



Submission No. 001

11.1.1

14/04/2015

14 April 2015

Infrastructure, Planning and Natural Resources Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

E: [ipnrc@parliament.qld.gov.au](mailto:ipnrc@parliament.qld.gov.au)

Dear Sir/Madam

**Re: Local Government and Other Legislation Amendment Bill 2015**

The Local Government Association of Queensland (LGAQ) appreciates the opportunity to provide a submission to assist the Infrastructure, Planning and Natural Resources Committee's detailed consideration of the Local Government and Other Legislation Amendment Bill 2015 (the Bill).

The Bill amends the *Local Government Electoral Act 2011* to ensure a local government CEO cannot be the Returning Officer (RO) for a local government election unless the Electoral Commission Queensland (ECQ) appoints the CEO as the RO. The ECQ may appoint the local government CEO as the RO if the CEO is the only person reasonably available to be appointed as the RO and the CEO is not a member of a political party. This amendment overturns the changes introduced by the previous government last year which permitted CEOs to be ROs.

Although the LGAQ has a long-standing position that councils should be provided with the flexibility to conduct local government elections themselves, contract with the ECQ or contract with some other qualified provider, the LGAQ indicated to the Government during consultations on the draft exposure Bill that it was prepared to accept the amendments in light of the position the Government took to the election. However, as indicated in the Explanatory Notes to the Bill, the LGAQ's support was given on the understanding that the Government would consult with the LGAQ about steps to reduce the costs of conducting local government elections. Discussions on this issue commenced after Easter and the LGAQ looks forward to further discussions resulting in agreed outcomes which reduce the costs of conducting local government elections.

In addition to the amendments contained in the Bill, the LGAQ requests that consideration be given to amending the *Local Government Electoral Act 2011* to overturn the change in the system of voting for mayors in undivided councils from First-Past-The-Post (FPTP) to Optional Preferential Voting (OPV). The LGAQ was strongly opposed to this change introduced by the previous government, for the reasons outlined in the LGAQ's statement at the 21 July 2014 hearing of the Transport, Housing and Local Government Committee (**Attachment 1**). The LGAQ would also note that the then ALP Opposition spoke against this change during the parliamentary debate on the Bill on 27 August 2014 and voted against the Bill.

In summary, the LGAQ's opposition to OPV as the system of voting for mayors in undivided councils is based on the following arguments:

1. The change to OPV made last year introduced a new inconsistency between the systems of voting for mayors and councillors in undivided local governments, with the former changing to OPV and the latter remaining FPTP. As then Deputy Opposition Leader Tim Mulherin noted in speaking against the Bill in Parliament on 27 August 2014, the Local Government Minister at the time had failed to adequately explain why the inconsistency between mayoral elections in undivided councils and state elections was more important to address than the inconsistency

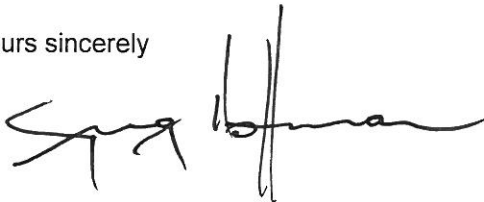
- and possible confusion created by councillors being elected by FPTP while the mayor in that very same council would be elected under OPV.
2. The amendment introduced last year changed a set of voting systems (i.e. OPV for divided and FPTP for undivided councils) that had been found, because of their simplicity, to be the most appropriate systems for these communities and that had been supported by 90.32 per cent of mayors surveyed by the LGAQ in February 2013.
  3. The introduction of OPV for mayors in undivided councils opens the door to the possibility that the electoral system could be deliberately misused to bring about a contrived outcome, e.g. by two candidates standing against the incumbent mayor by sharing preferences.

***The LGAQ would thus urge the Committee to recommend to the Government to overturn the change introduced last year in the system of voting for mayors in undivided councils from FPTP to OPV in time for the 2016 local government elections.***

The Bill also amends the *Queensland Reconstruction Authority Act 2011* to repeal the expiry of 30 June 2015. The LGAQ welcomes the fact that the QRA will be maintained as a central whole of government contact for councils affected by natural disasters.

If you have any questions regarding the matters raised in this submission, please do not hesitate to contact Mr Stephan Bohnen, Principal Advisor – Intergovernmental Relations, on (07) 3000 2203 or via email at [stephan\\_bohnen@lgaq.asn.au](mailto:stephan_bohnen@lgaq.asn.au).

Yours sincerely



Greg Hoffman PSM  
GENERAL MANAGER - ADVOCACY



# ***TRANSPORT, HOUSING AND LOCAL GOVERNMENT COMMITTEE***

## **Members present:**

Mr HWT Hobbs MP (Chair)  
Mr JB Grant MP  
Mr DJ Grimwade MP  
Mrs DC Scott MP  
Mr A Shorten MP

## **Staff present:**

Ms K McGuckin (Research Director)  
Ms D Cooper (Principal Research Officer)  
Ms R Stacey (Principal Research Officer)

# **PUBLIC HEARING—INQUIRY INTO THE LOCAL GOVERNMENT LEGISLATION AMENDMENT BILL 2014**

## **TRANSCRIPT OF PROCEEDINGS**

**MONDAY, 21 JULY 2014**

**Brisbane**

## MONDAY, 21 JULY 2014

---

Committee met at 11.46 am

**BLAGOEV, Ms Bronwyn, Director, Policy, Legal and Corporate Support**

**HAWTHORNE, Ms Josie, Manager, Legislation, Policy and Corporate Support**

**CHAIR:** Good morning all. I call this public departmental briefing and hearing of the Transport, Housing and Local Government Committee to order. I thank you for your interest today and for your attendance here. My name is Howard Hobbs, the member for Warrego, chair of the committee. Mrs Desley Scott, the member for Woodridge, is the deputy chair. The other committee members are Mr John Grant, the member for Springwood; Mr Darren Grimwade, the member for Morayfield; Mr Carl Judge, the member for Yeerongpilly, who is an apology; Mr Anthony Shorten, the member for Algester; and Mr Jason Woodforth, the member for Nudgee, who is also an apology.

Today's public hearing is to assist us with our inquiry into the Local Government Legislation Amendment Bill 2014. The committee has advised the public of the inquiry by writing directly to the stakeholders as well as by advertising on the parliamentary website. Witnesses at today's public briefing and hearing will appear in the order outlined on the public hearing program.

The briefing and hearing is a formal proceeding of parliament and is subject to the Legislative Assembly's standing rules and orders. The committee will not require evidence to be given under oath, but I remind witnesses that intentionally misleading the committee is a serious offence. You have previously been provided with a copy of instructions to witnesses. So we will take those as read. Hansard will record the proceedings and witnesses will be provided with a transcript. Today's hearings are being broadcast live on the parliament's website. I therefore ask you to please identify yourselves when you first speak and to speak clearly and at a reasonable pace. I remind all of those attending today that these proceedings are similar to parliament to the extent that the public cannot participate. In this regard I remind members of the public that, under the standing orders, the public may be admitted to or excluded from the proceedings at the discretion of the committee.

