ECONOMICS AND GOVERNANCE COMMITTEE

Members present:
Mr LP Power MP—Chair
Mr MJ Crandon MP
Mrs MF McMahon MP (virtual)
Mr DG Purdie MP (virtual)
Mr RA Stevens MP (virtual)
Mr A Tantari MP (virtual)

Staff present:
Ms E Hastie—Acting First Clerk Assistant—Committees
Ms J Langford—Committee Secretary
Ms M Salisbury—Assistant Committee Secretary

PUBLIC HEARING—INQUIRY INTO THE STATE PENALTIES ENFORCEMENT (MODERNISATION) AMENDMENT BILL 2022

TRANSCRIPT OF PROCEEDINGS

TUESDAY, 19 APRIL 2022

Brisbane

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The committee met at 10.31 am.

CHAIR: I declare open the public hearing for the committee's inquiry into the State Penalties Enforcement (Modernisation) Amendment Bill 2022. My name is Linus Power, the member for Logan and chair of the committee. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today, the Jagera-speaking people, and pay our respects to elders past and present. We are fortunate to live in a country with two of the oldest continuing cultures in Aboriginal and Torres Strait Islander people whose lands, winds and waters we all share. With me here today via teleconference are: Ray Stevens, the member for Mermaid Beach and deputy chair; Melissa McMahon, the member for Macalister; Dan Purdie, the member for Ninderry; and Adrian Tantari, the member for Hervey Bay. With me in person today is Mr Michael Crandon, the member for Coomera.

This hearing is a proceeding of the Queensland parliament and is subject to the parliament's standing rules and orders. 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 also remind members of the public that they may be excluded from the hearing at the discretion of the committee. The 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 discretion at all times. I would like to note that you may be filmed or photographed throughout the proceedings and images may appear on the parliament's website or social media pages. I encourage everyone to check their mobile phones to ensure they are on silent mode.

BEAVON, Ms Katrina, General Counsel, Real Estate Institute of Queensland

CARR, Ms Penny, Chief Executive Officer, Tenants Queensland

FLOWERS, Ms Mary, Legal Officer, Tenants Queensland

CHAIR: I welcome representatives from the Real Estate Institute of Queensland and Tenants Queensland. Would you like to make an opening statement before we ask questions?

Ms Beavon: Thank you for the invitation to appear today. The REIQ has been the peak professional body for real estate professionals here in Queensland for over 100 years. Today we continue to represent over 15,000 individual real estate professionals. We represent real estate professionals in Queensland across all sectors, including: residential, leasing and sales, commercial leasing and sales, business brokering, auctioneering and buyers' agents. The REIQ is recognised as the leading association for real estate in this state. Unlike other stakeholders, the REIQ is not exclusively affiliated with landlords or tenants in a tenancy relationship and is therefore able to provide an objective viewpoint in relation to the proposed amendments to the relevant sections of the Residential Tenancies and Rooming Accommodation Act 2008, commonly known as the RTRA Act.

In accordance with the Residential Tenancies Authority's 2020-21 annual report, approximately 88.1 per cent of rental properties are managed by real estate agents or properly managers, confirming that agents play a significant role in facilitating and managing tenancies in this state. Therefore, we are well placed to provide a balanced and objective view when considering any amendments to rental laws. The REIQ has a strong and long history of working with both owner and tenant aligned stakeholders, which includes the development of the domestic and family violence toolkit in partnership with Q Shelter and their collaboration with the Tenancy Skills Institute, to name a few. We also have a longstanding relationship with the Residential Tenancies Authority, which has strengthened its relationships with all key stakeholders through stakeholder forums and working groups where the RTA seeks feedback to understand the interests and concerns of stakeholders in order to advance its role and strategic direction.

I would like to make a correction to the second page of our submission. In the third paragraph we stated that RTA invested $60 million with QIC. In fact, it was one billion with a return on investment of $60 million.

The REIQ is deeply concerned about the proposed amendments to the funding model of the RTA as set out in the bill. The brief summary in the explanatory notes does not, in our view, substantiate any basis for the proposed amendments. We are extremely disappointed by the absence of any stakeholder consultation prior to the bill. The objectives of the bill—to provide for a transparent and stable funding model for the authority and ensure the security of rental bonds held—raise the question, in our view, of whether there are in fact existing systematic issues relating to the transparency and security of rental bonds within the RTA.

Ms Flowers: I am the legal officer at Tenants Queensland for QSTARS, the Queensland Statewide Tenant Advice and Referral Service. There is quite a detailed paragraph on page 2 of our submission about the services we operate.

Ms Carr: We have been around since 1986 or so. Our formative issue was the centralised collection of bonds, which led to the rental bond act and the formation of the rental bond board. Our organisation has had a keen interest in how bonds are held and what happens to the interest generated on those bonds for many years. Until about 2012 the RTA provided funds to the department of housing, and that money was then provided to services like ours to deliver tenant advisory programs. That was part of the initial idea when the rental bond act was formed. Eventually, it was also meant to deliver interest to tenants so their bonds maintained value over time. There was also an intent that other sources of funding that were more aligned to lessors and agents be found to supplement that funding. That did not happen. What has happened over the years is that tenants have, through their bond interest, paid for all the services delivered through the RTA and been able to access universal products which are tenant advisory services.

We believe the important thing is to retain the self-funding model of the Residential Tenancies Authority. We do not think there has been enough consultation or identification of the issues leading to the tabling of these proposed changes. We do not recommend the changes. If the changes are going to be progressed, then we recommend that they be slowed down and the issues identified so there can be consultation and ideas generation about how to mitigate those issues without these fundamental changes, which uncouple the funding of tenant advisory services from tenant bond interest and remove the autonomy and independence of the regulator.

Mr STEVENS: My question is to Ms Beavon. In relation to the REIQ particularly, which is involved in 88 per cent of rentals and the collection of bond moneys et cetera, did you have any knowledge of the RTA funding model changes prior to the introduction of the bill, and have any of your contacts at the RTA informed you as to whether or not they were aware of funding changes prior to the introduction of the bill?

Ms Beavon: Thank you, Minister, for the question.

CHAIR: Just to clarify, the deputy chair is the deputy chair of the committee; I am the chair of the committee. We are by definition not ministers. We are the non-executives examining the bill, so we are not ministers.

Ms Beavon: My apologies. Thank you, Deputy Chair. No, we did not receive any knowledge. We did not receive any consultation or any stakeholder consultation through our forums. We attend two forums within the RTA, where generally we are consulted on any changes made to the RTRA Act. Unfortunately, we did not receive any knowledge or further clarification, apart from the paragraph that is noted in the explanatory notes, of the intent of the bill.

Mr STEVENS: As you deal with members of the RTA pretty regularly, I should imagine, they gave you no knowledge of their information or consultation about changes to the funding model?

Ms Beavon: No, we did not receive any information prior to the release of the bill in relation to the changes to rental bond arrangements.

CHAIR: Did you have some awareness—this is probably for both groups—that during a period of very low interest rates the authority would have to undertake more risky investments in order to get a return that would fund the RTA and its functions?

Ms Carr: I would say that previous governments have removed money for other purposes. Had that not happened, they would not have been in the position they were. Having said that, my understanding is that they have a low-risk profile and interest rates are only going to go up from here. They have a diverse portfolio and bonds are already secured by the government, so this change just seems to have come out of the blue, to be honest.

CHAIR: The position of Tenants Queensland is that they are comfortable with the risk profile of the investments, even during periods where they have to take on more risky investments with tenants' money?

Ms Carr: I do not believe they are taking on more risky investments. I think that if governments did not take money out for purposes that should really be funded by taxpayer income, then the RTA funding model is a solid funding model.

CHAIR: When you say the running of the Residential Tenancies Authority, is that what you are talking about?

