



PARLIAMENTARY CRIME AND CORRUPTION COMMITTEE

Members present:

Mr JM Krause MP—Chair
Ms JM Bush MP
Mr MJ Crandon MP
Mrs MF McMahon MP
Dr MA Robinson MP
Mr JA Sullivan MP
Mr A Tantari MP

Counsel assisting:

Dr J Horton QC
Mr B McMillan

**Staff of the Office of the Parliamentary Crime and
Corruption Commissioner:**

Ms K Carmody—Commissioner
Mr M Kunde—Principal Legal Officer

Staff present:

Ms E Jameson—Committee Secretary
Ms M Salisbury—Inquiry Secretary
Ms M Cook—Evidence Officer
Mr S Finnimore—Principal Legal Officer

INQUIRY INTO THE CRIME AND CORRUPTION COMMISSION'S INVESTIGATION OF FORMER COUNCILLORS OF LOGAN CITY COUNCIL; AND RELATED MATTERS

TRANSCRIPT OF PROCEEDINGS

FRIDAY, 20 AUGUST 2021

Brisbane

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The committee met at 9.30 am.

CHAIR: Good morning and welcome to the Legislative Council chamber for day 4 of our hearings into this inquiry.

Ms Makeeta McINTYRE (accompanied by Mr Peter Dunning QC and Mr Matthew Wilkinson)

CHAIR: We have before us Ms Makeeta McIntyre, principal lawyer, Crime and Corruption Commission. When we left off yesterday, there was some questioning being undertaken by Mr McMillan of counsel. Mr McMillan, we might continue from where we left off yesterday.

Mr McMILLAN: Thank you, Chair. Good morning, Ms McIntyre.

Ms McIntyre: Good morning.

Mr McMILLAN: Shortly before we broke yesterday afternoon, I asked you to consider the bundles overnight and to let us know if you are able to identify any communications in writing between you and the operational team where the issue of the Public Records Act—potential offences had been raised prior to your email of 12 September 2018. Were you able to find any such documents?

Ms McIntyre: I was not able to find any communications as such, but if I could take you back to volume 2 at page 28, my email down the bottom is the email you are referring to of 12 September 2018. I draw your attention to the email preceding that from Mr David Beattie, also 12 September 2018, at 8.11 am. It discusses the use of WhatsApp and the issue of that utilisation of communications apps being contrary to the principles of the Local Government Act. Through that email it talks about the use of those communications apps not being accountable or transparent. The last sentence—I appreciate that this is in relation to his endeavours to identify other aspects of, I suppose, policy or legal discussion in relation to the use of communication apps. He refers to—

I'm sure if we researched this we could find something about transparent and accountable record keeping that would prohibit the use of corporation business on WhatsApp and similar covert platforms.

I think this is indicative of the discussions that we were having in relation to the potential governance issues within Logan City Council and the use of the communication apps leading to breaches of the Public Records Act. That is that date. I would also like to take you back to June of 2018, when we conducted investigative hearings—

Mr McMILLAN: Before you do that—I will invite you to come back to that in a moment—can I ask you about that email that you have just drawn the committee's attention to? The email that you refer to, I think, and that you read from just a moment ago on page 28 of volume 2 is from Mr Beattie to you at 8.11 am on Wednesday, 12 September 2018?

Ms McIntyre: Yes.

Mr McMILLAN: That in fact is a reply to the email that we discussed yesterday that you sent at 5.08 am on that same day?

Ms McIntyre: That is correct.

Mr McMILLAN: You have not been able to identify any correspondence before your email at 5.08 am on 12 September?

Ms McIntyre: No written correspondence, no.

Mr McMILLAN: You were about to take us to something in June.

Ms McIntyre: Yes. In June—

CHAIR: Ms McIntyre, before you refer to material from an investigative hearing, I might ask if you could tell the committee whether that material is before the committee.

Ms McIntyre: It is before the committee.

CHAIR: When we had previous witnesses refer to material either from an investigative hearing or telecommunications intercept material it did not reflect well on the parliament, so I might ask if you could refer the committee to where this can be located before you commence to read it.

Ms McIntyre: Okay. The documentation that I am referring to would be a transcript for the investigative hearing of councillor Swenson on 11 September 2018.

CHAIR: Is it in the bundle?

Ms McIntyre: It is in the bundle. In terms of, I suppose, the hard drive that went over—

Mr McMILLAN: Just before you go on, Ms McIntyre, could you just tell us where in the bundle it is so that the committee members can apprise themselves of the document?

Ms McIntyre: In the bundle of—

Mr McMILLAN: Yes.

Ms McIntyre: No, it is not in the bundle that you have provided us, but it is provided in the disclosure that has been provided to you.

Mr McMILLAN: What I might ask you, perhaps through your counsel, to do is to let us know the date of that hearing and I will come back to it at the end of your evidence, after the committee has had the opportunity to consider it. I will give you the opportunity to deal with that issue, if you wish, subject to the chair's discretion, of course, but the chair has made it clear that the committee would prefer to see that material before you speak about it in your evidence.

Ms McIntyre: Of course, I understand that.

CHAIR: Indeed.

Mr McMILLAN: Can I move on in that case? You are well represented and your counsellors will alert us if I forget to give you the opportunity to come back to that. Chair, are you happy for me to move on?

CHAIR: Yes.

Mr McMILLAN: Thank you. Could I ask you, please, to go back to volume 1 and page 501. In about the middle of the page on 501, Ms McIntyre, you will see an email from you sent to Mr Alsbury, Mr Hutchings and others on 14 February 2019. You start the email—

Hi

I have just read the letter from King & Co.

For your assistance, that letter appears at page 469 of the bundle, just so you can acquaint yourself with the letter that you are speaking about in the email. Have you had the opportunity to read that letter recently?

Ms McIntyre: I have.

Mr McMILLAN: Thank you. Tell me if you would like to look at it again, but, in essence, it is a response from the solicitors acting for the Logan City Council corresponding with Mr Alsbury about the asserted obligation to disclose the WhatsApp material in the QIRC proceedings. Do you agree with that?

Ms McIntyre: I am not sure whether it is specific to the WhatsApp material, but I understand it is in relation to their obligation of disclosure overall in the QIRC proceedings.

Mr McMILLAN: Going back to your email on 14 February at 5.31, a couple of days after this letter is sent by King & Company, you express your initial thoughts in the first paragraph about, I think, the legal arguments being made by King & Company, and it is fair to say you disagree with them?

Ms McIntyre: Whether I disagree—oh, I am not familiar with the civil litigation duty of disclosure. I come from a criminal law background, where a duty of disclosure is constant. My view at the time was that King & Company—all parties to the QIRC proceedings had a duty to disclose information that was relevant to those proceedings.

Mr McMILLAN: Then in the second paragraph you say—

Maybe we should disseminate the material provided to Smith/Council on the basis that they failed to disclose during the above period, provided we gave the material to the parties during this period of disclosure.

This is yet another example of you trying to find a way that you could legitimately, in your mind, require the Logan City Council to disclose this material in the QIRC proceedings; is it not?

Ms McIntyre: Legitimately, yes.

Mr McMILLAN: This is an example of the CCC's continued efforts to assist Ms Kelsey to compel the production of coercively obtained material in private litigation?

Ms McIntyre: Not only to assist Ms Kelsey but to assist the commission itself in determining the matters before that commission.

Mr McMILLAN: You make this suggestion despite the fact that you had previously, by this time, read Commissioner Black's decision that directly dealt with the admissibility of that material in that proceeding?

Ms McIntyre: I made this after that decision?

Mr McMILLAN: Yes.

Ms McIntyre: Yes.

Mr McMILLAN: You did not think, did you, that this might be in conflict with Commissioner Black's ruling?

Ms McIntyre: This suggestion was made after knowing that councillor Dalley had decided to disclose that material to the QIRC.

Mr McMILLAN: What would then be the need for you to disseminate that material to the Logan City Council—

Ms McIntyre: Council—

Mr McMILLAN:—just wait for me to finish, please—given that the Logan City Council was itself a party in that proceeding?

Ms McIntyre: Councillor Dalley's information was only one part of the WhatsApp material. The other part related to the material that was extracted off mayor Smith's phone and that was not before the commission. Only councillor Dalley's information was there.

Mr McMILLAN: Chair, I am about to move to a different topic. I understand the committee might have questions relating to this issue.

CHAIR: Yes, we will move to questions in relation to this issue and others canvassed yesterday.

Mr SULLIVAN: I refer to volume 1 at page 141. Before that, I will ask a more general question. You touched on your experience briefly today and yesterday as well. I think you said you spent about 10 years at the CCC. Would you like an opportunity to briefly tell us your history before that? As a committee we have more regular interaction with the ELT, but I personally have not come across you, I do not believe. Would you like 30 seconds to tell us about your experience? You touched on the fact that you come from a criminal law background.

Ms McIntyre: I do. Prior to the commission I worked at a suburban firm. I commenced there in August or September 2003—I am not exactly sure, actually. I was admitted in September 2005 after doing two years article clerkship with a suburban firm. I did general law, and criminal law was one of the areas I practised in.

Mr SULLIVAN: As a defence solicitor?

Ms McIntyre: Yes. I left there in July 2009 to take up a position at the CCC. It was a complaints officer position within—I will refer to the term used now—Integrity Services. I was there for 18 months. I was successful in obtaining a senior lawyer position within the Misconduct operations area.

Mr SULLIVAN: And you have been there since?

Ms McIntyre: I have been there ever since.

Mr SULLIVAN: I just wanted to afford you that opportunity. You referred yesterday in your evidence that in preparation of material to send to Mr Alsbury in relation to the QIRC matter, I think it was, you may have referred to notes about investigative hearings. I assume that was the exchange we had this morning about those hearings so I will wait to come back on that issue. From your recollection, would that be what you were referring to—those investigative hearings at that time?

Ms McIntyre: Yes.

Mr SULLIVAN: Again, I am not asking for details. I refer to page 141. Can I ask why you were the point of contact for that letter? Had they previously been engaged with other people at the commission? Is this the first time that you became the point of contact?

Ms McIntyre: I do not know why I became the contact person for McInnes Wilson. Possibly my name and details may have been included as a contact person in a letter from Mr Alsbury in reply to certain correspondence.

Mr SULLIVAN: Can I turn to the letter that starts on page 169 and draw your attention to page 170.

Ms McIntyre: Sorry, can I expand upon that?

Mr SULLIVAN: Yes.

Ms McIntyre: In terms of the investigative hearings that were taking place I am only giving dates. They occurred between 11 June and 3 July, with a couple of other councillors coming back on 6 July and 11 September. McInnes Wilson represented each of the councillors who attended those hearings. That would possibly be the reason I am the contact person.

Mr SULLIVAN: Can I turn to pages 169 and 170, which is the letter from McInnes Wilson that Mr McMillan took you through yesterday. I refer particularly to the bottom of page 170 at subparagraph 3, 'Potential miscarriage of justice'. You suggested in your evidence yesterday that it was effectively a matter for the ELT or senior management to decide whether there was a potential for miscarriage of justice.

Ms McIntyre: Yes. To be fair, this would have been considered by—not necessarily the ELT—

Mr SULLIVAN: Sorry, they were my words—by the senior executive?

Ms McIntyre: The senior executive, yes.

Mr SULLIVAN: I think you referred it to the senior executive for their decision.

Ms McIntyre: Any correspondence that was provided to me would be referred to Paul Alsbury and Rob Hutchings.

Mr SULLIVAN: Mr McMillan brought your attention to that specific section of the letter on the bottom of page 170, 'Potential for miscarriage of justice'. In forwarding it or referring it to your senior executives did you include any advice, any information or any recommendations for them?

Ms McIntyre: No.

Mr SULLIVAN: I turn to page 224 in the same folder in relation to information under the T(IA) Act. Again, in an exchange with counsel assisting you said at the time that you were not aware of the written advice that had been previously provided by Ms Valeska and—I do not want to misquote you—I think you said something to the effect of, 'It would have been nice to know that that advice existed.' Is that a fair paraphrase? Was that your point?

Ms McIntyre: It is always useful to have other people's opinions.

Mr SULLIVAN: To be fair, you said that you do not necessarily agree with that advice, but it would have been nice to know.

Ms McIntyre: Of course.

Mr SULLIVAN: You were not told about that, even though you were dealing with that specific issue. Do you know who in the organisation would have eyesight over the fact that there was written advice on that particular point?

Ms McIntyre: I do not know. I am assuming that Rob Hutchings would be aware of that and possibly had requested that advice.

Mr SULLIVAN: Did you discuss TIA issues with Mr Hutchings?

Ms McIntyre: Yes.

Mr SULLIVAN: My understanding of his role is that, while he refers to himself as part of the corporate team, he had particular operational issues over that specific TIA issue?

Ms McIntyre: I understand that the TI unit came under his division. Whether that is, in your words, operational—

Mr SULLIVAN: They are not my words but his words. In your interactions with him about that particular issue there was no mention that there was actually advice to him?

Ms McIntyre: Not that I recall, no.

Mr SULLIVAN: Can I take you to your CC Act section 60 advice that was signed by you on 19 November. It is a brief that starts at page 425 in the papers. I will call it a brief. You can call it advice or whatever you want to call it. You have signed it at page 429. Then the actual authority by Mr Alsbury is at page 430. You said in your evidence with counsel assisting yesterday that the purpose for the second delivery of documents to Logan City Council—that is, in November—had a second element to it.

Ms McIntyre: Yes.

Mr SULLIVAN: I turn to page 428, paragraphs (b) and (c). Can I assume that that is the evidence that you are pointing to as to what was the secondary purpose?

Ms McIntyre: Yes.

Mr SULLIVAN: Did Logan City Council ask for the material to be delivered again to them?

Ms McIntyre: I am not aware of that.

Mr SULLIVAN: You do not know if anybody in your team spoke to the Logan City Council?

Ms McIntyre: I do not know.

Mr SULLIVAN: How did you know that Logan City Council did not have a proper information policy in place?

Ms McIntyre: My apologies. I thought it was in relation to returning the documents. I believe that there were discussions with Logan City Council in relation to that because we had asked for their—

Mr SULLIVAN: In terms of returning, I mean the second delivery—the return of the documents to the Logan City Council for the second time in November.

Ms McIntyre: We returned those documents for the purposes of them taking preventive action.

Mr SULLIVAN: How did you know Logan City Council did not have policies in place?

Ms McIntyre: My understanding is because of the discussions that the investigators had with the acting CEO at that time.

Mr SULLIVAN: From your understanding of those discussions, did the investigators ask whether Logan City Council required the actual documents to put in place those policies or guidelines—whatever you want to call them?

Ms McIntyre: I would say in the normal course of the investigation that would have happened. I cannot say that that is in fact what happened. I do not have that knowledge.

Mr SULLIVAN: You do not have that knowledge but you did put it into your brief and signed it?

Ms McIntyre: There were no policies that I had access to, or on our system, provided by Logan City Council to say that they had, I suppose, policies with regard to the use of WhatsApp material—sorry, communication apps.

Mr SULLIVAN: Did you or the CCC provide any advice or guidance to the Logan City Council as to what a proper document policy or process would look like or would need to require?

Ms McIntyre: Not that I am aware of that the CCC did, but I am aware that the Queensland State Archives had met with Logan City Council with regard to their record-keeping practices and their use of social media and communication.

Mr SULLIVAN: At page 341, Mr McMillan asked you about a particular email which you referred to was a discussion around the Public Records Act. I think there was a particular discussion around section 9.2, I think it was, that dealt with social media and other platforms.

Ms McIntyre: Yes.

Mr SULLIVAN: In trying to help the Logan City Council develop or put in place proper processes, it was not suitable for the CCC or for yourself to provide them with guidance as to where to look for such processes or what they needed to look at?

Ms McIntyre: It would be appropriate to do that. Whether it was a requirement to undertake that at that time—I assist an investigation team. The prevention side of things, I suppose, is not necessarily a different unit within the CCC—but, yes, it is a reason that the CCC should provide that.

Mr SULLIVAN: Why would the Logan City Council require the actual documents which they had already seen to put in place an appropriate structure, guideline or policy for their document management?

Ms McIntyre: But it is also for them to store that document in accordance with a policy and procedure that they would be enacting.

Mr SULLIVAN: That is a separate part of your submission as to what the purpose was. That is paragraph (d)—

It is submitted the communications are public records ...

I am not talking about that at the moment. I am talking about your suggestion in paragraphs (b) and (c) that the provision of the documents themselves was for the purpose of providing proper policies or guidelines. Why do they need to see the actual documents to put in place guidelines or policies that they should gather from the State Archivist, as you have said yourself in evidence, from examples of state government or other local governments?

Ms McIntyre: They would not need to see the documents for that particular purpose—only to create or enact a policy or a procedure.

Mr SULLIVAN: That is right. That is contrary to paragraphs (b) and (c), isn't it, that they did not actually need the documents to put in place proper processes for document management?

Ms McIntyre: No.

Mr SULLIVAN: You say in your document that Logan City Council did not have proper policies or guidelines in place in November when you dealt with it. I know you were away at the time, but in October are you aware whether Logan City Council had proper policies or document management systems in place?

Ms McIntyre: I do not know whether I knew that at that time.

Mr SULLIVAN: Is it a fair assumption that if they did not have it in place in November they probably did not have it in place in October?

Ms McIntyre: It is.

Mr SULLIVAN: If they did not require the actual documents to set up a proper management system and the lack of a management system was consistent in both November and October, what is different in terms of the purpose of delivery of documents between October and November?

Ms McIntyre: The purpose was for them to store those documents in accordance with the requirements of retention protocols with regard to the State Archivist.

Mr SULLIVAN: In terms of the Public Records Act?

Ms McIntyre: That is correct.

Mr SULLIVAN: The purpose in October was to pursue the issue of the Public Records Act?

Ms McIntyre: The purpose in October was to obtain, I suppose, an opinion and then ultimately a statement from the acting CEO at that time as to whether the material that was provided contained business communications that would be deemed as public records.

Mr SULLIVAN: Again, the timing of it is that you were away but I will put it to you anyway. Rather than deliver the documents out of the blue, do you know if your investigating team asked the Logan City Council whether a series of WhatsApp or other material was on file?

Ms McIntyre: I cannot answer that. I do not know.

Mr SULLIVAN: You had a lot to review when you came back from leave. Counsel took you through some of those emails yesterday. I am not quibbling with them. Did you turn your mind to or did you ask the investigators, 'Did you pick up the phone and ask before delivering the documents?'

Ms McIntyre: No.

Mr SULLIVAN: You do not see that, if the purpose is to ascertain whether records are kept by the Logan City Council, the provision of those documents is not required to ask the question: 'Do you have a series of WhatsApp exchanges on file?' or 'Do you have a procedure for storing social media or WhatsApp files?'

Ms McIntyre: I cannot answer what the investigators did at that time.

Mr SULLIVAN: But you did ask them when you came back—so you did not ask them whether they picked up the phone to ask a general question before they delivered the actual documents?

Ms McIntyre: I do not think I would need to ask that question as to whether they picked up the phone to—

Mr SULLIVAN: There is a long exchange between you and counsel and previous evidence from Mr Alsbury and counsel as to that first disclosure did not need authority to disseminate because of the nature of their investigations. I am putting to you, as the lawyer of that team—as a senior lawyer and an experienced criminal lawyer—that before they took those documents out of the building, as it said in materials here from the CCC, to disseminate to a third party—in this case, the Logan City Council—for the express purpose of ascertaining whether or not those documents were held on record by the Logan City Council, you do not know and you did not ask if they called the Logan City Council to ask, 'Do you have a series of documents of WhatsApp material or other social media on file?'

Ms McIntyre: I do not know.

Mr SULLIVAN: Do you understand my line of questioning?

Ms McIntyre: Not really.

Mr SULLIVAN: If I was to say to you, 'Do you have a file note of a meeting on X, Y, Z date?' you could answer me, 'Yes, I do have that on file.' Do I need to present you with a copy of those files for you to answer that question?

Ms McIntyre: No.

Mr SULLIVAN: So no question was asked of Logan City Council, 'Do you have these on file?' before they were presented with very sensitive CCC material without an authority to disseminate?

Ms McIntyre: I do not know whether the investigators contacted Logan City Council to inquire whether they had that material.

Mr SULLIVAN: Okay. Can I take you back to your memo at 425 in relation to your section 62 advice, or brief or whatever you would like to call it? Had you discussed with anybody prior to that memo around the upcoming QIRC date? Were you aware that there was a QIRC hearing or date approaching?

Ms McIntyre: I do not know. I did not keep—I did not keep up to date in relation to the QIRC proceedings and when matters were coming up.

Mr SULLIVAN: There are emails—and perhaps counsel might, while I am continuing, be able to assist in terms of where those numbers are. We took you to some of those emails yesterday. There was an email at page 421, for example, that I think you are copied into. Is it your evidence that you did not know that there was a pressing date on 20 November for a QIRC matter and that a request had been made by Ms Kelsey's lawyers for information to be handed over prior to the 20th?

Ms McIntyre: So, page 421? Can I please read the email? Thank you.

Mr SULLIVAN: I draw your attention specifically to the bottom line that counsel took you to yesterday. This is from Minters on behalf of Ms Kelsey—

... it would be of great assistance if you could please advise if you will agree to our request to return the relevant documents to Council.

Before that—

... the matter is listed again before the Commission on Tuesday 20 November ...

for the record. Is it your evidence that you did not know about the time frame of 20 November being an issue?

Ms McIntyre: No, I would not say that I would not have known that there was a date. I do not recall. This is some time ago—

Mr SULLIVAN: Sure.

Ms McIntyre:—but there is a date there. It is clearly there, that there was a date before the commission on 20 November 2018.

Mr SULLIVAN: Were you aware, at the time of preparing that memo, of that pressing date? Do you recall if you knew at the time?

Ms McIntyre: I may have.

Mr SULLIVAN: Okay. Do you recall at the time knowing that other officers in the CCC had interest in that time frame, whether that be Mr Hutchings or seconded police officers in your team?

Ms McIntyre: Whether they had an interest? There were certain police officers that kept an eye on the proceedings in relation to the QIRC and relayed certain dates that were coming up. They were circulated within the investigation team. I am assuming that they were aware of this at that time.

Mr SULLIVAN: On reflection, whether it is from the materials that you have had access to or from evidence from other witnesses this week, do you accept now that some officers in the CCC had an interest in getting that material to the Logan City Council prior to the hearing date on 20 November?

Ms McIntyre: I accept that.

Mr SULLIVAN: You accept that? Yes. What date was your memo written?

Ms McIntyre: 19 November.

Mr SULLIVAN: And what date was it signed by Mr Alsbury?

Ms McIntyre: I am assuming on 19 November, because he has signed the authority dated 19 November.

Mr SULLIVAN: And page 431, which is a letter to the Logan City Council signed by Mr Alsbury, is also dated 19 November?

Ms McIntyre: That is correct.

Mr SULLIVAN: You are a senior lawyer at the state's premier investigative body. For you as a senior lawyer, for Mr Alsbury to prepare the memo, sign it and deliver it to the Logan City Council literally the day before the hearing: would your radar be raised?

Ms McIntyre: I accept that you see that as being an issue or not necessarily a coincidence, but the investigation is fast paced. In terms of this memo—or I should say, my request and authority disclose—the contents of this document is correct and true to the best of my knowledge at that time—that it was being provided, as I have stated, for Logan City Council to undertake governance issues that had been identified.

Mr SULLIVAN: You are confident that there were not—

Ms McIntyre: I accept that it going before the date of 20 November raises a suspicion, but at that time I did not write this memo with the intention of it going for the purposes of it getting into the QIRC.

Mr SULLIVAN: So you would know that it would be a side effect, but you are saying it is not the purpose?

Ms McIntyre: No.

Mr SULLIVAN: Can I draw your attention to page 428 again, which is page 4 of 6 of your memo, paragraphs (b) and (c). This is the issue I started with in terms of the proper policy around document management. It would seem to me that that would just be a side effect to them having the material rather than the entire purpose?

Ms McIntyre: It would be a side effect. It was not the purpose of providing that material to Logan. The purpose was for them to repair their governance issues.

Mr SULLIVAN: But you have included (b) and (c) there—what would be a side effect, really, of having the material not really required—but you have not included any mention of the side effect that it would also enable disclosure in an upcoming hearing.

Ms McIntyre: On reflection, that is probably what I should have put in there—not necessarily the advantages of providing that material for Logan City Council but also any, I suppose, disadvantages that the provision of this information would cause.

Mr SULLIVAN: I would like to put something to you, after that exchange. It would be open to you and other officers of the commission to present to us as a committee to say, 'We were involved in the matter for a good reason—protecting a public interest discloser who, in the commission's view, had had a reprisal against her. We tried to get it into the QIRC and we failed, but as good investigators and as good lawyers, when one door shuts we look for another. We, as good professionals, found a legitimate, legal and moral avenue to pursue and so we pursued it.' But that is not your evidence.

Ms McIntyre: It was a legitimate way. Logan City Council having possession of that documentation at that time, 20 November, would assist the QIRC and ultimately Sharon Kelsey with regards to matters that were happening or being litigated during those proceedings.

Mr SULLIVAN: But they—

Ms McIntyre: It was a legitimate way. You are correct that as investigators we do find other ways to get material that is in our mind relevant to those proceedings—not necessarily just that but also our investigation as well.

Mr SULLIVAN: Thank you for that. It is just that that reflection was not included, was it, in your memo of the 19th?

Ms McIntyre: No, it was not.

Mr SULLIVAN: Thank you.

Mr CRANDON: I have a couple of quick clarifications from yesterday. Page 89 of volume 1 is some notes taken by you that counsel were asking you questions about yesterday. I noticed a comment that you made, and it raised my interest as to whether there might be a document missing from our file, because you said words to the effect, 'I'm sure you were provided with a transcript of the meeting.'

Ms McIntyre: Yes.

Mr CRANDON: And you believe there is a detailed transcript of that meeting that you took the notes on 31 May?

Ms McIntyre: There is a transcript of that meeting.

Mr CRANDON: The chair says we have all of that detail. I just wanted to clarify that one. The other one is whether you recall saying yesterday in relation to Ms Kelsey in questioning by counsel that she was treated no differently to any other witnesses.

Ms McIntyre: I do recall that.

Mr CRANDON: And then later, and not too much later, you said words to the effect that you are not aware of any other witnesses that receive support like Kelsey.

Ms McIntyre: I do not recall saying that.

Mr CRANDON: I will wait for the transcript to come and we will see what you actually said, but I thought that is what you said. I struggle to see how those two statements could survive together as far as a witness is concerned. I will come back to that.

Ms McIntyre: Ms Kelsey was not treated any differently to a witness or a complainant with regards to another investigation or in terms of the witnesses that were also giving evidence in Operation Front. She was treated the same.

Mr CRANDON: It is coming back to my memory that counsel then asked if you were aware of any other instance where witnesses were afforded the same sort of support and determined effort by the CCC in providing information to them and assistance to them, and you could not think of any others.

Ms McIntyre: In relation to civil litigation matters, and I am not aware of that.

Mr CRANDON: You are not aware of any other?

Ms McIntyre: No.

Mr CRANDON: You do not see those two statements as being conflicting with one another?

Ms McIntyre: I am not aware of any other matters that the CCC has been—

Mr CRANDON: So determined to assist. I do not want to put words into your mouth.

Ms McIntyre: No, not determined to assist. We have not been involved in any litigation matters, if I can express it that way. There are no investigations that I suppose we have pursued—I would not even say pursued.

Mr CRANDON: So determined to assist—

Ms McIntyre: No, in terms of litigations—

Mr CRANDON: It is scattered right throughout all of the evidence that we have before us.

Ms McIntyre: My apologies for talking over you. The question was related to whether we have had any other dealings with civil litigation, and I can say that to my knowledge, no, we have not. I do not think that we can then draw the distinction that she was provided more because of that. I cannot say that she has been treated differently because I do not believe there has been any other, to my knowledge, civil litigation.

Mr CRANDON: Thank you. That is it from me.

Dr ROBINSON: Ms McIntyre, how many work email addresses do you have?

Ms McIntyre: One.

Dr ROBINSON: And that is the one that is on the documentation, I am assuming?

Ms McIntyre: That is correct.

Dr ROBINSON: If you have any private email addresses, do you ever use them for work purposes?

Ms McIntyre: No, I do not.

Dr ROBINSON: In terms of these QIRC matters and the matters before the PCCC here, have you received any emails from any others, either internal communications from other CCC employees or otherwise, who have used private emails to communicate to you, that you are aware of?

Ms McIntyre: Not that I am aware of. Me receiving an email from their private? No, I am not aware of.

CHAIR: Ms McIntyre, I am referring to page 429 of the bundle that the deputy chair was talking about. This is the memo signed by you dated 19 November 2018 in relation to dissemination of the documents.

Ms McIntyre: Of volume 1?

CHAIR: Yes. The deputy chair asked before about the purpose of the dissemination and the side effect, and your answer was 'no'. I just wanted to clarify what the answer 'no' was in respect of. Was it that the side effect mentioned by the deputy chair was that they might end up in the QIRC proceedings and were you aware that was the side effect or was that the purpose, and you said no. So was it not the purpose or you did not know the side effect?

