Local Government Reform Program - Promoting Better Practice

challenges   improvement   innovation   good governance

FOCUSSED REVIEW REPORT

MURRAY SHIRE COUNCIL

MARCH 2005

dlg Department of Local Government

TABLE OF CONTENTS

1. ABOUT THE REVIEW

Focussed Review objectives

The Local Government Reform Program - Promoting Better Practice is a review process that has a number of objectives for the focussed review strategy:

- to generate greater compliance to legislation across local government
- to provide an 'early intervention' option for councils experiencing operating problems
- to promote good governance and ethical conduct principles
- to enable the department to use review information to feed back into its work in identifying necessary legislative and policy work for the local government sector.

Focussed Review process

Focussed reviews are short reviews on specific areas of council activities that have been identified as a result of an analysis of council's information and data. These reviews use the same tools for identifying and analysing performance as the full reviews. This means that even though the department spends much less time with the council undergoing a focussed review, it still has the tools to get the best possible benefit out of the process.

Focussed reviews involve the department working with several councils in a region at one time. After completing the practice checklist, the council spends a day with departmental staff on site carrying out focussed checking. The focussed review has a greater compliance focus than the full review strategy.

There are essentially five steps in a review - preparing, assessing, checking, analysing and reporting. The review team examines local circumstances in order to understand the pressures on council and how the council has sought to manage that environment.

In order to review council it is necessary to examine its performance across a range of functions. A number of modules and a practice checklist have been developed to assist council in assessing its functions and checking its compliance. Council's response to the checklist is used as a guide for the on-site review and tests how council has set about delivering its priorities and measuring its achievements.

It is expected that this type of review will be limited to some aspects of council operations. As such, it will not provide an in depth or overall picture of council operations. The results of the review may, however, provide an indication of matters needing attention across aspects of council operations.

Murray Shire Council Review

Murray Shire Council was asked to complete a checklist of key council practices. The completed checklist was analysed by the review team prior to commencing the on-site review process.

Senior Investigations Officer John Canadi and Senior Finance Officer Scott Wallace comprised the review team who conducted an on-site review of council on 8 December 2004.

The on-site review consisted of a briefing with the Mayor and General Manager, conducting interviews with other council staff and the review of a number of council's policies and other documents.

2. RECOMMENDATIONS

Governance

1. Council should ensure it uses pecuniary interest forms that comply with the Regulation. *(Refer to the Department of Local Government's circular 04/16: Pecuniary Interest Returns).*

2. Council should develop and adopt a statement of business ethics to communicate both internally and externally the ethical standards that council abides by and expects others to abide by when doing business with council. *(Refer to the ICAC publication: Developing a statement of business ethics).*

3. Council should develop and adopt a policy on disaster recovery*. (Refer to* http://www.oict.nsw.gov.au/content/2.3.35.business-continuity.asp)

4. Council should examine the costs and benefits of establishing an internal audit function. Given the council's size consideration should be given to contracting for this function or to sharing this function with other councils.

5. Council should develop and adopt a policy on fraud prevention control (*Refer to ICAC: Fighting Fraud – Guidelines for State and local government (2002), NSW Audit Office: Fraud control – developing an effective strategy 1994) and Standards Australia: AS8001-2003 Fraud and Corruption Control).*

6. Council should conduct routine fraud risk assessments as part of its risk management responsibilities.

7. Council should ensure for all tender processes that:
   - a record is kept on the relevant tender file, confirming that the tenders in question were opened in accordance with clause 16 of the Local Government (Tendering) Regulation.
   - the relevant tender file contains a copy of the tender requirements including the proposed term of supply for the goods and services.

- the advertisement relating to a particular tender is kept on the relevant file.

- tender documents are kept on the relevant tender file.

- documents provided to tenderers include information relating to the need for tenderers to refrain from interaction with councillors.

- the documented tender assessment criteria and matrix is kept on file.

- tenders are both time and date stamped.

8. Council should develop and adopt a privacy management plan. *(Refer to the Department of Local Government Circular to Councils, no 00/44).*

9. Council should develop and adopt a records management plan and business continuity plan that reflects the requirements of the State Records Act 1998.