Ms Carr: The running of the Residential Tenancies Authority plus the funding for tenant advisory services over time. It will take a bit of time to get back to a position where interest could be generated to put us back in that position, but that is certainly what happened for many years.

CHAIR: Ms Beavon, you are more comfortable with the riskier investments that were undertaken in order to get returns?

Ms Beavon: We have done a quick summary of the financial statements within a five-year period, and upon that quick assessment investments have grown by 21.7 per cent over that five-year period. Granted, there was a decrease, obviously, because of COVID. I think that aligned with every other business and investment within Australia. At the same time, even at the peak of the global financial crisis we understand the RTA did not need to use the funds available to them in order to sustain their obligations.

CHAIR: Respectfully, I asked you about the risk profile of the investments rather than the returns.

Ms Beavon: We did not receive any information whether the risk has impacted them in a negative way for the past five years. We have not received any further information for us to make any assessment.

Mr CRANDON: Coming back to the question that was asked by the deputy chair, I am not sure you answered the second part of his question. You may not have picked it up properly. He was asking if you had received any feedback from individuals within the RTA who you deal with prior to this coming up? Did you hear rumblings from them? Did you hear anything at all?

CHAIR: Are we seriously going to ask about 'rumblings'?

Mr CRANDON: We are, because I wanted to clarify the question that was asked earlier and also I was going to put the same question to Tenants Queensland.

CHAIR: In general, questions should be about the firsthand knowledge of the witness and not be subjective in terms of opinion. I will put the question to Ms Beavon, but I ask that the question be phrased within the standing orders.

Ms Beavon: I personally did not have any conversations with any of the management team regarding this bill.

CHAIR: That was the question put by the deputy chair and answered, which was within the exact understanding of the witness. That is the best—

Mr CRANDON: With respect, on my hearing of the answer I was not quite sure that it had been properly answered and, hence, I put the question again. Can I put the same question to the tenants association please?

Ms Carr: I believe there was an industry email that went out either on the day or the day before—somewhere around that time—to inform of the changes. We certainly were not consulted about the changes and were taken by surprise.

Mr CRANDON: The chair asked a question of you about risk without defining that, without being specific on what the risk profile was. He referred to 'riskier investments'. We live in a world that has a range of investments available. Queensland Investment Corporation manages many billions of dollars on behalf of Queenslanders. QSuper—and I am not sure of its new name—manages many billions of dollars for people who are on guaranteed income streams through that superannuation fund. They have a portion of their investment in reserve, if you like, in risk-free investments, knowing full well that over the cycle a balanced portfolio—and I believe you referred to a balanced portfolio within your submission to us—will outperform cash or interest-bearing deposits with a minimal risk associated with it over time. We are talking long-term here; we are talking about forever as far as this fund is concerned. Are you aware of the risk profile or the background to that decision to go along with a balanced portfolio process? Are you able to respond to that?

Ms Beavon: What I understand is obviously the Treasurer is within the Residential Tenancies Authority; they do have their own assessment in terms of the board and the strategic direction as to where and when the investments go. Unfortunately, I will not be able to provide any—

Mr CRANDON: They balance risk and return over time?

Ms Beavon: Yes.

Mr CRANDON: I think that is probably the best answer to provide to the chair. Are there any comments from Tenants Queensland in relation to your views on that risk-reward question?

Ms Carr: Only that it would be much easier for organisations like ours to answer those questions if there was consultation and information provided leading up to a process like this.

Mr CRANDON: Good point.

CHAIR: Usually when giving financial advice they put that disclaimer at the end of those ads, Michael.

Mr STEVENS: Ms Beavon, the genesis of this amendment is the fact that there are riskier investments being undertaken by the RTA because of the low interest rate. As we are all aware, the interest rates are just about to climb rapidly, according to the RBA and a few other organisations. Would that not mean that when interest rates rise there would be a less risky portfolio for the RTA to be involved in and that would negate the need for this amendment to be put in place? Ms Beavon, could you comment on that matter, please?

CHAIR: Ms Beavon, would you be able to give the committee financial advice on the future movement of interest rates? That is the subtext of the question.

Ms Beavon: We are not in a position to provide an assessment of the RTA given that we were not involved with any consultation or any additional information, apart from what has been given in the explanatory notes.

CHAIR: That is very disappointing because both the deputy chair and I could make significant investments if you could guarantee future interest rate movements! If the RTA makes investments and suffers a considerable loss, the government presumably would step in to guarantee the functions and the return under the existing model, and that is the same guarantee that is being put forward today by government. Does that not allay your concerns about the return of bonds to tenants?

Ms Carr: It takes away the self-funded model of the RTA; it takes away their autonomy. They are going to make much more interest with the methodology they are using now than they will with a cash account. They will get minimal returns. It seems to me there is not much gain in the long-term for the industry, tenants or the RTA.

CHAIR: In terms of the financial performance in the 2019-20 year, did you have any concerns when the Residential Tenancies Authority had a deficit of $43.3 million?

Ms Carr: That was the year I think that they had to spend more money on a hub for COVID related issues. As the REIQ said, that was a year that was challenging for many organisations. Had they had the cash reserves that were removed from them over the years, they probably would have been in a much better position to absorb the years when they were not getting the returns they wanted.

CHAIR: When you say 'cash removed', we have clarified that is for the functioning of the office including the rental tenancy advice—

Ms Carr: No, sorry. We put in our submission a number of items where government requested funds, and they lawfully did so because the act allows them to do so. They were for items like the building of social housing, the start-up funds for a trust that is going to buy furniture for homeless people—all very good causes, but probably causes that should be funded through taxpayer money, not through the bond interest, which should be applied to very specific things which are returned to tenants and returned to the industry.

Mr TANTARI: This discussion has been about the current funding and financial processes regarding the model. Would you not agree that if the RTA were to be provided an ongoing annual grant to support its operations, that would lower the risk of the RTA at any stage in the future being in financial trouble with regards to its fund management and it would give a better or a more stable delivery of core service by providing an ongoing grant from government?

Ms Carr: The RTA has been self-funding itself for many years now. They have had a year with poor returns—the year before this one—and then they have had a year where they have made significant returns. If they were left to self-manage their funds and we limit what they can use those funds for and they can build cash reserves, I think the self-funding model would be a much better model than an annual allocation from consolidated revenue.

Mr TANTARI: Obviously that is a statement you believe in, but what do you base that on?

Ms Carr: It is based on the history of the RTA funding and returns and what has happened to the money over time.

CHAIR: Despite 2019-20, despite the two years of losses we have seen in both 2017-18 and 2019-20?

Ms Carr: Yes. If they had the cash reserves and they were not removed from them, they would have been in a much better position to manage going forward.

CHAIR: I thank you for your contribution today.

CHEMELLO, Mr Greg, Chief Executive Officer, Moreton Bay Regional Council (via videoconference)

KROME, Ms Sheryl, Manager, Customer Response, Moreton Bay Regional Council (via videoconference)

CHAIR: I now welcome representatives from the Moreton Bay Regional Council. I remind them that they are being broadcast live on the parliamentary website. They are joining us today via videoconference and will be broadcast on the parliament's website. Good morning. Would you like to make an opening statement?

Mr Chemello: I will make a brief opening statement of about five minutes or so, and then we are happy to answer any questions the committee may have.

CHAIR: It is good to see you again. I have not seen you for a while.

Mr Chemello: It has been a while. Firstly, thank you to the committee for the opportunity to make a submission and to appear before the committee today. Before addressing the specifics of our submission to the committee, I want to make it absolutely clear that our council strongly supports the primary objectives of the bill, and that is to modernise the operation of the State Penalties Enforcement Act 1999 and support the effective administration of SPER.

