ECONOMICS AND GOVERNANCE COMMITTEE

Members present:
Mr LP Power MPChair
Mr MJ Crandon MP
Mrs MF McMahon MP
Mr DG Purdie MP
Mr RA Stevens MP
Mr A Tantari MP

Staff present:
Ms E Hastie—Committee Secretary
Ms M Salisbury—Assistant Committee Secretary

PUBLIC HEARING—INQUIRY INTO THE REPORT OF THE *STRATEGIC REVIEW OF THE INTEGRITY COMMISSIONER'S FUNCTIONS*

TRANSCRIPT OF PROCEEDINGS

MONDAY, 14 MARCH 2022

Brisbane

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The committee met at 11.00 am.

CHAIR: Good morning to all participants. I declare this public hearing open. I respectfully acknowledge the traditional custodians of the land on which we meet today and pay respects to our elders past and present. We are very fortunate to live in a country with two of the oldest continuing cultures in those of Aboriginal and Torres Strait Islander peoples whose lands, winds and waters we all share.

My name is Linus Power. I am the member for Logan and chair of the committee. The other members of the committee are: Ray Stevens, the member for Mermaid Beach and deputy chair; Michael Crandon MP, the member for Coomera; Melissa McMahon, the member for McAllister; Daniel Purdy, the member for Ninderry; and Adrian Tantari, the member for Hervey Bay.

The purpose of today's hearings is to assist the committee with the inquiry into the report of the *Strategic review of the Integrity Commissioner's functions*. This hearing is a proceeding of the Queensland parliament and is subject to the standing rules and orders of the parliament. Only the committee and invited witnesses may participate in the proceedings. Witnesses are not required to give evidence under oath or affirmation, but I remind witnesses that intentionally misleading the committee is a serious offence. I remind members of the public that they may be excluded from the hearing at the discretion of the committee. These proceedings are being recorded and broadcast live on the parliament's website. Media may be present and are subject to the committee's media rules and the chair's direction at all times. You will be filmed and photographed during these proceedings and images may also appear on the parliament's website and social media pages. With that, I ask everyone to switch mobile phones to silent mode.

I now welcome the Queensland Integrity Commissioner, Dr Nikola Stepanov, and Mr Russell Hood.

HOOD, Mr Russell, Senior Legal Officer, Queensland Integrity Commission

STEPANOV, Dr Nikola, Queensland Integrity Commissioner, Queensland Integrity Commission

CHAIR: We have organised some celebrations to mark this auspicious occasion today; that is what all the whistles and noise are about! Good morning and thank you for joining us today. I invite you to make an opening statement, after which the committee members will have some questions for you.

Dr Stepanov: For the purpose of the record, my name is Dr Nikola Stepanov. I am the Queensland Integrity Commissioner. I thank the committee for the invitation to appear today. Joining me is Mr Russell Hood. Pursuant to section 83 of the Integrity Act, I delegated the Integrity Commissioner's functions under Chapter 4, Regulation of lobbying activities, to Mr Hood as an appropriately qualified public officer. From April 9, 2021 Mr Hood has been seconded to assist me from the Office of the Director of Public Prosecutions where his substantive role is as a senior crown prosecutor. Mr Hood, of course, is able to assist you with any technical questions that you may have about the operation of the lobbyist functions and any deficiencies within the Integrity Act.

The purpose of the five-year strategic review of the functions of the Integrity Commissioner was to consider the functions and resourcing of the Integrity Commissioner. In my submission, I discussed the recommendations made by Mr Yearbury and the practical effects that those recommendations may have on the work of the Integrity Commissioner. For brevity, I will not traverse all of the recommendations and impacts in this statement. Instead, my preference is to draw attention to those aspects of the report by Mr Yearbury and the submissions made by other parties, such as the Crime and Corruption Commission, which I consider to be critical to ensuring the independence and effectiveness of the office of the Integrity Commissioner.

Throughout my tenure, the activity and profile of the office has been tremendously heightened. Since the last strategic review was conducted in 2015, the office has experienced a significant increase in requests for advice. From July 2017 to the end of January 2022, I provided advice on

ethics, integrity and interest matters—both written and oral—on 954 occasions. I also provided advice on lobbying matters on a further 92 occasions. By comparison, since the establishment of the role of the Integrity Commissioner, the four preceding integrity commissioners provided advice on ethics, integrity and interest matters on a combined total of 573 occasions. In addition, the number of people who fall within the scope of the Integrity Commissioner's advice functions has increased by many thousands and is currently unquantified.

There has been a substantial increase in the time, effort and resources required to discharge the lobbying functions because of the remarkable growth of lobbying activity. For example, in the financial year in which the last state election was held, there was a five-fold increase in recorded contact with lobbyists, as well as a further 10 per cent increase in further unrecorded contacts with lobbyists.

As highlighted by Mr Yearbury in his report, the jurisdiction, the scope and the levels of activity of the position of the Integrity Commissioner in 2022 has evolved greatly from the environment experienced by my four predecessors. Within the context of unprecedented demand for the services of the Integrity Commissioner, the current governance arrangements, including resourcing and staffing, have been a significant impediment to my ability to maintain an independent, confidential service to adequately respond to demand and, therefore, to fully meet my statutory responsibilities under the Integrity Act and the Public Record Act—among other issues raised by Mr Yearbury.

In my submission, I agreed with Mr Yearbury's recommendations that the Integrity Act ought to be amended and an office of the Integrity Commissioner established. This office would provide the Integrity Commissioner with the powers and responsibilities of a chief executive of a department of government; for example, responsibilities under the Financial Accountability Act 2009 and the Financial and Performance Management Standards 2009.

Further, having considered the submission made by the Crime and Corruption Commission, I agree with their recommendation that the legislative amendment should be made to ensure the office of the Integrity Commissioner is a unit of public administration and that the Integrity Commissioner be designated as a public official under the Crime and Corruption Act. This will ensure that the Crime and Corruption Commission has jurisdiction over the office of the Integrity Commissioner in the same way that it has jurisdiction over other units of public administration. It will also ensure the Integrity Commissioner has a dedicated legal pathway to notify the Crime and Corruption Commission of suspected corrupt conduct.

It is my position that priority ought to be given to implementing these recommendations, which relate to the governance arrangements and the establishment of an office of the Integrity Commissioner. The implementation of the remaining recommendations can be undertaken subsequently, particularly in circumstances where further consultation may be desirable in relation to the lobbying functions.

Regarding other urgent matters, in addition to rectifying the governance arrangements, my primary concern at this time is for urgent funding be provided to replace the lobbyist register software and that the work of transferring the data on the current register to the new platform begin immediately. The registered software was purpose-built more than 14 years ago. It has been maintained on a break-fix basis since 2015. Where issues arise, an external consultant must now be specifically engaged, resulting in substantial cost and time delays. As there is no information technology supported on the current platform, the lobbyist register has been replicated in an offline document as a safety measure in the interim, and that is a measure that my office has taken.

Regarding the work of the office more generally, I note that, in addition to my submission to the committee, the Crime and Corruption Commission and several lobbyists have made submissions about improvement to the existing regulation of lobbyists to enhance public confidence in the conduct of lobbyists, government and other parties, and the committee is well placed to consider those submissions.