Before we commence I ask that mobiles be turned off or switched to silent mode. Before I call the first witness, I would like to thank all of those individuals and organisations who took the time to make submissions to the inquiry. The committee has had an opportunity to read the submissions and would therefore appreciate it, where possible, to avoid repeating the detailed evidence that you have provided in your submission. We will invite the witnesses to make a brief opening statement and then open it up to the committee to ask questions. I now call on our first witnesses from the Department of Local Government, Community Recovery and Resilience, Ms Bronwyn Blagoev, Director, Policy, Legal and Corporate Support and Ms Josie, Hawthorne, Manager, Legislation, Policy and Corporate Support. Thank you for coming along this morning. If you would like to open the proceedings?

**Ms Blagoev:** Thank you, Mr Chairman. I thank the committee for the opportunity to brief the committee on the Local Government Legislation Amendment Bill 2014, which I will now refer to as the bill. I would just like to issue apologies for Mr Craig Evans, the director-general of the department. Mr Evans is ill today and could not attend. The bill proposes amendments to the Local Government Electoral Act and also minor amendments to the City of Brisbane Act, the Local Government Act, and the state Electoral Act. The bill is quite a technical bill and for that reason I do not propose to outline every provision in the bill. Instead, if it pleases the committee I will talk about the overarching objectives of the legislation and key amendments which further those objectives. I welcome questions as we proceed, if that suits the committee.

The bill has four main objectives: firstly, to empower the chief executive officer to act as returning officer; secondly, to change the system of voting for mayors in undivided local governments from first past the post to optional preferential; thirdly, to simplify voting rules for first-past-the-post elections; and, fourthly, to align the Local Government Electoral Act with the state Electoral Act where appropriate. The following clauses of the bill aim to further those objectives.

Firstly, in relation to who is the returning officer for a local government election, under the bill the default position is that the chief executive officer of a local government is the returning officer. If the chief executive officer does not wish to be the returning officer, they are to serve a withdrawal notice on the Electoral Commission. If the CEO is not the returning officer, it is the Electoral Commission that will have the responsibility for appointing a returning officer for that particular election.

To avoid issues arising from a CEO who may change his or her mind, or a new CEO who comes in, the bill proposes that a withdrawal notice is binding from 1 July in the year before a quadrennial election. So for example, the next election is March 2016. If we have a CEO who issues a withdrawal in, say, April 2015, once the 1 July date comes that withdrawal notice will be binding on that CEO and any subsequent CEO as well. For a by-election the withdrawal notice has to be issued five business days after the vacancy occurs. When we are dealing with a fresh election, the withdrawal notice has to be issued five business days after the regulation is made announcing the need for a fresh election. In all circumstances, the Electoral Commission has an ability to extend the date if the circumstances so require. This time frame is to ensure that a CEO has until 1 July in the next case—it will be 2015—to issue a withdrawal notice if they so please but it allows the SEQ enough time to make arrangements for the next quadrennial election.

Irrespective of whether the CEO has issued a withdrawal notice, there are some circumstances in which the CEO cannot be the returning officer, for example, if the CEO is a member of a political party; if the Electoral Commission is satisfied that the CEO is unable to discharge his or her functions as a returning officer—for example, because of illness or absence; or, thirdly, if the Electoral Commissioner is satisfied that the CEO has not complied with a direction under section 9A. Under section 9A, the returning officer must comply with any direction issued by the Electoral Commission for the proper conduct of the election. That is there to reflect the fact that it is the ECQ who has overarching responsibility for the conduct of the elections.

To assist the CEO to make preparations for an upcoming election, the bill requires the CEO to lodge an election plan. That election plan has to be submitted by 1 September in the year before a quadrennial election. That has to be submitted to the Electoral Commission for its consideration and approval. The Electoral Commission may approve that election plan if it is satisfied that it allows the CEO to carry out the election properly. The election plan must contain details about staffing, polling booth locations and any other matters as directed by the Electoral Commissioner. As I said, for a quadrennial election the election plan must be lodged with the Electoral Commission by 1 September in the year before. For a by-election, it has to be lodged 10 business days after the vacancy occurs and for a fresh election it is 10 business days after the regulation is made declaring the need for a fresh election.

In addition to training returning officers, the Electoral Commission proposes to provide CEO returning officers with an information pack. That information pack will have a template for the election plan. So they will all have information on what that election plan should look like. It will have statistical information from the last election, information regarding staffing, the location of polling booths and it will also have the last general return from the quadrennial election, which includes feedback on the logistical set-ups and operations of the last election.

While the CEO returning officer cannot delegate a function or power on the returning officer under the bill, they have the ability to seek assistance from other persons. Clauses 17 to 19 of the bill allow a CEO returning officer to appoint assistant returning officers, presiding officers and issuing officers. The bill proposes that these people will be either employed or contracted under the City of Brisbane Act or the Local Government Act. So they would be employed or contracted as any other person would be contracted by a local government. The bill does not permit a CEO returning officer to completely outsource the function of a returning officer. Either the CEO is the returning officer or the CEO issues their withdrawal notice and says, 'I do not want wish to be the returning officer,' in which case the Electoral Commission will appoint a returning officer.

One of the key changes under the bill is in relation to the system of voting. In Queensland, there is currently 23 divided councils and 54 undivided councils. Whether an election concerns a divided or an undivided local government area, the way in which an elector casts their vote is the same. It is the counting itself that is different. Currently, mayors in undivided local government areas are elected using the first-past-the-post system of voting, whereas mayors in divided local governments are elected using optional preferential. Clause 48 of the bill amends section 65 to change the system of voting so that all mayors throughout Queensland will be elected using the optional preferential system of voting. The amendment means that voting for mayors is consistent across all local government areas in Queensland, whether they are divided or undivided. Voting for

councillors themselves in undivided local government areas will remain as first past the post. Voting in divided local government areas for councillors will remain as optional preferential. So the only amendment is in relation to the voting of the mayors.

**Mr GRANT:** Mr Chair, can I just ask a question at this point?

**CHAIR:** Yes.

**Mr GRANT:** Thank you, Mr Chair. What in history has led to that recommendation being put forward for that change so that it is different for the councillors compared to the system for electing the mayor? What has gone wrong that has made us go with this?

**Ms Blagoev:** I am not sure that it is such a matter of anything going wrong. The move to optional preferential reflects what occurs in the Legislative Assembly. Ultimately, the issue of whether it is first past the post or optional preferential is a policy decision of the government rather than anything, I think, that the department has identified.

**Mr GRANT:** So not responding to any problem on the ground?

**Ms Blagoev:** Not that I am aware of, no.

**Mr GRANT:** Okay.

**Ms Blagoev:** The bill also seeks to simplify the voting rules when it comes to first-past-the-post elections. Currently, if an elector votes for fewer than the number of candidates, their vote will be invalid. For example, if you have five councillor vacancies and someone votes for only two or three councillors, their vote is invalid. The bill simplifies this by giving electors the ability to vote up to the number of vacancies, or even more. However, if an elector votes for more and they are using, for example, ticks, or crosses, or one, one, one, then their vote will be invalid because ECQ simply cannot determine what their preference is, whereas if there are five candidates and they vote from one to six, it is obvious to see what their first five preferences are.

