ECONOMICS AND GOVERNANCE COMMITTEE

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

Staff present:
Dr A Beem—Inquiry Secretary
Ms M Salisbury—Assistant Committee Secretary

PUBLIC HEARING—INQUIRY INTO THE PUBLIC SECTOR BILL 2022

TRANSCRIPT OF PROCEEDINGS

MONDAY, 7 NOVEMBER 2022

Brisbane

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The committee met at 9.31 am.

CHAIR: Good morning, everyone. I declare open this public hearing for the committee's inquiry into the Public Sector Bill 2022. My name is Linus Power. I am the member for Logan and chair of the committee. I respectfully acknowledge the traditional custodians of the land on which we meet today, the Yuggera-speaking peoples, and pay our respects to elders past and present. We are extraordinarily fortunate to live in a country with two of the oldest continuing cultures in Aboriginal and Torres Strait Islander peoples. With me here today are Ray Stevens, the member for Mermaid Beach and deputy chair of the committee; Michael Crandon, the member for Coomera; Melissa McMahon, the member for Macalister; Dan Purdie, the member for Ninderry; and Adrian Tantari, the member for Hervey Bay.

The hearing is a proceeding of the Queensland parliament and it 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 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.

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 may be filmed or photographed during the proceedings and images may appear on the parliament's website or social media pages. All participants are to turn their mobile phones to silent mode.

GOLDMAN, Mr Daniel, Director, Industrial Policy, Together Queensland Industrial Union of Employees

CHAIR: Mr Goldman, I invite you to make an opening statement, after which we will have some questions for you.

Mr Goldman: I thank the committee for the opportunity to address the Public Sector Bill 2022 and our union's submissions and to answer any questions. Together commends the bill to the committee and supports the passing of the bill. Together strongly supports the significant reforms to the Public Service employment framework recommended by Peter Bridgman and the extension of that framework to the wider public sector. Together also supports the provisions of the bill that provide for the role of the public sector to support the government's commitments to reframing its relationship with First Nations people; the equity, diversity, respect and inclusion provisions in chapter 2 of the bill; and the reforms of the recruitment process to recognise diversity. Together seeks an additional diversity target group to recognise people with diverse sexual orientations, gender identities or intersex variations. I acknowledge the work of my colleagues at the Queensland Teachers' Union on this matter and defer to their submissions and expertise in that regard. These are all important reforms that will support a better and fairer public sector and we commend the passage of the bill to give effect to the important provisions.

In addition to those matters, the bill attempts to do three things: one, to fundamentally rewrite and reframe a public sector act; secondly, to review and amend any of the stage 1 reforms where that is required to give full effect to the Bridgman recommendations and government policy; and to extend those Public Service conditions across the sector. In terms of the rewrite of a new act, we generally commend the government on this new and rewritten act. However, the expansive right to raise issues recommended by the Bridgman review and the appeal provisions within the current and proposed act have not had the benefit of that same fundamental reconsideration and we contend that this is required. We contend that the government cannot meet the full intent of the Coaldrake recommendations about Public Service culture without providing a genuine opportunity for people's voices to be heard in relation to perceived unfairness and genuine review of those circumstances, and we do not think the bill yet entirely meets the intent of those recommendations.

There also needs to be, in our view, a genuine and fulsome review and redrafting of appeal provisions and the provisions relating to public sector appeals. The current appeal provisions, we would say, are a patchwork of different amendments passed at different times and a fundamental rewrite of those positions is what is required. What has been recommended by successive reviews was for public sector appeal matters to be heard in the industrial jurisdiction of the Queensland

Industrial Relations Commission. However, what has occurred in practice is for a continuation of a much more limited public sector jurisdiction operating within that larger industrial framework in which the commission operates. We contend that the government should be seriously considering whether many of the appeals matters that currently fall into that separate jurisdiction should in fact be dealt with by the commission in its industrial jurisdiction, where it can utilise all of its powers. That is part of our submissions.

We do, however, acknowledge that that is a complicated and complex matter about which there is not yet a consensus between stakeholders or government and that further tinkering around the edges with appeals in this bill would not be the best way forward and may not provide the best outcome. What we are seeking is that there be a further review of the public sector appeals jurisdiction through the joint advisory committee to make further recommendations at a later time about public sector appeals and how they might best support fairness for public servants.

The second real thing that the bill is intended to do is review any of those stage 1 reforms that had been passed and make sure they were given full effect. The reforms made significant improvements to public sector employment but there remain issues, we would say, in that they have not been as effective as they could be. The government's goal in those reforms is to maximise permanent employment and ensure this is the default basis of public sector employment. Certainly the stage 1 reforms increased the rate of conversion of temporary and casual employees to permanent status.

However, we would say that they have not had a significant impact in altering the practices of employing entities in employing temporary and casual employees. The issues identified by earlier reviews remain in terms of the use of temporary employment, in terms of it being used as a 'try before you buy' approach and to some extent to hedge on organisational change or change in government priorities. We see that the conversion of temporary and casual employees is largely offset by further employment of casual and temporary employees. It has not had a significant impact on the amount of temporary employees in the sector, notwithstanding that large percentages of those temporary employees are being made permanent after two years, but then there is a whole other cohort of employees who are then starting that two-year journey. We have a strong view that practices at the time of employment need to change in order to give full effect to that government policy.

There are a range of issues as well with those conversion processes. Those include in relation to the higher duties conversion provisions, which are new provisions in the stage 1 reforms. These were certainly very well intentioned and we support the underpinning policy of those provisions; however, we would say they need some redrafting to meet their original intent. This is identified in the outcomes of several important commission decisions and set out in our submissions.

The most pressing issue, we would say, in terms of conversion processes is in relation to deemed decisions. The current provisions provide, if no decision is made and no review is undertaken, that a decision is deemed to have been made to continue temporary or casual employment. We would say that there is an inherent inconsistency in those provisions between there being mandatory requirements, where employers and decision-makers have mandatory legislative requirements to take certain steps, and then a provision that allows those steps not to be taken simply by not taking them, which then is permissive of that lack of compliance with the agreement by saying that that then is a fair and reasonable decision. That inconsistency is well understood by the Industrial Relations Commission and it has been discussed in several decisions, including as quoted in our union submissions.

We would say that, if the government is truly committed to permanent employment as a default basis of employment, it stands to reason that if the employer fails to consider whether there are continuing appropriate circumstances for temporary or casual employment and continues to employ people on a temporary basis then the employment should default to permanent employment. That is the nature of what 'default' means. The union's very strong position, we understand supported by other unions and stakeholders, is that the default basis of employment should be permanent employment and where an employer fails to undertake a review then the outcome should be that that person's employment defaults to that permanent arrangement.

Finally, in terms of the extension of rights to the greater public sector, there are three issues that we seek to, in particular, discuss with the committee. The first of those is that, while this bill extends Public Service rights to the greater public sector, the underlying policy positions of the bill continue to deny those rights to senior officers under what is currently the Public Service Act. Those senior officers are not able, under the act, to bargain with their employer for an enterprise bargaining agreement or, in several aspects, to seek the independent industrial umpire to conciliate and arbitrate in relation to their conditions of employment as an industrial matter, which is what all other employees largely in the state jurisdiction and the public sector have access to. We do not see any legitimate

logical or principled basis for that distinction. The union very strongly reiterates our advocacy for this position to finally be reviewed and resolved and for senior officers to have those employment rights, as other public sector employees do. This bill provides an expanded range of rights to employing entities, including to terminate employment in a range of ways and that includes for surplus employees or for mental health grounds. We would suggest that there needs to be some strengthening of those provisions.

Mr STEVENS: Mr Goldman, TQ has submitted that the bill categorically fails to address the Bridgman report recommendations that the act should give employees a right to raise issues with a more senior manager of employment decisions with certain restrictions. How might this be addressed in the bill?

Mr Goldman: We would suggest that the bill needs to provide for a specific legislative provision that provides that right to raise issues. At the moment, a lot of the rights provided to employees to raise grievances or issues are set out in Public Service Commission directives that, over the past decade or more, have fluctuated widely in terms of the content of those rights, what things can be raised, the processes that apply to the process and then which parts of those internal review processes can be appealed externally and how. A lot of it relies on these directives to provide those substantive rights. A legislative right to raise issues is what we would suggest Peter Bridgman was suggesting and one that is explicitly captured by the adverse action provisions in the IR Act, so action cannot be taken against people for raising those issues.

Mr STEVENS: Further, in your address you mentioned that the default position for a temporary worker is that after two years they are automatically given full-time employment. Can you explain to me how, if you have a good employee who has been temporary for two years, he would not get a full-time position with the Public Service? Does it also impact, in your direction, that if an employee was not up to scratch he would be shifted aside before the two years came up?

Mr Goldman: That is certainly how things should operate. Our position would be that there would be very few temporary or casual employees who should not be made permanent at that two-year mark. In fact, there is a large conversion rate of employees who are reviewed. I think the broader proposition that there should be the automatic conversion at the two-year mark is not something that is necessarily directly covered in our submissions at the broader level; however, it would certainly save government departments a significant amount of bureaucratic process to review employees if large percentages of those employees are being made permanent.

In terms of our submission specifically, we are seeking for that automatic conversion process to occur where the employer fails to undertake a review. So there is a mandatory review process at two years where the employer has to look at the employee and look at the work they are doing. If the work is ongoing work, not temporary or casual work, then the person should be converted unless there are genuine operational reasons not to do that. One of our concerns is that genuine operational reasons has become a very broad catch-all. There are lots of reasons employers can give and as long as they are not completely made up or outside the realms of fact, that tends to be considered to be a genuine operational reason. There are lots of things that can be used to deny a conversion.

