

Auditor-General of Queensland

Report to Parliament No. 11 for 2010
Implementation and enforcement
of local laws

A Performance Management Systems audit



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QUEENSLAND

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Auditor-General of Queensland

November 2010

The Honourable R J Mickel MP
Speaker of the Legislative Assembly
Parliament House
BRISBANE QLD 4000

Dear Mr Speaker

This report is prepared under Part 3 Division 3 of the *Auditor-General Act 2009*, and is titled Implementation and enforcement of local laws. It is number 11 in the series of Auditor-General Reports to Parliament for 2010.

In accordance with s.67 of the Act, would you please arrange for the report to be tabled in the Legislative Assembly.

Yours sincerely



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Auditor-General



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1 | Executive summary

1.1 Audit overview

Local laws allow councils to protect the community and ensure the good rule and government of the local area. Councils are able to establish, permit or license activities they want to regulate, and can create offences for unacceptable behaviour and issue compliance or abatement notices. Councils make local laws about a range of issues including animal control, parking and advertising signage.

The *Local Government Act 2009* (LGA 2009) and the *City of Brisbane Act 2010* (CoBA 2010) require local laws to be properly gazetted and adequate notice provided to the public. The LGA 2009 s.4, CoBA 2010 s.4 and good corporate governance principles require councils to have documented policies, training and tools to guide the decision-making and actions of council officers. This allows councils to demonstrate that decisions about their local laws are made consistently, fairly and without bias.

The objective of this audit was to determine if councils have documented systems in place to enable them to effectively and efficiently implement and enforce their local laws in Queensland and manage real or perceived conflicts of interest where councils are both operators and regulators.

A self-assessment questionnaire was distributed to a sample of 25 councils across the state (councils were also requested to provide examples of their training and guidance materials). The sample included metropolitan, regional and rural councils. This report presents the results of the self-assessments from the 23 councils that were received in time to be included in this report.

1.2 Audit conclusion

While most councils responded that they have systems in place to implement and enforce their local laws, an analysis of the documentation identified significant gaps in the training, guidance and support for council officers implementing and enforcing local laws. There are a number of specific actions most councils should consider to improve their documentation. This would give council officers clearer guidance on how to implement and enforce the local laws consistently and fairly. These include:

- providing more detailed support materials for enforcement officers to ensure local laws are enforced consistently
- clearly communicating review and appeal processes for all local laws
- implementing scheduled inspections to ensure compliance with local laws
- providing guidance and training for enforcement officers in the use of discretion prior to issuing warnings and infringement notices
- developing and documenting appropriate governance policies for council business activities.

The larger metropolitan and regional councils generally provided more complete and comprehensive documentation as guidance for their officers. Generally, smaller regional councils provided fewer examples of how their systems which implement and enforce their local laws are documented.

Support for councils is available from a number of sources. Councils take advantage of the training offered by private providers and the Local Government Association of Queensland. The Department of Infrastructure and Planning also supports councils by providing advice and sharing documentation (guides, templates and examples) and therefore reducing the duplication involved in developing policies and guidance materials.

Further examination of issues identified in this report may form part of a future audit of council systems to manage their regulatory responsibilities. Case studies of better practice examples are included in Section 3 of this report.

1.3 Key findings

The findings are based on the self-assessments provided by councils and signed off by the relevant Chief Executive Officer. While the documentation provided was reviewed, this audit did not extend to assessing how well the systems are being used by council officers to deliver their services and obligations effectively and/or efficiently.

Accountable, effective, efficient and sustainable local government relies on clearly documented expectations about how a council operates. These include:

- transparent and effective processes, and decision-making in the public interest
- democratic representation, social inclusion and meaningful community engagement
- good governance of, and by, local government
- ethical and legal behaviour of councillors and local government employees.¹

1.3.1 Ensuring access to and notice about local laws

Councils' assessments of their systems to implement local laws show that only five of the twenty-three councils responded that they have an overall enforcement/prosecution policy. Most councils responded that they have systems in place to ensure notice is given of new or amended local laws, but the audit assessed that the systems are not well documented. Only nine of the 23 councils responded that they have training or supporting materials for staff regarding the requirements of the LGA 2009/CoBA 2010 to publish notices of new or amended local laws.

A high proportion of council policy and guidance provided for this audit either lacked detail or was not in place to ensure that council officers had access to information on the requirements for providing public access to local laws. Few councils provided documentation that included details such as the legislative requirements, council expectations and flowcharts. This indicates that council policy and guidance to staff is incomplete or not in place to ensure that staff are fully supported in providing public access to local laws.

¹ *Local Government Act 2009 s.5. and City of Brisbane Act 2010 s.5.*

1.3.2 Support for council officers to enforce their local laws

Of the 23 councils assessed, 21 reported that they have systems in place to train their animal control enforcement officers to understand and exercise their powers. This figure dropped to 18 for the other local laws (advertising, caravan parks, cemeteries, parking and swimming pools).

An analysis of the documents provided for this audit identified that the completeness of the documentation to support council officers could be improved in many councils.

In general, the level of documentation provided for audit by larger metropolitan councils was more complete and comprehensive than that provided by smaller regional and rural councils.

Systems to implement local laws for animal control and parking were more comprehensively documented than those for caravan parks, cemeteries, swimming pools and advertising.

Council inspection programs were poorly documented with inconsistent approaches by individual councils across different enforcement areas.

1.3.3 Appeal and review processes

The LGA 2009 s.3(d)(i) and the CoBA 2010 s.3(d)(i) require the Chief Executive Officer to establish and implement practices to ensure that members of the community have access to appropriate avenues for reviewing local government decisions.

Councils' assessments of their systems to provide appropriate appeal and review processes for local laws indicates that only 19 of the 23 councils have systems in place for animal control and five of the seven councils that assessed their systems for parking. For the other enforcement areas of swimming pools, advertising, caravan parks and cemeteries there were very few appeal processes identified, with most councils reporting systems were not in place.

Most councils reported that they communicate the appeal or review provisions on the infringement or warning notice itself. Few of the councils made their appeal/review processes readily available to the public through their websites. This means that in some cases, while a council has an internal process to appeal or review decisions regarding local laws as required by the LGA 2009 and CoBA 2010, the public may not be able to access them conveniently, as they are not always communicated on the internet.

1.3.4 Managing real or perceived conflicts of interest where councils are both operators and regulators

Councils' assessments of their systems to manage real or perceived conflicts of interest where councils are both operators and regulators indicated that only 14 of the 23 councils have systems in place. Councils that actively manage real or perceived conflicts of interest ensure that private operators are not disadvantaged by having to compete with council businesses that may be exempt from council regulations.

1.4 Recommendations

It is recommended that councils review their policies to ensure that:

1. training and support materials for policy and enforcement officers cover the requirements of the *Local Government Act 2009* or the *City of Brisbane Act 2010*
2. the principles of good decision-making are used in the enforcement of local laws
3. they deal adequately with identification and management of real or perceived regulatory conflicts of interest.

1.5 Department of Infrastructure and Planning response

The Director-General, Department of Infrastructure and Planning, provided the following response on 15 October 2010:

In relation to the relevant extracts from the draft report to Parliament, Implementation and Enforcement of local laws — A Performance Management Systems audit, I have noted and can confirm the content in relation to the Department's role and responsibilities in relation to this issue and the comments included in the Executive Summary and section 3.4 "Support from the Department of Infrastructure and Planning".

Having regard to the audit results, the Department agrees implementation of the proposed recommendations would significantly contribute to a more efficient and effective local law regulatory regime administered by Local Governments.