Moreton Bay Regional Council's submission is specifically in respect of a proposal to provide for a specific due date for local governments or any organisation to register unpaid infringement notices with SPER for enforcement before the higher late lodgement fees would start to apply. The prescription of any trigger registration date for unpaid infringement notices any earlier than 80 to 90 days would adversely impact on Moreton Bay Regional Council's ability to issue requirement notices; conduct our internal review processes, if necessary; and, most importantly in our mind, comply with the Queensland Ombudsman's principles for procedural fairness. I will make some quick dot points to explain this.

Moreton Bay Regional Council's current process of issuing an initial notice results in about 73 per cent of notices being paid, so three-quarters more or less. We then issue a reminder notice after the initial 28 days. That permits the review and the undertaking of any associated administrative actions to lodge a default with SPER. Generally, that takes us up to the 80 to 90 days.

The issue of a reminder notice currently achieves a payment of another approximately 28 per cent of infringements. Fifteen per cent of all our infringement notices are subject to a formal review process. That is when the person has requested the review. Fifteen per cent of our fines are reviewed. The outcome of this combined process of the initial notice, the reminder notice and the review power means that about 3.5 per cent of all our infringements are subsequently lodged with SPER. In our mind that tells us that our process is strong, robust and appropriate, and that is quite a small referral rate to SPER.

The provision of an internal review process by Moreton Bay Regional Council affords our customers a time frame in which they can contest the issue of an infringement. By providing this notice, council reduces any unnecessary enforcement action. Further, council is able to consider the extenuating circumstances such as any unforeseen or emergency situations. The introduction of a due date and the associated late lodgement fee is likely to lead to increased costs for both council and customers depending on when that due date is set. These points are made given the SPER bill's explanatory notes, which specifically state—

> It is intended that the prescription of any final day, due day and late lodgement fee in the SPE Regulation will occur at a later stage.

We respect that a decision has not been made. In the absence of any definitive draft regulation, Moreton Bay Regional Council is unable to fully determine the impact of the policy direction on our operations.

We also note the challenges that may be faced by SPER resulting from varying registration time frames across the administrative authorities, and I understand the impetus for it to establish a due date. We recognise, for example, an average of 229 days for tolling offences, as decided in the Queensland Revenue Office consultation paper, would be unacceptable across-the-board. Our council believes its current processes represent good, effective governance and there is only 3.5 per cent of our infringements that currently refer to SPER. We believe that a due date for referral of 80 to 90 days would also represent good and effective governance by other agencies.

In conclusion, we acknowledge there are opportunities to work better with the state government and the LGAQ to explore how a framework for the earlier registration of unpaid infringement notices with SPER for enforcement could be part of a suite of reforms to improve the effective operation of SPER.

CHAIR: Thank you very much. We will move to questions.

Mr STEVENS: You mentioned that 3½ per cent of your fines get referred through to SPER. Can you give us a dollar value on those fines? Could you also tell us what your council does to encourage earlier payment, if anything? I know that you pay your rates early you get a 10 per cent discount. What incentives do you give for the payment of fines on time?

Ms Krome: Currently there is no financial incentive, but the opportunity to provide them with a reminder notice giving them the extra 30 days to pay is an incentive, because that is where we notice the 23 per cent pay after the initial infringement notice is provided. The other question in relation to the value of that infringement, I would have to take that on notice to be able to give you a breakdown of that understanding of things. The majority of the infringements issued are around the $75 mark.

CHAIR: Is the average enough or would you like that to be taken on notice, Deputy Chair?

Mr STEVENS: It said 3½ per cent and I would like the dollar amount, if I could. Could they please take that on notice.

CHAIR: Ms Krome, if you could undertake to write to us with that information later, that would be appreciated.

Ms Krome: Absolutely.

CHAIR: The secretariat might follow up with the exact details. Just to summarise, the Moreton Bay Regional Council wants significant time in order to go through its own processes. This is not necessarily precluded by this bill but there is some uncertainty about how long it would be before it was referred to SPER. Are they the issues you are raising?

Mr Chemello: Yes, that is correct. The process of issuing the notice, then having the reminder notice and then having an appeal right in that process I think is good governance. I think that puts us in good stead. If the due date were to commence at 80 to 90 days, we would be perfectly happy with that process. That would fit in with our process. Bear in mind, we are a well-resourced organisation, too, so we can afford to manage this process well.

CHAIR: I note that you said that 15 per cent of fines referred to SPER may be disputed. Would you also be looking to a process where, once a dispute had been lodged, you held back referring them to SPER until you had resolved the dispute?

Mr Chemello: Sorry, I might have miscommunicated: 15 per cent of our total infringements we review internally.

CHAIR: Presumably at that point, the person being fined had initiated some kind of dispute and asked for a review?

Mr Chemello: Correct. That is in our process. They can question that. Some 15 per cent get reviewed. Some we agree with. We might have thought the registration of the car was wrong or the sign was obscured so there are very valid reasons why we agree. Others come back into the pool to be paid. We have 73 per cent paid up-front. We have another 23 per cent which are paid after this review process. Only 3½ per cent are then sent to SPER.

CHAIR: I understand. There is not an issue, then, with not wishing to have them referred to SPER while you are undergoing a review process? Is that relatively quick?

Mr Chemello: For us, then we would risk having unnecessary administration. If we take the examples of the obscured sign or the registration plate, that is a quick assessment for us to do as an internal review and come out and agree and not bother SPER with that process.

CHAIR: At that point you would cancel the fine so you would not be referring it? You are saying it is a relatively quick process for council to do that internal review?

Mr Chemello: Yes.

CHAIR: There is not an issue about whether or not it is referred to SPER because it is a relatively quick process?

Mr Chemello: Yes.

Mr CRANDON: Once again, I will make a disclosure. I know Greg Chemello. In fact, from 2014 I remember well Greg finding the funding, through all sorts of sources, for the construction of exit 54's duplication—$74.9 million, of which less than $30 million came out of the Queensland government coffers. That was a terrific effort. That was something that was not even in the budget at that point, but Greg did a wonderful job. Always my friend for sure.

In relation to what the chair was just referring to in relation to timelines et cetera, I would imagine that not everyone would dispute their fine immediately on receipt of the fine. Some of them would take it out to, in some cases, past the date the fine was due to be paid. You are suggesting pushing it out to 80 to 90 days. There is a human trait where many will leave things until the last minute. Would this not perhaps exacerbate the problem in that you would have people not coming to you until closer to that 80 or 90 days? Why have you picked 80 or 90 days? Why not 60 days and roughly doubling the length of time? Have you done any figures on that? The second part of the question is: have you done any costings on the administration of continuing that process within council rather than sending it off to SPER?

Mr Chemello: I do not think that there would be an incentive to extend or to defer payment because at the moment I think the law is that we can lodge within a year. Even with the time frame we have now, we are getting, say, three-quarters of our people paying their fine within the 28 days and the other almost a quarter paying it after a reminder notice. That tells us that that is working quite efficiently. Whether it was 90, 60 or 365 days, we are still capturing 96½ per cent of folks paying their fines within either the 28 days or the next 28 days. I do not think 90 days would be a disincentive. Ninety days gives us a bit of flexibility. Correct, 28 plus 28 does not equal 90. We have snuck in a few more weeks in that process. That is really to allow us a couple of things. At the end of the first 28 days, we need to do some things for some fines. We need to check on the car registration, we need maybe to do an interstate check or we need to validate some things. There is a week or two of us validating some things before we issue a reminder notice—not in all instances but that can be the case.

At the end of the second process, there is again a week, two or three for us to maybe have another look at it before we then refer it to SPER. That is how we ended up with 80 to 90 days as our benchmark. Two lots of 28 is roughly 60 days, a week here, a week or two there and a week or two at the end. I do not think that would disincentivise appropriate behaviour because it is working quite well now.

Mr CRANDON: Have you done a cost-benefit analysis of pushing it out to try and capture more of them before they go on to SPER?