The most important issue we are raising is that where an employer simply fails to undertake the review—takes no action even though the act directs them to do so—there is a provision that says they have automatically decided that the employment should continue as a temporary employee. Because the act is framed in that way, the act is permissive of that failure to do a review. It says, 'That's fine. You have all these things you have to do. They are mandatory. They are part of a chief executive's responsibilities under the bill, but if you don't do it, then a decision is made and that's okay.'

There are people who are remaining temporary employees, as you say, with significant periods of service, that service is meritorious, there are no performance issues and they have not even had a right to a review and there has been no letter saying they are staying as temporary and no reasons given for the decision. However, when you go to the Industrial Relations Commission on appeal, because the act says a decision has been made and the act allows for that, that failure to make a decision is not necessarily unfair or unreasonable because the act allows it to occur. The commission has specifically said in a number of decisions that that is an inherent conflict. There are all these mandatory provisions that operate as a safety net, but then there is a provision that says they do not matter and do not have to be followed. That is the inherent issue we are trying to resolve in this.

CHAIR: It is good to see a bipartisan commitment to permanency.

Mr TANTARI: Before I start my questioning I would like to publicly declare that I am a member of the Together union. Mr Goldman, in your submission you stated that the concept of the fair treatment appeal—and you raised this in your opening statement—has been read down over the last

decade and conversion appeals are severely limited in their utility by the current drafting. Can you elaborate on the issue? What do you propose is required to remedy the appeal mechanisms in the bill?

CHAIR: Without going over the ground—

Mr Goldman: Yes, thank you. The idea of a fair treatment appeal originally came in directives. It was very broad but it was limited to directives, which was a problem. It was very broad and basically said there is a right for people to be treated fairly, and if you are unhappy with an administrative decision that you do not think is fair or reasonable you could seek for that to be reviewed and appeal it. There were some really good things done to entrench that right into the act, but in doing so it has been limited and there are now only some specific things you can appeal. The appeal provisions are a patchwork of the things that were in the original act and then fair treatment appeals on top. There are then complicated provisions that say that if you have another ground of appeal you cannot also use the fair treatment appeal ground. It is quite complicated and there is a range of things that are excluded from the fair treatment appeals as a matter of underlying policy, like recruitment selection decisions and those sorts of things.

I think the best approach would be for there to be a fair treatment appeal right in the act which is expressed and broad and only limited in very narrow circumstances such as it would remain for it not to be appropriate to appeal a decision that is about the government's position on things and those sorts of things, so some of those restrictions should remain. The problem is that those appeal provisions are complicated and there are likely to be unintended consequences. I do not think just tinkering with those appeal provisions is the best approach. That is why we are proposing that there be a further review of public sector appeals in terms of what is appealable and where that appeal should go in terms of the public sector appeals jurisdiction as a separate jurisdiction or as an industrial matter.

In terms of conversion appeals, which is the second part of your question, they are framed in a negative way which provides that, along with the deeming provisions, you can appeal a decision rather than there is no appeal right for a failure to make a decision, for example. A broader and more direct appeal right in relation to conversion decisions would capture a range of other things that are currently unclear such as if someone does agree to convert your employment but to a different role than the one you are currently in, it is not clear what your avenue of resolution might be.

The other problem is that the appeals jurisdiction has been slotted into the appeals part of the Industrial Relations Act, which more appropriately deals with appeals from commission decisions and those sorts of things. It is treated like a legal appeal rather than a review of a decision and so the powers the commission has are significantly limited. For example, the commission can stay the decision. Usually what happens in legal decisions is there is a decision made and you stay it when there is a higher appeal. However, a stay only operates to stay an action or something positive happening, so a decision not to convert you is not something that can be stayed. That is the absence of something. When you go to an appeal and someone's employment might be ending in three weeks and the commission does not have the capacity to hear it within three weeks, you cannot seek a stay of a decision not to convert someone and so the person's employment can end during an appeal process. However, if the commission had all their powers they could have interlocutory orders to say that the person's employment is retained until a decision is made, for example.

CHAIR: I refer to clause 39, public sector principles (2) and (3). The Queensland Council of Unions submission—and we have just published it as a supplementary submission—recommended that the principle of maximising workplace health and safety be added to subclauses (2) and (3) of clause 39, 'Public sector principles'. Does Together union have a view on adding 'achieving work health and safety practice of public sector entities' as part of the principles regarding workers in the Queensland public sector?

Mr Goldman: I have not had the opportunity to review those submissions, but we do support the general position that work health and safety be added. In terms of the QCU's submission in that regard, I am sure they will be able to speak to that further.

CHAIR: Further to workplace health and safety and the complex issues—and here I was thinking of workers in, say, prisons or emergency services who on occasions have very complex, difficult jobs. In relation to clause 45, 'Employment on merit and for equity and diversity', how is that to be judged where workers have to work together in difficult circumstances? What weighting should they—and subclause (1) states—

In these highly stressful and life-and-death situations, how should that be applied? What is the meaning of that? That is clause 45 and is to be balanced against subclause (2).

Mr Goldman: I think it is difficult to answer that question in the abstract. I think suitability for a particular role is an important part of those provisions, that they are suitable for the role. Those inherent duties of the role and the way the role is performed would be certainly relevant to a particular role and the most suitable candidate for that role.

The important part of this reform in terms of the diversity elements is that there may have been a view that the way the merit principle was previously applied required some conflict between merit in a particular idea of merit, and diversity and inclusion principles. We would say there is no conflict and that finding the best person for the job has always been able to involve considering suitability and merit for a role in the broader sense than sometimes has been applied. I think these reforms make that clearer. It makes it clear that in a particular role in a particular team in a particular department, having a range of diverse people and views and being inclusive is what will provide for the best person for that role in that team. That merit is conceived by the role description, as conceived by the particular role, but also about the best person suitable for that role in that context and not just on a more 'check box' approach that might have been taken previously.

CHAIR: I thank you for your appearance here today. We have not placed any questions on notice.

ROY, Ms Kim, Research Officer, Queensland Teachers' Union

CHAIR: Good morning. Would you like to make an opening statement before we start any questions?

Ms Roy: I would. I would also like to thank the chair for his acknowledgement of the traditional custodians and I pay my respects to the Jagera and Turrbal peoples.

The QTU appreciates the opportunities that we have had through the joint advisory committee process to provide feedback on the proposed Public Sector Bill. We note that, while our submission to the JAC covered a number of different topics, the submission made to this committee was limited to just the one issue, and that is the matter of the diversity target groups that are recognised in the current bill. It was a matter raised early in the consultation process by the PSC in their discussion paper, yet the question of a fifth diversity target group has dropped off along the way.

The QTU has a long-held view—it goes back at least as far as the Bridgman review—that a fifth diversity target group for the LGBTIQ+ community should be adopted. We wrote about this in our submissions to the joint advisory committee and we referenced this submission in our submission to this committee. I do have hard copies of that with me or I can provide those electronically to this committee if they would be of use.

In coming to this view I would note that there are already significant policy supports within the Queensland Public Service for the LGBTIQ+ community. We have both a PSC inclusion strategy specific to the LGBTIQ+ community that covers the whole of the Public Service and some of the departments also have their own inclusion strategies such as the Department of Education's Proud at Work strategy. Sadly, policy is not enough. The reality is that many LGBTIQ+ public servants choose not to identify in the workplace because they do not feel safe to do so. We do not have data demonstrating the disadvantage because it has not been collected. Without recognition of a fifth diversity target group there is little incentive to come out at work.

Noting that there is not significant data on the experience of LGBTIQ+ public servants, the QTU sought from our members who identify as part of the queer community their lived experiences. Those lived experiences became part of the QTU's second submission to the JAC and are briefly referred to in the submission made to this committee. Resoundingly, those experiences were of homophobia, transphobia, disadvantage and damage to career progression.

There is no doubt that the Queensland Public Service is a better place to work if you identify as queer than ever before. We have come a long way from the late seventies when employment was denied by the Department of Education to a gay teacher despite the existence of an employment contract via the old bonded student program. Diverse sexual orientation or gender identity is no longer a blatant obstacle to employment in the public sector, but the lived experiences of our members from the queer community are varied and often heartbreaking. Our members report having their career limited due to homophobia both within their schools and within the broader community.

As a truly statewide department, the DoE stipulates a condition of permanent employment is a willingness to work anywhere in the state. It is also widely recognised that teaching outside the south-east corner is a good way to progress your career. I can affirm from personal experience that the career opportunities I enjoyed while teaching rural in my first few years of teaching were far greater than those I had upon my return to the south-east corner. If we consider the three Queensland electorates that voted no in the marriage equality plebiscite—Maranoa, Kennedy and Groom—a huge portion of Queensland is covered. Of course, those electorates are large because of the low population density, but the Public Service requires people in all corners of the state. Many of our members report feeling unsafe when they have been required to leave the south-east corner, or report feeling unable to leave the south-east because of a lack of medical and support services for the LGBTIQ+ community. This means that they are missing out on career opportunities directly because of their LGBTIQ+ status, and even in the south-east corner teachers report disadvantage.

In coming to the view that a fifth diversity target group is required, the QTU also considered service delivery. That is why the Public Service exists. We know that the Public Service works best when it represents the people it serves. We know that LGBTIQ+ students suffer significantly worse mental health outcomes than their cis-straight peers. Especially for students growling up in rural and regional Queensland who may not have supportive families, having teachers they can relate to and schools that make it clear that they are accepted just as they are can make a big difference to that student's life and mental health. I often reflect that the only thing worse than being outed as a teacher in a small country town would be to be a queer student growing up in a small country town feeling different, isolated and alone.