In conjunction with the release of these results, it is considered the requirement for Local Governments affected by amalgamation to consolidate their local laws by 31 December 2011 will also provide an opportunity for those Councils to review and consolidate existing enforcement processes and practices. In this respect, the Better Practice Case Studies included in the report will no doubt provide a useful reference tool for Councils to compare against existing processes.

In addition, the new Local Government Act 2009 and the City of Brisbane Act 2010 require Councils to publish their local law register and complaints processes on Council websites, which will further the public's awareness of activities regulated under Council local laws and associated review and appeal rights.

The Department's regional presence also provides the unique opportunity to promote key issues identified in this audit and to work closely with Councils to identify individual priorities and needs in this field. While the Department's capacity building program priorities are currently set with a focus on emerging issues from the legislative reform agenda and stakeholder input, Regional offices provide a brokering role in assisting Councils wanting to improve performance including, for example, linking Councils with relevant content experts or with other Local Governments that may have achieved success in a particular field of interest.

Finally, I would like to thank you and your office for conducting this review on Local Government performance management systems. This approach encourages continual systems improvement and enhanced Local Government performance.

2 | Audit outline

Summary

Background

This section provides background information about the topic and the audit process.

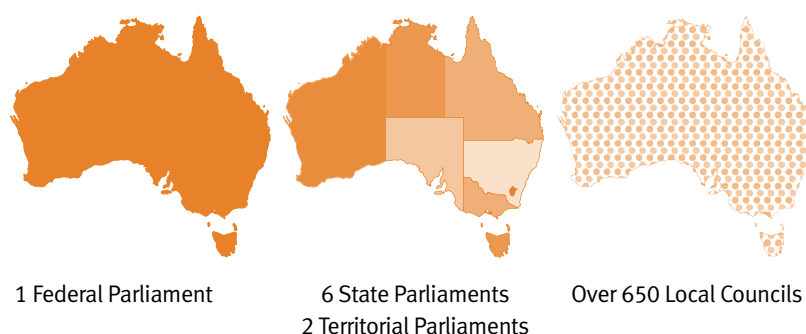
Audit objective

The objective of the audit was to determine if councils have documented systems in place to enable them to effectively and efficiently implement and enforce their local laws in Queensland and manage real or perceived conflicts of interest where councils are both operators and regulators.

2.1 Background

There are three levels of government in Australia: federal government, state government and local government (refer to Figure 2A). Each level makes and enforces regulations that business and community need to understand and follow.

Figure 2A – Three levels of regulation in Australia



Source: Parliamentary Education Office, *Fact Sheet Series 55 Three Levels of Government*.

The 73 councils in Queensland have the power to make, implement and enforce local laws. This power is provided under the *Local Government Act 2009* and the *City of Brisbane Act 2010*. A local law is a law adopted by a council that reflects community needs and ensures the good rule of the local government area.

Local laws have the ability to:

- establish, permit or licence regimes for activities councils want to regulate
- create offences for unacceptable behaviour
- allow for the issue of compliance or abatement notices.²

Queensland local governments have adopted approximately 3000 local laws to assist them in governing their respective areas and have adopted approximately 1300 subordinate local laws to assist in the operation of those local laws. Local laws and the details in these laws differ for each local government.³ In *Report to Parliament No. 6 for 2009 – Providing the information required to make good regulation*⁴ it was reported that too much regulation reduces competition and adds to the cost of doing business.

In 2008-09, the Queensland Ombudsman's Office received 1979 complaints about councils and approximately 350 complaints were related to law and enforcement.⁵

² www.dip.qld.gov.au/locallaws, accessed 2 July 2010.

³ www.dip.qld.gov.au/locallaws, accessed 2 July 2010.

⁴ Auditor-General of Queensland, *Report to Parliament No. 6 for 2009 – Providing the information required to make good regulation*.

⁵ Queensland Ombudsman, *Annual Report 2008-09*, page 38.

On 15 March 2008, the Queensland Government accepted recommendations from the Local Government Reform Commission to reduce the number of councils in Queensland from 157 to 73.⁶ Amalgamated councils are required, under the relevant regulations, to consolidate their local laws by December 2011. This audit asked the 14 amalgamated councils in the sample to indicate their expected date of completion for the consolidation of their local laws and the percentage of consolidation which has so far been completed. Figure 2B summarises data received.

Figure 2B – Harmonisation of local laws by councils affected by amalgamation

Expected date for consolidation	Number of councils
No timeframes	1
2010	5
2011	8
Percentage of consolidation completed	
1 – 25 %	6
26 – 50 %	5
51 – 75 %	0
76 – 99 %	3

2.2 Audit objective

The audit objective was to determine if councils have documented systems in place to enable them to effectively and efficiently implement and enforce their local laws in Queensland and manage real or perceived conflicts of interest where councils are both operators and regulators.

The audit specifically assessed whether councils have documented systems and procedures in place to enable them to:

1. implement their local laws effectively and efficiently
2. ensure the public has access to and is aware of the requirements of local laws
3. support council officers to enforce their local laws
4. manage real or perceived conflicts of interest where councils are both operators and regulators.

⁶ www.dip.qld.gov.au/structural-reform/history-of-the-reform-process-and-commission.html, accessed 19 August 2010.

2.3 Audit scope

Entities subject to this audit

A sample of 25 councils was sent a questionnaire to self assess their systems to implement and enforce local laws. The councils selected for the audit were:

1.	Banana Shire Council	14.	Logan City Council
2.	Brisbane City Council	15.	Mackay Regional Council
3.	Burdekin Shire Council	16.	Murweh Shire Council
4.	Blackall-Tambo Regional Council*	17.	Mount Isa City Council*
5.	Cassowary Coast Regional Council	18.	North Burnett Regional Council
6.	Carpentaria Shire Council	19.	Paroo Shire Council
7.	Charters Towers Regional Council	20.	Redland City Council
8.	Cook Shire Council	21.	Southern Downs Regional Council
9.	Fraser Coast Regional Council	22.	Sunshine Coast Regional Council
10.	Goondiwindi Regional Council	23.	Toowoomba Regional Council
11.	Gold Coast City Council	24.	Townsville City Council
12.	Ipswich City Council	25.	Whitsunday Regional Council
13.	Isaac Regional Council		

*Survey responses were not submitted in time to be included in the analysis for this report.

The sample was selected to ensure that the audited councils reflected a range of metropolitan, regional and rural councils and included a mix of councils highly affected by amalgamation as well as those not affected.

The Department of Infrastructure and Planning was also included in the scope of this audit to determine how effectively it is managing its responsibility as the lead agency.

A copy of the questions and results of the questionnaire are included in Section 4.1 of this report.

Exclusions from audit scope

The audit did not assess the following:

- state laws implemented and enforced by councils
- the development of local laws
- whether councils' performance measures are relevant, appropriate and fairly represent performance
- planning and development applications
- Indigenous councils (i.e. Aboriginal and Torres Strait Island Councils)
- systems to determine fees and charges
- Local Government Association of Queensland. However, discussions were held with the association to assist with the audit.

2.4 Audit procedures

Audit sent questionnaires to 25 councils asking them to assess their systems to implement and enforce their local laws. The questionnaire also requested that councils provide supporting documentation including policies, procedures, guidelines, manuals, training documents, templates and educational material where possible.

The questionnaire was divided into sections to collect information on the following:

- Section A - Infringement activities in terms of revenue, expenses, staffing, warnings and prosecutions
- Section B - Systems to implement (give notice) local laws
- Section C - Systems to enforce animal control local laws
- Section D - Systems to enforce another local law, either advertising, caravan parks, cemeteries, parking or swimming pools.