I was pleased that our work in education and training on ethics and integrity matters is viewed as valuable by Mr Yearbury. I share Mr Yearbury's view that education and training build capacity and heighten ethics literacy and standards. Further, as noted in the report, a beneficial side effect is that education and training enhance general understanding and confidence in ethics and integrity standards. However, I acknowledge that, due to resourcing constraints and the heightened demand for advice, I have not been able to devote sufficient time and efforts to education and training in the lobbying sphere, including for lobbyists in regard to the code of conduct. I note that this issue has been raised in submissions to the committee and also in submissions by lobbyists that were made to the strategic reviewer. It is clearly an important issue for stakeholders in the lobbying sphere.

On a final note, when I took on the role in 2017, there were a number of legacy issues, including in relation to the state of the lobbyist register and involving the filing of public records. I wish to express my thanks to Ms Pua Samia who completed a major audit of the lobbying register in 2019 and who has maintained the register since that time, to ensure that the content is accurate and recent. Ms Samia also leads our annual lobbying audit. I also wish to express my thanks to Ms Toni Curcuruto from the Department of Premier and Cabinet who has worked in our office on a part-time basis since May 2021 to complete the legacy filing and public records management works. Once again, I thank the committee for the invitation to appear today. I welcome any questions that the committee may have.

CHAIR: Thank you, Dr Stepanov.

Mr STEVENS: Commissioner, you have suggested in your submission that there are inherent risks with the commercial nature of lobbying. Do you believe that the current issues around the confiscation of your laptop followed you expressing concerns over lobbying issues in Queensland, which are part of the Yearbury review?

CHAIR: I will certainly put the question. We all have some awareness that there have been public statements put forward by the CCC about ongoing investigations. I know Dr Stepanov has an awareness of that and will take it into account when answering the question.

Dr Stepanov: Thank you very much for the question. I have, probably since 2019 onwards, brought a considerable focus to the lobbying space, including putting out resources that could assist lobbyists and doing an annual audit. At all times my office—particularly from 2019—is extremely focussed on lobbying matters. I also take an active involvement in referring any relevant matters to either the Crime and Corruption Commission or the Queensland police, depending on the circumstances of that involvement. Obviously I am unable to comment on any matters that may be before the CCC, but I do understand that I am regarded as being particularly focussed on enhancing public confidence in the lobbying sector, particularly since 2019 onwards.

Mr STEVENS: It has been reported that you have requested to stay on as the Integrity Commissioner. Will you update the committee on the current status of your employment as the Integrity Commissioner and how the Yearbury report would be implemented if it was agreed to under your continued occupation of that office?

Dr Stepanov: As you are aware, by signed notice I informed the Premier of my resignation on 18 January this year. I included a proposed effective end date, which was some months in advance to ensure minimal disruption to the office. Since that time I have come to learn, and I continue to learn, of the nature and scope of the Crime and Corruption Commission's investigations into my office and other matters concerning ethics and integrity about which I consider there to be a public expectation of transparency. Further, I have become aware of the nature and circumstances concerning a referral made to the committee.

These matters would certainly have had a bearing on the proposed timing of my effective end date had I been made aware of them when I notified the Premier of my decision in January. In my assessment, the Premier recognised this in her public statement before parliament on 24 February. I am very grateful for the Premier acknowledging this fact, including stating that the date on which my term as Integrity Commissioner would conclude was completely a matter for me. In the circumstances, naturally I wrote to the Premier, on 8 March, informing that I am duty-bound to remain in my position until 30 December or until such time as allows for a thorough and appropriate resolution of the matters in the public interest.

In the meantime, I certainly look forward to continuing to perform the very important functions of the Integrity Commissioner. Prior to my leaving I would like to revise the code of conduct for lobbyists and put a revised draft to the committee for its consideration. I would also like to introduce the governance arrangements that have been suggested by Mr Yearbury.

Mrs McMAHON: Dr Stepanov, in your submission you refer to your role having no power to investigate or to prosecute under the act, but that you can refer matters of concern to a relevant agency such as the QPS or the CCC. With that provision in mind, recommendation 14 of the Yearbury report is that the act be amended to provide for the position to refer matters to the CCC. Is this necessary when that can already occur?

Dr Stepanov: Thank you for the question, member. I will defer to my legal delegate on lobbying, Mr Hood, who has specific knowledge of the way that the Crime and Corruption Act works and the various aspects of our Integrity Act.

Mr Hood: Under the Integrity Act, what might be referred to as 'unlawful lobbying'—as in, lobbying by people who are not registered as lobbyists—the act specifically states that that should not happen but the act does not make that an offence. It does not set a penalty for unlawful lobbying. In terms of investigating and prosecuting unlawful lobbying, there is no head of power in the Integrity Act to actually investigate and prosecute unlawful lobbying.

CHAIR: The way I heard the question, Mr Hood, it was about referring to the CCC. Is that correct, member for Macalister?

Mrs McMAHON: It was in relation to the specific recommendation that the act be amended to explicitly provide that the Integrity Commission can refer matters to the CCC. This happens already, is my understanding.

Mr Hood: So it does. The only two avenues to investigate and prosecute unlawful lobbying, as matters stand, is either a referral to the Queensland Police Service for an investigation under section 204 of the Criminal Code or a referral to the Crime and Corruption Commission for an investigation under section 15 of the Crime and Corruption Act. Neither of those avenues are purpose-built for investigation and prosecution of unlawful lobbying.

Mr CRANDON: Integrity Commissioner, you maintain very confidential information at your office, as outlined in the Yearbury review. Can you guarantee to the committee that confidential information has not been compromised by anybody or public sector entity?

Dr Stepanov: I thank the member for the question. I am unable to provide that guarantee at this time.

Mr CRANDON: You have publicly canvassed many issues about your office and the confidential information in your office being compromised. Would you support a royal commission into integrity issues in Queensland?

CHAIR: For the most part, this is about a review of the act but I will put the question to Dr Stepanov. I counsel members that we have a duty to make a report on the Yearbury report and that is what we are looking at. This is somewhat outside of that.

Dr Stepanov: I have publicly stated that I would support a commission of inquiry into the various matters not only that I have raised but that others have raised as well.

Mr TANTARI: In his review, Mr Yearbury stated that including mayors and councillors as designated persons would not seem to be consistent with the original intent and purpose of the Integrity Act. What are your thoughts about the inclusion of mayors and councillors as designated persons? Has the decision to revoke the ministerial direction to the Office of the Independent Assessor, so that they are no longer able to give advice to local government councillors and staff about alleged suspected inappropriate conduct, misconduct and corrupt conduct, had an impact on your workload?

Dr Stepanov: Regarding the Office of the Independent Assessor, I personally do not have knowledge of what was in that letter. My understanding was that they were not necessarily providing advice within the same context of the advice I would provide, but they were certainly very heavily involved with my office in terms of education and training. When I set my standards that would apply for advices to mayors and councillors, I had those standards reviewed by both the Crime and Corruption Commission and the Office of the Independent Assessor. I was really clear that I wanted all of us to be on the same page in terms of the factors that I would consider and also those threshold questions.