Ms McIntyre: The side effect would be the documentation would be in the possession of Logan City Council which would enliven possibly their duty to disclose—would be the side effect, which I had not addressed.

CHAIR: But it was not the purpose as it is not laid out in there?

Ms McIntyre: No.

CHAIR: Given all the other correspondence and effort by people within the organisation to assist Sharon Kelsey, and I think you might have touched on this with the deputy chair as well, shouldn't that have been outlined in the memo that that side effect might occur?

Ms McIntyre: I accept that, yes.

CHAIR: I think members of the committee may have difficulty accepting that this was the true purpose of the dissemination, given everything else that is in our possession. Is it true that the Public Records Act really had nothing to do with the dissemination and it was really all about trying to get them into the QIRC proceedings, and this document is actually a justification for trying to do that?

Ms McIntyre: I do not believe that is the case. Ultimately, the side effect would benefit Ms Kelsey and the QIRC. I should have included that in this documentation. I did not.

CHAIR: Did you not include it because there was concern within the organisation that it might appear that you are not being impartial or independent?

Ms McIntyre: No. I do not think there would be. Obviously, I just did not turn my mind to it at that time. I should have, and I accept that I should have put that in there but I did not.

CHAIR: You said yesterday, I believe, that there was consideration given to disseminating the documents directly to Ms Kelsey.

Ms McIntyre: That is correct, and each of the parties to the QIRC proceedings.

CHAIR: Yes. Why wasn't, to your knowledge, that decision taken?

Ms McIntyre: No. The decision was then to go down the path of a notice from MinterEllison on behalf of Sharon Kelsey that it would be provided to the QIRC for them to make a determination as to the admissibility and the like.

CHAIR: Do you know why that decision was taken?

Ms McIntyre: Why that decision was made?

CHAIR: And not to disseminate them directly?

Ms McIntyre: As a matter of fairness. It was up to the QIRC to make that determination as to the admissibility.

CHAIR: Okay. Just one moment. We have a question from the member for Coomera.

Mr CRANDON: Following on from the deputy chair and the chair's questions around that document that you prepared in such a rush, there is a transcript of a telephone conversation between—

CHAIR: It is a telephone message.

Mr CRANDON: Sorry, telephone message, I should say, between Dan Williams of MinterEllison and it was sent to Rob Hutchings. It says—

Hey Rob it's from Dan WILLIAMS at Minter—

telephone number quoted—

Wanted to speak to you urgently—

Sorry, it is dated 18 November—

Wanted to speak to you urgently today if possible. We've got this issue that the council are resisting disclosure of those WhatsApp documents ... now because they say they've handed them back to you. ... so you know you'll have our correspondence about that—

and that of course is a letter from Minter saying that there is a deadline of the 20th—

... but eager to try and resolve that issue today if possible ... thanks Rob. Bye-Bye.

Brisbane

Then magically everything happened and the documents were disseminated. Are you still saying that with all of this urgency—and we go on further from Mr Alsbury, 'I thought Rob and I had discussed this matter.' With all of that before you and in the pack that you have there, you are still saying that the only reason that those documents were disseminated on that day to the council was for the reason that you have in your dissemination document and not in relation to getting them there by a deadline for MinterEllison's benefit?

CHAIR: It is volume 1, page 424 if you want to have a look.

Ms McIntyre: I should have included in this document the side effects of that material going back.

Mr CRANDON: That is not my question.

Ms McIntyre: Can you repeat your question, please?

Mr CRANDON: Are you still saying that the purpose of that document and the purpose of the urgency and the delivery of that document on that day was for the sole purpose of having those documents at the council's premises for the purpose stated in the dissemination document?

Ms McIntyre: Not the sole purpose, no.

Mr CRANDON: Are you saying it was not the sole purpose?

Ms McIntyre: No.

Mr CRANDON: What was the other purpose?

Ms McIntyre: The other purpose would be to have those documents before Logan City Council for them to comply with their obligation for disclosure.

Mr CRANDON: So you now confirm and for this committee your witness statement is that the other purpose, the intended purpose, although not mentioned in the dissemination document—

Ms McIntyre: It is not an intended purpose. It was not the intended purpose. As I said, it is not the sole purpose.

CHAIR: Well, why is Dan—

Ms McIntyre: There are two purposes here. I have addressed the purpose of the governance issues in the dissemination. As I said, I should have included that it would have resulted in that material being in the possession of the Logan City Council and whether they complied with their obligation for disclosure.

Mr CRANDON: Ms McIntyre, are you saying to this committee that that was an intended purpose of having those documents delivered by the deadline of 20 November? That was an intended purpose?

Ms McIntyre: I could see that that is what the documents—

Mr CRANDON: That is not my question.

Ms McIntyre: I am trying to answer your question.

Mr CRANDON: No, you are saying something else. I am asking you if that was an intended purpose.

Ms McIntyre: It was not my intended purpose.

Mr CRANDON: Was it an intended purpose of others in the CCC for those documents to be delivered?

Ms McIntyre: There was not an intended purpose, but there was—

CHAIR: Were they trying to backdoor it into the proceedings?

Ms McIntyre: No, I do not accept those words. There was—there was a consideration of the material being provided to Logan City Council for them to comply with their obligation for disclosure, and this was one—please let me finish. This was one way of providing that for them to then act on that duty.

Mr CRANDON: So the real, primary purpose for having these documents delivered by that date, the primary purpose, was to get them into the proceedings that were occurring on the 20th?

Ms McIntyre: It is not the primary purpose.

Mr CRANDON: In your mind, but in other minds?

Ms McIntyre: I cannot speak for what other persons—

Mr CRANDON: Were you aware that others had that purpose in mind?

Ms McIntyre: As I said, there was a consideration of that material going back to Logan City Council for them to comply with their obligation for disclosure. I cannot speak on behalf of others. I can only speak on what—

Mr CRANDON: I want to clarify it one more time for you, Ms McIntyre. You were aware, prior to writing that document, that others had an intended purpose of getting those documents to the Logan City Council by that deadline? Prior to writing that document, you were aware of it yourself?

Ms McIntyre: I was aware that there was the consideration of giving that material to Logan City Council for disclosure in the QIRC proceedings.

Mr CRANDON: Prior to the document being written. Thank you.

CHAIR: Any other questions at this stage? Counsel assisting?

Mr McMILLAN: Thank you, Chair. Ms McIntyre, can I take up some of the evidence that you have just given the committee? I asked you yesterday about the form of certification that is at the end of a request and authority to disclose information, and your certification in this respect appears at page 429 of the bundle. In that certification you certify that the information contained in the form is true to the best of your knowledge. You were confident that it was at the time that you signed this document?

Ms McIntyre: Yes, it was.

Mr McMILLAN: And the document sets out, intentionally so I would suggest, the reasons and all of the reasons that you thought were relevant at the time for the dissemination that was requested, commencing from page 427 under the heading 'Reasons why the entity is appropriate to be given the information' over to page 428. You have made a concession that you think that the side effects should have been included, but at the time you understood that this document had to include all of the relevant reasons that you sought to disseminate the material?

Ms McIntyre: At that time.

Mr McMILLAN: At the time. You have also said in response to a number of questions from the member for Coomera and the chair and the deputy chair that you understood that there was discussion in the CCC about wishing to compel—I am sorry, I withdraw that—wishing to assist the Logan City Council to comply with its disclosure obligations in the QIRC but that you were not aware or you may not have been aware specifically of the deadline of 20 November?

Ms McIntyre: I may not have been aware at that time. I am aware now that there was a deadline.

Mr McMILLAN: Can I take you to page 422 of volume 1. You will see here an email from a person at MinterEllison on behalf of Dan Williams addressed to Ms Vieira and Mr Hutchings of the CCC and copied to others on 15 November at 8.06 am attaching correspondence? The correspondence itself appears at page 415. Could you have a look at that for a moment, please? The first sentence of that correspondence reads—

There is an outstanding application for disclosure in these proceedings by our client, Ms Sharon Kelsey, against the First and Third to Ninth Respondents.

Then the second last paragraph reads—

So that the First Respondent—

that is, the Logan City Council—

can if ordered comply with its disclosure obligations and so that Ms Kelsey's application is not defeated by the divestment of relevant documents by the First Respondent in the face of an unresolved disclosure application, our client requests that the CCC please return the documents, or copies of the documents, to the First Respondent.

Can I ask you to turn to page 421? You will see the start of that email chain. Then Ms Vieira, above that, sends that document on to Mr Alsbury, who ultimately then sends it to you. Were you aware when you signed your certification on 19 November about the correspondence from MinterEllison on 15 November?

Ms McIntyre: Possibly. I do not know.

Mr McMILLAN: Did Mr Hutchings tell you that he had a telephone message from Mr Williams urgently pressing this issue of the disclosure to Logan City Council?

Ms McIntyre: I do not know. I do not recall.

Mr McMILLAN: You would accept now, wouldn't you, that at least one of the intended purposes of the CCC in disseminating the WhatsApp material to the Logan City Council was to assist Ms Kelsey in her application for disclosure in the QIRC?

Ms McIntyre: Ms Kelsey in the QIRC itself? Yes.

Mr McMILLAN: That was an application made by Ms Kelsey in adversarial proceedings in the QIRC, wasn't it?

Ms McIntyre: An application for disclosure by the parties in the QIRC, yes.

Mr McMILLAN: And you knew, because you had read the WhatsApp material—or at least you had considered—that that material would assist Ms Kelsey in her application for reinstatement as the CEO of the council?

Ms McIntyre: It would assist. It was relevant, yes.

Mr McMILLAN: So you knew when you signed this dissemination authority on 19 November 2018 that the provision of that material to the Logan City Council (a) obliged them to disclose that material in the QIRC; you accept that?

Ms McIntyre: I accept that.

Mr McMILLAN: And that that would assist Ms Kelsey in her application for reinstatement?

Ms McIntyre: It would.

Mr McMILLAN: And that you knew that that was one of the purposes, organisationally of the CCC, in requiring that dissemination to the Logan City Council?

Ms McIntyre: One of the purposes, not the primary.

Mr McMILLAN: And nowhere in your request for information signed on 19 November 2018 do you acknowledge that purpose, do you?

Ms McIntyre: I have already conceded that.

Mr McMILLAN: Given that this request—I think you have accepted it was necessary for you to list all of the relevant reasons for the dissemination. Do you accept that your certification on page 429 is false?

Ms McIntyre: No.

Mr McMILLAN: The highest you are prepared to concede, Ms McIntyre, is that you should have included an acknowledgement about a side effect of the disclosure?

Ms McIntyre: Yes.

Mr McMILLAN: Even though you knew, organisationally, one of the purposes was to assist Ms Kelsey?

Ms McIntyre: I should have included the side effect, yes.

Mr McMILLAN: You said in answer to I think the chair's question that you were aware that the CCC had given consideration to disseminating the WhatsApp material directly to Ms Kelsey and the other parties to the QIRC litigation?

Ms McIntyre: That is correct.

Mr McMILLAN: There could be no other purpose for that dissemination, were it to have occurred, than to assist Ms Kelsey; you agree with that?

Ms McIntyre: Ms Kelsey and the QIRC proceedings, yes.

Mr McMILLAN: And your view was that it would assist Ms Kelsey?

Ms McIntyre: It would assist her, but it would also assist the QIRC in consideration of the evidence that was before the QIRC.

Mr McMILLAN: And given your view that it would assist Ms Kelsey because of the nature of the material, was the decision not to disseminate to the parties taken, in your mind, because that would have demonstrated the partiality and lack of independence of the CCC in involving itself in those proceedings?

Ms McIntyre: That would be one thing but, thinking back, it would be that dissemination of the TI material that also went to the QIRC could not be provided to individuals; it had to be provided to the QIRC as being admitted in those proceedings. I think that was the decision as to why we did not disseminate all of that information to the parties.

Mr McMILLAN: But that concern did not apply to the WhatsApp material, at least in your mind?

Ms McIntyre: But the decision was to disclose not only the WhatsApp but the hearing material and the TI. It was to all go at once, not in a piecemeal approach.

Mr McMILLAN: And you agree that the reason that the CCC did not disseminate the WhatsApp material directly to the parties was because it might be perceived that that was the CCC acting in a partial and not independent way?

Ms McIntyre: It could be perceived that way, but we were acting in a fair and impartial way under section 57. That was the decision—the reasons why we did not do that. In coming back to that, I believe it is because of the legality in releasing the TI information to the parties.

Mr McMILLAN: Disclosing the WhatsApp material directly to the parties, while it may have been perceived to be not independent and partial, at least would have given the other parties to the litigation knowledge of what the CCC was doing in this respect, wouldn't it?

Ms McIntyre: In giving the information to each of the parties?

Mr McMILLAN: Yes.

Ms McIntyre: It would be fair to give it to each of the parties, of course. But we were giving additional information—not just the WhatsApp information.

Mr McMILLAN: Whereas attempting to disclose or disseminate the material to the Logan City Council for some other stated purpose did not have the effect of informing the other parties, including the individual councillors and the mayor, of what the CCC was doing, did it?

Ms McIntyre: Sorry, can you repeat that?

Mr McMILLAN: Rather than disseminating the WhatsApp material to all of the parties, which you have accepted might have caused the perception that the CCC was acting partially and not independently, by attempting to disclose that material to the Logan City Council for another stated purpose you denied the other parties to that litigation knowledge of what the CCC was doing, didn't you?

Ms McIntyre: I do not accept that that is—

Mr McMILLAN: Is it dishonest, Ms McIntyre, to state a reason for doing something when in fact your reason is something else?

Ms McIntyre: Well, that would form dishonesty, of course.

Mr McMILLAN: And isn't that in fact what happened here: that you stated a reason for the dissemination to Logan City Council when in fact the CCC's reason was something else?

Ms McIntyre: No. It was not dishonest. I have not been dishonest in drafting this documentation. It was one of the reasons that was provided. Ultimately, there was a side effect—that it would be provided to the Logan City Council and their option, I suppose, or their obligation to provide that to the QIRC. I neglected to put that in this documentation. That is something that I should have done, but I did not.

Mr McMILLAN: So if you do something for a number of reasons but you only tell some of those reasons, that is not dishonest in your mind—to leave out one of the important reasons? That is not dishonest?

Ms McIntyre: I did not draft this with the intent of being dishonest.

Mr McMILLAN: That was not my question, Ms McIntyre. You set out the reasons why you are requesting the dissemination of the WhatsApp material to Logan City Council at pages 427 and 428. Those reasons do not include what you have accepted to be one of the actual reasons, being to assist Ms Kelsey and the QIRC, as you put it, in that litigation.

Ms McIntyre: I should have included that in this documentation but I did not, but I did not do that for an intended or dishonest reason.

Mr McMILLAN: You say it is not dishonest to withhold one of the real reasons why you have taken particular action; is that right?

Ms McIntyre: I was not dishonest.

Mr McMILLAN: Is that not precisely the basis upon which the CCC charged seven councillors with fraud for voting to terminate Ms Kelsey's employment, because they had not told the true reason for those votes and you thought, as did the CCC, that that was dishonest?

Ms McIntyre: They were charged with dishonesty for—sorry, fraud for taking reprisal action against Ms Kelsey.

Mr McMILLAN: Reprisal action does not involve any element of dishonesty, does it?

Ms McIntyre: Reprisal action?

Mr McMILLAN: Yes.

Ms McIntyre: No, but it is their intention to take that and they were manipulated and they colluded.

Mr McMILLAN: In fact, the difference relevantly in this case between a reprisal action and fraud was the CCC's assertion or allegation that those seven councillors and the mayor acted dishonestly, because you can take a reprisal unlawfully but not dishonestly, can't you?

Ms McIntyre: Yes.

Mr McMILLAN: Have you read the Court of Appeal's decision in relation to the application to stay the criminal proceedings?

Ms McIntyre: Sorry, which?

Mr McMILLAN: Justice Morrison's judgement in the Court of Appeal in relation to the issue of whether or not the same issues were being litigated in the civil and criminal proceedings.

Ms McIntyre: No.

Mr McMILLAN: You have not read that?

Ms McIntyre: No.

Mr McMILLAN: You are familiar with the elements of reprisal action and the elements of fraud?

Ms McIntyre: The elements of fraud, yes. Reprisal under the—

Mr McMILLAN: Public Interest Disclosure Act.

Ms McIntyre: Sorry?

Mr McMILLAN: The elements of a reprisal offence under the Public Interest Disclosure Act.

Ms McIntyre: Yes.

Mr McMILLAN: Those are offences that you would have given careful consideration to in your role as principal lawyer in Operation Front, are they not?

Ms McIntyre: They were considered. Given that we had TI material we did not think—that material could not be used to support the offence of reprisal. It was not permitted to be used.

Mr McMILLAN: So you as the principal lawyer attached to that operation did give careful consideration to the elements that would be needed to prove an allegation of fraud against the councillors and the mayor?

Ms McIntyre: I do not have anything documented to that effect.

Mr McMILLAN: Do you have any memory of it, Ms McIntyre?

Ms McIntyre: Of consideration? We considered many charges in terms of the offences against former mayor Smith and the former councillors—not just reprisal, not just fraud. We looked at misconduct in relation to public office. We looked at many things.

Mr McMILLAN: I am trying to put propositions to you individually in fairness to you so that you can answer them. I do not think I got an answer to my question, which was: did you personally, as the principal lawyer attached to Operation Front, give careful consideration at the time to the elements necessary to prove an allegation of fraud against the seven councillors who had been dismissed and the mayor?

Ms McIntyre: I looked at the offence. Whether I gave careful consideration in documenting that, I did not document it. We had TI information which was needed to prove the offence and it could not be provided in satisfying this offence or admitted for this so in that case we then looked at misconduct in relation to public office and fraud—many offences, not just reprisal.

Mr McMILLAN: Was reprisal one of the offences that you gave careful consideration to?

Ms McIntyre: I looked at it. It is reprisal, but we could not use the evidence that we had.

Mr McMILLAN: I am just asking you about what you gave consideration to, the charges that you gave consideration to. Please just listen to my question and answer as directly as you can. Did you give consideration to the elements of reprisal and what might be needed to prove that? I do not want to know what the consideration was; I am simply asking whether you did the exercise of giving consideration to the elements.

Ms McIntyre: Yes.

Mr McMILLAN: You did?

Ms McIntyre: As I did with misconduct in relation to public office.

Mr McMILLAN: And fraud, we have established. So you looked at all three of those offences?

Ms McIntyre: Not necessarily fraud. I understand that fraud would have applied. I considered in terms of my—I am assuming you are coming to my observations where I am only discussing—

Mr McMILLAN: Ms McIntyre, we will deal with this much more quickly—

Ms McIntyre: No, I need to give some context.

Mr McMILLAN:—if you just listen to the question and answer the question that is asked of you. Did you give consideration to the elements of each of the three offences that we have just discussed: fraud, reprisal under the Public Interest Disclosure Act and misconduct in public office?

Ms McIntyre: In determining that there would be evidence to satisfy each of those elements for each of those offences, I did consider that there would be evidence. I did not document that down. There were discussions; there were verbal conversations about that. I can only say that I considered those offences.

Mr McMILLAN: Having considered each of those three offences, you understand now, do you not, that fraud or an allegation of fraud requires proof of dishonesty?

Ms McIntyre: It does.

Mr McMILLAN: Does the offence of reprisal for making a public interest disclosure under the Public Interest Disclosure Act require proof of dishonesty?

Ms McIntyre: No, it does not.

Mr McMILLAN: That is a critical difference between those two charges, is it not?

Ms McIntyre: It is.

Mr McMILLAN: At least as it relates to Ms Kelsey's termination of employment, you were aware, were you not, as the principal lawyer attached to Operation Front, from essentially the moment that you became aware that Ms Kelsey had been terminated, that there was a suspicion by the investigating team that that termination was done as a reprisal for her making a public interest disclosure.

Ms McIntyre: Yes.

Mr McMILLAN: In fact, that was a significant focus of Operation Front's activities?

Ms McIntyre: Yes, it was.

Mr McMILLAN: You understood from the beginning of that operation, did you not, that Ms Kelsey had been subject to a probation process before she made the public interest disclosure on 12 October?

Ms McIntyre: I am aware of that.

CHAIR: No, were you aware of it at the time? Not now, back then.

Ms McIntyre: When I started as the lawyer for Operation Front?

CHAIR: At the time that it occurred. You did not quite answer the question. You referred to the fact that you know about it now.

Mr SULLIVAN: In terms of timing, can I point to April 2019 prior to the charges being laid. Were you aware of it then?

Ms McIntyre: Yes. April 2019 I was aware that there was a probation process that was commenced prior to her submitting a PID and ultimately her dismissal.

CHAIR: Thank you.

Mr McMILLAN: Ultimately you were aware, were you not, that a central plank of the CCC's case against the seven councillors and the mayor in relation to proving dishonesty was that they stated reasons for voting to terminate Ms Kelsey that were not the real reason, namely, the real reason being, in your view, in retaliation or reprisal for her public interest disclosure?

Ms McIntyre: Yes.

Mr McMILLAN: You thought that was dishonest?

Ms McIntyre: Yes, I do. Based on the evidence, I do believe that their actions were dishonest.

Mr McMILLAN: If that was dishonest, why is your memo of 19 November 2018 also not dishonest?

Ms McIntyre: I did not intend for this memo to, in your words, be dishonest. I am not dishonest. My actions were not dishonest. As I said, I concede that I should have included all side effects that the provision of those documents would cause, as well as indicate that there was correspondence from MinterEllison requesting documentation to be provided to Logan City Council. I concede that.

Mr McMILLAN: You knew from very early on in your involvement in Operation Front, in fact from the earliest part of your involvement commencing in February 2018—I am sorry—2018 that there had been a probation report prepared in relation to Ms Kelsey prior to 12 October 2018—17. I have tripped myself up twice and so I will ask the question in its entirety again. I am sorry about that. From when you commenced working with Operation Front in February 2018 you knew, didn't you, that a probation report had been prepared in relation to Ms Kelsey before she made her public interest disclosure?

Ms McIntyre: I am aware after I started that there was a probation report prepared prior to her submitting a PID.

Mr McMILLAN: And you are aware that that probation report was provided to the department of local government? I will take you to the documents, if that assists you. I think it is volume 1, page 41. I am sorry: that is not the email in relation to the local government but it is an email, without going into the detail of it in the public hearing—an email provided to the Crime and Corruption Commission Complaints area on 3 December 2017. Have you seen this email before preparing for giving evidence today?

Ms McIntyre: What page, sorry? 41?

Mr McMILLAN: 41.

Ms McIntyre: Of volume 1?

Mr McMILLAN: Yes.

Ms McIntyre: An email from Stacey McIntosh to Complaints?

Mr McMILLAN: Yes. We will not go into the detail of the email in the public hearing, Ms McIntyre, but it is an email dated 3 December 2017. You have that in front of you?

Ms McIntyre: I do.

Mr McMILLAN: It is addressed to Complaints. I am interested to draw your attention—just read it to yourself, please—to the first sentence of the second paragraph. Would you accept that it was clear from really the outset of Operation Front that Ms Kelsey's probation process had commenced before she made her public interest disclosure, having regard to that document?

Ms McIntyre: I am aware that the probation process had commenced prior to 12 October.

Mr McMILLAN: And, in fact, the probation conversation report was attached to that email, wasn't it? You can see in the attachments there is a reference to the probation conversation report?

Ms McIntyre: I can see that.

Mr McMILLAN: And so it would have been clear to the Operation Front team that at least the mayor and other councillors had concerns about Ms Kelsey's performance before she made her public interest disclosure?

Ms McIntyre: The mayor and two councillors—

Mr McMILLAN: Yes.

Ms McIntyre:—creating the mayoral cabinet.

Mr McMILLAN: Yes. It was clear to the CCC that at least those three people had concerns about Ms Kelsey's performance as CEO before she made her public interest disclosure?

Ms McIntyre: There was a probation conversation report that was prepared by those three councillors. The investigation team had read that, obviously, and that there were some negative points—if I can refer to it that way—outlined in that probation report.

Mr McMILLAN: Did you read that probation report as part of your job as principal lawyer attached to Operation Front?

Ms McIntyre: I had read it at some stage.

Mr McMILLAN: Did it give you concern that you might never be able to prove to the standard required for criminal charges that at least the mayor and those two councillors voted to terminate Ms Kelsey's employment because of her public interest disclosure?

Ms McIntyre: The probation conversation report, yes. It details negatives. It also highlights that there were three councillors that had raised concerns in relation to her performance. It occurred during a probation period. I accept that that would be a hurdle in any criminal prosecution.

Mr McMILLAN: Can I take you, please, to volume 2 now, to page 35 of that bundle. I notice the time, Chair. Did the committee wish to take a morning break? I am about to move to a new topic.

CHAIR: I think we should, in fairness to all. Mr McMillan, we will take a break. The time is about 10.55. We will go till 11.15 for a break. Thank you, Ms McIntyre. We will see you back here then.

Proceedings suspended from 10.55 am to 11.17 am.

CHAIR: Thank you, ladies and gentlemen. We will resume the hearing now. Mr McMillan?

Mr McMILLAN: Thank you, Chair. Before I go to my next topic, Ms McIntyre, the committee has received a single page of a transcript of an in-confidence hearing at the CCC. I think without reading parts of the transcript, could you tell us what the date of that hearing was?

Ms McIntyre: That I would be referring to?

Mr McMILLAN: Yes.

Ms McIntyre: 11 September 2018.

Mr McMILLAN: I think you sought to draw my attention to it at the start of your evidence today in response to my question yesterday as to whether there was any discussion between you and the operational police officers in Operation Front as to the need to deliver documents to the Logan City Council to investigate a potential offence against the Public Records Act. How is this transcript relevant to that issue?

Ms McIntyre: You wanted to know whether there was any documentation or recorded documentation of conversations or discussions in relation to the breaches of the Public Records Act prior to the date of 12 September 2018.

Mr McMILLAN: Yes.

Ms McIntyre: I was counsel assisting for the investigative hearings. That occurred between 11 June and 3 July. The seven councillors came in during that period of time. On 6 July councillor Dalley returned, and on 11 September 2018 councillor Swenson returned seeking to clarify some evidence that he provided.

Mr McMILLAN: Yes.

Ms McIntyre: Your question as to what information I had or what we were looking at, at that time of 12 September: I just wanted to raise that the destruction of the WhatsApp—the deletion of the communication app WhatsApp that the councillors were using was a focus of our investigative hearings at that stage, so we were looking at an offence of destroying evidence with intent at that time, and that was one of the topics that I had spoken to each of the councillors about and whether that was intended to destroy evidence that would be applicable for the QIRC proceedings, and I believe ultimately the CCC investigation as well.

In terms of the transcript with regards to councillor Swenson on 11 September 2018, during the June/July hearings I did not provide a copy of the WhatsApp material for the councillors to observe. That was a tactical decision at that time. I provided that to councillor Swenson on 11 September and he acknowledged at that time that, in terms of those, some of the conversations were business related, despite the councillors stating that they used that platform as a means to vent or it was just a banter. I just wanted to state that he accepted that those conversations that were included in the WhatsApp material—some of them were business related.

Mr McMILLAN: Just to paraphrase, you have drawn the committee's attention to this page of transcript to demonstrate that one of the councillors acknowledged on 11 September 2018 that the WhatsApp communications were in fact related to council business to some extent?

Ms McIntyre: Yes.

Mr McMILLAN: How does that assist in my question about the purpose of the delivery of WhatsApp documents to the council on 3 October 2018?

Ms McIntyre: That was not in relation to that question. Your question was in relation to whether there were any discussions related to our investigation of the breach of the Public Records Act prior to 12 September. I am drawing attention to the fact that we were looking at that issue prior to the email that you indicated, being 12 September, because I had not specified in that email that I made reference to our investigation into the breach of the Public Records Act. It is a matter we were looking at since June.

Mr McMILLAN: You have not been able to identify overnight or in the course of today any other communications prior to 12 September 2018 where it was discussed that the WhatsApp material might be delivered to the Logan City Council in order to ascertain whether they were public records, have you?

Ms McIntyre: I am sorry, can you repeat that? The question was in relation to the record prior to 12 September?

Mr McMILLAN: Yes.

Ms McIntyre: I could not find any communications prior to 12 September, and I answered that earlier on.

Mr McMILLAN: Can I take you back to volume 1. I took you to the complaint on 3 December 2017 at page 41. Can I ask you now to also turn to page 65 of volume 1. This is an email from Detective Sergeant Newman to Mr Francis and others, including you, on 5 April 2018. That is before the mayor and seven councillors were charged with fraud arising from Ms Kelsey's termination. You will see from the body of the email that Mr Newman is alerting the recipients of the email to the fact that he had spoken with an executive director in the department of local government about Ms Kelsey's probation report. You will see in the third last paragraph he conveys the view expressed to him by the executive director—

... that Kelsey's probation report was in no way a 'clean bill of health' for Kelsey. She said some challenges had been identified and the reason the Department took no further action was because in their opinion the probation report 'could' provide councillors with adequate grounds to vote the way they did.

Did you consider that to be an impediment to proof of any charge arising from the councillors' vote to terminate Ms Kelsey?

