

Effectiveness of Support for Local Government

Tabled 26 February 2015

The Auditor-General provides assurance to Parliament on the accountability and performance of the Victorian Public Sector. The Auditor-General conducts financial audits and performance audits, and reports on the results of these audits to Parliament.

On the 26th of February 2015, the Auditor-General tabled his performance audit report *Effectiveness of Support for Local Government*.

Background

2

pages
1–10

Victoria's 79 local councils provide a wide range of services to their communities.

- Local government sector faces significant challenges.
- Support needs for individual councils vary.
- Councils receive support from a range sources including:
 - government departments—state and federal
 - local government peak bodies
 - specialist organisations.

This audit assessed the effectiveness, efficiency and economy of support provided to councils by Local Government Victoria (LGV) and the Municipal Association of Victoria (MAV).

Victoria's 79 local councils are responsible for providing a wide range of services to their communities. Councils also build and maintain community assets and infrastructure, and enforce various laws.

The local government sector faces significant challenges and the support individual councils need varies according to factors such as location, size, demographics, capability and capacity.

Councils receive a range of support from various sources—including state and federal government departments, local government peak bodies and specialist organisations.

This audit focused on two key Victorian public bodies that provide support to councils—the Municipal Association of Victoria, or MAV, and Local Government Victoria, or LGV, which is a part of the Department of Environment, Land, Water & Planning. The audit assessed the effectiveness, efficiency and economy of support provided to councils. We defined support as any activity undertaken to assist councils to carry out their duties and obligations to the community, and to facilitate more efficient and effective council operations. The audit assessed:

1. LGV and MAV's governance arrangements
2. how they identify and assess councils' needs and use this to provide support
3. whether they effectively coordinate the development and delivery of support programs and activities, where appropriate, and
4. the effectiveness of monitoring, evaluation and reporting.

Key messages

3

- Councils' support needs are varied, and while both MAV and LGV understand councils' needs and undertake a wide range of activities, generally neither know if they are effective.
- MAV operates under out-dated legislation and does not have a contemporary governance framework.
- MAV has been subject to limited oversight and scrutiny of its activities.
- There is scope for LGV and MAV to work more closely together.

Action is needed by MAV and LGV to make improvements and address deficiencies identified through the audit.

Both MAV and LGV understand the support needs of councils, and undertake a wide range of activities—however, with some exceptions, neither can demonstrate whether their support is effective in assisting Victoria's councils.

MAV operates under out-dated legislation—the *Municipal Association Act 1907*, or MA Act—and does not have a contemporary governance framework for its activities.

LGV does not proactively oversee MAV, or monitor its performance and compliance with the MA Act, and MAV has limited external scrutiny.

MAV and LGV have collaborated in the past on some support activities, but there is scope for them to work more closely together and to formalise how this will occur.

MAV legislative governance

4

pages
11–25

The *Municipal Association Act 1907* (MA Act) is the statute governing MAV.

- The MA Act is out-dated and has never been comprehensively reviewed.
- Some of MAV's activities may not be within its legislative mandate.
- MAV's Rules have been used by MAV to carry out certain support activities and may be outside the MA Act.
- MAV has had minimal and ineffective scrutiny of its activities and powers over a long period.

A complete review of the MA Act is required to bring MAV's legislative governance model to modern standards.

MAV was incorporated under the MA Act in 1907.

The MA Act is outdated and has never been comprehensively reviewed. It does not provide sufficient detail and clarity about governance arrangements. Under the Act, there is no explicit power for MAV to undertake a range of its existing activities, and although MAV currently performs a broad range of functions, it is not clear if all of these are within its remit or align with its intended purpose. MAV's own legal advice raised doubts about whether some of MAV's specific activities are authorised under the Act. The advice suggests that this may be an error in amending the Act. Prior to 1971 there was a general power in the Act, which was removed by amendments that year. Advice prepared by LGV also outlines that MAV has taken on additional and wider functions not included in the MA Act, such as group commercial services, including for procurement, providing the sector with policy positions and providing capacity building for councillors. We also note that MAV provides insurance services to Tasmanian councils and water authorities, and this role is not explicitly defined in the MA Act.

The MA Act allows MAV to make Rules for the management of the association, regulation of its proceedings, fixing annual council subscriptions and for fixing the contribution rate to the fidelity fund—now known as crime insurance.

The MAV Rules may not all be within the power of the MA Act. The objectives of MAV are set out in the Rules, not the MA Act as is now standard drafting practice. It is arguable that at least one Rule may be outside of the MA Act and provides powers usually found in legislation. This Rule allows MAV to 'exercise all functions and powers which are necessary or convenient for it to carry out its objectives'. MAV's own legal advice is clear that the Rules cannot confer additional powers where they are otherwise

absent from the MA Act. MAV's legal advice suggests that there was an inadvertent removal of a similar provision in the Act in the 1971 amendments.