10. Council should develop and adopt a policy that covers legislative compliance.

11. Council should expand on its expenses and facilities policy by including financial limits on telephone expenses. *(Refer to the Department of Local Government Circular, no 04/62).*

12. Council should develop and adopt an implementation plan for the complaint handling policy which includes:

    a. identifying who is responsible for dealing with complaints and how they are handled;
    b. training for staff in complaint handling;
    c. the reporting of complaints data to senior management and council;
    d. how the community will be informed of council's complaint handling procedures, and
    e. specified service standards for responding to the public. *(Refer to the NSW Ombudsman publication: Complaint Handlers' Toolkit).*

13. Council should have a constitution or charter setting out membership, functions and delegations for its section 355 committees. It is also suggested that section 355 committees have procedure or operational manuals and that the membership be subject to a code of conduct. (*Refer to the Guideline to the Model Code of Conduct, Department of Local Government Circular to Councils, No 04/63)*

14. Council should provide training to councillors in relation to their roles within council (as prescribed by the Local Government Act 1993), where necessary, and provide on going training in particular areas of need.

15. Council should develop and adopt a communications devices policy that incorporates council's e-mail and telephone policy. The communications policy should also cover the use of mobile phone, internet, personal digital assistants, facsimiles, canners and photocopiers. *(Refer to the NSW Premier's policy and guidelines for the use by staff of employer communication devices).*

Asset and Financial Management

16. Council should investigate the development of a rating hardship policy.

17. Council should investigate the development of a pensioner rates and charges reduction policy.

18. Council should develop and adopt a policy in respect of the use of external contractors for major services.

19. Council should develop and adopt an asset disposal policy, in relation to council's plant items, office equipment and stores equipment.

20. Council should seek to implement a revaluation of its roads infrastructure classes.

Community and Consultation

21. Council should consider providing information that assists members of the public to access information under council's policy and information on how to lodge a complaint or comment with council.

22. Council should develop and adopt a written guarantee of service policy *(Refer to the Management Planning for NSW Local Government Guidelines – NSW Department of Local Government).*

3. CONTEXT

Murray Shire Council was originally constituted in 1906. It has retained its current boundaries since 1952. It has a population of 6328 as at 30 June 2002. Over the 5 years to 30 June 2002 the population had increased at an average rate of 3.16 %. Nine councillors represent the population.

Murray Shire Council is situated in the Southern Riverina district of New South Wales. It is about 800km south of Sydney and it is 200km north of Melbourne. The council's neighbouring shire councils are Wakool, Conargo, Deniliquin and Berrigan. It is also bounded to the south by the Murray River.

Murray Shire Council covers an area of 4345 square kilometres. It is predominately irrigated rural land in nature, with its main pursuits being devoted to the agricultural industry. The council boundaries encompass the main townships of Mathoura and Moama.

4. DELIVERING AND ACHIEVING

Overview

The council appears to broadly comply with its statutory obligations and appears to meet its obligations under the council's charter under section 8 of the Local Government Act 1993.

The council understands its resource limitations and strives to find solutions to problems. This is shown in its strategic alliances to other councils in the Southern Riverina region. For example, it has taken advantage of economies of scale by establishing a cross boarder partnership agreement with Campaspe Shire Council in Victoria. Council is a strong supporter of and participant in the Murray Regional Organisation of Councils.

The council understands its community and issues quarterly newsletters. It realises its relative isolation and has undertaken initiatives to increase population and improve business opportunities. Several years ago it initiated a residential land give away which resulted in several new families locating to the small township of Mathoura. The council has also subdivided and sold land near the township of Moama as a Business Park. The council envisages that over time new industries will relocate to the Business Park.

4.1 Governance

"Corporate governance refers to all the means by which entities are directed and controlled" (Standards Australia, HB401-2004:12). Corporate governance is important because it enhances organisational performance; manages and minimises risks; increases the confidence of the community and the industry in the organisation; ensures that an organisation is meeting its legal and ethical obligations; and assists in the prevention and detection of dishonest or unethical behaviour.

A review was conducted of a range of aspects of council's governance practices including:

- *Ethics and values*
- *Risk management and internal control*
- *Council's decision-making processes*
- *Monitoring and review*
- *Access to information*

What is working well

Resource Sharing

Cross Border Agreement

Resource sharing is an extremely useful approach to the provision of local government services. It is an arrangement where a local government body co-operates with another body or bodies to share financial, human or physical resources to achieve common objectives.