In preparing submissions to the JAC, we collected several accounts from members. They ranged from micro aggressions to hostile working environments, feeling excluded from staffrooms and missed job opportunities. This has all led the QTU and comrades from other unions to form the view that a fifth diversity target group is indeed warranted. We hope it will be included in the legislation or, if not, that an additional target group may be developed later by regulation, as is allowed under the current draft.

We do note that there has been some movement in response to feedback on this issue during the consultation phase. We are pleased that the bill is no longer silent on the LGBTIQ+ community but fear that, as written, it will be treated as a second-tier disadvantage group and not be included in department's plans. Therefore, while the QTU broadly supports this bill, we consider that the inclusion of a fifth diversity target group will assist the Public Service in becoming fairer and more responsive, both for their employees and for the public that it serves.

Mr STEVENS: Thank you, Ms Roy. Let me be clear: we support inclusiveness, quality of treatment and diversity and all those matters that are involved in this bill and that you bring to the table today; however, I am very disappointed to hear that you have no data to support matters that you raised in your submission here today in relation to matters of concern for those communities. You have no data. Can you explain to me and to the committee why there has not been an attempt, through secret ballot or whatever methodology, to obtain data that supports your position rather than assuming that these are the facts involved in your submission?

CHAIR: I take it that that is qualitative data perhaps. You are making a reference to quantitative—

Mr STEVENS: My question is in response to Ms Roy's comments that she had no data and could not get data.

Ms Roy: I made the comment about the lack of data because that is a concern that not only you have raised, Deputy Chair, but also the Special Commissioner for Equity and Diversity has raised. The difficulty for the union movement in seeking that data is that we do not have 100 per cent union coverage of the workforce, and we also think the responsibility for gathering that data rests with the employer. I can only speak to the Department of Education, but teachers are not asked nor given the opportunity to identify upon employment or later in their career.

We understand that data is collected on the four diversity target groups, and including a fifth diversity target group would enable the employer to have a requirement to collect data and we could go from there. We have had discussions about the fact that, if we look at the vast social change that has occurred in the last 50 years, we would hope that, if a fifth diversity target group is included for the LGBTIQ+ community now, in 20 years it may not be needed. We would love to see those changes, but at this point in time, when the employer is not collecting that data, we can only do the best we can with what we have.

In preparing the submission, we had a very short turnaround, but I was able to get very good uptake. I got about 20 responses from our identifying members in 24 hours. This was an issue where they clearly felt very willing to share their lived experiences. In the absence of wholesale data we have simply done the best we can, and that is why we have prepared that submission to the JAC with the lived experiences. I certainly note that it is not a perfect measure of evidence, but we have done the best we can with what we have.

Mr STEVENS: I get the anecdotal evidence. I have a family of teachers. If I am on the Gold Coast and I have to go to Richmond, my home town, I am going to give certain reasons why I do not want to go to Richmond and I want to stay on the Gold Coast.

CHAIR: I personally love Richmond.

Mr STEVENS: I do, too, and I am very proud of it. You also submitted that it supports the position of the Queensland Council of Unions in relation to reviews of non-permanent employment. I have always had a problem with these long-term temporary contracts ticking over for two years. If they are not good enough in two years, they have to go. Can you please elaborate how you feel this bill should address those matters of temporary employment?

Ms Roy: I support the submissions made by Mr Goldman from the Together union. I think the provisions set out in the existing act which require a review of temporary employment after two years are certainly a good way to go. Where the legislation falls down is in that deemed decision not to convert, and that is where the QTU supports the submissions made by the Together union in saying that, if an agency fails to review an employee after two years of service and then the 28 days, the default position should be that they get the job. If there are concerns with performance, they have

that 28 days to make an active decision. Also, there are provisions elsewhere in the legislation and in the directives about positive performance management. Someone should not be getting to the two-year mark if there are genuine performance concerns; they should be addressed earlier on.

Mr STEVENS: Correct. It should not be two years, never mind the 28 days.

Mrs McMAHON: I want to return to the fifth diversity target group. I note that you mentioned that several departments have strategies in place. What is the difference between a department having a strategy in place and a fifth diversity group? What is the benefit? If the Department of Education has strategies and is considered one of the more inclusive public sector agencies in Queensland, what does the addition of a fifth diversity target group do for employees and your organisation as one that supports those employees?

Ms Roy: I think that is under the strategy system that we have now. Essentially, that is a statement of good intentions. It is what the department wants to be true, but sadly there is a world of difference between what happens in that document and what happens in the staffrooms in the south-east and beyond. By including a fifth diversity target group in the legislation, it puts requirements onto departments to actually collect data, to report data and to take action on disadvantage when they see it occurring in their organisations.

Right now there is a lot happening in the shadows that simply does not come to light. Frankly, if only central office knew some of the stories that we hear. There is a real disconnect there. By having a fifth diversity target group putting responsibilities onto agencies to report and then to act on disadvantage, it gives those agencies the motivation, the requirement, and essentially gives those strategies some teeth so that there is a way of implementing those strategies. It is beyond just a statement of goodwill and is then in support of other supporting legislation such as the Anti-Discrimination Act and the human rights obligations.

Mrs McMAHON: You spoke about the issue particularly in some aspects of regional Queensland where there may be issues within the broader community but also within the school community. Given that some of these issues may be a community-based issue rather than a workplace, how does having that fifth diversity group assist the department and your organisation when it is a more social issue perhaps than a workplace issue?

CHAIR: I was contemplating the question. It is tough. It is about societal change, Ms Roy.

Ms Roy: I acknowledge that those are two difficult things, but I think if we have a fifth diversity target group at least employees in their workplace will feel safe. That will drive some change within workplaces, and that change can then spread to the broader community. Particularly if we look at the Department of Education, for example, the more work that is done to make our schools inclusive and understanding places, not just for staff but for students—that is what will then also drive the societal change in the broader community and not just in the workplace. By putting some teeth into the legislation, it then gives agencies the ability to act on any disadvantage and to really take it seriously.

CHAIR: Young teachers in general are moving to an isolated community or a community far away from their family, community supports and friends. That is something that I think the department should focus on in general. You are suggesting that for LGBTIQ+, there are specific needs that the department perhaps should focus on? Often very young people are moving to very different communities from where they were brought up.

Ms Roy: Indeed, that is correct. I acknowledge that there is the need for a statewide teaching service. We need to have mobility within our teaching workforce, so the more we can be doing at a state level to make all our schools and all our communities more inclusive places the less the tension on limiting the number of places that our queer teachers can go. In fact, make safe workplaces everywhere in the state because we cannot forget we have queer students everywhere in the state and we want to make sure they are supported, too.

Mr CRANDON: Taking it step by step, if the department were required to collect data under this fifth category, would it initially be confidential—blind data—so that people are just answering questions that do not identify them initially? Is that what you are suggesting in the first instance? Where I am going with this is: if the queer community was seen as a diversity target group, are you suggesting that they would then be more inclined to make their sexual orientation known broadly, or would the department be asking the questions in a blind fashion so that they are de-identified in the responses? Is it a two-step process or one that is emerging? Do you have an understanding of my question?

Ms Roy: I think so. I will certainly do my best to answer and I have no doubt you will pull me up if not. I do think it would probably be a two-step process. It is very hard convincing people to identify about something that is highly personal, but the more that people bring their full selves to

work—the research does indicate that employees who feel safe to bring their full selves to work perform better, stay longer and, of course, deliver better services, to students, patients or whoever in the Public Service is being looked after.

I would hope that if data is collected, while in the first instance it may remain confidential, it would also make people feel comfortable to bring their full selves. Lots of the personal accounts that we received were of people saying things along the lines of, 'I cannot be out at work,' or 'I can only be partially out.' There may be a handful of friendly faces that they can be their true selves to, but they do not feel safe wearing a rainbow pin or lanyard because they are worried that there might be negative pushback. The more the department makes it clear that everyone is supported, that everyone belongs, the easier it becomes for the next person and the one after that to come out and be fully out and, again, that visibility really helps with service delivery.

Mr CRANDON: You indicated in your opening statements that if you were unsuccessful in putting forward the argument—in other words, if the fifth category for queers was not accepted and enshrined in the legislation—then you would hope that it would be prescribed by regulation. In your experience, how would that come about? If it was not in the legislation, how would we convince whoever to bring it into the regulations?

Ms Roy: The ability to bring in additional diversity target groups via regulation exists in the current bill. In terms of whether that has been done, I do not believe that it has. In order to make that happen, I think perhaps we would need to start with taking one or two departments and having a trial—treating those departments as if there were a fifth diversity target group, encouraging them to gather the data to find out more about what those public sector employees are experiencing, and then looking at that data and assuming that that does map out to what the lived experiences of members shows. We would expect there would be the data to show that a fifth diversity target group is warranted, and from there that could be prescribed.

Mr CRANDON: So a slower way of doing it.

Ms Roy: A slower way of doing it.

Mr TANTARI: You are the research officer for the Queensland Teachers' Union. Do you have any reason you believe that other states and territories, the Commonwealth and New Zealand do not identify a fifth group, and do you believe that is an issue based on the fact that they just do not have the data in their own jurisdictions?

Ms Roy: I suspect that that is the case. Getting LGBTIQ+ public servants to identify is certainly a challenge. When we have been providing feedback on this bill, we have made the point: does Queensland want to be a leader or a follower? We would be the first jurisdiction to include a fifth diversity target group, but that does not mean it should not be done. That is why we have adopted the view that a fifth diversity target group is warranted. It will not necessarily be a perfect process or one without bumps in the road, but we certainly think that, based on the accounts of disadvantage we have seen, there is more to be gained by including a fifth diversity target group than continuing with the existing four.