It is also the case that should the council vacancies remain because electors have not voted for the full number of candidates, clause 73 inserts a note to section 98 to provide that candidates with no votes are to be treated the same as tied candidates. For example, you have six candidates and you have five vacancies, but only four candidates actually receive votes. The last position will be filled according to the current requirements under the Local Government Act, which is the drawing of marbles. At the moment, there is nothing in the act to clarify what happens if people do not actually receive enough votes so that there are not enough candidates who are elected. This amendment is just trying to cover that circumstance, however unlikely.

In terms of postal voting, conducting an election entirely by postal ballot is actually unique to local government. Currently, councils can apply to the minister to have either all or part of their election via a postal ballot. They can do this in a couple of circumstances: where their local government area has a large rural sector, where there are large remote areas or where there are extensive island areas. Clause 37 of the bill amends section 45 and it requires local governments that wish to apply to the minister for a postal ballot to have their application lodged with the minister by 1 July in the year preceding a quadrennial election, so the next one will be 1 July 2015. The bill does not require the minister to have made a decision by 1 July, but it does require local governments to put in their application by 1 July. The intention behind this is to make sure that there is sufficient time to make arrangements for a postal ballot.

In terms of notification of results, the bill now proposes that the results of a mayor can be notified first up, so if we do not know all the results of councillors, irrespective of that, on the position of mayor we can put out who was successful. One of the key objectives of the bill is to ensure that wherever possible the provisions of the Local Government Electoral Act align with the state Electoral Act. To this end there are a number of clauses that seek to make that alignment. In terms of the close of rolls, currently under the Local Government Electoral Act the rolls are closed on 31 January in the year of an election, so that by the time we come to a March election the rolls are already a couple of months old, whereas at the state election the roll is closed five to seven days following notice of the election. The bill seeks to close the roll for local government elections five to seven days after publication of the candidate nomination notice. This will ensure a consistency between the state Electoral Act and the Local Government Electoral Act and ensure, hopefully, that the roll is more up to date.

Section 106 of the state Electoral Act also allows people to vote who are not enrolled but who are entitled to be enrolled up to 6 pm on the day before the polling day, provided they have provided appropriate notice to the Electoral Commission. During the period for the 2012 state election, the

Electoral Commissioner of Queensland advised that an additional 18,908 people enrolled during this time and 45,710 people updated their details. To align with the state Electoral Act, clause 47 of the bill amends section 64 to allow a person to vote whose name is not on the roll but who is entitled to be enrolled, but only if the person notifies the Electoral Commission by 6 pm on the day before an election. Once again, the aim of this is to ensure that the maximum number of people are voting.

Currently for local government elections there is no register of special postal voters, which means that people such as distance electors, religious electors and incapacitated electors have to reapply to cast a postal vote for each local government election. The bill introduces the concept of a special postal voters' register. This means that these people on the register automatically receive their postal ballot material for each election; they do not need to reapply every single time. Special postal voters may include silent electors, distance electors, religious electors, overseas electors and voters who need help voting because of a disability, impairment or insufficient literacy levels. This really means that people do not have to reapply every local government election.

The bill also seeks to make a change in relation to the return of deposit for candidates. Currently under the Local Government Act a candidate is not entitled to have their deposit returned until they have lodged with the Electoral Commission their gift return. This is inconsistent with the state Electoral Act. The state Electoral Act does not require the return to be lodged before they receive their deposit. The bill seeks to remove this requirement, meaning that a candidate is entitled to have their deposit back even if they have not issued their gift return to the Electoral Commission. Section 195 of the Local Government Electoral Act already contains an offence provision for a person who does not put in their gift register within the prescribed time frame, for example failure to provide a return required under part 6 of the act within the prescribed time frame yields a maximum penalty of 20 penalty units. The act already has the appropriate offence of penalties in there for where people do not put their return in.

In terms of the conclusion of the election, currently under the Local Government Electoral Act those financial disclosure matters have to be actioned according to what is termed the 'conclusion' of a local government election. The conclusion of the election currently relies on the last declaration of a poll being displayed at the office of the returning officer, whereas the state Electoral Act provides greater clarity because it does not refer to this concept of a 'conclusion' of an election. It simply refers to the polling date, which provides much more clarity. Section 78 of the bill amends section 115 to clarify that a new candidate's disclosure period ends 30 day after the polling day for a new election and not 30 days after the conclusion of the election. It is much simpler. Everyone knows what is the polling day for a local government election. It does not particularly rely on a returning officer having posted something up in their front office.

A number of amendments are also proposed with respect to offence provisions. Clause 102 amends section 169 to increase the maximum penalty for a person who provides false or misleading information to the Electoral Commission. Currently, it is one year. The bill amends that to seven years, which is in accordance with the state Electoral Act and also in accordance with section 89B of the Criminal Code. The bill also introduces a new offence. It seeks to make it an offence for a person to unlawfully disclose confidential information that they learn about as a result of their work and their administration under the Local Government Electoral Act. The maximum penalty for this offence is 40 penalty units or 18 months imprisonment. This is consistent with section 33 of the state Electoral Act. It is a new offence, but it is the same offence as what sits in the state Electoral Act.

Currently, the Local Government Electoral Act is silent on who is responsible for printing and approving ballot papers for local government elections. Section 58 of the act simply states that the returning officer must ensure there are an adequate number of ballot papers available at the polling booths. This differs for state elections where section 102 of the state Electoral Act provides that it is the Electoral Commission that must ensure a sufficient number of ballot papers and certified copies of the voters roll are available at polling places. The bill amends section 55 of the Local Government Electoral Act to clarify that it is ECQ that has the overall responsibility for supplying ballot papers to returning officers. It is ECQ that will be responsible for printing the ballot papers. They will then print and they will supply an adequate number to the returning officers. Under the Local Government Electoral Act, it is the returning officer who is responsible for determining the order of the candidates on the ballot papers. For local government elections, we believe this task is best handled at the local government level. A minor change to section 58 is also proposed which requires the returning officer to ensure there is an adequate number of certified copies of the electoral roll at each of the polling booths. Again, that just accords with the requirements under the state Electoral Act.

A number of amendments are also proposed to adopt the reforms made recently to the state Electoral Act, firstly in relation to electronically assisted voting. Clause 50 of the bill amends section 68 to enable electronically assisted voting. That concept is not currently in the Local Government Electoral Act. Implementation priority is given to electors requiring assistance because of impairment or an insufficient level of literacy. In the future, another class of electors can be prescribed under regulation. Clause 57 of the bill inserts section 75A to 75E to prescribe for electronically assisted procedures, auditing requirements, protection of information technology provisions and for the Electoral Commission to decide whether electronically assisted voting is not to be used in a particular election. Prospective commencement is proposed on these provisions by proclamation. These amendments, in essence, just mirror the amendments made to the state Electoral Act in relation to electronically assisted voting.

