

Your reference: A715787

26 July 2021

Committee Secretary  
Parliamentary Crime and Corruption Committee  
Parliament House  
George Street  
Brisbane Qld 4000

By email: [pccc@parliament.qld.gov.au](mailto:pccc@parliament.qld.gov.au)

Dear Committee Secretary

**Re: Inquiry into the Crime and Corruption Commission's investigation of former councillors of Logan City Council; and related matters**

The Independent Assessor (IA) thanks the Parliamentary Crime and Corruption Commission Committee (the Committee) for the invitation to make a submission in relation to the committee's Inquiry into the Crime and Corruption Commission's (CCC) investigation of former councillors of Logan City Council; and related matters.

**Inquiry terms of reference**

The OIA understands the committee has resolved to investigate issues raised by the Local Government Association of Queensland (LGAQ) in correspondence to the committee, and to publicly inquire into and report on:

- a) the CCC's investigation of former Logan City councillors which led to the former councillors being charged with fraud (these charges have now been discontinued);
- b) the decision and considerations of the CCC to charge these former councillors;
- c) the evidence, submissions and other relevant documentation provided to the Director of Public Prosecutions (DPP) by the CCC in support of these charges;
- d) the oral and/or written communications from the DPP to the CCC with respect to these charges;
- e) the CCC's involvement in related civil matters including those which were brought before the Queensland Industrial Relations Commission and Queensland Industrial Court, including the CCC's interaction with former councillors, the former Logan City Council chief executive officer (CEO) and any other relevant Logan City Council officers at relevant times;
- f) the CCC's use of coercive powers and matters relating to the dissemination of information obtained under coercion to parties in non-criminal proceedings;
- g) the process by which the CCC considers and determines whether to refer matters to the DPP;
- h) the CCC's interaction with the DPP more broadly, including existing information sharing and other processes that facilitate interaction, and whether the current processes and guidelines are appropriate;

- i) whether current provisions enabling the CCC to report on an investigation to particular entities under section 49 of the *Crime and Corruption Act 2001* (CC Act) is appropriate and sufficient;
- j) the CCC's role in charging persons with an offence arising from its investigations; and
- k) any other related matters.

### **The Office of the Independent Assessor**

The Office of the Independent Assessor (OIA) commenced on 3 December 2018 to fairly and effectively deal with lower-level complaints about the conduct of local government councillors in Queensland.

The OIA:

1. receives and assesses complaints about *inappropriate conduct*<sup>1</sup> and *misconduct*<sup>2</sup>
2. where appropriate, refers matters assessed as inappropriate conduct to the relevant local government to investigate and resolve (the OIA cannot investigate inappropriate conduct unless it is linked to misconduct).
3. where appropriate, investigates allegations of misconduct or corrupt conduct,<sup>3</sup> if the latter is referred to the OIA by the CCC.
4. refers misconduct allegations to the Councillor Conduct Tribunal (CCT) to be dealt with on a disciplinary basis and bears the onus of proof.
5. prosecutes criminal conduct offences against the *Local Government Act 2009* (the Act) in the Magistrates Court.
6. provides advice, training and information to councillors, local government employees and other persons about dealing with alleged or suspected inappropriate conduct, misconduct, or corrupt conduct.

The IA's functions/roles are set out in more detail in sections 150CU, 150AN, 150AY, 150AZ of the Act.

The OIA receives referrals and/or complaints from councillors, local government officials and other employees, members of the public, government departments, and the CCC. The latter are matters which the CCC has categorised as either potential misconduct by a councillor or as possible corrupt conduct which is appropriate for the OIA to investigate and prosecute.

From 3 December 2018 to 30 June 2021, the OIA received 2928 councillor conduct complaints. Of these, 135 complaints were subsequently referred to CCC as possible corrupt conduct while the OIA received 272 referrals from the CCC over the same period.

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<sup>1</sup> Pursuant to section 150K of the Act, inappropriate conduct occurs when a councillor's conduct contravenes the Queensland Code of Conduct for councillors, a policy, procedure or resolution of the local government.

<sup>2</sup> Section 150L of the Act sets out nine categories of misconduct by a councillor.

<sup>3</sup> As defined in section 15 of the Crime and Corruption Act 2001 (CC Act).

As at 30 June 2021, the OIA had completed 855 investigations into councillor conduct. Each investigation relates to a complaint or referral received. A single complaint may contain multiple allegations of misconduct or corrupt conduct. Conversely the OIA may receive multiple complaints about the same alleged act/s of misconduct or corrupt conduct.

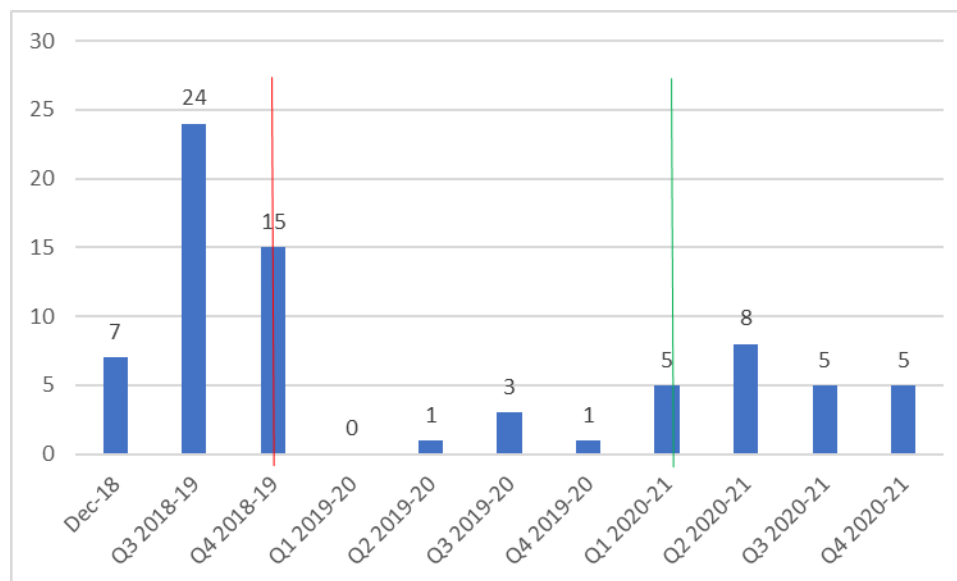
As at 30 June 2021:

- (1) 33 investigations involving 17 councillors and 49 allegations were with the OIA legal team being prepared for or undergoing a natural justice process prior to possible referral to the CCT
- (2) 71 matters involving 38 councillors and 105 allegations were before the CCT undergoing hearings or awaiting directions
- (3) 53 matters involving 30 councillors and 74 allegations had been decided by the CCT.

### Councillor conduct complaints: Logan City Council (LCC)

From its inception on 3 December 2018 to 30 June 2021, the OIA received 74 complaints or referrals about the conduct of LCC councillors.

The following table depicts councillor conduct complaints received by the OIA per quarter from the OIA's establishment on 3 December 2018 to 30 June 2021.



**Table 1: LCC Councillor Conduct complaints: 3 December 2018 – 30 June 2021 (per quarter)**

\*LCC dismissed May 2019

\*LCC reinstated at 2020 elections

The OIA was in operation for five months before the dismissal of Logan City Councillors in May 2019.

Thirty-eight of the 74 complaints or referrals about LCC councillors were received prior to the council's dismissal on 2 May 2019 (Q4 2018-19).

The quadrennial local government elections were held on 28 March 2020 and the results were finalised in April 2020 (i.e., in the fourth quarter of the 2019-20 financial year). Since the election of new LCC councillors the OIA has received an average of 4.8 complaint matters per quarter.

Members of the public have consistently lodged the highest number of conduct complaints about LCC councillors per financial year.

Council officials including the CEO, mayor, and councillors are required to refer complaints or report information which may indicate that a councillor has engaged in inappropriate conduct or misconduct.<sup>4</sup>

LCC complaints: sources per financial year			
	2018-19*	2019-20	2020-21
General Public	11	5	12
CEO	11		8
Councillor	9		2
Self-referral by a Councillor	1		
LG Employee	4		
CCC	9		
Own motion investigation by the IA	1		
Referred by LG Department			1
<b>Total</b>	<b>46</b>	<b>5</b>	<b>23</b>

**Table 2: LCC councillor conduct complaints: sources**

**\*3 December 2018 – 30 June 2019**

<sup>4</sup> Pursuant to section 150P of the Act a local government, councillor, and council CEO must refer councillor conduct complaints and all relevant information to the Independent Assessor, unless the complaint relates to alleged corrupt conduct (which must be referred to the CCC) or the aforementioned entity has the power to investigate the complaint or the councillor's conduct under another law and decides to do so. Pursuant to section 150R of the Act a local government, councillor, and council CEO must notify the Independent Assessor about particular conduct if that entity becomes aware of information indicating a councillor may have engaged in conduct that would be inappropriate conduct or misconduct.

An OIA investigation is commenced when a complaint is assessed as raising a reasonable suspicion that a councillor has engaged in misconduct.

From 3 December 2018 to 30 June 2021, 47 per cent of complaints relating to LCC councillors progressed to an investigation.

Thirty-four of the 35 investigations undertaken by the OIA in relation to LCC councillors were commenced in 2018-19.

The OIA was not required to investigate any matters involving LCC councillors in 2019-20 (NB: the LCC was in place only for part of the final quarter of this financial year).

One matter became subject to investigation in 2020-21, the first full financial year since the LCC's reinstatement at the March 2020 quadrennial local government election.

Financial years	Complaints	Investigations
2018-19*	46	34
2019-20	5	0
2020-21	23	1
	74	35

**Table 4: LCC councillor conduct complaints (3 December 2018 – 30 June 2021)**

\*3 December 2018 to 30 June 2019.

#### **Matters relevant to the inquiry:**

It is believed this submission by the OIA may be relevant to the inquiry under the terms of reference which list "any other related matters".

As such the OIA notes that it received 14 complaints containing allegations relating to the use of the WhatsApp communication application by eight councillors (then current and suspended). These complaints came from the CEO Mr Silvio Trinca (seven complaints), a member of the public (seven complaints) and the CCC (added to the file created in relation to the CEO referral).

All of these complaints or referrals were ultimately dismissed or subject to no further action by the OIA as the subject councillors were charged with criminal offences, were no longer in office and had not nominated or been elected following the 2020 local government election.

Given the above circumstances, the OIA determined that it was not in the public interest or a justifiable use of resources to continue to deal with these disciplinary matters.



I trust this submission is of assistance to the committee. Should further information be required please contact Ms Nicole Butler, Director of Media and Engagement, by phone [REDACTED] or via email at [REDACTED]

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Kathleen Florian', is written over a light blue rectangular background.

**Kathleen Florian**  
**Independent Assessor**