Resource sharing involves partnerships of councils working together to achieve benefits for their communities through more cost effective and efficient use of their individual resources.

Council has a cross boarder partnership agreement with Campaspe Shire Council in Victoria. The agreement formalises the sharing of resources between the two councils. Key activity areas include regional library services, Echuca/Moama bridge development, social and community plan, recreational planning study, tourism promotion joint purchasing just to name a few. There are substantial financial savings both annually recurrent costs and in capital costs.

It is encouraging that the two councils have recognised common needs of the communities and have a vision for cross border co-operation to enhance the social and economic needs of the area.

Partnership agreement

The council is working more closely with Deniliquin Council and Conargo Shire Council in sharing resources. Areas identified for consideration include, but are not limited to, joint tenders, joint purchasing arrangements, water and sewerage schemes, and exchange of technical expertise. The councils are also keen to have integrated economic development, tourism and planning strategies. The agreement has yet to be signed.

Challenges to improve

Organisational Integrity

Organisational integrity is more than just preventing corruption or having a written code of conduct. It is when an organisation's operational systems, corruption prevention strategies and ethical standards are fully integrated to achieve the organisations' purpose.

To further assist and enhance the council in developing and promoting organisational integrity through a statement of values, council may wish to review the ICAC publication entitled "The first four steps – building organisational integrity". However, the review team acknowledges that after the on site visit to council, council adopted a statement of values.

Code of Conduct

Section 440 of the Act requires that every council must adopt a code of conduct to be observed by councillors, members of staff and delegates of council. Section 440(3) requires a council to review its code of conduct within 12 months after each ordinary election.

Council adopted its code of conduct in 2000. Council must adopt a code of conduct that incorporates the provisions of The Model Code of Conduct for Local Councils in NSW pursuant to section 440 of the Local Government Act.

The Model Code of Conduct became operational on 1 January 2004. Staff and councillors should be made aware of it and it should also be made available on council's website.

Pecuniary Interest

The Local Government Act sets out the parameters that must be adhered to when councillors and staff have a conflict between their public duty and private interests that constitutes a pecuniary interest. The Act requires that councillors and designated staff complete and lodge disclosure of pecuniary interest returns. It is important that councillors and staff observe these requirements, as to not do so has the potential to seriously undermine the community's confidence in the integrity of local government and the decision-making processes.

It is important that councillors and staff who are identified as designated persons complete the pecuniary interest returns accurately and in a timely way and use the correct form. Council should use the information provided in the department's circular 04/16 to ensure that the correct forms are used. *(Recommendation 1).*

Statement of business ethics

Council has business relationships with the private sector but does not have a statement of business ethics to guide these relationships. A statement of business ethics is important because strong working relationships with the private sector are

an essential part of building an efficient and cost-effective public sector. A statement of business ethics can be an excellent tool for raising private sector awareness of public sector values. *(Recommendation 2)*

Disaster recovery

Business Continuity Planning - which includes disaster recovery planning - is a vital activity. The creation (and maintenance) of a sound business continuity and disaster recovery plan is a complex undertaking, involving consultation from a number of areas from within an agency.

Information security is one aspect of business continuity planning. The Office of Information and Communications Technology's Information Security Guidelines addresses information security and can be found at http://www.oict.nsw.gov.au/content/2.3.35.business-continuity.asp

State Records also provides guidance in relation to business continuity planning. Two of its guidelines that may assist council are: "Standard on counter disaster strategies for records and record keeping systems" and "guidelines on counter disaster strategies for records and record keeping systems".

Council should develop and adopt a disaster recovery plan. *(Recommendation 3)*

Internal Audit

Internal audit provides for systematic scrutiny of an organisation's operations, systems and performance. It assists in ensuring that service standards are met, data recorded in an organisation's files is accurate and complete and established procedures are being followed. It is an essential corruption prevention strategy. However, an internal audit function will only contribute to an organisations' corruption resistance if corruption risk management strategies are subject to regular auditing and if auditing findings are used to improve the effectiveness of those strategies. Internal audit is separate from an external audit.