Mr Chemello: We are at the point where those that we can capture we do. When we are getting down to only 3½ per cent being referred to SPER, our conclusion is that they are the recalcitrant folks who are not going to pay. We have done the reminder notice. If we have done an assessment we have done it. They are the folks who are probably not going to pay. We have not done that assessment, sorry.

CHAIR: Effectively the argument is that SPER, which may have information from fines from other councils, other bodies or criminal matters—all sorts of different fines—not be given information about fines that happen at the Redlands council for quite a long period. It is not necessarily that SPER takes action upon receipt of that, but that they not be given information which is joined with other information from other councils and other forms of fines. SPER has said that they think there will be benefit for those people who are accruing those fines to have that contact and begin to manage their fines. Is that not a benefit that Redlands would like to see for its residents?

Mr Chemello: I have to correct you, sorry, Chair. It is Moreton Bay council; it is not Redlands council.

CHAIR: Sorry, my apologies.

Mr Chemello: No problem. I certainly understand the question. From our perspective it is more about treating—and this might sound strange—the people to whom we issue infringement notices as our customers. From our point of view we want to do the right thing by our community. We think it is fair and reasonable that we issue the notice, we do the reminder notice if we need to and we offer them the chance for an appeal or review process. Again, I come back to the Queensland Ombudsman's principles for making decisions. The affected person should be notified and given an opportunity for a review prior to making a final decision. That might sound a bit selfish, but, from our point of view, that is our customer-centric approach to looking after these things. At the end of the day, if we are getting only 3½ per cent not paying, I think that shows it is working well. I would rather not have a disincentive by putting people into the SPER process any earlier than when we have done our right and proper process by our community members.

CHAIR: It was interesting you see them not as citizens but as customers as if you are a business, not a local government. At any rate, why do you think there would be a disincentive for your residents, the citizens of Moreton Bay Regional Council, to pay the fine they had accrued with the local government?

Mr Chemello: Once it is nominated to SPER, SPER take a fee and we have lost our management of that process in some respects because it is in the SPER kitty.

Ms Krome: We do get the fee back when SPER collect the money.

CHAIR: It is not a disincentive for what you call the 'customer', the residents of Moreton Bay, or others who are outside Moreton Bay to pay, it is more that it is a cost for the local government that you are concerned about?

Mr Chemello: There are two concerns, yes. There is a cost element and a duplication of work. We would then potentially have SPER and this council dealing with that same matter. In terms of an infringement notice that was already referred to SPER after, say, the 35 days and we are in a reminder process, we are dealing with them at the same time that SPER may well be dealing with them. It just does not seem to me to be an effective way of administering our levels of government. Our preference would be to leave it with us until we resolve as much as we can and that last 3½ per cent we hand over to SPER in 80 to 90 days.

CHAIR: That number of days had not yet been determined. It is not determined what action SPER takes on these issues. If SPER could help you identify that 3½ per cent that perhaps were not paying other fines, would that not be useful to have that information and to have SPER assist in ensuring those fines were collected as early as possible?

Mr Chemello: I could see the benefits if it were structured that way. If the governance and the cooperation between the agencies was structured that way, there would be benefits. I am not aware of what that could be at this point in time.

Mr CRANDON: Sheryl mentioned a moment ago that you pay a fee to SPER when you send the fine to SPER. What is the quantum of that fee? Is it a percentage of the fine?

Ms Krome: It is approximately $75.80. It is a flat fee that SPER charges.

Mr CRANDON: You might be sending off a fine that is worth $150 and having to send a $75.80 fee off as well?

Ms Krome: Extra.

Mr CRANDON: Assuming they collect the fine, which I assume will be the $150 parking fine plus the $75.80 plus perhaps another administration fee, do you then get your $150 plus your $75.80, or do you get the $75.80 back?

Ms Krome: If SPER collects the money, we get the $75.80 back.

Mr CRANDON: You do not get any of the original fine back?

Ms Krome: Yes.

CHAIR: No, the opposite. You get the original fine, but not the administrative fees that are put on top of it.

Mr CRANDON: Sorry, no, Sheryl just said the reverse of that.

Ms Krome: My understanding is that the $75.80—if SPER collects the money, we get the money back, but if SPER does not get the money, council does not get the money back.

Mr CRANDON: Sure, but if the fine is collected by SPER, all you receive back is your administrative fee that you paid to them; you do not receive any of the fine proceeds as well?

Ms Krome: I will take that on notice to give that response.

Mr CRANDON: Yes, thank you. Chair, is that ok?

CHAIR: I think it would be common sense, though, that SPER would charge their administrative fee and that the original fine would be transferred back to the council.

Mr CRANDON: That is common sense though, Chair.

Mr Chemello: That is my understanding of the situation, but we will confirm that back to you. It does raise the issue, though, that if there is the duality of processes that I am concerned about, that we hand the fine over, pay the $75, and then we collect through our internal processes the infringement notice, what happens to the $75 that SPER has not collected? Do you we get that back or not?

Mr CRANDON: There is a further question on notice.

CHAIR: That was a question you are posing rhetorically because it is not clear in the process, not one that you would take on notice because it is not in your purview to answer, but I think it is a reasonable question for those hardworking public servants from Treasury who are watching this broadcast to give us feedback on. With that, I thank Mr Chemello and Ms Krome for their contribution and answers here today.

AHMED, Ms Famin, Volunteer Lawyer, LawRight

GRACE, Mr Stephen, Managing Lawyer, Community and Health Justice Partnerships, LawRight (via videoconference)

CHAIR: I would like to welcome representatives from LawRight. Good morning. Mr Grace, would you like to make an opening statement before we ask questions? We have in front of us your submission.

Mr Grace: Firstly, we would like to take the opportunity to thank the committee for giving us the chance to participate in this hearing. As you have just mentioned, my name is Stephen Grace and I manage LawRight's Community and Health Justice Partnerships Program. I am joined by Famin Ahmed who is a solicitor in private practice who volunteers with LawRight and who assisted in the preparation of our submissions.

LawRight's Community and Health Justice Partnerships Program was established in 2002 to provide free legal advice and representation to people experiencing or at risk of homelessness, poverty and the related vulnerabilities. The CHJP sees people to resolve civil law matters that either place their housing at risk or that might create barriers to people exiting a period of homelessness and moving them into more stable and appropriate housing. We often assist people to resolve fines which have been collected by SPER. Reviews of our previous case work showed that over 60 per cent of the clients who we see through the CHJP had unresolved SPER debts. In many instances the fines that are being collected by SPER are directly related to a person's experience of poverty, homelessness or other forms of disadvantage. Anecdotally we expect that that number of 60 per cent is actually much higher. That is just what came out of a brief review of some of the case work a number of years ago. However, having been in this space for a number of years, we would say that it is even higher than 60 per cent of the clients that present at one of our outreach locations who have some form of SPER debt that is unresolved.

As you would be aware from our submissions today, we are talking specifically about the aspects of the proposed legislation that will authorise SPER to serve and administer infringement notices in relation to camera detected and tolling offences. I should say that LawRight's position generally is that we support the underlying objectives of the bill. The submissions we are making are more to the discretion that will be allowed by SPER when making decisions about withdrawing or cancelling some of these infringement notices.

A person's circumstances of hardship and poverty often mean that they are more likely to receive these types of infringement notices and, in many instances, we have talked about in our submissions, the reasons that they might receive the infringement notice is directly connected to their experience of vulnerability, and there are many instances where the person was not initially responsible for the underlying offence or where we submit it would be unjust to continue to prosecute them for the underlying offence.

We also know that because of the experience of our client base, many of the people we work with face a number of challenges when it comes to trying to resolve these. Ultimately it is within our client's interests to try and resolve these types of fines in a fair and efficient manner, and that is something that we support, and hopefully it shows through in our submissions. I will pass to Famin briefly who has a couple of points to make as well.

