Control in Local Government: A Follow Up of Two Auditor-General Reports.

I advise that all evidence taken by the committee is protected by parliamentary privilege. However, any comments repeated outside of this hearing may not be protected by this privilege.

Witnesses will be provided with a proof version of the transcript to check, and verified transcripts, presentations and handouts will be placed on the committee's website.

I welcome Mr Mike Gooley, Executive Director for Local Government Victoria. I invite you to make an opening statement or presentation of no more than 5 minutes, after which time we will have a chat, and the committee will ask you some questions.

Mike GOOEY: Thank you, Madam Chair. Thank you for the opportunity to come and speak. I acknowledge that we are on the unceded lands of the Kulin nation.

I do have a quick set of slides to run through, as much as anything to keep me on track as anything else. I will just run through the role of the Department of Government Services and then council governance and integrity and the role of Local Government Victoria.

Visual presentation.

Mike GOOEY: As you can see, it is obviously straightforward in the sense that DGS does support the Minister for Local Government with regard to policy advice, administering the legislation and all the things that you would imagine. If you like, it is about the stewardship of the local government sector. The other thing that is really important in particular is administration of the councillor conduct framework. We also look after a significant amount of grants, so we support the Victorian Local Government Grants Commission. They do the allocation of the financial assistance grants from the Commonwealth as well as look after a number of grants that are a part of the state government funding that supports local government. We also provide advice to the minister with regard to setting the rate cap in conjunction with the Essential Services Commission – so, a fair few moving parts. Also, we look after the reporting frameworks for local government. In the context of this particular inquiry, though, the most important thing is our role, if you like, as a steward of the system with regard to working with the Local Government Inspectorate, IBAC, VAGO and the Ombudsman, who you have all spoken to today, and then also the work that we do with the various peak bodies, who you have also spoken to. We work closely and collaboratively with them as well as the 79 councils.

With regard to fraud and corruption, though, it is important to note that the minister does have very specific intervention powers, but they are not really about fraud and corruption per se, just to be very clear. It is all around the governance of elected officials. The sorts of things that the minister can do with regard to interventions are, as it says up there, monitors, suspension of councillors, appointments of commissions of inquiry and referral to various integrity agencies. We support the minister in the use of those powers. It is important that we recognise that there are legislative thresholds to the use of any of those powers. It is an important thing to reflect on. As it says there, it is obviously important to note that often fraud and corruption can be as a result of poor governance systems and practices. Again, I imagine you would have

heard today from a number of people examples of where that has occurred, and that occur both within the organisations and within the council or cohort or within both. It is one of those things in which the operating environment and the culture of the organisation have a lot to do with how these things come about.

There is the important role, when we think about culture and councillor behaviour, of the framework that sits under the *Local Government Act*, the councillor conduct framework. Obviously there are levels that can be dealt with. Misconduct is where a councillor can make an application for an arbiter to come in and look at issues with regard to abusive, obscene or threatening behaviour. That steps up into serious misconduct, which can be issues around conflict of interest or in fact misuse of position or gross misconduct, which is questions such as whether a person is a fit and proper person to be a councillor. There are some stepwise issues that sit around the roles that councillors can play with their colleagues with regard to holding people to account for their behaviours. The other important thing is that framework does operate in concert with the other integrity agencies – obviously IBAC if it is with regard to criminality; if there are actual breaches of the Act then it is the Local Government Inspectorate. Those sorts of things are really important to think about in terms of the framework.

Next slide. We will just run through the moving parts. I know one of the questions that came from the committee was to think about the Act itself. As far as legislation goes it is a relatively new Act, the 2020 Act, and then there were some amendments made to it in October last year. The recent amendments to the legislation are focused on governance and integrity, and a lot of that was based on the last four years in particular. I am sure a number of witnesses have spoken to Operation Sandon. It has also been quite a busy period, the last four years, with regard to monitors being appointed to a number of councils. But the amendments were brought in prior to the new council term last year, and that includes, as I am sure you would have heard today from various witnesses, the introduction of ongoing mandated training for mayors and councillors both in terms of induction but also annual requirements. There were also some improved parts of the framework with regard to the Model Councillor Code of Conduct, some strengthened sanctions that sit around that, some stronger powers for the minister to address councillor conduct and then some changes with regard to the enforcement for the chief municipal inspector. All of those changes were really based on what we heard from monitors, what we heard from commissions of inquiry and also then obviously some of the administrators. I understand you have spoken to a number of administrators this morning as well. One of those things is it is a dynamic space. I think that is probably the reality.

