



# ***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:**

Mr M Woodford—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**

**THURSDAY, 26 AUGUST 2021**

**Brisbane**

## THURSDAY, 26 AUGUST 2021

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**The committee met at 9.30 am.**

**CHAIR:** I declare open day 6 of this inquiry of the Parliamentary Crime and Corruption Committee. I acknowledge the traditional owners of the land upon which we meet and elders past, present and emerging whose lands, winds and waters we all now share. For this morning's session we have a couple apologies, from the member for Coomera and the member for Stafford. They should be joining us again later in the day so we have a full complement on the committee. There are no other preliminary matters we need to deal with so I will hand the inquiry over to counsel assisting, who will set the direction for today.

**Dr HORTON:** Good morning. Committee, this morning we hope that you will hear first from Detective Sergeant David Beattie. Then we will seek to call Ms Tamara O'Shea, who was the interim administrator, about which you heard some evidence yesterday. Then we hope you will hear from two former councillors—Russell Bruce Lutton and Trevina Dale Schwarz. Mr McMillan will be doing the questioning of Detective Sergeant Beattie, with the committee's permission.

**Detective Sergeant David BEATTIE** (accompanied by Mr Glen Rice QC and Mr Matthew Wilkinson)

*Witness was sworn—*

**Mr McMILLAN:** Good morning. You are Detective Sergeant David Beattie?

**Det. Sgt Beattie:** That is correct.

**Mr McMILLAN:** In 2018 and 2019 were you seconded to the Crime and Corruption Commission?

**Det. Sgt Beattie:** I was.

**Mr McMILLAN:** When did you commence your secondment to the Crime and Corruption Commission?

**Det. Sgt Beattie:** On 4 January 2016.

**Mr McMILLAN:** Can you give us a bit of an understanding of your background in policing and any other professional background you had prior to your secondment to the CCC?

**Det. Sgt Beattie:** Yes. It includes: general duties; Public Safety Response Team; Police Prosecution Corps; Upper Mount Gravatt Criminal Investigation Branch; Corrective Services Investigation Unit at the State Crime Command; Financial and Cyber Crime Group at the State Crime Command—co-located during that to the CMC; returned to Taskforce Maxima; and the 5½-year secondment to the CCC.

**Mr McMILLAN:** Prior to your secondment that started in 2016, you had previously had a period of time at the CMC, as it then was?

**Det. Sgt Beattie:** That is correct.

**Mr McMILLAN:** Did you conduct any corruption investigations as a police officer while you were at the CMC?

**Det. Sgt Beattie:** Yes, I did.

**Mr McMILLAN:** When you came to the CCC in 2016, that was not your first occasion being involved in corruption investigations?

**Det. Sgt Beattie:** That is correct.

**Mr McMILLAN:** When did you start with Operation Front?

**Det. Sgt Beattie:** When I returned after a period of leave in January 2018.

**Mr McMILLAN:** There were a number of seconded police officers who were part of Operation Front, including Detective Sergeant Andrew Francis. I understand that he was the case officer for that operation?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** What was your role, or at least your role as you perceived it to be, in relation to Andrew Francis, who was the case officer?

**Det. Sgt Beattie:** As an investigator to work as part of a multidisciplinary team to assist with any investigative tasks.

**Mr McMILLAN:** Did you take any directions or workflow from Mr Francis or did you take that from your superior officers?

**Det. Sgt Beattie:** It was from superior officers.

**Mr McMILLAN:** Had you been involved in a fraud investigation before?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** Was that at the CCC or in your previous general policing duties?

**Det. Sgt Beattie:** Previously I had been a detective at the fraud squad, and at Taskforce Maxima I had also undertaken a fraud investigation.

**Mr McMILLAN:** You had some good experience in understanding the type of evidence that would need to be gathered to establish an offence of fraud and the way that a prosecutor would need to prove that particular offence?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** Can I take you to the bundles in front of you. You should have two bundles. There is a larger bundle, which should be marked as volume 1, and a smaller bundle, which should be marked as volume 2. Could I ask you to turn to page 29 of volume 2.