There is also limited external scrutiny or oversight of the Rules. As the Rules are not considered to be of legislative nature, they are not subject to the same scrutiny of regulations or other legislative instruments, although changes are approved by the Governor in Council.

The key take-away point is that a complete review of the MAV Act is required to bring MAV's legislative governance model to modern standards, and determine its functions, roles, responsibilities, powers and obligations.

MAV organisational governance

5

pages
11–25

MAV does not have adequate systems and processes for good governance consistent with contemporary standards of public administration.

MAV's board has not implemented sound governance practices.

MAV needs to strengthen policies and practices in a range of areas relating to its internal management and business practices so that deficiencies do not compromise the effectiveness of its support activities.

A lack of good governance undermines the effectiveness of MAV's support for Victoria's councils

MAV does not have adequate systems and processes for good governance consistent with contemporary standards of public administration.

Although MAV's legislation is out-dated, and other key acts which normally apply to public bodies—such as the Public Administration Act and the Financial Management Act—have not been applied to MAV, its Board has not ensured appropriate alternative governance arrangements are in place.

Until recently, a number of key policies either did not exist or were only recently reviewed and updated. Our audit found room for improvement in a range of areas, including with regard to:

- managing conflicts of interest
- corruption and fraud policies
- receiving gifts, benefits and hospitality
- staff performance management
- project management
- procurement practices and payments, and
- records management.

It is important that MAV addresses the issues identified in the audit, not just to ensure contemporary standards of good governance, but because a lack of good governance and internal controls ultimately undermines the effectiveness of MAV's support to councils.

Support from MAV

6

pages
27–45

- MAV has established methods of identifying council needs and provides a wide range of support activities.
- Cannot demonstrate the impact or cost-effectiveness of its support activities—MAV relies on membership levels and participation as measures of its effectiveness.
- Reporting does not demonstrate the achievement of outcomes or the objective of their strategic work plans.
- MAV's procurement practices lack appropriate levels of probity and controls to manage conflicts of interest.

The impact of identified needs and support delivered to councils is not understood.

We looked at a range of MAV support activities including procurement, training and events, and emergency management.

MAV has established methods to identify council support needs, mainly through the development of its Annual Strategic Work Plan. While MAV's support programs generally have clear objectives, its monitoring, evaluation and reporting is primarily focused on outputs and activities rather than measurable outcomes.

MAV relies on membership levels and participation rates to demonstrate its performance but these do not provide a reliable measure of the achievement of intended outcomes and the impact of MAV's support activities, and there is significant room for improvement in this area.

We found weaknesses with MAV's procurement practices, including a lack of probity around key decisions, potential conflicts of interest, and poor contract management, which bring into question whether value for money is being achieved from these activities.

In both training and development, and emergency management, plenty of activity is evident but MAV does not effectively measure the impact of its activities. MAV has recognised this in some areas, such as councillor training and development, and plans to have a greater focus on outcome measurement in the future.

Support from LGV

7

pages
47–57

LGV provides a range of support and guidance to councils and has a sound understanding of support needs.

LGV's business plan does not clearly identify how planned initiatives contribute to objectives, and how performance will be measured.

Limited focus on measuring outcomes and program evaluation means it is unclear whether support programs and initiatives achieve intended outcomes.

The impact of identified needs and support delivered to councils is not understood.

LGV provides a variety of support to councils, including specific programs on areas such as asset management or shared procurement, as well as providing grants, guidance material, and direct assistance in code of conduct or financial issues. We looked at a cross-section of these support activities, much of which is focused on assisting councils to comply with the *Local Government Act 1989* (or LG Act).

Like MAV, LGV has established methods to identify support requirements and a sound understanding of council needs. While LGV's business planning clearly identifies initiatives, responsibility for delivery and so forth, it also needs to have a stronger focus on monitoring and reporting of outcomes and program evaluation.

The extent to which support programs and initiatives achieve intended outcomes is generally unclear, although LGV can demonstrate achievements in some programs. LGV's more recent programs have also had a greater focus on evaluation and outcome measurement, which now need to become an established part of all of LGV's work practices.

Collaboration and oversight

8

pages
59–65

LGV and MAV have worked collaboratively in the delivery of support programs, including procurement, rate payments, planning and reporting, and asset management.

LGV does not actively monitor MAV's compliance with the MA Act, or exemptions granted to councils under the *Local Government Act 1994*.

Unclear roles in collaboration and a lack of oversight of MAV.

LGV and MAV have worked collaboratively in the delivery of support programs over the years, for example in developing guidance on procurement, rating practices, planning and reporting, shared services and asset management.

However, there is no formalised approach to collaboration between MAV and LGV that considers factors such as who should deliver specific support, or who has the appropriate capacity and capability for delivery. The new State Local Government Agreement provides an opportunity for LGV and MAV to document and formalise how they will work together in the future through the development of a joint work plan.

