



# ***LOCAL GOVERNMENT, SMALL BUSINESS AND CUSTOMER SERVICE COMMITTEE***

**Members present:**

Mr JP Lister MP—Chair  
Mr AJ Baillie MP  
Mr MA Boothman MP  
Mr MPT Healy MP  
Mrs ME Nightingale MP  
Ms JE Pease MP

**Staff present:**

Ms M Telford—Committee Secretary  
Mr Z Dadic—Assistant Committee Secretary

## **PUBLIC HEARING—OVERSIGHT OF THE INDEPENDENT ASSESSOR**

### **TRANSCRIPT OF PROCEEDINGS**

**Wednesday, 19 February 2025**

**Brisbane**

## WEDNESDAY, 19 FEBRUARY 2025

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**The committee met at 11.36 am.**

**CHAIR:** Good morning. I declare open this public hearing with the Independent Assessor. My name is James Lister, member for Southern Downs and chair of the committee. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today and pay our respects to elders past and present. We are very fortunate to live in a country with two of the oldest continuing cultures in Aboriginal and Torres Strait Islander peoples whose lands, winds and waters we all share. With me today are the deputy chair, the member for Inala, Margie Nightingale; the member for Townsville, Adam Bailee; the member for Theodore, Mark Boothman; the member for Cairns, Michael Healy; and the member for Lytton, Joan Pease.

This hearing is a proceeding of the Queensland parliament and is subject to the parliament's standing rules and orders. Only the committee and invited witnesses may participate in proceedings. Witnesses are not required to give evidence under oath or affirmation, but I remind witnesses that intentionally misleading the committee is a serious offence. I also remind members of the public that they may be excluded from the hearing at the discretion of the committee. I remind committee members that officers are here to provide factual or technical information. Any questions seeking an opinion about policy should be directed to the minister or left to debate on the floor of the House.

These proceedings are being recorded and broadcast live on the parliament's website. Media may be present and are subject to the committee's media rules and my directions at all times. You may be filmed or photographed during the proceedings and images may also appear on the parliament's website or social media pages. Please turn off your mobile phones or put them on silent mode. Please remember to press your microphones on and switch them off in between speaking.

**BLAGOEV, Mrs Bronwyn, Independent Assessor, Office of the Independent Assessor**

**KOHN, Mr Charlie, Deputy Independent Assessor, Office of the Independent Assessor**

**SAUNDERS, Mr Todd, Director, Media and Engagement, Office of the Independent Assessor**

**CHAIR:** I now invite you to provide an opening statement to the committee after which the committee members will have some questions for you.

**Mrs Blagoev:** Thank you very much. Good morning, Chair and members of the committee. I would like to thank the committee for the opportunity to brief you today on the work of the Office of the Independent Assessor. I am Bronwyn Blagoev, the Independent Assessor. With me today is Charlie Kohn, the Deputy Independent Assessor, and Todd Saunders, our Director of Media and Engagement. I was going to start today by providing some background to the OIA and the work we do, and then open up for questions after the short opening statement.

**CHAIR:** Please go ahead.

**Mrs Blagoev:** The OIA was formally established in 2018 after an independent review of the councillor complaints framework in 2016 which recommended an independent and streamlined approach to councillor complaints. Before then, it was the council CEOs who were doing a lot of the heavy lifting and the department of local government.

Since the commencement of the OIA, we received more than 6,000 complaints. We average about 1,000 complaints a year. Our jurisdiction is specific to councillors only. We do not have jurisdiction over council staff. We were established under the Local Government Act and our role is to undertake the initial assessment of all complaints about councillor conduct. The act establishes various types of conduct. It has four different types of conduct. It has unsuitable meeting conduct which is something that is handled by the chair, normally the mayor in real life, so we do not get involved in unsuitable meeting conduct. We then have conduct breaches. That is typically where a councillor may have breached the code of conduct and they will be assessed by the OIA, but they are investigated and ultimately determined by the council themselves; so the council will investigate

and the councillors will determine whether or not there has been a conduct breach. Misconduct is a space in which the OIA plays, so we will investigate misconduct. We will also, where there is a public interest, prosecute those matters before the Councillor Conduct Tribunal. The fourth type of conduct is corrupt conduct. If we receive a complaint and we assess it as potential corrupt conduct, we will send that through to the CCC.

As you aware, a comprehensive parliamentary committee inquiry into the councillor complaint system was undertaken in 2022, and those changes were implemented from November 2023 onwards. These reforms brought about a range of new provisions enabling the OIA to deal with those complaints more efficiently and more proportionally. The key legislative changes from that review were: the removal of former councillors, so if a councillor stopped being a councillor, as we saw occur after the 2024 local government election, we would no longer pursue misconduct allegations; the removal of historic complaints that were not corrupt conduct; and the introduction of statutory recommendations for less serious conduct matters.