**Det. Sgt Beattie:** Yes, I have found that.

**Mr McMILLAN:** You will see there an email from Detective Senior Sergeant Mark Andrews addressed to Makeeta McIntyre. Ms McIntyre was the lawyer attached to Operation Front; is that right?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** You are also copied into that email. The email is dated 11 September 2018. You will see in it that Senior Sergeant Andrews refers to a document which is attached. That document was an email use policy for the Queensland government. You will note he writes—

Hey Makeeta,

Section 9.2 says WhatsApp is prohibited.

The third sentence reads—

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

When you received that letter, were you aware that there had been discussion amongst the Operation Front team about delivering some WhatsApp communications to the Logan City Council?

**Det. Sgt Beattie:** I am not entirely sure. I was on a period of leave in September and October 2018. I am not entirely sure if I was present on 11 September 2018.

**Mr McMILLAN:** Have you had the opportunity to go back and look at the dates that you were on leave specifically?

**Det. Sgt Beattie:** I have brought my diaries with me so I can refer to those.

**Mr McMILLAN:** If you can tell us that period of leave, that would be helpful.

**Det. Sgt Beattie:** Referring to diary K20469, with reference to page 15, that is 11 September 2018. I was at work on that date. That period of leave that I was referring to was from Thursday, 13 September 2018 until Sunday, 7 October 2018.

**Mr McMILLAN:** That is helpful, thank you. You were at work on Tuesday the 11th. I do not expect you to particularly remember receiving this email, but have you had the opportunity to consider the bundles that are in front of you and look for any emails or correspondence that you might have been a party to prior to giving evidence today?

**Det. Sgt Beattie:** Yes, I have.

**Mr McMILLAN:** Did that assist you at all to recall when it was that your team began discussion about delivering the WhatsApp messages to the Logan City Council?

**Det. Sgt Beattie:** No.

**Mr McMILLAN:** As at 11 September, there seems to be, at least from Mr Andrews's perspective, a desire to deliver those documents to the Logan City Council the following day, on 12 September. Were you aware at that point that the Queensland Industrial Relations Commission had made rulings in respect of some material that was the subject of a notice of attendance to produce issued by Ms Kelsey's lawyers in the Queensland Industrial Relations Commission?

**Det. Sgt Beattie:** I do not recall specifically whether I was aware.

**Mr McMILLAN:** I should have asked you at the start of your evidence: do you have any qualifications or training in law?

**Det. Sgt Beattie:** No. I should just clarify: other than the police prosecutor's course but no formal—

**Mr McMILLAN:** I see. With your long experience as a police officer and perhaps particularly in the police prosecutions corps, you would be conscious, wouldn't you, to abide by any court orders that were made that might affect the work that you were doing as an investigator?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** Particularly as it related to any documents that you might seek to use or disseminate as part of your investigation?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** Coming back to this email on 11 September, are you able to say whether at that stage you were aware that the Queensland Industrial Relations Commission had made a ruling that affected at least some of that material?

**Det. Sgt Beattie:** Looking back, I think the best answer I could probably give would be quite possibly, although I cannot be definitive.

**Mr McMILLAN:** You cannot recall any particular conversations amongst the police officers seconded to Operation Front about that issue?

**Det. Sgt Beattie:** Can you clarify the question?

**Mr McMILLAN:** Can you recall any conversations amongst the police officers that were part of Operation Front about that issue—that is, the issue of what use might be made of the WhatsApp documents?

**Det. Sgt Beattie:** I do have a recollection of conversations in respect of the WhatsApp documents generally, but I do not have any specific recollections more specific than just a general impression.

**Mr McMILLAN:** You will see from the context and the content of this email from Detective Senior Sergeant Andrews on 11 September that it seems that he was seeking to find a reason that might justify the delivery of those documents to the Logan City Council. He identified the potential breach of the Queensland government email use policy and raised that with Ms McIntyre. It is my suggestion to you that that is a fair reading of that email. Did that give you any concern that that might conflict with the ruling that had been made by Commissioner Black in the Queensland Industrial Relations Commission?

