



Report on Breach Local Government Act 1995

Failure of a Designated Employee to Lodge a Primary and Annual Return

Shire of Corrigin staff recently conducted an internal audit into the procedures for the completion and keeping of a register of Primary and Annual Returns by Councillors and designated employees of the Shire.

The audit revealed a breakdown in the systems and processes whereby two employees did not submit a Primary Return within three months of becoming a designated employee. The staff members were existing employees who had been employed with the Shire for a number of years.

As part of a review of the 2019 Shire delegations register both employees were given a new delegation under the *Local Government Act 1995* in July 2019. The obligation to lodge a Primary and Annual Return is with the relevant person however these employees were not aware of the need to complete a Primary Return once they became a designated employee.

After realising the error both staff members completed a Primary Return as at 1 July 2019 and in a subsequent review of the delegations register, the delegations have since been revoked and therefore they are no longer considered designated employees. Neither employee exercised their delegation.

A new procedure was implemented to ensure new Councillors, staff members and existing staff members who become a designate employee are aware of their obligations in relation to Primary and Annual Returns.

The Shire has also initiating staff training to ensure this procedure is known and adhered to and that all staff and Councillors gain a full understanding of the obligations under the *Local Government Act 1995* with regard to full disclosure of financial and other interests.

The failure of a designated employee to complete a Primary and Annual Return is a breach of section 5.75 of the *Local Government Act 1995* and as such the CEO was required to report these breaches to the Corruption and Crime Commission (CCC) as serious misconduct.

The breach was reported to the CCC in accordance with these obligations under the *Corruption, Crime and Misconduct Act 2003* (CCMA) on 23 July 2020 and the matter was referred to the CEO for action. In accordance with the CCMA s 40 the CEO provided a detailed report to the Commission on 16 November 2020 outlining the action taken in relation to the matter. The report included a determination that the actions taken were sufficient and there was no public interest to be served by any further action and advised that the matter was therefore consider to be closed.

The Department of Local Government, Sport and Cultural Industries (DLGSCI) was also notified of the breach on 23 July 2020. The DLGSCI advised the CEO on 16 November 2020 that the allegation that two employees breached section 5.75 of the Act was substantiated, however, as both employees had no prior adverse history in relation to similar matters, and The Department did not intend to take any further action against them.

The failure of a designated employee to lodge a primary and annual return identified in the internal audit also highlighted an error in the response to question 9 in the disclosure of interests section of the Compliance Audit Return 2019. The response to question 9 in relation to the submission of an annual return submitted by all designated employees by 31 August 2019 (s5.76(1) Admin Reg 23

Form 3) was shown as Yes whereas the response was subsequently found to be incorrect and the response should have been No.

The 2019 Compliance Audit Return was initially reviewed by the Audit and Risk Management Committee on 10 March 2020 and was endorsed by Council at the ordinary Council meeting held on 17 March 2020.

The Compliance Audit Return 2019 was submitted to the Department Local Government and Cultural Industries on 20 March 2020.

At the meeting held on 20 October 2020 the Audit and Risk Management Committee reviewed the Compliance Audit Return and noted the amendment to question 9 in relation to the requirement for disclosures of interest.

At the Ordinary Council meeting held on 20 October 2020 the Shire of Corrigin Council passed a resolution (Res 71/2020) receiving the report on the breach of Local Government Act 1995 s.5.75 and noting the actions taken in relation to the matters raised.

The CEO provided a final report to the DLGSCI on 16 November advising that the matter is now considered closed.