Under the bill, how-to-vote cards must be given to the Electoral Commissioner no later than 5 pm on the Friday, which is seven days before an election. These cards may be rejected by the Electoral Commission. They can be rejected where the cards are likely to be misleading or deceptive, or where the technical requirements of section 178 of the act have not been complied with. A revised card can be then given to the Electoral Commission no later than 5 pm on the Wednesday before an election and the Electoral Commission can reconsider whether to accept or reject the card. Returning officers are responsible for ensuring that approved cards are available for public inspection for free at the place of nomination, at the local government's public office and on the council's website.

Proof of identification: we have also sought to make amendments in the bill that, again, reflect the proof of identification requirements under the state Electoral Act. The bill introduces the requirement for proof of identification to be shown by an elector who wishes to vote. To align with the state requirements, it is proposed that a regulation will prescribe what are the appropriate types of identification. The state has recently prescribed a number of forms of appropriate proof of identification, including a current driver's licence, an Australian passport, a letter issued by the Electoral Commission, Commonwealth-state identity cards—things such as Medicare cards, pensioner cards, healthcare cards. The state has given quite a long list of things that are appropriate in terms of identification. It also includes things such as a council rates notice, notices issued by a gas company or an electricity company or a water bill. It is quite broad.

**Mr GRANT:** Mr Chairman, I have a question.

**CHAIR:** Yes, Mr Grant?

**Mr GRANT:** Thanks, Mr Chairman. With respect to postal voters and the issue of identity, there is still work to be done when there is a challenge mounted with respect to identity of a postal voter. How is work going in that space? What is the latest thinking?

**Ms Blagoev:** I do not have that information before me. I understand there is work going on around these technical issues with the Electoral Commission. We are not proposing to commence these provisions immediately. They will be commenced by a proclamation once the government is satisfied that these sorts of issues are resolved. I understand it was used at the Stafford by-election on the weekend, for the state election. So it will be a matter of looking at what issues emerge out of that.

**Mr GRANT:** Is there any information that you could furnish the committee with, within a reasonable time line in this regard?

**Ms Hawthorne:** The Electoral Commission puts out a report after each election or by-election, and perhaps those issues will be addressed in their report.

**Mr GRANT:** Could we ask for that information to be provided to the committee by a given time, Mr Chairman?

**CHAIR:** Yes. Can you provide that within a reasonable time?

**Ms Hawthorne:** That time frame will be up to the Electoral Commission. That is not really within our area.

**Ms Blagoev:** Perhaps we could touch base with the Electoral Commission and just see what their time frame is for the provision of the report. If we certainly can, we will.

**CHAIR:** Thank you. Please continue.

**Ms Blagoev:** Finally, the bill amends the City of Brisbane Act and the Local Government Act to clarify that a councillor who is subject to a suspended sentence is disqualified from being a councillor. Currently, a person cannot be a councillor if they are a prisoner. The term 'prisoner' is



defined as a person who is serving a term of imprisonment or a person who is liable to serve a period of imprisonment even though the person has been released from imprisonment, for example, a leave of absence or the person is on parole.

There is currently uncertainty as to whether a person who is serving a suspended sentence is actually a prisoner under that definition. The amendment clarifies that a councillor who is serving a suspended sentence is disqualified from being a councillor. This amendment is consistent with the policy objective of ensuring the highest degree of integrity by our councillors.

Finally, the bill removes the now superfluous provisions relating to local government deamalgamation. For example, those provisions regarding the deamalgamation polls, failure to vote, that sort of thing. Anything that we have removed is simply as a result of the fact that the deamalgamations have already occurred. We would be happy to assist the committee with any particular queries it may have.

**CHAIR:** Thank you for that. Our role, of course, is to scrutinise this legislation. We have had some submissions put in. I would like to go through some of those and perhaps you may give us a bit of a rundown on the issues that were raised in the submissions to your department in relation to those matters. For instance, numbering the candidates and the first-past-the-post elections. I know you have given us a bit of a summary of what the government's intention is, but is there an explanation in relation to the issues that were raised in the submissions about that particular issue? One of the things I suppose that is concerning overall, having had some involvement with this, is that the Electoral Commission has not been a roaring success in relation to running local government elections. However, in saying that, they are getting better. So I suppose you can understand the local governments' view out there is a bit of apprehension in relation to some of this, but the world must move on.

**Ms Blagoev:** One of the concerns raised in terms of the actual voting was around voter confusion, from memory, with the change to optional preferential from first past the post and whether voters would be confused, because in some of the local government areas the mayor will be elected using optional preferential whereas the councillors will still be first past the post. That was definitely one of the issues raised. Our view on that is that the way in which an elector casts their vote is the same. The counting is really an issue for the Electoral Commission returning officer. In terms of mum and dad who turn up to put their vote in, it should be the same way. I guess a lot of the amendments that we have made in terms of that first-past-the-post voting is designed to ensure we capture as many votes as possible and that we reduce the number of invalid votes, trying to make it simpler for people to cast their vote.

**CHAIR:** A while ago you mentioned the fact that if, for instance, in an undivided council—say, there were five candidates in a regional council—four candidates had numbers and there was one short so you go to the marble. I have seen that happen, and also with equal numbers and so forth in the past. But you would think in this day and age you would not need to do that. Has there been any research done in relation to it?

**Ms Blagoev:** No, the department has not looked at the issue of the drawing of the marbles and whether or not that is still appropriate and what other options we may have in that respect.

**Mr GRANT:** I want to follow on on the same issue. I have two questions. Number one, in the largest undivided councils what is the maximum number of councillors to be elected? The reason why I ask that question is because why would we reward someone who only puts one if there were 10 councillors? It does not seem to be a sensible policy.

**Ms Hawthorne:** That is the way the system works now with first past the post. Even though you have to vote for the number of candidates to be elected, the way the votes are distributed is one vote for each of the candidates.

**Mr GRANT:** Let me go further. What does research show us? When there are 10 to choose they should number one to 10. How often are people recording far less than 10? What are the stats on the practice of voters out there?

**Ms Hawthorne:** The Electoral Commission in their report on the 2012 election reported quite a substantial number of informal votes because of failure to vote for the exact number of candidates.

**Mr GRANT:** How big? If a person only votes one and they should have numbered 10, that is informal currently?

**Ms Hawthorne:** That's correct.

**Mr GRANT:** That is my question. Why would we turn around and start rewarding people who only put one, or one, two, when they really do need to choose 10? I cannot see the logic behind it. You can say we want to have stats with fewer informal votes. What are you rewarding to achieve a lower stat of informal vote?

**Ms Blagoev:** I guess we are not looking at it so much as a matter of rewarding, just trying to get the most number of valid votes as we can. And, member, just in response to your query, I believe it is Toowoomba Regional Council that has the most number of councillors for an undivided local government area. They have got 11 councillors.

**CHAIR:** That is a good example. I am sure that in Toowoomba and the bigger councils there are some people who would not know the particular candidate and that is one of the issues, I suppose.

**Ms Hawthorne:** I think that was part of the policy as well. People should not have to vote for candidates that they don't want to and in the situation that is current you have to cast your vote for the number of vacant seats and that would include voting for people that you don't want to vote for, but if you don't vote for them your vote is invalid.