Council should adopt an internal audit program and establish an internal audit committee. Council will need to take in consideration the costs and benefits of such a program and committee in determining how to action this recommendation. (*Recommendation 4*)

Fraud Control

Fraud is a crime involving the dishonest obtaining or a financial or other benefit by deception. The benefit might be of a direct value or it might be an indirect value. Fraud wastes scarce funds and resources and can damage an organisation's reputation and competitiveness.

It is important that fraud risks are identified and managed effectively and that staff are kept up-to-date on emerging risk areas and on proven strategies for properly managing them.

Council should adopt a fraud prevention strategy. *(Recommendations 5 & 6)*

Tendering

During the course of the review process, the review team was advised that council had a number of contracts that exceeded the $100,000 threshold previously prescribed by section 55 of the Local Government Act 1993. We were further advised that council had utilised the tendering process in relation to these contracts. These contracts include the supply of bitumen products for road resealing and the project management and construction of the Moama raw water reservoir.

The review team reviewed the files relating to these tenders and found that in the main, the tendering requirements as prescribed by the Act and the Local Government (Tendering) Regulation 1999 had been followed. However, the review team did note the following records were in some respects less than better practice in this area:

- The advertisement relating to a relevant tender was not kept on the relevant file.

- The record of the tender being opened in regard to clause 16 of the Local Government (Tendering) Regulation was not kept on the relevant tender file.

- No record of the tender file containing a copy of the tender requirements, including the proposed term of supply for the goods and services.

- No record of the tender documents being kept on the tender file.

- No record of the documented tender assessment criteria and matrix being kept on the tender file.

- No record of the tenders being both time and date stamped when opened by council staff.

- The tender documents provided to tenderers did not appear to include information relating to interaction with councillors (including a prohibition on contacting councillors).

Council should ensure that all tenders comply with better practice in tendering. (*Recommendation 7*)

Privacy management plan

The Privacy and Personal Information Protection Act 1988 ("PIPPA") provides for the protection of personal information and for the protection of the privacy of individuals.

Section 33 of the PIPPA requires all councils to prepare a Privacy Management Plan to deal with:

- The devising of policies and practices to ensure compliance by the council with the requirements of the PIPPA;

- The dissemination of those policies and practices to persons within the council;

- The procedures that the council proposes for internal review of privacy complaints;

- Such other matters as are considered relevant by the council in relation to the privacy and the protection of personal information held by it.

Such a plan was required to be adopted by council by 30 June 2000. Council does not have a privacy management plan. However, the Department of Local Government has issued a privacy code of practice for local government. *(Refer to the Department of Local Government Circular to Councils, no 00/44)*. Council is encouraged to either develop and adopt its own privacy management plan or adopt, with or with out amendments, the department's privacy code of practice for local government. *(Recommendation 8)*

Record keeping and information technology

Council is required to make and keep full and accurate records of its activities in accordance with section 12 of the State Records Act 1998. Council must establish and maintain a records management program that conforms to best practice standards and codes.

A business continuity plan should apply to council's physical records as well as electronic records. We encourage and support the development of a records management plan that particularly reflects the requirements of the State Records Act 1998. *(Recommendation 9)*

Legislative Compliance

A fundamental principle of good public administration is that public officials comply with both the letter and spirit of applicable law (be it statutory or common law). No public official has an unfetter power or discretion.

To facilitate compliance with legal requirements, agencies and their senior staff should ensure that:

- Management commitment to compliance is clear and unequivocal;
- The legal requirements which apply to each activity for which they are responsible are:
    - o Identified (including updates reflecting changes to the law), and
    - o Documented (preferably in detailed, but as a minimum by reference to relevant provisions);

- All staff are kept fully informed, briefed and/or trained about the key legal requirements relevant to their work;

- Staff are made aware of the potential repercussions of non-compliance with legal requirements that apply to them, and

- Record keeping systems and practices that capture evidence of compliance and non-compliance are in place.

Essentially there are two areas that a policy on legislative compliance could cover. The first is in regard to implementation. When legislation changes, council should have a system in place to ensure that, where necessary, steps are taken to ensure that it complies with the legislation. The second area is in regard to a review process. Council should review its current processes to ensure that it is complying with legislative requirements. This aspect could be incorporated with an internal audit function, where periodic examinations are conducted into key operational areas.