All councils were requested to complete Section C in relation to enforcing animal control local laws. Section D of the questionnaire contained the same questions as Section C but in relation to another enforcement area: either parking, swimming pools, cemeteries, caravan parks or advertising.

Each council was requested to fill out Section D for the local law as assigned by audit. The five other local laws were allocated across the 25 councils to obtain five responses on each other local law. Advice from some councils was that while they did have the assigned local laws, it was not council policy to enforce them. This resulted in a higher number of councils completing Section D for parking than anticipated. The low response rate for some of the 'other' local laws (advertising, caravan parks, cemeteries, or swimming pools) means that the results are not necessarily representative of councils more broadly.

The audit made assessments based on the results of the questionnaires, document analysis and interviews with the Department of Infrastructure and Planning.

2.5 Reason for the audit

The areas chosen to be audited were determined on the basis of criteria including risk, materiality, public interest and potential for improvement to accountability and financial management. One of the key challenges currently highlighted for examination by audit is in relation to governance. Specifically, the examination of how public sector entities and their resources are controlled and regulated. This audit, which examines the systems used to implement and enforce local laws, contributes to the governance area of examination.

This audit was considered significant based on the revenue and expenditure involved in implementing and enforcing local laws and on the number of complaints to the Queensland Ombudsman from the community about how councils manage this area. Refer to Figure 2C for the ranges of revenue and expenditure data of the sample councils.

Figure 2C – Range of councils' financial data in 2008-09

Revenue	2008-09
Total council revenue range	\$3,678,044 to \$1,919,356,000
Revenue from infringement notices range	\$150 to \$20,633,125
Revenue from local law licences range	\$750 to \$12,982,389
Expenditure	2008-09
Total council expenditure range	\$3,895,073 to \$1,815,356,000
Local law related prosecution expenses range	\$0 to \$2,505,467

2.6 PMS audit approach

A Performance Management Systems (PMS) audit is an independent examination which includes determining whether an entity or part of an entity's activities have performance management systems in place to enable management to assess whether its objectives are being achieved economically, efficiently and effectively.

The legislative basis for this audit is the *Auditor-General Act 2009* (the Act). The Act prescribes that the Auditor-General may conduct an audit in the way the Auditor-General considers appropriate. While the Auditor-General takes note of the entity's perspective, the scope of a public sector audit is at the sole discretion of the Auditor-General.

The Auditor-General applies the standards of the Auditing and Assurance Standards Board to audits in the Queensland public sector to the extent that they are not inconsistent with the requirements of the Act and other legislation that prescribes the Auditor-General's work.

While a PMS audit will not review or comment on government policy, it will have regard to any relevant prescribed requirements. It may also extend to include a focus on the entity's performance measures and whether, in the Auditor-General's opinion, the performance measures are relevant, appropriate and fairly represent the entity's performance.

The intent of a PMS audit is to provide independent assurance to Parliament, and to act as a catalyst for adding value to the quality of public administration by assisting entities in the discharge of their governance obligations.

A PMS audit has a focus on ascertaining whether systems and controls used by management to monitor and measure performance, assist the entity in meeting its stewardship responsibilities.

2.7 Related PMS audits

This is the second PMS audit in the area of regulations. The first audit was covered in *Report to Parliament No. 6 for 200 – Providing the information required to make good regulation*. That audit of government departments found that, in some cases, the information provided to Parliament for its consideration in developing regulations was incomplete and lacked adequate consultation and analysis. It also found that a ‘gatekeeper’ responsible for coordinating the regulatory reform process for primary and subordinate legislation was not in place.

3

Systems to implement and enforce local laws

Summary

Background

The decision to issue notices to comply, cautions, warnings, infringement notices and prosecutions should be transparent and the result of good decision-making.

'Today's community expects that public agencies will operate consistently and fairly and that government at all levels will have systems in place to ensure this happens.'

*However, decision-making in the public sector can be multi-faceted and complex. Furthermore, even a decision on a seemingly simple matter can have a serious impact on people in the community. Therefore, it is important that public agencies have policies and procedures to support and inform fair, sound and consistent decision-making.'*⁷

Key findings

- Most councils responded that they have systems and procedures in place to ensure notice is given of new or changed local laws, but audit assessed that the systems are generally not well documented.
- Smaller regional councils responded that they have systems in place to enforce their local laws, but a large number are not well documented.
- Generally, guidance for parking enforcement officers is more comprehensive than other enforcement areas such as swimming pools.
- Few councils had documented inspection programs to ensure compliance with local laws.
- Guidance for enforcement officers regarding the use of discretion when issuing warnings and infringement notices is inconsistent across enforcement areas and across councils.
- Policies to manage real or perceived regulatory conflicts of interest are in place at 14 of the 23 councils.
- The Department of Infrastructure and Planning provides support and advice to councils in response to council needs.

⁷ Queensland Ombudsman, *Good Decision-Making Guide, Good decisions make good sense*, 2007.







3.1 Audit assurance

The results presented here are based on an analysis of responses to the self-assessment questionnaire from the 23 councils that responded within the required timeframes or within the extensions provided. The findings are also based on an assessment of the documents provided as evidence of the documentation of the systems.

Councils were asked to complete the questionnaire for two of their local laws. All councils assessed their systems for animal control local law and one other local law. The other five local laws of advertising, caravan parks, cemeteries, parking and swimming pools were allocated across the councils to collect information on a spread of local laws.

Audit did not undertake any fieldwork or testing of the systems to assess whether or not the documentation is being used by council officers to implement and enforce local laws consistently or fairly. The results for key findings are included as tables in the relevant section. The full results of the questionnaire are in Section 4 of this report.

Figure 3A – Legend for self-assessment results tables

Enforcement area	Symbol	Number of responses
Animal control		23
Advertising		4
Caravan parks		4
Cemeteries		3
Parking		7
Swimming pools		5

3.2 Access to and notice of local laws







The *Local Government Act 2009* (LGA 2009), s.29B and the *City of Brisbane Act 2010* (CoBA 2010), s.32, require councils to provide public notice of new or amended local laws. These Acts clearly specify how, when and what notification and access councils need to provide to the community and to the Minister for Local Government.

Findings

Notification of and access to local laws

All the councils responded that they had copies of their local laws available for viewing, and almost all indicated these copies were available for purchase. The majority of councils reported that they provide access to local laws through their websites and/or linkages to the Local Law Register maintained by the Department of Infrastructure and Planning. Only a few use their local libraries, community centres or relevant businesses to provide access to their local laws. The same practices are indicated proportionately for access to ancillary materials such as application forms, standards and guidelines.

Figure 3B – Self-assessment response to question 15

Q. How does council provide local laws to the public?		Other local laws					
		Total other					
Number of responses	23	23	4	4	3	7	5
Copies are available for viewing	23	23	4	4	3	7	5
Copies are available for purchase	20	19	3	2	3	7	4
Copies are available for download on council's website	18	17	2	4	2	6	3
Copies are available online from the Local Government Toolbox	4	6	1	2	1	1	1
Copies are available from the local library or community centre	6	6	1	2	1	2	0
Other*	5	3	1	0	0	2	0

*Councils used a variety of other means including regional and divisional offices.

A review of the supporting documentation provided showed that the majority of councils have some templates or forms as guidance to staff about their obligations to provide public access to local laws.