Ms McIntyre: This email is 12 months prior to the councillors being charged. We were obviously investigating that time. There is evidence that was relevant for the purposes of charging those councillors in April 2019.

Mr McMILLAN: But 12 months before, as you identify, they were charged, you had information from the department of local government that, at least in their view, the probation report demonstrated or could demonstrate a reason other than a dishonest one for terminating Ms Kelsey's employment?

Ms McIntyre: That is just their view.

Mr McMILLAN: That did not cause you any concern as the principal lawyer attached to that operation?

Ms McIntyre: No.

Mr McMILLAN: Shouldn't it have?

Ms McIntyre: No.

Mr McMILLAN: Did you give consideration to whether or not the probation report did in fact give at least the prospect of an innocent explanation for the councillors' vote to terminate Ms Kelsey's employment?

Ms McIntyre: I had read the probation report. The information contained in that report that the three councillors were stating that justified the low ratings for Ms Kelsey's performance in my mind were trivial and petty.

Mr McMILLAN: You made that assessment yourself, did you?

Ms McIntyre: Yes.

Mr McMILLAN: Do you have any background in employment law?

Ms McIntyre: No, I do not.

Mr McMILLAN: Do you have any background as a lawyer advising organisations about industrial relations?

Ms McIntyre: No, I do not.

Mr McMILLAN: Have you ever given advice about unfair dismissal or termination of unemployment?

Ms McIntyre: No.

Mr McMILLAN: Did you consider yourself properly qualified to form a view about the reasons someone might validly terminate an employee's employment?

Ms McIntyre: These were only some of the reasons and at that time were quite petty.

Mr McMILLAN: In your opinion?

Ms McIntyre: In my opinion.

Mr McMILLAN: Could you take up volume 2 now and turn to page 35. Page 35 is the end of the email chain in which you sent an email to Mr Booth. The start of the email chain, I think, commences on page 37, for your assistance—an email from Mr Newman to an officer at the QPS in relation to a different matter that we will not go into. Arising from that, you will see on page 36 Mr Andrews, who is one of the officers attached to Operation Front, sends you an email on 27 September 2018 in relation to the former mayor Luke Smith's conduct and asks you in the third paragraph—

What is preventing us doing the overarching Misconduct charge on Smith ...

It goes on. You express a view in your reply email on page 35 on 10 October 2018—

I am not comfortable with one overarching offence proposed by the investigators ...

I have a couple of questions about this. First of all, at this stage of the investigation, was the former mayor the primary target of Operation Front?

Ms McIntyre: He was the primary. The seven councillors were secondary to that in terms of the information that we had that there was, I suppose, collusion amongst the councillors for taking reprisal action against Ms Kelsey.

Mr McMILLAN: When was it, in your memory, that you first formed the view that there might be a basis to charge the seven councillors with some form of criminal offence?

Ms McIntyre: Me personally?

Mr McMILLAN: Yes.

Ms McIntyre: I do not know when I formed or whether I formed that view either.

Mr McMILLAN: Are you able to say whether it was before or after you conducted investigative hearings with each of those councillors?

Ms McIntyre: I considered that their actions—based on the information that we had, including the TI intercepts, there appeared to be collusion amongst mayor Smith and the seven councillors. We were undertaking the investigation to obviously obtain information to support or disprove the allegations that reprisal action had been taken against Ms Kelsey.

Mr McMILLAN: You were giving consideration to the prospect that there might be evidence capable of sustaining a charge against the councillors at the time that you conducted investigative hearings with them in September 2018; is that right?

Ms McIntyre: The hearings were in June/July.

Mr McMILLAN: Yes.

Ms McIntyre: We were canvassing that at that stage.

Mr McMILLAN: I am sorry. I thought we have just been speaking about an investigative hearing with councillor Swenson in September.

Ms McIntyre: Yes, but he also gave evidence in June—I think it was 18 June.

Mr McMILLAN: Yes. At the time that you conducted hearings in June and then again in September, was it already in your mind that those councillors might ultimately be prosecuted for some kind of criminal offence arising from their collusion with the mayor?

Ms McIntyre: Quite possibly—not in my mind, no.

Mr McMILLAN: Did you tell those councillors that they were not the target of the investigation?

Ms McIntyre: Quite possibly.

Mr McMILLAN: And you told them that, notwithstanding the fact that you considered there was evidence of them colluding with the mayor in criminal conduct?

Ms McIntyre: We had evidence that suggested there was collusion. We spoke to them about that during the hearings, particularly in relation to their knowledge and their reasons behind the termination of Ms Kelsey.

Mr McMILLAN: As an experienced criminal lawyer, you would know that that might make them liable as parties to the mayor's criminal conduct if they colluded with him in achieving that conduct.

Ms McIntyre: That is right.

Mr McMILLAN: Was that honest of you to tell them that they were not the target of an investigation if you were actively considering the prospect that they had committed offences themselves?

Ms McIntyre: They could potentially become that. They were not the specific target at that time.

Mr McMILLAN: That is weasel words, isn't it, Ms McIntyre?

Ms McIntyre: They were not the primary target at that time.

Mr McMILLAN: Did you intentionally mislead them as to their status as targets of the investigation?

Ms McIntyre: No, I did not.

Mr McMILLAN: In this email from Mr Andrews on 27 September, at page 36, he refers to consideration of an 'overarching Misconduct charge'. There is no mention at this stage of consideration, by him at least, of a charge of fraud. Do you recall whether that was a charge that was under active consideration at that time?

Ms McIntyre: I do not recall.

Mr McMILLAN: Do you recall whether you had given consideration yourself or discussed with the police officers the prospect that the mayor or any of the councillors might be charged with fraud?

Ms McIntyre: No.

Mr McMILLAN: You do not recall or it was not?

Ms McIntyre: I did not have that discussion. We were discussing the charge of misconduct in relation to public office.

Mr McMILLAN: Doing as best you can now some years later, do you think it was the case that at this point in time the Operation Front team was not considering fraud as one of the possible options for charging the mayor or the councillors?

Ms McIntyre: No, I do not think that we were considering that at that time.

Mr McMILLAN: Could you turn please to page 43 of volume 2. I take it you have had the opportunity to look at this document carefully in preparing for your evidence today?

Ms McIntyre: I have read it.

Mr McMILLAN: You wish to qualify 'carefully', do you? You have read it?

Ms McIntyre: I have read it in preparation. That was a couple of days ago.

Mr McMILLAN: I see. Do you recall preparing this document?

Ms McIntyre: I do.

Mr McMILLAN: Is it complete?

Ms McIntyre: No.

Mr McMILLAN: It is a draft?

Ms McIntyre: Yes.

Mr McMILLAN: That was ultimately not completed by you?

Ms McIntyre: That is correct.

Mr McMILLAN: What was the purpose of preparing the draft?

Ms McIntyre: One of the roles with regard to being a lawyer attached to an investigation team is that we prepare what is deemed as observations, where we consider the evidence relevant to an offence and the elements of that offence.

Mr McMILLAN: Did someone ask you to prepare advice or is this something that you do for the assistance of the operational team generally?

Ms McIntyre: Generally we just prepare that.

Mr McMILLAN: Even though this is addressed to Mr Alsbury, it was your intention, was it, that at some point the final version of this document would go to Mr Alsbury for consideration—

Ms McIntyre: That is correct.

Ms McMILLAN:—of the charges to be preferred?

Ms McIntyre: Yes.

Mr McMILLAN: There is a handwritten date here—14 December 2018. Is that your handwriting?

Ms McIntyre: No.

Mr McMILLAN: Are you able to assist us as to the date, if possible, or the general time at which you commenced preparation of this document?

Ms McIntyre: If you can refer to page 43, the first dot point states—

It is important to note, these observations:

- have been prepared based on the evidence and supporting material currently contained in a partial brief of evidence ... submitted to me for consideration on 7 December 2018;

Mr McMILLAN: Sometime between getting the brief and the end of the year you think you started preparing this?

Ms McIntyre: I believe I went on leave on 14 December.

Mr McMILLAN: I see. As best you can now—appreciating that it is some time ago and you do not have specific records—you think sometime in that week you prepared this document—that is, between 7 December and when you went on leave on the 14th?

Ms McIntyre: Yes.

Mr McMILLAN: In it you consider a number of issues. You say on page 45 under the heading 'Criminal offences considered'—

- Misconduct in relation to public office

Then you go over the page and deal with the Director of Public Prosecutions' guidelines for prosecution. Are they guidelines that you were familiar with at the time?

Ms McIntyre: Yes.

Mr McMILLAN: You had access to them and considered them in preparing this memo or at least the draft of it?

Ms McIntyre: Yes. Just keep in mind that this is a template that we have as well.

Mr McMILLAN: I see.

Ms McIntyre: As we are assessing the evidence, we then complete this. The first five pages is essentially a template, and that is completed last.

Mr McMILLAN: I see. Where, for example, on page 46—which is page 4 of 14 of the document itself—under 'Sufficiency of evidence' it says—

I am of the view there is sufficient / insufficient ...

That is the template document?

Ms McIntyre: It is a template.

Mr McMILLAN: You have not typed that yourself?

Ms McIntyre: No.

Mr McMILLAN: We then go on to page 6, which is page 48 of the bundle, headed 'Attachment one'. There is the proposed charge of misconduct in public office. Is that the part of the document that you have prepared, going after the template?

Ms McIntyre: Yes.

Mr McMILLAN: I see. You have given careful consideration, at least in this draft—accepting that you might have given it further consideration before finalising it—of the elements of that particular offence and how they might be proved?

Ms McIntyre: Again, it is an incomplete draft.

Mr McMILLAN: Yes, it is not a criticism; I am inviting you to take some credit.

Ms McIntyre: It is what I had started to prepare—

Mr McMILLAN: Yes.

Ms McIntyre:—and these were the hurdles that I had encountered at that time.

Mr McMILLAN: Is this a document that is ordinarily prepared within the CCC, or at least at this point in time in 2018, to support a recommendation to charge a person with offences arising from a corruption investigation?

Ms McIntyre: In relation to corruption, yes. It is to either support or not recommend—

Mr McMILLAN: Yes.

Ms McIntyre:—supporting charges, yes.

Mr McMILLAN: To consider the evidence that has been gathered by the operational investigative team?

Ms McIntyre: Yes.

Mr McMILLAN: The elements of the offence that might be available?

Ms McIntyre: Yes.

Mr McMILLAN: Whether or not there is sufficient evidence and the public interest factors required to be considered by the director's guidelines?

Ms McIntyre: That is right.

Mr McMILLAN: Is that a document, in your 11 years of experience at the CCC, that is usually prepared by the lawyer that is attached to the operational team?

Ms McIntyre: Yes, unless that lawyer moves on—

Mr McMILLAN: Sure.

Ms McIntyre:—and another lawyer then assesses that information.

Mr McMILLAN: That is the reason that you prepared this document, because you were the lawyer attached to Operation Front?

Ms McIntyre: That is right.

Mr McMILLAN: All right. We see, if I respectfully suggest, a careful and detailed consideration of the elements of the misconduct in public office charge by you. Then we come to page 57 and the question of fraud, or the heading 'Fraud 408C(1)(e)'. At least in the material that we have seen, this is the first time that we can see a documented consideration of the possibility of charging fraud as arising from Operation Front. Are you able to tell us whether this was the first time that any consideration was given, at least by you, to a charge of fraud?

Ms McIntyre: From me, yes, and I think that may have resulted from a conversation or a meeting that I had with Mr Alsbury in relation to the misconduct in relation to public office charge. Again, these are just notes that have just been jotted down for consideration for a charge, for a fraud. If I could say that there is not generally just one offence that may be applicable for charging that the evidence would fit or prove.

Mr McMILLAN: You are a step ahead of me, Ms McIntyre. That is exactly what I was about to ask you about. The evidence you gathered in Operation Front, at least in your mind, gave rise to a number of potential offences that had been committed by those who were the focus of the investigation?

Ms McIntyre: That is right. As an investigation progresses, there is consideration of many charges. Some, you know, do not eventuate. Some that we could but we cannot obviously charge—

Mr McMILLAN: Yes.

Ms McIntyre:—for whatever reasons. It is a moving feast, an investigation. There are a number of factors that we take into account. Whilst we look at the criminal charges, we also look at whether there is any disciplinary breaches and the like as well.

Mr McMILLAN: Yes.

Ms McIntyre: It is not just focusing on the criminal. Yes, that is first, but secondly we look at whether there are disciplinary charges and, obviously, any prevention matters that need to be looked at as well.

Mr McMILLAN: Do you recall why it was that at the end of 2018 you first give consideration to the potential that fraud might be charged? Was it suggested to you by someone else?

Ms McIntyre: Paul—sorry, Mr Alsbury and I did discuss fraud as a potential charge. He may have suggested that I consider that as well, hence my—

Mr McMILLAN: Yes.

Ms McIntyre:—couple of points that I have written down.

Mr McMILLAN: Did he give you any reason for considering fraud as against misconduct in public office?

Ms McIntyre: No. Well, I do not recall. I find that—and this is me personally—misconduct in relation to public office is actually quite a difficult charge to prove.

Mr McMILLAN: Yes.

Ms McIntyre: I do not think that the fraud charge is as difficult.

Mr McMILLAN: Did you consider that potentially the evidence might more easily fit the elements of fraud than the offence of misconduct in public office?

Ms McIntyre: It could, yes.

Mr McMILLAN: That there might have been greater prospects of success of that charge than misconduct in public office?

Ms McIntyre: Yes, could be.

Mr McMILLAN: We see in your consideration of fraud at page 57: first of all, the person being considered for the charge is the former mayor, Mr Smith.

Ms McIntyre: That is correct.

Mr McMILLAN: Relevantly, the acts or omissions that might constitute this particular charge relate to something other than Ms Kelsey's termination, do they not?

Ms McIntyre: Again, this is incomplete.

Mr McMILLAN: It is not a criticism; I am just asking you. Without having to read the entire document into the record, at this point you are not considering Mr Smith's involvement in Ms Kelsey's termination to be a basis to charge fraud? You are looking at other reasons or other evidence that might support a charge of fraud, other than his alleged collusion with the other councillors in the termination of Ms Kelsey?

Ms McIntyre: No, we would be looking at him in terms of his collusion. Whether I was looking at the councillors at that stage—I do not believe I was.

Mr McMILLAN: Yes.

Ms McIntyre: I was looking at mayor Smith at that stage, in terms of his involvement in the termination of Ms Kelsey's employment.

Mr McMILLAN: Where do we see in your memo a consideration of his involvement in her termination?

Ms McIntyre: Sorry, can you repeat that?

Mr McMILLAN: Where in this memo do we see you considering the evidence of his involvement in her termination?

Ms McIntyre: It is an incomplete document.

Mr McMILLAN: But under the heading of 'Dishonestly' you point to essentially two things: first of all, the mayor's involvement in protecting another employee of the council and the suggestion that his involvement in that was dishonest; and also protecting himself in relation to allegations of corrupt conduct made by Ms Kelsey.

Ms McIntyre: Two motivations that have been documented.

Mr McMILLAN: Yes. There might have been others that you gave consideration to later?

Ms McIntyre: As I said, it is incomplete.

Mr McMILLAN: All right. Could I ask you to turn to the bottom of page 9 of volume 2. You will see there an email from Mr Docwra, who was I think an assistant director in the Legal Services division relevantly in August of 2018; is that right?

Ms McIntyre: That is right.

Mr McMILLAN: He sends an email to the chair copied to Mr Hutchings. I accept you are not a party to this email. Over the page on page 10, he says—Alan,

Rob has asked me to forward you with a copy of my email below touching upon issues you both discussed yesterday.

Then, the email below from Mr Docwra to Mr Hutchings is referred to. In that email, Mr Docwra considers offences that might have the result of disqualifying councillors from office. In or about August of 2018, were you aware of any research being conducted by Mr Docwra or others in the Legal Services division into what offences might cause councillors to be removed from office?

Ms McIntyre: I do not believe I was. This is the first time I saw that—when it was contained in this brief.

Mr McMILLAN: Do you recall any conversations amongst the lawyers at the CCC in August of 2018 about finding an offence that would cause the councillors to be removed from office?

Ms McIntyre: No.

Mr McMILLAN: You were not party to any such conversation?

Ms McIntyre: No.

Mr McMILLAN: You would be concerned, wouldn't you, that such a conversation might be improper?

Ms McIntyre: No.

Mr McMILLAN: You wouldn't be?

Ms McIntyre: No. I mean, it is research that has been undertaken in terms of—it appears to be research in relation to appropriate charges, or consideration of charges. I see that it is in relation to whether any of the charges that—in terms of the reprisal action, whether that was a disqualifying offence. It is a matter, I would say, that we would consider. I do not think it is inappropriate or improper.

Mr McMILLAN: One of your functions as the lawyer attached to an operational team, I think we established yesterday, is to advise and where necessary assist the operational team to understand how they should lawfully conduct an investigation.

Ms McIntyre: Yes.

Mr McMILLAN: You would agree with me also, wouldn't you, that a lawful investigation should be conducted by way of gathering evidence and then assessing that evidence to see if it establishes a prima facie case for any criminal charge?

Ms McIntyre: Yes.

Mr McMILLAN: It is not a situation where a lawful investigation is conducted by determining what charge should be preferred and then going in search of evidence to sustain that charge?

Ms McIntyre: No. We do not identify an offence and then go look for evidence, no.

Mr McMILLAN: If you did, that would be an improper purpose, wouldn't it?

Ms McIntyre: Yes.

Mr McMILLAN: And indeed that might amount to corrupt conduct in and of itself, if that was the way the operation was undertaken?

Ms McIntyre: Yes.

Mr McMILLAN: Could I take you now back to page 43, please—sorry, page 59. On the second half of that page you will see an email from Mr Alsbury to you dated 9 January 2019 and he says—

The purpose of this email is to ultimately obtain legal advice regarding the prospects of success in relation to a charge relating to the sacking of Kelsey.

That advice that Mr Alsbury is requesting is precisely the sort of advice that you had started drafting before you went on leave for Christmas, isn't it?

Ms McIntyre: Yes.

Mr McMILLAN: Do you recall why it is that you did not complete that draft and provide it to Mr Alsbury in response to this email?

Ms McIntyre: No, I do not, but I am aware now that there was a meeting in January 2019. I was not involved in that meeting. I think I was on leave. I seem to be on leave a lot.

Mr McMILLAN: Well earned, I am sure, Ms McIntyre.

Ms McIntyre: I hope so.

Mr McMILLAN: But please continue.

Ms McIntyre: That Mr Alsbury would prepare some advice or discussion paper in relation to what was termed at that time 'the Kelsey charge' and that I would assist him in that regard.

Mr McMILLAN: I see. So just to be clear, you get the email from Mr Alsbury on 9 January. Were you still on leave at that stage or were you back at work?

Ms McIntyre: I believe I was on leave.

Mr McMILLAN: So you return to work sometime after your Christmas holidays and you see this email from Mr Alsbury?

Ms McIntyre: Yes. I think it was 14 January that I came back from leave.

Mr McMILLAN: And you think sometime after that there was—I am sorry, you think sometime while you were on leave there was a conversation that overtook Mr Alsbury's request in the email?

Ms McIntyre: Possibly.

Mr McMILLAN: So by the time you got back to work you did not need to action Mr Alsbury's email in the way suggested. Is that the effect of what you are telling us?

Ms McIntyre: No, I would not say 'not action'. I have a note here that the meeting occurred on 8 January 2019, which is the day before this email.

Mr McMILLAN: Yes.

Ms McIntyre: It is noted there—and I believe it is Mr Alsbury's handwritten notes that have been provided to the committee—that he would provide an advice and discussion paper regarding the Kelsey charge, and it would deal with the prospects of success, I believe, and that I would help.

Mr McMILLAN: Thank you. Could you turn, please, to page 70. This is a note headed 'Op Front meeting' on 30 January 2019. First of all, is this your note?

Ms McIntyre: It is.

Mr McMILLAN: It lists that the persons present at that meeting were the chairperson, Mark Reid, Paul Alsbury, Andrew Francis and MM. Is that you?

Ms McIntyre: That is me, yes.

Mr McMILLAN: And you have made a note about that meeting. Do you recall that meeting sitting here today, or do you rely on the note?

Ms McIntyre: I rely on what is written here.

Mr McMILLAN: Does it appear to you that that note is a complete record of the things discussed in that meeting?

Ms McIntyre: I would not say it is a complete record. It would be, I think, points of importance.

Mr McMILLAN: Yes. You will see over the page, at page 71, there is another note. In the left-hand side you can see the date '30.1.19'. That is not your note, is it?

Ms McIntyre: No.

Mr McMILLAN: Are you able to tell from the handwriting whose note it is?

Ms McIntyre: I believe that is Andrew Francis' note.

Mr McMILLAN: Thank you. Over at page 72 you will see the second line where Mr Francis, we think, has made a note saying—Settled on 1x Fraud (Kelsey) & 1x Misconduct ... I think 'Frawley' is the next word on the next line?

Ms McIntyre: That is correct.

Mr McMILLAN: Do you recall there being some decision in that meeting that there would be a charge laid of fraud in relation to Ms Kelsey?

Ms McIntyre: I do not recall and I do not know why I have not documented that.

Mr McMILLAN: Can I take you to page 73. You will see this appears to be a different person's note. I could be corrected but I think Mr Hutchings told us yesterday this is his note.

Ms McIntyre: No.

Mr McMILLAN: I might be mistaken about that. Do you recognise the handwriting on this note?

Ms McIntyre: I believe it is Mark Andrews.

Mr McMILLAN: Thank you. I might have confused myself. You will see there on the left-hand side on page 73 another reference to 30 January and Operation Front and then the list of people, which seems to be the same as the people you have noted who were at that meeting. Then over the page we see another reference to a meeting, this time on 31 January, it seems. The author of this note records just under the redacted section—

Do you recall being in a meeting on either 30 or 31 January—

Ms McIntyre: Um—

Mr McMILLAN: Just wait for me to finish, please—when the chairman, Mr MacSporran, approved the charging of a fraud in relation to Ms Kelsey?

Ms McIntyre: I was in a meeting on 30 January, as my file note states, that he was happy with the evidence that was explained. He stated that we needed to ensure that we were able to put across the evidence, so to step it out. It is a complex matter so it needed to be stepped out and explained well. From what I have got here it says—

happy with Frawley charge—would approve

Andrew to do QP9s for both charges

So that was to set out statement of facts for the purposes of drafting those QP9s. For both charges it appears that there was, I suppose, not necessarily—for Andrew to consider both charges, preferring two charges. What they are, I did not document that down, but I would like to state that there was a meeting the day before as well that I was not party to. This was just a continuation of that meeting as well. So in terms of the evidence that was discussed at that time, I cannot comment.

Mr McMILLAN: How do you know about that meeting?

Ms McIntyre: I am aware of it because of these diary notes. Possibly—

Mr McMILLAN: You are talking about the reference on page 73 to a date of 29 January?

Ms McIntyre: Yes.

Mr McMILLAN: Is that the only source of your knowledge about that meeting, or have you spoken with someone about it?

Ms McIntyre: I have not spoken to anyone about it.

Mr McMILLAN: Did you know when you attended the meeting on 31 January that there had been a meeting the day before?

Ms McIntyre: I cannot recall.

Mr McMILLAN: You do not recall anyone telling you that they were halfway through the discussion of the evidence or something of that nature?

Ms McIntyre: Look, it possibly could have been the case. I cannot recall that meeting.

Mr McMILLAN: Drawing your attention back to the meeting that you were at that you have made a note about the two charges, is it your recollection that the chairman, Mr MacSporran, approved the laying of those charges in that meeting?

Ms McIntyre: No, the chairperson does not approve the laying of charges. We provide a briefing to the chairman for him to consider whether, in his view, there would be sufficient evidence. Then it is a matter that he would approve a recommendation that a seconded police officer would then consider that evidence and would prefer a charge if they came up with that discretion to prefer a charge.

Mr McMILLAN: Do you recall Mr MacSporran expressing a view that he thought those charges should be considered by Detective Francis?

Ms McIntyre: No, I believe those charges would have been put up by Andrew Francis.

Mr McMILLAN: I see. What was the function of the chair in that case, given that Detective Francis was the person, the commissioned police officer, who was recommending a charge and ultimately the person who could lay the charge? What was the purpose of the chair's engagement in that discussion?

Ms McIntyre: We briefed the chairperson on all matters that a police officer may consider preferring charges in corruption.

Mr McMILLAN: But in your view, at least as the lawyer advising Mr Francis, he did not need the chair's approval in order to determine whether or not to charge?

Ms McIntyre: No, he does not.

Mr McMILLAN: All right. Could you turn to page 77, please. Take your time to have a look at that document. My first question will be: is it your document, as in, did you create it?

Ms McIntyre: No.

Mr McMILLAN: Have you seen it before preparing for giving evidence in these proceedings?

Ms McIntyre: I have seen it beforehand.

Mr McMILLAN: Did you see it before the charges were laid against the mayor and seven councillors on 26 April 2019?

Ms McIntyre: Yes, but this is only one version of the memo.

Mr McMILLAN: I see. There are others that you are aware of, are there?

Ms McIntyre: There is.

Mr McMILLAN: Is this—are you able to say whether this is the version that you have seen, or have you seen—

Ms McIntyre: I have seen this version, but there is a version, which I do not think is contained in here, that is around 54 pages. This is only 16.

Mr McMILLAN: All right. That is in a slightly different form, and I will take you to that in a moment. In fact, out of fairness to you, I am happy for you to look at it immediately, just to confirm what I am about to ask you. I think that document that you might be referring to starts at page 257. Then you will see, Ms McIntyre, that that ultimately is a document that is included along with a memo from Mr Alsbury to Mr MacSporran for him to consider the chair's cover sheet on 26 April 2019—the 24th, rather.

Ms McIntyre: It is my understanding that this is the final version that was provided to the chairperson with the cover sheet and Mr Alsbury's advice.

Mr McMILLAN: Just so that I am clear, the document that commences at page 257 that was ultimately provided to the chair on 24 April is, in your view, or as far as you are aware, the final iteration of the document that we see on page 77?

Ms McIntyre: Yes.

Mr McMILLAN: They are in different forms. It was not immediately apparent to me that it was a different iteration of the same document, so that is helpful. You were involved in the operation throughout and your best evidence is that the document provided to the chair is the final version of the document that we are seeing at page 77?

Ms McIntyre: Yes.

Mr McMILLAN: Wonderful. Did you have any input into the first draft of this document or the draft that we see at page 77?

Ms McIntyre: No.

Mr McMILLAN: Do you know whether that document was considered by the meeting on 30 January 2019?

Ms McIntyre: Not this document, no. Possibly the 16-page one was.

Mr McMILLAN: So that is the document that I took you to at page 77?

Ms McIntyre: 77. I cannot be certain of that. That may have been.

Mr McMILLAN: You do not recall today whether that document was being discussed in that meeting or not?

Ms McIntyre: Yeah, I do not know whether that is the document that would be discussed in that meeting.

Mr McMILLAN: Do you recall whether any document was considered in that meeting or whether it was just a discussion?

Ms McIntyre: I do not know. I know that Andrew is very—he likes to draft documents so he would have something to guide him in providing a discussion in relation to the evidence.

Mr McMILLAN: Would you expect, as the lawyer attached to the operational team, to have had some input into that document before it was provided to the chair?

Ms McIntyre: No, not necessarily no. This is the case officer's analysis of the evidence. It is a memorandum. I do not believe I need to give any input in relation to that. My role would be to assess the evidence contained in a brief of evidence, and that is not a brief of evidence.

Mr McMILLAN: I see. Ideally, this should have been accompanied by, or might have been accompanied by, a document such as your legal observations?

Ms McIntyre: Ideally, there would be a brief of evidence, a full brief of evidence, and my observations, but that was not the case here. I am not saying that that does not—that we—that it has not happened before, because it has. There have been a number of investigations where I have been

involved in that are so fast paced that there is no time to do legal observations, and that there is an assessment within the team and with the chairperson as to whether charges should be preferred and we have gone down that path.

Mr McMILLAN: Given the CCC's obligation to act independently and impartially, would you expect that any documents created by an operational team suggesting or referring to criminal charges—would you expect those documents to be framed in a dispassionate and impartial way?

Ms McIntyre: I would prepare documents that way.

Mr McMILLAN: And to the extent that your job involved giving legal advice to the police officers attached to operations, would you expect them to draft documents in the same way or at least advise them that they should?

Ms McIntyre: I read this document. I understand that there is a number of comments that are in there that are made by the police officer, but they are just comments that are being made by that police officer. This is an internal document. It was not going anywhere.

Mr McMILLAN: It was going to the chair, wasn't it?

Ms McIntyre: An internal document, yes, going to the chair. It was not going externally.

Mr McMILLAN: Even though you have told us that Detective Francis did not need the chair's approval in order to charge, he clearly sought that approval?

Ms McIntyre: The chairperson does not approve or instruct a police officer to prefer charges.

Mr McMILLAN: We understand that, Ms McIntyre. Every witness from the CCC has told us that. We understand it.