**CHAIR:** Any further questions on this matter?

**Mrs SCOTT:** When I was listening to the part where the CEO must not be a member of a political party if they are going to run the election, what about if they have, a couple of years ago, ceased to be? Should that also be included, where you are not currently a member nor have been a member of a political party?

**Ms Hawthorne:** The current legislation provides that you cannot be a member of a political party and this bill maintains that position. At the date that the election is called, if you are a member of a political party, or at the date that this legislation comes into force, you are not the returning officer. If you resign your membership from the political party then the automatic trigger cuts in and you are the returning officer. If you do not wish to be the returning officer you issue a withdrawal notice.

**Mrs SCOTT:** Have there been any stats done on the possible savings that are made by it being returned to council rather than the Electoral Commission?

**Ms Blagoev:** The department does not have any statistics. The feedback from councils seems to be that they suggest that they will be able to make a saving by being the returning officer. That would be as a result of using council resources, be it people, but also assets. We are not too sure what sort of saving, if any, councils may be looking at. The way it will be structured is councils will still need to pay an overhead every year to the Electoral Commission that maintains a unit of people that look after local government elections. So they will pay that overhead every year and then I guess the actual costs of running the election will be something they will each budget. We will have a much clearer indication after the next quadrennial election in 2016 and we will be able to compare that to the 2012 costs.

**CHAIR:** Could we deal with other issues that were raised in the submissions, particularly in relation to aligning ballot paper provisions with state elections, that was an issue that was raised, and your department's response to those queries that were raised; online notification of poll results is another one that comes to mind, for instance; and any other major issues that have been raised in the submissions that you may be able to give us further clarity on.

**Ms Blagoev:** The issue, Chair, in terms of notifying the results of an election, I guess there are two ways to look at that. The feedback that we did get from the Electoral Commission was the administrative burden in terms of notifying each candidate of the election results when, in reality, I understand what they are doing is most of them are just looking on the internet as the night progresses anyway. That change was made as a result of stakeholder consultation from ECQ itself.

**Mr GRANT:** What is the essence of the change?

**Ms Blagoev:** The amendment is that the Electoral Commission no longer has to contact each candidate to advise them of the result of an election. Currently under the Local Government Electoral Act they do need to contact each and every candidate to advise them of the result.

**Mr SHORTEN:** If the bill goes through as it is, will it be the Department of Local Government or will it be the ECQ that has to run an education campaign to educate voters? I look at these changes, and I have been in the political sphere for some time, and I am confused. The basic run-of-the-mill mum and dad out there who go to cast their vote, let us be honest, they are either going to tick one, if that is the policy that the party is pushing or, if they are very pedantic, they will go one, two, seven, eight, nine, whatever. But I think it comes down to an education campaign. Will it be the department that is responsible for the education or will it be the ECQ?

**Ms Hawthorne:** It is the Electoral Commission and they have said that they will run training courses, not only in relation to voters turning up on how to vote—they currently put an explanation on the top of each ballot paper about how to cast your vote in this particular instance—but also in the case of the returning officers as well they are going to continue training. They do training now with their returning officers, but it is going to be imperative for CEOs who are returning officers to be trained. They have given an undertaking that they will continue with that training and they will train the trainers, so to speak, so that the returning officers will then be able to train the issuing officers and presiding officers if that is the case in those situations.

**Mr SHORTEN:** It will be the ECQ's responsibility?

**Ms Hawthorne:** Yes, it will. The department does do a lot of training for local governments. Any legislation that we put into place the department undertakes to go to councils and explain how it operates so there will be that push from the department to the councils, but it is the Electoral Commission informing the mum and dad voters how to vote when they turn up on the day.

**CHAIR:** It is a difficult one, is it not? I would certainly have more faith if the councils were doing it, but then again it is another job for councils to do. We will deal with that later on. Just one other point: you talked about the closing time for people to advise the Electoral Commission. Six pm, was it, the week before or the day before the election?

**Ms Blagoev:** The day before.

**CHAIR:** How on earth are they going to do that?

**Ms Blagoev:** That is what is currently done at the state level.

**CHAIR:** That will be interesting.

**Mr GRANT:** What is the issue there, Mr Chairman?

**CHAIR:** For someone to be on the roll.

**Ms Blagoev:** Where they are eligible to be on the roll, but they are not on the roll, at the state level they do have until 6 pm to issue a notice to the Electoral Commission.

**CHAIR:** On the Friday before the election?

**Ms Blagoev:** Yes. Which will allow them to vote the next day.

**Mr GRANT:** It would be interesting if there was 100 of them.

**CHAIR:** It is thousands.

**Ms Blagoev:** Let me just get the statistics again. It was quite considerable.

**Mr SHORTEN:** That notification could be just, 'I have completed an enrolment to vote form'.

**Ms Hawthorne:** No, there are prescribed matters that have to be on that notice and that is under the legislation as well.

**Ms Blagoev:** Sorry, I thought I had the statistics for that last day, but I do not.

**Mr GRANT:** What a shame.

**Ms Blagoev:** The statistics were in relation to, I guess—no, sorry. The Electoral Commission Queensland advise an additional 18,908 people enrolled.

**Mr GRANT:** Via that method.

**Ms Blagoev:** By up to that last 6 pm day.

**CHAIR:** It seems to work.

**Mr GRANT:** That is for the state?

**Ms Blagoev:** The state. So that was across Queensland.

**Mr GRANT:** And there are 77 councils.

**CHAIR:** Any further questions from the committee?

**Mrs SCOTT:** Maybe one. We are looking at the method of numbering candidates and trying to cut down on the number of informal votes. Statistics seem to show that in the 2008 local government election informal voting was just four per cent. I just ask the question whether we are creating a solution to a problem that is not really significant.

**Ms Blagoev:** You are correct. I think it was just over four per cent at the last election. Our policy approach really is that the fewer informal votes we get the better. If there are simple changes we can make to do that then great.

**Mrs SCOTT:** So there will not really be all that many who are just numbering one, two, three? So it is very small?

**Ms Blagoev:** It is currently, yes.

**Mr SHORTEN:** What does the four per cent amount to? We can talk about percentages, but what is the actual number of voters?

**Ms Hawthorne:** It is in the Electoral Commission's report from the last election. I cannot remember the exact figures. It is in their report.

**CHAIR:** There being no further question, thank you for your attendance.

**BOHNEN, Mr Stephan, Principal Adviser, Intergovernmental Relations, Local Government Association of Queensland**

**HOFFMAN, Mr Greg, General Manager, Advocacy, Local Government Association of Queensland**

**CHAIR:** Thank you, gentlemen, for coming in today to our hearing. Thank you for the comprehensive submission put in by the LGAQ. Mr Hoffman, would you lead off with some up-to-date issues you have in relation to this bill.

**Mr Hoffman:** Thank you, Mr Chairman. The Local Government Association appreciates the opportunity to appear before the committee today and to provide consideration of the bill. We made a comprehensive submission in response to the department's discussion paper issued in November of last year. We addressed all 17 of the proposals contained in the discussion paper. A copy of that submission, dated 21 January, was attached to our submission to the committee.