CHAIR: With that fairly powerful statement we thank Ms Roy for her attendance here today. Ms Roy, if you wish to forward the submission for the consideration of the committee you are very welcome to do it via email and we will take that into consideration in our deliberations. Thank you.

BORG, Mr Ash, Legal and Industrial Officer, Queensland Council of Unions

CHAIR: Good morning. Would you like to make an opening statement, after which we will have some questions for you?

Mr Borg: Thank you for the opportunity to make these submissions. The Queensland Council of Unions did file submissions to this committee on the 28th of last month and I think on 4 November, the 4th being supplementary submissions which have been alluded to already when Mr Goldman was giving his submission earlier on today. I have the benefit of having been preceded by two people who are quite expert in this field so I am not quite sure how much extra I can add. I do adopt and endorse those submissions as well as the submissions filed by all of our affiliates and all of the submissions and contributions our affiliates have made to the JAC process, which has been highly successful in terms of its consultative and collaborative approach between all stakeholders who are concerned with the public sector.

The QCU in its written submissions has made four recommendations. I propose to only really talk about three—just to be brief, really. The first is in relation to the fifth target group. The QCU does endorse and support the submissions of the Queensland Teachers' Union and of the other unions with regard to the creation of a fifth target group. Our recommendation is slightly different; it is about the collation of data. I understand the questions that the member for Mermaid Beach has raised with Ms Roy in relation to that. Data with respect to the LGBTIQ+ community can be very difficult to obtain. Quantitative data is not the only recourse; there is also the qualitative data which is outlined in the submissions of the Queensland Teachers' Union. There is also our lived experience. It is quite a commonsense consideration to take into account the kinds of extra hurdles that that community has faced in terms of its recruitment and retention across the community, not just in the public sector, and it would be great for those attributes to be turned into a positive rather than the way it currently operates, which is something of a negative and something of a barrier with regard to progression in their careers.

We certainly support enhancing those workers' rights, and in our submissions we made recommendations about a process going forward such as we might then better accommodate the LGBTIQ+ community as a fifth target group within the parameters of the bill on an equal footing with other disadvantaged members of the community. As pointed out by Ms Roy, a more representative public sector is always a better performing public sector. We make those submissions in those respects.

With regard to the reviews for non-permanent employment, I really welcome your comments, member for Mermaid Beach, with regard to the preference—and I think that is, it seems to me, shared across the table—and a favour for permanent employment over temporary employment. Certainly two years for confirmation of your employment which has been otherwise ongoing is too long to wait for that confirmation to come through. We say that that really should be down to 12 months. I think by the time 12 months are up you would have demonstrated that there is a position to be filled. Also you have got through your probationary period, which would have assessed your suitability to continue in the role by then, noting that for the most part that is your six months.

We say that that should be brought down to 12 months—that is perfectly adequate within the parameters of the Public Sector Bill—in order to establish the permanency of the employment. We endorse the submissions of the Together Union whereby if no decision is made then the default should be that the employee's employment status is that of a permanent employee, rather than having to make the case positively and to seek some review and application on that basis, noting the disadvantage faced by those casual or non-permanent employees when no decision is made. That curtails their ability for recourse in relation to the status of their employment. Those are really the brief submissions that we would like to raise today and I would like to open to questions.

Mr STEVENS: Your submission proposes reducing the two-year review to non-permanent employment to one year. The department has advised us that the bill retains the right to request a review for conversion after one year and the ability of employees to make a further request every 12 months they are employed. How does your union respond to this response from the department?

CHAIR: Mr Borg is representing the Queensland Council of Unions, so a variety of unions.

Mr STEVENS: I am not familiar with the union hierarchy.

Mr Borg: It is not a hierarchy; it is just that we are the peak council with regard to trade unions here in Queensland and we represent affiliates, and affiliates themselves are unions, so it is just a technical point, but that is quite right. The recommendation would be that clause 114(7) of the bill be amended to provide that if the employee's chief executive does not make the decision within the time

frame set—we suggest it is 12 months—then the chief executive is to be taken to have decided to convert the employee's employment to a permanent basis. I am not sure that answers your question, but I think the written submissions really deal with that adequately anyway.

CHAIR: Clause 45 states that a person selected for employment in or to a public sector entity must be the eligible applicant best suited to the position. That puts in place a process of selecting on merit. Sometimes in the Public Service people are acting up in a capacity—it is probably a question I should have put to Mr Goldman as well—and there are not the same sorts of processes because someone is selected to act up in a relatively quick situation. Does that make it more complex to fulfil clause 45—but then, for want of a better word, mucking around the public servant, moving them up and down, is obviously not ideal either?

Mr Borg: If somebody has been acting in higher duties for a period of time it would demonstrate that they are perfectly suitable for those duties, so that would be a matter of that being considered akin to non-permanent employment, albeit in that particular role for those higher duties. They should be treated in the same way. There would have been time to assess the suitability. If they are not suitable, then what have they been doing so long in that role?

CHAIR: Can I highlight the contradiction in that a person who is acting up might be capable of the job but not necessarily of best merit. Further, in paragraph (2) of clause 45 the process may consider diversity circumstances. Those things are not taken in with those people who are acting up in that capacity and a shift to permanency entrenches that without taking into consideration those two things.

Mr Borg: If there are more suitable candidates with attributes that provide extra with regard to the target group status, it may be that the agency then recruits someone else.

CHAIR: You are saying they should confront that decision within that period?

Mr Borg: There might be other opportunities for them to meet the targets than through people who are acting up. If there are better suited candidates for those positions that are being filled by people who are taking on higher duties, then they should go about their recruitment process and make it competitive on that basis.

Mr STEVENS: If someone acts up in a temporary situation—a position needs to be filled and filled quickly without advertising for the best person for the job et cetera—and after a certain period, whether it be 12 months or the current two years under this legislation, they feel that the person does not have the capacities required and they have to move them back, what do you see is the problem with the person moving back to what they were doing and then he or she is entitled to put forward their resume for the permanent position when the job is advertised?

Mr Borg: Certainly the position should be that if they have demonstrated they can perform that role for a period of 12 months then that should be honoured. If there is to be a recruitment process, it is still up to the agency to pick the best candidate. If they happen to be, then great. Obviously if they have been performing the role they would have that organisational experience—they will have particular expertise they might have gained through having done at least 12 months in the role that people out in the public that they would advertise for may not have—but, again, the agency should also have the agility to hire the best person for the job.

Mr STEVENS: But within 12 months?

Mr Borg: Yes, of course.

Mrs McMAHON: I want to have a look at your recommendation in relation to suitability for employment—this is around criminal history or adverse findings in employment—and your recommendation that it be further reviewed to establish further transparency and procedural fairness. In the submission it referred to where a chief executive finds a person to be unsuitable that there also be a positive duty on the chief executive to advise the person of this and offer them the opportunity to provide any further information. That seems fairly straightforward in terms of procedural fairness. That is not the done thing currently?

Mr Borg: I cannot say whether it is the done thing or not the done thing. This is just a transparency measure such that decisions are not made in the absence of information provided to the applicant and without giving them a fair opportunity to respond to the reasons as to why their employment should be rejected. It could well be that someone with some kind of criminal history is automatically knocked out of a recruitment process simply on that basis but without the opportunity to provide information, for example around mitigation, how long ago it was and all those kinds of things. We feel that the bill should provide better transparency in that respect and provide a positive duty to ensure that all agencies do that and that it just not be a matter of discretion.

Mr PURDIE: Is it currently the case that if an adverse decision is made based on someone's criminal history they do not have to be told that? They can just be told, 'Oh, sorry, you have missed out on the job'? You are suggesting that if it has been an impacting factor it should be disclosed to the person—'We have made this decision. It is because of your previous criminal history'—and then they should be given a chance to answer that?

Mr Borg: I am afraid I cannot speak to what is actually the practice, but I can speak about the provisions of the bill. All I am seeking is that this be provided under the bill such that there be an equal playing field and a standard across all agencies encapsulated and enshrined in the bill.

CHAIR: Mr Borg, I now turn to your additional submission. You can talk about it because it has been published by the committee. I refer to the principles in subsections (2) and (3) regarding maximising health and safety in the public sector. One of the reasons for having that principle of health and safety is to reflect the health and safety of surrounding workers. Can you give us some more background?

Mr Borg: Yes. This state has a very proud history with regard to legislation and with regard to the regulation of work health and safety—from the introduction of work health and safety laws by Vince Lester, a Nationals minister of industrial relations in the late 1980s, up until, I would suggest, the 2018 best practice review and the amendments in respect of work health and safety.

CHAIR: We note that the Queensland Council of Unions noted the work of Vince Lester.

Mr STEVENS: They particularly support him walking backwards!

CHAIR: Mr Borg?

Mr Borg: What we are seeking to do here is include amongst the Public Service principles the best practice for work health and safety for those workers so that those things can also be taken into account when it comes to recruitment and other aspects of the bill.

CHAIR: Recognising that people have a vision of public servants as people sitting in ivory towers wearing ties such as we are wearing today, there are a lot of public servants who do quite dangerous and difficult work in the service of the public and workplace health and safety is important. Further to that, both in terms of their capacity to do the job and the safety of other workers, have we got the balance right in saying that we must consider, as per clause 45, each eligible applicant's ability to perform the requirements of the position as our primary but then consider other attributes to ensure a more inclusive workforce?

Mr Borg: Yes, I think so. It would stand to reason that you would seek out the most meritorious candidate but where you can, all other things being equal, you should make a particular effort to be more inclusive in your public sector agency, as put by Ms Roy. As I might have already said, a more representative Public Service is a better performing Public Service.

CHAIR: And then support those workers through the process, especially when they are younger workers in the Public Service workforce?

Mr Borg: Yes, absolutely.

