



# ***INFRASTRUCTURE, PLANNING AND NATURAL RESOURCES COMMITTEE***

## **Members present:**

Mr J Pearce MP (Chair)  
Mr GJ Butcher MP  
Mr MJ Hart MP  
Mr S Knuth MP  
Mrs BL Lauga MP  
Mr LL Millar MP

## **Staff present:**

Ms E Pasley (Research Director)  
Ms M Telford (Principal Research Officer)  
Ms M Westcott (Principal Research Officer)

## **PUBLIC HEARING—INQUIRY INTO THE LOCAL GOVERNMENT AND OTHER LEGISLATION AMENDMENT BILL 2015**

### **TRANSCRIPT OF PROCEEDINGS**

**WEDNESDAY, 20 MAY 2015**

**Brisbane**

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### Committee met at 9.03 am

**CHAIR:** Good morning and welcome. I declare open the public hearing for the committee's inquiry into the Local Government and Other Legislation Amendment Bill 2015. I thank you for your attendance here today. I would like to introduce the members of the Infrastructure, Planning and Natural Resources Committee. I am Jim Pearce, the member for Mirani and the chair of the committee. Other committee members are: Mr Michael Hart, the deputy chair and member for Burleigh; Mr Glenn Butcher, the member for Gladstone; Mr Shane Knuth, the member for Dalrymple, will be present shortly; Ms Brittany Lauga, the member for Keppel; and Mr Lachlan Millar, the member for Gregory.

The Parliament of Queensland Act 2001 requires the committee to examine the bill to consider the policy to be given effect by the bill, its application and fundamental legislative principles. Today's public hearing will form part of the committee's examination of the bill. The hearing is being broadcast live via the Parliamentary Service's website and is being transcribed by Hansard. Before we commence, I ask that mobile devices be switched off or put on silent mode. For the benefit of Hansard, I ask that witnesses state their name and position when they first speak and to speak clearly into the microphone. This hearing is a formal committee proceeding. The guide for appearing as a witness before a committee has been provided to those appearing today. The committee will observe schedule 2 of the standing orders. I now welcome representatives from the Electoral Commission of Queensland.

### **McGRAW, Mr Peter, Assistant Director Elections, Operations and Planning, Electoral Commission Queensland**

### **TIERNAN, Mr Dermot, Assistant Electoral Commissioner, Electoral Commission Queensland**

**CHAIR:** Would you like to make a brief opening statement?

**Mr Tiernan:** First of all, thank you very much for inviting us to appear here today. I have two colleagues with me. You have met Peter McGraw, and Carrick Brough is our principal research and communications officer. For clarity, I will refer to the Electoral Commission of Queensland as either the ECQ or the commission, so please bear with me.

I have prepared a brief statement to talk about the proposed amendment to remove the current provisions stipulating that the council chief executive officer is to be the returning officer at the quadrennial local government elections. The question of whether the CEO should be the returning officer for an election is a matter for government and I cannot debate the merits of the proposal. I do need to advise the committee that the ECQ has never actually conducted a quadrennial electoral event according to the current statutory arrangements. However, we are confident that if the bill remains as it is we could make it work.

The interplay between section 8 of the Local Government Electoral Act, which places responsibility for the conduct of the quadrennial elections on the Electoral Commission, and section 9(1), which states that the CEO of a local government is to be the returning officer, raises some complex managerial and administrative challenges, though. The Electoral Commissioner is responsible under the act for the conduct of local government elections but is reliant on a person outside of his or her direct employment to actually run the operation on the ground. We are confident at ECQ that we can make this work and, indeed, there may well be no-one better placed to run the election in certain circumstances, particularly in small rural councils where the numbers of electors are sometimes quite small. Whether this is the case for larger centres such as Brisbane City, Gold Coast City or the Sunshine Coast is a question each CEO must ask herself or himself. It is a significant burden to take on whilst simultaneously running what is a large and complex service provision organisation.