I note that Mr Yearbury gave an opinion, which was that providing advice to mayors and councillors is not consistent with the original intent. My understanding of the original intent of this office—and there I am referencing material I have read from 2003 to 2009 by former commissioners—is that the advice functions should be extended to all persons who are making significant public interest decisions, particularly where there were large whether it is applications or public funds being expended. In my view, mayors and councillors are more likely to make those types of decisions on a day-to-day basis than say, for example, senior officers, senior executives and their equivalents.

In my view, mayors and councillors are elected officials. They make very substantial decisions in relation to public interest matters each day so, in that, I would disagree with Mr Yearbury. We as an office enjoyed our work within the local government sector, particularly working with the different agencies, including the Local Government Association of Queensland. We felt that we were having an impact in terms of increasing the literacy—the ethics and integrity literacy—amongst mayors and councillors around conflicts of interest. Should the committee recommend and then government agree that the advice functions continue to be extended to mayors and councillors, I have proposed that it would take four full-time equivalent lawyers.

CHAIR: Dr Stepanov, you talked about the Yearbury report defining the Integrity Commission as a unit of public administration and, therefore, giving greater oversight of the CCC into the office. What substantive changes would that make? Are there any issues that still would not have oversight from the CCC in their role?

Dr Stepanov: To my knowledge, when people have come to me under the advice functions for advice about whether they should refer themselves or where they are concerned about the conduct of another party, all of those parties have contacted me and/or made public statements to say that they had gone forward to the Crime and Corruption Commission. To my knowledge, in terms of the advice function, if we have a conversation with an advisee and I say, 'You should self-refer to the Crime and Corruption Commission' or 'This is a matter for the Crime and Corruption Commission to assess', those parties have done that.

In terms of becoming a unit of public administration, currently my functions are limited to just those in the Integrity Act. I have no functions in terms of managing or supervising staff or resourcing et cetera. It places the Integrity Commissioner in a very difficult position in that you are seeking to do your job in an environment where you do not, in effect, control the resources that are there to support you. Should this role be made an office of the Chief Executive, those functions would be included in the act and there would be the appropriate responsibilities under—whether it is the Financial Accountabilities Act et cetera.

Another issue I have faced is where I have encountered concerns about conduct. The staff within the office are Public Service Commission staff. My position from 2017 onward is that if I have any concerns then the appropriate avenue is through the Public Service Commission as the employer. If the obligations were extended of a UPA to the Integrity Commissioner, it would create a legitimate avenue. If I did have any concerns, I could raise those directly with the Crime and Corruption Commission.

CHAIR: There are issues, though, where the administration of a unit of public administration does not reach the threshold of the CCC and still has standards of public administration that would be required. Is there any concern about the gap between those two issues?

Dr Stepanov: When I have had advisees come forward to seek advice about any particular matter, I do not see it as my position to assess the level of evidence they may have and for me to determine whether it is something that should go to the Crime and Corruption Commission. It is a matter for the Crime and Corruption Commission to assess thresholds. Ordinarily, my advice to any particular individual would be that they should contact the Crime and Corruption Commission and discuss the merits of making a complaint.

Where matters are very obviously below the threshold of the Crime and Corruption Commission, I encourage those individuals to take that matter up with their department, for example, their director-general or their ethics and integrity unit. They have all got different names, but the ethics and integrity units within the various departments are actually quite active in that space.

Mr PURDIE: Commissioner, as Queensland's first female Integrity Commissioner, there have been disturbing reports in the media that you have been referred to as and even called directly 'a bitch on a witch-hunt'. Has anyone ever called you that?

Mr STEVENS: You might have to rephrase that.

CHAIR: Do I need to give you advice?

Mr PURDIE: In relation to media reports, as I said, as Queensland's first Integrity Commissioner—

CHAIR: I ask you to withdraw first, of course, Mr Purdie. You know that the rules applying to this hearing are the rules about unparliamentary language, even when used in a quote.

Mr PURDIE: I withdraw. In reference to media reports, as Queensland's first Integrity Commissioner have you ever been the subject of misogynistic language similar to what was reported in the media?

CHAIR: I counsel members that we do have to produce a report on the Yearbury report, so there should be a focus on those types of questions.

Dr Stepanov: I do confirm that I have had comments of that nature said to me. I support a modern Public Service where women and men, particularly those emerging as leaders, are not subject to those kinds of gender-based slurs.

Mr PURDIE: Who called you that, bearing in mind you have the protections of this committee during this hearing under parliamentary privilege?

CHAIR: I cannot see how we would be including that in the report, but I put the question to Dr Stepanov. It is up to you to consider whether that is useful to the committee's hearing.

Mr PURDIE: You do have parliamentary privilege.

Dr Stepanov: I was called that term by the Public Service Commission chief executive. I had already heard it, but then I was called that term by him in a phone call on or about 4 April 2018.

Mr PURDIE: Was that the actual person in that substantive position or someone acting in that position?

CHAIR: Mr Purdie, we already have the answer. I ask you not to put it again.

Mrs McMAHON: Commissioner, in relation to the number of occasions you have given advice—not only in your submission but also your opening remarks—it was 954 occasions in the past 4½ years compared to, over the course of the previous 17 years, 573. Based on those numbers, does Queensland have a problem with integrity in relation to its elected officials?

Dr Stepanov: In my view, we want as many people coming forward to seek advice as possible. I am really pleased that during my term elected officials, whether that is at state government or local government level, have felt confident and have taken it upon themselves to seek integrity advice. I actually do not see that as an integrity issue; I see that as elected officials taking responsibility and seeking to ensure public confidence by making sure they seek advice and have any issues dealt with appropriately. I actually think that is a wonderful thing.

Mr PURDIE: Chair?

CHAIR: We do have the Crime and Corruption Commission allotted at this time.

Mr PURDIE: I have one question unrelated to my last.

CHAIR: Is it actually relevant to our hearing?

Mr PURDIE: It is specifically relevant. Commissioner, as part of the review we spoke about that chain of command and there was even a question from the chair earlier about the resources. Do you see an issue with the physical assets and resources of your office coming under the control of the Public Service Commission? Would they have access to your phone records and the like, and do you see that that could potentially breach confidentiality issues in your office?

Dr Stepanov: The governance arrangements are such that the PSC has a proprietary right. They would buy assets, phones et cetera. My individual work phone, as in the Integrity Commissioner's work phone, is on a contract held by the Public Service Commission. On occasion, I have sought to have access to my phone records and I would need the Public Service Commission chief executive's approval for that. I would think that, as part of the governance arrangements going forward, any assets required by the office would be purchased by the office, and then there can be no ability for any outside agency to take or have access to the records of the office.

CHAIR: Thank you, Dr Stepanov and Mr Hood. We thank you for your appearance to assist the committee today in preparing our report. I note that no questions were taken on notice.

BARBOUR, Mr Bruce, Acting Chairperson, Crime and Corruption Commission

O'FARRELL, Ms Jen, Chief Executive Officer, Crime and Corruption Commission

CHAIR: I now welcome representatives from the Crime and Corruption Commission, Mr Bruce Barbour and Ms Jen O'Farrell. Thank you for joining us today. I invite you to make an opening statement after which the committee members will have some questions for you.

Mr Barbour: Firstly, thank you for the invitation to appear today and to provide some comments in relation to the current inquiry. Our written submission, which is No. 6 in the published submissions, sets out our views in relation to a number of the issues raised by the Yearbury report. I do not propose to restate them all, but I would like to highlight a couple of what we see to be the key issues.