Mr CRANDON: We have heard about temporary employees acting up into another role, but there are other temporary employees taken on by state government departments across the board for limited periods of time where there is uncertainty about future position availability—in other words, the likelihood of it becoming a permanent role is quite limited because it is a particular role that is being played out over a short period of time. Are you distinguishing between those two types of temporary employee? How would you suggest that second type—the temporary employee taken from outside of the Public Service—be dealt with? Would it be on a review basis every six months? What are you suggesting there?

Mr Borg: I hope I understood your question correctly. Bear with me. It was a rather long one. There is a distinction between, on the one hand, employment which should otherwise be permanent but whereby an employee has been put on a temporary basis, as a quasi-kind of probationary period as if it were.

Mr CRANDON: Yes.

Mr Borg: If that work is to be ongoing then those employees should certainly be permanent or at least have some recourse to access permanency in employment, a review and so on. If it is necessarily project based, that can be distinguished. These are the broadbrush provisions of the Public Sector Bill. We are talking about default positions here. It is certainly our position that default employment in the Public Service whereby employment tends to be not so much project based but more so ongoing and permanent—because service delivery does need to be required for the long-term—it is better for the agencies also to have those people on as permanent employees.

Mr CRANDON: Okay. You are not suggesting that those who are project based should automatically become permanent?

Mr Borg: If there is no position to actually enter into after what we say should be 12 months and that is the bona fide, genuine conclusion of any project, then fine. If, on the other hand, a position gets exhausted, then after 12 months that person should have the benefit of redundancy because that is a redundancy situation. I think it is just a bit of common sense, really, making the distinction between that which is genuinely temporary or project based, as I might have put it earlier on—temporary is probably the better way to put it. If it is genuinely temporary, I think the bill accommodates that. On the other hand, where there are situations where permanent roles are filled by temporary employees, this is what we are seeking to address.

CHAIR: It is quite a worthwhile question and is complex. I would have liked Mr Goldman to answer it. I do not know whether Mr Goldman wanted to make an additional contribution. Mr Goldman, I also had that question about merit processes where people are put into acting positions. Is that okay, Mr Borg?

Mr Borg: Please.

CHAIR: Mr Goldman?

Mr Goldman: The current policy settings in relation to recruitment and selection are that for a temporary role, including one that is going to be filled internally from a public servant, anything longer than six months should go through that merit recruitment process. That could be extended to 12 months, but anything for 12 months or more should be going through a merit-based recruitment process. For those employees who are seeking to be converted to permanent employment in a higher duties arrangement after 12 months or two years, they all should have been through a merit-based process that would look at competitive merit and also the diversity principles. There really is not very much distinction, we would say, at all about the two situations. That is why in our submissions we seek that they be brought closer in line in terms of the drafting.

While higher duties employees keep their permanency, they could have a significant amount of their remuneration contingent on ongoing three-month renewal processes. Sometimes people are not even finding out until they come to work whether or not they are in the higher role. It is just a real problem. People's mortgages and what they have to tell their bank is all based on this temporary role. They could have a permanent AO3 or AO4 but have been working for years at the AO5 or AO6 level and cannot rely on that income.

There is also the issue where we have cascades in the Public Service. You might have someone at the AO8 level, at a senior level, or a senior officer who or is on long-term leave or retirement leave and their role is filled by someone on an acting basis. Then that acting person's role is filled by someone else on an acting basis, whose role is filled by someone else on an acting basis and then there is someone on an AO3 at the bottom. It is almost impossible to fix that without starting to appoint those people at those higher levels. That is what this provision around higher duties conversion was brought in to do, but we would say that it has not been nearly as effective as it could have been because of some of the ways it is drafted.

For example, I could be acting in a team where people have taken leave and I have acted for all five of these people all sitting in a team doing the exact same work, the exact same role. I can only be appointed to the one I am currently sitting in. If the person I am acting for comes back but the person sitting next to me retires, I cannot be appointed permanently to that position sitting next to me, even though it is identical, because of the way the drafting is that says 'position'. In the temporary employment provisions it talks about 'roles' and in the higher duties one it talks about 'position'.

When I think of the unintended consequences of that drafting change, there are people who have spent two, three, four or five years at the AO7 level doing the same sort of work but moving in different positions who are denied the opportunity when one of them becomes vacant to say, 'Oh, I was in that six months ago.' They are precluded from applying for conversion into that role and it goes to a whole big, open merit process because of the drafting.

The other thing that happens is that employers do things from time to time—sometimes for good reasons and sometimes we would say not so good—of changing people's position numbers. They move funding around or they move positions around. You can be doing what you think is the same job the whole time and, if you get a copy of your records, your position number has changed. The way it is drafted, the commission has held that those changes to positions make you ineligible at various points for—

CHAIR: All right. We are cutting into the QCU's time. I apologise, Mr Borg. We do still want to hear Mr Borg representing the QCU. Member for Coomera?

Mr CRANDON: It was actually around that that I wanted to ask the follow-up question. In terms of the person who has just done that role, five different positions et cetera, if it went to the meritorious process—I have read this in some of the submissions that we have received to different committee hearings—because of the experience they have gathered, would they be more likely to be appointed to that position anyway? Would it be that bad to test the water and just make sure they are the most meritorious of appointments?

CHAIR: I think they are certainly open for selection in that process, but we do not do 'testing the water' in the Public Service. Mr Borg?

Mr Borg: No, it would not be appropriate to use temporary assignments to test the water, as it were. To put a person in a position, they should go through the merits process. If they happen to be the most meritorious, they should be put into that position. If it just so happens, on the other hand, that someone has been temporarily appointed to a higher position, they should have the benefit of that experience being considered as part of the meritorious process going forward. Of course, our position is that permanent employment be favoured from the outset.

CHAIR: There being no further questions, I really thank you for your contribution, Mr Borg. Thank you for chipping in a bit as well, Mr Goldman. I really appreciate it. It helps the committee in our consideration of the bill. I note that there were not any questions taken on notice.

Mr Borg: As a matter of housekeeping, I have hard copies of the correspondence that I sent on Friday.

CHAIR: We all have that. We really appreciate it. It was something that we considered in the previous meeting. It has been published on the committee's webpage as an additional submission.

De SARAM, Ms Binari, Manager and Solicitor, Legal Policy, Advocacy, Queensland Law Society

DUNN, Mr Matt, General Manager of Advocacy, Guidance and Governance, Queensland Law Society

HOLMES, Ms Neroli, Deputy Commissioner, Queensland Human Rights Commission

HUDSON-FLUX, Mr Yale, Graduate Solicitor, Queensland Law Society

McDOUGALL, Mr Scott, Commissioner, Queensland Human Rights Commission

THOMSON, Ms Kara, President, Queensland Law Society

CHAIR: Good morning. Would each group like to make an opening statement before we have any questions?

Ms Thomson: I thank the committee for inviting the Queensland Law Society to appear today at this public hearing. In opening, I would like to respectfully recognise the traditional owners of the land on which we are meeting today here in Meanjin and pay my respects to elders past, present and emerging.

The Queensland Law Society is the peak professional body for the state's legal practitioners, over 14,000 of whom we represent, educate and support. We are an independent, apolitical representative body.

Our submission responds to a discrete issue in relation to the proposed powers of a minister or the Public Sector Governance Council to ask a reviewing entity to conduct a public sector review. As currently drafted, the public sector review function and powers outlined in chapter 6, part 8 of the bill will extend to the Human Rights Commission, meaning a reviewing entity may enter the commission's official premises, require the production of documents and conduct employee interviews. The society is concerned about the inclusion of the activities of the Queensland Human Rights Commission in chapter 6, part 8 of the bill due to the broad scope of the public sector review as defined in clause 253, which includes a review about the effectiveness, efficiency, functions or activities of a public sector entity. The society is concerned about how the public sector review function will affect the ability of the Queensland Human Rights Commission to independently perform its statutory functions. In our view, consideration should be given to amending the bill to exclude the Queensland Human Rights Commission from a public sector review to ensure the commission remains sufficiently independent to effectively perform its statutory functions.

I am joined today by Matt Dunn, General Manager of Advocacy, Guidance and Governance at the Queensland Law Society; Binari De Saram, Manager and Solicitor, Legal Policy Advocacy at the Law Society; and Yale Hudson-Flux, graduate solicitor at the society. Each of them is happy to elaborate and answer any specific questions that you might have.

CHAIR: Thank you, Ms Thomson. Mr McDougall, do you wish to make an opening statement?

Mr McDougall: Yes, thank you, Chair. Good morning committee, and thank you for the opportunity to make a submission today. As noted in our submission, the commission is broadly supportive of the bill, however, has made a small number of recommendations to better promote equity and diversity in Queensland's public sector and to ensure the commission's independence in performing its important accountability functions.

Dealing with the first of those issues, we strongly support the aims in chapter 2, set out in clause 24. Those aims are to be realised by imposing duties on chief executives in clauses 27 and 33 and by requiring chief executives to prepare equity and diversity plans and conduct annual performance audits. We, again, strongly support this approach, which is consistent with the commission's recommendations made in our recent *Building belonging* report, which reviewed the Anti-Discrimination Act. We do consider, however, that the wording of the duties could be improved to address the risk of compliance with the duties being achieved merely by maintaining the status quo. In this respect, in our submission we have suggested alternative wording to reflect that the duty requires positive action.

In terms of the diversity target groups, we note that the bill defines these groups effectively in the same terms as they were defined when equal opportunity measures were first introduced in Queensland back in 1992. A stark omission from the definition of a diversity target group is LGBTIQ+ employees. Despite the substantial improvement in the recognition and protection of the rights of

LGBTIQ+ people in the last 30 years, the recent research referred to in our submission makes it clear that this group, particularly trans and gender-diverse employees, experience significant barriers to inclusion in employment. There does not seem to be any basis for excluding LGBTIQ+ employees from the diversity target groups, and I respectfully ask the committee to give consideration to making recommendations to address this oversight.