Although local government election dates are set, the ECQ must be ever ready to provide electoral services, as local government by-elections are more common than most may acknowledge. So far this financial year the ECQ has run four local government by-elections, the Brisbane

most recent being the mayoral run-off in Gympie, which was run in tandem with the state general election. In 2013-14 the ECQ ran four local government elections stemming from the deamalgamation process and nine local government by-elections. The commission is able to remain ever ready to do this, firstly by employing a team of people with expertise in local government electoral arrangements—the cost for this team is covered by an annual fee charged to each council according to a formula provided to ECQ by the department of local government; and, secondly, through a fee-for-service arrangement to conduct quadrennials, by-elections and fresh elections. Importantly, this funding is for electoral services only. It does not cover the cost associated with the functions of the change commission, which considers the local government electoral arrangements and internal and external boundary reviews for local government areas. Those reviews ensure that all divided council divisions remain in quota and protect the one vote, one value policy. The costs for the change commission are borne solely by the ECQ. The ECQ provides services on a fee-for-service basis to local government for quads, by-elections and fresh elections.

Turning to the administration of local government elections, each local government election involves a mayoral and a councillor poll. These elections have complexities that separate them from state electoral events, including: council size—enrolment varies across the state's 77 councils from 151 electors in Mapoon to over 720,000 in Brisbane City; the council structure—it may be either divided or undivided; the voting system—first past the post versus optional preferential; voting methodology—attendance versus full postal; the number of candidates—ECQ expects in excess of 1,500 candidates to contest next year's local government elections; and the number of elections—because of the divided, undivided and the mayoral ballots, ECQ is planning to run 348 individual elections next year. These complexities require intricate knowledge of the Local Government Act, the City of Brisbane Act and the Local Government Electoral Act. They also require an ability to plan and coordinate the various projects that go into producing a successful local government electoral event.

Since its inception in 2009, the local government election unit within Peter's team has been responsible for leading the conduct of 20 by-elections, four deamalgamation polls and four new elections for councils. As previously advised, in accordance with section 202 of the Local Government Electoral Act, the cost of the administration and conduct of local government elections and by-elections is to be recovered from councils. For election planning and readiness, the cost of the local government election unit incurred by ECQ is apportioned across all local government areas, as I said, according to the formula provided by the department of local government. Since 2012-13 at ECQ we have calculated those annual charges on a June-July basis and issued an invoice in April so as to better align with council budgeting processes.

In relation to planning for next year, we are well advanced in planning for the 19 March 2016 local government elections. There are two matters outstanding that prevent finalisation of planning, though. One is postal versus attendance ballots. Not all decisions on this have been determined at this time. The other is returning officers. Although we remain unsure as to the position of returning officers for all 77 councils, several of the larger councils have already advised that they wish the responsibilities of returning officer to be resourced by ECQ. We are cognisant of the cost burden for councils so we have written to all CEOs and are in the process of contacting them directly to stipulate their requirements for election. We are looking to utilise, wherever possible, council real estate for returning officers' office space, prepoll and polling booths. We are also working with council on the number of and ideal location of polling booths. These measures will save significant amounts of time and planning and, more significantly, significant sums of money during the period leading up to and during the running of the event.

There are some areas where councils are not able to realise savings due to the nature of the electoral process and these include things like transport of materials, call centre and email inquiry costs, printing of electoral material such as ballot papers and certified lists, statutory advertising requirements, scanning of certified lists after polling day and some information technology charges. The commission provides each RO with what we call an 'office in a box' that involves, among other things, computer equipment that is preprogrammed to link to the commission's strategic election management system. This enables training to take place, staffing to be sourced and, most importantly, communication of results and verification.

I will talk a little bit about local government elections and election unit activities, because we have had some inquiries recently. The LGAQ advised us that CEO turnover in councils across the state since 2012 is somewhere around 60 per cent. As a result, LGAQ and ECQ have received some questions about the invoice for local government election unit services provided by ECQ. I

can advise that the following are functions of the team and that most of these matters take place regardless of whether there is an election or by-election happening at any time. They include: input into deliberations by the department of local government on policy and legislative matters; the administration of the Local Government Electoral Act and its application; election preparedness; election IT system development; engagement with council on election matters; returning officer recruitment and training; operational support for returning officers; analysis and review of election administration—how we went, what can be improved et cetera; planning, rollout and implementation of alternative solutions to election issues; complaint management; polling official recruitment and training; provision of an election telephone call centre with specific information for individual and local government areas; risk assessment for election planning and delivery; election night results monitoring and support; media inquiries; provision of candidate information, importantly, and support for candidates; polling place management; material storage; and contract management for outsourced services.