Council should develop and adopt a policy supporting legislative compliance. *(Recommendation 10)*

Expenses and facilities policy

Section 252 requires council to adopt a policy concerning the payment of expenses and the provision of facilities to councillors in relation to the discharge the functions of civic office.

Council has adopted an expenses and facilities policy. However, council should expand on the policy by including financial limits on telephone expenses. *(Recommendation 11)*

Complaint handling

An effective complaint handling system is an essential part of the provision of quality council services. It is one method of measuring customer satisfaction to provide a useful source of information and feedback for improving the council's service.

Council is yet to develop a corporate approach to complaint management. Council should develop an implementation plan for its corporate complaint handling policy.

By establishing clear guidelines and procedures for the handling of complaints, the council will be in a better position to improve services. Council should consider adopting a guarantee of service for responding to correspondence (including complaints). *(Recommendation 12)*

Section 355 committees

Section 355 committees are an important way in which council exercises its functions. Council has a number of s355 committees. In order to assist the committees operations, councils should, for each committee, develop a constitution or charter setting out membership, functions and delegations. It is also suggested that s355 committees have procedure or operational manuals and that the membership be subject to a code of conduct. Council may find that a model charter and code of conduct could be used, with appropriate amendments for each of its section 355 committees. *(Recommendation 13)*

Training of councillors

An induction program and on going training scheme for councillors is an important aspect for the education of all councillors. Such training ensures that councillors are up to date with changes in legislation and general procedures in that area of local government. Council should formulate or organise an induction program for councillors in the future, if the need arises. Councillors should be involved in an ongoing training program, where possible. However, the review team acknowledges that remoteness of location is an issue for the council and that it is a matter of choice for councillors to attend training courses. *(Recommendation 14)*

Communications devices policy

Communication devices in local government are provided for business use. As public officials, they are accountable for the manner and purpose for which they are used. There is therefore a need for local government to have appropriate guidelines in place.

Although council has a policy on the use of e-mail and telephone, council should adopt a policy that covers all communication devices and include the usage of e-mail, telephone, mobile phone, internet, personal digital assistants, facsimiles, scanners and photocopiers. Council should use the NSW Premier's policy and guidelines for the use by staff of employer communication devices. *(Recommendation 15)*

4.2 Asset & Financial Management

Under its charter, council has a responsibility to raise funds for the purposes of carrying out its functions. This can be achieved by the fair imposition of rates, charges and fees, borrowings and grants. The council is also the custodian and trustee of public assets and must effectively account for and manage these assets.

A review was conducted of a range of aspects of council's practices in the areas of:

- *Financial management*
- *Asset management*
- *Insurance*

Overview of financial position

Council has budgeted for a cash surplus in 2004/2005. Council generated an operating surplus after capital items of $1,914,000 in 2002/2003.

Outstanding rates and charges have been reduced to 3.9% and it is anticipated that this will increase to 4.9% (which is still an acceptable level) with the utilisation of its planned debt recovery action.

Council received 37.79% of its total income from grants and contributions in 2003/2004, principally from three sources, Financial Assistance Grants, Roads to Recovery grants and RTA contributions. Should any of these be reduced the council would face significant financial challenges.

What is working well

As at 30 June 2004, council's unrestricted current ratio was 3.65, which is an adequate level of liquidity. Council has unrestricted and internally restricted funds totalling $2.539 million that can be utilised to finance its working capital.

Council has generated an operating surplus (before capital items) for the past five years, which indicates that council's activities are being conducted within the available level of funding.

Long term financial planning

Council has a ten-year financial budget and capital works program that assists in providing council with a long-term financial forecast. Council has forecast that it will generate a total cash surplus of $860,246 over the next ten years.

Challenges to improve

Alternative sources of revenue

Council currently relies heavily on rates and grants as its main sources of income. Over time this will increase the rate burden on residents and businesses if alternative sources of revenue are not identified.

Total revenue over the last year was:	Rates and annual charges	36.04%
	User Charges and fees	19.28%
	Grants	28.17%
	Contribution	9.62%
	Interest	2.81%
	Other revenue	4.09%

Council should seek to identify and access sustainable sources of funds other than grants and contributions.