Case study

Better practice case study Local Law Making Manual

Redland City Council

The Redland City Council has in place a comprehensive Local Law Making Manual to provide guidance for councillors and staff about council's local law making process. The manual explains the procedures, lists the workflow, specifies the roles of groups in the making and implementation of local laws and subordinate local laws.

The manual clearly outlines the following:

- Council's legislative power under the *Local Government Act 1993* (currently being updated to reflect new *Local Government Act 2009*).
- Roles and responsibilities of relevant areas within the council involved in the local law making and implementation process. For example, the Corporate Planning, Performance and Risk unit has a responsibility to give public notice of the making of the local law and associated administration.
- The manual includes a flowchart which provides a step by step guide for the local law making process. This is followed by a more detailed text description of each step included in the flowchart.







Why is this better practice?

The Redland City Council's Local Law Making Manual is a comprehensive document that outlines the legislative requirements and councils expectations when making and implementing a local law. The use of flowcharts provides a clear visual guide for staff involved in the local laws administrative process. Having this manual in place provides council with an assurance that council staff understand and fulfil the legislative requirements for the making and implementation of local laws. Consequently, the manual helps to ensure a consistent approach is taken in giving notice of new or changes in local laws and that the public has access to local laws.

Education campaigns

The majority of councils responded that they have systems in place to meet their obligations to inform and educate the public in regard to proposed or amended law, particularly for groups impacted by the new or changed law. The majority of councils also responded that they employ a number of means for promoting public information and educational campaigns. However, only two councils provided evidence of documented guidance, including procedures and policy, to support officers and councillors in ensuring educational campaigns were included when a new law or amendments were proposed.

Figure 3C – Self-assessment response to question 17

Q. What mechanism does council use to ensure education campaigns, for new or revised local laws are conducted for affected groups?		Other local laws					
		Total other					
Number of responses	23	23	4	4	3	7	5
Mail outs	12	8	0	2	2	4	0
Websites	16	14	2	3	1	6	2
Newspaper	19	16	3	3	2	6	2
Television	2	2	0	1	0	1	0
Radio	8	6	1	2	0	2	1
Newsletters	12	8	1	3	1	2	1
Workshops/Information sessions	10	5	0	3	0	2	0
Other*	7	0	0	0	0	0	0

*Some councils also used presentations at schools and community groups.

Conclusion

Very few councils provided supporting documentation to demonstrate that policy and guidance is in place to ensure that staff understand how to action councils' obligation in providing public notice and promoting public access to local laws. This suggests that most councils have room to improve the level of documented guidance in place. Documented guidance would assist staff to understand how to action councils' obligations in regard to promoting public access and awareness of the changes expected through new or amended local law. Documented policies and guidance to council officers would provide council with an assurance that a consistent approach is taken in giving notice of new or changes in local laws.

3.3 Supporting council officers to enforce local laws

As set out in the LGA 2009 s.4 (1),(2) and the CoBA 2010 s.4 (1),(2) Parliament requires that councils adhere to the local government principles. The principles require that council actions are consistent with:

- good governance of, and by, local government
- transparent and effective processes, and decision-making in the public interest
- ethical and legal behaviour of councillors and local government employees.







Training and guidance materials help council officers understand their obligations and ensure that decisions are made fairly, soundly and consistently.

Findings

Training

Most councils responded that systems are in place to provide training for enforcement officers. In relation to the enforcement areas of animal control, parking, caravan parks, cemeteries and advertising, a high number of councils surveyed assessed that they have training in place to ensure qualified officers understand and exercise their powers.

Figure 3D – Self-assessment response to question 19

Q. Does training for authorised officers address the following?		Other local laws					
		Total other					
Number of responses	23	23	4	4	3	7	5
Power to require a person's name and address to authorised persons	21	18	4	3	3	6	2
The conditions under which authorised persons may or may not enter private property	22	18	4	4	2	6	2
Issue of notices to comply and infringement notices	19	17	4	4	2	5	2
Appeal/review provisions	17	16	4	4	2	4	2

Councils also reported that they have mechanisms in place for identifying training and development needs. Performance appraisals are the most common mechanism used, followed by training development plans.

The audit reviewed supporting documentation provided by councils and found that the amount of evidence to support council assessments varied across the enforcement areas. An analysis of the responses on the other local laws (see Section 4) showed that documentation for parking was more comprehensive than the other enforcement areas. Audit noted that parking is a material enforcement area in relation to human resources and frequency of enforcement.

Unlike parking or animal control, swimming pools did not score as favourably. Less than half of the five councils surveyed assessed that they have staff training in place for ensuring qualified officers who understand and exercise their powers. None of the five councils provided sufficient evidence that training for swimming pool enforcement officers was documented.

Case study

Better practice case study Enforcement officer training

Brisbane City Council

Authorised Officer Training Booklet

Brisbane City Council provided audit with an Authorised Officer Training Booklet developed to guide authorised officers in their role. The booklet covers a range of topics related to authorised persons including: the power to require name and address, the powers of entry, identity cards, warrants, offences and local law exemptions.

For each topic, the relevant sections of the Local Government Act/City of Brisbane Act are listed and further explanation is provided. In some cases, the booklet contains suggested wording the authorised officers can use while on duty. For example, suggested wording is provided which authorised officers could use when asking a person for evidence of their name and address.

Why is this better practice?

The Authorised Officer Training Booklet provides comprehensive information which enables authorised officers to learn the relevant sections of the Local Government Act/City of Brisbane Act and the expectations of Brisbane City Council. This helps to ensure authorised officers are consistent in their approach to issues such as entering places and asking for a person's name and address.

Inspection programs

For a few enforcement areas, less than half of the councils surveyed responded that they perform systematic inspections. The objectives of swimming pool local laws generally, are to ensure

- public and private swimming pools within the area generally comply with essential standards of health and safety
- the operation or use of swimming pools does not result in nuisance to adjoining occupiers or others
- public pools are properly managed and supervised.

An analysis of the responses showed that for swimming pools, less than half of the five councils surveyed conduct systematic inspections. Similarly, for caravan parks and advertising – a quarter of the eight councils surveyed conduct systematic inspections.

Figure 3E – Self-assessment response to question 22













Q. Does council have staff training/supporting materials in place for:		Other local laws					
		Total other	ads 				
Number of responses	23	23	4	4	3	7	5
Conducting planned inspection programs to ensure compliance with local laws?	13	6	2	1	0	3	0
Responding and acting on allegations of unlawful activity by members of the public?	18	14	4	2	2	5	1

Figure 3F – Self-assessment response to question 23

Q. Systematic inspection programs are conducted:		Other local laws					
		Total other	ads 				
Number of responses	23	16	4	4	3	0*	5
Daily	5	1	0	0	1	-	0
Weekly	3	0	0	0	0	-	0
Fortnightly	0	0	0	0	0	-	0
Monthly	2	0	0	0	0	-	0
Quarterly	1	1	0	0	1	-	0
Yearly	11	5	1	1	1	-	2
Not applicable	1	3	1	1	1	-	0
Other	7	2	1	1	0	-	0

*Parking patrols were not included as inspections

Half of the councils surveyed on animal control and parking assessed they have staff training and guidance materials (e.g. policies, procedures, manuals, etc) in place for conducting planned inspections. However, only approximately a third of these councils could provide sufficient evidence of documented guidance for these enforcement areas and only a few councils provided evidence of training.

Half of the councils surveyed on advertising assessed they have staff training/support materials in place for conducting planned inspections. None of these councils provided sufficient evidence to support their assessments.