Member consultations undertaken since the release of the bill have confirmed the ongoing support of LGAQ member councils for the positions outlined in the association's January 2014 submission. The LGAQ submission to the committee was approved by the LGAQ policy executive and expressions of support have been received from councils, including written statements of support from Banana Shire Council, Burdekin Shire Council, Moreton Bay Regional Council, Quilpie Shire Council, Townsville City Council and Western Downs Regional Council. The Lockyer Valley Regional Council's submission to the committee is also supportive.

As noted in our submission, the association welcomes and supports the majority of the changes, particularly empowering the chief executive officer to be the returning officer for local government elections. The LGAQ has long argued that councils should be empowered with the flexibility to conduct elections themselves or contract with the ECQ or contract with some other qualified provider.

While the changes in the bill go a long way towards meeting the LGAQ's position in this regard, we agree with the Sunshine Coast Regional Council's submission that the default returning officer position should be reversed. That is, the CEO should be given the option to approach the ECQ to be appointed as the returning officer rather than defaulting to the position and having to withdraw. In making this point, we acknowledge that the amendments as currently drafted are virtually identical to the relevant provisions in the 1993 Local Government Act. However, the context then was very different in that there was no choice to have the ECQ conduct local government elections under that legislation.

Giving the CEO the option to approach the ECQ to be appointed as a returning officer would enable the CEO to consult with the council on whether to be the returning officer and obtain the council's agreement. This empowers the council to determine whether or not the CEO is to be the returning officer. It should not be a unilateral decision of the CEO. It would also be in line with the original proposal in the November 2013 discussion paper to 'include a provision to require the ECQ to first offer CEOs the option to act as the returning officer at council elections'. For these reasons, the LGAQ urges the committee to recommend that the CEO be given the option to approach the ECQ to be appointed as the returning officer rather than defaulting to the position and having to withdraw.

The LGAQ remains opposed to two specific changes in the bill. Namely, changing the system of voting for mayors in undivided councils from first past the post to optional preferential and changing the method of voting by numbering candidates in first past the post elections. Not only are there no compelling reasons for these changes in the explanatory notes to the bill, they are indeed contradictory and do have the potential to lead to adverse electoral outcomes. Is this a question of change for change sake?

Specifically, the association, as I said, is opposed to changing the system of voting for mayors in undivided councils from first past the post to optional preferential. Our concerns are based on three points. Firstly, the if it ain't broke don't fix it argument. Secondly, the importance of maintaining simple voting systems. Thirdly, the potential confusion amongst voters due to inconsistency between the systems of voting for mayors and councillors in undivided councils as a result of the proposed change.

Firstly, I refer to the if it ain't broke don't fix it argument. An analysis of the pros and cons of various options for voting systems for local government elections undertaken by the LGAQ for its submission to the Law, Justice and Safety Committee in July 2010 concluded that the current voting systems—that is, optional preferential for divided and first past the post for undivided—were the most appropriate systems for these communities.

A research brief on electoral systems published by the library of the Australian parliament in 2006 found that ‘there is no such thing as the best electoral system. No single system satisfies all possible requirements. The most appropriate system for a particular location is that which best satisfies those requirements that are considered to be most important for that particular region.’ Optional preferential and first past the post systems are well known in Queensland and the electorate is comfortable with and understands these systems. Indeed, there is no evidence of broad based community interest in or calls for change.

The current voting systems also enjoy broad support in local government. Markedly, 90.32 per cent of mayors surveyed by the LGAQ in February 2013 on the issue of electoral reforms said they wanted no change to the current voting systems. Indeed, the current voting arrangements were supported by then opposition members Messrs Cripps, Bleijie and Stevens in their dissenting report to the Law, Justice and Safety Committee in 2010. They opposed the recommendation for efforts to be made to increase consistency of voting systems across the jurisdictions, specifically acknowledging that ‘Because of harmony already existing between the local government and state government electoral systems no change is necessary.’

The LGAQ acknowledges optional preferential voting is already used in divided councils and the government is thus not proposing to introduce any voting system that is unknown in the state. However, currently 54 out of the 77 councils in Queensland are undivided local governments, with voters in these communities not having previously experienced optional preferential voting in local government elections. As said before, there is no compelling evidence of a need for change.

There is a second point in terms of the importance of having a simple voting system. The 2010 submission by the LGAQ that I mentioned earlier makes the point that an important factor in the choice of voting systems is that the system be simple. It is important that the conduct of local government elections be as simple and as straightforward as possible to allow the community the best chance to cast their vote for candidates they believe will best represent them. First past the post is widely considered the simplest of all systems. Furthermore, local government politics is largely non-partisan in Queensland and thus not beholden to political party influences. The simple first past the post system is best suited to this environment.

The third point relates to the inconsistency between the systems of voting for mayors and councillors in undivided local governments. The government argues the proposed change will make the system of voting for mayors consistent across divided and undivided local governments and consistent with the method of voting for members of the Legislative Assembly. However, the proposed change introduces a new, more significant inconsistency between the system of voting for mayors and councillors in undivided local governments, with the former changing to optional preferential and the latter remaining first past the post. Arguably, this inconsistency is more serious than the aforementioned inconsistency which the change aims to resolve because it could potentially lead to higher levels of informal voting and lower voter turnout as it requires voters within a local government area to use two voting methodologies for their local government elections. For these reasons, the LGAQ urges the committee to recommend that the government not proceed with the amendments in the bill which change the system of voting for mayors in undivided councils from first past the post to optional preferential.

The LGAQ remains opposed to changing the method of voting by numbering candidates in first past the post elections. Our concerns in this case are threefold. Firstly, there is the risk of distorted outcomes. Secondly, there could be inconsistency with arrangements in other jurisdictions. Thirdly, there are doubts about the invalidity of informal votes as justification for the change.

The LGAQ is concerned that the proposed change may undermine the democratic process. In practice, the proposal would mimic optional preferential voting and may lead to skewed outcomes. If the majority of voters fail to clearly elect a majority of candidates, a group of councillors could be elected which are not representative of the community’s preferences. If everyone chooses fewer than the expected number of candidates then the whole election would be skewed to an unworkable result.

At the heart of all electoral systems is the requirement for the elector to express their choice for the number of vacancies to be filled. Electors are not fulfilling their democratic duty if they are allowed to number fewer than the number of vacancies. The example that has already been discussed before the committee today is that if there are a number of candidates and a number of vacancies and there are not enough votes or votes are not cast for the required number of vacancies then in fact there is a deficiency in the outcome. I would suggest that, whilst that may be an extreme case, it does demonstrate the weakness of this proposal and questions the merit in making the change in the first place.

The proposed change is at odds with common practice in other jurisdictions. For example, the joint standing committee on electoral matters interim report on the inquiry into the conduct of the 2013 federal election, the consequences of which we see played out on the front pages of the media each day, includes the recommendation, agreed by all major parties, that partial optional preferential below the line voting be introduced for Senate elections, but with a minimum sequential number of preferences to be completed equal to the number of vacancies. This report was attached to our submission. If adopted this would mean that instead of having to number your ballot paper for all, say, 85 candidates on the ballot paper, you would only have to vote for the number of Senate vacancies—that is, 12 at a full election or six at a half election. Importantly, you would be required to vote for the full number of positions vacant.