In summary, it is the core business of the commission to conduct elections, including local government elections, and to this end we remain—have to remain—ever ready and prepared to do so. We anticipate that while the current legislation may present potential challenges for quadrennial elections, mainly focused on managerial control and resource provision, we do not see these as insurmountable. In closing, it is my view that the commission is progressing well towards successful execution of the upcoming quadrennial elections on 19 March next year. Thank you.

**CHAIR:** Thank you. That was an excellent rundown for us. It helps us understand a few things. We have a few questions for you. The explanatory notes on page 4 state that the ECQ supports the bill. Can you please detail why the ECQ supports the bill?

**Mr Tiernan:** Support of the bill would mainly relate to that administrative oversight issue I talked about where if the CEO is the returning officer for an election but is not employed by the Electoral Commissioner then the Electoral Commissioner has responsibility for the running of the event but no direct control over the person running the event. That is really the crux of it for us.

**Mr HART:** Mr Tiernan, in your opening statement I think you said that you really could not comment about the bill itself; that was government policy. How is it, then, that the ECQ actually supports the bill? Were you asked whether you support the bill?

**Mr Tiernan:** Not personally, no, Mr Hart. But we do have consultations with the department of local government, as I say, on policy and legislative matters and we have pointed out to the department of local government for some considerable time now the dilemma this RO/CEO position puts us in.

**Mr HART:** The Gympie by-election that you talked about: who was the returning officer for that?

**Mr McGraw:** The returning officer for the Gympie by-election was our state returning officer at the time because the events were run in conjunction. We utilised his services for not only the Gympie mayoral by-election but also the state election for Gympie district.

**Mr HART:** Was that in accordance with the legislation as it stood then?

**Mr McGraw:** The legislation had changed to make the CEO the RO, but they had already written to us and withdrawn from being the returning officer for that by-election.

**Mr HART:** The department has told us that you are talking to local governments about reducing their costs. I think you have already outlined a fair few areas in which you are doing that. Who are you talking to? Are you talking to individual councils or are you talking to the LGAQ? When were those discussions taking place? Do you have any information that you can give us?

**Mr Tiernan:** We are talking to the LGAQ but, as I said, we have written to all councils and we are contacting those councils—the CEO's office. CEOs are busy people so we are trying to get a key contact that we can have daily contact back and forth with if need be. It is not always easy, but that is the approach we are taking. We want a one-on-one contact so that we can get decisions made quickly and then move on.

**Mr HART:** You said that you were talking to councils about using their own facilities. If a council uses its own library hall, does that reduce the cost to that council? How are the bills handled? Do they send you an invoice for the use of their hall and then you invoice them back again for the cost of it? How has that been handled?

**Mr Tiernan:** In our discussions with them we have asked if we can avoid the money-go-round because if they invoice us we are just going to invoice them back and we will incur banking and other charges unnecessarily. So, where we use council facilities it will be gratis.

**Mr HART:** Is there any mark-up added to actual costs or are they actual costs that you are charging councils for these services?

**Mr Tiernan:** No, we do not gild the lily. In 2012 we issued indicative costs to councils and then we delivered the actual invoice which across-the-board I think came in significantly lower.

**Mr HART:** We heard from Logan City Council that it managed to negotiate its costs down a long way. How did that come about?

**Mr Tiernan:** I might have to take that one on notice because I might be speculating. But if I were to speculate, I would speculate that we provided an initial invoice based on a full mayoral run-off and all contested elections within divisions. After nominations closed, that was not the case so the event did not come in anywhere near where we had budgeted. Mr Chair, if it is okay, I will take that on notice and provide some further detail.

**CHAIR:** Sure.

**Mr HART:** Can you also tell us whether any other councils fell into the same category?

**Mr Tiernan:** I will do.

**CHAIR:** When you are communicating with councils with regard to costs, is there any commonality across the whole of the state with regard to local governments and the fees they are charged or are they a mishmash—

**Mr McGraw:** We are doing estimates for them at the moment. It depends if they go full postal or they go attendance ballot. It is also reliant on the size of the council. The smaller the council, usually per capita the price goes up because we have other infrastructure like call centres, ballot papers and those things. They only pay for the size of the council but, unfortunately, the smaller the council, the higher the unit cost per vote. That is how it sort of works out.