Ms McIntyre: He is briefed. I do not whether I can say it is as a matter of courtesy. He is the head of the CCC; he should know what is happening within that organisation. I think it is just a matter of providing him with that courtesy to say, 'We have gathered this evidence. We believe that there is sufficient evidence and it is in the public interest to charge a particular person. We are providing this information to you for consideration.'

Mr McMILLAN: You are familiar, I think we spoke earlier, with the director's guidelines and you had access to them throughout?

Ms McIntyre: Yes.

Mr McMILLAN: I do not expect you to remember them by rote.

Ms McIntyre: You did give me a copy, but I did not bring it today.

Mr McMILLAN: You are familiar with the concept that one of the requirements in the guidelines is that the prosecutor exercise the discretion to prosecute free from their personal feelings about the accused or the victim?

Ms McIntyre: Yes.

Mr McMILLAN: You have observed that Detective Francis has made a number of comments in this document, or at least the draft of this document that commences at page 77, and that you read it at the time. Did you think it was part of your function as the lawyer advising that team to caution Detective Francis that, as the prosecutor—the person who would ultimately lay charges—he should do so free from personal views about the accused or the victim?

Ms McIntyre: No, it is not my role.

Mr McMILLAN: That is not your role?

Ms McIntyre: No. He has those views.

Mr McMILLAN: You include a careful consideration of the director's guidelines in at least the first draft of your legal observations in relation to the charge of misconduct in public office and a different version of the charge of fraud against the mayor. Why is it not your duty and responsibility to inform Detective Francis of his obligations under the director's guidelines?

Ms McIntyre: Under the director's guidelines, my role is to consider the sufficiency of the evidence and whether there is public interest to charge. That is my role.

Mr McMILLAN: It is as simple as that, is it? You understand—

Ms McIntyre: Was that a question, sorry?

Mr McMILLAN: Yes: it is as simple as that, is it?

Ms McIntyre: My role is to assess the evidence, whether there is sufficient evidence, recommend that, yes, there is sufficient evidence for a particular charge or a variety of charges. It is a matter for the police officer then to go out and exercise his discretion as to whether he is going to prefer a charge.

Mr McMILLAN: What about the public interest considerations?

Ms McIntyre: I had not taken public interest considerations at the time that I prepared this—my draft observations—which was some time, as I said, before Mr MacSporran had considered this memorandum.

Mr McMILLAN: You did not think it was incumbent upon you, having read Detective Francis' memo, or at least the first version of it that we see commencing at page 77, to caution him that as the prosecutor he was required—and, indeed, as an officer seconded to the CCC—to act impartially and, as the director's guidelines require at page 4, section (iii)—

A decision to prosecute or not to prosecute must be based upon the evidence, the law and these guidelines. It must never be influenced by:-

relevantly—

(b) personal feelings of the prosecutor concerning the offender or the victim;

You did not think it was important, in your role as the lawyer advising Operation Front, to draw that fact or that requirement to Detective Francis' attention?

Ms McIntyre: In relation to the document commencing on 77?

Mr McMILLAN: Yes.

Ms McIntyre: I would like to take some time to consider the document to identify the emotive comments that Mr Francis has included in here that you are alluding to.

Mr McMILLAN: Yes.

Ms McIntyre: Unless you can identify those for me now?

CHAIR: Take your time, Ms McIntyre.

Mr McMILLAN: Can I take you to what I think is the final version of this document, Ms McIntyre, at page 309—

Ms McIntyre: To be clear, I did not see any emotive language in the 16-page version commencing on 77.

Mr McMILLAN: You did not think there was any need to draw those issues to Mr Francis' attention?

Ms McIntyre: No. In relation to this document, there is no emotive language.

Mr McMILLAN: Did you see the final version of this document that went to the chair on 24 April 2019?

Ms McIntyre: At the time it went to the chair? I do not know.

Mr McMILLAN: Or before it went to the chair?

Ms McIntyre: I do not know whether I had seen it before it went to the chairperson on 23 April.

Mr McMILLAN: Have you considered it since then? Have you read this memo in its entirety, the 54 pages?

Ms McIntyre: I have read it.

Mr McMILLAN: It contains a number of statements that could only be described as affected by personal feelings about the victim and the offender; you would agree?

Ms McIntyre: There are comments in the version.

Mr McMILLAN: Do you agree with me, Ms McIntyre?

Ms McIntyre: Sorry, I am just trying to find this. I am aware that there are comments made by Detective Francis.

Mr McMILLAN: Can I take you to page 309, please—the last complete paragraph on that page, starting with the words 'Ms Kelsey' and the third sentence—

Her integrity is of the highest calibre.

The next paragraph—

Mrs Kelsey credibility stands in the contrast to the Mayor. ... lives with ease as a person living a Jeckle and Hyde existence.
Brisbane

Surely you do not have any difficulty accepting that those are comments that demonstrate Mr Francis' personal feelings about the victim and the offender?

Ms McIntyre: Detective Francis is a professional operator. These are his views. I—

Mr McMILLAN: You do not have difficulty, do you, accepting that those views fall squarely within the section of the director's guidelines that I just read out to you: 'personal feelings of the prosecutor concerning the offender or the victim'?

Ms McIntyre: In what section is that, sorry?

Mr McMILLAN: Of the director's guidelines? Page 4.

Ms McIntyre: Under what heading?

Mr McMILLAN: Under the heading 'Impartiality' in the section of public interest criteria. I will read it to you again—

A decision to prosecute or not to prosecute must be based upon the evidence, the law and these guidelines. It must never be influenced by:—

relevantly—

(b) personal feelings of the prosecutor concerning the offender or the victim;

Ms McIntyre: I agree with those.

Mr McMILLAN: Do you agree that the comments that I have just read out to you from Detective Francis' memo clearly fall within that descriptor of being personal feelings of the prosecutor about the offender or the victim?

Ms McIntyre: They can be interpreted that way, yes.

Mr McMILLAN: Do you interpret them that way?

Ms McIntyre: These are not the—I have no—

Mr McMILLAN: You do not know what your own view is?

Ms McIntyre: I do not have a view of Ms Kelsey.

Mr McMILLAN: I am not asking you about your view of Ms Kelsey, Ms McIntyre. I am asking you whether you interpret those comments as being an expression of Mr Francis' personal views about Ms Kelsey and the accused, in this case, relevantly, the mayor.

Ms McIntyre: They are Andrew Francis' views.

Mr McMILLAN: We can all see that. I am asking about your views.

Ms McIntyre: I do not have the same view as Andrew Francis.

Mr McMILLAN: This is not a difficult proposition, Ms McIntyre. Why are you resisting answering the question?

Ms McIntyre: I am not resisting.

Mr McMILLAN: I will put it to you again and give you another opportunity to answer: do you agree that those comments that I have just read out to you from this memo are a clear example of the prosecutor expressing personal views about the victim and the accused?

Ms McIntyre: They can be interpreted that way.

Mr McMILLAN: Subject, of course, to any matters that the committee might wish me to further press, those are my questions.

CHAIR: Do members of the committee have questions from this section of proceedings?

Mr SULLIVAN: Thank you, Chair. Ms McIntyre, you said in relation to the memo at page 257 you did not have any role in preparing that. Did you have any role in preparing the cover note or memo of Mr Alsbury signed by him on the 23rd?

Ms McIntyre: No.

Mr SULLIVAN: Your understanding of how it works is it would go directly, with the memo from the police officer, to Mr Alsbury for him to create the memo to proceed to the chair?

Ms McIntyre: Generally the process would be that the—in this instance the memorandum created by Detective Francis would have went through David Preston, which you can see at the top of that, and then through to—

Mr SULLIVAN: He is a police officer?

Ms McIntyre: Sorry?

Mr SULLIVAN: He is an inspector, is he not?

Ms McIntyre: Yes, sorry: Detective Inspector David Preston. It would also go through the executive director of corruption operations, which is Detective Superintendent Mark Reid, and then to Paul Alsbury.

Mr SULLIVAN: So between the police officer finalising the memo and going to Mr Alsbury, it would not go through a lawyer; it would go directly to Mr Alsbury?

Ms McIntyre: In this situation it did not. My role is to assess the evidence based on a brief of evidence and this memorandum is not a brief of evidence.

Mr SULLIVAN: I am making no criticism; I am just trying to understand how we got from there to the meeting on the 24th.

Ms McIntyre: It just goes through many hands up that process.

Mr SULLIVAN: Thank you.

Mr McMILLAN: There is one matter arising from that question, Chair, if I might pursue it.

CHAIR: Yes.

Mr McMILLAN: You spoke earlier, Ms McIntyre, about there being some situations where investigations move quickly; it is necessary to charge quickly and before the lawyer involved has had the opportunity to prepare a proper legal observations document. Was this one of those cases?

Ms McIntyre: Not as quick as some.

Mr McMILLAN: I am wondering if you can assist the committee at all to understand why this was not a case where you or another lawyer at the CCC prepared careful legal observations having regard to the brief of evidence as to whether or not that evidence was capable of sustaining the elements of the charges that were being considered.

Ms McIntyre: I think that is because the brief was still being compiled. There was still witnesses being interviewed. I could be wrong. It is an instance that—that is what has happened in this case. I do know that the evidence—sorry, the brief of evidence was not fully compiled at that stage.

Mr SULLIVAN: Can I ask a question in that regard, Counsel?

CHAIR: Go ahead.

Mr SULLIVAN: In terms of it still being compiled, the cover note from Mr Alsbury, signed by him on the 23rd, put to Mr MacSporran for signature on the 24th, specifically asked that this matter is at the point where, 'To remove any doubt, the request is for you to approve the matter being referred to a police officer seconded to the CCC' et cetera. Surely this investigation is at the point where he, Mr Alsbury, is explicitly asking the chair to recommend that a police officer consider charges. That is a fair summary, is it not?

Ms McIntyre: Yes.

Mr SULLIVAN: When you say matters were still ongoing—

Ms McIntyre: In terms of generating—it may be a case that—and I cannot say that this is what happened on this occasion—we had interviewed a witness who was willing to provide a statement but the statement had not been signed at that stage for preparation of the brief of evidence. In terms of—like, summaries of interviews would be included in consideration of charges.

Mr SULLIVAN: Sure, and even when charges are laid, obviously matters continue to proceed and who knows what different accused do from there? My point is: the counsel's question was around why this matter was not considered for detailed legal advice as to what elements of charges should be considered, what charges should be considered, whether or not to charge. For a very long, detailed matter, why at this stage, at the point that it is explicitly being put to the chair for approval, for referral, did that legal process not occur?

Ms McIntyre: I cannot answer that. I do not know.

Mr McMILLAN: As the lawyer attached to Operation Front you would have hoped, would you not, to have the opportunity to carefully consider the brief of evidence and the elements of any preferred offences and give advice as to whether or not the brief of evidence could sustain the charges being considered?

Ms McIntyre: I would prefer to give advice in relation to a full brief of evidence—absolutely.

Mr McMILLAN: But your evidence is in this case that a memorandum went to the chair and ultimately Detective Francis laid charges on 26 April without that process having occurred?

Ms McIntyre: Yes.

Mr McMILLAN: You did not understand there to be any particular haste or need for charges to be laid without that process having occurred?

Ms McIntyre: I do not believe so, no.

Mr McMILLAN: Were you aware of any discussion amongst the operational team of the need to charge the mayor and councillors before 2 May?

Ms McIntyre: No.

Mr McMILLAN: Nobody told that you there was a need for them to do that?

Ms McIntyre: No.

Mr McMILLAN: Did you ever see an email between the police officers in which there is the expression we 'need to pinch Smithy & ...The Fab7' before 2 May?

Ms McIntyre: I have seen it in the bundle.

Mr McMILLAN: You had not seen it at the time?

Ms McIntyre: I do not recall it, no.

Mr McMILLAN: Nobody told you that that date was important, that charges needed to be laid before that date?

Ms McIntyre: No, I do not believe—I may have understood that—2 May, was it?

Mr McMILLAN: Yes.

Ms McIntyre: Were closing submissions for the QIRC.

Mr McMILLAN: Yes, and can you think of a reason that an operational team of the CCC would need to lay charges in a matter before submissions were heard in a separate civil proceeding?

Ms McIntyre: I do not know why that has been stated.

Mr McMILLAN: You cannot think of any lawful, valid reason for that?

Ms McIntyre: I do not know. I cannot comment in relation to that email.

Mr McMILLAN: And nobody told you that that date was important?

Ms McIntyre: I do not believe so.

Mr McMILLAN: Did you ask anyone why it was that charges were laid before you had been given the opportunity to do what you would normally do—that is, consider the brief of evidence and give legal observations?

Ms McIntyre: No.

Mr McMILLAN: Why not?

Ms McIntyre: Because I have been involved in investigations where I have not done observations before as well.

Mr McMILLAN: But you did not understand there had been any particular urgency in this case, did you?

Ms McIntyre: I was not aware of any urgency.

Mr McMILLAN: And it did not occur to you, 'Hang on, why were charges laid? There is no urgency in this matter. Maybe I should ask somebody about that'?

Ms McIntyre: All I understand is that, based on the meeting, Paul Alsbury would be preparing advice, so my role in performing observations was not necessary.

Mr SULLIVAN: If you knew Mr Alsbury was preparing a memo for that meeting, did you prepare at least the draft copy of your legal observations to him for consideration?

Ms McIntyre: They were provided to him from an email that I have seen that they—no, I did. I sent the draft observations on Friday 14, which was the day I was going on leave. I sent them through to Paul Alsbury.

Mr SULLIVAN: Back in January?

Ms McIntyre: My draft, yes.

Mr SULLIVAN: Knowing that a memo was going for preparation for the chair's consideration, you did not resend your legal observations or seek to update them?

Ms McIntyre: No. I do not know whether I was even aware that the matter was going—

Mr SULLIVAN: That the memo was going to Mr Alsbury?

Ms McIntyre: Yes.

Mr McMILLAN: I think we have covered the fact but just to confirm, arising from the deputy chair's question: the draft legal observations did not give any consideration at all to the prospect of charging the seven councillors with anything or particularly fraud, did it?

Ms McIntyre: At that stage, no.

Mr McMILLAN: And it did not give consideration to charging the mayor with fraud arising from his collusion with the councillors in terminating Ms Kelsey's employment? It was on another basis?

Ms McIntyre: Not documented?

Mr McMILLAN: Yes. So the draft memo that you have drawn to the deputy chair's and the committee's attention that you provided to Mr Alsbury by email would have been no assistance at all to him in considering charges that were ultimately laid; do you agree?

Ms McIntyre: Correct.

Mr McMILLAN: Going back to my question, by this stage you had had a good deal of experience as a lawyer assisting an operational team in the Corruption division—

Ms McIntyre: Yes.

Mr McMILLAN:—by 2018? It did not strike you as odd that in a case where there was no particular urgency, no particular need to rush, these councillors and the former mayor were charged with an offence that would result in them being removed from office without anyone having prepared careful legal observations as to whether or not that charge was ever sustainable? That did not strike you as odd?

Ms McIntyre: No, no. It is an environment where, if the evidence is there and it can be put in a form that is understandable—as this memo is—it is sufficient.

Mr McMILLAN: And you did not think, as a solicitor of the Supreme Court of Queensland, that you might have an obligation to the administration of justice to express a view about that?

Ms McIntyre: If I was asked to express a view, yes, I—

Mr McMILLAN: But not if you were not?

Ms McIntyre: No.

Mr McMILLAN: Thank you, Chair.

CHAIR: Ms McIntyre, the truth is that it was taken out of your hands and gone ahead with by the chair and police officers; wasn't it?

Ms McIntyre: No, I do not believe that is the case.

CHAIR: You were sidelined.

Ms McIntyre: No. In terms of being a lawyer within the Corruption operational unit or division, we do not just work on one investigation. We are not allocated to one investigation. We are allocated to a number of investigations so we may not have time to prepare careful considered observations at that time. If there is somebody else that can take on that role—and Mr Alsbury is a very experienced lawyer. I would not raise the issue with him saying, 'Why am I not doing that and why are you doing that?' He is experienced.

CHAIR: Okay. I ask as well: is it common practice, as you understand it, for the CCC to charge people in order to coerce cooperation from other parties?

Ms McIntyre: Coerce cooperation from?

CHAIR: From other parties. I take you to page 310, paragraph 97—

The case officer is optimistic after proceedings are commenced for the Mayor and—
other councillors, two other councillors—

... aligned Councillors might express an intention to co-operate ...

That is clearly tactical. It is actually headed 'Tactical considerations'. Does the CCC lay charges to coerce cooperation from other parties?

Ms McIntyre: No.

CHAIR: So that tactic—

Ms McIntyre: That did not happen in this case.

CHAIR: No, I understand that, but it was clearly thought about.

Ms McIntyre: I believe from conversations that there were considerations by the police officers that maybe some of the councillors may come forward and provide evidence against mayor Smith and possibly others. That is written there. It was never undertaken. It is not something that—I would not support that.

CHAIR: Mr Crandon?

Mr CRANDON: Ms McIntyre, I come back to the timing of the charges being laid just before that 2 May date. Did you turn your mind to the timing, given it would have become obvious after the charges were laid and 2 May came about? Did you turn your mind to it and wonder or give any consideration to it and think, 'That was good timing' or anything of that nature—

Ms McIntyre: No, I did not.

Mr CRANDON:—when you became aware of it?

Ms McIntyre: I have read the email from—

Mr CRANDON: No, I am not talking about the email trail. I am talking about at that time the charges were laid. You were there; 2 May came along, which was meant to be the date. You would have become aware at that time that that 2 May date was a relevant date. It would have bubbled to the surface somehow.

Ms McIntyre: Possibly, yes.

Mr CRANDON: Yes?

Ms McIntyre: Yes.

Mr CRANDON: Did you turn your mind to, 'Wow, look at the timing there' or anything of that nature?

Ms McIntyre: No. I have a busy role. I do not want to—

Mr CRANDON: 'I do not want to—'?

Ms McIntyre: I do not recall back then whether I did turn my mind to it and whether I did or not or whether I did—I cannot comment. I do not know.

Mr CRANDON: Secondly, would you be concerned if you had seen that email trail at the time, leading up to the day the charges were laid? Had you seen it? Had you seen the detail of them? I think there was comment at the end of it all from Detective Francis. I cannot quite pick it up on my notes here now, but he said words to the effect, 'Yes, it was a very relevant, very important date. Timing was essential.' I think there were three officers involved. If you had seen that email trail, would that have concerned you? Would it have caused you to ask questions?

Ms McIntyre: Yes, I would. It could be for a number of reasons which I would not be privy to in terms of the operational side of things.

Mr CRANDON: It did specifically say in one of the emails that it was about the 2 May QIRC. Would that not have piqued your interest had you seen them at the time?

Ms McIntyre: At the time it would have, yes.

Mr CRANDON: Would you have been concerned?

Ms McIntyre: Possibly, yes, but if there was a tactical operational reason as to why, and that was explained to me, then that—but I do not know—I have only seen that email now. What happened back then I cannot—

Mr CRANDON: The series of emails between the officers?

Ms McIntyre: Yes.

Mr CRANDON: Who were all in agreement with one another that that was important, the charges be laid?

Ms McIntyre: That is what that email appears to portray.

Mr CRANDON: Well, does it? I mean, reading through it, each one of them is agreeing with the others that, yes—

Ms McIntyre: Do you have reference to the email?

Mr CRANDON: The email trails between Francis, Andrews—I believe there are three. I do not have the page numbers in front of me.

CHAIR: Counsel may be able to assist.

Mr McMILLAN: Page 93, I think, Mr Crandon.

CHAIR: Volume 1 or volume 2?

Mr McMILLAN: Volume 2.

Mr CRANDON: Volume 2, page 93. We have Mark Andrews in the first instance, I think, on page of 93—I see, it goes over the page. He makes these comments—

Totally agree, a must read. I've emailed bits I cut and pasted from it where Minter Ellison have submitted the respondents gave false evidence.

When's the QIRC decision?

So there is a specific question there. It goes on to say—

2 May is set for submissions in QIRC, which will include this doc & who knows how long before a decision—I'm guessing months, at least.

We really need to pinch Smithy & a decent portion of The Fab7 prior to 2 May.

That was Mark Andrews. Andrew Francis said—

Yup time critical

Would that concern you had you seen it?

Ms McIntyre: If there was an operational reason for that, not necessarily.

Mr CRANDON: Would you make inquiries if you saw it?

Ms McIntyre: I accept that this email trail could be interpreted that they are trying to charge prior to 2 May. For whatever purpose, I cannot comment. I do not—

Mr CRANDON: Sorry, could you repeat that?

Ms McIntyre: I accept that this email trail can be interpreted to the officers seeking to charge prior to 2 May. For what purpose, I cannot comment.

Mr CRANDON: Are you not able to say that this email trail definitely points to these officers wanting to charge before 2 May?

Ms McIntyre: It does.

Mr CRANDON: It does?

Ms McIntyre: Yes.

Mr CRANDON: No question about that. The other question that I have—and I am not sure that it has not been asked, but unfortunately I was looking at other things and may have missed it—is the handwritten comments by the chair at the top of the decision document—you were talking about it—Mr Alsbury's document to the chair, the cover letter.

Mr McMILLAN: Page 317.

Mr CRANDON: Page 317. I see the chair's note—

I agree with the recommendation to charge Smith x3 and the 7 relevant councillors with 1 count—

Is that what I am reading?

Ms McIntyre: I think that says 'of fraud as suggested'.

Mr CRANDON: 'Of fraud as suggested'. How do you interpret that? Is that an instruction? Is that a direction?

Ms McIntyre: No.

Mr CRANDON: Does it answer the document's question? Mr Alsbury has clearly outlined what the intention of the document was.

Ms McIntyre: To seek approval for the recommendation, which I believe is noted on page 318—

To remove any doubt, the request is for you to approve the matter being referred to a police officer seconded to the CCC so that officer can consider whether or not to charge the relevant councillors (including Luke Smith).

Mr CRANDON: And you believe those words do that?

Ms McIntyre: He is approving that recommendation, yes.

Mr CRANDON: Can you read those again, the phrase, and then read Mr MacSporran's words?

Ms McIntyre: The handwritten words?

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

Mr CRANDON: Read the others first. Read the ones on the following page first.

Ms McIntyre: On page 318—

To remove any doubt, the request is for you to approve the matter being referred to a police officer seconded to the CCC so that officer can consider whether or not to charge the relevant councillors (including Luke Smith).

Mr CRANDON: Now read MacSporran's response.

Ms McIntyre:—

I agree with the recommendation to charge Smith x3 and the 7 relevant councillors with 1 count of fraud as suggested.

Mr CRANDON: That was not what was requested of Mr Alsbury, was it?

Ms McIntyre: Mr Alsbury—the cover sheet is read in addition to Mr Alsbury's—

Mr CRANDON: You just read out what Mr Alsbury said—'to remove any doubt'?

Ms McIntyre: If you look at 317, Mr Alsbury is noted in the cover page. It is the second paragraph from the bottom. He states, 'In summary'.

Mr CRANDON: Yes.

Ms McIntyre:—

In summary, my view is that a charges against Luke Smith clearly have reasonable prospects of success and it is really a matter of choosing the criminality to be the subject of charges and the appropriate charges to reflect that criminality. My view is that charges should cover three areas of criminality in relation to Luke Smith:

Mr CRANDON: Go to 'to remove any doubt' on the next page.

Ms McIntyre: Yes.

Mr CRANDON: 'The request is for you'. He is making it very clear: 'To remove any doubt'—'... referred to a police officer seconded to the CCC'—so that he—'so that officer can consider whether or not to charge'?

Ms McIntyre: That is right.

Mr CRANDON: And then he says instead—

I agree with the recommendation to charge Smith x3 ...

You do not see the relevance of the terminology that it is an instruction to the officer as opposed to, 'Send it down to the officer to allow the officer to determine'?

Ms McIntyre: That is not an instruction.

Mr CRANDON: It is not an instruction in your view. Thanks, Chair.

CHAIR: Any other questions? Counsel, did you have some follow-ups?

Mr McMILLAN: Just one matter.

CHAIR: Yes.

Mr McMILLAN: Ms McIntyre, you said in response to some questions that you were just asked that there may have been an operational reason for the detectives discussing the date of 2 May. At the time that the recommendation went to the chair on 24 April 2019, you were the lawyer attached to Operation Front; that is right?

Ms McIntyre: Yes.

Mr McMILLAN: Were you aware at that time of any legal or operational reason that charges should be laid before 2 May?

Ms McIntyre: I am not aware.

Mr McMILLAN: Have you given any consideration prior to giving evidence today, so in the years since then, as to any legal or operational reason for the charges needing to be laid before 2 May?

Ms McIntyre: No, I do not see there being a reason as to the date that they were charged. That was the date that was determined by the investigation team. It is—

Mr McMILLAN: The email that the member for Coomera has just taken you to between the relevant officers on Operation Front suggests it was necessary to charge the mayor and 'a decent portion of The Fab7' before 2 May. You are aware, are you not, that the charging of fraud would have the effect that those councillors would be removed from office?

Ms McIntyre: I would be aware at that time.

Mr McMILLAN: Were you aware at that time that that was the consequence of a charge of fraud?

Ms McIntyre: Possibly. There is that possibility that they would be removed.

Mr McMILLAN: Did you think that the prospect that an elected official might be removed from their elected office was a public interest consideration that should be considered by the prosecutor before laying a charge?

Ms McIntyre: That is a matter for the prosecutor to consider.

Mr McMILLAN: And your job was to advise the prosecutor, was it not—the prosecutor being Detective Francis?

Ms McIntyre: In terms of when matters are being charged, no. That is not my job.

CHAIR: I call the member for Macalister.

Mrs McMAHON: I know you have mentioned to the committee the workload that you have as a principal lawyer and also your time acting up. Operation Front was an extremely large and broad-ranging operation. I was wondering if you could give the committee an indication of the scope of other operations you were providing legal advice for and the other work you were doing for the commission at the same time as Operation Front?

Ms McIntyre: I was also the lawyer for Operation Windage, which had a number of matters still proceeding at that time. It was not necessarily charges but wrapping up reports and the like. There was an LPP claim that had been made by a defendant that I was dealing with at that time as well. That took two years to resolve. I was also managing a team that was at times short-staffed. I also believe at that time Taskforce Flaxton had occurred. That removed another lawyer from the team. I was overseeing the legal unit at that time.

Mrs McMAHON: Could you give us an indication, if you do not have exact dates, of the time you commenced involvement with the operation involving Logan City councillors to the time that you ceased your involvement? Was your involvement for the entire duration—that is, from beginning to end—or was it only partial involvement?

Ms McIntyre: For Operation Front?

Mrs McMAHON: Yes.

Ms McIntyre: It was not from the beginning. It was from February/March—

Mrs McMAHON: This is 2018?

Ms McIntyre:—through to now. In terms of my acting and other responsibilities, that was from March through to October of that year. That was just the management side of things. As I have indicated, there were other investigations that I was working on or assisting with and also assisting other lawyers with regard to their investigations.

CHAIR: I think we discussed section 329s yesterday, maybe at some length. Forgive me if I have forgotten what we said. When the information was disseminated to Logan City Council in October 2018 and then it was discovered that there was LPP material within it, do you not think that that should have been the subject of a 329 for improper disclosure?

Ms McIntyre: There was no official claim of LPP made over that material by the Logan City Council or mayor Smith at that time. We took the, I suppose, more cautious approach to say that that is LPP. I do not believe that a 329 should have been reported with regard to that because it was a decision that we had made that there was possible LPP that could be claimed in relation to certain conversations within those documents.

CHAIR: I think we have covered this with other witnesses. Some of the 329s that are sent to this committee are for extraordinarily trivial matters. That is not a criticism, by the way, on my part. That material was sent without a dissemination authority and then was apparently found to contain material that should not have been sent in any case because it could be subject to legal professional privilege, and yet it was not reported.

You understand the difficulty that we might have in accepting your explanation and the explanation of the commission about why it was not reported. In fact, I want to go one step further and say that the fact that the committee had shown interest in the Logan City Council prosecution matter earlier that year, in June 2018—in fact, I think we asked for a report for it; I was not on the committee at the time—do you think it is possible that that might have fed into the reasoning for a 329 not being provided?

Ms McIntyre: I was not aware that the committee was receiving specific reports in relation to this operation.

CHAIR: There was a media release put out by the committee at the time.

Ms BUSH: Going back to the member for Macalister's questions around workload pressures, which have been raised by you a couple of times, I am curious in your role as a principal lawyer and particularly when you are relieving as assistant director what strategies your unit had for managing workload and managing peak periods?

Ms McIntyre: Sometimes we have peak periods and sometimes we do not. It is very difficult to, and I will use the word, 'steal' a lawyer from another unit to replace a lawyer who has been moved on to deal with other matters that are corruption related. We basically work together as a team to pull through.

Ms BUSH: Did you have the ability to brief out elements of your work or look at additional external secondments? Given both the volume and breadth of the inquiry and the nature of it as a strategic risk to the commission, was it ever briefed up that workload was an issue and potentially that would impact your capacity to fully get across the brief in front of you and give proper and full instructions across every piece of material?