**Det. Sgt Beattie:** I will just have a read of it.

**Mr McMILLAN:** Certainly.

**Det. Sgt Beattie:** No would be my answer.

**Mr McMILLAN:** It did not give you any concern?

**Det. Sgt Beattie:** No.

**Mr McMILLAN:** Do you know what the purpose was for the officers involved in Operation Front wanting to deliver that material to the Logan City Council, at least as at 11 September 2018?

**Det. Sgt Beattie:** With reference to the documents that the committee has supplied and I have had the opportunity to read, I understand it was in relation to a potential breach of the Public Records Act.

**Mr McMILLAN:** Had that been something that had been discussed amongst the officers, including you?

**Det. Sgt Beattie:** Again, I am referring to the documents that I have had the opportunity to read. I was not present for what appears to be some of those discussions, and during when the delivery was made to Logan City Council I was on that period of leave. So I do not have any independent knowledge of those conversations that led to that.

**Mr McMILLAN:** Appreciating that it is some years ago now, your best recollection sitting here today is that, as at 11 September, that was the purpose that was being contemplated by the officers attached to Operation Front for delivering the WhatsApp documents to the Logan City Council?

**Det. Sgt Beattie:** As at 11 September, I am unsure. I do not have a recollection of this email. My memory comes from events after I returned.

**Mr McMILLAN:** Yes. I will take you to them in due course, but there is certainly correspondence later about the Public Records Act. My suggestion to you is that it seems from Mr Andrews's email on 11 September that there is certainly no reference to the Public Records Act and, indeed, that there is an effort, at least by Mr Andrews and perhaps others, to identify some other reason that is not mentioned as the Public Records Act for the proposed delivery of those documents.

**Det. Sgt Beattie:** On the face of that email, I would agree with you, yes.

**Mr McMILLAN:** Can I take you to page 28, which is Ms McIntyre's response to that email at 5.08 am on 12 September. Take your time to read that to yourself, if you wish. You will see the third sentence where she says—

We might need to dig a little deeper. To enliven our jurisdiction, we have to say the use of communication apps is corrupt conduct. I'm not sure whether it does without sitting down and considering further ...

That is legal advice essentially coming from Ms McIntyre that, in order to enliven the CCC's jurisdiction, you might need to find another reason to deliver the documents. Then you respond. The start of your email you can see at the very bottom of page 27, Detective Sergeant. If you go over to page 28, you will see your response is sent at 8.11 am on 12 September to Ms McIntyre, Detective Senior Sergeant Andrews and others, including Detective Sergeant Andrew Francis and Inspector Preston.

**Det. Sgt Beattie:** Yes, I have found that email.

**Mr McMILLAN:** Have you had the opportunity to read that email recently?

**Det. Sgt Beattie:** No, I have not.

**Mr McMILLAN:** Could you take a few moments to read through your email so I can ask you about it?

**Det. Sgt Beattie:** Yes, I will do that. Yes, I have read that.

**Mr McMILLAN:** First of all, there is no mention of the Public Records Act in your email, is there?

**Det. Sgt Beattie:** Correct.

**Mr McMILLAN:** You start the email by saying—

Team,

My 10c worth...

I think the use of WhatsApp by the Fab7 is contrary to the principles that underpin the Local Government Act 2009 ...

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** You go on to explain that view in some detail. You would agree with me, wouldn't you, that this is you making your contribution with another idea that might justify the delivery of the WhatsApp documents to the council at or about 12 September?

**Det. Sgt Beattie:** It is certainly, yes, me giving my 10 cents worth and opinion about another idea. As to the second part of your question, I am not entirely sure whether it was for the purpose of delivery to council or what might have been made use of it. I do not have a particular recollection of that.

**Mr McMILLAN:** I am not asking you for the moment about what the council might do with that material. It is clear, I suggest, from Detective Senior Sergeant Andrews's email that he is notifying Ms McIntyre and the team that they propose to deliver the documents the following day, on 12 September. Ms McIntyre responds early that morning, on 12 September, and effectively says that you need to dig a little deeper in order to enliven the CCC's jurisdiction. Then you reply to her email with a suggestion that might do as she suggests and enliven the CCC's jurisdiction to deliver those documents. Is that not a fair reading of that chain of emails?