Only one of four councils surveyed regarding caravan parks responded that they have such training in place. However, they did not provide evidence that the system was documented. Documented inspection schedules would provide council with an assurance that a consistent and planned approach is taken to assess the level of compliance with local laws.

Decision-making

Effective decision-making is a skill that allows enforcement officers to confidently and consistently enforce local laws. Good decision-making states that enforcement officers are more likely to make the correct decision if they:

- act fairly, reasonably and in good faith
- obtain, consider and act in accordance with all available relevant information
- are open and respectful in their dealings with those affected or potentially affected by the decision
- try to resolve concerns as informally and quickly as possible.⁸

Councils' responses to the survey indicate that most have guidance materials or training in place to support officers to use their discretion in issuing infringement or warning notices. However, audit identified that only a few of the documents provided supported good decision making.

Figure 3G – Self-assessment response to question 24







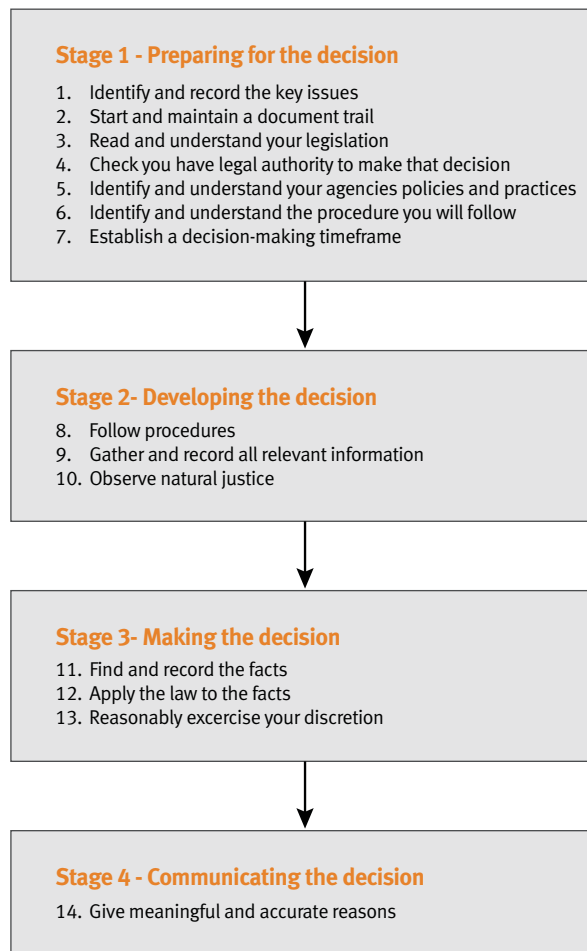
Q Does council's staff training/supporting materials require authorised persons to take account any of the following considerations when issuing an infringement or warning notice?		Other local laws					
		Total other					
Number of responses	23	23	4	4	3	7	5
Frequency of occurrence of the unlawful activity	14	14	3	3	2	4	2
Would consent have been given if it had been sought?	13	12	3	3	1	3	2
Does the person who is the subject of the complaint show due contrition?	9	12	4	2	1	3	2
Are there any particular circumstances of hardship affecting the complainant or the person who is the subject of the complaint?	13	14	3	3	2	3	3
Has the person who is the subject of the complaint received a previous warning or other non-coercive approach or been previously the subject of formal legal action?	13	14	3	3	2	4	2
Would an educative approach be more appropriate than a coercive approach?	15	15	4	3	1	4	3
What are the relative costs and benefits of taking formal enforcement action as opposed to taking no action or taking informal actions?	10	12	4	2	2	2	2
What are reasonable and proportional actions?	12	13	3	3	2	2	3
What would be in the public interest?	13	15	4	3	2	3	3

Figure 3H shows the process endorsed by the Queensland Ombudsman in *Decision-Making Guide, Good decisions make good sense*. Following these steps should ensure that warnings and infringement notices are issued consistently and fairly.

⁸ Queensland Ombudsman, *Good Decision-Making Guide, Good decisions make good sense*, 2007.

Figure 3H – Steps to making good decisions



Source: Diagram based on information contained in *Good Decision-Making Guide, Good decisions make good sense*, Queensland Ombudsman, 2007.

Conclusion

While many councils responded that they have systems in place to support staff to enforce their local laws, a review of the documents supplied to audit identified that the systems are generally poorly documented in the majority of smaller regional councils. These councils could improve their systems to implement and enforce local laws by providing training and guidance that ensures enforcement officers follow sound decision-making. Audit noted that systems to support the enforcement of swimming pool laws at the five councils who replied to this area had much less documentation than the other enforcement areas of parking, animal control, advertising, cemeteries and caravan parks. Although audit acknowledges that the size of the sample was small, the significant public health issues involved in regulating both public and private swimming pools indicates that this is an area where documentation could be improved.

3.4 Appeal and review processes







The LGA 2009 s.13(3)(d)(ii) and the CoBA 2010 s.15(2)(d)(ii) require the Chief Executive Officer to establish and implement practices to ensure that members of the community have access to appropriate avenues for reviewing local government decisions. This includes decisions about local laws. Therefore, councils should have systems in place to ensure:

- public officers are trained and supported in understanding how to make administrative decisions
- members of the public are aware of their right of review regarding decisions that affect them
- systems are in place to assure transparent and effective processes are in place to ensure decisions and the review of decisions are carried out in adherence to natural justice and procedural fairness principles embedded in law and decision making best practice guidelines.⁹

Findings

Audit found that the practice of communicating appeal/review provisions at the time of the infringement was applied predominately to the enforcement of parking laws, and most councils produced their parking infringement notices as evidence. Audit found the application of this practice in all other areas of local law enforcement activities was inconsistent, indicating that most councils lacked a system to communicate to the public the right of review. It is a requirement of the LGA 2009 and the CoBA 2010 that review/appeal processes are in place to cover all local laws and enforcement decisions for which a council is responsible.

Figure 3I – Self-assessment response to question 26

Q. Appeals/review provisions are communicated:		Other local laws					
		Total other					
Number of responses	23	23	4	4	3	7	5
On council's website	5	6	1	1	1	3	0
On the infringement notice	19	15	3	3	2	5	2
Verbally at the time of issuing the infringement notice	17	13	4	3	1	4	1
Not applicable	1	3	0	1	0	1	1
Other	3	2	1	0	0	1	0

Training and support materials to ensure appeal/review provisions are communicated verbally or in writing at the time of the infringement or notice were similar across all the local laws.

Although the majority of councils reported that they have training and support materials in place to record and monitor investigation and resolution activities, these practices were not consistent across all laws and enforcement decisions for which a council is responsible.

⁹ Administrative Review Council Decision Making Guides 1-5: 'Lawfulness', 'Natural Justice', 'Evidence, Facts and Findings', 'Reasons', and 'Accountability', and associated guidelines such as the Queensland Ombudsman 'Good Decision-Making Guide', 2007.

Conclusion

Communicating the appeal/review process will not only allow councils to ensure that the obligations under the LGA 2009 or the CoBA 2010 are met, but also reduce the risk of unsuccessful prosecutions due to staff not following procedures correctly. To reduce the risk that decisions (or lack of decisions) may not withstand review, councils must have management systems, policies and procedures, delegations of power, guidance support and training in place to encourage officers to understand and apply administrative law rules for decision making.