Ms McIntyre: At that time my relieving was only to be for three months. It was extended to six or seven, I believe, for whatever reason. At that time we were able to effectively operate as a unit. Unfortunately, Taskforce Flaxton stole the show a little bit in terms of our resources. Whilst you can tap somebody on the shoulder to come in to relieve behind somebody, often that is quite a different process. Our recruitment panel merit lists are very often exhausted quickly, so we could not tap somebody on the shoulder at that time. We also have the issue of vetting. Sometimes it takes time. If we wanted somebody external to come in, they have to give notice and the like. There are those hurdles in terms of trying to obtain a replacement at short notice.

Ms BUSH: I am not completely across the commission's work in terms of its ability to abandon particular inquiries in favour of others as a strategy, for example.

Ms McIntyre: Sometimes investigations are put on hold for various reasons. One would be resources and priority of another investigation and operational strategies that need to be employed quite quickly. Sometimes they are put on hold, and when there are available resources they then start up again.

CHAIR: Ms McIntyre, I want to take you to page 65 of volume 1. I think we touched on this earlier. I am just going to note some of the contents of the email, especially the second email noted there, which is from Troy Newman, dated 5 April 2018 at 2.52 pm, to various parties including yourself. It refers to a matter relating to Ms Kelsey's termination and a review of the matter by the department of local government. It says—

I have just spoken with Executive Director Bronwyn Blageov, about the information DLGRMA sought from Logan City Council.

As you will recall, the Department sought information in relation to the Council's decision to terminate the employment contract of Ms Sharon Kelsey.

The council only provided the DLGRMA with minutes of the meeting and a probation report for Kelsey.

The Department wrote back to confirm all councillors had seen the probation report, which was confirmed.

Interestingly Bronwyn said that Kelsey's probation report was in no way a 'clean bill of health' for Kelsey. She said some challenges had been identified and the reason the Department took no further action was because in their opinion the probation report 'could' provide councillors with adequate grounds to vote the way they did.

Then it says they will prepare a section 75 notice to get information from the department. It continues—

Dave and my view is that the probation report was strongly in favour of Kelsey, other than the Fab sevens view... Seems they used their own opinion as evidence for their opinion!

It is a very general question, but I just want to ask: in your experience, does the CCC have an issue with elected representatives forming their own opinion about matters as they govern their organisation, because that is what seems to be reflected in that email from those police officers?

Ms McIntyre: I cannot comment in relation to what they have stated. I do not believe that there is a negative view against elected officials or departmental officers.

CHAIR: Okay.

Ms McIntyre: My observation is that that is not the case. This is something that Troy Newman has written.

CHAIR: Yes. I was just asking for your general view as an employee in the organisation.

Ms McIntyre: No. We have great respect for elected officials and the like.

CHAIR: I do not know that that is exactly the view that was expressed by Troy Newman there, but I will not go further with that.

Ms McIntyre: You are entitled to your view in relation to the words that are there.

CHAIR: Are there any other questions from counsel?

Mr McMILLAN: Nothing further. Thank you.

CHAIR: Nothing further for Ms McIntyre at this point?

Mr McMILLAN: No. Unless the committee has other matters, Ms McIntyre might be stood down and I think we will proceed with the next witness after lunch.

CHAIR: Ms McIntyre, thank you for your assistance. You can be stood down. I am not sure at this point that we are expecting to recall you, but you never know. Thank you. Members, Counsel, we will take a break and resume at two o'clock.

Proceedings suspended from 1.04 pm to 2.00 pm.

CHAIR: Welcome back to the chamber for our inquiry this afternoon. Mr Horton, are you ready to proceed?

Dr HORTON: I am, thank you, Chair.

CHAIR: Who would you like to call next?

Dr HORTON: The witness that we call next is Detective Sergeant Andrew Francis.

Detective Sergeant Andrew FRANCIS (accompanied by Mr Peter Dunning QC and Mr Matthew Wilkinson)

Witness was sworn—

CHAIR: Mr Horton?

Dr HORTON: Thank you, Chair. You are Detective Sergeant Andrew Francis; is that correct?

Det. Sgt Francis: That is correct.

Dr HORTON: Would you state, please, your present role or employment?

Det. Sgt Francis: I am a detective sergeant of the Queensland police force. I am currently stationed at the Wynnum Child Protection Investigation Unit.

Dr HORTON: Thank you. In 2018 and 2019 you were an officer seconded to the CCC; is that correct?

Det. Sgt Francis: That is correct.

Dr HORTON: Could you briefly introduce, please, for the purpose of the committee, the nature of your role, in a very general sense, in connection with the Logan City Council matter, or Operation Front, within the CCC in 2018?

Det. Sgt Francis: I am the designated case officer for that investigation.

Dr HORTON: What does that mean?

Det. Sgt Francis: It means I am responsible for the management and the carriage of that investigation from the beginning through to its conclusion.

Dr HORTON: Thank you. On what date or period, in a general sense, was the beginning of this?

Det. Sgt Francis: This investigation was commenced on or around November 2017. It was my first investigation at the CCC, and I had carriage of that through to after I left the CCC in 2021.

Dr HORTON: I see. What time in 2021 did you leave the CCC?

Det. Sgt Francis: February 2021.

Dr HORTON: Thank you. Before this investigation, had you conducted any others like it?

Det. Sgt Francis: I have been a detective since 2007. I have been in plain-clothes since 2003. I have completed a tenured detective training in specialist investigations where I provide instruction on investigation and advanced investigative techniques. Of course, my trade is in specialist sexual investigations, although I acknowledge I have never conducted investigation into corruption prior to commencing duties at the Crime and Corruption Commission.

Dr HORTON: I understand, but do I take it you did not feel like you did not have the skills to do such an investigation, given the background you have just explained?

Det. Sgt Francis: That is correct.

Dr HORTON: Thank you. Now, there are two bundles in front of you. You may have seen them before taking a seat at the table; is that correct?

Det. Sgt Francis: Yes.

Dr HORTON: The larger volume is volume 1 and the smaller one is volume 2, just for ease of reference.

Det. Sgt Francis: Yes.

Dr HORTON: Can I take you to page 89. It puts you in the picture with date 31 May 2018.

Det. Sgt Francis: Volume 1 or volume 2, sir?

Dr HORTON: Volume 1, page 89. If I address you as Sergeant Francis, is that the appropriate form of address?

Det. Sgt Francis: Yes, of course.

Dr HORTON: There was a meeting which occurred on this day, perhaps by telephone, between CCC staff and MinterEllison and a barrister; is that correct?

Det. Sgt Francis: Yes, that is correct.

Dr HORTON: You attended?

Det. Sgt Francis: Yes, the record indicates that I attended, yes.

Dr HORTON: There it was discussed, and I suggest you agreed, that those present had a common interest to protect Kelsey?

Det. Sgt Francis: Your suggestion that I agreed—I agree I attended. I do recall this particular phone conversation between a legal representative from MinterEllison. I do not recall that I said anything or participated in any form during this, only that I was a silent representative to this meeting.

Dr HORTON: I see. Do you agree that, in your listening, those others at the meeting agreed there was a common interest that they had in protecting Kelsey?

Det. Sgt Francis: Yes, I would be inclined to agree with that.

Dr HORTON: And do you agree—leave the meeting aside for a moment—that as at 31 May 2018 in fact the CCC and Ms Sharon Kelsey's lawyers had a common interest in protecting Ms Kelsey?

Det. Sgt Francis: Yes, in line with her disclosure under the public interest act.

Dr HORTON: Could you just say that again? I did not quite catch it, I am sorry.

Det. Sgt Francis: Yes, I acknowledge that they had a common interest as a whistleblower under the Public Interest Disclosure Act.

Dr HORTON: Yes?

Det. Sgt Francis: Yes.

Dr HORTON: I am trying to understand the exact nature of the common interest that existed. You are saying with respect to the Public Interest Disclosure Act?

Det. Sgt Francis: Yes.

Dr HORTON: And any other ways in which, as at 31 May 2018, you understood in fact that a common interest existed between Ms Kelsey's lawyers and the CCC?

Det. Sgt Francis: Perhaps you might explain it to me so that I can adequately address your question more clearly. What are you referring to? 'Common interest' is a very blanket term and I am not understanding the direction of your question.

Dr HORTON: Yes, so it is a general term. And you agreed that in fact there was a common interest as at 31 May; correct?

Det. Sgt Francis: Yes.

Dr HORTON: What I am trying to understand, because it is a general term, is: how should the committee understand 'common interest' as you say it existed as at 31 May 2018?

Det. Sgt Francis: All right. That is a very broad question to address the committee with. There was a public interest disclosure made to the Crime and Corruption Commission and I was the delegated case officer to investigate that. It was a very broad disclosure and it brought into the CCC a number of allegations quite extensive in nature and quite serious. My interest as an investigator, as a detective sergeant, was the investigation of those allegations, which realistically commenced with the execution of a search warrant at Logan City Council and the collation of the evidence that was obtained and subsequent inquiries.

With regards to common interest, I am aware that the Crime and Corruption Commission has a duty to protect whistleblowers more generally and that it would be the other extent of the interest in regards to other members, executive members and investigators within the CCC. And I understand the shared common interest with MinterEllison was also in respect to a QIRC hearing that was progressing through the Industrial Court.

Dr HORTON: I see. So Ms Kelsey's conduct of the QIRC proceeding was included in the common interest you understood then to exist?

Det. Sgt Francis: Yes.

Dr HORTON: You will recall that shortly after this meeting, or sometime after, a notice of attendance to produce issues from the Queensland Industrial Relations Commission to the CCC; is that correct?

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

Det. Sgt Francis: My response to that question would be hearsay in that, yes, I am aware of its existence. I have never seen it, I am not aware of its particulars, I do not know when it was delivered and I was not privy to its delivery or any response to it.

Dr HORTON: Thank you. When were you aware, if at all, that documents had been produced by the CCC in answer to such a notice of attendance to produce?

Det. Sgt Francis: I am not aware of a particular date or period of time. I cannot give an accurate answer to that question.

Dr HORTON: Were you aware of it before 3 October 2018?

Det. Sgt Francis: I cannot say.

Dr HORTON: I am now going to move to the period leading up to 3 October 2018.

Det. Sgt Francis: Yes.

Dr HORTON: You will recall that on that day you attended Logan City Council; correct?

Det. Sgt Francis: Yes, that is correct.

Dr HORTON: What I am going to try to work out is what was in your mind and not in your mind, relevantly, immediately before 31 October 2018.

Det. Sgt Francis: Sure. I imagine you are referring to the delivery of documents, namely WhatsApp, social media. WhatsApp is a covert social media platform—

Dr HORTON: Just if you would for a moment stick to my questions. I am just introducing the topic so you knew where I was heading. We know what WhatsApp is. Is that all right?

Det. Sgt Francis: Yes.

Dr HORTON: Were you aware at any time before 3 August that MinterEllison had asked the CCC to exercise different powers in relation to the documents that had been produced in answer to the summons in the QIRC?

Det. Sgt Francis: I was privy to this meeting that occurred on 31st of the fifth, and the object nature to your question was discussed in this meeting. This meeting, I am aware, is electronically recorded, and I am confident that that was an expressed intention on the part of MinterEllison at this meeting.

Dr HORTON: Just remind me of its date?

Det. Sgt Francis: The 31st, sorry, of April.

Dr HORTON: Of April?

Det. Sgt Francis: Yes.

Dr HORTON: Just moving on a bit further in the year, you would say then by October you knew that the CCC was being asked to exercise different powers in relation to the documents. Am I understanding that correctly?

Det. Sgt Francis: Sorry, I do not understand your question.

Dr HORTON: I will take you to a document and show you why I am asking. I am trying to work out where your knowledge begins before 3 October about the documents. Would you turn to volume 1, page 330. You are not included in the email I am about to show you—so it is not for that purpose, but I am trying to scope out, if you like, when you first become involved relevantly in this. You will see there Mr Williams, who is Ms Kelsey's lawyer, writes to Rob Hutchings, a CCC lawyer, and gives him a decision on 27 August. He says—

... the result ... may surprise you—

and then MinterEllison says—We are considering options, one of which may be to request the CCC exercises different powers in relation to the documents.

Were you aware at any point at about this point, 28 August 2018, that the CCC is being asked to exercise different powers in relation to the documents?

Det. Sgt Francis: May I take the time to read the email that you are referring to?

Dr HORTON: Please do. I am not suggesting, by the way, you should recall for the minute. I am just simply scoping for where your relevant knowledge begins.

Det. Sgt Francis: I am sorry, Mr Horton, I have not seen this email before and I do not understand what Mr Williams is referring to when he states 'the CCC exercises different powers'.

Dr HORTON: Thank you. If we jump forward a little to page 341. Again, I am trying to scope when it is your relevant involvement begins. This is 11 September 2018. You are on this email, you will see. Just take some time to familiarise yourself with it. The 'Smith & Dalley's WhatsApp' referred to there: are they part of or the documents you delivered to Logan City Council on 3 October?

Det. Sgt Francis: My recollection is that I only delivered WhatsApp content that was obtained by virtue of a warrant from Luke Smith's phone which was seized at Brisbane city airport in December. I note this email relates to communication on 11 September 2018. I note that I am also included as a member cc-ed into that, although I cannot share the context of that email. I just do not recall.

Dr HORTON: But you have offered some context. You have shown that what you delivered on 3 October was not, so far as you understood, councillor Dalley's WhatsApp records?

Det. Sgt Francis: That is my recollection, but that might be corrected as the evidence will speak for itself.

Dr HORTON: Yes. I am not for a moment—for the moment, anyway—suggesting you should know something different. I am just interested in finding out.

Det. Sgt Francis: Yes.

Dr HORTON: But 'Smith's WhatsApp' you think there might be mayor Smith rather than councillor Smith. Is that possible?

Det. Sgt Francis: Mayor Smith; that is correct.

Dr HORTON: To just work out what you did end up delivering down to Logan City Council on 3 October 2018, it is the WhatsApp records of the mayor, Luke Smith?

Det. Sgt Francis: That is right.

Dr HORTON: From his phone that was seized?

Det. Sgt Francis: That is right.

Dr HORTON: And anything else?

Det. Sgt Francis: There are threads, multiple threads, of communication within that WhatsApp platform between mayor Smith and others—mayor Smith and Mr Spiro from Gadens, mayor Smith and councillor Dalley, councillor Schwarz, Councillor Laurie Smith, councillor Pidgeon, councillor Swenson. Have I missed anyone?

Dr HORTON: It does not matter, but for the moment the source is the phone of the mayor, but it is with other people.

Det. Sgt Francis: That is correct.

Dr HORTON: Just read the next sentence down to yourself—

We'll deliver them to A/CEO Silvio Trinca, tomorrow as soon as you give us the go ahead ...

was sent to Makeeta McIntyre, a lawyer—

... & a nice letter from the SEO.

SEO is Paul Alsbury; correct?

Det. Sgt Francis: That is right. He is a senior executive officer.

Dr HORTON: Is your recollection at this stage that whoever was going to do what was in the email would need to get the go-ahead from Makeeta and a letter from the SEO?

Det. Sgt Francis: The email certainly suggests that there is an intent to consider what you are referring to.

Dr HORTON: Can you help the committee at all with the context that is occurring at this time—that is, 11 September—with respect to delivering WhatsApp printouts to the council?

Det. Sgt Francis: I am sorry, Mr Horton, I do not understand.

Dr HORTON: There was a bit of a noise, I am sorry. Could you help at all with context for this email as at 11 September 2018 for what is the background to the expressed intention to deliver certain printouts to the council?

Det. Sgt Francis: All right, I think I understand your question, and you might guide me as I deliver a response. This email here indicates an intention to consider a dissemination with respect to the WhatsApp. When I delivered the WhatsApp content to the acting CEO, Mr Trinca, there was no dissemination. Is that what you are asking me to refer to?

Dr HORTON: No, I am just at the moment asking for context. Remember how I said I was scoping for where your involvement begins in a relevant sense.? I am still doing that.

Det. Sgt Francis: Okay. Sure.

Dr HORTON: For a minute just focus on the word 'context' if you would. We will get to 3 October; I promise you. But for the minute I am just interested in context that is occurring on 11 September or thereabouts 2018 for what is being discussed in this email to which you are a party.

Det. Sgt Francis: This is a discussion to provide context between my acting inspector or my operations coordinator, which Mark Andrews was at the time. But I am aware also that my inspector, Detective Inspector Preston, had some leave in or around September, although I cannot recall the exact date. This is an email between either my operations coordinator or my direct line of command supervisor between principal lawyer Makeeta McIntyre. Makeeta McIntyre was the lawyer that was assigned to assist us with this investigation.

Dr HORTON: Thank you, that is helpful. Had you discussed with any of the people referred to in the email immediately before 11 September 2018 the subject of what is discussed in it?

Det. Sgt Francis: I cannot recall.

Dr HORTON: Thank you. Do you know why you are included as a carbon copy on the email?

Det. Sgt Francis: Most discussions of an investigative nature or tactical nature involve all of our team members, and the representatives on this email are the team members of Operation Front at the time, including myself.

Dr HORTON: So again, just trying to provide some context and scope for when your involvement begins, page 349 is another email. This time it is sent to you; you are not just copied on it. It is from DI Preston, 25 September 2018. Can you recall context to the receipt by you of this email?

Det. Sgt Francis: Yes, I can.

Dr HORTON: And what is that context that you can recall?

Det. Sgt Francis: A detective inspector was sharing with the team matters that related to the Public Records Act. Please understand that as a police officer the Public Records Act is not a statute that I had had any dealings with prior to this interest on behalf of detective inspector. He has turned my mind to the act and subsequent to this email I have then familiarised myself in regards to specifically section 13 and others, 7 and 8, in regards to public records and offences within that act.

Dr HORTON: Had anyone informed you or did you otherwise know as at 25 September 2018 that some documents had been produced by the CCC to the QIRC?

Det. Sgt Francis: As I am sitting here, Mr Horton, I cannot confirm or deny whether by that date the QIRC had received documents from the CCC. I do not know.

Dr HORTON: Good. I will ask you to assume for a minute that it had.

Det. Sgt Francis: Yes.

Dr HORTON: Did anyone inform you before 25 September 2018, or did you otherwise know, that the QIRC had issued a decision on 24 August 2018 about the notice which had been issued to the CCC?

Det. Sgt Francis: No. I can provide context to that if needed.

Dr HORTON: Yes.

Det. Sgt Francis: My interest to the QIRC was as a detective sergeant investigator. I had an interest. My interest was limited to Ms Kelsey's public interest disclosure and subsequent affidavits. And my interest was in—was later motivated, after this, in regards to the construction of her statement. My other avenue of interest related to affidavits completed by the councillors. It was always my belief—strong belief—that those affidavits were in conflict with evidence that we had gathered in respect to telecommunications intercepts, in regards to this WhatsApp dialogue that is the subject of this conversation now and I believe they are admissible in this investigation. However, I was strongly informed by—strongly informed that that evidence was not obtainable due to suppression orders within the QIRC, and that was a frustration of mine. That is the extent of my interest in the QIRC.

Dr HORTON: What was the evidence that you understood was not obtainable due to suppression orders in the QIRC?

Det. Sgt Francis: The affidavits of the councillors.

Dr HORTON: I see. And so I had understood you to say, 'It was always my belief' that the councillors had given affidavits which were inconsistent with what you had seen in the WhatsApp material.

Det. Sgt Francis: Yes.

Dr HORTON: Did you ever see the affidavits of those councillors?

Det. Sgt Francis: Yes, I did see, to answer your question.

Dr HORTON: And you said earlier, as I understood it, you had a belief that you could not have them, at least at one stage, because of suppression orders in the QIRC?

Det. Sgt Francis: I could not consider the content as admissible evidence because of the suppression orders.

Dr HORTON: I see. So you had them but they could not be—you had the affidavits in your possession?

Det. Sgt Francis: The commission did, yes.

Dr HORTON: Yes, and you saw them?

Det. Sgt Francis: Yes.

Dr HORTON: But you thought you could not use the material you had read in those affidavits—

Det. Sgt Francis: Until the matter was finalised in the QIRC and the suppression orders lifted.

Dr HORTON: Okay. But you read those affidavits and always believed since reading them that they contained material that was seriously in conflict with what you had read in the WhatsApp material?

Det. Sgt Francis: More than that. I perused them and I considered that the strength of the evidence within those affidavits would likely constitute perjury offences, so my interest in them was motivated by that also.

Dr HORTON: Yes. Did you discuss your view that they constituted perjury with anyone else in the CCC?

Det. Sgt Francis: I articulated my views within the memo that the inquiry has before it.

Dr HORTON: Yes, and that is the memo which is dated—it may not be the correct date for me; of course it advances in time, but 25 March 2019?

Det. Sgt Francis: Yes.

Dr HORTON: I understand. Did you discuss the matter at all with Mr Rob Hutchings?

Det. Sgt Francis: No. I did not.

Dr HORTON: To your knowledge, was perjury ever charged by the CCC or anyone else against the councillors?

Det. Sgt Francis: No, it was not.

Dr HORTON: To your understanding, was perjury ever alleged in the QIRC proceeding by anyone?

Det. Sgt Francis: Pardon me?

Dr HORTON: To your knowledge, was perjury ever alleged in the QIRC proceeding by anyone?

Det. Sgt Francis: No, it was not.

Dr HORTON: And the formation of your belief that perjury had been committed by one or more of the councillors: did that affect your conduct of the investigation from that point forward?

Det. Sgt Francis: The matter of perjury was never investigated by myself or anyone else that I know of, and it did not impact the direction of the investigation in respect of fraud and other offences.

Dr HORTON: So when you always believed they had committed perjury, it was a belief that was founded without you having conducted an investigation into that?

Det. Sgt Francis: To answer that question, I must say that as an investigator with the CCC my role is to investigate allegations—and the allegations that were contained within Operation Front I am sure have been made available to the committee. There were no prescriptive allegations in respect of perjury that enabled me or gave me licence to investigate.

Dr HORTON: Yes. I am trying to understand the difference and I think I understand it. You always believed they had committed perjury but there was not a formal investigation about that?

Det. Sgt Francis: That is correct.

Dr HORTON: Thank you. Now, as we know, on 3 October 2018 you attended the Logan City Council; is that correct?

Det. Sgt Francis: That is correct.

Dr HORTON: Did you have, before doing so, the say-so of Ms Makeeta McIntyre?

Det. Sgt Francis: No, I did not.

Dr HORTON: Before doing so, did you have a letter from the SEO?

Det. Sgt Francis: No, I did not.

Dr HORTON: Did you have the say-so of any lawyer within the CCC to do so?

Det. Sgt Francis: No, I did not.

Dr HORTON: Did you have from Mr Alsbury any authority to do so?

Det. Sgt Francis: I imagine you are referring to an authority under section 62?

Dr HORTON: For the moment, any authority.

Det. Sgt Francis: No, I did not.

Dr HORTON: Did you have from any other person what you believed to be an authority to act as you did on 3 October 2019 in taking documents to council?

Det. Sgt Francis: Yes, I did.

Dr HORTON: Who?

Det. Sgt Francis: My authority first and foremost as a police officer, and that authority was a consultative one that was communicated expressly amongst my team, a team of serving police officers.

Dr HORTON: Thank you. And did those police officers include the person you mentioned before, DI Preston?

Det. Sgt Francis: Yes, and Detective Senior Sergeant Mark Andrews and Detective Sergeant Troy Newman.

Dr HORTON: You attended on 3 October and spoke to acting CEO Mr Silvio Trinca; is that correct?

Det. Sgt Francis: That is correct.

Dr HORTON: Did you give him any notice that you were going to pop down to see him?

Det. Sgt Francis: I cannot recall.

Dr HORTON: I suggest that you did not. I suggest that you did not.

Det. Sgt Francis: Yes, I heard.

Dr HORTON: You do not have to make a comment in response; it is just an opportunity for you to if you wish.

Det. Sgt Francis: No, I have already answered your question in that regard.

Dr HORTON: When I say to you things like 'suggest', it is because I want to give you an opportunity quite openly to contradict me if I am wrong or to explain what I might need to know in better understanding what I am suggesting to you. Often a suggestion is what I might intend at the end of the hearing to put to the committee as a possible basis for a possible finding the committee may wish to make. Did you hand Mr Silvio Trinca when you went down there a letter or other covering note on official letterhead or anything like it?

Det. Sgt Francis: No, I did not.

Dr HORTON: What is the purpose, you say, of your delivery on that day to Mr Trinca?

Det. Sgt Francis: As I recall, I made an electronic record of that interaction with Mr Trinca. I am aware that that record has been made available to the committee. I am aware that that electronic record has been transcribed and, as evidenced in that transcription, my express intent is clearly indicated—as is my notes made at the time, emails capturing my involvement with Mr Trinca and others as a result of that. My intent was to obtain a statement from Mr Trinca in regards to my investigation at that time concerning deletion. Previous to my attendance in early October, I had conducted a search warrant on the other councillors that I referred to previously and I discovered that there was no record held by any councillors in respect of the WhatsApp conversation that I knew to

exist. I knew it existed because it had been recovered from mayor Luke Smith's phones. I had a prima facie case then and there of deletion, which is the only offence under the Public Records Act. It was more than just a mere omission or deletion; it was connected to my fraud investigation at that time.

I concerned my investigation related to a higher offence of either a misconduct or corruption generally. For that purpose I returned property that was rightfully the property of Logan City Council. In accordance with sections 7 and 8 of the Public Records Act, he is the person responsible for the safekeeping, maintenance and governance of those records generally, and he was the person ideally situated—from where I sat at the time as a police officer—to obtain a statement so far as to the authenticity of the record, the legitimacy of the public records, so that I could then progress my investigation to the next step.

Dr HORTON: Thank you. The committee does have the transcript before it, at page 351 of volume 1 and following. Sergeant Francis, you seem to say the committee can take it that, so far as you in your mind had a purpose for delivering the documents on that day, we find that in the transcript completely?

Det. Sgt Francis: My relationship with Mr Trinca was informal. I had had a number of occasions to meet and speak to Mr Trinca informally. This is an informal conversation that speaks to my purpose. To answer your question, Mr Horton, it would be best placed in the context of my notes and other emails in regards to this.

Dr HORTON: I see. Let's try to unpack purpose, can we?

Det. Sgt Francis: Yes.

Dr HORTON: So you are saying the committee should not just look at the transcript to understand your purpose in delivering the documents on 3 October?

Det. Sgt Francis: That would be a rigorous way of determining the facts retrospectively, wouldn't it?

Dr HORTON: I am just trying to understand. You are saying we should not just look at the transcript, at page 351 and following, to determine your purpose in delivering the documents on that day?

Det. Sgt Francis: My view is to always look at material in everything before the committee and as an investigator to determine—

Dr HORTON: I had understood earlier when I had asked you that you said we should turn to the transcript to find that, but you are saying the transcript and 'some other things'. What are the other things you wish the committee to look at in determining your purpose in delivering the documents on 3 October?

Det. Sgt Francis: The other things we might refer to include my notes, if they had been provided, if I did make any—and I stand corrected if I did not make any—and any other emails I may have forwarded within my team, file notes that have been taken in regards to this. That is all I am saying. We have a bit more of a helicopter view before I answer and tie myself in to a question of fact.

Dr HORTON: Okay. This occurred in 2018. You have had some time since 3 October 2018 to think about this and its significance; correct?

Det. Sgt Francis: Mr Horton, if you are indicating that I have dwelt on this daily since this event, I have not.

Dr HORTON: I am suggesting that this occurred a long time ago and that you have had time to consider whether and what your purposes were in delivering the documents on 3 October?.

Det. Sgt Francis: I would agree that I have had time, but I would also state that the passage of time is often detrimental to recollection.

Dr HORTON: I see, and that since 28 May 2021 you have known that this committee made a resolution to investigate matters arising from the charging of the Logan City councillors; correct?

Det. Sgt Francis: Mr Horton, yes. I will choose to dwell on that question in a moment, if that is okay. Let's move on.

Dr HORTON: Well, it is an easy one so I will—

Det. Sgt Francis: No, it is not an easy one to answer. I will answer it, but I am just not in a state to answer that right now. It will become obvious to you when I explain to you the situation in the last week.

Dr HORTON: I understand. I am sorry, I understand.

Det. Sgt Francis: In regards to my time that I have had to—

Dr HORTON: I am sorry, I had overlooked that.

Det. Sgt Francis: No, it is not your fault, but if you are assuming that I have studied the material before me, I have not, because of personal circumstances.

Dr HORTON: I am sorry. I had forgotten something to do with that. I am sorry. I did not mean to go there. I will leave that alone and come back, if that is all right. But I do take it you are not suggesting you have not had time since October 2018 to reflect upon the—

Det. Sgt Francis: I have had time to reflect.

Dr HORTON: You have?

Det. Sgt Francis: Yes.

Dr HORTON: Good. Thank you. I will ask a few questions about the evidence you gave a bit earlier. First, you seem to have suggested you discovered that there was no record within council of what it was you were about to deliver.

Det. Sgt Francis: Yes. That is my presumption.

Dr HORTON: Was it just a presumption?

Det. Sgt Francis: No, I believed it to be a matter of fact at the time.

Dr HORTON: I see. A presumption is different from a matter of fact. It is not a presumption; it is a matter of fact.

Det. Sgt Francis: I believed it to be a matter of fact at the time.

Dr HORTON: How did you determine it to be a fact?