Ms Ahmed: As Stephen has said, there are a lot of circumstances with our vulnerable client base that mean that the clients who are facing these fines are often not responsible or they simply do not have the capacity to pay, so we need to look into other options of what to do with those fines. Because of those circumstances, the discretion that the administering authority and the issuing authority has is key and how they will exercise that discretion because it means that they can take into account the individual circumstances of the person who has had the fine imposed on them. I am not going to go into detail of what the discretion is; we have detailed that in our submissions. The point is that we know that both under the legislation and the general law, both the administering authority and the issuing authority of the fine does have discretion to withdraw that fine once they have already issued it, and there is also a discretionary element at every stage of the process as to whether to go further in that process and whether to even issue the fine in the first place. We know that that discretion does exist and now with the changes proposed by the bill, SPER will become the administering authority and the issuing authority, so SPER will have that discretion. Our concern is that because there is no legislative or public guidance at all as to how that discretion is to be

exercised, in what circumstances will fines be withdrawn? Now that that responsibility is being transferred to a new agency, that is SPER, our concern is how can we be sure that SPER will appropriately exercise that discretion?

The crux of our recommendation is that SPER ensures that it goes through processes to ensure that it will exercise that discretion appropriately. Our suggestion is for them to develop and make internal policy guidance documents that shows in what circumstances will they withdraw fines, how will they exercise that discretion and to have that guidance made public so that agencies or services like LawRight can understand how those decisions will be made and that there is some consistency and fairness in that decision-making. There are other examples of government agencies and departments where there is decision-making guidance like that made public so it is not a first-time thing that we are recommending.

Mr Stevens: Mr Grace, I appreciate your examples of people who are unfairly hit with SPER fines, and I certainly would endorse and encourage your suggestion of developing a decision-making matrix for exemptions to fines, if you like. We had an old magistrate down here and he basically said, 'The inflexible rule is the easiest one to enforce.' What we would need out of that matrix is to tick certain boxes et cetera, for the examples you have given, for instance, to be exempt from the fine. The question I have out of that good suggestion is: why would it have to be a public document, if you like, in other words available for possible rorting or anything like that? Why could it not be a matter between government and the SPER agency to have a matrix that you have had input into which then becomes the enforceable rule?

CHAIR: Mr Grace, was that clear to you?

Mr Grace: I think so, thank you, Chair. There are a lot of benefits in making these matrixes publicly available. It offers guidelines to organisations like ours or individuals within the community not just for the information they need to provide but the fact that they can provide that type of information. We know from our dealings with SPER that commonly the message that they portray to the public or to organisations like ours is that there is no flexibility and that if you have a SPER debt, then it needs to be resolved through the ways that are available on their website. The benefit of producing some sort of public guidelines is that it helps to communicate the options for people who are in the position of my client—people who are fleeing violent relationships or who have been transient or have other reasons why they may have accumulated often large debts with SPER, related specifically to these two types of infringements; that there are other options and that there is this discretionary nature. We know at the moment that there are other options within the State Penalties Enforcement Act to have debts waived or written off and that those guidelines are not publicly available—the SPER act does not allow that—and, as a result, it becomes hard for individuals or community agencies to shape their submissions to SPER, or to engage effectively with SPER around the decision-making process.

Ms Ahmed: I would also add that having publicly available guidance is in line with the general objectives of good law which is having transparency and consistency in the law. As I mentioned before, there are plenty of other examples of government departments where this sort of guidance is publicly available. For example, the Rockhampton Regional Council has a publicly available infringement notice procedure where you can see exactly the circumstances where they will consider waiving fines and the circumstances where they will not. Similarly, if you think about public prosecutions, there are all these sorts of manuals online where you can see in which circumstances the government will decide to prosecute and will not. The police have similar guidance online in terms of their traffic manual.

With all those examples in mind, I do not think there is much evidence that having that type of guidance publicly available encourages rorting of the system. On the contrary, I think it encourages transparency and allows clients and people subject to fines to objectively assess whether they will be able to get an exemption or not, rather than trying to fabricate the circumstances to fit into the criteria.

CHAIR: I would like to thank LawRight for representing vulnerable Queenslanders. This is the circumstance that, as an MP, I have gone through myself with people who have significant SPER debts that they had not realised that they had accrued. However, as a general principle, having this information get to SPER as quickly as possible and for SPER to be able to resolve it before considerable time—I note that of the 20 files you are bringing up as examples for your review, there was an average toll debt of $10,000. Is it an advantage for SPER to have this information as soon as possible to hopefully ensure that large debts are not being accrued? In the examples you had, they were being accrued by a motor vehicle that was not under their control, so is it an advantage for them to get that information as soon as possible?

Mr Grace: I ask you to confirm the question, Chair. Is it an advantage for SPER to be aware of the person's circumstances as soon as possible?

CHAIR: No. As a result of them being aware of the debt being accrued and being able to take action and make contact with the person, they would therefore be also aware of their circumstances as soon as possible. Is it important to make SPER have some awareness before large debts are accrued?

Mr Grace: Absolutely. In practice, we find that with many of the large debts that we are discussing, the client we are assisting is unaware of it until often many years after the fact that the debt has been accrued and SPER has taken some sort of enforcement action. We would often encourage any steps that can be taken earlier in the process to both identify the circumstances that that person faced when accruing these types of large debts, the underlying issues that might have led to them and then the options available to hopefully resolve them before the debt becomes significant is something that we would certainly encourage. In terms of the timing, generally we would agree that the quicker a matter can be addressed, the easier it is for us or our clients to seek to resolve it. Part of the challenge that we face is that often, as we put through in our submissions, many people who do accrue these larger debts for these largely automated infringement notices, their circumstances make that particularly difficult.

Mr CRANDON: Thank you very much, Stephen, for explaining that to us. In relation to some of your examples, I notice that at the end of the example you are able to come to an agreement, if you like, with SPER in relation to it, and then the individual was able to pay off the original fine et cetera in an orderly fashion. It seemed to me, as I was reading through those, why are they being asked to pay off the fine that perhaps they had nothing to do with in the first place? Is it common that SPER would require the original fine, even if it was not related to that individual, to be paid by that individual?

Mr Grace: Absolutely. SPER will not consider the underlying basis of any particular fine. When you are dealing with SPER as it currently stands, they are there just to collect the fine. Any of the success that we have had in resolving these infringements where a person had a reasonable excuse, for instance, for not responding to a toll demand notice, was not the driver of the vehicle at the time, was experiencing domestic violence or a mental health episode—all of those discussions at this point have been had with the Department of Transport and Main Roads and specifically with the tolling offences unit. SPER itself will not consider whether the fine was appropriately issued or if there is any other particular type of consideration.

What we have had success in doing is working with the authority that issued the original infringement to ask them to utilise the rights that they have under section 28 of the State Penalties Enforcement Act to withdraw the fines and then to exercise their existing discretion to then cancel any of those infringements. With those examples that we gave, that is essentially the process which has happened. In those particular examples, we have not dealt with SPER at all in trying to resolve the infringements.

There is one more thing I would add: in many of those instances, a large portion of the debt, as the statistics that we have provided suggest, relate to these automated fines that our clients' dispute. When we are able to resolve those—and often those are debts that might be five or 10 years old—often the client will then quite willingly enter into a payment plan or some other resolution between it and SPER for the other fines that that person has that are not disputed, which then has the benefit of not only resolving the fines that would be unjust to maintain or hold against our clients but also resolving the fines that are not being contested, the fines that the client fully accepts that they were responsible for, where they were the driver or where they received a fine for some other form of infringement.

CHAIR: To help the member for Coomera, there is an underlying law that every Queenslander is responsible for updating their licence and address details to avoid these problems. However, what we are recognising here is that that is very difficult for a number of very vulnerable Queenslanders who are your clients; would that be fair to say, Mr Grace?