The CCC recognises the important role played by the Integrity Commissioner in Queensland as part of the Queensland integrity framework. The Integrity Commissioner's role has evolved in the years since its introduction, with an expanded class of persons to whom the Integrity Commissioner provides service as well as involvement in supervising lobbying activity and various other functions. In our view, the provision of integrity advice and the involvement in the supervision of lobbying activity are the two key areas of the Integrity Commissioner's work and reforms are warranted to ensure that these functions are able to be carried out effectively.

As the Yearbury report noted and the Integrity Commissioner herself has endorsed, there are several miscellaneous functions which are the responsibility of the Integrity Commissioner without a clear rationale for why that should be the case. It is the CCC's view that any reform of the Integrity Commissioner's functions should ensure that the Integrity Commissioner is appropriately resourced and that those resources are able to be directed fully towards the key functions and not what might be characterised as 'extraneous functions'. It is also the CCC's view that the Integrity Commissioner's governance arrangements need to be reconsidered to reflect the need for appropriate independence of the role and the office.

In relation to structural independence, recommendations 23 to 27 of the Yearbury report are directed to ensuring that the governance arrangements for the Integrity Commissioner are appropriate to ensure the need for independence required for the role. The CCC supports those recommendations. We note that achieving true and complete independence is difficult, if not practically impossible, for a small statutory entity comprising a single statutory officer supported by a small cohort of staff.

The Yearbury review proposes a change to the structure to bring the office within DPC. This recommendation is supported by the Integrity Commissioner and seems satisfactory to the CCC. However, the CCC also submits, as set out in our written submissions, that any change to the structure of the Integrity Commissioner, including the recommended institution of the office of the Integrity Commissioner, include a provision that declares the office of the Integrity Commissioner to be a unit of public administration for the purposes of the Crime and Corruption Act and declares the commissioner a public official for that purpose. This would serve to make abundantly clear that the Integrity Commissioner's office is within the CCC's investigative jurisdiction and also make clear that the Integrity Commissioner has an obligation under section 38 of the Crime and Corruption Act to notify suspected corrupt conduct.

In respect of lobbying laws, we agree that there is a serious and urgent need to reform lobbying laws. Lobbying must be conducted in an ethical and fully transparent manner. In particular, amendments should be introduced to render unregistered lobbying an offence. Consideration should also be given to introducing an offence for persons to engage with unregistered lobbyists. In our view, there needs to be an appropriate disincentive to regulate both sides of the lobbying fence to dissuade not just the unregistered lobbyists but also the entities that are being lobbied by them.

As noted in our written submission, we also consider that it is important to include in any new regulatory scheme lobbying activities by in-house lobbyists and those employed in incidental lobbying. While there may be regulatory costs associated with this, we believe it addresses an important corruption risk. In our view there is an obvious corruption risk posed by the in-house lobbyist arrangement. An entity which wishes to avoid lobbying restrictions may simply engage a lobbyist in what may be categorised as a sham employment arrangement in order to circumvent lobbying laws. It is for this reason that we also recommended in our submission that the legislation should include a definition of 'employee'.

While the Yearbury report posits that in-house lobbyists are adequately captured by ministerial record-keeping requirements, in our view that, with respect, overlooks the obvious problem that lobbyists may seek to avoid this scrutiny by simply meeting with ministerial staff rather than ministers

themselves. It also overlooks that lobbyists, particularly those unregistered lobbyists, may meet with relevant officials in circumstances such as social occasions which would not even be captured within a ministerial diary.

In relation to potential amendments to the CCC's jurisdiction, the report notes that there is currently no scope for the Integrity Commissioner to investigate improper lobbying practices. Both Mr Yearbury and the Integrity Commissioner take the view, with which we agree, that the commissioner does not have the scope nor expertise to conduct such investigations. We further agree that the CCC is the appropriate body to investigate such matters. Unauthorised and unregistered lobbying practices pose a clear corruption risk, because they cut against the objective of transparency inherent in the lobbying rules. The perception, and in some cases the reality, is that improper influence may be brought to bear on decisions regarding the use of public assets and expenditure of public funds. Clearly that is not in the public interest.

To ensure that the CCC can properly investigate such matters, amendments should be considered to the definition of 'corrupt conduct' to make it explicit and abundantly clear that such matters fall within the CCC's jurisdiction. An amendment to section 15(2) of the act may be the appropriate mechanism to achieve this.

In summary, as I have set out, we see the three key areas for reform being: ensuring the Integrity Commissioner's independence, ensuring that lobbying is appropriately regulated and ensuring that improper lobbying can be satisfactorily investigated and dealt with. The CCC welcomes measures to enhance transparency of lobbying activities at all levels of government and within the public sector. Ms O'Farrell and I are very happy to answer any questions you may have.

CHAIR: Thank you, Mr Barbour. Deputy Chair, do you have a question?

Mr STEVENS: The Integrity Commissioner has identified the great difficulties she has had with the lobbyist issue. She has made certain recommendations to Mr Yearbury's report. Has the CCC currently been able to work with the Integrity Commissioner to address issues under the current format of the Integrity Act or is it impossible currently for the CCC to act on requests from the Integrity Commissioner under the current legislation?

Mr Barbour: I think the CCC and the Integrity Commissioner have, for quite some time, had a very positive working relationship and one that seeks to utilise both agencies' roles, powers and responsibilities to best effect. I am not sure that that would allow, without amendments to the act, clarity around the various responsibilities and obligations. If I can give an example, at the moment there is no mandated requirement for the Integrity Commissioner to refer matters that she believes may possibly constitute corrupt conduct—and that is not to say that she would not do so but there is no requirement to do so. That is clearly an area where there could be a fairly easy remedy to the potential risk.

CHAIR: Just clarifying, where the Integrity Commissioner becomes aware of something illegal, they have a responsibility to report. At the moment, of course, the Integrity Commissioner can refer things to the CCC. This is more an onus that the Integrity Commissioner would be in breach if they did not rather than if they did. I am just trying to clarify. At the moment, there is nothing that they cannot refer to the CCC, is there?

Mr Barbour: It would create an obligation which currently does not exist to do that, and it would bring the office into line with other agencies or units of public administration. What we are suggesting is that, if the office was a unit of public administration and also the commissioner was a public official, then certain things would attract to those two changes and there would be obligations mandated within the legislation. For example, section 38 of the Crime and Corruption Act relates to a duty to notify the commission of corrupt conduct. It relates specifically to public officials. Were the Integrity Commissioner to be made a public official that would then mandate the requirement to notify corrupt conduct.

Mr CRANDON: Noting the incidents of political donations by lobbyists who may represent banned donors, can the CCC rule out lobbyists effectively donating on behalf of their clients?

CHAIR: Mr Barbour, obviously we are trying to deal with the Yearbury review, but this might be relevant.

Mr Barbour: I must say that I did prepare today to respond to questions about the Yearbury recommendations. I am not in a position to answer that question fully. There are different rules that apply to political donations. There is an electronic donations register that is operated by the Electoral Commission, so there are particular responsibilities and obligations in that space that are managed by a different entity. Looking at the lobbying register that is maintained by the Integrity Commissioner, that model might provide some valuable insight and guidance in relation to what is potentially available for any reworked lobbying register.