Det. Sgt Francis: It seemed obvious to me that the record that I obtained in December from mayor Smith's phone was a contemporaneous record of a dialogue contained within the WhatsApp platform. I dare say that that record—it was not in Mr Smith's interests to enter that into the public record in that it disclosed his criminal culpability to an offence of reprisal at that time.

Dr HORTON: I see. So in fact it was a presumption but you say based upon a firm enough foundation for you to be reasonably satisfied?

Det. Sgt Francis: Yes.

Dr HORTON: I understand. To be clear, you had made no inquiry with the council itself as to whether it had in its possession the relevant records or part of them?

Det. Sgt Francis: That is true.

Dr HORTON: The documents you delivered to council on 3 October 2018 contained material which included discussions between Mr Smith and his lawyer; correct?

Det. Sgt Francis: That is correct, yes.

Dr HORTON: Before you went down on 3 October 2018, did you check the material to see exactly what it was you were about to leave the building with?

Det. Sgt Francis: Yes. I was intimately aware of the material in my possession at that time.

Dr HORTON: Right. No mistake about it, intimately aware?

Det. Sgt Francis: Yes.

Dr HORTON: So you had read all of it; correct?

Det. Sgt Francis: Yes.

Dr HORTON: And you understood the names and the relationships of the people with whom Mr Smith was having these WhatsApp communications?

Det. Sgt Francis: Yes, I did.

Dr HORTON: Including that Mr Paul Spiro from Gadens was a lawyer who acted for Mr Smith?

Det. Sgt Francis: A senior lawyer, yes, who acted for Mr Smith.

Dr HORTON: Now, I am going to suggest something to you. Before you leave the building you would want to be very, very sure, as a detective sergeant, a sworn officer, that what you were doing did not involve in any way communicating unlawfully information that had come into your knowledge or any document that had come into your possession by virtue of your office that it was your duty to keep secret; correct?

Det. Sgt Francis: Yes.

Dr HORTON: And you are aware that would be an offence, if it was unlawful, under section 85 of the Criminal Code; correct?

Det. Sgt Francis: Yes, of course.

Dr HORTON: You are aware that there are many provisions of the CC Act which require material that is sensitive, like WhatsApp material, not to leave the building without authority?

Det. Sgt Francis: Yes.

Dr HORTON: And you are aware, are you, that communications between an individual and his or her lawyer are ordinarily legally professionally privileged?

Det. Sgt Francis: Some communications between a lawyer and a client are considered legal professional privilege.

Dr HORTON: The usual rule, Sergeant Francis, is that that is the case: confidential legal communication; do you agree?

Det. Sgt Francis: I am aware that when conversations similar to this come into my possession between a lawyer and another person there has to be a level of scrutiny in regards to legal professional privilege, yes.

Dr HORTON: How did you scrutinise it?

Det. Sgt Francis: I cannot recall sitting here now, and I cannot enter into evidence, whether any lawyer, including Ms McIntyre or another, reviewed that prior to me obtaining it.

Dr HORTON: If they did, because of the seriousness of the potential consequences if you did it unlawfully or improperly, you would be very keen to protect yourself by making a note of any advice you had had about the legal professional privilege aspect of what you were about to deliver.

Det. Sgt Francis: The content, to answer your question, Mr Horton, contained within this thread—it was clear to me from the very outset it was not legal professional privilege. Rather, it was critical evidence in regards to the fraud investigation and a public record.

Dr HORTON: Is it your understanding that if something is critical evidence—assume for a moment really critical evidence—legal professional privilege is somehow abrogated or does not matter?

Det. Sgt Francis: I do not understand your question, sir.

Dr HORTON: When I asked you about legal professional privilege, you responded that you were of the view it was critical evidence.

Det. Sgt Francis: Yes.

Dr HORTON: I am asking because it was your answer in response to mine about legal professional privilege. Do you think that something being critical evidence means legal professional privilege does not attach or goes away?

Det. Sgt Francis: No, I did not infer that.

Dr HORTON: For the minute, it is of no relevance to whether it is legally professionally privileged that it is critical evidence or not; correct?

Det. Sgt Francis: No, of course it is relevant. If it was deemed by myself or any other person that viewed that evidence that it was legal professional privilege, it would not have been disclosed.

Dr HORTON: I see. So, you cannot recall here today who it was, besides you, who reviewed it?

Det. Sgt Francis: No, but that is a function of my poor memory. The evidence was very relevant to our team and it is likely that we all considered it.

Dr HORTON: Who should I ask in this inquiry, for the benefit of the committee, who also conducted, to your knowledge, that review, because we need to get to the bottom of it, Sergeant Francis?

Det. Sgt Francis: As a police officer I can make that determination.

Dr HORTON: Just stick with my question. We will come to you. I am coming to you in a minute, but just the others for a minute. Who should I ask about that in my duty to inquire into a matter which I respectfully consider relevant to the committee's deliberation?

Det. Sgt Francis: Mr Horton, you can ask whoever you wish.

Dr HORTON: This is your opportunity to tell me who I should ask these questions of.

Det. Sgt Francis: You can start by asking me.

Dr HORTON: I am coming to you, Sergeant Francis. I will give you one last opportunity to tell me who are the others who you say reviewed this material for legal professional privilege and formed the views you say were formed.

Det. Sgt Francis: I can provide to the committee the members of Operation Front at that time. Does that answer your question?

Dr HORTON: No. You know the question. I will just give you a moment to reflect. I will move on if, after a time, you do not want to answer or cannot.

Det. Sgt Francis: The other members of my team at that time were Detective Sergeant Troy Newman.

Dr HORTON: That is not the question. Who were the people that you say did or were likely to have conducted the assessment of this material for whether it was legally professionally privileged and formed the view it was not?

Det. Sgt Francis: Detective Troy Newman.

Dr HORTON: Yes?

Det. Sgt Francis: Detective Senior Sergeant Mark Andrews.

Dr HORTON: Anyone else?

Det. Sgt Francis: Not with any level of certainty, no.

Dr HORTON: Any lawyers?

Det. Sgt Francis: The principal lawyer was Makeeta McIntyre, but I cannot recall when—I have no doubt Ms McIntyre considered the contents of the WhatsApp, as did numerous others in the course of this investigation, but prior to the dates, the relevant dates in early October, I cannot recall if Ms McIntyre did or did not view that material.

Dr HORTON: I see. You would want a lawyer to look at it, would you not?

Det. Sgt Francis: If there was any doubt or it was unsettled as in regards to whether or not it was legal professional privilege, yes, of course.

Dr HORTON: Are either of you or Newman or Andrews lawyers, legally trained?

Det. Sgt Francis: Mr Newman is a barrister at the moment.

Dr HORTON: As at 3 October 2018?

Det. Sgt Francis: Mr Newman was at some stage through his—he may or may not have completed his law degree. I am not sure.

Dr HORTON: I see. I promised to come to you. You said you formed the view it was definitely not legally professionally privileged.

Det. Sgt Francis: That is correct.

Dr HORTON: Despite the fact it was between Mr Smith and his lawyer, Paul Spiro, a senior lawyer at Gadens law firm?

Det. Sgt Francis: Yes. The content was like two mates speaking about a matter.

Dr HORTON: I see. You cannot have a lawyer who is a mate?

Det. Sgt Francis: Of course you can.

Dr HORTON: I see. You think that legal professional privilege must involve some level of formality?

Det. Sgt Francis: Yes, I do.

Dr HORTON: We do not find any record, you are suggesting, of the assessment of legal professional privilege and its outcome by you or anyone else documented?

Det. Sgt Francis: No, I am not aware that any existed.

Dr HORTON: Ordinarily documents that leave the building of the CCC would need to have a dissemination authority; is that correct?

Det. Sgt Francis: No, that is not correct.

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

Dr HORTON: I see. Is your evidence to this committee that documents can leave the building as they did on 3 October without a dissemination authority?

Det. Sgt Francis: My view is that when documents return to their owner a dissemination is not required.

Dr HORTON: I see. Yes. You were saying here that you were delivering it to Mr Trinca, as I have been able to glean. I am going to check this with you as we go. There were really two reasons that you are delivering it to Mr Trinca. One is because the council is the owner, it is the proper home of these documents; correct?

Det. Sgt Francis: That is correct.

Dr HORTON: And the second because you want him to give a statement about it.

Det. Sgt Francis: That is correct.

Dr HORTON: Could you show us in the transcript where you tell Mr Trinca that you are giving it to him because it should be kept by council because that is the proper repository of where these documents should be? I would prefer if the witness answered the question, if you do not mind.

Mr Dunning: It was a reference to where the document began.

Dr HORTON: Yes, but if the witness—

Mr Dunning: I understand that, but the reference to this document—

Dr HORTON: I am sorry, Mr Dunning. Would you not interrupt, please? If you need to know where the transcript is, it is 351, where we have previously been. Detective Sergeant Newman, on line 319 of page 359, relates—

—is you might read—

this is a conversation to acting CEO Silvio Trinca—

... like there's-there's private conversations and there's conversations there that we think relate to council business.

Det. Sgt Francis: Yes.

Dr HORTON: Mr Trinca says—

Yeah.

Detective Sergeant Newman says—

So you might be in a better position to go oh I know what they're talking about there that's-that's a road or that's a development or that's a—

And the conversation continues. Mr Trinca agrees—

Well these things are obviously council meetings.

So that is the part you want to draw the committee's attention to on that point. Can you direct us to where you ask Mr Trinca to give a statement?

Det. Sgt Francis: I am on the second page only, as I am progressing through this. I have not committed this to memory and I have not studied it in detail so I am just going through it systematically. Certainly on page 2, in paragraph 5, I state, or the record states—

We um, ah are conducting some inquiries in regards to some breaches of confidentiality. So we're here to, of course in (UI) capacity, you know who we are I don't need to introduce myself. We're after your opinion which perhaps might well evolve into a statement down the track.

Dr HORTON: I see it.

Det. Sgt Francis: I then state, line 62—

So the documents I'm going to provide to you come from council phones. So these are Extracts that the CCC have performed.

I then state, at the beginning of 71—

—because the fact that they're obtained on council property. But we're after your opinion ah as the CEO of Logan City Council as to whether these relate to council business. And of course if they do ah I have a view, but I'm ah you're the important party here and your view is important.

Dr HORTON: Thank you.

Det. Sgt Francis: And at 78—

And if they do relate to council business well then there is some significant implications that are surrounding the documents I'm about to give you. Um the, you'll see that there's a title there there's an Extraction Report.

Dr HORTON: That is sufficient for my purpose, if it is sufficient for yours?

Det. Sgt Francis: Yes.

Dr HORTON: Who told you, if anyone, to go and deliver the documents on 3 October 2018?

Det. Sgt Francis: I would say that it was a suggestion by my detective inspector and there was consultation within the team and with my supervisor, Detective Senior Sergeant Mark Andrews. Those conversations would have given rise to my attendance on that day.

Dr HORTON: Detective Sergeant Newman accompanies you, I think, down to the council?

Det. Sgt Francis: Yes.

Dr HORTON: So you understood, did you, from DI Preston that you had the lawful authority to do what you did on 3 October 2018?

Det. Sgt Francis: Yes, absolutely.

Dr HORTON: Later there is some concern expressed in turn in the CCC whether you did in fact follow proper procedure to do what you did; correct?

Det. Sgt Francis: Yes, there is.

Dr HORTON: And you accept that, although you might be directed, it is up to you in the end as the doer to make sure you do follow proper procedures; correct?

Det. Sgt Francis: Yes, of course.

Dr HORTON: If you look, after the transcript, at 373 and the few pages following. These are emails in which you were included at the time. This is not the first time you have seen these emails, is it?

Det. Sgt Francis: No, I am familiar with these emails.

Dr HORTON: Did you say you are or are not?

Det. Sgt Francis: I am reasonably familiar with the content of these emails.

Dr HORTON: You will see there is concern expressed by Ms McIntyre about some matters, whether they should have been 'formally disseminated', on page 375?

Det. Sgt Francis: Yes.

Dr HORTON: Were you aware of the concern of Ms McIntyre at the time?

Det. Sgt Francis: I certainly was on 16 October because I was included in this discussion, together with other senior officers and senior police.

Dr HORTON: And you say at 374—

A decision to liaise with A/CEO Trinca was initiated by Insp Preston on the 26th Sept.

Det. Sgt Francis: Yes, I do say that.

Dr HORTON: Is that a true statement?

Det. Sgt Francis: I have no reason to suspect otherwise.

Dr HORTON: If you turn over—you were not privy to this email—to 373; turn back one page. With reference to 26 September, when Detective Sergeant Andrews is reporting back to Makeeta McIntyre, there is reference there to 'his email to all of us on 26 Sept', the first dot point.

Det. Sgt Francis: Is this in regards to, I am sorry, 16 October 2018, 8.54 am email?

Dr HORTON: Yes.

Det. Sgt Francis: To Makeeta from Mark Andrews?

Dr HORTON: Yes.

Det. Sgt Francis: Is that what you are referring to? The third dot point?

Dr HORTON: The first.

Det. Sgt Francis: Okay. Yes.

Dr HORTON: I am interested in the email of 26 September. Have you seen it, do you know what it is and did it exist?

Det. Sgt Francis: Can we refer to it? Is it in this record?

Dr HORTON: I do not have it and I am interested in looking for it.

Det. Sgt Francis: Are you referring to 26 September?

Dr HORTON: Yes.

Det. Sgt Francis: To help clarify, I do not know or recall who Dave Goodman is. I can only assume that he is someone from the State Archivist. I do not know.

Dr HORTON: It might be even Mr David Goody, perhaps? Does that ring a bell?

Det. Sgt Francis: No, it does not ring a bell.

Dr HORTON: In any event, you cannot presently help us with what that email is?

Det. Sgt Francis: No.

Dr HORTON: Or where it might be?

Det. Sgt Francis: No.

Dr HORTON: If there had been a dissemination authority, there would be an application for one generated by someone like Makeeta McIntyre; is that right?

Det. Sgt Francis: That is correct.

Dr HORTON: And a lawyer would have to go through with you, or independently, the documents that were going to leave the building?

Det. Sgt Francis: Yes, correct.

Dr HORTON: And would that involve, in your experience, an orderly consideration given by a lawyer at least to the circumstances in which they were going, what is contained in them and the purposes, the reasons?

Det. Sgt Francis: Yes.

Dr HORTON: And then that application would go from someone like Makeeta McIntyre to someone like Paul Alsbury, is that right, for his authorisation?

Det. Sgt Francis: Yes, senior executive officer.

Dr HORTON: So it had to go quite high up to get dissemination authority?

Det. Sgt Francis: Yes.

Dr HORTON: A lawyer to the second most senior in Corruption in the organisation?

Det. Sgt Francis: Yes.

Dr HORTON: Can you understand why that process is important?

Det. Sgt Francis: Yes. I have undertaken that process numerous times. I am familiar with that process. It is not difficult to achieve. It is a process like numerous others within this organisation.

Dr HORTON: The committee has seen a few of these.

Det. Sgt Francis: Yes.

Dr HORTON: That would have involved an assessment by a lawyer of the legal professional privilege question; correct?

Det. Sgt Francis: The assessment of legal professional privilege usually happens within an investigation very early on, so likely before it even comes into my hands. In the instance of telecommunications intercepts, I would never even see or make an assessment on the legal professional privilege. It is a very rare occasion that I would in my normal role as a detective sergeant. I just have no recollection as to whether that process was undertaken or not. That does not change my belief that it is not legal professional privilege—

Dr HORTON: No, you are getting away from the question, I am sorry. Can I stop you—

Det. Sgt Francis:—and if I had any concerns in regards to compliance with section 62, it is not a difficult process to adopt in order to get—

Dr HORTON: No, I am not asking about difficulty. It is just what it is for the minute. What I am trying to ask you is: when that is done, and you said you have had experience of it, it would involve an assessment of legal professional privilege by a lawyer of what was going to go from the building?

Det. Sgt Francis: Sure.

Dr HORTON: And the lawyer would have to write down under the heading 'Reasons' what the reasons were for it going out of the building?

Det. Sgt Francis: Yes.

Dr HORTON: We do not have that here, you are saying?

Det. Sgt Francis: No.

Dr HORTON: It is really sensible for you to have sought that, I want to suggest to you.

Det. Sgt Francis: Are you asking me should I or ought I have considered a section 62 dissemination?

Dr HORTON: I am suggesting to you it would have been really sensible of you to have sought a dissemination authority for what you did on 3 October 2018.

Det. Sgt Francis: Well, no. I stand here in opposition to your suggestion in that it was not required.

Dr HORTON: I am not as specific as I would always like, but I sometimes use the words I really mean. I am putting 'sensible' to you for a real reason. It would have been sensible for you to seek a dissemination authority in this instance for what you did on 3 October 2018?

Det. Sgt Francis: I would correct you and say 'needless'.

Dr HORTON: Sorry, needless?

Det. Sgt Francis: Needless and a waste of resources.

Dr HORTON: I see. Indeed, I want to suggest to you that you were lawfully obliged to do so.

Det. Sgt Francis: Are you suggesting that I was lawfully obliged to do a section 62 dissemination in respect to my actions in October in respect to the WhatsApp to Mr Trinca?

Dr HORTON: I am suggesting you were lawfully obliged to seek a dissemination authority for what you did on 3 October 2018.

Det. Sgt Francis: No, I totally disagree with you.

Dr HORTON: It would have been good practice for you because you would have the protection of a lawyer's assessment for legal professional privilege, a statement of the reasons and authority from no less than Mr Paul Alsbury?

Det. Sgt Francis: It would have been easily achieved, but it was not required.

Dr HORTON: You never get a statement from Mr Trinca, do you?

Det. Sgt Francis: No, disappointingly.

Dr HORTON: You are disappointed by that?

Det. Sgt Francis: Yes, I was.

Dr HORTON: And he sends the documents to council lawyers; is that correct?

Det. Sgt Francis: Yes, Mr Fynes-Clinton.

Dr HORTON: And others besides you took the view that some of the material may well be legally professionally privileged; correct?

Det. Sgt Francis: I do not know who you are referring to.

Dr HORTON: You are not aware of anyone else taking a view that the documents, or some of them, you delivered could be legally professionally privileged?

Det. Sgt Francis: No, not without turning my mind to something that we have before us contained in this evidence, no.

Dr HORTON: I see. Since 28 May 2021, no-one has collected documents for you within the CCC for you have to a look at in preparation for today?

Det. Sgt Francis: Yes, they have.

Dr HORTON: Do they include the documents which are in front of you now in volume 1?

Det. Sgt Francis: Yes, they did.

Dr HORTON: The documents you are seeing now, I just want to check—you have seen them recently?

Det. Sgt Francis: They are in my possession, yes.

Dr HORTON: They were in your possession?

Det. Sgt Francis: Yes, they were. Well, they are still in my possession. I have the USB that contains these documents in my possession.

Dr HORTON: Good. You have had access to those since at least 28 May 2021?

Det. Sgt Francis: 28 May 2021?

Dr HORTON: Yes.

Det. Sgt Francis: I cannot confirm when I received that, but, yes, I have it. I received it from a lawyer, yes.

Dr HORTON: I am checking because it affects the level of detail, how much time I need to give you to answer questions. You are not suggesting the documents you are looking at now is the first time you have seen them, are you?

Det. Sgt Francis: Some of these documents are—I have not—well, I acknowledge, Mr Horton, what you are saying is true. I have these documents in my possession and I have scanned through them and flicked through them during work time, but as to the level of detail, I have to admit I have not provided perhaps the level of detail that—

Dr HORTON: I understand. I understand you might not have had a look in the last week or so, in particular—I understand that—but I am trying to gauge, so I am fair to you, how much knowledge you are likely to have of the documents so that I do not rush you through them—

Det. Sgt Francis: Yes.

Dr HORTON:—but at the same time that I also do not go too slowly so that we do make movements through the committee process.

Det. Sgt Francis: I will work with you on that.

Dr HORTON: Thank you. You request the documents back from Mr Trinca; is that correct?

Det. Sgt Francis: That is correct.

Dr HORTON: Who told you to do so?

Det. Sgt Francis: I do not recall if anyone told me to do so or if that was an independent decision. However, in between the time that I handed those documents to Mr Trinca, there was a discussion in regards to the release of those documents. The CCC is a very risk averse organisation and there was a discussion, which you have just pointed out to me and I have seen mentioned and referred to before. However, I was resolute in my belief that what I did was for a lawful purpose, and the primary motivation front of mind of me collecting those is the inability for Mr Trinca to provide a statement. So I then turned my mind as to who could provide a statement. I then commenced inquiries with the State Archivist, Mr Summerell.

Dr HORTON: I will come back to that in a minute. I want to focus a bit more where we are. Are you a risk-averse person?

Det. Sgt Francis: Yes, I am.

Dr HORTON: At or about 29 October 2018, you were keen to build a case against all the 'Fab 7' for misconduct for the use of WhatsApp; is that correct?

Det. Sgt Francis: What was the date again, sir?

Dr HORTON: I will take you to a document—if you need to see it, it is page 381 and 382—an email from you. The last sentence of it says—

I am keen to build a case against all the Fab 7 for Misconduct ... This advice from state archives affirms our view that Whatsapp is a public record.

29 October 2018. That is a correct statement, is it?

Det. Sgt Francis: You refer to 381, that email from David Preston to me. Is that what you are referring to, Mr Horton?

Dr HORTON: No, it is page 381 and 382. If you look at the bottom of 381, it is an email from you to some other people. Then the end of that email, which is over on page 382, you are 'keen to build a case'.

Det. Sgt Francis: Oh, yes, okay.

Dr HORTON: So this delivery is part of you being keen to build a case about the WhatsApp?

Det. Sgt Francis: Yes.

Dr HORTON: We then come to you requesting the documents back from Mr Trinca.

Det. Sgt Francis: Yes.

Dr HORTON: Can you explain the immediate catalyst for you doing so—the immediate cause?

Det. Sgt Francis: I recall Mr Trinca deferred my inquiry of him to a council lawyer, Mr Fynes-Clinton. Mr Fynes-Clinton responded in writing. I reviewed the email that Mr Fynes-Clinton referred to me recently and it became clear to me that neither party were going to assist me with a

statement. That is the context of my picking the documents up. However, there is also the—I was mindful of that internal discussion and the risk-averse position of Ms McIntyre, so I collected the documents in person—no, I didn't; they were returned to me.

Dr HORTON: You said Ms McIntyre is risk averse. Her position is risk averse?

Det. Sgt Francis: That is her job, yes.

Dr HORTON: And you are risk averse, too, yes?

Det. Sgt Francis: Yes.

Dr HORTON: But not as risk averse as her?

Det. Sgt Francis: Ms McIntyre is a lawyer. Her specialty—she has been with the CCC for some time, Mr Horton. I am a seconded police officer. My trade is the Criminal Code, not the Crime and Corruption Act, so Ms McIntyre is my point of truth in respect to matters that involve crime and corruption and compliance with policy and so forth.

Dr HORTON: And legal professional privilege maybe?

Det. Sgt Francis: Yes.

Dr HORTON: But not your point of truth, that you can recall anyway—I emphasise that—from before you went down to see whether your view about these being definitely not legally professional privileged was correct?

Det. Sgt Francis: Can you please repeat that so I can—

Dr HORTON: Ms McIntyre was not your point of truth, so far as you can remember, for assessing these documents you were going to deliver down to the council as to whether they were, indeed, according to your view, not legally professionally privileged?

Det. Sgt Francis: Not at the time; that is correct.

Dr HORTON: In fact, the view was taken within the CCC that these were likely to be LPP documents included in what you had delivered; correct?

Det. Sgt Francis: If you are telling me that because of information that you have then I am inclined to agree with you, but I cannot recall.

Dr HORTON: You just give your evidence. Do not worry about me for a minute.

Det. Sgt Francis: My evidence is right now I cannot recall.

Dr HORTON: Not only that, there was concern expressed to you that you really should have got a written dissemination authority to do what you did before you did it on 3 October 2018?

Det. Sgt Francis: I recall Ms McIntyre expressed a view. I cannot recall whether Ms McIntyre directed me to then take any action.

Dr HORTON: No-one more senior than you spoke to you and said, 'Sergeant Francis, you should not have done that'?

Det. Sgt Francis: No-one more senior to me has expressed that view.

Dr HORTON: To this day no-one in authority has said to you, 'What you did on 3 October 2018 should not have been done without a dissemination authority'?

Det. Sgt Francis: No.

Dr HORTON: I think you email Mr Trinca and ask for the documents back; correct?

Det. Sgt Francis: I cannot recall if I emailed Mr Trinca or phoned Mr Trinca or I emailed Mr Fynes-Clinton, the legal representative for Mr Trinca. There was an inquiry and I requested the documents back.

Dr HORTON: You are right: it is Mr Fynes-Clinton. At page 407—

I would be grateful if you could facilitate the return of these documents.

Det. Sgt Francis: That sounds like me.

Dr HORTON: I want to be clear that your evidence is you were requesting them back because it became clear that neither could give you a statement?

Det. Sgt Francis: That is correct.

Dr HORTON: Or would give you a statement. And the 'neither' is and Mr Trinca and who else?

Det. Sgt Francis: Mr Fynes-Clinton had alerted me to some issues that were relevant to him and Mr Trinca and I respected that and I got the documents back.

Dr HORTON: Did you report to anyone above you the circumstances you had just experienced of delivering documents and having to get them back?

Det. Sgt Francis: My supervisor is aware of my every movement at the CCC. The bureaucracy is such that, as a detective sergeant, I move heavy things, but nothing I do is without supervision. I consult routinely, is what I am trying to say, on all matters with supervisors.

Dr HORTON: So is your answer 'no, because they know what I'm doing anyway'?

Det. Sgt Francis: Yes.

Dr HORTON: Your supervisor, DI Preston, knew you were going down to the council on 3 October; correct?

Det. Sgt Francis: I think Detective Inspector Preston took some leave on or around that time. I do not know whether it was Detective Inspector Preston who was in the chair, so to speak, acting in that role of Detective Acting Inspector Mark Andrews.

Dr HORTON: Whoever it was knew or would have known exactly what you were doing on 3 October 2018 in delivering the documents to council; correct?

Det. Sgt Francis: Yes.

Dr HORTON: They would have known that you had made the assessment that the documents contained documents which were definitely not legally professionally privileged?

Det. Sgt Francis: Yes.

Dr HORTON: They would have known the purposes for which you were going down there to deliver them?

Det. Sgt Francis: Yes.

Dr HORTON: Then they would have known—and you say did know—about the purpose for which you had sought retrieval of the documents from Mr Trinca?

Det. Sgt Francis: Yes, they would have been involved in those discussions.

Dr HORTON: Then a little later some documents go back to the council; is that correct?

Det. Sgt Francis: Yes.

Dr HORTON: Were you involved in the redelivery?

Det. Sgt Francis: Yes. Sorry, the redelivery?

Dr HORTON: Yes.

Det. Sgt Francis: I cannot recall.

Dr HORTON: That is right. We have some time to come back to that for the moment. You do not recall being sidelined from this issue because of what had happened on 3 October and immediately afterwards?

Det. Sgt Francis: Sidelined? What you do mean by that?

Dr HORTON: Taken off this part of the case.

Det. Sgt Francis: For what reason?

Dr HORTON: Because of what you had done on 3 October 2018 and immediately afterwards.

Det. Sgt Francis: Mr Horton, there is nothing unusual about what I did on 3 October. This is a routine inquiry that I do in my role as a detective sergeant. I hand property back. I use props within investigations. I routinely hand persons who I am recording copies of those recordings in the interests of natural justice and procedural fairness. I am really missing something as to why we are dwelling on this.

Dr HORTON: I think your answer is, no, you were not sidelined?

Det. Sgt Francis: No, I was not sidelined.

Dr HORTON: When do you next become involved, then, in what is taking place with the documents, if at all, in terms of their redelivery back to the council?

Det. Sgt Francis: I cannot recall.

Dr HORTON: Were you aware that when they went back to the council there was a dissemination authority prepared?

Det. Sgt Francis: Yes, I am.

Dr HORTON: They are not exactly the same documents that go back in November; is that your understanding?

Det. Sgt Francis: That is my understanding.

Dr HORTON: Did you say you were not aware there was a dissemination authority the second time around?

Det. Sgt Francis: No, I am aware there was a dissemination authority.

Dr HORTON: Are you aware of the purpose of delivery of the documents the second time around, on or around 19 November?

Det. Sgt Francis: I am aware that Mr Alsbury had a hand and that there was a direction provided to Mr Trinca in regards governance matters, but that is the extent of my recollection.

Dr HORTON: Were you involved at all in formulating or discussing the purposes for which the documents might or would be delivered back to council on or about 19 November 2018?

Det. Sgt Francis: No, I was not.

Dr HORTON: You had no involvement?

Det. Sgt Francis: My involvement was limited such that I cannot recall having any involvement at all.

Dr HORTON: So it is no point me asking you questions about purposes directed to the redelivery of documents to the council on 19 November 2018?

Det. Sgt Francis: No.

Dr HORTON: Were you privy to any correspondence from MinterEllison immediately before that time requesting that that happen?

Det. Sgt Francis: No.