Mr Grace: It would. There is that obligation for notification within 14 days. For the people we are working with, it is very low on their priority list. For many of them there are literacy issues or there are language issues if they come from a CALD background. They are in the circumstance where their primary objective at that time is their safety, their food, their family and their housing. Because of that, many of them are not necessarily even aware that that is an obligation. It does then lead to these types of issues.

CHAIR: Further, for those of no fixed address or intermittent addresses, they are uncertain of what they should inform the licensing authorities with their address?

Mr Grace: That is right. There have been some real improvements over the last few years where there has been a move to telecommunications—emails as a way of communicating with people that makes things easier than just simply sending out notices—but it does come back to that core issue around the automation of these particular types of infringements. That is part of the reason they make up such a significant portion of somebody's SPER fines particularly where their underlying circumstances are those sorts of vulnerabilities that we have all discussed.

CHAIR: We will conclude it there. Thank you for bringing up how these laws apply to vulnerable Queenslanders and giving us some background on that and also for the department going forward with their administering of how they enforce these fines. Thank you.

JACKSON, Mr Mark, Commissioner of State Revenue, Queensland Treasury

MEW, Mr Jason, Director, Policy and Legislation, Queensland Revenue Office, Queensland Treasury

MILLER, Mr Glenn, Assistant Under Treasurer, Queensland Treasury

CHAIR: I now welcome representatives from Queensland Treasury. Mr Miller, would you like to make an opening statement before we begin questions?

Mr Miller: I will just briefly touch on some of the questions that have been raised, particularly around whether it would be preferable for the RTA to maintain a balanced suite of investments. The point I would like to make is that, under the existing legislation, the Residential Tenancies Authority is only able to fund its operations out of interest earnings, and because of that it does not have the capacity to take a long-term view about investment returns. If it does experience negative returns to the point where it goes into negative equity—which it has come very close to and in one year did slightly slip into negative equity—it does not have the capacity to dip into those bonds effectively in order to fund its operations. That is a point of distinction between a superannuation fund and a defined benefit fund. In the case of a superannuation fund the returns are passed through to the clients, but with a defined benefits scheme the state has a long-term view and if there are years where it is slightly below 100 per cent funded, it has the capacity to hold on through that.

Mr CRANDON: The defined benefits fund has reserves as well, does it not?

CHAIR: We might wait until the statements are finished before we go to questions. Mr Miller made it clear that they could only do it from the interest and we would need a legislative change to do that. Mr Miller, please continue.

Mr Miller: If they do hold reserves then yes, they can use those, but as I mentioned—

CHAIR: Just finish your opening statement first before we go to questions.

Mr Miller: The other point I would like to make is I know there have been concerns identified by stakeholders about independence. Under the existing legislation, the minister—which in this case is the Minister for Communities and Housing, Minister for Digital Economy and Minister for the Arts—is required to approve the RTA's budget each year. Also, if the RTA does wish to spend money on things that are outside its core functions, including if it wanted to spend money on tenant advisory services, it would require the agreement of the minister. That is set out in the legislation. There is no change to any of that. That is the key point I wanted to make. The amount of independence that the RTA has is not being changed as a result of the proposed legislative amendments.

CHAIR: We also have the briefing note. Deputy Chair, do you have a question?

Mr STEVENS: Yes, I do. In relation to the RTA Act amendments it says there was no consultation, basically. Why was the authority not consulted about these fairly significant changes? What is the current feedback from the RTA, the Residential Tenancies Authority? We have not actually heard from them.

Mr Miller: There have been a number of discussions going for approximately six months with the Residential Tenancies Authority that are focused on implementation, obviously taking the view that there is a government decision to amend the funding model which then results in this legislative amendment. There was no consultation about the decision, but there has certainly been lots of discussion with them about how this is implemented and ensuring that the board is comfortable with the level of funding that it has available to it, particularly over the next four years of the forward estimates period, so that it is able to put forward a budget that it is happy with to the minister and that is consistent with its strategic plan.

Mr STEVENS: Under the legislative changes, will the Treasurer or any other entities under his portfolio areas have any control regarding the use, investment or direction of funds contained within the rental bond account?

CHAIR: Just for clarification, when you say 'his', are you saying the Treasurer, future treasurers or a different officer of Treasury?

Mr STEVENS: Will the Treasurer or department or entity have decision-making authority in relation to the use, investment or direction of funds?

CHAIR: I think that clarifies the question.

Mr Miller: In relation to bonds, they will continue to be managed by the RTA. They will sit in a whole-of-government offset arrangement along with, effectively, all departmental bank accounts and statutory body bank accounts, but there is no authority for the Treasurer or any other minister to transact on the bond account.

CHAIR: Is that clear, Deputy Chair?

Mr STEVENS: Thank you.

Mr CRANDON: Just to clarify, you were talking before about superannuation funds. Obviously they have reserves. I think the point was made by Tenants Queensland that they would have reserves if the money had not been used over time for various things. I just wanted to make that point. They are very aware of the need for reserves and they would have liked to see that. The point you were making is that it would require a legislative change for them to enjoy any of the fruits of their investment strategy.

Mr Miller: The point is that they do not have the flexibility or capacity in times of poor returns to dip into the bond funds themselves. So if their reserves were exhausted—which they were pretty much at that point not long over a year ago—they do not have interest earnings they can call on to fund their operations and they also do not have access to the bond funds, so they get into—

Mr CRANDON: So they could call on the government to do what they were suggesting they would be doing; that is, top them up.

Mr Miller: They could call on the government, but obviously that is not something boards like doing and it is not something government particularly likes being asked to do.

Mr CRANDON: Absolutely. But the Queensland government is very stable.

CHAIR: Please let Mr Miller finish.

Mr CRANDON: I think he had, Chair. When did you provide a briefing to Minister Enoch in relation to the funding changes?

Mr Miller: I do not have the date on me.

Mr CRANDON: Can you take it on notice?

Mr Miller: Yes.

Mr CRANDON: Following on from that, when did you provide a briefing to the Department of Communities, Housing and Digital Economy about the funding changes, and to whom was the briefing provided? Thirdly, when did you provide a briefing—

CHAIR: You have put the question. Is that another one you wish to take on notice, Mr Miller?

Mr Miller: Yes, thank you.

CHAIR: Let's not put three questions at once. We will just ask them one at a time. What was your third question, member for Coomera?

Mr CRANDON: The same question relating to the RTA. When did you provide a briefing to the RTA about these funding changes, and to whom was the briefing provided?

Mr Miller: I will take those on notice, thank you, Chair.

CHAIR: Are there any further questions from those on the phone?

Mr TANTARI: Yes. Obviously I cannot see the panellists who are there so I will direct this question to any of the panellists. Can you please share with the committee what evidence you used to develop the period of 35 days being promoted to register unpaid infringement notices that have defaulted to SPER for enforcement?

CHAIR: Mr Jackson seems to be indicating he would like to answer. You may have heard also the discussion that we had with the Moreton Bay Regional Council.

Mr Jackson: Thirty-five days is not a fixed time at all. It was a period of time that was shared with some councils in a consultation phase a little while ago just to get a sense of whether the whole idea was one that was workable. We are still working on that. This bill does not propose 35 days: it simply creates a capacity to have a referral time in a regulation later. This is something that is still out for consultation. Following the passage of the bill we will work with councils to see what the best time frame is. The main issue for us is that we are trying to make this effective for councils, make the system work more easily and make sure they collect defined penalties that are issued. Any time the collection period goes beyond about 60 days the likelihood of collection diminishes very rapidly. After 60 or so days probably about 60 per cent of fines have been paid; over the next three years, about another 20 per cent. So getting to fines early and collecting those early is a very important thing both for the administration of the law and for councils in terms of the return of money.

Mr TANTARI: I have a further question, but I will default to someone else if they wish to ask one now.