The other issue I asked the committee to consider is one of utmost importance to the continued ability of the Queensland Human Rights Commission to perform its government accountability functions without fear of interference from the executive. The bill proposes the commission become subject to the conduct of a public sector review in which a reviewing entity would be empowered to enter the commission's premise, take documents and interview commission staff. These powers are significantly more intrusive than the current provisions in the Public Service Act and it is arguable that the QHRC does not fall within the existing definition of 'public service office' for at least some of those existing powers to be exercised.

The bill exempts a number of entities described in the explanatory notes as 'core integrity bodies'. In not exempting the commission, it appears that the drafters of the bill have ultimately relied on analysis that predates the commission's functions regarding government accountability under the Human Rights Act. A proper analysis and comparison of functions would strongly suggest that the nature of the commission's role in overseeing government decision-making is indistinguishable from that the Office of the Ombudsman, which the bill has appropriately exempted from review.

The proposed review powers would seriously undermine the commission's independence and weaken its ability to impartially perform its statutory functions in reviewing a public entity's compliance with human rights obligations. This would ultimately serve to undermine the public's trust in the decision-making of the Queensland government and is inconsistent with the bill's stated purpose of creating a fair and integrated public sector that serves the people of Queensland and the state. Thank you.

Mr STEVENS: Ms Thomson, how might a public sector review of the commission impact on its ability to perform its functions?

Ms Thomson: I think Binari or Matt would be better placed to answer that question for you.

Ms De Saram: As we stated in our submission, public sector review is quite expansive and its powers are quite intrusive. The Human Rights Commission, which has a regulatory function, oversees the administrative review of government decisions in terms of their compliance with the Human Rights Act. In its function it is not exactly judicial but it is quasi-judicial, and courts have been appropriately excluded from public sector review. It is not a core integrity body, but it does have very significant integrity functions. In our view, it is appropriate that, although it is not like the Crime and Corruption Commission or the OIC or the OIA, it does have integrity functions and therefore should be excluded.

Mr STEVENS: One of the most important institutions in terms of the democracy of Queensland is the Electoral Commission. They have raised exactly the same issue that both Scott and you have raised in relation to the positive impacts of review on the independence of those bodies. Is it appropriate that the Electoral Commission is also excluded, from the Law Society's point of view, because of the concerns that you have alluded to with the Human Rights Commission?

CHAIR: To clarify: you said that it was a review of the independence. They are not reviewing the independence through this section of the act.

Mr STEVENS: Possibly can—the Electoral Commission.

Mr Dunn: I thank the member for the question. It goes to this fundamental concept. I note that the relevant section has the decision-making power to add additional entities to the purview, so at some point they could add additional entities that make sense, although if it is hard-coded into the legislation it makes it more transparent. It also means that it cannot be withdrawn at some time at the government's pleasure. What we are dealing with here is the fundamental tenets of independence. We are dealing with the ability of a government entity to conduct its statutory remit without interference or direction by the executive government. That is an important thing. For that very good reason, there are a number of types of entities that are excluded from the bill, like courts and the integrity bodies.

What we are dealing with with the Human Rights Commission and the Electoral Commission is the same concept but slightly different. The Human Rights Commission has a remit to review the human rights decision-making of bodies for compatibility with human rights. One of the concerns that we have raised in the Human Rights Commission space is the potentially curious result that the Human Rights Commission is reviewing the human rights decision-making of a reviewing entity and then, at the same time, the reviewing entity decides that it will do a public service review on the

Human Rights Commission. This means we have a situation of competing reviews, with two bodies reviewing each other's decision-making at the same time, which seems a little unusual and might impact the ability of both bodies to achieve their purpose, so if we separate them that is a good thing.

In the example of the Electoral Commission, we are not dealing with an example that will review or investigate the decision-making of a reviewing entity, so it is not the same issue that we are dealing with, but it may well be the same situation. For a statutory body like the Electoral Commission to be properly independent and not able to be directed by executive government, it may be that it should be insulated from public sector reviews. Having said that, it still needs an integrity framework to sit around it. It still needs oversight. It still needs the opportunity for the Queensland Audit Office to review its accounts. Especially in an organisation like the Electoral Commission, you do not want impropriety. You do not want anything bad happening. So you still need an oversight framework, but perhaps what you need is a more independent oversight framework. The two reasons for the Human Rights Commission and the Electoral Commission might be very different. It is not the same analysis.

CHAIR: The Audit Office is another organisation that carries out reviews into other parts of the Public Service—

Mr STEVENS: Everybody.

CHAIR: We do not see a contradiction there necessarily?

Mr Dunn: Clause 254(2)(e) separates the Audit Office from this oversight function for that particular purpose. It moves that core integrity body slightly to the side so that it can fulfil that mission in that independent way, which I think is a sensible move in the circumstances.

CHAIR: Traditionally in the Westminster system, accountability was driven through departments and the judiciary was the only separate body. Over the last 30 years, there has been a significant change to Westminster accountability through departmental lines, with more organisations stepping away from that line. Is there an argument that those two principles of accountability are a contradiction?

Mr Dunn: That is a very good question in the circumstances. Probably the appropriate response is that under the Westminster system of government there is a separation between the parliament and the executive government, even though the members of executive government—the ministers—are members of parliament, as they may not be in the American system. In our Westminster system, there is a confluence where the executive ministers will be members of parliament but in their ministerial guise they are fulfilling a slightly different and separate mission, which is the mission of executive government, which is separated from legislative power.

I note in this circumstance that the parliament maintains oversight of the Human Rights Commission or the Electoral Commission through the Electoral Act, through the Anti-Discrimination Act and through the Human Rights Act, and parliament can change those various enactments as it wishes in order to achieve that oversight function. I notice that there is a proposal that perhaps a parliamentary committee could review and oversight these bodies as well as the other existing bodies—this provides the parliamentary oversight that you spoke of—and could provide that separation from executive government. Even though there is a coming together in the personages of the ministers, there still is the maintenance of some independence and also oversight by the parliament.

CHAIR: For instance, if we were to find that there were significant issues, the independence means that the minister—I was talking about the minister and the department having accountability—can defer to say, 'These are independent bodies,' and the minister does not have any accountability over their role and function.

Mr Dunn: It is certainly the case that the parliament has oversight. It depends on what concept of independence we want to use in the circumstances, how independent we want agencies of government to be and how truly independent in function making we want them.

CHAIR: Further to that, we have very direct experience in this committee about the parliamentary committee, being the representative organ of the parliament, having a statutory role of accountability and oversight and find it challenging to maintain the high standards and expectations of public sector behaviour and direction as a committee. Is it problematic that committees then have the role of the Public Service Commission or other commissions that maintain the professionalism of the Public Service?

Mr Dunn: Our consensus and long-running response is that parliamentary committees are incredibly important organs of our democracy. They are incredibly important organs of transparency. They should be provided with all of the resources they need to discharge their functions and achieve

their mission because of that important role, because of that separation of the parliament from the executive government. In the context of Queensland being a unicameral parliament without an upper house as a further check and balance, that makes our Queensland committees even more important. Our longstanding position is that they should be empowered and given resources to achieve the function—

CHAIR: I am not denying that. I am saying that—I think I speak for the committee—we do not believe we are the appropriate body to go to that level of detail.

Mr STEVENS: What Mr Dunn is saying is absolutely correct and is exemplified by the PCCC, which does have all of those powers as an independent body to oversee the CCC. It is not quite the same for other parliamentary portfolio committees in terms of investigative powers et cetera, which give those particular bodies limited oversight. I think that is what the chair is alluding to.

CHAIR: I think that is a reasonable way to express it. Committees have concerns about our ability to apply the same level of scrutiny over independent commissions that are not accountable to parliament. I am not sure about other committees, but that is a concern this committee has. Do you have any reflection on that?

Ms De Saram: That is a good question. I do not think I can add anything further to what Mr Dunn has said except to restate that we are a unicameral state. These bodies are incredibly important in reviewing legislation and ensuring those high standards are met.

Mrs McMAHON: Mr McDougall, in your submission you recommended that the committee look at the fifth diversity group. I note the response from the Department of the Premier and Cabinet which indicated, 'Noting that diversity groups under the bill are not established to prevent discrimination, which is the role of anti-discrimination laws, our visibility of the cohort is enhanced under the bill by requiring entities to promote a workplace culture of respect and inclusion.' Is merely promoting visibility sufficient for that cohort? What are your thoughts on whether the inclusion of a fifth diversity group is something that will protect the cohort versus merely promote a cohort in terms of numbers in the workplace?

Mr McDougall: I note that the aims of the bill as set out in chapter 2 include specifically creating workplaces that are free from unlawful discrimination. I do agree, of course, that the Anti-Discrimination Act is the primary vehicle for addressing discrimination in Queensland. There is an opportunity with this bill for the public sector to lead the way in anti-discrimination, so fostering a respectful, safe and inclusive workplace culture is also one of the aims.

To properly fulfil the aims set out in the act, I think the time has now come for the LGBTIQ+ community to be properly integrated into the suite of protections that are available to all target groups in Queensland. As I said in the opening, we have seen over the last 30 years substantial improvements in the recognition and protection of LGBTIQ+ rights; however, we are constantly reminded, on an almost daily basis, about how far we still have to go before we see that particular cohort enjoying the same rights and standing as other members of society.