Let me just quickly go to audit and risk committees. You would have heard about audit and risk committees today as you were going along. The Act is very specific with regard to provisions, assigning a set of responsibilities for the monitoring of council business, but also really clear with regard to how those committees provide advice to council around risk management and fraud prevention. This is all about being very clear that it is a third independent tier of government responsible for its own operating, and one of those ways of doing that is having the requirements around the audit and risk committees. We are working with the peak bodies and also with subject matter experts such as the independent members on audit risk committees actually just to do some updating around what are the guidelines, where are we at with those, but also then thinking about making sure that audit programs and everything else align with best practice. That might be it.

The CHAIR: Thank you. We will go straight to Mr Welch.

Richard WELCH: Thank you. We heard earlier today that the timeliness of reporting upward to the minister and/or to you may not be appropriate with some of the integrity agencies if they are mid-investigation. But certainly from VAGO at the moment my understanding is you are only getting an update once a year when they table their report. Would there be benefit in getting more timely reporting throughout the year?

Mike GOOEY: Probably, from a Local Government Victoria perspective, not really, in the sense that we do work very closely with the 79 councils already in that we have a reasonable sense of what is going on. Obviously we are not forensically looking at everybody, but the reporting frameworks are probably timely enough on top of the other intelligence that we get. And it is not only us but also obviously the

integrity agencies themselves. Obviously for a whole range of reasons they do not share a lot of their information with us, but where there are red flags, I believe that probably the reporting is enough. I will just say this is my off-the-cuff opinion really, but the reporting cadence I think could be too often when we think about the Auditor-General having to go out and provide more than the single-year reviews, because the systems and processes work with the financial year.

Richard WELCH: Yes, I can appreciate that. But I guess I would be thinking in the realms of if they have already identified an issue they are doing active follow-ups through the year, and maybe they are not satisfied with the progress on those follow-ups. Wouldn't that be very pertinent to your work?

Mike GOOEY: That is true. Actually, Mr Welch, there are of course instances where there have been monitors in particular councils, and the monitors' reports have come back to the minister and the minister has then written back to councils and also to the Auditor-General saying, 'I would like you to have a particular look at this council over the next period.' So there are those sorts of follow-ups, yes.

Richard WELCH: Right, some ways to join the link up.

Mike GOOEY: That is right, yes.

Richard WELCH: There has been some success with the issue of some standard templates around budgeting and other things – not so yet with grants I understand. Is it within the realm of your existing powers that you will be able to put additional templates where appropriate in place, or do you need additional powers to do that?

Mike GOOEY: We do not need additional powers. With regard to grants, we do actually leave them in the hands of local government with regard to the administration of those. So we have the grants that we administer to local councils, and then local councils have their own resources and they run their own granting programs. So we do not tend to have direct oversight of those in any way, shape or form. We tend to have agreements that are around the grants that come from the state or the Commonwealth.

Richard WELCH: Okay, not in the way it was. There are increasing enforcement powers for the Local Government Inspectorate. I guess there are questions in that. Could you just explain a little bit about those, and in addition to that, has the inspectorate been given the funding or resources to actually apply those additional powers?

Mike GOOEY: Sure. Probably the most pertinent of the powers that came from the most recent regulations are to do with personal disclosure and election donation disclosures. If they are not disclosed, then that is an offence. The Local Government Inspectorate is responsible for investigating those. With regard to appropriate funding and resources, I will use the obvious bureaucratic answer and say that is a question for the Department of Justice and Community Safety. But certainly there is a lot happening in the space, and I am sure you would have heard from the chief municipal inspector this morning.

Richard WELCH: Okay. Great. Thank you, Chair.

The CHAIR: Thank you, Mr Welch. We will go to Mr Galea.

Michael GALEA: Thank you, Chair. Thank you for joining us today, Mr Gooley. To begin with, we have covered and the VAGO reports discuss the significant variance between some of the councils they audited in terms of the amount per capita of grants they give. You mentioned as well that part of your function is to administer federal grants. Can I just ask at the outset: how does your team accommodate the very big horizontal fiscal imbalance between different councils? Some inner city councils can raise all sorts of money through parking revenue and other ways, and others are in the outer suburbs having to build all these new streets and roads and having to do a lot more.