The reforms have streamlined the councillor conduct framework, with the number of matters awaiting determination from the tribunal dropping from 66 in 2023—there was a real backlog—to now sitting at five matters. The changes have also enabled the OIA to sharpen our focus on more serious misconduct, and we take a real proactive and educative approach for the lower-level complaints. Importantly, we had a role in implementing nine of those committee recommendations and all nine of those are now complete. We are now through the reform stage and really starting to imbed BAU.

This financial year through to 31 January 2025, we have recorded 582 complaints. Of those, we have dismissed 513. We have referred 13 matters to local government as suspected conduct breaches. Eighty per cent of all complaints we receive we dismiss on assessment, so that really reinforces our efforts to prioritise those higher level matters.

The OIA recognises that councillors are performing an important role. Many of the councillors are unfamiliar with their role—they are new, they have been elected in 2024, they are still navigating complex legislation and they are still learning how to become a councillor. That is why we aim to approach matters with empathy and understanding. We provide detailed explanations of our decisions. We do that for members of the public to also educate the members of the public in what is the role of a councillor, because some of them do not completely grasp the role of a councillor versus the council staff.

When assessing complaints, we consider a whole range of factors. We will look at the severity of the complaint, we also look at the wellbeing of the councillor, the availability of evidence, whether the conduct is ongoing, whether it is a once-off, and also alternatives to handling a complaint. The ability for the OIA to issue formal recommendations to councillors has enabled a constructive pathway for dealing with those lower level conduct breach matters. Since those reforms came into effect, we have issued more than 60 recommendations to councillors and councils. A lot of these recommendations will encourage a councillor, for example, to seek more training or to review the code of conduct. There are signs that this is really working. We have only seen a very small number of councillors come back into us for a second recommendation. Most of the time they read the recommendation, they do the work and we do not see them again.

We do know that drawn-out processes can cause real angst both for councillors and complainants, and we are committed to meeting deadlines in terms of our work. We are working to target timeframes of all complaints being assessed within seven working days, and simple complaints being investigated within 60 working days. We are proactively providing data snapshots to our stakeholders to hold ourselves accountable so that they can see every month how we are tracking against our timeframes. I am pleased to say that the average time it takes us to assess a complaint is less than three working days, and the average time to investigate a matter is 33 working days.

Last year we renewed our strategic plan and placed a strong emphasis on effective engagement and collaboration with our key stakeholders. We have great stakeholders in this sector, and we have a new stakeholder engagement plan that focuses on a whole range of opportunities for engaging with the sector. It will cover how we engage with the LGAQ and the LGMA, how we get in front of councillors, and how we form those relationships with the councillors so we understand their business and they understand our business. We also do a lot of proactive work with our CEOs because they are absolutely integral. That stakeholder piece has been something we have focused on since the reforms and definitely the feedback we have had from stakeholders is that that work is going well and they are happy with how well we are performing our function. I would also like to acknowledge the work of the OIA staff in getting on board with those reforms since 2023. They have done a brilliant job, and continue to do a brilliant job every day. Chair, I am happy to open up for questions.

**Mrs NIGHTINGALE:** I noticed in some of the information provided that obviously a great deal of the complaints made do not meet the threshold. Is there a particular theme around those types of complaints?

**Mrs Blagoev:** A lot of them do not meet that threshold. It can be anything from members of the public not really understanding the role of a councillor. One we do see regularly is, 'I contacted my councillor about this pothole and they haven't got back to me.' What has happened is the councillor has done the right thing. They have followed the council process, it has been logged with the council and council staff are on to it. We try and educate those members of the public that that is not their job. There are a lot of operational matters where there has just been a misunderstanding. We have to remember that about half of all complaints come from the local government sector, so that is councillors, CEOs and staff. That is because they are under a positive obligation to report. If they think they are seeing misconduct or a conduct breach, they have to send it in to us. We spend a lot of time on the phone to councillors or CEOs who are testing: 'I've seen this. I'm not quite sure.' We say, 'Send it in. Get us to do our job.'

To your point, sometimes the assessments will only take a really short period of time because we see the same things over and over again. Sometimes it will just be that councillor X has spoken poorly to councillor B. There is a little bit of the rough and tumble of politics. We do try and see through those complaints. Sometimes things just get heated. We try to take a proactive approach to that. Out of the 80 per cent that are dismissed by us, the learnings are not lost from that. We have regular communication with the department, the LGMA and the LGAQ where we will say, 'We're starting to see this.'