Mr PURDIE: Clause 9 of the bill allows for the state government to claim unclaimed bond refunds after seven years. Apparently, previously the Beattie government launched a similar campaign to advise tenants to check for unclaimed rental bonds. Is there any talk of a similar ad campaign being launched around this amendment?

CHAIR: That might not be strictly to do with the provisions of this bill, but it might be something that is of interest to the committee that might be able to be answered—or may not be—by members of the panel.

Mr Miller: Not to my knowledge. Certainly in relation to this legislative amendment I am not aware of anything.

Mr STEVENS: Further to Mr Purdie's question, clause 9 basically allows for unclaimed bonds to be claimed after seven years. Is that seven years from the gazettal of these amendments; in other words, the past seven years? If it is the past seven years, what amount would that be?

Mr Miller: I am sorry, I do not have that information to hand. That part of the legislation is not proposed to be amended. The only amendment there is modernising the references to cheques. We are not changing the seven-year time frame or the process.

Mr STEVENS: Sorry, I missed that, Chair?

CHAIR: Just to clarify, Mr Miller made it clear that this only removes a reference to cheques and modernises and puts in other financial instruments that would be used. It does not make any substantive change to the seven-year process. Mr Miller said that he could get back to us with the workings of the existing act, but it is not making a substantive change. Am I summarising it correctly, Mr Miller?

Mr Miller: That is correct.

CHAIR: Is there anything you would like to add regarding that?

Mr Miller: No, thank you, Chair.

CHAIR: Deputy Chair, is that something that you wish to take on notice? I note your answer, that there is no substantive change to the process of how that works.

Mr STEVENS: No, I am good. It does not need to be a question on notice.

Mr TANTARI: I suppose this elaborates on a question I asked one of the other panellists earlier. It just goes to the discussion the committee had around the actual overall risk to the RTA of funding its operations. I was just wondering whether the panel would be able to advise the committee and share its comments with regard to what instances or figures led to the proposed changes to the funding model for the RTA. Was there ever an issue with regard to the RTA being able to fund its operations, given some of the investments they had undertaken which exposed them to having deficits in some of their budgets?

CHAIR: In their earnings.

Mr TANTARI: In their earnings, sorry, yes.

Mr Miller: Certainly during 2019-20, when the RTA experienced negative investment returns and recorded a deficit for that year, they did move slightly into a negative net equity position. At the time a letter of comfort was sought from Treasury and provided to the RTA to ensure there was confidence that they would operate as a going concern. During the following year you might recall there were again poor returns in investment markets for the majority of the financial year and there were certainly concerns being raised with Treasury about the funds available to the RTA to meet its operations. Beginning around March, or certainly in the last quarter of last financial year, we then saw that investment markets rebounded very sharply, so that put the RTA into a position where it was able to fund itself. It has certainly been the period of the last two years where the very volatile outcomes, both negative and then positive, have led to the decision that a more stable funding approach would be beneficial.

Mr TANTARI: You are saying that the approach in this bill to provide a stable, ongoing, annual operating grant would be the most appropriate way to go forward with regard to the RTA? Is that your point of view?

Mr Miller: That is the decision that has been made.

CHAIR: Mr Miller is being very careful.

Mr CRANDON: Clause 10 of the bill provides that there is no longer an obligation for the RTA to keep a rental bond interest account. Under the new funding mechanics, will any interest earned on rental bonds be held in the rental bond itself?

Mr Miller: Under the proposed funding model, as the rental bonds are in a whole-of-government offset account there is no interest earned on those bonds. The expectation is that they will have some retained earnings going into the new financial year, so they will be able to hold those moneys, invest those moneys and retain any interest on those. However, the bonds themselves will not earn interest.

Mr CRANDON: Do the intended changes to the banking arrangements of the rental bond account under clause 12 have any forecast changes for revenue, expenses, assets or liabilities of the general government sector next financial year or over the forward estimates?

CHAIR: Sorry, I did not quite catch that. Would you be able to say that again?

Mr CRANDON: Do the intended changes to the banking arrangements of the rental bond account under clause 12 have any forecast changes for revenue, expenses, assets or liabilities of the general government sector next financial year or over the forward estimates?

Mr Miller: The Residential Tenancies Authority is part of the general government sector, so it is already consolidated into those accounts. Its expenses are unchanged as a result of this. There is no change there. There is certainly no change to the assets and liabilities that are recorded. The rental bonds are both an asset and a liability and they will continue to be held in the residential authority's balance sheet and then consolidated into the general government sector. To my knowledge, there is no change in any of those aggregate—

CHAIR: Is that the answer you were seeking, member for Coomera?

Mr CRANDON: Yes. I have one final question. Under these legislative changes will the Treasurer or any entities under his portfolio areas have any control regarding the use, investment or direction of funds contained within the rental bond account?

CHAIR: Just for clarification, the question that was put previously seemed very similar. Is that distinctively different, or are you just seeking to restate it?

Mr CRANDON: Mr Miller might tell us if there was a distinct difference between the two. It seems to me that there is a difference. One is specifically asking about the Treasurer.

CHAIR: We just wish to highlight that if there was a part—it seems to me an identical question to one previously asked. We can get Mr Miller to give the same answer, but if there was something that was different to the previously asked question, you might draw Mr Miller's attention to it.

Mr CRANDON: Once again, I will repeat the question for you and you can draw an answer from the question if you would like. Under these legislative changes will the Treasurer or any entities under his portfolio areas have any control regarding the use, investment or direction of funds contained within the rental bond account?

CHAIR: It might be slightly different.

Mr CRANDON: It is significantly different.

Mr Miller: The operations of the rental bond account will still be managed by the Residential Tenancies Authority. There is no capacity or authority for the Treasurer or people within Treasury to transact on that rental bond account.

Mr TANTARI: I have noted in clause 11 it is pretty clearly stated—and I would like the panel's advice with regard to the legislation—that the guaranteed payment of rental bonds is stated within the legislation.

CHAIR: You are putting it in the form of a question: is the payment of rental bonds guaranteed in the legislation under clause 11?

Mr Miller: Yes, that is correct. It will be legislated. Currently it is implied rather than being explicit, so it will be a guaranteed commitment.

CHAIR: Currently it is implied by the returns on the holding of the account, but now it is actually legislated as a guarantee of government?

Mr Miller: It is implied to the extent that the Residential Tenancies Authority represents the state and so there is an expectation that the state would step in. The legislation will now make it explicit.

Mr CRANDON: There is one question that I think we discussed in our meeting earlier and it has not come up. In relation to the proposal for SPER officers to wear body worn cameras, can the department provide further information about what SPER's guidelines and procedures contain regarding the protection of a person's privacy? There are two parts to the question. How will inadvertent or incidental recordings of general members of the public be managed in terms of privacy?

Mr Jackson: We gather all sorts of information about the community through our tax management work. This information is carefully controlled and no-one has access to it except officers who need to have that access. The purpose of these cameras is not so much to gather information in that sense but rather to provide a record of the events that occur and ensure there is protection, both for the officer and for the person who owes the money, that appropriate treatment was provided.

CHAIR: Mr Jackson, these are often in circumstances where after a long period of non-payment of fines property is being seized and there can be quite emotional situations. Those are the circumstances where the interaction with the public is being recorded to ensure both the professionalism of the officer involved and the behaviour of the person who has failed to pay the fines. Are they the circumstances in which they would take those recordings?

Mr Jackson: That is correct. The vast bulk of our work is done with staff in office buildings by either phoning or emailing or taking other action. It is only when we get to the very extreme end, if I can put it that way, of collection activities that we need to take some robust enforcement action, which is usually either the clamping of motor vehicles or the seizing of motor vehicles—one or the other. It is on those occasions when our staff are out in the field and interacting with a debtor in what can be a fairly confrontational sense, just to make sure there is a record of what has happened and there is no mistake. People can make claims and all sorts of assertions. This both protects the officers and ensures there is appropriate behaviour of the debtor.