Mike GOOEY: Thank you for your question. Yes, that is a very important issue. The ability to raise rates varies across the state. I wish that I had the executive officer for the commission here because he would give you a long answer, but there are effectively a whole series of things which are considered when

distributing the financial assistance grants, and they run from socio-economic data down to the ward level but also across the whole of the municipality, the forward spend of the municipality in terms of their 10-year plans and then also the required needs and their ability to raise rates and other service fees and charges. All of those things are taken into consideration, so we do end up with what is effectively a skewing of more funding per capita going to rurals than for the metros.

Michael GALEA: And is that a distinct definition, then, between rural and metro, or is there a distinction within outer and inner regional and outer and inner metropolitan as well?

Mike GOOEY: We do tend to think about the clumps, if you like, as metro, peri-urban, regional cities and rural, and all of them have, obviously, different abilities to raise rates and charges.

Michael GALEA: So from the perspective of LGV, with all those considerations would you expect that most councils would be delivering a similar amount of grants funding per capita?

Mike GOOEY: The financial assistance grants or untied grants?

Michael GALEA: I mean council grants to community groups.

Mike GOOEY: Really that is in the hands of councils themselves as to what amounts of resource they are putting out for grants, so it is variable. LGV does not have a view per se.

Michael GALEA: Sure. Maybe to ask a better way: the grants which you administer, either through state or federal, do they balance the playing field fully so that they can then make their decisions about how much grants councils give or is there still a gap between those more advantaged councils, the ones that can raise more of their own money, and those that cannot?

Mike GOOEY: That is an interesting question. The gut feel would be no, and that is just because of the different nature of services, but again that is actually probably a question that councillors need to answer in place, which is 'If these are the resources that we have available, how would we cut our cloth to meet these needs?'

Michael GALEA: The allocation decision is for councils. Yes, I am sure. Thank you. I realise that your functions in this space are relatively narrow – and we have had other witnesses today perhaps with greater coverage, such as the inspectorate – but in terms of the training for councillors and council staff, specifically we have had some comments around the requirement for regular, perhaps annual, training for relevant staff in councils when it comes to fraud controls. Is that something that LGV would support?

Mike GOOEY: We do support it. And obviously as a part of the broader mandatory training that is required for councillors and the changes that came into the regulations last year really very clearly, although it does not say 'fraud and corruption' specifically, it does talk about decision-making and accountability. Those things all are part of capturing that, so that is for councillors. We obviously work with colleagues, with the likes of FinPro and LGPro – the Local Government Professionals – and VLGA and MAV, with regard to the sorts of offerings that they have for both professional staff and the councillors, so all those things are really important. Again, it is an interesting question for the state given that, if you like, we kind of set the framework and it is up to the sector to work out what things are most important to make sure that those capabilities are being met.

Michael GALEA: Wonderful. Thank you very much.

The CHAIR: Thank you, Mr Galea. We will go to Ms Benham.

Jade BENHAM: Thank you, Chair. I just want to go back to something you spoke about earlier with regard to small rurals and rate capping and their ability to raise revenue, with small rurals in a rate-capping environment with a declining population and no increase in rateable properties et cetera – because there are obviously concerns around their financial sustainability at this point – what other ways are there for those small rurals to raise revenue?

Mike GOOEY: Again, that is a question for councillors to answer, and again – it pre-dates me – arguably one of the shifts in the *Local Government Act 2020* was to try and drive innovation. So things such as beneficial enterprises and bits and pieces which could help drive efficiencies – shared services, all of those things – are open to local governments and municipalities to look at. I think on some of those broader issues, obviously again from an LGV perspective of working with the grants commission, they do look at how you better make sure that those rurals are supported.

Jade BENHAM: That brings me to what Mr Galea was asking about before with the grants per capita and whether it is equitable across the state, particularly with those small rurals, because I am sure some of those small rurals would argue that it is certainly not. Are there further controls to make sure that they perhaps could be not based on population? What are the formulas?

Mike GOOEY: I will not go into the detail of the formulas because I do not know, but one of the things that does actually come into account for rurals is in fact that part of the grants commission also looks at road funding, and so length of road is a really important one. So there are a number of considerations that go into what is allocated to the rurals.

Jade BENHAM: Okay. When you say ‘length of road’, you mean the council’s roads that they are responsible for?

Mike GOOEY: Yes.

Jade BENHAM: Okay. Terrific. Just another really quickly: one of the recommendations was for the minister to have stronger powers to intervene with councillor conduct or councillor behaviour. We heard earlier today that with some of those issues that are reported the bar is really high for it to be an actual breach. So when we talk about your recommendations, are they for those low- to mid-level offences that are not classified as an actual breach of a code of conduct?