One of the key things we are seeing at the moment is the use of social media. There is confusion about how to handle social media accounts. Do I need to moderate? What should I be removing? What should I be hiding? How do I speak on social media? If we are seeing a type of complaint come through, we will go to those stakeholders. We do not have what I would call a frontline capability built-in role. We do not go out and train on 'the code of conduct says A, B and C'. That is the role of the department of local government. The LGAQ plays a fantastic role in that space as well. Our job is to get them data and trends to help informed, targeted capacity building.

**Mr BOOTHMAN:** You were discussing the four levels. In your opinion, what is the threshold for misconduct? There are two parts to the question. What is the threshold to warrant a misconduct investigation? You brought up social media, and it reminded me that I had a local councillor who had a bit of an issue because of his comment back to a constituent. The constituent was very abusive to him. Can you comment on that and the threshold?

**Mrs Blagoev:** I will deal with the threshold first. The Local Government Act literally defines misconduct. We will look at whether or not there is a reasonable suspicion of misconduct. I am conscious that council staff, the CEOs and councillors are under that positive obligation. As I said, we spend a lot of time on the phone just chatting things through because usually there are layers of information. It is never really simple. I will usually default to, 'If in doubt, send it in.' It is not always apparent on the face of it what you get. We sometimes will do a bit of digging through the assessment phase as well. I will say that the CEOs are amazing with the support they provide to the OIA in that assessment space. I would rather get all of the information in the assessment space so we are not causing stress to a councillor. Usually the CEO will say, 'Yes, I know about this.' They will give you all the information and we will say, 'There's clearly not misconduct. There's a whole story to this.' To answer your question, to err on the side of caution is what we suggest.

In terms of the social media space, there is a lot of that going on. We can see where a councillor has made a comment, a member of the public has bought in, the councillor has come back in, the member of the public—it just keeps going on and on. The hard thing is that members of the public are not bound by that code of conduct but councillors are. When we assess, we will take into account all of that. We will look and see that person did not speak very nicely to the councillor. We consider it all. That is something that at the moment we are making recommendations on. If we see some interaction with a member of the public where a councillor has been disrespectful, it is a breach of the code of conduct. The approach that we are taking at the moment is we will check if there is a history there. Have we issued this councillor with a recommendation before? If not, we will issue them with a recommendation. 'Councillor, I suggest you look at the code of conduct. Remember, it applies when you are on social media.' As I said before, we are seeing a good response. Out of the 59 recommendations we have issued to individual councillors, only six of those councillors have come back in for a further recommendation. The rest have corrected their behaviour. Time will tell how that goes over an extended period of time. To answer your question, member, we consider all of that. We acknowledge that councillors are under conditions that members of the public are not.

**Mr BOOTHMAN:** Just to follow on from that, if there was a message trail that contained filibustering between the two people, heated words, what recommendation would the OIA make to the councillor as a punishment, so to speak?

**Mrs Blagoev:** We try not to refer to it so much as a punishment; it is a learning opportunity. There is disrespect and then there is the next level of disrespect. We are always looking at the severity of it. If it was towards the lower end, we would remind the councillor that they are bound by the code of conduct and that that code of conduct applies when they are performing official functions. That would include typically, if they are on their councillor Facebook page and doing councillor things that will apply. You have to be really careful. The code of conduct only applies where a councillor is performing an official function. That is something to keep in mind. We always have to assess whether they are doing official council business or whether it is personal conduct. Assuming all of those things line up and it is official and the code of conduct applies, it would be recommended that they do some training around the code of conduct.

**Mr HEALY:** It is good to know what you are doing. I imagine there would be an element of frustration in looking at 80 per cent and saying, 'There's not a case here.' The Belcarra legislation is obviously challenging legislation. I have had councillors tell me that, because it is trying to legislate against human nature, it is going to be very difficult. Can you see where possible changes to that could make improvements? I think we will forever need to improve how we legislate. I know that it can be misconstrued and things can be twisted and turned. That is humans; that is the way we are. That would create an enormous amount of repetitive work for you: 80 per cent, that says a lot. Do you have the capacity to highlight where you think alterations or amendments can be made to improve efficiencies? If that is the case, have you identified any?

**Mrs Blagoev:** As you said, it is really hard to legislate for this because essentially 50 per cent comes from members of the public who may not understand the role of a councillor overly well; 50 per cent will come from the sector where they are obligated to refer. Some of it is constant education to those in the sector around when you are meeting the threshold. One of the things we have started is our quarterly CEO conversations. A lot of that will look a bit like, 'This is happening. I'm not sure where to refer it.' There is a sort of an educative function.