**CHAIR:** But the formula is the same?

**Mr McGraw:** Basically the same, yes. We come up with the same charge for everybody, but the lower the numbers the higher the price, unfortunately.

**CHAIR:** I understand. How does running a local government election differ from running a state election?

**Mr McGraw:** Mr Tiernan mentioned some of the issues that we have. Obviously a state electoral event runs for 89 districts and the population is about the same within each district. There are rural challenges for state elections. Out west and up north we have logistical problems and those types of things, but generally it is pretty much the same in every district. Local government has its own challenges with the size of the council. Mapoon has about 151 people in it and Brisbane City Council has 700,000-odd people in it. If they go full postal as opposed to attendance we have issues with Australia Post. As everyone realises, the cost of postage is going up. We have been told by Australia Post that next year it will be \$1 for a letter to go out by priority and there would be a return as well. So there are costs involved with Australia Post.

We have optional preferential voting for divided councils and mayor as well as first-past-the-post voting for undivided councils. So there are two different voting systems. Obviously the cost for ballot papers doubles. We have to print mayoral ballot papers and councillor ballot papers. The size of the ballot paper causes some issues for us. Sometimes we get up to 30 to 40 candidates on a ballot paper, and the size and the printing costs obviously increase as opposed to a state election, but there is no absent voting outside your local government area. That poses some problems because people naturally think in federal and state elections they can vote at any polling booth on polling day. In a local government, unfortunately, you have to go back to your local government area to vote.

There is also ordinary absent voting, which did not cause issues for us last time but allowed people to vote outside their division as an ordinary vote which increased our certified list production. I can give you the example of Brisbane City Council, which had about 500 polling booths. Because ordinary absent voting was done at every single polling booth, we had to add 26 certified lists for every polling booth within Brisbane City. Normally a Brisbane City Council election, I am approximating, would have maybe 4,000 or 5,000 certified lists. It went up to about 13,000 to 14,000 certified lists.

The running of local government elections as opposed to state elections is, in my mind, chalk and cheese. There are lots of idiosyncrasies in local government that we need to get across and make sure that the general public is advised of and that the candidates know. I think we had about 400 candidates for the state election. We go up to over 1,500 for a local government election. Generally the candidates are party based only within Brisbane. Once you get outside Brisbane they are Independent candidates, and the lack of knowledge for candidates poses some difficulty. Supporting those people and trying to get them through with how-to-vote cards, advertising and the things they need to know to stay within the rules of the Local Government Electoral Act without getting themselves into trouble has its own issues as well.

**Mrs LAUGA:** The four local by-elections that you talked about and the deamalgamation polls were held and run by the CEOs of those councils?

**Mr McGraw:** No, we ran the polls. We used our own returning officers and then the new elections in Noosa, Mareeba and the other two areas were run by the same returning officers that we used for the polling.

**Mrs LAUGA:** So there has not been a local government election since the introduction of the current legislation?

**Mr McGraw:** That is correct.

**Mr BUTCHER:** How do you go about selecting your returning officers?

**Mr McGraw:** We have a recruitment process. We have 89 state returning officers. What we have done for local governments since we have taken over is that in 2008 and 2012 we have generally tried to use our own state returning officers. Where we have had difficulties in the smaller councils we have gone through QGAP and magistrates courts. Generally our state returning officers came out of the courts area because previous to the Electoral Commission's inception the clerk of the court was the returning officer. Then as the ECQ came into being in 1992 a lot of those guys in the courts rolled into state returning officers. There are people who have been in the Public Service who have retired.

For the local government elections we used some CEOs in 2012. I think there were seven in total. We also went through an agency, Local Government Managers Australia, which provided a couple of retired CEOs who did two other local council elections for us. We try to recruit as best we can. We speak to council at the time. In 2012 we spoke to all the councils where we had difficulty, and they either provided someone from the council or the CEO. In Indigenous communities especially we used some justice groups and public servants who work in those groups and we recruited those people.