Mike GOOEY: No. The bar has to be relatively high, when you think about one level of government leaning in to intervene in another, so those bars are quite high.

Jade BENHAM: Doesn’t that allow for a flippant, I suppose, view of where the bar is and really pushing the boundaries for some councillors?

Mike GOOEY: I think that that has actually been one of the things experienced in the last term for local government. There is, if you like, the weaponisation of the councillor code of conduct framework, where there are tit-for-tat allegations made and processes have been run through. I think it is probably an artefact of local politics or politics in general, dare I say. But how these things are played out then – really clearly from an LGV perspective, the councillor conduct framework and, if you like, the degrees between misconduct, serious misconduct and gross misconduct are the way in which we support how councillors in particular can engage with that, so it does also come down to the councillor cohort holding to account their colleagues. That is again an important first step with regard to how the councillor conduct framework is really be used.

Jade BENHAM: Okay, thank you. Thanks, Chair.

The CHAIR: Thanks, Ms Benham. We will go to Mr Tak.

Meng Heang TAK: Thank you, Chair. Thank you for your presentation. In VAGO’s 2022 audit *Fraud Control over Local Government Grants* the Auditor-General noted that there was no official guidance or better practice documents for Victorian councils on what fraud controls they should be using in their grant programs. My question is: has LGV provided this guidance since the release of the audit report?

Mike GOOEY: In terms of specific fraud and corruption guidance, not specifically. I will actually take that on notice and get an official answer on that. We have provided a lot of guidance overall, and certainly in terms of the responsibilities under the Act. If you like, being a third, independent tier of government, it is important that those audit risk committees are actually responsible for putting in the systems and processes.

Meng Heang TAK: Thank you. We are looking forward to that response. The Victorian Ombudsman's submission notes that there is confusion within the community about the roles and responsibilities of each of the state's integrity agencies, affecting the efficiency of the complaints process. How can Victoria's complaints process be better streamlined under the current framework?

Mike GOOEY: That is a great question and probably one for the integrity agencies themselves. Again, I did not see the conversations this morning, but certainly the Ombudsman gets a bulk of the inquiries on the basis that they are really with regard to service complaints, so the Ombudsman is the right place for them to go. As I say, I will not speak on behalf of the other agencies, but it turns out that I probably will. We work with our colleagues at the Local Government Inspectorate but also with IBAC and the Principal Councillor Conduct Registrar, and so really since the elections last year there has been a series of workshops held across the state involving all of those integrity agencies actually talking to the new councillor cohort. So that sort of coordinated approach is really important I think to help that understanding.

Meng Heang TAK: Thank you. No further questions, Chair, given the time.

The CHAIR: We will go to Mr Puglielli.

Aiv PUGLIELLI: Thank you, Chair. Good afternoon. Just following directly on from Mr Tak's questioning, just to confirm what you have taken on notice, so it is whether that official guidance or a better practice document for Victorian councils and what fraud controls they should be using in the grant programs has been released since the audit.

Mike GOOEY: Yes, just whether or not we have provided anything specific to that.

Aiv PUGLIELLI: Okay.

Mike GOOEY: Because we do provide a lot of guidance to councils over reporting and also frameworks, but I just cannot –

Aiv PUGLIELLI: Yes, but a specific document that perhaps VAGO was referring to.

Mike GOOEY: Sure.

Aiv PUGLIELLI: Yes, thank you. This is a big question: what do you perceive to be the most significant barrier in preventing fraud and corruption in local government?

Mike GOOEY: There is a very cheeky answer, which is 'people', but obviously we are on Hansard, so I would not say that out loud.

Aiv PUGLIELLI: At least explain what that means.

Mike GOOEY: But I think that, really, particularly from the LGV perspective, one of the things jumping ahead into this particular council cohort, where we saw a number of, if you like, behaviours and situations which have been picked up by IBAC and the other integrity agencies, being really clear around what are some of the things that we can address through both legislative and regulatory frameworks. From an LGV perspective it is about actually making sure that they are really clear. A lot of it then actually comes down to – and again, I imagine you would have had conversations today with a range of people sitting in these chairs with regard to cultural organisations, and then there are some really interesting questions around expectations of behaviour and how people conduct themselves and, if you like, the corporate aphorism that a fish rots from the head down, actually making sure that the council cohort and the CEO are very clear on what the expectations are within organisations, because in the end it is the leadership group within councils that are responsible for creating a culture where fraud and corruption do not exist.