**Det. Sgt Beattie:** I am just reading, yes. I certainly agree with the proposition that Detective Andrews had posed that the WhatsApp would be delivered to Logan council. I am not entirely sure, though, looking at my response, that I have specifically targeted that for that particular purpose, but I do agree with the proposition that the general thread of the email chain is in relation to a consideration of the delivery of material to council.

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

**Mr McMILLAN:** It is an attempt by you and other members of the team to find a reason that the CCC might legally and justifiably deliver that material that does not include the Public Records Act; do you agree?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** You have said in the last sentence of your email—

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.

This is you suggesting that the team needs to do some research in order to find something wrong with the use of the WhatsApp, isn't it?

**Det. Sgt Beattie:** Yes, it is certainly me suggesting that we could research to find out some more information about some legislation perhaps or a policy around the use of WhatsApp, yes.

**Mr McMILLAN:** Why would you need to do research in order to find out something that might justify you alleging that the use of WhatsApp was unlawful or improper?

**Det. Sgt Beattie:** Well, in order to present the WhatsApp in the criminal case, if it could be demonstrated that there was some particular prohibition against it—for example, a policy of Logan council—it would aid in proving the element of dishonesty.

**Mr McMILLAN:** So you had taken a view—and I am asking about your personal view, not necessarily the view of the team at the moment—by this point that the use of the WhatsApp messaging service by the seven councillors identified as the 'fab 7' was in some way dishonest?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** You had not at that stage identified any basis upon which that use was unlawful, but you thought some research might need to be done in order to identify a basis upon which the CCC could allege that it was unlawful?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** Isn't your job as a police officer to investigate possible criminal offences, rather than to look for a basis upon which conduct might otherwise be alleged as unlawful? Aren't you rather putting the cart before the horse?

**Det. Sgt Beattie:** No, no.

**Mr McMILLAN:** All right. Could I ask you to turn over the page, again to page 27.

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** This is a further email from you on 12 September, this time at 9.38 am, to the same recipients. It appears to be you again responding to the same thread of emails. You start—

Further,

I'm thinking the Fab 7 councillors had a Material Personal Interest they should have declared at the 7 February 2018 vote to sack the CEO,

Then you go on. This is another email where you have come up with another idea that might justify the delivery of these documents to the Logan City Council; is that right?

**Det. Sgt Beattie:** I will just take a moment to read the email, please.

**Mr McMILLAN:** Sure.

**Det. Sgt Beattie:** Thank you, I have read that.

**Mr McMILLAN:** Do you agree with my proposition that this is a further thought by you, an hour or so later than your earlier email, where you offer up yet another option that might justify the delivery of these documents to the council that day or the following day?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** Can I draw your attention to the fourth paragraph. You start that paragraph by saying—

So if we can make a case the Fab 7 councillors had a material personal interest they should have declared ...

and you continue on. At the conclusion of that paragraph you note—

If charged—

with that offence, relevantly—

it attracts a maximum of 200 penalty units or 2 years in prison and disqualification from being a councillor for four years as prescribed in—

the Local Government Act. Is a fair reading of this email that you are looking for an offence that might cause the councillors to be disqualified from office?

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**Det. Sgt Beattie:** No.

**Mr McMILLAN:** Why not?

**Det. Sgt Beattie:** I think I was being frank and fulsome in relaying the particular section of the act, the penalty.

**Mr McMILLAN:** You go on—

A person is automatically suspended as a councillor when the person is charged with this offence.'

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** So you make the point twice. First you say, 'If charged they are automatically disqualified,' and then you say, 'They are suspended as a councillor.'

**Det. Sgt Beattie:** Yes, that is correct.

**Mr McMILLAN:** Why is this important at this point of your investigation?

**Det. Sgt Beattie:** Why is it important? Well, again, just being frank in the disclosure of that particular section there of the Local Government Act.