Case Study

Better practice case study

Appeals and review

Logan City Council

Principles-based legislation – complying with the spirit of the law

The LGA 2009 sets a principles-based legislative framework which seeks to achieve higher levels of compliance by requiring councils to comply with the spirit rather than the letter of the law. Under the LGA 2009, council Chief Executive Officers are responsible for *“establishing and implementing practices about access and equity to ensure members of the community have access to appropriate avenues for reviewing council decisions.”*¹⁰

To move beyond mere compliance, a council must be committed to the Local Government Principles set down to ensure accountable, effective, efficient and sustainable governance. It must do more than simply provide an avenue for review of its decisions, but prepare its staff to make quality decisions in accordance with administrative law rules for decision making.

Logan City Council achieves this by:

- Promoting good decision making by providing staff with guidance in how to gather and weigh the evidence and exercise discretionary powers when enforcing local laws.
 - Flow charts and written procedures help staff make enforcement decisions such as the issuing of a penalty infringement notice.
 - In-house training, assessment and written guidance to ensure staff are properly authorised to make decisions and exercise powers, understand the nature and boundaries of their powers and know how and when to exercise discretionary powers within the bounds of legislative authority.
 - Systems are in place to document decision processes and to track complaints and appeals.
- Promoting accountability for its decisions by affording the public easy access to its complaint and review processes.
 - Visitors to the council's website seeking information on how to appeal a decision of council will be navigated to the 'how to's', check lists and application forms specific to the nature of their complaint or appeal, providing comprehensive information in a manner that does not overwhelm or confuse.
 - People are communicated their right to review a decision, seek reasons as to why a decision was made, or to complain about the conduct of a member of staff or councillor in regard to the exercise of power.

Why is this better practice?

Logan City Council not only meets its obligations under law to provide an avenue for review of its decisions, but achieves a higher level of compliance by promoting accountability for its decisions. It does this by promoting the review processes and by supporting its staff to make good decisions that will withstand scrutiny under review.

¹⁰ *Local Government Act 2009* s.15(12)(ii) and *City of Brisbane Act 2010* s.15(2)(ii).

3.5 Level of infringement notices/prosecutions

Audit noted that the number of infringement notices issued and prosecutions completed varied widely between the 23 councils who responded to the survey. The figures for animal control are presented in Figure 3J, the results for the other infringement areas showed similar patterns with the highest volume being for parking.

The results indicate that, in 2008-09, councils in the northern region had a significantly higher rate of animal control infringement notices and prosecutions than councils in other regions. Although councils across the state issue hundreds of thousands of infringement notices every year, audit noted that few or no prosecutions had been made by many of the councils in the central, far north, south east and southern regions. Further examination of the reasons for these results was not conducted in this audit.

Figure 3J – Rates of animal control infringements and prosecutions for the councils audited, 2008-09

Council Locations	Infringements (per 100,000 population)	Prosecutions (per 100,000 population)
Far North Queensland	43.9	0
Central Queensland	87.4	0
South East Queensland	211.3	0.5
Southern Queensland	231.3	0.3
Northern Queensland	407.4	58.5

Source: Compiled by QAO, based on data provided by councils.

3.6 Managing real or perceived regulatory conflicts of interest

It is possible for council owned businesses such as caravan parks, swimming pools and quarries to receive a competitive advantage over private businesses. Local laws have the potential to create a regulatory burden on private businesses that makes it harder for them to compete with council-owned businesses that may be exempt or treated differently. According to the LGA 2009 s.38 and the CoBA 2010 s.41, a local government must not make a local law that contains an anti-competitive provision, unless the local government has complied with the procedures prescribed under a regulation for the review of anti-competitive provisions. A local law that is contrary to this has no effect.

Findings

Overall, audit found that there was insufficient evidence to indicate that councils have systems to manage real or perceived conflicts of interest when councils are both operators and regulators. Only 52 per cent of councils assessed that they have guidance material to manage real or perceived conflicts of interest. The documentation which was provided by councils to support this assessment did not address real or perceived conflicts of interest where the council is both an operator and a regulator of a business.

Figure 3K – Self-assessment response to question 13

Q. Does council have staff training and/or supporting materials in place to:	Yes
Number of responses	23
Ensure council manages potential conflicts of interest where it is both operator and regulator of a service/business	12
Ensure there are clearly defined governance arrangements for council businesses	14
Ensure council effectively manages complaints about regulatory conflicts of interest	14

Conclusion

It is not clear from the survey results how many council business activities may involve perceived conflicts of interest or how much revenue these activities generate. However, governance policies that ensure real or perceived regulatory conflicts are managed appropriately and transparently would assure councils that staff are implementing and enforcing local laws fairly and consistently.

3.7 Support from the Department of Infrastructure and Planning

The Local Government Office of the department develops public policy instruments that guide:

- councils in governing and regulating their powers, obligations and administrative arrangements
- the statewide measurement, reporting and systemic improvement of local government performance and financial sustainability
- the provision of advisory services to state and federal government agencies, local governments and independent agencies on matters related to and affecting council policy, legislation, services, pilot projects and proposed initiatives.¹¹

Findings

Harmonisation progress

The original review date for amalgamated councils to harmonise their local laws was 31 December 2010 as required by the *Local Government Reform Implementation (Transferring Areas) Regulation 2007*. The department extended the deadline to December 2011 by amendment to the regulation. Audit was informed that the change was in response to a submission received from the Local Government Association of Queensland (LGAQ) seeking a one year extension because of the delay of the new LGA 2009 coming into force.

The department assists councils to ensure their local laws are accessible on the website by providing a Local Laws Database on the department's website.

Support to implement and enforce local laws

The department administers the LGA 2009 and the CoBA 2010 and as stated in its Strategic Plan 2009-2013: *has responsibility for shaping and supporting an efficient, effective and sustainable local government*. The department has a capacity-building role and delivers a number of initiatives such as:

- training focusing on the business and operations of local government
- training in new local government legislation.

Audit was advised that the department's current priority is to provide assistance and advice in the making of local laws, as this has been identified as an area of need by stakeholders. The department does not currently have an active role in supporting the implementation and enforcement of local laws.

The department hosts a centralised searchable database on its website which contains details of all the local laws for all Queensland councils. The system has been online since 2000 and is currently being updated.

Audit was advised that the department does not provide training programs for authorised officers on their powers of entry, as it considered the LGAQ and other private providers run effective courses on this topic. An analysis of the training materials and courses provided showed that the department has run sessions on enforcement issues in the past but this assistance has decreased recently.

¹¹ Department of Infrastructure and Planning, *Annual Report 2008-09*.

Capacity-building

The majority of the department's capacity-building effort is associated with the introduction and implementation of new legislation adopted through the department's legislative program. Audit was advised that the remaining capacity-building projects are allocated on a needs assessment basis. They are carried out after consideration of the priorities determined following consultation with key stakeholders including the Minister, Mayors and Chief Executive Officers.

An analysis of one of the assessment processes used by the department to determine councils progress in complying with the LGA 2009, identified that the process was comprehensive and enabled the department to gain a vast amount of information about councils. The department focuses more on assisting councils in making local laws than on the enforcement of local laws.

Audit was advised by the Executive Director of Regional Services, that the department is in the process of implementing its Sustainability and Reporting process for all local governments. This process is intended to identify performance issues for councils and provide some evidence-based recommendations for future capacity-building activities on the areas reviewed by the process. Audit is unable to determine the level of efficiency and effectiveness of this process as it has not yet been completed.

Real or perceived regulatory conflicts of interests

The department assists councils in regard to managing potential conflicts of interest on a complaints basis only. It investigates conflicts of interest issues only when complaints are made to the Minister.