Mrs McMAHON: Going back to the question in relation to the Integrity Commissioner referring matters to the CCC, does the CCC have any data or information they can share with the committee about the frequency of matters being referred by the office of the Integrity Commissioner to the CCC? Is there any data on the frequency, the numbers, of how many times the Integrity Commissioner has referred matters to the CCC—not necessarily the outcomes, but just in terms of quantity.

CHAIR: We are not asking about any ongoing investigations, just the quantum of referrals.

Mrs McMAHON: I am just trying to gauge the workload.

Mr Barbour: Absolutely. We can isolate those figures and we can present information that does not jeopardise any particular matter that might be the subject of investigation. Can I also note and pick up on what the Integrity Commissioner said during her evidence. She indicated that it may well be that, with advisees she has provided advice for, she has recommended they bring independently matters to the Crime and Corruption Commission. I would just alert the committee to the fact that there may well be matters that are referred by the Integrity Commissioner herself, and we can certainly look at those. We would not necessarily be in a position to identify matters that might find their way to us through a different avenue.

CHAIR: People who are self-referring do not necessarily nominate they have been advised that it was worth their while to self-refer; they simply self-refer to the CCC.

Mr Barbour: Exactly.

Mr PURDIE: Further to that, would all referrals from the Integrity Commissioner or from anyone relating to lobbying activities fall under your charter? For example, say you got a complaint from someone about someone purporting to be a lobbyist who had meetings with staff, but ministers and members of parliament were not involved. Would that be a matter for the police or would that still be a matter for the CCC, even if those persons involved did not come under the Public Service sector agency definition we spoke about earlier? Would you only take carriage of matters that involved someone who fell under that definition, that is, a member of parliament or Public Service sector agency employee et cetera?

Mr Barbour: There is a very broad definition around corrupt conduct, and certainly the activities of non-public sector employees or office holders are caught within that definition. In all cases, whether it is lobbying or anything else, it will depend on the circumstances and facts in the particular case and whether or not what was being complained about met the requirements to be considered as potentially corrupt conduct under the act.

Mr PURDIE: Then if it was not, it might potentially still be referred to the Queensland police?

Mr Barbour: It may be referred to a different agency, but it would depend on the nature of the matters.

CHAIR: Are there any further questions? There being no further questions—and we do have your very detailed report—we thank Mr Barbour and Ms O'Farrell for their participation here today. I am not sure if we took on notice the question about noting that there may be a number of self-referrals that will not be captured by this number because others may have made that without making reference to their discussions with the Integrity Commissioner. With that, I thank you very much for your participation.

BINI, Mr Paul, Partner, Crisis&Comms Co

HUMPHERSON, Mr Andrew, Managing Director, Barton Deakin

STEIN, Mr Elliot, Director, Hawker Britton

CHAIR: I note that I have known Mr Bini and Mr Stein for many years and I have met you for the first time, Mr Humpherson. Good morning and thank you for joining us. Would you like to make some opening comments, after which committee members will have some questions for you?

Mr Bini: Thank you to the members of the committee for the opportunity to take part in these hearings. I established a government relations policy, strategy and communications practice in January 2020. Prior to this I worked for about 13 years for a national firm in the same field. In total, I have worked in government relations across state, federal and some local governments for 15 years. My comments are limited to the lobbying aspects of the committee's inquiry. At the outset, I would like to make it clear that I am not against the regulation of lobbying activities. My concerns with the scheme are its scope, its requirements and its unfair and anticompetitive impacts on clients; that is, the businesses and clients that are seeking to have an influence on government policy.

Turning the clock back to the introduction of lobbying registers around Australia in the late 2000s onwards, there was a single and clear reason to implement a scheme for the regulation of third-party lobbyists; that is, in the case of a third-party lobbyist you do not necessarily know whom they are representing. The scheme as first introduced remedied this by a declaration by the lobbyist when they met with a government representative as to who their client is and maintaining registration of the lobbyist, together with the names of current clients, which government representatives can check for compliance and the community can also review for purposes of transparency. The scheme was simple and straightforward and designed to satisfy the interests of transparency through declaration as well as usefully establishing a code of conduct for lobbying.

Unfortunately, in 2012 a political decision based on short-term issues management was made. It meant that going forward third-party lobbyists would be required to log and publish all lobbying meetings with government officials. This change means that third-party lobbyists and no-one else are required to publish the dates and purposes of lobbying meetings with government officials. The change creates issues of ambiguity around what is lobbying. It also creates an uneven playing field for clients that are using lobbyists. The change means that a company or organisation—a larger company, maybe an ASX top five, 10 or 20—that has sufficient means to engage in-house personnel to lobby is not required to lobby contacts. However, where a company decides on the external provision of these services based on cost or quality then there are requirements of disclosure when compared to their competitors. I am talking about the competitors of the client rather than the competitor of the lobbyist. Effectively, larger companies are let off the hook while firms, more likely to be small and medium in size, that do not have the resources to employ an in-house lobbyist must disclose more information. This is inequitable and unfair and has no basis in policy.

Finally, lobbying regulation as it stands only covers a small portion of lobbying activity, in my view. It has not been measured, so it is not possible to give any definitive numbers. My anecdotal view from my years of practice is that the vast majority of lobbying that goes on is by in-house lobbyists—whether it is 80 per cent, 90 per cent. That means that is the lobbying activity which the current form of regulation is actually missing. I think, with all due respect to the CCC, concerns about sham arrangements and those sorts of things are much less of an issue than the fact that the regulation actually misses most lobbying activity.

I think that, just as a broader comment, my concern is that what changing regulation does is to drill in on areas that are more and more minor compared to the bigger issue about who is actually covered by the lobbying regulation. To create balance and fairness for the clients of lobbyists, either the system in its current form should be extended to in-house lobbyists or alternatively there should be a return to the scheme initially in place requiring third-party lobbyists to disclose nonobvious information about whom they are representing.

Mr Stein: As Andrew will note in more detail, Hawker Britton and Barton Deakin work together as we are both owned by WPP as part of a network of public affairs and public relations companies. Thank you to the committee for receiving our submission and hearing from us today. In our submission to this review we have detailed aspects of the integrity regime in Queensland we consider to be ripe for reform and summarise the view of our companies as practitioners in the field.

Firstly, we support—as the 2015 Coaldrake review did—an expansion of the definition of the lobbyist code to cover all aspects of government relations' interface with the Queensland government; namely, adopting a definition of lobbyist that includes in-house employees who engage government on behalf of their employers. We do not believe that there is such a thing as incidental lobbying or that it should not be captured by regulation and oversight, and to that end we strongly agree with all of the evidence that was given this morning by the CCC, particularly in expanding the definition and capture of all lobbying activities: incidental, in-house and third party. I think the acting commissioner clearly identified the corruption risk to these activities and weighed the regulatory burden in forming the opinion that he gave to the committee this morning.