Mr CRANDON: What discretion will be available to SPER in relation to withdrawing or cancelling infringement notices after considering an individual's circumstances? Are there or will there be any guidelines to assist SPER in making those decisions?

Mr Jackson: There will be guidelines. The activities that have been occurring up to date do have those sorts of guidelines. There are occasionally fines and penalties written off in certain circumstances where there is an appropriate case. We look to continue that sort of approach. We will no doubt recast the guidelines at a later time. At the moment in large measure we will pick up the guidelines that are in place.

CHAIR: We realise that the entire system of licensing of people who are driving requires that someone inform the department of transport of their current address and that the registered ownership of cars also requires the correct address of the person who is the registered owner. The reality, which we heard from LawRight, of the difficult circumstances of people who have mental illness or homelessness issues means that that is quite confronting and difficult and that these fines may accrue over time to significant amounts. Is there enough discretion available to people within the department and/or SPER about those circumstances?

Mr Jackson: I think there is sufficient discretion. We do not attempt to overtake the law. The law is as the law is. If there is an offence that has occurred, the offence has occurred. The question is how you manage that administratively. We do look at circumstances of the type you described. Things can happen there—anything from people having a long time to pay to work development orders where people can do some community service instead of paying. In the end, there is a law to be complied with and we will look at it that way. I think any opportunity for people to come forward and put the case to us—we will certainly look at it compassionately, if I can put it that way.

I am interested in your comment about driver's licence details and registration details because when people move house it is probably not top of mind that they have to race into the main roads department and transfer their licence details or those kinds of things. These are things that happen later. It is very easy for fines and penalties to accrue in that period and then it makes it quite hard to find people. Things can build up. There is no interest charged on fines and penalties. They do not build up in that sense, but if people get one and do not pay it and get another one and do not pay it, they can build up over time in that form. My comment would be: update your details when you move home and that will not happen.

CHAIR: I cannot urge that enough. I am sure the whole committee would urge all Queenslanders to ensure they update their licence details. It is a requirement of the law but also of benefit to yourself that you are in contact with the department of transport in any of the issues involved.

Mr CRANDON: Just coming back to the body worn camera issue, what principles govern the timing of body worn cameras being switched on or off? Are there any circumstances in which SPER officers are required not to use their cameras, for example if children are present?

Mr Jackson: At this stage I will have to say that the issue of children being present is not one that has occurred to me as being different. They are normally part of a family unit and so are present during a visit to a house. I am not sure what the issue is around any of those things.

This does not happen normally inside the person's house; it happens out on the street where a motor vehicle is being parked, where it might be seized or the wheels might be clamped. These are all things that happen in public. The information we collect through the body worn cameras will be protected in the same way that we protect tax and penalty information more generally.

In terms of the switching on or off of the cameras, they would cover the operation; they do not cover the trip there, what people are having for lunch and those kinds of things. It will be just during the course of the operation.

CHAIR: On occasions police do accompany officers. In those circumstances the police would also have their cameras operational during this process?

Mr Jackson: That would be correct, yes. Police do accompany—where we have any evidence to suspect there might be a particularly adversarial arrangement with a debtor, the police will accompany.

Mr CRANDON: Can you share with the committee what instances or figures led to the proposed changes to the funding model for the Residential Tenancies Authority? Has the RTA at any stage not been able to pay out a rental bond or fund its operations? You mentioned the second part earlier, but what about the first part? Has there been a circumstance where they have not been able to pay out a rental bond?

Mr Miller: There have not been any instances that I am aware of. As I mentioned before, we did provide the RTA with a letter of comfort to ensure the board had confidence that it could meet its obligations.

Mr CRANDON: Can you please tell the committee about the evidence used to develop the time period of 35 days allegedly being promoted for registering unpaid infringement notices that default to SPER for enforcement?

CHAIR: We already had this question about 35 days which Mr Jackson addressed.

Mr CRANDON: I am sorry, I must have been focused on my other questions when you answered that question. My apologies. Was it answered in full?

CHAIR: It was with reference to local government. I might give Mr Jackson the opportunity to answer it again.

Mr Jackson: The 35 days was a period that was indicated in some earlier consultation with councils—if we did move to a tighter time frame what that time frame would look like, and 35 days was floated. That might be a better word. There was no indication it was going to be fixed at all. Once the bill is passed, we will go and consult with councils about what would be an appropriate time frame. I think the important point to note here is that the longer the referral is delayed the more difficult collection becomes. We have cases where it has taken 180 days or longer for things to be referred to us. By that stage someone could be anywhere and it is quite hard to find them. That does not help with the administration of justice nor with the administration of fines.

Mr CRANDON: Were you listening to the folk from Moreton earlier talking about 80 to 90 days being the time frame they would be putting forward? Did you have discussions with them around that? You have mentioned 35 days in consultation. Did you have discussions with them?

CHAIR: This is a great thing because we are actually of like mind. I put the question to Mr Jackson before about Moreton Bay Regional Council.

Mr CRANDON: I must have been reading something else.

Mr Jackson: I have spoken to Moreton council about that, and they raised with us the issue of 80 or 90 days. I am happy to look at whatever period council thinks appropriate. The main thing for us is to make it easier for council to collect the money and debts that are owed to them. The longer it is delayed—90 days, the chance of collection becomes fairly slim. Debt collection after three months gets pretty hard. Nonetheless, it is a matter that we need to talk through with council. They have their reasons for that period which include, as I understand it, things like relationships with their clients. There are other matters they are interested in, not just debt collection.

Mr CRANDON: At the risk of asking a similar question again—

CHAIR: Possibly, member for Coomera. Go for three in a row.

Mr CRANDON:—has the department given consideration to a possible increase in costs to local government and those in receipt of an infringement notice by prescribing for an earlier registration of unpaid infringement notices with SPER for enforcement?

Mr Jackson: Yes, we have looked at that. The way the system works is: if a debt is referred to us there is a referral fee added to it, which I think is $73.80 approximately. That amount is then added to the debt. When the debt is collected, the $73.80 is paid to the council along with the debt. So they retain the fine; they also get that referral money. They do not get the money that they paid over back. It is the money that is collected from the debtor, so it goes over. The net effect to the councils is, I think, zero or probably positive, because they no longer have to do collection work. The debt is just referred to us straightaway. There is an issue for the person who has been penalised. I guess my view there would be that if you pay the fine there would be no need to have the referral fee.

Mr CRANDON: Mr Jackson, can you just clarify that? This was the question we were trying to get to the nub of earlier. Are you saying that the council pays—$75.80 is what they quoted.

Mr Jackson: I cannot remember. It may have changed recently.

Mr CRANDON: Are you saying that they pay the $75.80 when the debt goes to SPER, and if SPER is successful in collecting the fine the fine proceeds go back to council plus the $75.80?

Mr Jackson: Correct.

Mr CRANDON: Okay. How does SPER cover its costs? Oh, the $75.80 they collect that they are not able to get back—

Mr Jackson: It is not hypothecated to SPER. SPER is funded by government appropriation. The money just goes into the consolidated account.

Mr CRANDON: We would like to think they would break even, though.

Mr Jackson: I believe that sometime in the past there has been a calculation done about the average cost of collections, and it is probably an amount that has been settled on at some point.

CHAIR: Are there any further questions on the telephone? No? Thank you, representatives from Treasury. I appreciate your contributions here today. I did note there were some questions taken on notice by Mr Miller which the secretariat can confirm were about the timing of briefings to various parties. That concludes this hearing. Thank you to everyone who has participated today. I will remind you that answers to questions taken on notice will be required by 12 pm on Friday, 22 April 2022. That will aid us in concluding our deliberations. Thank you to our Hansard reporters. A transcript of these proceedings will be available on the committee's webpage in due course. With that, I declare this public hearing closed.

The committee adjourned at 12.20 pm.