LGV does not proactively oversee MAV's performance or compliance with the MA Act. This has been a long standing practice, and although LGV has advised it has not monitored MAV because it has treated it as an independent body governed by its own board, the consequence of this approach is that MAV has had limited external oversight or scrutiny of its activities.

LGV also does not monitor council compliance with exemptions granted by the Minister for Local Government under section 186 of the LG Act. These exemptions allow councils to conduct certain procurement activities without undertaking a public tender, including where they use MAV Procurement. LGV's lack of monitoring means it does not know whether conditions associated with exemptions are being complied with.

Recommendations

9

	Accept	Page
That the Department of Environment, Land, Water & Planning:		
1. reviews MAV's functions, roles, responsibilities, powers and obligations and:	✓	25
• ensures this is reflected in the <i>Municipal Association Act 1907</i>		
• ensures contemporary standards of governance and accountability are met		
• consults with relevant departments to consider whether contemporary governance legislation apply to MAV		
• assures itself that all MAV activities are clearly within its power.		

We have made numerous recommendations to the Department of Environment, Land, Water & Planning and LGV, including a critical recommendation to review MAV's functions, roles, responsibilities, powers and obligations, taking into account the points shown on this slide.

Recommendations – continued

10

	Accept	Page
That Local Government Victoria:		
10. improves its monitoring, evaluation and reporting on support activities	✓	57
11. develops processes to seek feedback from councils on the use of its guidance material	✓	57
14. routinely monitors the performance of the MAV including its compliance with the <i>Municipal Association Act 1907</i>	✓	65
15. monitors entities that have been granted approvals under section 186 of the <i>Local Government Act 1994</i> .	✓	65

We also recommended that LGV:

- improve its monitoring, evaluation and reporting and feedback on the use of its guidance material
- routinely monitor MAV's performance, including its compliance with the MA Act, and advise the Minister accordingly, as well as improve its monitoring of entities which have been granted ministerial exemptions under the Local Government Act.

The department has accepted all recommendations, and provided a plan of actions including time frames to address them, which is included in the published report

Recommendations – continued

11

	Accept	Page
That the Municipal Association of Victoria:		
2. reviews its policies and controls, trains its staff and proactively monitors their application	✓	25
3. develops and implements a performance management framework for its board and staff	?	25
4. develops and implements a project management framework aligned with better practice	?	25
5. reviews and updates its records management policy to align with better practice	?	25
6. reviews its internal audit program and ensure it routinely covers all key procedures and controls.	✓	25

We have made a number of recommendations to MAV relating to improvements in its governance and internal management covering:

- policies and internal controls
- staff performance management
- project management
- records management
- internal audit

Recommendations – continued

12

		Accept	Page
That the Municipal Association of Victoria:			
7.	as a priority, reviews and updates its procurement policies and procedures	✓	25
8.	improves the monitoring, evaluation and reporting of its support activities, and publicly report their progress and performance	✓	25
9.	improves councillor development, training and events evaluations to clearly measure and demonstrate their impact on participants and on council performance.	✓	25

- procurement policies and procedures, and
- monitoring, evaluation and reporting.

While it is encouraging that MAV developed and reviewed a number of key policies and procedures during the audit, its response is not clear on its acceptance of all recommendations nor on the timing of any specific actions MAV will take to address the issues identified.

Even where it has accepted recommendations and stated that action has already been taken to address the identified issues—such as updating various policies and procedures to accord with better practice—no evidence has been provided to support these claims.

As outlined in the Auditor-General's comments and response to the Chief Executive Officer of MAV, which are included in the report, the Auditor-General will closely monitor the implementation of all recommendations as part of VAGO's follow-up audit program.

Recommendations – continued

13

	Accept	Page
That both Local Government Victoria and the Municipal Association of Victoria:		
12. review and document how and when they should work together to ensure the efficient, effective and economic delivery of support to councils	✓	65
13. undertake regular joint strategic planning.	?	65

Lastly, we made several joint recommendations to MAV and LGV to:

- review and formalise how they will work together in the future, and
- to undertake regular joint strategic planning.

LGV has accepted these recommendations and while MAV's response is less clear in its acceptance, MAV does support the development of arrangements to clarify each organisations roles and responsibilities, and guide any collaborative endeavours, and to share, where appropriate, knowledge of council needs and areas of potential collaboration.

Previous VAGO reports

14

Shared Services in Local Government (2014)

Asset Management and Maintenance by Councils (2014)

Organisational Sustainability of Small Councils (2013)

Rating Practices in Local Government (2013)

Several past audits are relevant to support for councils, and a brief overview of these is provided on pages 8 and 9 of the report.

Contact details

15

For further information on this presentation please contact:

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