Second, and in our view most importantly, we believe that the No. 1 integrity risk for all Australian governments today is the hollowing out of the Public Service. The diminishment of capacity, capability, recruitment and retention of highly-trained public servants and the consequent contracting out of core government functions is occurring in every government at every level across Australia with unprecedented speed. It is a massive integrity risk and one, in our opinion, that far outweighs the reported, documented and transparent activities of third-party lobbyists. A weaker, more hollowed-out public service presents a risk. It makes it less able to withstand undue influence, risks sloppy public policy processes and exposes itself to industry capture. Further, increased outsourcing to professional services firms that are driven by profit motives, rather than Public Service motives, and have their own third-party clients weakens integrity, brings into question government policy decisions and exposes the government to needless risk. Entities that are working for government should not be lobbying into government on the same issues at the same time. These are views supported by the Australian New Zealand School of Government, the Grattan Institute, academic researchers and the review of the Australian Public Service in 2019.

The activities of companies like ours are the tip of the iceberg. We are out in the open—clear, transparent, reported and logged in the public domain. We welcome that transparency. We happily follow the code of conduct and the laws regulating our sector. We believe that more transparency, not less, is a good thing for the healthy maintenance of the integrity of the Queensland Public Service.

Mr Humpherson: I have worked inside and outside government over more than three decades in elected advisory official and consulting roles. Along with hundreds of communications, public affairs, public relations companies, Barton Deakin and Hawker Britton fall within the WPP group. It is a major global communications and media business. As a global leader in its field, WPP has established high standards of compliance both internal and external.

As a result of this, we have adopted and have on our own website our code of ethics. As part of WPP's compliance requirements, we have internal requirements that often exceed the regulatory obligations in certain jurisdictions. This includes, for example, with employees who have come from anywhere in government—any government—there is a minimum six- to 12-month post-employment restriction for those employees. Whilst many of us engage voluntarily in our work with political parties and campaigns, if anybody has a senior role or a key policy function with a political party—if someone wishes to do that during a campaign or before a campaign—they are required to take unpaid leave for that purpose.

Our previously publicly stated position at Barton Deakin in relation to incidental lobbying, as it is being phrased, is to support a widening of disclosures so that this is disclosed. Where industry associations, major players, accounting, legal and other specialist entities frequently lobby on behalf of their clients and those interests are being advanced, we believe that these should be regarded as lobbying activities and should be disclosed. I note that the CCC earlier indicated support for such a mechanism and queried about whether there is regulatory cost. I would assert that there is a very low cost, no different to the cost we incur in registering our clients on a regular basis which is realistically only a minute or two of time online.

We do not believe it is an onerous expectation to do that and would bring much greater transparency on activities that are currently not visible to the public. I would be pleased to respond to any questions.

Mr STEVENS: Mr Stein, in relation to lobbyists firms—and we are here for the Yearbury report and the controls that they are looking at implementing—the example that springs to mind is of a large approval achieved with the assistance of a lobbying firm being given by the government of the day, whomever, and then that lobbyist firm makes a large donation to the government party in terms of electioneering funding. Do you understand that the public have great concerns about the appearance of those large donations to political parties, particularly after the success of lobbying for a particular firm to achieve an outcome and how that is bad for the public confidence in the lobbyist industry if they are making donations? I will add: does your firm make political donations either side?

Mr Stein: Working backwards, yes, we do. Queensland is a nation leader in terms of its donation disclosure laws in terms of the low threshold of requirement for declaration and the real-time nature of those disclosures. From where we sit, we would welcome expansion across the nation to reflect those laws so there can be greater transparency in real time from all parties who donate to any and all political parties.

In relation to other parts of your question, I am not a public opinion expert to know what the public do or do not think about different choices of firms. From our perspective, we always welcome greater levels of transparency and disclosure as it applies to all aspects of the public policy process and separately to the political process. As members would be well aware, under our laws and the nature of how elections are run and require to be funded, political parties will naturally need to attract private investment in order to fund political activities. Any changes to that scheme are a matter for this parliament and we would welcome it.

Mr STEVENS: Just to clarify, your firm has made no third-party donations to any political party?

Mr Stein: Sorry, can you explain that? I do not understand your question.

CHAIR: I did not understand the question either.

Mr STEVENS: On behalf of others; in other words, they pay you and you pay a party. Your firm has not engaged in that?

Mr Stein: No.

Mr Humpherson: Along with our sister company, Barton Deakin would be precisely the same. That would be regarded as unethical as part of our corporate code as well as our own practice. By the way, Barton Deakin are Liberal, LNP, National Party aligned. We would never make a donation to the Labor Party and I think the same might apply in reverse.

Mr STEVENS: I am not talking politics.

Mr Bini: Can I add one thing to that that might help. Under the ECQ declaration form, if you receive funds to make a donation, you need to nominate that. That is actually part of the disclosure.

Mr STEVENS: I understand that but some firms get paid a lot more money than they would otherwise get paid.

CHAIR: That is clear on the Electoral Commission's form. In terms of making a federal donation, that is not part of the process at the federal level, though, is it?

Mr STEVENS: Over $13,000, I think.

CHAIR: Just to clarify the member's question, if you were making a donation to one of the federal parties, there is not a section where you clarify that you are not making a donation on behalf of another party.

Mr Bini: I think that is right.

Mrs McMAHON: Turning to the Yearbury report in front of us and the inquiry, could you briefly turn your thoughts to recommendation 11 of the report? It recommends the establishment of a particular offence in relation to unregistered lobbying activity. I am generally not one to increase the number of offences that we have for things in Queensland. Given that this would cover your industry, could you give us your thoughts on recommendation 11?

Mr Stein: I thought the evidence given by the CCC—and forgive me if it was the CCC or the Integrity Commissioner—was useful in that regard. I think it would be logical to have a dedicated head of power offence in terms of breaches of the lobbyist code of conduct and for the onus of compliance to be appropriately placed. I will defer to others if I am wrong here. My understanding of compliance with the code is that there are obligations on the part of those meeting with third-party lobbyists but, as noted, no offence for a breach of that and no appropriate placement of where that onus would sit. In my opinion it would make the most sense to have an offence that sits with the third-party lobbyist for breaches of the lobbyist code of conduct and appropriate penalties therein.

Mr Bini: I think that makes sense. I think that where you are outside of the scheme there is no other way to sanction an individual for doing the wrong thing apart from not meeting with them, so an offence does make sense. If you are inside the scheme, I think a lot more imaginative approach might be taken to deregistering a person from the scheme. If that is how you are making your living then that is quite a strong sanction. That is why I have always had a very strong view about making sure that I am compliant with the scheme. It is your bread and butter for at least part of the practice. I do not see value in government officials having an equal and opposite offence. I just think that is a little bit over the top. I think it is unnecessary.

Mr Humpherson: Barton Deakin would support there being a consequence for not complying.

Mr PURDIE: This question is maybe to Mr Stein. We heard from the CCC commissioner earlier about the pitfalls in the legislation that we are assessing at the moment. Andrew, you just mentioned the code of conduct for lobbyists. What level of access and interaction would a lobbyist normally have? As a backbencher in opposition I have not had much contact with you—ever. Once you make that introduction and you might have a meeting with the minister or a member of staff, is it common or has it ever been the case then that you stay on that process and you might be included in emails or you get access to cabinet confidential information? Have you ever been CCed into emails with the company and the minister where cabinet confidential information is included in that? Do you get access to all of that as the process goes forward?