I think it is really important that the government sends a strong signal to the community through its Public Service that any form of discrimination against LGBTIQ+ people is not going to be tolerated but also that the government is going to take proactive steps through the preparation of plans to increase the number of people from those backgrounds who are employed in the public sector. One of the really important parts of this bill is the preparation of the plans and then holding the agency to account through the annual audit process. It is a really big opportunity, and I think it would be a missed opportunity if LGBTIQ+ people were not included as protected target groups.

Mr CRANDON: In relation to the proposal regarding the Human Rights Commission being excluded from public sector review, in my experience on the PCCC and from some of the readings I have done that have been made public by yourself, it seems that you have taken on the 'top watchdog', as he referred to himself, publicly. I think one of the things was over the police recruitment process. You were quite firm in your very different views in that regard. Frank and fearless advice is what my experience is of your input into the public sector. Do you see this bill as weakening that position?

Mr McDougall: Yes, I do. At the moment, as I mentioned earlier, there is a big question mark about whether the Human Rights Commission would be caught by that section 5 definition, so I think there is a question mark about whether the existing low-key review powers actually apply to the Human Rights Commission. If these sorts of intrusive powers were to apply, I agree with the comments of the Electoral Commissioner that it would have a chilling effect on the work of the

commission—perhaps not so much myself as commissioner but for commission staff who are permanent employees of the Public Service. I do think it is something that would weigh on their minds as they are doing their job and performing their functions in the way they are meant to do.

Mr CRANDON: Mr Dunn, would you like to comment?

Mr Dunn: I think we said before that we had some apprehension that it would be better to separate it in the way we propose, to put the Human Rights Commission out of section 254 reviews for the reasons we stated.

Mr TANTARI: Mr McDougall, with regard to the Human Rights Commission submission suggesting that addressing the gender pay gap requires taking additional active steps beyond reinforcing existing minimum requirements, can you please elaborate on this?

Mr McDougall: I will hand over to my deputy commissioner, Ms Holmes.

Ms Holmes: The gender pay gap is often caused by issues other than just equal pay for equal work in the same institution. We know that under the Queensland public sector rules anyone who is employed in the same role gets the same level of pay. I think the gender pay gap mainly emerges through the segregation of work types. There are certain occupations that are predominantly male or female, and traditionally the wages for male-dominated professions are higher than for female-dominated professions. I think the equity commissioner has spoken quite a bit about that. That is where you end up getting a gender pay gap.

We know that, for instance, teaching can be a lot lower paid. Early childhood teaching or work in the childcare area, which is generally private, not government sector, can be a lot lower paid. Those professions are dominated by women. Nursing is another area. It is predominantly women who are in the nursing profession, and they are not paid a high wage when you compare it maybe to a male-dominated profession. That is where the gender pay gap emerges. Male and female nurses are paid the same rates, but you will get a dominance of female-dominated workplaces and the experience is when you have that the wages are lower. It is a recognition that caring work often is not as valued as other types of work.

Mr TANTARI: Your submission suggested additional active steps beyond reinforcing existing minimum requirements. What are the active steps in particular you are alluding to?

Ms Holmes: That is where the equity commissioner now has a big job, being appointed in the Public Service Commission to try and identify where there are barriers, where things are happening structurally in the workforce that have contributed to these traditional differences in the wages that people end up with at the end of their life. It is really trying very hard to start amending and changing that. It would be equal pay for work of equal value; it is looking at the structural issues that are causing these disparities. The Bridgman review recommended that a special commissioner be appointed to start addressing these types of issues. Obviously she would be much more knowledgeable than us on the specifics, but they are the general types of principles that would be looked at—looking at structural reform to ensure work of equal value is getting the same pay.

CHAIR: I do not believe there were any questions taken on notice. Thank you for your attendance here today. The information you have provided will be helpful.

DWYER, Mr Nicholas, Deputy Public Guardian, Office of the Public Guardian

LEWIS, Mr Wade, Assistant Electoral Commissioner, Electoral Commission of Queensland

PRITCHARD, Ms Lisa, Deputy Public Guardian, Office of the Public Guardian

VIDGEN, Mr Pat, Electoral Commissioner, Electoral Commission of Queensland

CHAIR: I note my conflict of interest. Pat and I attended the same high school. I welcome representatives from the Office of the Public Guardian and the Electoral Commission of Queensland. Good morning. Would each group like to make an opening statement before we move to questions?

Mr Dwyer: I would like to thank the committee for the opportunity to appear and present at today's public hearing for the Office of the Public Guardian. OPG is an independent statutory office which protects the rights, interests and wellbeing of adults with impaired decision-making capacity and children and young people in the child protection system. Our community visitor staff visit clients at sites which include NDIS funded disability services, authorised mental health facilities, youth detention and foster care.

OPG strongly supports the policy objective to provide all public sector employees with a modern, simplified and employee focused legislative framework that furthers a commitment to fairness in public administration. Having a fair and equitable employment framework in place for our workplace is essential for OPG to provide high-quality services to our clients. OPG is committed to workforce reform initiatives furthering that goal.

I note for the committee that OPG has a significant proportion of casual staff in our workforce and the proposed changes present unique challenges for us in implementing the reforms. In particular, I refer specifically to the proposal to extend permanent conversion rights to all public sector employees that fall within the scope of the bill. This is relevant to our casual community visitor workforce. Community visitors function as our independent set of eyes and ears for vulnerable children, young people and adults staying at visitable locations and monitor the services being provided at those locations. While the Public Guardian Act allows community visitors to be employed on a full-time, part-time or casual basis, they have always been employed casually to provide the necessary flexibility to deliver the service required.

Under this proposal, OPG casual community visitors will be defined as public sector employees and will become eligible where criteria are met to have their casual employment potentially offered on a permanent basis. Most of our community visitors will have completed two years of continuous service at the time of the proposed commencement of the bill, making it a legislative requirement for reviews of employment status to be undertaken. As a result, should the bill pass in its current form, OPG will need to make decisions about the employment status for approximately 90 staff within a 28-day period of the proposed commencement of the bill.

We value our community visitors and the vital work that they do, and we want to be sure that OPG is in a position to consider each review of employment status in the manner that is procedurally fair and fully considers the individual circumstances and service delivery needs as fulsomely as possible. Should OPG be required to conduct such a high volume of employment status reviews and make a significant number of decisions within the 28-day time frame, this is likely to be placed at risk.

To fully support our community visitors through the implementation process, OPG would welcome a one-off transitional provision extending a time frame for making an employment status decision from 28 days to 90 days. If this time frame is not extended and any decisions are not made within the 28 days, these will be considered deemed refusals to offer employment on a permanent basis. This may result in unnecessary appeals to the Queensland Industrial Relations Commission and, in turn, increase the administrative burden and stress for employees.

I would also like to draw the committee's attention to the unique role of the community visitors as appointees of the Public Guardian and the interrelationship between the provisions of our legislation and those of the bill in terms of their independence of the government systems and services that they oversight. Community visitors are appointed by the Public Guardian as an independent statutory officer under the Public Guardian Act. In including OPG as a public sector entity that falls within the scope of the bill, community visitors would also become public sector employees.

While not a core integrity agency within the meaning outlined in the Coaldrake review, OPG has clear oversight and integrity functions in relation to government services. In introducing the bill to capture community visitors as public sector employees, it is assumed that the government has

satisfied itself that community visitors will maintain a sufficient level of independence in light of the changed employment status. It remains unclear whether being appointed by the Public Guardian, while also defined as a public sector employee, will influence client confidence in the independent nature and functions of the community visitor. This may be a matter that the committee wishes to consider further.

Mr Vidgen: Thank you for the invitation to attend the hearing into the Public Sector Bill 2022. I am the Electoral Commissioner of Queensland. I am accompanied by Mr Wade Lewis, the Assistant Electoral Commissioner. Section 7 of the Electoral Act provides that a statutory function of the ECQ is to provide information and advice on electoral matters to the Legislative Assembly. It is on that basis the ECQ provided a submission and we appear here today.

The ECQ completely supports accountability and transparency. The ECQ is currently subject to annual reporting requirements, appearances before the estimates committee, statutory reporting and internal government processes. However, the ECQ is concerned that the proposed review framework, as it would apply to the commission, has unforeseen risks and consequences which could have implications for its independence or independent operation. The reasons for this are set out in the submission to the committee's inquiry, but I briefly reiterate the observations we made and the reasons for raising them.

As you are aware, the ECQ performs a critical and unique function within Queensland's system of government by delivering fair and transparent elections, regulating the operations of electoral participants and ensuring equitable representation across electoral boundaries, both state and local. In order to perform these functions effectively, it is important the ECQ has operational independence to administer, regulate and enforce electoral laws for all electoral participants, impartially and without fear or favour.

I accept and welcome the fact the ECQ must operate within a system of public sector accountability and there must be appropriate checks and balances to the exercise of these powers. However, the mechanisms, such as the public sector review function established in law, must be proportionate and include appropriate safeguards against potential misuse or perceived misuse in the present and in the future. The ECQ's observation is that this review function, as presently drafted, may have consequences on its operation by providing the executive arm of government with potentially intrusive powers to review or access sensitive and confidential information collected in the course of performing our duties. This would include information the ECQ collects in regulating political parties, candidates and their donors.

The ability of the executive to initiate a review at any time also raises concerns with regard to the real or perceived motivation for the timing of a review. An example of this would be a review initiated by an incoming government immediately following an election which could give rise to access to the electoral material of stakeholders, including candidates and political parties. I would think this possibility would be of concern to all stakeholders.

As I stated, the ECQ welcomes scrutiny of its operations and under my leadership we have demonstrated our willingness to engage constructively and cooperatively with appropriate reviews of the ECQ's performance through processes such as parliamentary committee inquiries. The ECQ's preference would be a regular review function such as periodic strategic reviews or parliamentary committee oversight—similar to arrangements that govern the operation of bodies the bill excludes from public sector reviews—be established for the ECQ.