Dr HORTON: What were you doing in this period with respect to this investigation? Were you on leave?

Det. Sgt Francis: What date range are we talking about, Mr Horton?

Dr HORTON: You request redelivery of the documents from Mr Fynes-Clinton on 15 November 2018?

Det. Sgt Francis: Yes.

Dr HORTON: I do not—I could be wrong; this could be incomplete—see your name mentioned for a little while in the bundle. Are you still involved in the investigation in this period?

Det. Sgt Francis: It is difficult—I know from early December there was six weeks leave that proceeded through to 2020. I was out of the picture then. I cannot recall whether I had any leave prior to that. The leave that I took and the nature of the leave was unexpected, on or about the 13th. Whether I took any scheduled leave or whether I was involved in another investigation—I had two other significant investigations that were being run at that time—I cannot recall without making inquiries, to answer your question.

Dr HORTON: It does not matter for the minute, the inquiries, but to the best of your recollection it is quite possible you are saying that you were off doing something else that was not this investigation?

Det. Sgt Francis: Possibly.

Dr HORTON: But you are saying it definitely was not because of any sidelining of you or putting you aside because of what had occurred in October up to 15 November with respect to delivery and retrieval of documents from the council?

Det. Sgt Francis: No, absolutely not.

Dr HORTON: In fact, no-one in the CCC expressed to you, on your evidence, any difficulty with what you had done on those occasions?

Det. Sgt Francis: No, there has been no scrutiny until now. I do not understand this level of scrutiny. This is routine police procedure and investigative methodology.

Dr HORTON: Just to put you in the picture again, you seem to come back in—maybe it is before now—at page 497 of volume 1. This is an email from Mr Rob Hutchings to a number of people, including you, as I read it.

Det. Sgt Francis: Yes, I remember scanning over this in my perusal of these documents. I did not want to pre-empt any questions.

Dr HORTON: No, that is all right. I do not really have any, but I just wanted to remind you of where we are at in the chronology.

Det. Sgt Francis: Okay.

Dr HORTON: Sergeant Francis, you were closely involved in the decision-making about whether and what to charge the mayor and councillors with in terms of what ultimately led to a charge of fraud; correct?

Det. Sgt Francis: Yes. Under my hand, the memo that is before the committee.

Dr HORTON: Yes. In fact, you were the charging officer for those charges?

Det. Sgt Francis: Yes.

Dr HORTON: To understand where that process begins, is 30 January a convenient time to start or do we need to look back a little bit earlier?

Det. Sgt Francis: That is convenient for now.

Dr HORTON: We will go there anyway and if we need to go back a bit earlier, let me know. The second bundle might assist you better now. From page 69 on, Sergeant Francis, there is a record of a meeting of 30 January 2019.

Det. Sgt Francis: Yes.

Dr HORTON: You were at this meeting?

Det. Sgt Francis: Yes. I recognise this is my handwriting. This is an excerpt from my official police diary.

Dr HORTON: Yes. If we look down to the last part of that page, the non-black-out bit, there is reference to—

AMS must sign.

That is a particular witness who had not yet signed her statement; is that correct?

Det. Sgt Francis: Yes. That is Andrea Millberry-Smith, the then wife of the mayor.

Dr HORTON: You thought that evidence was critical.

Det. Sgt Francis: Absolutely.

Dr HORTON:—

All content to charge.

Who is 'all'?

Det. Sgt Francis: The members of that meeting—Mr Alsbury, Ms McIntyre, Detective Superintendent Reid and the chair of the CCC.

Dr HORTON: Yes. You record there the authority the chair has given to charge. Do I understand that note correctly?

Det. Sgt Francis: The chair was content to move forward in these discussions. I am just progressing through my notes. At this meeting the chair provided his verbal—he was agreeable to the motion, so to speak, to continue with the investigation and move the investigation towards preferring of charges.

Dr HORTON:—

All content to charge. Authority by chair provided

Det. Sgt Francis: Yes, that is what I have written.

Dr HORTON: That is authority to charge, isn't it?

Det. Sgt Francis: Are you asking me whether what I have written there is the chair has directed me to do something or provide his consent?

Dr HORTON: I have actually just read your words back to you. I said that you understood at that meeting that this had happened—

Authority by chair provided

Det. Sgt Francis: Yes, that is what I have written.

Dr HORTON: Yes, and that is what you understood at the time.

Det. Sgt Francis: That is what I have written. No, I have a different recollection to what you are suggesting.

Dr HORTON: Yes, I understand. Give me your different recollection.

Det. Sgt Francis: My recollection is a fulsome understanding of how the chair is involved in an investigation of this nature. An investigation of this nature is significant. It involves significant resources. The chair plays a significant role. He is a very learned individual, but I hold the office of constable. The direction to charge and the authority to charge comes from me. The chair's position in that is that he, as the chair of that organisation, refers the matter to me after due consideration. I note that I have written there—

Authority by chair provided

—when in fact he is content to refer the matter to me as a police officer or another officer for consideration to the preferment of criminal charges.

Dr HORTON: The decision to charge was yours and yours alone?

Det. Sgt Francis: That is correct, as in the case of any police officer. In the case that any police officer decides to make a decision, that decision has to be made in comfort and that officer has to be content to charge. There is never any direction provided by any person in any authority, whether they are in this organisation—I am referring to the Crime and Corruption Commission—or the Queensland Police Service. The commissioner would not direct me to charge someone. That is my duty as the officer, as constable. My detective inspector would never—I would never give a subordinate that direction to charge. It is not something that is taken lightly.

Dr HORTON: I think you have made yourself clear. There was discussion re charge selection. That is your correct recollection of that now, as well as your written notes; correct?

Det. Sgt Francis: Yes.

Dr HORTON: Then—

Settled on 1x Fraud ...

Correct?

Det. Sgt Francis: Yes. We were settled at this time the note was taken, on the 30th of the 1st, with a charge of one by fraud—

Dr HORTON: Who settled?

Det. Sgt Francis: Members sitting at that meeting—the persons I referred to previously—and one by misconduct.

Dr HORTON: Yes. Just concentrate on fraud for a minute. I will try to get through this a bit more quickly for you, Sergeant Francis. You are saying the meeting settled on the selection of the charge of fraud relevantly there?

Det. Sgt Francis: Yes.

Dr HORTON: I see. That is a true recollection of what occurred?

Det. Sgt Francis: As far as I know, yes, of course. These are my notes taken at the time.

Dr HORTON: You were sent off to do the QP9s for both charges; correct?

Det. Sgt Francis: No, not correct.

Dr HORTON: Look back at page 70. It is not your note; it is a note of someone of else. Assume for a moment it is Ms McIntyre, I think.

Det. Sgt Francis: Yes, that is a delegation of taskings.

Dr HORTON: Yes—

Andrew to do QP9s for both charges

Correct?

Det. Sgt Francis: That is correct.

Dr HORTON: Then two lines up, do you recall these words being spoken—

step it out—re: Kelsey matter.

Who is going to 'step it out', to your remembrance of it all?

Det. Sgt Francis: I am having difficulty reading that writing. I am attempting to read it—

need to ensure able put across evidence

Dr HORTON: I suggest to you—

need to ensure able put across evidence

Brisbane

Det. Sgt Francis: I do not understand what Ms McIntyre is referring to there.

Dr HORTON: You don't?

Det. Sgt Francis: No, if these are indeed Ms McIntyre's notes?

Dr HORTON: They are.

Det. Sgt Francis: I do not understand. It does not make sense to me. I acknowledge that there is an indication there that I am to do the QP9s. Of course, in effect, I did eventually, but I do not recall doing them for some time after this date.

Dr HORTON: That is not in contest. Who is going to 'step it out'? From your recollection, who was to 'step it out'?

Det. Sgt Francis: I do not know.

Dr HORTON: You do not recall?

Det. Sgt Francis: No, I do not recall.

Dr HORTON: You will see there are some other notes from the meeting. At page 77, I suggest to you, is the memo that you had drafted which was before the chair and others at the meeting on 30 January 2019.

Det. Sgt Francis: I am having difficulty recalling. The memo that we have here today—

Dr HORTON: Can I stop you there for a moment?

Det. Sgt Francis: Yes.

Dr HORTON: If you are having difficulty recalling, you could look at it over the break. Because it is 3.30 pm, might I suggest, Chair, that is a convenient time? That gives you a moment to look through that memo and check that.

Det. Sgt Francis: Great idea.

Dr HORTON: Is that a convenient time?

CHAIR: Thank you, Mr Horton. We will take a 15-minute break. We will come back at 3.45 pm.

Proceedings suspended from 3.29 pm to 3.47 pm.

CHAIR: We will resume the hearing now.

Dr HORTON: Sergeant Francis, we are in volume 2 at page 77. I suggest to you this was the memorandum that you prepared that was before the meeting on 30 January 2019.

Det. Sgt Francis: It may well be a version of the memo that I took with me at that meeting. My recollection, if it serves me correct, is different to that, in that the version that I had on my person was defined by my handwriting.

Dr HORTON: I see. You had some handwriting on your version?

Det. Sgt Francis: Yes.

Dr HORTON: Can I take you to another page for reference, so that you are clear why I am thinking what I am thinking. Page 316 of the same bundle, much later, Sergeant Francis, there is a reference back. Are you at 316? If you look at paragraph No. 2 there, later on it said to the chair that 'we've given you again what you had in January', and there is a memo number given there. That memo number appears on the one you will see at 77, which is why I have suggested to you that is what it is.

Det. Sgt Francis: It is likely then to be an electronic version. However, the version that I had in my possession I recall had annotations made by myself for that presentation.

Dr HORTON: For the meeting might have had your clean version, so to speak, and you might have had one that was annotated with your own notes?

Det. Sgt Francis: Yes.

Dr HORTON: Did the meeting have any other written document before it relevant to the question of a charging of fraud, to your knowledge?

Det. Sgt Francis: Are you asking if I took any additional material?

Dr HORTON: Well, do you have any knowledge that the meeting had any other material before it about the charging of fraud, other than your memo?

Det. Sgt Francis: No, I cannot recall and I do not think so.

Dr HORTON: It is likely this was the—

Det. Sgt Francis: It is likely this was the basis.

Dr HORTON: So when we see in the various notes that charges are being discussed, it is on the basis, is it, not only of what people know but on the basis of the memorandum that is before everyone?

Det. Sgt Francis: Yes. I note within the report that you have given me I have numerous numbers in there. Those are reference to additional documentation. When I usually do that in my preparation reports, it is a reference rather than have that material there in the possession at the time.

Dr HORTON: I see. You might have actually had the source documents as well?

Det. Sgt Francis: I do not think so, but they are easily accessible simply by typing that number into the record system maintained by the CCC.

Dr HORTON: I understand. This memo was drafted by you alone?

Det. Sgt Francis: I am the person on the keyboard, so to speak, but the thoughts, the arguments and the evidence contained within is a product of Operation Front and the police officers within that.

Dr HORTON: Yes, so it is sort of a police officer's memo?

Det. Sgt Francis: Yes.

Dr HORTON: I understand. We cannot read the boxes at the moment. That is not a criticism of you, but is there any one of those boxes which considered the charges of fraud?

Det. Sgt Francis: Mr Horton, the entire document speaks to dishonesty critically to the element of fraud.

Dr HORTON: Yes. Let me understand that a little bit, if I might. You are not telling us that in any of these shaded boxes—which have not photocopied well—there is a heading talking about fraud or its elements in particular.

Det. Sgt Francis: I am sorry, I misunderstood you.

Dr HORTON: That is all right.

Det. Sgt Francis: No, I do not know what is in those blacked out documents. I can easily find out. I am guessing it is in relation to material not reproducible.

Dr HORTON: Could I suggest it might be headings? Is that possible? I do not think it is a redaction. I could be wrong. I think it is just something that has not photocopied well because it is a darkly shaded box. Can I leave that with you over the weekend. I do not need to pressure you on that for the moment. Your approach to this memorandum I think is this, if I understand it correctly. This is a general catalogue, a collection, of those facts, opinions and that evidence which you say went to the general question of dishonesty.

Det. Sgt Francis: Yes.

Dr HORTON: And why dishonesty in particular?

Det. Sgt Francis: At this time, Mr Horton, my recollection is that I was not yet settled on a particular offence. There were a number of offences under consideration that I thought might be a reasonable fit for the conduct of which the evidence speaks. They include misconduct, reprisal and fraud. I anticipated that the more learned persons within the organisation would prefer to settle on an offence under misconduct or corrupt conduct, whereas my preference, coming from a criminal background, is fraud because I am familiar with the elements of that. I am not so comfortable with the numerous elements within the other offences. So it is safe to say that we had not yet reached agreement on what offence at this time.

Dr HORTON: But this memo seems to be directed to suggesting, albeit properly at the meeting, that the meeting might consider dishonesty for the purpose ultimately of a charge of fraud?

Det. Sgt Francis: Yes.

Dr HORTON: And you seem to say that the material you collect here in your mind at that stage, given your experience with the charge of fraud, was sufficient for that purpose—at least at this early stage?

Det. Sgt Francis: Of course, yep.

Dr HORTON: Had you considered yourself the possible offence of reprisal?

Det. Sgt Francis: I had considered that.

Dr HORTON: And you were not as familiar with that charge?

Det. Sgt Francis: No. I have a view on reprisal in that it does not speak adequately to the offending or the nature of the offending—the alleged offending in this memo here—and that it does not speak broadly to offending against the whistleblower. So it was a lesser of the offences that I was settled at at that time.

Dr HORTON: Could I try to understand that a bit more, that reprisal (a) does not involve any element of dishonesty; correct?

Det. Sgt Francis: Yes.

Dr HORTON: And would simply involve the taking of action as a result of someone having made a public interest disclosure?

Det. Sgt Francis: As defined under the Public Interest Disclosure Act, yes.

Dr HORTON: Yes, I am paraphrasing, but that is correct, isn't it?

Det. Sgt Francis: Yes.

Dr HORTON: Despite the fact that Ms Kelsey had made a PID and that she was alleging a reprisal, as I understood it, as part of her action in the Industrial Relations Commission, you did not think that adequately reflected the wrongdoing as you then saw it that they, the councillors and mayor, had engaged in?

Det. Sgt Francis: It did not take in the significance of the wrongdoing or the many layers of the wrongdoing, yes.

Dr HORTON: Understood. It seems that, in your mind, a large part of your approach to this was informed by having seen the WhatsApp material?

Det. Sgt Francis: No. It is in addition to the WhatsApp material. The WhatsApp material is just one body of evidence that speaks to dishonesty. In this case there are numerous, and that explains my willingness to put together a memo—this is an unusual form of taking evidence to the executive and it is—but it is—WhatsApp is only one form of the dishonesty. I can elaborate, if you like.

Dr HORTON: I will explore it with you now, if that is all right.

Det. Sgt Francis: Yes.

Dr HORTON: Can I just go back a stage? You said it was an unusual form to be doing this. What, in your view, led to that unusualness?

Det. Sgt Francis: As a seconded police officer, I would never put this much work into the preferring of charges. I would just—when my mind is settled and I have conducted an appraisal in respect to the sufficiency of evidence, the public interest, I would just go to a charge and then complete the brief of evidence. But this is very different to a normal environment in which a police officer operates. This a huge body of evidence. There is—I am seconded to the commission and the commission had a right of input into this as being the persons—of having—I freely acknowledge that the other members of my team and the executive were far more learned than I and willing to explore elements of impartiality and other matters than I was because they had a more familiar view with the offences under the Crime and Corruption Act.

Dr HORTON: I understand. Now, can we go back to your point about dishonesty for the minute? There is the WhatsApp material. I do not want you to go into detail in a way that sort of unnecessarily reveals material that does not need to be revealed, but just an indication, please, of what you thought went to dishonesty at a high level.

Det. Sgt Francis: Yes. I would refer to a more recent memo to provide a detailed response to that question and I would implore the committee to at least have a reading of that memo. The memo explores the offending, but it only touches on the offending. The brief of evidence is significantly larger and very much more serious.

Dr HORTON: You are talking about your memo which is dated, but maybe not always accurately so—no criticism—25 March 2019; is that correct?

Det. Sgt Francis: That is right.

Dr HORTON: Can we come to that in a moment, because sequentially that happens in March and April, doesn't it?

Det. Sgt Francis: It does, yes.

Dr HORTON: We will come to that. I am trying to keep things separate as much as I can so we stay chronological.

Det. Sgt Francis: Sure.

Dr HORTON: But you want to return to the question of dishonesty, don't you, and explain what you say was going to contribute to that decision in your mind about it?

Det. Sgt Francis: Sure.

Dr HORTON: You have been up on 30 January with this memo and a decision seems to be made in whatever form it was made, but you proceed to a charge of fraud—

Det. Sgt Francis: Yes.

Dr HORTON:—in respect of the mayor. You were satisfied at that stage, given your points about dishonesty, that you had enough there to proceed?

Det. Sgt Francis: No. To clarify, the meeting was content that we were moving in the right direction.

Dr HORTON: To proceed?

Det. Sgt Francis: We were heading towards preferment of criminal charges.

Dr HORTON: I am with you.

Det. Sgt Francis: But we had not reached the level of comfort that was required in order to prefer charges yet at that time.

Dr HORTON: Yes, and in fact you do not charge until 26 April 2019, as we know.

Det. Sgt Francis: For the reasons, yes. Yes.

Dr HORTON: A little bit later—you are still aware of, as I understand it, and involved in what is happening in relation to Ms Kelsey's QIRC proceeding at this time, 30 January?

Det. Sgt Francis: My interest—I refer to my previous comment. My interest in the QIRC was limited to my level of input into this investigation in that the QIRC—I was only interested in the QIRC insofar as it would assist me with my investigation. So there were—I was very aware that there was an interest in the QIRC from other members in the organisation, but from where I sat it was purely to assist me in the preparation of a statement from Ms Kelsey, which was well underway at this time, and the inclusion of evidence from the affidavits from councillors aligned to the mayor.

Dr HORTON: You were kept up to date with what was happening in the QIRC by others within the CCC; is that correct?

Det. Sgt Francis: No. I would say—we were on the coal front, so to say. I was at that time communicating with witnesses, namely, to list a few: Sharon Kelsey, Darren Power, Jon Raven, Stacey McIntosh, Laurie Koranski and Lisa Bradley. They were keeping me informed. To an extent, my interest only with what was happening in the QIRC was empathy that I had towards Ms Kelsey and her situation and to inform my superiors when asked as to what was happening in the QIRC. So far as my level of interest, I have very little understanding of industrial relations, I have very little experience in civil proceedings, I do not understand how the Industrial Court runs and I made no attempt to understand the proceedings and the different courses that they were taking.

Dr HORTON: And the empathy you felt for Ms Kelsey was part of the shared interest which you had understood existed between her QIRC proceeding and the CCC?

Det. Sgt Francis: The empathy that I had with Ms Kelsey is not dissimilar to the empathy that I have with any of my witnesses. It is part of my methodologies. When I am purposed to obtain a witness statement from a victim—and remembering that my history is in the investigation of sexual offences against children—I journey with a witness through the committal process and the court process, and that empathy and trust afforded is necessary to then guide a witness through that process, to relate to a witness in order to get a statement and a statement that serves the court purposes.

Dr HORTON: This is a very different context from the other context you have just been speaking about; do you agree?

Det. Sgt Francis: Can you please clarify?

Dr HORTON: You talked about other types of offences, but this is a very different type of alleged offending in this case; is that right?

Det. Sgt Francis: Yes, of course it is.

Dr HORTON: It might call for a bit of a different approach with respect to victims; is that possible?

Det. Sgt Francis: Yes, but what I am referring to is my training and my experience.

Dr HORTON: I see. But it is that experience and that training which you brought to bear here in terms of your dealings with Ms Kelsey; correct?

Det. Sgt Francis: Yes.

Dr HORTON: You want us to understand empathy in that context, in the way you dealt with Ms Kelsey?

Det. Sgt Francis: Yes, I am trying to explain to the committee the empathy that I have as being a normal response to a witness.

Dr HORTON: Yes. I am suggesting to you it is normal in the type of offending you were speaking about in your training historically but not quite so usual, I want to suggest, in an investigation of the present kind, which is a fraud investigation about alleged misconduct in public office or related to it?

Det. Sgt Francis: I am not so comfortable with your assertion there. I would be inclined to disagree with that.

Dr HORTON: Okay. And not so applicable where one is assisting or responding to a complaint by a public interest discloser?

Det. Sgt Francis: I am not sure I am really getting the full gist of what you are saying there, but I am inclined to disagree again. I am fully prepared to explain my point of difference there.

Dr HORTON: Explain it if you would, but be as brief as you can so that you are not in the box too long.

Det. Sgt Francis: If you think it is irrelevant, let's move on, then.

Dr HORTON: Thank you. If you turn to page 93. In about March you are told about the progress of the QIRC proceeding from others within the CCC; is that correct?

Det. Sgt Francis: Yes, this is correct.

Dr HORTON: You are told that the matter has been listed for closing submissions on 2 and 3 May; is that right?

Det. Sgt Francis: The exhibit that you are referring to commences with a lawyer—

Dr HORTON: I am just asking you in the ether for the minute, just generally, and I have given you a document that might help refresh your memory.

Det. Sgt Francis: Yes. I can see the document you are referring to and I can see that it commenced with Mr Dan Williams and that it evolved into an email regarding a date in the QIRC.

Dr HORTON: Have a look at that. Then maybe I will ask my question.

Det. Sgt Francis: Yes.

Dr HORTON: You were informed by others in the CCC in or about late March 2019 of developments in Ms Kelsey's QIRC proceeding; is that correct?

Det. Sgt Francis: That is correct.

Dr HORTON: Because, as you understood it, you had an interest in knowing?

Det. Sgt Francis: Yes, that is correct.

Dr HORTON: And that at that stage at least, submissions were scheduled to be heard by the QIRC on 2 May 2019?

Det. Sgt Francis: Yes, that is correct.

Dr HORTON: And that led you to think that it was important that the CCC acted quickly in terms of progressing the charges which had been under discussion on 30 January?

Det. Sgt Francis: That is not my recollection, I am sorry. My recollection and my contribution to this email chain is: there was a sense of urgency in getting what I needed to get done prior to any formal preferment of charges, and the sense of urgency was that the witnesses I was involved with at that time—I acknowledged that a couple of days previous to this date. I had only just obtained a statement from Sharon Kelsey, and that statement took months to obtain. I also similarly obtained a statement from mayor Power, and that statement took months to obtain. But I had yet to obtain further statements from other councillors that were going to be involved in these proceedings on 2 May. I was aware—because they had communicated to me—that they would be unavailable for my purposes leading up to and during that proceeding. So my reference to 'time critical' there is an

acknowledgement, yes, we need to move and move quickly. I was also very much aware of the frustration that was being felt by my supervisors with how long some of these statements had taken. That was a responsibility that I was undertaking and under pressure to undertake—and, bearing in mind, too, that Andrea Millberry-Smith had yet to sign her statement.

Dr HORTON: What was the rush?

Det. Sgt Francis: All the stars were aligned, so to speak—if I can use that—in respect of moving forward with charges. If the witnesses were not in a position to further liaise with me, that might mean months of delays for the organisation and costs in moving forward to getting those charges. That is my recollection in respect to the email that you have referred to.

Dr HORTON: What was the need for the rush prior to 2 May especially?

Det. Sgt Francis: What was the need for the rush prior to 2 May? I have just explained that.

Dr HORTON: I see. That is your answer?

Det. Sgt Francis: That is my answer.

Dr HORTON: And 2 May had a special significance for the reasons you have just explained?

Det. Sgt Francis: That is the background to my response on this email, yes.

Dr HORTON: I see. So in your mind it had no relevance, did it, that Ms Kelsey's matter had been listed for final submissions, at least at that stage, on 2 May?

Det. Sgt Francis: Mr Horton, you are trying to draw me into my knowledge in respect to some sort of mischievous act on my behalf in respect of timings. You are overestimating my involvement in this. My involvement was simply to do my job as quickly as I could to the best of my ability and get to the court.

Dr HORTON: My job is to elicit facts, not draw you into anything.

Det. Sgt Francis: Okay.

Dr HORTON: I have an email in front of me which says that someone found it necessary to copy you in on an email which said—

We really need to pinch Smithy & a decent portion of The Fab7 prior to 2 May.

Do you understand they said that to you?

Det. Sgt Francis: Can you direct me to that exhibit, please?

Dr HORTON: It is on the page open in front of you, I think—page 93. You respond 11 minutes later saying—

Yup time critical

Det. Sgt Francis: Yes, that is correct. I did respond and say just those words.

Dr HORTON: So you agreed that you really needed to 'pinch Smithy & a decent portion of The Fab7 prior to 2 May'?

Det. Sgt Francis: No, I disagree. My comment there is in respect to what I just explained to the committee in that my sense of urgency was only in respect to the utilisation of the witnesses' availability in order to perform my function.

Dr HORTON: Your email back does not say that.

Det. Sgt Francis: What email are you referring to? Are you referring to the email, 'Yup time critical'?

Dr HORTON: 'Yup time critical', full stop.

Det. Sgt Francis: My evidence is that any urgency I had was confined to the issues I have just represented to the committee.

Dr HORTON: I am going to test that with you, because I am going to challenge it.

Det. Sgt Francis: That is okay.

Dr HORTON: Now, I want to suggest to you that you are included in the email on 26 March 2019 at 1.15 pm from Mark Andrews because you have an interest in knowing what it is that is the time imperative.

Det. Sgt Francis: Sorry, your suggestion is that I have an interest for what purpose? Can you please repeat the question, Mr Horton?

Dr HORTON: Sure can. I suggest that you are included in the email of 26 March 2019 at 1.15 pm from Mark Andrews because you have an interest in knowing what the time imperative is in the need to charge.

Det. Sgt Francis: Can you elaborate on your suggestion in regards to time imperative?

Dr HORTON: You have got the document in front of you and I would like you to answer my question, please.

Det. Sgt Francis: I am content with my answers I have already given you.

Dr HORTON: Thank you. And that the importance of 2 May, and you knew it, was that Ms Kelsey's proceeding was listed for closing submissions in the QIRC on that date?

Det. Sgt Francis: Yes, I was aware that Ms Kelsey's closing submissions were coming, as I have already indicated.

Dr HORTON: And that your response is unqualified and we can take as an acknowledgement—I am sorry. And that your response is unqualified on 26 March at 1.26 pm?

Det. Sgt Francis: Are you inviting me to disagree, because I totally disagree.

Dr HORTON: That it is unqualified: 'Yup time critical'.

Det. Sgt Francis: No, I disagree.

Dr HORTON: Okay. And next that, in fact, that email should be read as agreeing that you did need to pinch—that is, charge—Mayor Smith ' & a decent portion of The Fab7' with fraud before 2 May?

Det. Sgt Francis: I can only state that my involvement in this is for the reasons I have provided to the committee.

Dr HORTON: Were you aware at or about 26 March 2019—or before—that charging fraud would have the effect of causing the councillors so charged to no longer be able to sit as councillors?

Det. Sgt Francis: I am aware now. No, I was not. I am not familiar with the ministerial actions. My recollection is that I misunderstood or I underestimated the power of the minister in this case and—

Dr HORTON: When did you first learn that the effect of a charge of fraud upon a councillor would be such that that councillor would or would be likely to no longer be able to be such?

Det. Sgt Francis: I am digging into my archives right now of my head, because I cannot give you a firm response. What I would like to say is that when the mayor was charged there was a time before he was stood down. It was not an immediate response on behalf of the minister. And it is a logical consequence that if seven plus one members of a council are charged then that would resolve in the dissolution of a council.

Dr HORTON: When did you first learn that the charging of fraud against a sitting councillor would or would likely result in that person being able to continue on as such?

Det. Sgt Francis: I do not remember.

Dr HORTON: It is very important that you think. I am going to give you a chance just to think. It is very important to this matter that is before the committee, in my submission to the committee, that you give an answer that is considered.

Det. Sgt Francis: In consideration of the importance of that question, I guess, reflecting back, the first moment that I thought that the possibility of the minister stepping in in this case was when I was informed that the chair was going to brief the minister on or around the date that the charges were laid.

Dr HORTON: By you?

Det. Sgt Francis: Yes, by me.

Dr HORTON: So at no time before the 26th—or is there some earlier date?—were you aware there was a likelihood that if you charged fraud you would cause sitting councillors to no longer be able to be such?

Det. Sgt Francis: I cannot answer that question affirmative because I simply do not recollect.

Dr HORTON: Well, I am going to press you.

Det. Sgt Francis: You can press all you like. I cannot recollect.

Dr HORTON: I see. It is a very, very important—

Det. Sgt Francis: I understand the importance of the question and I—

Dr HORTON: No, you had not waited for me to finish. I know it is tempting to jump in. It is a very, very important matter to know before you charge, yes?

Det. Sgt Francis: What is an important matter before I charge?

Dr HORTON: Is that your answer to my question? Your answer is to ask me a question?

Det. Sgt Francis: No, I am asking to you repeat the question so that I can adequately provide a response, given the importance of the question.

Dr HORTON: I will give you a chance to answer the question. Would you like me to ask it again?

Det. Sgt Francis: Yes, please.