Mr Stein: Absolutely not.

Mr STEVENS: He was a detective.

Mr Stein: It is good to ask the question—absolutely not. Cabinet-in-confidence material is cabinet in confidence and it remains so. All interactions I have ever had with government recognise that and reflect it accordingly. All of my contact with government is disclosed on the public website. Every month you can see who I have contacted on behalf of whom.

CHAIR: There being no further questions, we thank you for your appearance here today and also for the submissions that we will be duly considering in preparing our report.

FLORIAN, Ms Kathleen, Independent Assessor, Office of the Independent Assessor

CHAIR: Ms Florian, unfortunately the cameras seem to have departed. I would not take it personally. I welcome, Ms Florian of the Office of the Independent Assessor. Good afternoon and thank you for joining us here today. I invite you to make an opening statement, after which committee members will have some questions for you.

Ms Florian: Thank you for the opportunity to give evidence in the inquiry into the report on the strategic review of the functions of the Integrity Commissioner. As this committee would be very aware, the Office of the Independent Assessor was established in December 2018, and our functions include to assess all councillor conduct and to investigate and to prosecute misconduct.

When the Integrity Commissioner was engaged in the local government sector, that tended to be in two areas: firstly, in working with the Office of the Independent Assessor in providing guidance to the local government sector on integrity standards and strategies to deal with complex issues such as conflicts of interest; and, secondly, in providing one-on-one advice to mayors and councillors predominantly in relation to conflict of interest issues. I would like to talk about those two separate areas of work that the Integrity Commissioner did.

Firstly, in relation to the general guidance, at the time that Mr Yearbury was undertaking consultations on his report the OIA was providing guidance to councillors on recurring and high-risk areas of councillor conduct that were identified through an analysis of OIA complaints and investigations on strategies to manage more complex issues, including conflicts of interest, and providing guiding principles on in what circumstances the OIA would or would not prosecute categories of misconduct, particularly from a public interest perspective, to increase the clarity for councillors.

The Office of the Independent Assessor performed this function pursuant to a ministerial direction under section 150CU(1)(e) of the Local Government Act. Following a review of the complaints system undertaken by the Department of State Development, Infrastructure, Local Government and Planning in early 2021, this direction was revoked. The department itself is now providing advice on recurring high-risk areas of misconduct and strategies to manage complex issues, and at present no-one is providing advice on what the guiding principles are or in what circumstances the OIA would prosecute or not prosecute misconduct in the public interest.

I turn now to the one-on-one advice that the Integrity Commissioner was providing to councillors. To be very clear, the OIA does not provide personal advice to councillors on issues of misconduct. That would be quite inappropriate because we would then receive complaints and it would compromise our ability to deal with complaints. In the absence of the previous substantial advice work that the Integrity Commissioner did, which is something in the order of 425 advices provided to mayors and councillors, this one-on-one advice is now provided by the department, by the LGAQ and by a range of external legal firms across Queensland that are engaged to provide advice to local government officials. I have four observations about the situation that I would like to go through.

Firstly, I would like to acknowledge how very important that advice is, and that is for a number of reasons. Firstly, unlike other levels of government—and we have people here who have experience in local government—local government councillors are involved to a much greater degree in high-value, high-volume, high-frequency decisions. They include decisions about development applications in certain circumstances, with the exception of the Brisbane City Council, which does not do that; significant award of infrastructure projects; significant supply of contracts for supplies and services that are very significant in value; and, of course, the allocation of grants, both from the state government through Works for Queensland and, as we see now, the allocation of grants through the Commonwealth in terms of a disaster management context. This is the background for why I think there is a lot of pressure on councillors to be making these sorts of decisions.

Being a councillor in Queensland is a difficult job. I see a range of capacities across local government, with some councillors and some councils demonstrating a really sophisticated knowledge of conflicts of interest and the management of them, and other councils that are really struggling. The legislation around conflicts of interest is complex. In addition, we see councillors being drawn from their local government communities and they are exactly the sort of people you want to be councillors representing their communities. They have been involved in the football club, they have businesses in the local government communities, they have strong family and business connections. But these connections raise issues for them because they need to be alert to when there are conflicts of interest and that they are declared and managed properly. I think it is the combination of these circumstances that makes decision-making in local government, particularly around conflicts of interest, quite important and acute.

The second observation that I would make is that the increasing tendency to source external legal advice is coming at a significant cost to councils. That cost is being met not by councillors but by councils and ratepayers through insurance premiums paid to the LGAQ-established Local Government Mutual Services. I think that is an important consideration in circumstances where advice previously provided by the Integrity Commissioner did not come at a cost to local government, but of course there is a cost in terms of resource allocation.

Thirdly, with the advices that we have seen provided to mayors and councillors from the department, from the LGAQ and then from a broad range of legal firms across Queensland, we are seeing a lack of consistency in that advice giving. That is an issue for me in circumstances where in local government it is really important that we see clarity and consistency in decision-making.

Finally, the advices that are received from other external parties do not provide mayors and councillors with any statutory protection; for example, as is provided in section 40 of the Integrity Act which provides protection for a mayor or councillor who is acting on conflict-of-interest advice. If the councillor does an act to resolve a conflict of interest substantially in accordance with the Integrity Commissioner's advice on that issue then they are not liable in either civil proceedings or in an administrative process, which would include disciplinary proceedings.

Those would be my upfront observations. I will turn to any particular questions.

Mr STEVENS: I have had some local government experience. I know of the frivolous and vexatious complaints and difficulties that have to be dealt with. You mentioned good people from the community. They are bogged down now in terms of conflicts of interest such as being in the footy club so not being able to vote for a grant for the footy club, which is ridiculous. We have heard comments made by a mayor of costs of around $50,000 to protect and investigate. In terms of the Integrity Commissioner's role and the recommendations from Mr Yearbury, the Integrity Commissioner advises today that, if the advice she gives to local government representatives and council officers et cetera was not to be given by her, four lawyers would be needed to provide that advice. It is important where we go with this recommendation. Would you support her having those resources financed from an area other than the office of the Integrity Commissioner, perhaps LGAQ, Department of Local Government or areas other rather than the Integrity Commissioner's office itself, which is busy dealing with state government matters?

Ms Florian: Thank you, Deputy Chair, for your question. I presume I am not to respond to the first part of it. It is a matter for government and for policy really where that support is funded from. What I can say is my observations of what happened when the Integrity Commissioner was providing advice in local government and what has happened when they are no longer providing advice in local government. I do not feel that it is appropriate for me to comment on how that should be funded otherwise.

Mr STEVENS: Can you tell me the difference between what happened when it was funded and what happened when it was not funded?

Ms Florian: These are the points that I just went through about why it is so critical for there to be advice and why councillors really need that advice: the heightened nature of the decision-making which occurs within council; the fact that in the absence of the Integrity Commissioner being involved in local government that that advice is now being provided by the local government department, by the LGAQ and by a series of external legal providers and we are not seeing a lot of consistency in terms of that.

Mr STEVENS: How has that affected your department?

CHAIR: Ms Florian has already stated the same answer twice.

Mr STEVENS: Will she get more work?

CHAIR: The impact on the Office of the Independent Assessor?

Mr STEVENS: Yes.