I acknowledge the ECQ was consulted during the development of the bill, and I thank the departments for considering this feedback through that process. I also note the bill now includes provisions that require consultation with the subject of review on the terms of reference. I consider that it is important that ECQ puts on record its observations about the provisions of the bill so that they can be considered by the committee as part of its examination of the bill. Thank you for opportunity to do so and we welcome any questions.

Mr STEVENS: For the benefit of the thousands of viewers who have tuned in today and for Hansard purposes, if you have a copy of your submission, Mr Vidgen, I wonder if you could—because the question I have will follow on from this—go to the third paragraph starting with 'however' and reiterate that for me. I will follow up with a question.

Mr Vidgen: You wish me to read that paragraph?

Mr STEVENS: Yes, please.

Mr Vidgen: It reads—

However, I wish to raise concerns about the application of the public sector review function to the ECQ, under Chapter 6, Part 8 of the bill. The ECQ supports and welcomes appropriate external scrutiny of its operations, and notes that provisions for administrative reviews currently exist under the Public Service Act 2008. However, the review powers under the bill are significantly more intrusive than current provisions, and, in certain circumstances, granting powers to the Minister or the Public Sector Governance Council to commence a public sector review of the ECQ could present a real or perceived threat to the ECQ's independence.

Mr STEVENS: Thank you, Mr Vidgen. You mentioned earlier an example of a review that may give rise to impropriety in terms of access to information that you have, say, after an election or something like that. Can you explain to me how you would see an independent body keep its independence if it is set up by a government body? You obviously agree to having independent reviews. Who would you suggest would be an independent body that could review the Electoral Commission without fear or favour?

Mr Vidgen: I understand the question. I think there are two potential models which could exist separately or could coexist. The first one is the model which currently exists in legislation for the Queensland Audit Office, the Integrity Commissioner, the Crime and Corruption Commission, the Ombudsman and the Office of Information Commissioner whereby their statutes require a strategic review on a periodic basis. That is, I think every five years there is an independent reviewer appointed, following the provisions of their act, for a review of those offices. My belief is: if the Electoral Commission were subject to a similar strategic review mechanism then that would provide confidence for all stakeholders in terms of the conduct of that review and the commission's cooperation with that review.

The other model which could exist or coexist would be—notwithstanding the commission appears before the estimates committee on an annual basis—if there were some annual oversight by a parliamentary committee in terms of the operations of the commission as well. That could be another model. The Commonwealth have a standing electoral review committee which oversees the Australian Electoral Commission. That is for both houses. Something along those lines could also be applicable.

Mr STEVENS: Who appoints that Commonwealth committee?

Mr Vidgen: My understanding is that it is a joint standing committee of both the House of Representatives and the Senate. There would be procedures in place for the relevant political parties and Independents to nominate membership to that committee.

CHAIR: Noting that we have not had any concerns about the provision of administrative reviews that exist under the Public Service Act, you seem to be bring forward the view that a future executive could use it for political purposes to undermine opponents within the competitive system. If we as the participants in that system do not share those fears about a future executive, is it legitimate that we not view it as the concern you had?

Mr Vidgen: I have a couple of comments. Firstly, I reiterate my opening statement. I have an obligation to advise the Legislative Assembly on matters relating to the electoral system under section 7 of the act. As I said, the reason we put in a submission and we are here today is to point out concerns we have identified in the current bill. With regard to the provisions which currently exist in the Public Service Act, the commission, as far as I am aware, has not been subject to any reviews under that act. Whether or not those provisions are appropriate is another thing. I would argue that just because they exist in the current act does not necessarily mean that it is appropriate that they should remain or should be in an act going forward.

In regard to our concerns, what we have attempted to highlight is what we believe is the unforeseen risk and unforeseen consequences of putting the commission in a review framework which, for all intents and purposes, is suitable for a department and other public sector agencies but does not sit comfortably with the commission, not because we are a statutory body but because of the nature of the work that we do which we believe makes it unsuitable for that framework. I certainly do not want to raise the concern that we believe that it deliberately causes mischief, but we believe that there is a potential through a lack of protections within that framework, because it is a framework suited to another group of entities, to cause gaps, and if those gaps were exploited it poses concerns to us that our stakeholders within the electoral system—parties, candidates, donors and the like—are at risk in terms of the fact that they deal with us on a confidential basis.

Since the local government elections in 2020 we have issued over 200 penalty infringement notices for people infringing upon their obligations. We go to court quite regularly in terms of certain matters. Our concern and our stakeholders' concern would be if there is any potential extension of the ability to access information which is before us and provided to us on a confidential basis for exercising electoral purposes.

Mr PURDIE: Mr Vidgen, I appreciate that you might not have this information at your fingertips because it is not referred to here. You mentioned before what they do federally with the standing committees. Do you know what they do in other states? I appreciate you would not have come here armed with this information. You do not necessarily have to take it on notice. I was just curious as to how other states are managed.

CHAIR: With respect, having worked federally and in reading their reports, joint standing committees do not really have the oversight of the kinds of things that public sector reviews or, indeed, the Public Service Act administrative reviews do, unless they are hiding it well.

Mr Vidgen: The assistant commissioner might provide a bit more information on that. I should say that prior to my employment with the commission there was an administrative review done of the Electoral Commission back in 2016. I think that was done not under a head of power at the time but administratively. Obviously the commission participated in the parliamentary inquiry following the 2020 local government elections as well. It is not as if the commission does not have accountability and its operation is not subject to external review at the moment. It does and it is. The concern we raise with this particular framework is that it might have unintended consequences. In terms of your question, I will ask the assistant commissioner to respond.

Mr PURDIE: Mr Lewis, if you do not know, it is something we can do some research on.

Mr Lewis: We can offer a couple of observations. In New South Wales there is another joint standing committee on electoral matters. The New South Wales Electoral Commission again appears and regularly reports to that committee. In Victoria there is also an electoral matters committee. In those two jurisdictions obviously there are like commissions—similar size and functions to us. They do appear before and report through those either standing committees or electoral matters committees. They are the two main examples that we can provide that are similar to the federal sphere.

CHAIR: We obviously cannot have a joint standing committee here by definition. If a committee were to be formed exclusively for the purpose to do administrative reviews and to have those sorts of powers where they can reach in and look at documents, isn't it better to have it done through a Westminster style Public Service that has some principles of Public Service rather than an actively political committee that may indeed have agendas that are about competitive political balance? Not that this committee has that! I mean some future committee.

Mr Vidgen: I think there are two relevant points here. In regard to a strategic review which would be embedded in legislation, that would provide the in-depth analysis of an organisation and its performance, being the Electoral Commission if we were subject to that. My understanding of how the joint standing committee works and how the other parliamentary committees work is really on the commission's administration of the act in terms of how they perform their statutory functions and if there are any concerns the committee has in terms of how they perform those functions.

At the moment the Australian Electoral Commission is appearing before the joint standing committee and it is being questioned on a whole range of operational matters in terms of how it performed its functions under its act. While they are consistent and parallel, they are not quite the same thing. Our suggestion would be that, if the intention is for there to be the in-depth review of the organisation, it would best be performed probably through a strategic review function. If there were a desire of the parliament just to question the commission in terms of how we are performing our electoral obligations then that would be something more akin to what a parliamentary committee would have interest in.

CHAIR: There are different levels of commissions and statutory bodies. In looking at the act, I note that when you seek a leave of absence the minister has the direct ability to grant you a leave of absence or not. There is that level of detail, where there is direct departmental and executive oversight. You want to further change that principle which has served us fairly well to not have oversight within the administrative reviews that currently exist under the Public Service Act.

Mr Vidgen: No. To be clear, I would not propose that the current arrangements change in that regard. My accountability and responsibility is to the minister responsible for the Electoral Act, who is the Attorney-General. I report to the Attorney-General on the administration of the Electoral Act regularly. The current statutory requirements and administrative relationships that I have with the Attorney-General and the department of justice should remain. We are subject to the budget process through Queensland Treasury, like other organisations, and that should remain as well. What we are suggesting here is: given the Public Sector Bill has now introduced wide-reaching and we believe intrusive powers which perhaps inadvertently capture us, if there were to be a desire for that level of review it could be done within a safer framework.

Mr CRANDON: In response to the ECQ's request for exemption from the public sector review, the department advised the committee that this would result in a different treatment for some distributed integrity bodies? What is your view on that? What is your position on that response?

Mr Vidgen: My view is that the role the Electoral Commission performs is a little bit different to perhaps other statutory bodies insofar as we are dealing with candidates, registered political parties and other stakeholders in the electoral system who ultimately contribute to the filling of quadrennial elections both at a local government level and at a state government level. Certainly those stakeholders need trust in us in terms of how we deal with them individually and how we deal with stakeholders collectively—that it is done in a fair and transparent manner. We deal with very sensitive issues. We conduct very sensitive meetings. As I said, we are subject to judicial matters on an ongoing basis and regularly.

Given that we are involved in those matters and that, ultimately, the work that we do leads to the declaration of electoral districts and the determination of local government mayor outcomes and councillor outcomes, there needs to be complete trust in the commission in terms of how we do that work. The concern we have raised is if there is the potential for some sort of interference with that within a framework which does not provide necessary protections. We would argue that, given the nature of what other statutory bodies do, the risk is not the same.

CHAIR: I thank the Office of the Public Guardian and the Electoral Commission of Queensland for your attendance here today, for answering our questions and for your submissions. I note that nothing was taken on notice. That concludes our public hearing.

The committee adjourned at 11.37 am.