In terms of legislative reform, I think it is hard to legislate to drive down the number of complaints. I am not so much worried about the number of complaints because the 80 per cent is useful. It is identifying educative needs. It is identifying trends. It is still useful. There are already reforms in place around vexatious complaints. Only one per cent of our complaints are dismissed as vexatious. It is actually a very small number. We tend to work with those complainants. 'Look, you've said this before. You're coming in again. There seems to be a misunderstanding. You're not understanding the role of a councillor.' We will go to great lengths to have conversations with them to educate them. I do find that useful. It does mean they are not getting up the ranks in terms of being declared a vexatious complainant. We will dismiss a complaint as vexatious if we see multiples of them. If there are three or more we can then declare them vexatious. We really have not got there with anyone. We find that most people are actually quite reasonable. I do not have a concern with vexatious complaints; it is just part of the process.

We did not always dismiss 80 per cent, but the reforms of 2023 were really clear: OIA needs to focus limited resources on serious misconduct. We have moved that up. It was at 65 per cent. It has now moved up to 80 per cent in a very short period, so the bar is higher than it was. We were investigating just over 20 per cent of all complaints that came in. That has now dropped to 10 per cent. In terms of those that get an actual full investigation, it is now 10 per cent. The beauty of the legislation at the moment is it gives us that discretion. It lets us look at all of those factors. It lets us consider the wellbeing of the councillor, how experienced a councillor is. We have so many factors and tools that we can now use, and that is really our role. It is hard to legislate for that thinking. It is the analysing. I have no doubt there are other reforms that can be made around the processes and how the whole framework sits together. That might be more looking at how we handle the different types of complaints rather than stopping the 80 per cent.

**Mr HEALY:** That is an excellent response, thank you. Unfortunately, Chair, I have to go to another meeting. Keep up the good work.

**CHAIR:** You prompted me to talk about the theme of vexatiousness. I have personally observed the extensive use of councillor complaint mechanisms to disadvantage political opponents or by officers of local government to try and silence a councillor with whom they disagree and members of the community who do the same things. I had lived under the assumption that, because

of the reforms which enabled you to declare a complaint to be vexatious, there would have been quite a few who would have been so declared. What is your understanding of the term vexatious, and are you cognisant and mindful in your deliberations as to the potential motives of the complainants, particularly where an ordinary person of reasonable common sense would say they are ganging up on a particular person?

**Mrs Blagoev:** Absolutely. Where it gets difficult is that a lot of the complaints in particular spaces and the ones you have just described are coming in from councillors. In terms of a vexatious complaint, for every single matter we assess we ask the question: is this vexatious? It is one of the questions where we sit there and ask it on every complaint. We do take it very seriously. In terms of what is a vexatious complaint, what I am looking for is whether they have made the same complaint on multiple occasions and on complaint 1 we have told them that there is no basis for this but then they are coming back in and they are making the same complaint or similar, so I am really looking for that trend. It is just interesting that we do not see a lot of that from members of the public.

With regard to what you have spoken about in terms of political pointscoring, before the reforms I think it was about 21 per cent of all complaints were councillor on councillor complaints. It was quite high. That has dropped post election to 14 per cent, so it is something that between the department, the LGAQ and the OIA we have absolutely been spruiking with the sector—that is, do not use the OIA to resolve your interpersonal issues. We have also targeted councils where there has been prior history around this and we have attended a lot of councils post election to speak to the new councillors and to say, 'Please don't repeat last term.' I have found that quite effective and I think the drop from 20 per cent down to 14 per cent is actually quite considerable. We still see a little bit of it in pockets, but in terms of vexatious it is very hard for us to declare a local government official as vexatious because they have the obligation to report. Charlie, I do not know if there is anything else you want to add to that? I know you deal with them.

**Mr Kohn:** Yes, just that the process to declare someone as vexatious requires three dismissals of vexatious complaints. What we find is we will dismiss their first complaint as vexatious and give a warning that this could either be a statutory offence or they can be declared a vexatious complainant. Some might make a second complaint and we give them a further warning and say, 'One more complaint triggers the process.' We have not seen the third complaint at this stage from any complainant that is vexatious. I think the process works to avoid getting to that stage that we have seen so far, but off the top of my head I think there are probably about a half a dozen who are on the cusp and if they make a further complaint then we will go down that process.

**CHAIR:** Thanks for that.

**Ms PEASE:** Congratulations; you come very highly regarded from the industry, so thank you very much for everything you have been doing. Everyone speaks very highly of you. If people make a complaint and 80 per cent of them are getting knocked back, can they go to the Ombudsman? That is the next step, is it not?