**Mrs LAUGA:** Did the ECQ have a position on the introduction of the current legislation when it was introduced?

**Mr Tiernan:** I could not answer that. I would have to go back to the second reading speech or the explanatory notes, but I would repeat we try not to get involved in policy debates.

**Mr KNUTH:** You were talking about a 60 per cent turnover of CEOs. I am trying to get an understanding of where you are coming from in that statement.

**Mr Tiernan:** That was a figure given to us by the LGAQ. What it means is that around 60 per cent of the chief executives of council across the state have little experience—well, no experience—with a quadrennial election. They may have experience with a by-election. They have little experience with us. Some of them, when they receive our annual invoice, say, 'What is this about?' because it is all new. So we have a bit of work ahead of us in communicating what we do and the value of what we do to those individuals.

**Mr KNUTH:** Have you heard of any council elections or by-elections where there has been concern in regard to the relationship between the mayor and the council or the CEOs in regard to the running of that election?

**Mr McGraw:** Not to our knowledge. As I mentioned, we used seven CEOs in 2012. We had no issues with those people running those elections and we did not receive any complaints in those areas. Prior to that, we ran it in 2008. Again, we used a lot of CEOs in 2008 because that was an initial run for us. Again, we did not have any issues with those CEOs but previous to that, in 2004, I would not know unfortunately, sorry.

**Mr KNUTH:** In regard to the cost factor, do you believe that you would be able to compete in regard to reducing costs in the same way as councils if they ran those elections?

**Mr Tiernan:** I do. We have materials. We have all the basic infrastructure already there. We have relationships with transport companies and we have our own call centre ready to go. All of these things would have to be duplicated at the council level. Given that, if council asks for a full postal vote and that was agreed to, that is a different kettle of fish.

**Mr MILLAR:** You mentioned in your opening statement that your concern was that obviously the commission runs the elections but you are relying on the CEO to be the returning officer; you are not employing the returning officer. What are some of the issues you have around that? Can you explain, in layman's terms, why that is an issue? In Gregory, where I come from, which includes those western councils, you would have to rely on the CEOs in some of those councils anyway.

**Mr Tiernan:** You are absolutely correct with the last comment. We do have to rely on some of those CEOs, as I mentioned that in my opening statement. There are two issues we are concerned with in relying on CEOs. One is that they are incredibly busy people. The returning officer's job is a full-time job from the day the election starts until the results are declared. That can be a six-week period. To be honest, it is a bit of a thankless job sometimes, particularly when elections are close. We need these people to be available pretty much all hours. We need them focused. We need them to attend training so that we do not get data entry errors with the results or things like that. We need them to be accountable for the staff they employ so that we do not get complaints about discrimination, and so that polling officials actually know what they are doing. We are very dependent on these returning officers. If they do not care or if they are too busy doing something else, as a commission we would have to take measures to ensure the event was not compromised in some way or viewed as being compromised. That is the important thing. Perception is very important.

**Mr MILLAR:** Do you have any instances where this has happened, where there have been some major issues in regard to the CEO being the returning officer?

**Mr Tiernan:** No. We do not, Mr Millar, because, as I said, we have not actually run the quadrennials yet according to the act as it stands.

**Mr BUTCHER:** I think you said there were six or seven councils where the CEO was the returning officer. Have you taken any steps since the last election where you were trying to find people who can fill that role rather than using CEOs?

**Mr McGraw:** We have just had the state event, so we have just started the planning phase for local government. We have spoken to some of the previous returning officers that we have used in some of the local council areas. We understand that in the legislation the CEO is the RO. But we approached them on the premise that if the CEO decided not to take on the role then we may use them. But at the moment we are sitting and waiting to see what happens. We have to go through a recruitment process. We did have a conversation with the LGAQ a few weeks ago. They spoke to us about trying to use senior people in Public Service roles, whether they are in those communities or not. While I say we have done some recruitment, we have not gone over the top yet. We will wait to see what happens with the legislation for a start, but we are looking to recruit. We have taken on board what the LGAQ has mentioned and have tried to look for senior people in those areas that can fulfil those roles.