Conclusion

The department provides advice and capacity-building services to councils to meet its obligations under the LGA 2009 and CoBA 2010 and to achieve the objective in its strategic plan. Given that the responsibility for the day-to-day operation of councils rests with their individual Chief Executive Officers, it is reasonable to expect that councils will request support as needed to supplement their own capacity-building activities. Currently, the department's approach to capacity-building is based on emerging issues from the department's reform agenda and input from stakeholders. An assessment of the capacity of council systems to deliver sustainable local government would provide a more evidence-based approach to capacity-building.

Recommendations

It is recommended that councils review their policies to ensure that:

- 1. training and support materials for policy and enforcement officers cover the requirements of the *Local Government Act 2009* or the *City of Brisbane Act 2010***
- 2. the principles of good decision-making are used in the enforcement of local laws**
- 3. they deal adequately with identification and management of real or perceived regulatory conflicts of interest.**

4 | Appendices







4.1 Summary of self-assessment questionnaires

This table presents the results of the 23 self-assessment questionnaires returned. Audit distributed questionnaires to a sample of 25 councils. The results represent the number of councils who indicated that systems were in place.







Question		Yes
Law enforcement policy		
Q6.	Does council have an overall law enforcement/prosecution policy for the organisation?	5
Gazetting of local laws		
Q7.	Does council provide staff training and/or supporting materials to publish notices of new or amended local laws in:	
	• Newspaper that is circulated in the local government area?	9
	• Gazette?	8
	• Local Government's website?	9
Q8.	Please list the information council requires to be included in the notice:	
	• doesn't meet requirements of LGA	10
	• meets the requirements of the LGA	13
	• exceeds the requirements of the LGA	9
Q9	What ways does council give public notice that it has introduced a new or amended local law?	
	• Newspaper	19
	• Gazette	18
	• Websites	17
	• Mail outs	9
	• Television	1
	• Radio	5
	• Newsletters	11
	• Workshops/information sessions	5
	• Other	4

Question		Yes
Management of conflicts of interest		
Q13	Does council have staff training and/or supporting materials in place to:	
	<ul style="list-style-type: none"> ensure council manages potential conflicts of interest where it is both operator and regulator of a service/business 	12
	<ul style="list-style-type: none"> ensure there are clearly defined governance arrangements for council businesses 	14
	<ul style="list-style-type: none"> ensure council effectively manages complaints about regulatory conflicts of interest 	14

Systems to enforce local laws







							
Number of responses		23	4	4	3	7	5
Accessibility to local laws and relevant materials							
Q14.	Does council provide staff training and/or have supporting materials to:						
	<ul style="list-style-type: none"> ensure that copies of local laws are available to the public for inspection and purchase? 	19	4	4	2	6	5
	<ul style="list-style-type: none"> ensure that either local laws are accessible on council's website or that there are links to the Local Laws Database on the Department of Infrastructure and Planning's website? 	21	4	4	2	5	3
	<ul style="list-style-type: none"> ensure that supporting materials for local laws are available on council website? 	21	4	3	2	4	2
Q15.	How does council provide local laws to the public?						
	<ul style="list-style-type: none"> Copies are available for viewing 	23	4	4	3	7	5
	<ul style="list-style-type: none"> Copies are available for purchase 	20	3	2	3	7	4
	<ul style="list-style-type: none"> Copies are available for download on council's website 	18	2	4	2	6	3
	<ul style="list-style-type: none"> Copies are available online from the Local Government Toolbox 	4	1	2	1	1	1
	<ul style="list-style-type: none"> Copies are available from the local library, community centre, etc 	6	1	2	1	2	0
	<ul style="list-style-type: none"> Other¹² 	5	1	0	0	2	0
Q16.	How does council provide the public access to ancillary materials (standards, application forms, guidelines, fees and charges etc) for local laws?						
	<ul style="list-style-type: none"> Copies are available from council 	22	4	5	3	7	5
	<ul style="list-style-type: none"> Copies are available for download on council's website 	19	4	4	2	7	5

¹² Council used a variety of other means including regional and divisional offices.







							
Number of responses		23	4	4	3	7	5
	<ul style="list-style-type: none"> Copies are available online from the Local Government Toolbox 	2	1	1	0	1	0
	<ul style="list-style-type: none"> Copies are available from the local library, community centre, etc 	2	1	2	0	1	1
	<ul style="list-style-type: none"> Copies are available at relevant business (e.g. pet shops) 	3	1	0	0	0	1
	<ul style="list-style-type: none"> Other¹³ 	3	1	0	1	2	2
Education campaigns							
Q17.	What mechanisms does council use to ensure that education campaigns, for new or revised local laws, are conducted for affected groups?						
	<ul style="list-style-type: none"> Mail outs 	12	0	2	2	4	0
	<ul style="list-style-type: none"> Websites 	16	2	3	1	6	2
	<ul style="list-style-type: none"> Newspaper 	19	3	3	2	6	2
	<ul style="list-style-type: none"> Television 	2	0	1	0	1	0
	<ul style="list-style-type: none"> Radio 	8	1	2	0	2	1
	<ul style="list-style-type: none"> Newsletters 	12	1	3	1	2	1
	<ul style="list-style-type: none"> Workshops/Information sessions 	10	0	3	0	2	0
	<ul style="list-style-type: none"> Other¹⁴ 	7	0	0	0	0	0
Training for authorised persons							
Q18.	Does council have staff training/materials in place to ensure:						
	<ul style="list-style-type: none"> the council appoint qualified and competent authorised persons to enforce its local laws? 	21	4	4	3	5	2
	<ul style="list-style-type: none"> that authorised persons understand and exercise their powers under the relevant legislation? 	22	4	4	3	5	2
	<ul style="list-style-type: none"> that the identity cards of authorised persons are current? 	21	4	4	3	4	2
Q19.	Does training for authorised persons address:						
	<ul style="list-style-type: none"> power to require a person's name and address to authorised persons 	21	4	3	3	6	2
	<ul style="list-style-type: none"> the conditions under which authorised persons may or may not enter private property 	22	4	4	2	6	2
	<ul style="list-style-type: none"> issue of notices to comply and infringement notices 	19	4	4	2	5	2

¹³ Some councils also provided access through local post office, regional and divisional offices.







¹⁴ Some councils also used stands at specific events such as pet shows.

							
Number of responses		23	4	4	3	7	5
	• appeal/review provisions	17	4	4	2	4	2
Q20.	Please indicate who delivers the training (as per the previous question) to authorised persons:						
	• Council	15	2	3	2	4	1
	• Other council/s	2	0	0	1	1	0
	• Local Government Association of Queensland	15	0	3	2	5	1
	• Private Training Provider/s	13	3	3	1	4	1
	• Department of Infrastructure and Planning	3	0	2	0	1	1
	• Other department/s	2	0	0	1	1	0
	• Other	1	0	0	0	0	0
Q21.	What mechanism does council have to identify on-going training and development needs?						
	• Performance agreements	5	1	0	1	3	0
	• Training development plans	14	4	3	0	4	1
	• Performance appraisal	20	4	4	3	6	1
	• Performance targets	8	2	1	1	3	0
	• Other	3	1	0	0	0	1
Q22.	Does council have staff training/supporting materials in place for:						
	• conducting planned inspection programs to ensure compliance with local laws?	13	2	1	0	3	0
	• responding and acting on allegations of unlawful activity by members of the public?	18	4	2	2	5	1
Q23.	Systematic inspection programs are conducted. ¹⁵						
	• Daily	5	0	0	1		0
	• Weekly	3	0	0	0		0
	• Fortnightly	0	0	0	0		0
	• Monthly	2	0	0	0		0
	• Quarterly	1	0	0	1		0
	• Yearly	11	1	1	1		2
	• Not applicable	1	1	1	1		0
	• Other	7	1	1	0		0

¹⁵ Parking patrols were not included as inspections.