Rates hardship policy

Section 577 of the Local Government Act 1993 allows council to extend concessions to avoid hardship in relation to its rates and charges. Council does not have a rates hardship policy in place. Given the demographics of the area there appears to be a need for council to consider adopting such a policy. (*Recommendations 16 & 17*)

Use of external contractors

It is important that council has a policy in respect of the use of external contractors for major services to ensure transparency of the decision-making and to prevent bias from being present in the choice of the particular contractor. (*Recommendation 18*)

Asset disposal policy

It is important that council has a policy in respect of the disposal of its assets, to ensure transparency of the process and to prevent bias from being present in the determination of asset sale prices and recipients. (*Recommendation 19*)

Valuation of roads, bridges and footpaths

Council has not engaged an independent professional valuer to value roads, bridges and footpaths for some years. The review team encourages council to have this valuation reviewed, as well as utilising the asset class's depreciation rate.

The failure to have updated valuations is detrimental in determining the true worth of assets and will impact on the external financial reporting of council. *(Recommendation 20).*

4.3 Community & Consultation

A council's charter requires that a council:

- Provides services after due consultation;
- Facilitates the involvement of councillors, members of the public, users of facilities and services and council staff in the development, improvement and coordination of local government;
- Actively promotes the principles of multiculturalism;
- Plans, promotes and provides for the needs of children, and
- Keeps the local community and State government informed about its activities.

The review of council's activities in this area looked at:

- *The social and community plan*
- *Community participation*
- *Cultural planning*
- *Reporting to the community and keeping the State government informed about its activities*
- *Tourism and economic development*

What is working well

Social and community plan

Overall, council has a good community focus. The community consultation processes undertaken has underpinned council's planning. Council particularly targets community groups that have an interest in the social and community plan. Progress of the social and community plan is reported to the council on a quarterly basis.

Cultural Plan

Cultural planning aims to provide opportunities for all individuals and communities to be included in the State's cultural life. Local councils are well placed to support

cultural expression at the local level. Council's cultural plan is being prepared by Murray ROC.

Community feedback

Council uses a range of methods to obtain feedback from its community. Council consults the community on planning and policy issues. Additionally, council conducts briefing sessions in the community to provide residents with the opportunity to raise and discuss issues directly with councillors and council staff.

Council has a number of section 355 committees that regularly meet and include members from the community. This highlights the council's willingness to involve the community in council activities.

Quarterly newsletter

Council has a very informative newsletter that is issued to residents on a quarterly basis. It highlights coming events and progress on the council as well as information on the activities of other community service organisation. The newsletter appears to be well received by the community.

Mathoura ecotourism strategy

Mathoura township is located on the Cobb Highway in New South Wales, 40 km north of Moama and 35 km south of Deniliquin. It has a population of about 660 people and is regarded as an important local service centre for the regional economy.

Unfortunately the township has experienced a number of setbacks over the last decade, predominately because of the downturn in the timber industry and the strong economic growth of Moama, Echuca (Victoria) and Deniliquin as the major service centres for the region.

Council has recognised the issues of Mathoura. It has also considered a strategy in revitalising the township and the local economy. That vision relates to ecotourism. The council considers that Mathoura's strategic position adjacent to a spectacular

and unique riverine setting of the River Murray that incorporates the world's largest red gum forests will bring back lost services and drive economic prosperity for the town.

Challenges to improve

Council's website

Council has a user-friendly website. There are a number of council policies that would be of interest to the community that are currently not contained on the website. Council should consider providing a list of its policies on its website so that members of the community are aware of the policies that council has developed. Council should consider providing information that assists members of the public to access information under council's policy and information on how to lodge a complaint or comment with council. The review team acknowledged that council's website has an inquiry facility for its memorial garden and the Murray Shire Hall. *(Recommendation 21)*

Customer service standards

Customer service levels (also known as guarantees of service) set out some key performance standards for the most frequently used services. The highlighting of customer service levels sets a level of expectation within the community, as well as sets guidelines for staff performance. Customer service levels are different to strategic indicators. They reflect an informal contract with the community in relation to the standards for routine services.

It is important to monitor and report on achievement in relation to service levels to ensure accountability to the community and provide feedback to the council.

Council should develop and adopt a written guarantee of service policy *(Refer to the Management Planning for NSW Local Government Guidelines – NSW Department of Local Government). (Recommendation 22).*