Most of the areas where we use the CEOs are Indigenous councils, where it is very difficult to find a courthouse or a QCAT agency with staff that we could utilise. So we did go to the CEO. We did have some conversations with those CEOs at the time about whether they wanted to do it or they could refer us to somebody in the community that the community trusted. I think that is one of the issues with the Indigenous councils—to find a trustworthy person in that community that the whole community trusts. So we used the CEO where we had to or, like I mentioned, we used some of those community officers in those communities.

**Mr HART:** How many councils have you spoken to about the legislation as it exists and about CEOs being the returning officers? Can you give us a percentage?

**Mr McGraw:** We have written to every single local government council CEO. We have had some response. I cannot give you off the top of my head how many people have responded to that. We are doing a follow-up on Friday with a secondary email to say, 'We have written to you and we are looking for a contact person within the local council.'

**Mr HART:** You have written to every council in Queensland and suggested to them that their CEO needs to be a returning officer?

**Mr McGraw:** No. We have written to them and opened up a line of communication to say that we wanted to work in with councils as far as the elections are concerned. We have asked them to let us know if they want to opt out. Then we can start to look for recruitment in those areas where

we need to. It was quite an open, friendly letter from our commissioner to open up that line of communication to say that we want to cooperate. We mentioned in that letter, as Dermot mentioned, using council facilities where we could. We kept costs in mind. That was mentioned in the letter as well, that we were conscious of the cost to local council and there are initiatives that we want to put into place to try to reduce the costs for them. But we also need to keep the elector in mind. That was our focus as well, to provide a cost-effective election that also provides a good service to our electors and the candidates in those elections.

**Mr HART:** How many of those councils have come back to you and said, 'We don't want our CEO being the returning officer because he may have a conflict of interest?'

**Mr McGraw:** I do not have an exact number. We can find that number out and give it to you. It is ongoing. We receive replies every day. I can tell you that the Brisbane City Council has come back, as has the Gold Coast, the Sunshine Coast, Moreton Bay and Cairns—so some of the larger councils. Some of the smaller councils have come back as well such as some of the Indigenous councils. Pormpuraaw springs to mind, and we have had a couple of other councils come back.

**Mr HART:** Because of a conflict of interest or for other reasons?

**Mr McGraw:** No. We have never asked them why they wanted to opt out. It has always been that they can opt in or opt out and they have said they have opted out. We have not asked for the reason behind that.

**CHAIR:** In some cases you may have to appoint the returning officer. Are you getting any feedback with regard to why a local government may want the CEO to do the returning officer's job other than cost?

**Mr McGraw:** We have had some replies but they have not given a reason. They have not come back to us and said, 'I'm going to be the returning officer because I can return it cheaper than the Electoral Commission.' So we have not had any replies like that.

**CHAIR:** What are you saying there—that most of them say they are quite happy to have the ECQ do it?

**Mr McGraw:** In the replies we have had so far from the larger places where the CEO has opted out, as I mentioned, there has been no reason they opted out. They have just handed it over to us. Some of the smaller places have come back as well and opted out—but, again, they have given no reason. We do not seek a reason they have opted out. We just take that on board and we will start communication with those councils. If we need to recruit within that area for a returning officer, we will go through those steps.

**CHAIR:** What sort of guidance would the ECQ give to a local government when they have decided to go with the CEO as the returning officer with regard to the potential conflict of interest? Do you give them any guidance? Do you sit down and talk to them?

**Mr McGraw:** With all of our returning officers we try to do face-to-face training. Obviously we are conscious of the cost. If we bring CEOs to Brisbane there is a cost incurred to council rather than if we do the training regionally. We train all our returning officers. At the state level and in local government in 2012 we did face-to-face training with everybody. They get a returning officer manual. We do talk to them, especially the CEOs, about impartiality. They work for the ECQ when they are the returning officer. They may have a position with council but they need to be impartial. We encourage the scrutiny process and obviously transparency, so candidates are allowed to have scrutineers at any time through the process, whether they are issuing ballot papers or counting or doing scrutiny on declaration envelopes. So that is stipulated in the returning officer manual. We go over that at training and we really hammer the impartiality of that returning officer and to get a result that the people have voted for.

**CHAIR:** Over the years people who have been around a bit, like myself—age wise, I mean—hear complaints coming from communities, and different communities at different times, such as, 'It's rigged,' 'There's a conflict of interest there,' 'They're good mates with the local councillor,' or things like that. As the ECQ, with regard to the way that you go about carrying out these elections or supervising an election where the local CEO has been in, can you be confident that they are held with integrity in the local area?