							
Number of responses		23	4	4	3	7	5
Infringement notices							
Q24.	Does council's staff training/supporting materials require authorised persons to take into account any of the following considerations when issuing an infringement or warning notice? ¹⁶						
	• Frequency of occurrence of the unlawful activity?	14	3	3	2	4	2
	• Would consent have been given if it had been sought?	13	3	3	1	3	2
	• Does the person who is the subject of the complaint show due contrition?	9	4	2	1	3	2
	• Are there any particular circumstances of hardship affecting the complainant or the person who is the subject of the complaint?	13	3	3	2	3	3
	• Has the person who is the subject of the complaint received a previous warning or other non-coercive approach or been previously the subject of formal legal action?	13	3	3	2	4	2
	• Would an educative approach be more appropriate than a coercive approach?	15	4	3	1	4	3
	• What are the relative costs and benefits of taking formal enforcement action as opposed to taking no action or taking informal actions?	10	4	2	2	2	2
	• What are reasonable and proportional actions?	12	3	3	2	2	3
	• What would be in the public interest?	13	4	3	2	3	3
Appeals/reviews							
Q25.	Does council have staff training/supporting materials in place for:						
	• ensuring internal appeal/review provisions are documented on the warning/infringement notice and on council's website?	13	3	3	0	4	0
	• ensuring internal appeal/review provisions for notices/infringements are communicated at the time of the infringement?	16	4	3	0	4	2
Q26.	Appeals/review provisions are communicated:						
	• On council's website	5	1	1	1	3	0
	• On the infringement notice	19	3	3	2	5	2
	• Verbally at the time of issuing the infringement notice	17	4	3	1	4	1
	• Not applicable	1	0	1	0	1	1
	• Other	3	1	0	0	1	0

¹⁶ There were three councils who responded that this question was not applicable to parking.

							
Number of responses		23	4	4	3	7	5
Investigation and resolution of potential breaches of local laws							
Q27.	Does council have any of the following processes to manage and coordinate the recording and monitoring of the investigation and resolution of potential breaches of local laws?						
	• A data management system containing complainants' details	23	4	4	3	6	3
	• Allocating the complaint to a particular staff member	22	4	4	3	6	3
	• Set response times for the investigation and resolution of complaints	20	4	3	2	6	3
	• Informing complainants of council's rights and obligations in regards to confidentiality	17	4	2	2	6	3
	• Asking complainants whether they would be willing to be a witness (e.g. if it is likely the matter will go to court).	18	4	3	3	3	1
	• Assessing the complaint and recommending appropriate enforcement action if there is evidence of unlawful activity.	20	4	3	3	5	1
	• Informing the complainant of the outcome of the investigation or other action taken	21	4	3	3	6	2
	• Other	4	0	1	0	2	0

4.2 Acronyms

CoBA 2010	<i>City of Brisbane Act 2010</i>
LGA 2009	<i>Local Government Act 2009</i>
LGAQ	Local Government Association of Queensland
PMS audit	Performance Management Systems audit

4.3 Glossary

Appropriately qualified

In relation to a delegated power, includes having the qualifications, experience or standing to exercise the power.

Authorised person

A person who has the competencies that the Chief Executive Officer considers are necessary to perform the responsibilities that are required to be performed by the authorised person, prescribed under a regulation and is either an employee of the local government or another type of person prescribed under a regulation.

Education campaign

A mechanism for publicising local laws to affected groups.¹⁷

Effectiveness

The achievement of objectives or other intended effects of activities at a program or entity level.

Efficiency

The use of resources such that output is optimised for any given set of resource inputs, or input is minimised for any given quantity and quality of output.

Enforcement officer

An officer of an agency who performs enforcement responsibilities.¹⁸

¹⁷ Department of Planning and Community Involvement, Victoria, Based on *Guidelines for Local Laws Manual, 2009*, page 32.

¹⁸ Queensland Ombudsman, *Tips and Traps for Regulators*, 2008.

Harmonisation/consolidation of local laws

The merging of local laws and subordinate local laws by councils affected by the local government amalgamations on 15 March 2008.

Identity card

A card that identifies an authorised person as a representative of the local government.

Infringement notice

A notice issued by an enforcement officer for an offence that does not warrant court action (e.g. illegal parking).

Infringement notice offence

An offence other than an indictable offence, or an offence against the person, prescribed under a regulation to which the *State Penalties Enforcement Act 1999*.¹⁹

Local Government Toolbox

A website that provides council officers and the public with access information regarding local laws and regulations.²⁰

Local Laws Database

The Department of Infrastructure and Planning maintains a database of local laws enacted by various councils across Queensland.

Supporting materials

Materials such as policies, procedures, guidelines, manuals, checklists, training documents, position descriptions, handbooks, templates, application forms and educational material.

Systematic inspection program

A program that allows an authorised person to enter and inspect all properties, or all properties of a certain type, in the local government area.

¹⁹ *State Penalties Enforcement Act 1999*, page 156.

²⁰ www.lgtoolbox.qld.gov.au

4.4 References

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Auditor-General

Reports to Parliament

5.1 Tabled in 2010

Report No.	Subject	Date tabled in Legislative Assembly
1	<i>Auditor-General Report to Parliament No. 1 for 2010</i> <i>Audit of A1 Grand Prix Agreements</i> A Financial and Compliance audit	4 February 2010
2	<i>Auditor-General Report to Parliament No. 2 for 2010</i> <i>Follow-up of selected audits tabled in 2007</i> A Performance Management Systems audit	23 March 2010
3	<i>Auditor-General Report to Parliament No. 3 for 2010</i> <i>Administration of Magistrates Court Services in Queensland</i> A Performance Management Systems audit	13 April 2010
4	<i>Auditor-General Report to Parliament No. 4 for 2010</i> <i>Results of local government audits</i> Financial and Compliance audits	21 April 2010
5	<i>Auditor-General Report to Parliament No. 5 for 2010</i> <i>Performance Reviews – Using performance information to improve service delivery</i> A Performance Management Systems audit	18 May 2010
6	<i>Auditor-General Report to Parliament No. 6 for 2010</i> <i>Using student information to inform teaching and learning</i> A Performance Management Systems audit	20 May 2010
7	<i>Auditor-General Report to Parliament No. 7 for 2010</i> <i>Information systems governance and control, including the Queensland Health Implementation of Continuity Project</i> Financial and Compliance audits	29 June 2010
8	<i>Auditor-General Report to Parliament No. 8 for 2010</i> <i>Results of audits at 31 May 2010</i> Financial and Compliance audits	6 July 2010

Report No.	Subject	Date tabled in Legislative Assembly
9	<i>Auditor-General Report to Parliament No. 9 for 2010</i> <i>Sustainable management of national parks and protected areas</i> A Performance Management Systems audit	5 October 2010
10	<i>Auditor-General Report to Parliament No. 10 for 2010</i> <i>Expenditure under the Nation Building – Economic Stimulus Plan at 31 August 2010</i> A Financial and Compliance audit	27 October 2010
11	<i>Auditor-General Report to Parliament No. 11 for 2010</i> <i>Implementation and enforcement of local laws</i> A Performance Management Systems audit	November 2010

Publications are available at www.qao.qld.gov.au or by phone on 07 3149 6000.