Dr HORTON: It is a very, very important matter to know, before you charge, to have known what the consequences of it were; correct?

Det. Sgt Francis: When I consider charging someone, there is numerous things that I consider in respect to sufficiency, admissibility, public interest, and the consequences, I would say, are one of the lesser considerations in respect to my sworn duty. I behave in a manner without fear and favour according to my oath. I recognise the impact that this proceeding has had on those involved, but I am not influenced by it.

Dr HORTON: To recognise the impact it would have on those people, you would have to first know what that impact was going to be; correct?

Det. Sgt Francis: Correct. I—yes.

Dr HORTON: You as a sworn officer would take care to know ahead of time the impact of what it is you were thinking of charging?

Det. Sgt Francis: When I charge somebody, which is a matter that I regularly undertake, matters under my consideration first and foremost are issues of bail in respect to someone who is charged and articulating matters relative to an objection. Beyond that, I would say, would be impartial to an extent. If I was to consider the consequences of preferring charges in the same vein as their race, religion, ethnicity, gender, political persuasion, that would compromise my position of impartiality.

Dr HORTON: Stop obfuscating, Sergeant Francis.

Det. Sgt Francis: I do not understand what that word means.

Dr HORTON: I think you know what I am asking you about. I think you are smarter than this.

Det. Sgt Francis: I think you credit me too much, Mr Horton.

Dr HORTON: The effect of a charge of fraud on a councillor is to cause that councillor to no longer be such; correct? The charge—not the proof, the charge; correct?

Det. Sgt Francis: Likely, yes.

Dr HORTON: Are you answering as you are because you did not find out until after you charged that these councillors would be removed by reason of a charge you had laid?

Det. Sgt Francis: My mind is racing right now and it is currently turning towards Stacey McIntosh and I am trying to determine how long she remained in office after she was charged with an offence so that I can give you a response.

Dr HORTON: You have had a lot of time since charging to work this out.

Det. Sgt Francis: Yes, but I have not turned my mind to it.

Dr HORTON: You charged on 26 April 2019 and I am standing here in August 2021. You know this has been a public issue and you know you are the charger and you know no-one else was; correct?

Det. Sgt Francis: Yes.

Dr HORTON: So you would have searched to know what the consequence is of what you charged and when you first learned of it; correct?

Det. Sgt Francis: Are you suggesting that I researched the consequences to a councillor?

Dr HORTON: You cannot answer a question with a question, I am sorry.

Det. Sgt Francis: Well, please rephrase the question.

Dr HORTON: You knew you were going to appear before a committee of the Queensland parliament today; correct?

Det. Sgt Francis: Yes.

Dr HORTON: You have known that for some time, correct?

Det. Sgt Francis: Yes.

Dr HORTON: And you knew since earlier this year that a committee of parliament had made a resolution which was going to investigate the charging and related circumstances of the Logan City councillors; correct?

Det. Sgt Francis: The scope of the committee and its inquiry is very broad, Mr Horton.

Dr HORTON: Quite right, which you knew on or about 28 May of this year; correct?

Det. Sgt Francis: Yes.

Dr HORTON: Right. So you do not come here before the committee, do you, and say you have not had a chance yet to think through the matters which I am asking you about now?

Det. Sgt Francis: I am saying I do not have a response for you in regards to your question.

Dr HORTON: Would you answer my question now?

Det. Sgt Francis: My answer then is: I do not recall.

Dr HORTON: Okay. Are you aware now of the consequence of what you charged the mayor and councillors with, of fraud under section 408C of the Criminal Code on 26 April 2019?

Det. Sgt Francis: Yes, I am.

Dr HORTON: In short summary, tell me what that consequence is that you now know?

Det. Sgt Francis: In short summary, the council were dissolved under the hand of the minister.

Dr HORTON: No, just go back a bit—on the individual councillor for a minute. We will take it in stages. There is a council effect and there is an individual effect. Just the mayor's charge for the minute. What is the effect, as you understand it at law today, on him?

Det. Sgt Francis: On the mayor?

Dr HORTON: Yes, for example.

Det. Sgt Francis: That he was suspended.

Dr HORTON: Automatically suspended; correct?

Det. Sgt Francis: Yes, now that you mention it. Yes.

Dr HORTON: Upon the charge, right?

Det. Sgt Francis: Yes.

Dr HORTON: When did you first learn that?

Det. Sgt Francis: I cannot recall. Perhaps in the media, I do not know.

Dr HORTON: After it happened?

Det. Sgt Francis: Yes.

Dr HORTON: I see. The charging officer learned of the direct consequence of his charge from the media after he had charged the person; correct?

Det. Sgt Francis: I said 'perhaps' to your response and my answer to your question is: I cannot recall.

Dr HORTON: Now is the time to tell me if I am wrong. We are going live, Sergeant Francis. Now is the time to communicate it. It is very important.

Det. Sgt Francis: I cannot recall. I cannot recall how I became informed, whether it was by the media or some other briefing or communication—how I became aware of that event.

Dr HORTON: Nowhere in your memo of 30 January that we have seen, starting at page 77, do you mention the possible consequences of charging fraud of these people; correct?

Det. Sgt Francis: I may have. Perhaps if we turn to that so I can refresh my memory.

Dr HORTON: Do.

Det. Sgt Francis: What was the page number?

Dr HORTON: 77.

Det. Sgt Francis: Which paragraph, Mr Horton?

Dr HORTON: You tell me. It is your memo. You tell me where to find it. It is not a trick question. I am just giving you the chance to tell me if you do and if so where. On the evidence you have given, it will not be there because you said you found out after.

Det. Sgt Francis: Pardon me?

Dr HORTON: On the evidence that you have given so far, I suggest to you, it will not be there because you said you found out after you had charged the mayor in the media.

Det. Sgt Francis: No. I said that I could not recall.

Dr HORTON: That is not what you said. You did say at one stage you could not recall, but you told this committee what appears on *Hansard* and which is being taken down.

Det. Sgt Francis: Mr Horton, I recall what I said. I said I did not recall.

Dr HORTON: I see. You have got page 77 and following there. Have you had any luck, Sergeant Francis, in finding it?

Det. Sgt Francis: I have not had any luck as yet in finding it.

Dr HORTON: After that email to which I took you at page 93 and perhaps just before—25 March—you are preparing a memorandum or another version of your earlier one concerning 'Consideration to commencement of proceedings'; is that right?

Det. Sgt Francis: Are we abandoning the previous question and I am still looking for any notes that I have made in regards to likely outcomes? Have we moved on?

Dr HORTON: If you think it is a productive exercise in light of the evidence that you have given to look through the memo at page 77 and following, you do so.

Det. Sgt Francis: I am the first to admit that my recollection of events and circumstances are here, with the significant passage of time—I am very mindful that I may have forgotten things. I am cautious when providing a response in that regard. If you know where I have indicated in my previous correspondence so that I might better provide you with a response, please do so. My interest—

Dr HORTON: I cannot find it but I am giving you a chance to correct me. I am open to being corrected. I cannot find it. Please correct me.

Det. Sgt Francis: Okay. In the time you have given me I have not found it, so I will move on to your next question.

Dr HORTON: Do you need more time?

Det. Sgt Francis: You can take as much time as you want but I am very cognisant of the fact of holding up the committee.

Dr HORTON: Afterwards you prepare or continue to prepare a memorandum as to 'Consideration to commencement of proceedings—Operation Front'; is that correct?

Det. Sgt Francis: Yes. The memorandum took a number of different forms.

Dr HORTON: Yes, and I think the forms, at least examples of them, appear from page 77 of that bundle and they go through a fair way, to about page 310. There are a few little documents in between that are not memos.

Det. Sgt Francis: Yes, and there are likely more than just what is listed here as well. This is a document that was edited numerous times. It took on board the considerations by staff within Operation Front. Every time that there was a meeting involving the senior executive officer or Ms McIntyre or others where points of interest were raised or evidence disclosed, I would update the memo. There are numerous revisions of this memo.

Dr HORTON: Is there anything really important missing from those couple of hundred pages that you think the committee needs to have to better understand your thinking and position at the time or are these a good enough guide?

Det. Sgt Francis: These are a good enough guide.

Dr HORTON: Great. You prepare a memo, which you can see there at 97. That one, I want to suggest to you, is probably likely to be about 25 March or soon after.

Det. Sgt Francis: Yes.

Dr HORTON: You go through and consider various matters. Do you here alert the reader to the possible consequence—to the consequence of charging fraud, being that the accused is automatically suspended as a councillor when a person is charged with that as a disqualifying offence?

Det. Sgt Francis: I do not know. I cannot recall.

Dr HORTON: As we go through the memos, you will see the first version at least ends at about page 141.

Det. Sgt Francis: Yes.

Dr HORTON: Just look at paragraph 90, while we are on page 141. We find this statement elsewhere as well. You were optimistic. The case officer is you; is that right?

Det. Sgt Francis: Yes.

Dr HORTON: That—

... after proceedings are commenced for the Mayor ... aligned Councillors might express an intention to co-operate and assist the CCC in the investigation of these offences.

Det. Sgt Francis: Yes.

Dr HORTON: Were you proposing there the tactical charging of accused in order to secure cooperation?

Det. Sgt Francis: No.

Dr HORTON: Then the last sentence

Such co-operation might be achieved through a staggered approach to the commencement of proceedings.

Det. Sgt Francis: Yes.

Dr HORTON: Do you mean charging them on different dates?

Det. Sgt Francis: Yes.

Dr HORTON: I see. That might have the benefit of what? Causing someone to cooperate who might have been charged or be worried about the prospect of being charged imminently?

Det. Sgt Francis: No. This is a proposition that came from me and it was dismissed as being—I cannot remember, but it was certainly dismissed. The reason I proposed this is because the varying culpability amongst the seven, for example, the mayoral cabinet—

Dr HORTON: No, you did not. It does not say that.

Det. Sgt Francis: No, I am relying on my recall here, I have to admit. I was always hopeful that one of the seven would provide a section 13A, is what I would call it. A 13A is a statement after the commencement of proceedings to assist the investigation for consideration of the court. I was always optimistic, and obviously standing here now that did not happen for reasons unknown, but that is me communicating that.

Dr HORTON: If you charged for the purpose of securing cooperation, that would be an improper purpose; correct?

Det. Sgt Francis: If I charged for an improper purpose that would be an improper purpose? Yes.

Dr HORTON: How about if you charged for the purpose of securing cooperation?

Det. Sgt Francis: Yes, I acknowledge that would be improper.

Dr HORTON: And if you timed charges through a staggered approach to secure cooperation, that would be an improper purpose too?

Det. Sgt Francis: Yes, but that was never done.

Dr HORTON: That is what you are proposing be done in paragraph 90 on page 141?

Det. Sgt Francis: I do not know. I can see why, Mr Horton, you would have that view in my text there. I am uncomfortable with that view, because I recognise it is an improper purpose. I would rely on my recollection, and my recollection is that the culpability of the mayoral cabinet, which included the mayor, deputy mayor Dalley and councillor Schwarz, had a higher degree of culpability and, of course, in my mind, the councillors most likely to provide statements subsequent to being charged would have been councillor Dalley and councillor Schwarz. So considering that those were the two that were definitely getting charged and this is a tactical consideration—this is for the benefit of my team and understanding that this action was never taken—I can dismiss your proposed unlawful purpose in that Dalley and Schwarz and the mayor would have been the first to be charged if there was a staggered approach to this at all.

Dr HORTON: And what you have given is a recent invention, which is shown by the fact that if it were otherwise you would have recorded that in your tactical considerations in paragraph 90 or in 91?

Det. Sgt Francis: No, I disagree.

Dr HORTON: And you are seeking to defend the indefensible by reason of the explanation you have just given?

Det. Sgt Francis: What I am trying to defend is an idea. I do not understand why this is—yes—I do not understand. This is just a tactical consideration. It went nowhere. It just served as a discussion point and I cannot recall the implicit details of what I said there. I acknowledge that I wrote that, but—

Dr HORTON: For a minute you are jumping ahead. I have not suggested for the minute to you—and I will be very direct when I am direct; I think you accept that—that it went anywhere. I am just looking for the minute at what you are suggesting, okay? We will get to where it went but, for the minute, on or about 25 March you are suggesting what you are suggesting at paragraphs 90 and 91 on page 141; yes?

Det. Sgt Francis: Well, I am acknowledging that there is a document here and there is evidence in it, yes.

Dr HORTON: Then at page 148 and the following is a similar note which contains Mr Alsbury's comments on it?

Det. Sgt Francis: 148, Mr Horton?

Dr HORTON: Let me check. Yes.

Det. Sgt Francis: Maybe we are at cross-purposes, but I can see a memorandum on 148 and I cannot see any comments by Mr Alsbury.

Dr HORTON: Maybe if you look in the right-hand column. Do you know how Track Changes works?

Det. Sgt Francis: Yes, but I cannot identify that those comments—I certainly cannot immediately identify that those comments were said by Mr Alsbury.

Dr HORTON: I see. Whose comments are they, to your knowledge?

Det. Sgt Francis: I do not know.

Dr HORTON: Did anyone comment on your memorandum who is more senior than you or a lawyer to help you in framing some things or making suggestions?

Det. Sgt Francis: Numerous people commented on this memo, Mr Horton.

Dr HORTON: Sorry?

Det. Sgt Francis: There are numerous persons who commented on this memo, Mr Horton.

Dr HORTON: Is this possibly Mr David Beattie making comments?

Det. Sgt Francis: Yes. Exactly at that moment I just saw that comment 'DB'—David Beattie, detective sergeant.

Dr HORTON: Apart from the comments we see here on pages 148, 149 and immediately following, is there anyone else who made comments on the memorandum or who had an input into it?

Det. Sgt Francis: On the memorandum in front of me, on the document in front of me or broadly speaking?

Dr HORTON: Yes, let's just stick with the one in front of you for the minute.

Det. Sgt Francis: Not that I can see.

Dr HORTON: And beyond what you can see, knowing what you knew as the author of the document, did anyone else makes comments or assist you with input into it?

Det. Sgt Francis: Yes, there were numerous persons. Detective Sergeant David Beattie, Detective Senior Sergeant Mark Andrews, Detective Inspector Dave Preston and Detective Superintendent Mark Reid all had input into this statement. We worked together on this as a team.

Dr HORTON: So are you comfortable with this being described, then, as a jointly authored document between those five people—you and the four you have just mentioned?

Det. Sgt Francis: I am comfortable with disclosing to the committee that they contributed to it.

Dr HORTON: Just trying to work out is it yours, is it theirs, is it—you would say it is a document you authored to which the four people you just mentioned contributed?

Det. Sgt Francis: Why is ownership relevant?

Dr HORTON: Again, unfortunately you do not get to answer my questions with a question.

Det. Sgt Francis: Okay, alright. Yes, look, I am happy that numerous persons contributed to this.

Dr HORTON: And the ones you have mentioned?

Det. Sgt Francis: Yes.

Dr HORTON: Do you take ultimate responsibility for the authorship of it?

Det. Sgt Francis: Yes, absolutely.

Dr HORTON: I see. Did at any time any person with legal training, legal qualifications—leave aside the police officer who you said might have been training as one—come to you and say, 'Sergeant Francis, could I please help you with this memorandum with some legal input and legal advice?'

Det. Sgt Francis: Well, yes, they did, but not in that context. The input from persons with legal background provided input, according to my recollection, in briefings. The evidence of those briefings are before the committee. That was the forum in which that advice was obtained, considered and then there was an evolution of the memorandum, taking on board their comments and considerations.

Dr HORTON: Did anyone ever come to you and say—a lawyer or a senior manager—'Sergeant Francis, this memo is of draft, but we would like it to consider the elements of the offences that you are offering up for consideration by senior people'?

Det. Sgt Francis: In those words?

Dr HORTON: Or to that effect?

Det. Sgt Francis: No.

Dr HORTON: Was that frustrating for you, not to have that sort of assistance?

Det. Sgt Francis: No, because the document speaks to the dishonesty. Dishonesty is a relevant element under consideration. That was the document that spoke to the elements of the offence. The offending behaviour was complicated, significantly detailed, which was the cause of the memo.

Dr HORTON: It is not a document that is headed 'Dishonesty' or in any way says, on my reading of it, that what is being dealt with here is a collation of the evidence which goes to dishonesty?

Det. Sgt Francis: No, you are right; it does not have the heading 'Dishonesty'.

Dr HORTON: Or any indication to the reader that really what it is just trying to do is only deal with dishonesty? Is that your evidence about what it is trying to do? I am trying to work it out.

Det. Sgt Francis: My evidence is that the document was to inform—was to gather together the relevant evidence, make a record of it as a summary and move forward through the organisation for contribution and comment.

Dr HORTON: When you have done these in the past, do you normally analyse the limbs of the prospective offences that you are recommending or considering?

Det. Sgt Francis: When I have done this in the past? Are you talking in respect of my service within the QPS? In my service with the Queensland Police Service I never do that. I never do evidence matrix. I do a precis, but in most offences, of course, they are not this complex. I would not identify the limbs. That is something that investigators are trained to do within detective training as an exercise of their understanding with respect to criminal law. It is not practised in an operational environment.

Dr HORTON: I see. In your experience—

Det. Sgt Francis: Not broadly in my experience, yes.

Dr HORTON: I did not catch that word.

Det. Sgt Francis: Not broadly. I am considering that some police might do it. Some police beyond my knowledge might have a habit of that, but in my experience—

Dr HORTON: It is good practice?

Det. Sgt Francis: 'Is it good practice?' was your question?

Dr HORTON: It is good practice.

Det. Sgt Francis: That is a statement. Are you asking me to comment on that?

Dr HORTON: You got it.

Det. Sgt Francis: In an offence of this nature, yes, I acknowledge it is good practice.

Dr HORTON: And you did not follow good practice?

Det. Sgt Francis: This memo serves that purpose. In my experience, which is limited in the CCC—I was only there for a touch over three years and this investigation took me the bulk of that period of time, so I do not have a great deal of experience in respect of other investigations to draw on, Mr Horton—this was the acceptable way of progressing an investigation of this nature.

Dr HORTON: I will put it to you perhaps in a more conclusory way as this. The memo is a collection of lots and lots of things; correct?

Det. Sgt Francis: Yes.

Dr HORTON: But it is a bit of a download; do you accept that?

Det. Sgt Francis: Yes, I accept that.

Dr HORTON: As we are getting closer to the date upon which you are considering whether to charge, what you need to do to be a decent prosecutor is bring this to some sort of systematic and elemental conclusion.

Det. Sgt Francis: I am not a prosecutor. I do not feel I am adequately prepared to provide that response.

Dr HORTON: You do not claim before the committee that you are prosecutor?

Det. Sgt Francis: I am not a prosecutor.

Dr HORTON: You do not claim that you need those skills, or some of them, in order to be a charging officer for offences such as those you were considering, for fraud against public officials?

Det. Sgt Francis: I do not need to be a prosecutor in order to prefer charges against public officials.

Dr HORTON: Or to have the skills of one?

Det. Sgt Francis: Or to have the specialised skills of a prosecutor, yes.

Dr HORTON: Or even not specialised—just the skills of a prosecutor?

Det. Sgt Francis: I do not have the skills of a prosecutor.

Dr HORTON: And you do not need the skills of a prosecutor to pursue charges for fraud against public officials?

Det. Sgt Francis: That is correct. That is my view.

Dr HORTON: Let us look at the memo that you drafted—let us use the final one, or what seems to be. Maybe turn to page 309. If you want to check what the date is of that, it starts about page 257.

Det. Sgt Francis: Yes.

Dr HORTON: As a sworn police officer, albeit seconded to the CCC, you have an obligation to follow the Operational Procedures Manual of the Queensland Police Commissioner; is that correct?

Det. Sgt Francis: Yes, I am still a sworn police officer. I adhere to the Operational Procedures Manual of the Queensland Police Service, yes.

Dr HORTON: You are bound by the Operational Procedures Manual so far as the commissioner makes directions in it?

Det. Sgt Francis: Yes.

Dr HORTON: One of those directions is that you apply the director's guidelines—that is, the guidelines of the Director of Public Prosecutions; is that correct?

Det. Sgt Francis: Yes.

Dr HORTON: Are you familiar with those guidelines?

Det. Sgt Francis: No, not intimately familiar. I am aware that they exist. I can access them. They are readily accessible. If you are asking me to provide you a detailed account of them, I cannot.

Dr HORTON: You are not familiar with the Director of Public Prosecutions' guidelines?

Det. Sgt Francis: Which guideline are you referring to, Mr Horton? There are numerous.

Dr HORTON: Are you asking me to explain to you what the director's guidelines are that I am referring to?

Det. Sgt Francis: I am asking you to rephrase your question, please.

Dr HORTON: When I say the guidelines of the Director of Public Prosecutions, being the ones that you are directed to comply with in the Operational Procedures Manual given by Police Commissioner, do you not know what I am referring to?

Det. Sgt Francis: I know what you are referring to.

Dr HORTON: Now that we know what we are talking about, are you familiar with those guidelines?

Det. Sgt Francis: Yes, I am familiar with those guidelines.

Dr HORTON: Those guidelines, as you know, require you to assess the prima facie case or sufficiency of evidence; correct?

Det. Sgt Francis: That is correct.

Dr HORTON: And to turn your mind to the public interest criteria?

Det. Sgt Francis: Yes.

Dr HORTON: As well as that, they require that a decision to prosecute never—and that is the word used—be influenced by personal feelings of you as the prosecutor concerning the offender or victim; correct?

Det. Sgt Francis: Yes, that is correct.

Dr HORTON: The public interest criteria talk about discretionary factors. Are you aware of that?

Det. Sgt Francis: Yes, I am.

Dr HORTON: Where do we see in this memorandum you weighing the public interest considerations? I have taken you to pages 308, 309 and 310, which is where I think it is. Am I safe to proceed on the basis that that is where the public interest criteria are being examined by you?

Det. Sgt Francis: That is correct, on page 309—page 53 of the memo.

Dr HORTON: I think you do a little of it at 308 under 'Standard of proof considerations' at paragraph a.—

Robust consideration is certainly warranted.

Then you say some other things. By 'robust consideration' you are meaning you should be robust when you consider this memo? Is that what you are saying to yourself?

Det. Sgt Francis: Let me first apologise. The Director of Public Prosecutions guidelines that you referred to are reproduced in the OPM under chapter 3. That is something that I am more familiar with. Yes, my consideration to that is reproduced in the memo listed here in the exhibits on pages 308 and 309.

Dr HORTON: 'Robust consideration is certainly warranted'—robust which way? You robustly think that you should prosecute or robustly think you should not?

Det. Sgt Francis: No, I am referring to the OPM here. What I am referring to is that this is a serious matter. As a serious matter, I should seek serious consideration to the OPM section 3.4.3 or the DPP guidelines in respect to sufficiency of evidence and public interest test. That explains my dialogue here.

Dr HORTON: Just focus on the word 'robust' for a minute. What do you mean to convey by 'robust'?

Det. Sgt Francis: Thorough.

Dr HORTON: Then you say the 'reputational harm to persons of interest'—councillors and mayor; correct?

Det. Sgt Francis: Yes.

Dr HORTON: You thought that the only risk of harm that was relevant there that you mentioned was reputational?

Det. Sgt Francis: That is all I have listed here.

Dr HORTON: You thought the only thing you needed to mention there in terms of harm to the persons of interest was reputational harm?

Det. Sgt Francis: Nowhere have I expanded on that. I cannot see any intent to expand on that. I have simply nominated that and stated—

The risk of reputational harm to persons of interest and the CCC is acknowledged.

Dr HORTON: The extent of the harm that you are acknowledging and you are turning your mind to in this memorandum on the prospective accused is there is a risk of reputational harm to them?

Det. Sgt Francis: I have not quantified it in this document. I have just said that there is the risk of reputational harm.

Dr HORTON: Do not worry about quantification for a minute. The only type of harm is reputational that you are worried about at this stage?

Det. Sgt Francis: This is not an exclusive discussion. This is just my thoughts on the matter.

Dr HORTON: It is only your thoughts; it is not exclusive. I know it is your thoughts. I am aware of that. It is not exclusive. Where do you say it is not exclusive?

Det. Sgt Francis: I do not.

Dr HORTON: It is a 54-page memo. Hopefully it has all the material stuff in it; correct?

Det. Sgt Francis: No, this is a summary of the evidence before the court. The evidence before the court is—

Dr HORTON: Do not misunderstand my question. You are turning your mind to, as you say at the beginning, 'consideration to commencement of proceedings'. It has everything material that you need to state in your consideration of commencement of proceedings; correct?

Det. Sgt Francis: It refers to all the material in consideration.

Dr HORTON: Great.

Det. Sgt Francis: Let's—

Dr HORTON: So risk of reputational harm is one of the material things; correct?

Det. Sgt Francis: I was about to finish my sentence. When I say 'refers to' all the exhibits, I did note before, as I note now, that there are numerous hyperlinks to exhibits within this document.

Dr HORTON: You are avoiding the question, Mr Francis.

Det. Sgt Francis: I am just making sure that I am not misleading the committee, Mr Horton.

Dr HORTON: You are avoiding the question.

Det. Sgt Francis: Please repeat the question.

Dr HORTON: The only type of harm that you are concerned about in this memorandum that you state is a risk of reputational harm to the persons of interest.

Det. Sgt Francis: The only type of harm that I have listed here is reputational harm. That is correct.

Dr HORTON: Yes, but you now know that in fact the other type of 'harm' that is going to happen is that the person is going to be automatically suspended as a councillor when the person is charged with this offence; correct?

Det. Sgt Francis: That is correct.

Dr HORTON: So that needs, needs, needs to have been stated in this memorandum.

Det. Sgt Francis: You used three 'needs' there. I am not sure if I agree with you.

Dr HORTON: Do you agree with one 'need'?

Det. Sgt Francis: I prefer to lean on my comments previously in regard to impartiality in my consideration to the consequences of my prosecution and my other service.

Dr HORTON: Before you lean on impartiality, I should be fair to you. I am going to directly challenge your impartiality as revealed in this memo and otherwise. Please do not think, when you say to me you rely on 'impartiality', that I, for my purposes at least, am accepting that as an answer to what I am putting to you.

Det. Sgt Francis: I am just attempting to answer your question, Mr Horton.

Dr HORTON: Thank you. I understand. I want you to be clear and know that I will be direct with you.

Det. Sgt Francis: I am clear.

Dr HORTON: The memo does not mention the harm that I have just referred to in terms of automatic suspension because you did not know of that at the time that you are writing this memorandum.

Det. Sgt Francis: I cannot say that with certainty. I can say that I did not expand on reputational harm any further in this report, for reasons unknown.

Dr HORTON: I am talking about something beyond reputation, Sergeant Francis. Do you understand the difference between reputational harm and other sorts?

Det. Sgt Francis: Yes.

Dr HORTON: They are going to be sacked from office after having been elected by people; understood?

Det. Sgt Francis: Yes.

Dr HORTON: Reputational harm is going to be suffered but there is a bit more that is going to be suffered by that accused when that charge is laid; correct?

Det. Sgt Francis: Yes.

Dr HORTON: You would accept it is no small thing, justifiably or otherwise, to remove a public elected official from office by virtue of a mere charge; you understand? This is not a court conviction.

Det. Sgt Francis: Yes, of course I understand it is a significant matter.

Dr HORTON: Yes. Ordinarily charges do not remove people, do they, because one is innocent until proven guilty; correct?

Det. Sgt Francis: If I am charged with a criminal offence, I will be immediately removed from office.

Dr HORTON: Is that your answer to my question?

Det. Sgt Francis: Yes, it is.

Dr HORTON: Chair, I note that the time is approaching five o'clock. Is it a convenient time to pause or I could press on for a few more minutes?

CHAIR: Mr Horton, I think it is probably a convenient time to wrap up for the day.

Dr HORTON: Might I just say we would expect Sergeant Francis to return when the committee resumes next week, which I understand to be Wednesday, but I am in your hands, Chair.

CHAIR: Yes, it is Wednesday. On that basis, Detective Sergeant Francis, you will be stood down and come back next Wednesday, at 9.30, which I appreciate your assistance with. Thank you, Mr Horton. Is there anything else that either you or Mr McMillan want to deal with in the committee today before we wrap up?

Dr HORTON: Nothing, Chair. We will resume with the CCC witnesses and we hope to complete them next week, subject to Mr MacSporran returning, which might be later depending upon the availability of members of the committee and other business. We will do our best to get through the witnesses as well as we can.

CHAIR: Thank you. Is there any other business from committee members? I just want to say thank you very much to our Parliamentary Crime and Corruption Commissioner, Ms Karen Carmody, who finishes in the role tomorrow. We thank her very much for her service over the last, I think, six or seven years. How many years? Five years. Thanks, Mr Kunde. We thank her very much, especially for the work that has gone into this inquiry over the past two to three months.

Can I also say, as we thank Ms Carmody, that we look forward to welcoming the new Parliamentary Crime and Corruption Commissioner, Mr Michael Woodford, to the role. His appointment was announced through a tabling in the House yesterday by the Speaker. Hopefully he will be able to join us in this inquiry in the coming weeks. With that all said, we will adjourn today until 9.30 am next Wednesday.

The committee adjourned at 4.54 pm.