**Mrs Blagoev:** Great question. Yes, they can. We also have an internal review mechanism as well. What we do find is that Charlie will tend to make the operational decisions which will leave me for an internal reviewer, so we encourage people that if they are not happy to come in for an internal review. If they are then not happy with me, absolutely. We provide them with standard wording encouraging them to come into the Ombudsman.

**Ms PEASE:** I also just wanted to ask about misconduct and high-level misconduct. What does it cover? What does misconduct look like given the history of that councillor on the Gold Coast? Is that captured in that instance?

**Mrs Blagoev:** With regard to misconduct, the definition in the Local Government Act is quite specific but it is also quite broad. It does capture a lot. It will include things like, just to give examples, failure to declare or manage a conflict of interest. We do see that seven per cent of complaints coming in are that conflicts of interest were not properly managed. Three per cent of complaints that come in are about confidential information and a release of confidential information. It really is about not performing your role impartially or honestly or you are not complying with an act.

**Ms PEASE:** So it does not cover a criminal offence?

**Mrs Blagoev:** If it is a criminal offence, we will refer that off to the QPS typically—

**Ms PEASE:** Right.

**Mrs Blagoev:**—or the CCC.

**Ms PEASE:** So if you had heard of a criminal offence that a councillor was involved in and it had been reported to the police, would you be beholden to investigate that?

**Mrs Blagoev:** No, the act specifically will say that where a matter is a responsibility of another agency—

**Ms PEASE:** So if they have a criminal offence—a serious criminal offence—they can continue to be a councillor without the CEO getting involved and getting a recommendation that they should be stood down?

**Mrs Blagoev:** It would depend on what it is. If we receive information, we are under an obligation to report that through to the CCC, which we will do. We have previously on occasion also referred matters through to the QPS because we have been so concerned. If it is of a lower grade, we usually encourage the complainant to refer it off to the QPS so that we are not caught in the middle of that, but, yes, there have been some occasions. A good example is we have become previously aware of domestic violence allegations and at that point in time I was so concerned by what I knew that the team provided that through to the QPS.

**Ms PEASE:** Thanks very much. Thanks for your great work. Again, everyone speaks very highly of the work you do, so congratulations.

**Mr BAILLIE:** I note that you have mentioned that there has been a review and some changes recently, but there seems to be a trend—that is, in 2023, 65 per cent of all complaints were assessed or dismissed, 76 per cent last financial year and year to date 88 per cent. Is that somewhat because of the changes and people are, I guess, overly cautious and want to make sure that they are doing the right thing and getting a report out to you? In terms of the issue of it being dismissed, you have also used the term 'recommendation'. When those matters are dismissed, is that the recommendation—that is, you provide some feedback and maybe prevent those sorts of complaints in future?

**Mrs Blagoev:** It is very intentional, so the increase in terms of what we are dismissing is intentional. What came through from the parliamentary inquiry were a couple of key themes. One, the system is taking too long, and I agree. At that point in time there were 65 matters backlogged in the tribunal. That would have taken them years and years to get through. Two, the types of matters being pursued by the OIA were not the right types is the feedback that came out from stakeholders and we very much want to focus on the serious end of the scale. We have 19.6 FTEs—at the moment we are at 18.6 FTEs—and we want to make sure that there is a public interest every time we deploy one of those staff members to do something.

I also would like to think that some of it is also just quite frankly a change of personnel. I have come into the role with 20-plus years experience in the department of local government. We have great staff who understand how councils work and how councillors work and it is a really tough job. It is 24/7 and it is difficult and not many councillors understand what sits in this and they are off doing community things—they are not sitting down reading the act—so we have to assess against that background. That gives us the ability, when we do see something that is serious, to go, 'Right, that's where our focus is.' We have seen an increase year to date of 33 per cent in terms of the number of complaints coming in. We do not change our staffing underneath that, so we have to be able to pivot and to focus on that increase.

**CHAIR:** Thank you. We have time for one more question. Are there any?

**Mrs NIGHTINGALE:** No, I think we are good, Chair. You have been very comprehensive. Thank you.

**Ms PEASE:** Yes, it has been great.

**CHAIR:** I do not have any further questions, so thank you very much for your appearance today.

**Mrs Blagoev:** Thank you for your time.

**CHAIR:** It is very interesting to be able to ask you these questions. That brings to an end our proceedings. Thank you to our Hansard reporters, who have covered a number of our hearings today, and also to the committee secretariat for the work you have done to make today possible. A transcript of these proceedings will be available on the committee's webpage in due course. I declare this public hearing closed. Thank you.

**The committee adjourned at 12.10 pm.**