**Mr Tiernan:** Yes, Mr Chairman, we are. The commission is actually responsible for the integrity of the election. When results are declared, the ECQ has to be confident that due process has been followed, there has been integrity and the returning officer has done everything we have expected of that person to make sure that the result cannot be questioned.

**Mr HART:** Under the laws as they stand now, if you are not happy with the performance of a CEO or with what a CEO is doing, are you able to remove them from that role?



**Mr McGraw:** Yes, it is in the act that we can remove the CEO.

**Mr HART:** So there's probably no reason to change this, then?

**Mr Tiernan:** I think that is a policy question.

**Mrs LAUGA:** When you have a returning officer who is employed by the ECQ, what kind of recruitment process do you go through in the screening of candidates for returning officer positions? Is conflict something that is investigated as part of that recruitment process?

**Mr McGraw:** Our returning officers sign an employment agreement with us to say that they are politically neutral and they have to declare any alliances that they have had previously. We do get them to sign that document. Obviously, I do not think we can do any real checks on people, any background checks, but we ensure they sign that neutrality document with us.

**Mrs LAUGA:** Do you know if CEOs would be required to sign the same document?

**Mr McGraw:** If the CEO is a returning officer, we will ask them to sign the same document, so if there is anything that they need to declare they will need to declare it with us. If it is deemed that they are not suitable, I am sure that the commissioner would take steps to have that person removed as the returning officer and we would employ somebody else.

**Mrs LAUGA:** But do they have to ensure there is political neutrality there?

**Mr McGraw:** Yes. I think the new legislation talks about the CEO being neutral and if they are not they can disqualify themselves or exclude themselves from being the returning officer.

**Mr KNUTH:** I have two quick questions. Is the CEO paid by the Electoral Commission during polling? Is he still paid by the council and also the Electoral Commission? How does it work? Does he have to take leave?

**Mr McGraw:** In 2012, as I mentioned, we recruited CEOs as returning officers and we paid those people. Obviously, the returning officer fee in smaller councils is minimal. We do not make them take leave from their job, so they are obviously getting paid as a CEO as well, but we also pay them a returning officer fee in those instances.

**Mr KNUTH:** Have you heard any complaints about the inconsistency of the voting formulation? Have you heard any complaints with regard to first past the post for divided councils with mayors to optional preferential when it comes to undivided, and council positions being first past the post? Have you heard any concerns about that?

**Mr McGraw:** No. With the two voting systems, obviously mayors have gone from first past the post in divided councils to optional preferential. We have had no issues with the counting of votes for first past the post or optional preferential. I do not really understand what you are driving at.

**Mr KNUTH:** Basically, we hear a lot of concerns that it is first past the post for one council and the other one is optional preferential, then for councillors it is first past the post. It differs from one to the other.

**Mr Tiernan:** I guess that is just another complexity of local government elections. It is incumbent on us and our training to ensure that the ROs and all polling day staff understand completely what is required and what we are asking of electors and can communicate that simply to all electors.

**Mr McGraw:** With ballot papers anyway, there is an instruction on the top of every ballot paper on how to complete that ballot paper, so, like I mentioned, we obviously try to instil that in our polling booth staff. The difficulty, I guess, comes with people who do full postal elections. We send some instruction out for the declaration envelope and the vote, but a lot of times they are at home and may have misunderstood something. They can ring our call centre and get advice from the helpline in those types of situations. When people are at home in a full postal area, they do not have that person in the polling booth that they can go to and ask. They may be in remote areas where they cannot ask anybody. Sometimes they do some things on ballot papers that may disenfranchise them.

**CHAIR:** Thanks very much. Unfortunately, time for this session has expired. I think you took one question on notice. Thank you for that. If we were to get a response by the close of business today that would be fantastic. I thank you for your attendance here today at this hearing. I believe that the committee has certainly gathered some valuable information that will assist us in our examination of the Local Government and Other Legislation Amendment Bill. I thank you very much for your attendance and, you never know, you might have to come back. Thanks very much.

**Committee adjourned at 9.46 am**