By way of another example, the proposed change is also inconsistent with the system used in the New South Wales Legislative Council, where a minimum of 15 preferences are required to fill the required number of vacancies.

Our third point is in relation to doubts about the validity of informal votes as justification for the change. The LGAQ is not convinced of claims that the current system leads to a higher number of informal votes which therefore justifies the change. Analysis undertaken by the LGAQ of the 2008 local government election indicates that average informal voting was four per cent for councillors, which compares favourably with a 4.15 per cent informal vote for councillors in the 2012 elections. It is the LGAQ's position that this level of informal voting raises at least as many questions about the conduct of the 2012 elections and the lack of public awareness and education undertaken as it does about any complexity and confusion surrounding the requirement for multiple voting for councillors under the first-past-the-post system. Indeed, analysis also shows that informal votes at the federal election are in the order of four to five per cent across the nation.

As the Lockyer Valley Regional Council notes in its submission, concerns about informal voting should be addressed through effective education rather than changing to a system of voting which may potentially lead to adverse electoral outcomes. Thank you, Mr Chairman. I am happy to answer any questions.

**CHAIR:** Thank you, Mr Hoffman. There are certainly a lot of issues there for us to go through. I want to go through the numbering again. You made the point that some councillors may be elected who really did not have support. Obviously if the CEO uses the marble trick, then I suppose it is one or two of the councillors that were not elected. Is there any other way that would occur, or is there some way that the councillors may be involved in some decision-making?

**Mr Hoffman:** Traditionally the means of resolving a deadlock, namely, tied votes amongst candidates, has been that of drawing lots, namely, marbles. That system, whilst somewhat quaint, is the only means that has been applied in the past to resolve these differences. The point I think we are making is why should we introduce a system which creates the potential for that to be required to resolve differences when, under current voting arrangements, the prospects of that are indeed far less likely. They have occurred, but potentially this change enhances or increases the possibility for that to be necessary. We do not see the advantage of making such a change in those circumstances.

**Mr GRANT:** I could see quite clearly the inconsistency if we used the philosophy that we won't make people put down option 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 because they may not want to vote for those people. But when they are voting for the mayor, they must choose. I suppose if it is optional preferential it is a little bit of a clash.

**Mr Hoffman:** That is the point of the inconsistency in that you are required to vote for the number of candidates or the number of vacancies that exist. For mayor, there is one vacancy; in a divided council, there is one vacancy; in an undivided council, there is the number of vacancies for the whole council.

**Mr GRANT:** I want to move to the issue of perception of ethical behaviour and LGAQ's position with respect to low-grade offences. I would have thought that anybody on a suspended sentence is too close to the line with respect to the perception test. Why is it that LGAQ have come out in defence—I am not talking about any one person, but the philosophy—of not disallowing people who have been found guilty of low-grade offences?

**Mr Hoffman:** Would you just like to elaborate a bit further on that particular point?

**Mr GRANT:** I am reading from a submission which says that the LGAQ opposed amending the City of Brisbane Act under the LGAQ to clarify that a councillor under a suspended sentence is disqualified from being a councillor on the basis that suspended sentences are for 'low grade' Brisbane

offences. It surprised me that you were basically defending a person guilty of a low-grade offence as retaining the right to be a councillor, because as I look around in the community there is enough argumentation of corruption in high places without there being an actual person who has been found guilty of a low-grade offence retaining a position.

**Mr Hoffman:** It is a suspended sentence, so no penalty per se has been imposed.

**Mr GRANT:** What is an example of a low-grade offence?

**Mr Hoffman:** I am referring more to the point of a suspended sentence, irrespective of the offence. If it is suspended, then the court has adjudged that there is no penalty to be paid in that circumstance and hence the point that if there is no penalty to be paid at law, why should there be further impediments or restrictions placed on that individual? That is the rationale.

**Mr GRANT:** Could not the finding be no further penalty to be paid because penalty enough has been paid in the past prior to the decision?

**Mr Hoffman:** I think that probably reinforces the point I just made. If the matter has been before the court and the court has adjudged that any sentence be suspended, then the community will make its own judgement. Our view is that there shouldn't necessarily be any further restriction placed on that individual; the matter has been resolved in that place in that way.

**Mr GRANT:** Could I take the discussion to one surrounding an existing councillor where there has been a public airing of his or her behaviour and the appearance or perception will be that they have got away without paying the true consequence of being involved in a low-grade offence.

**Mr Hoffman:** In that case the community would pass its judgement at the next election if the individual chose to recontest. But the Local Government Act does provide for circumstances where if individuals are convicted of certain activities or matters, then they could well lose their position at that time. So it is a question of degree as to whether the law judges appropriate action. We are simply reflecting on the circumstances of the law as it is currently enacted.

**CHAIR:** Mr Hoffman, can I just go back and drill down a bit more in relation to the CEO being a returning officer. You said that the CEO is given the default option. I actually thought when I looked at the bill that obviously a council decision would have been made that yes, we will run this election by ourselves. The CEO would then approach the ECQ and say, 'We want to run our own'; isn't that appropriate enough? Just exactly what are you saying?

**Mr Hoffman:** The way that the legislation is drafted is that it could be interpreted that the CEO could unilaterally determine whether he or she will seek to be the returning officer or in fact withdraw or not take up the opportunity to be the returning officer. It is our view that it should be the council that is empowered to decide whether or not the CEO would seek to be the returning officer. Our preference is for that to be the case for reasons we have long held and presented. But we do believe it should be a matter for the council to determine if it wishes that to be the case. There may be no technical reason why the CEO could not conduct the election in terms of appropriate skills, but the council may be of the view that sensitivities, for whatever reason, deem it necessary or appropriate that the CEO not fulfil that role. We believe it should be appropriate for the council to determine that in the first instance before the CEO proceeds to take up the position.

**Mrs SCOTT:** Regarding the printing of ballot papers, I understand you are opposed to the centralised printing of ballot papers. Would you just like to discuss that a little for us?

**Mr Hoffman:** I guess the basic argument here is that some of the problems that were experienced on the occasions the ECQ has conducted elections have been around the production of the supply or distribution of ballot papers at the local level. It is our view that subject to the appropriate provisions in relation to the nature of the ballot papers, that the printing could and should be done locally where possible as has been the case in the past. In fact, there have been some specialist printing companies that have done this work in the past and whether they are local or elsewhere, the responsibility for the production of the papers, the gathering of the papers and the distribution of those papers to polling places is something that should be managed locally. There is no reason why it cannot be, and in fact we believe it would add to the simplification of the process if it is done at a local level.

**CHAIR:** Thank you very much, gentlemen, for coming today. I now call the Department of Local Government, Community Recovery and Resilience.



