New Policy Team at LGAT

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This is my first magazine contribution as Policy Director, having started in November last year. Now that the initial new job terror has subsided, I am really enjoying the stimulating variety of topics that come across my desk, as well as meeting new people, with a diversity of skills and experiences, including those in the policy team.

It is with great relief that I can advise that Liz Gillam is still with LGAT as Senior Policy Officer. I certainly appreciate her extensive experience in, and knowledge of, Local Government, although I’m sure Liz is enjoying her new part-time status. We have also been joined by Maxine Lowry as Policy Officer and Christine Materia as NRM coordinator. The four of us have varied but complimentary backgrounds which will ultimately be of benefit to LGAT and Local Government more widely.

We have undertaken some initial allocation of work areas so that while we might wear a number of hats, there is the ability to build up expertise to improve the effectiveness of our work. Additionally, for each work area there is a ‘back-up’ officer assigned who will keep abreast of issues, reducing key person dependencies.

If you would like to raise any policy issues with LGAT, then please feel free to do so. I can be contacted on 6233 5973, or by email at katrena.stephenson@lgat.tas.gov.au.

Monetary Penalties Enforcement Act 2005

One of the more significant pieces of legislation for Local Government to be implemented in 2008, is the Monetary Penalties Enforcement Act 2005 (MPEA). The MPEA changes the way infringements and fines are enforced in Tasmania, creating a statutory officer (Director, Monetary Penalties Enforcement Service).

A key element of the MPEA is that for recipients of an infringement notice, there is no longer an option to ‘do nothing’. If the fine is not paid, or the offender does not seek to contest the infringement notice through the court within 28 days, they will be deemed to be convicted of an offence. Offenders will have the right to elect a court hearing, provided they have not already been deemed guilty. After that, they can apply to a court to have the matter set aside. Business processes will need to be in place for such elections. One impetus behind this change has been the backlogs in the courts. It is anticipated that the MEAP will remove a large number of minor matters from the Court and streamline the enforcement process.

Local Government, along with other agencies and authorities, will have the ability to refer unpaid fines to the Monetary Penalties Enforcement Service (MPES) for collection on a fee per service basis, with the fee fully recoverable from the offender (where they have the ability to pay).

The Director, Monetary Penalties Enforcement Service has broad powers in relation to collecting unpaid penalties. For example, the MPES will be able to:

- Suspend driver’s licences or vehicle registration;
- Redirect monies from the defaulter’s earnings;
- Redirect monies from a financial institution;
- Seize and sell goods; and
- Register a charge on a title to land.

Where someone genuinely cannot pay and yet wish to clear their debt, they can apply for a Monetary Penalty Community Service Order. If a debtor is unwilling to pay or unsuited to a Community Service Order, the MPES may apply to a Magistrate for a warrant for the imprisonment of a defaulter. In cases of extreme hardship, the Director MPES will have the power to write off a monetary penalty in part, or in full.

The MPEA still allows flexibility for councils to withdraw an infringement notice (prior to 28 days). Two scenarios where this might occur are:

1) Where evidence is provided to Council that the person originally served an infringement notice did not commit the offence (e.g. a car was driven by another person at the time of the offence); and
2) So that Council may proceed to prosecute the person for the offence e.g. where a pattern of offending emerges and the Council believes that a Court should consider a number of offences at once.

There are a number of implications for councils in relation to implementation by 28 April. Detail of these have been provided directly to general managers, however, broadly they include:

- Requirement to change infringement notice wording;
- Determination of referral (to MPES) processes and systems for collection of unpaid fines;
- Establishing business processes when offenders decide to have the matter heard by a court, or when they apply to have the matter set aside; and
- Amendment of by-laws to reflect the MPEA.

LGAT, the Local Government Office and the Monetary Penalties Enforcement Project Team are meeting regularly to discuss implementation issues and put in place supports for councils. Supports will include written communication, workshops and provision of templates and guidelines.