Aiv PUGLIELLI: This may be a two-part question here. What do you think people expect of how councillors and staff conduct themselves in their roles, and do you think that is matched in guidance that is being given to these organisations?

Mike GOOEY: From an LGV perspective, I think that probably it is an interesting question, isn't it, because of course I think people's expectations, the community's expectations continue to change on how elected representatives behave and what is expected of them, and so that very much comes down to local community expectations. It is not something that from a state perspective or an LGV perspective we have any control over. But what it does mean is that I think that we can reasonably expect as a community that governance and accountability is well controlled within local government, as it should be in state and federal, so it is about those sorts of expectations about are things transparent, can you understand them, are these decisions that affect me, how have I been engaged? And those sorts of things are actually very well spelt out within the Local Government Victoria Act.

Aiv PUGLIELLI: Thank you. Thanks, Chair.

The CHAIR: Thank you, Mr Puglielli. Mr Hilakari.

Mathew HILAKARI: I have got some very quick ones. I know we are running out of time. Earlier on today we heard from the former commissioner of inquiry, who mentioned that there were stricter legislative requirements around confidentiality and in-camera meetings by council. Are we observing or keeping records? The observation has been made several times today that that confidentiality with those in-camera processes is increasing. Is that something you are observing as well, and do you have any reflections on that?

Mike GOOEY: That is a really interesting question, Mr Hilakari, because I think it runs in two different directions.

Mathew HILAKARI: There are good reasons sometimes for in-camera meetings.

Mike GOOEY: That is exactly right.

Mathew HILAKARI: If we think about if you are going to tender, of course you want to have those discussions in private, but it seems like – and the evidence we have heard is – this is an increasing element of council.

Mike GOOEY: That is right, and of course there are examples of some councils that have actually used notices of motion to say that even their briefings should be made public. Again, I think they are really questions for councils to answer themselves. I think that then it just comes down to some questions around disciplines for council, for want of a better way of putting it, where it is absolutely right and proper to have internal briefings provided they are not the decision-making frameworks. Again, it probably comes back to the question previously that the expectations are –

Mathew HILAKARI: So not a broader role that we either as government or agencies of government should be keeping tabs on this, considering especially there was a clear set of legislation that previously existed?

Mike GOOEY: We are certainly aware of where there are issues, and if there are questions then we will refer them to the appropriate agency.

Mathew HILAKARI: Which is hard if they are in confidential meetings or in camera meetings.

Mike GOOEY: But then they are actually questions then for the councillor cohort themselves to hold each other to account, and I think that that again is the real use of the councillor conduct framework and making sense of that.

Mathew HILAKARI: Thank you so much. We also heard concerns around the processes of CEO appointments, and that was in the context of CEOs being really important for the culture of organisations.

You have spoken about that, and I too believe that is really an important part. Is it appropriate for CEOs to be reappointed without an independent chair? Have we got the balance right in terms of the appointment of CEOs, of the number of independent people versus councillors on those panels needing a combination of both?

Mike GOOEY: I think that is right. Of course I am sure you have all read Operation Sandon – a riveting read. But there is a recommendation in there which was actually very clear about a deliberative independent committee making a decision around hiring the CEO. Arguably – and again, this is really just observation, not an opinion – that is a bridge too far, because in the end the most important job a council can do is actually hire their CEO, so what are the supports that help make sense of that? Obviously the independent committee is an important part of that, so I think that is something that we will continue to work with the sector on with regard to implementing some of the IBAC recommendations around that space.

Mathew HILAKARI: I know I am really stretching the limits at the moment. Maladministration straying into improper conduct: can you just talk us through, you know, when they stray from one to the other? When we talk about maladministration, I think we are thinking about errors. Improper conduct – is that providing advice to the community that is clearly incorrect and known to be incorrect? When do we start to stray into that area?

Mike GOOEY: I think that was again a fascinating, nuanced question. From an LGV perspective we would not necessarily make a distinction. The fundamental questions from us will be whether or not there is a breach of the Act and whether or not that is something for LGI to look at or if in fact there is some issue of criminality so it becomes an IBAC issue. So it almost does not matter what label goes on it; it is about the intent and the content.

Mathew HILAKARI: Great. Thank you so much, and for indulging those last few minutes.

The CHAIR: That is all right. Mr Gooey, thank you so much for taking the time to appear before the committee this afternoon. The committee is going to follow up with any additional questions or responses to any questions taken on notice, and responses are required within five working days of the committee's request.

The committee is going to take very short break. I declare this hearing adjourned.

Witness withdrew.