**BLAGOEV, Ms Bronwyn, Director, Policy, Legal and Corporate Support Department of Local Government, Community Recovery and Resilience**

**HAWTHORNE, Ms Josie, Manager (Legislation), Policy and Corporate Support Department of Local Government, Community Recovery and Resilience**

**CHAIR:** I remind committee members that the departmental people are here to answer questions in relation to the legislation and not necessarily on matters of government policy; however, if the answer is that it is government policy, just tell us and we will understand that.

You have heard the Local Government Association here this morning. A couple of issues may need to be clarified in relation to the CEO, whether it is a council decision for the CEO to decide that the council wishes to do their own election and maybe the numbering. You have heard the submissions that were made. Do you have some comments to make on that?

**Ms Blagoev:** I might start with the issue of whether it is a decision of the council or the CEO. The way the bill is currently drafted, it is the decision of the CEO. In practice we do expect that the CEO would obviously consult with the mayor and councillors about their intention, but ultimately we do not want a situation where the CEO feels pressured to take up the role as returning officer. They may not have the capacity or the time to do it. Being a returning officer is a significant role which requires significant time, training and expertise. So that was the thinking behind that particular drafting. We wanted to make sure that the CEO was comfortable with the decision but also acknowledge that in reality they would consult anyway with the mayor and councillors as opposed to having to legislate for that consultation.

**Mr SHORTEN:** Is there any way to put that into the bill and say that the CEO must consult with council prior to making the decision?

**Ms Blagoev:** Yes, that could be drafted.

**CHAIR:** If the CEO cannot run a council he probably should not be there. Anyway, I suppose that is not your role.

**Mr GRIMWADE:** I just wanted to go back to when we were talking about those minor offences or suspended sentences. It raised a couple of questions that I have jotted down here. If we are talking about minor offences and those sorts of things, if a current councillor was to speed and go 40 ks over the speed limit and have to go to court and lose their licence, would that councillor still be a fit and proper person to be able to hold office or recontest an election, or does that exclude them under the proposed changes

**Ms Blagoev:** Under the proposed changes, if a court does impose a penalty—a suspended sentence is actually a finding of guilt and a penalty—if they are subjected to a suspended sentence or a term of imprisonment, as long as they satisfy that definition of prisoner, which would under the bill include suspended sentence then, yes, they would be disqualified from being a councillor. Like you said, in reality, an offence subject to a suspended sentence is not going to be murder, for example, they are more likely to be things such as assault. So it does come back to that question of what is the community's expectations around the conduct of their councillors.

**Mr GRIMWADE:** Sure. Just to follow up on that, there is a big difference between assault and speeding. I am talking about something like a speeding offence. It would not be uncommon for some councillors around the place now to be excluded if that was the case because there would be a few who would have lost their licence. If, in fact, someone was a councillor now currently with a suspended sentence or a licence issue, at the next election if this legislation came into place could they contest the next election or would they be excluded because they have had a loss of licence or suspended sentence through this term of government?

**Ms Blagoev:** It depends on whether or not they are still subject to that suspended sentence. If they still satisfy the definition of a prisoner at the next election they would be disqualified. Just picking up on that issue of speeding, the question is always what penalty is the court imposing. It may be just a loss of licence versus for something like an assault a court may impose a suspended sentence.

**Mr GRANT:** Could I follow on? I need far greater clarity surrounding this issue. There is no way in the world I would support a councillor being struck off because he or she was speeding. Assault, that is a different category. How do we gain the clarity? I believe a councillor should be able to conduct themselves without assaulting a person—although you are tested at times, I can promise you. But to be real, I need greater clarity surrounding these suspended sentences. We have to unpackage that in some way for me and, I suspect, for other members.

**CHAIR:** I think what Mr Grant is saying is, is there any further explanation that you can give on this? The government decision has been made, but is there any further explanation that you can provide in relation to the sorts of categories? If a councillor has been speeding are they likely to be put out of local government?

**Ms Blagoev:** I cannot comment on what sentence a court may impose for different offences. I guess that is why the legislation does focus instead on the definition of prisoner and the penalty that a court imposes on the basis that if a court has imposed a suspended sentence it is obviously a significant enough offence to warrant that versus just having a conviction recorded or a loss of licence. I guess we trust that a court, if it has awarded a suspended sentence, has done that for a reason.

**Mr GRIMWADE:** I will just follow on from that. If in the term of government someone goes to prison that would automatically strike them out and cause a by-election in the seat, would it not?

**Ms Blagoev:** Yes.

**Mr GRIMWADE:** This law comes in in November this year. If a councillor does go and speed, do not forget you are not just losing your licence for speeding, a lot of the time they will charge you with reckless driving and a whole bunch of stuff that could cause, depending on your history, a suspended sentences. If they did that during their term they would effectively be kicked out forcing a by-election.

**Ms Hawthorne:** If the councillor is currently under a suspended sentence, when this legislation comes into force, if this legislation comes into force, they automatically will stop being qualified as a councillor. If you have a history of a suspended sentence that is not being under a suspended sentence.

**CHAIR:** I think we need some more clarity later on in relation to this. This is not your area. We can certainly look at that and make some further recommendations. Any further questions?

**Mr GRANT:** I would certainly like to hear your response on the arguments, the logic, that LGAQ have put forward with respect to not having the different voting methods within the one undivided council for mayor. I would like to hear your analysis—at least to listen to that.

**Ms Hawthorne:** Because of the changes that we are making now to allow voters not to have to vote for the exact number of councillors, when a voter goes to vote, the system of voting for mayor and voting for councillors in undivided councils and divided councils will be exactly the same for the voter. You can put a tick or a cross in one box or you can put a tick or a cross in all the boxes, but for OPV where you have got one councillor, one mayor, in one ward then it is only that one that is going to count. Now that we are changing, or the bill changes, in the first past the post, if you want to put a tick or a cross in one box that is fine and that vote will count. If you want to put a preference in in first past the post and vote with numbers, a sequential number, then that vote will count, too. If you go over the number of councillors to be elected in an undivided council using numbers that show a clear preference then that vote will count, too, it will just cut off when the number of councillors to be elected is reached. When a voter goes to vote there is no difference. The difference is in the counting. For OPV it is preferential voting. There is first, second preference, et cetera. With first past the post there is no preference. You do not do a second round and a third round to distribute the votes. That is it after the first count. That is how it works. That is the policy. I am not quite sure for the voters how it is going to be confusing or different. It is in the way that the vote is counted with the two systems.

For OPV for the mayor, OPV requires a 50 per cent plus one—an absolute majority. So it would surely indicate that this is who the majority of the community want as mayor because you need a percentage in OPV, an absolute majority of 50 plus one, which does not happen in first past the post. You do not need to reach that absolute majority in first past the post.

**CHAIR:** No further questions? Thank you everyone for attending today. Thank you once again to those who made submissions to the inquiry. I remind you that we have said that any further information from the ECQ should be provided to the committee by 5 pm on Friday, 25 July, but do the best you can. The committee is due to report back to parliament on this inquiry by 18 August 2014. The report will be published on the parliamentary website. I declare the public hearing closed. Thank you.

**Committee adjourned at 1.08 pm**