Ms Florian: The Office of the Independent Assessor has seen a lot of complaints—probably a lot more complaints than was anticipated at the time that it was established. Those complaints have increased year on year. This year for the first time we are seeing some reduction, although not significant, in complaints that have been received. I think where the points that I have mentioned go to is that my perception of the local government environment is that it is absolutely critical for councillors to have clarity and consistency on the standards that are being applied or that are to be applied and that the Integrity Commissioner, in providing advice, assisted with that clarity and consistency and in the absence of that we are seeing less of it.

Mr TANTARI: Is it not the fact that the Department of Local Government has and does give substantial training to councillors and mayors and that councillors and mayors are required to attend mandatory training to make sure that they are aware of their conflict-of-interest requirements?

Ms Florian: There is no mandatory training. Sorry, I beg your pardon: the only mandatory training is a session that is provided to all potential councillors before they nominate to become part of local government or run for local government. Once someone becomes a councillor there is no mandatory training. Training is made available by the department, it is made available by the LGAQ, but whether mayors and councillors attend that training is on a voluntary basis.

Mr TANTARI: You are saying it is really up to the individual to make sure that they are across their conflict-of-interest requirements under the act?

Ms Florian: Yes.

CHAIR: When this started it was less than a part-time position, which was on the recommendation of one of the previous commissioners who said to get rid of one of the full-time positions. We now see this massive expansion in the role. Originally it was that members had a responsibility to seek legal advice and they would do that externally. The problem with specialisation was brought up. The public then stepped in to give specialist legal advice to members of parliament at a cost to the public, which was a significant change. It used to be that the onus was on the member of parliament to be aware of all of those conflicts and to seek external advice. It went to the public to do it and this has expanded and expanded. Local government's integrity concerns are significantly different to the members of the Queensland parliament.

Ms Florian: They are.

CHAIR: And we know that it would not be the Integrity Commissioner giving advice; instead, one of the multitude of other lawyers would be involved. Does that not dilute the original purpose of the Integrity Commissioner to ensure that this place had specialist advice given by one person who had dealt with all of the issues consistently? Isn't not a negative in diluting it in that way?

Ms Florian: I am sorry, Chair: are you saying that if the Integrity Commissioner were to give advice to mayors and councillors then that would reduce their capacity to give advice to members of parliament?

CHAIR: With a team of five taking diverse integrity issues and, by its nature, being inconsistent across that team.

Ms Florian: As with any review of a functional area, there are a whole lot of things to be taken into account. Pros and cons of the jurisdiction expanding or contracting and resources are a really critical part of that. There is no doubt that if the Integrity Commissioner was giving advice to mayors and councillors without a resource commitment to do so then that would have potential implications.

CHAIR: Would it also be not just a matter of resources but also one of focus on the primary purpose of the act in expanding it out in other directions?

Ms Florian: Potentially. I think that that is probably a question that is starting to get beyond my remit in terms of local government.

Mr CRANDON: You have spoken several times about the diverse range of advice, and the difference in the quality of the advice is what you were inferring. Lawyers are lawyers. They are giving advice as trained individuals. Can you pinpoint any significant issues that have occurred as a result of the advice being provided by, I would suggest, lesser quality advisor? Can you give some examples of where you have concerns in that regard?

CHAIR: Obviously with awareness of the privacy issues involved. I think some generic kinds of issues might be useful.

Mr CRANDON: I am not looking for names, just examples.

Ms Florian: Perhaps I could talk to that generally. In the local government environment, we have gone from there being two complaints made about councillors across all of Queensland 10 years ago to there being substantially more complaints. The previous tribunal's decisions were not visible or published so the basis for decision-making in local government was not shared or broadly understood. There is no body of decisions that exists in relation to what does and what does not constitute misconduct in certain circumstances. There were changes made to the legislation in 2018 that mean that decisions are now published, but not the substantive reasons for them. People who are providing advice to councillors are not seeing the reasons for the decisions from the Councillor Conduct Tribunal, for example—the full reasons—so they are, in a sense, giving advice in a vacuum with no background in terms of established decisions or authorities that they can have regard to.

One of the key issues for the Office of the Independent Assessor and for the new Councillor Conduct Tribunal has been to turn that situation around so we start to get some consistency and clarity of decision-making that is visible, not only to those legal representatives but also, most importantly, to councillors so that they can then apply the understanding of how the tribunal is applying standards to their own circumstances and their own examples. This is a key area that we need to significantly improve on in the local government sector and what we are working towards.

CHAIR: Are you satisfied with that answer?

Mr CRANDON: I think it does cover what I was trying to get at. I think what you have said is basically that it has been a flawed system up until now from the perspective of everyone being able to look at how decisions were made and there are moves afoot to resolve those issues.

Ms Florian: Yes. I would like to make it clear that I am not representing the system as all roses at the moment. Clearly there are some key issues that we need to look at and improve on, particularly around clarity around legislation. I have made a number of recommendations to my committee in that regard and there is currently a review going on into that. I think there are also important elements and priorities which are improving with the local government sector over time.

CHAIR: Which committee is dealing with the review?

Ms Florian: The State Development and Regional Industries Committee.

CHAIR: It was not the Legal Affairs and Safety Committee for some reason.

Ms Florian: No.

Mr PURDIE: Further to that review, and this might be covered and obviously I am not across how that is going, you spoke about there being a conflict: that your office cannot give advice because you potentially could receive the complaint and then have to investigate and prosecute. This former committee did a police discipline review with the CCC and others. Alan MacSporran spoke about how they were changing from a punitive type system to a more educational system. Your office is putting together this great body of work and getting all this advice. Would it not be prudent for your office to essentially have a preventive or educational arm so that these people are coming to your office for this advice rather than going to the Integrity Commissioner for advice and you guys not getting involved until someone needs to be prosecuted? Has that been brought up in your OIA committee? Is that an option? I know you cannot answer where the funding should go, but is that an option?

CHAIR: That is a reasonably long question and also, I think, a mischaracterisation of the way the CCC and the police department interact with disciplinary processes in that the CCC is still there as an investigative body.

Mr PURDIE: They still have that prevention arm and they still try to provide that advice. It was a long question, I appreciate that. Is that an option?

Ms Florian: I could make a couple of comments on that. Firstly, the nature of disciplinary systems is that they are not intended to be punitive; they are intended to be educative and protective. That is a key thing that we are constantly trying to work on with local government because there is this great fear from mayors and councillors about misconduct matters and going to the tribunal. But at the end of the day the purpose of sending a matter to a tribunal is to say, 'Yes, this was misconduct and someone slipped off the rails. Let's get back on the rails, take the learnings and move on.' So, yes, very much the purpose of a disciplinary system is protective. My own view is that I would much rather be involved in prevention and education rather than prosecution and I think that it is really important to explore all possibilities for prevention. Who does that is a matter, ultimately, for policy makers and government.

CHAIR: There being no further questions, I thank you for your appearance here and for the information you have provided today. I do not believe there were any questions taken on notice. I thank our fantastic Hansard reporters, the parliamentary broadcast staff up in their booth who do a fantastic job and, of course, the secretariat for their assistance to the whole committee today. A transcript of these proceedings will be available on the committee's website in due course. With that I declare this public hearing closed.

The committee adjourned at 12.34 pm.