**Mr McMILLAN:** Were you aware, Detective Sergeant Beattie, at this time, that Mr Docwra from the legal division of the CCC had undertaken research in August 2018 to identify offences that might cause councillors to be disqualified from office?

**Det. Sgt Beattie:** No. Sorry, no.

**Mr McMILLAN:** You were not aware of that?

**Det. Sgt Beattie:** No.

**Mr McMILLAN:** Was this a topic of discussion amongst the police officers attached to Operation Front, that there was some need to identify offences that might cause the councillors to be disqualified from office?

**Det. Sgt Beattie:** No.

**Mr McMILLAN:** Again, in paragraph 4 of this email, Detective Sergeant Beattie, you are saying 'if we can make a case' against 'the Fab 7'. You are, I would suggest to you, at this point looking for offences for which you might charge the seven councillors before you have completed your investigation of the facts?

**Det. Sgt Beattie:** Certainly, as an investigator, I always try to be cognisant of the potential offences that the behaviour I am investigating may lend itself to charging, yes.

**Mr McMILLAN:** Is it not the case that a proper and lawful investigation should be conducted by gathering relevant evidence and then determining whether that evidence supports any criminal charge and, if so, which criminal charge?

**Det. Sgt Beattie:** No, I do not entirely agree with that proposition.

**Mr McMILLAN:** You do not think it is improper for an officer conducting a criminal investigation to look for an offence and then look for evidence that might fit that offence after the offence has been identified?

**Det. Sgt Beattie:** In the manner in which you have described, yes, it would appear to be so; however, I think that it would be the job of a competent investigator to be cognisant of a wide range of offences whilst conducting the investigation.

**Mr McMILLAN:** In fairness, I take it your evidence is that is not what occurred here, or at least at this point of the investigation.

**Det. Sgt Beattie:** Sorry, what did not occur here?

**Mr McMILLAN:** I put a proposition to you as a generality that it would be improper to conduct an investigation in the way that I described; namely, identifying an offence and then looking for evidence to meet that offence rather than the other way around. I take it your evidence is that that was not what you were doing in your role as an investigator on Operation Front?

**Det. Sgt Beattie:** No, I was taking a—I certainly was not looking for particular offences and then targeting the investigation to the exclusivity of that particular offence, no.

**Mr McMILLAN:** All right. Just before we depart this chain of emails, it is clear, is it not, from that chain of emails that the officers at least involved in Operation Front were putting considerable thought into the means by which they might cause the WhatsApp material to be delivered to the Logan City Council?

**Det. Sgt Beattie:** Certainly putting thought into it, yes.

**Mr McMILLAN:** Again, in your email of 9.38 am on that day there is no mention of the Public Records Act, is there?

**Det. Sgt Beattie:** No, there is not.

**Mr McMILLAN:** Could I ask you, please, to turn to page 93 of that same bundle.

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** You will see in the middle of the page an email from you to Detective Senior Andrews, Detective Inspector Preston and others. The email chain, just for your understanding, Mr Beattie, starts, I think, on page 95. You will see there an email from Makeeta McIntyre to Dan Williams at MinterEllison.

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** You will see that email chain continues through to your email that I have taken you to on page 93.

**Det. Sgt Beattie:** Yes, I see that.

**Mr McMILLAN:** Can I draw your attention particularly, please, to page 94, which is an email from a solicitor at MinterEllison to Makeeta McIntyre attaching what is described as 'our closing submissions', and you will see above that Ms McIntyre forwarded that email on to others at the CCC, not including you?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** Then eventually Detective Senior Sergeant Andrews forwards that email to you at 11.06 am on 25 March?

**Det. Sgt Beattie:** Yes, that is correct.

**Mr McMILLAN:** Did you take the opportunity to read the submissions that were attached to the email forwarded to you by Detective Senior Sergeant Andrews?

**Det. Sgt Beattie:** I did.

**Mr McMILLAN:** All right. You are aware, having read them, that they were the submissions being made by Ms Kelsey's advocates to the Queensland Industrial Relations Commission on her behalf?

**Det. Sgt Beattie:** Yes, that is correct.

**Mr McMILLAN:** You would have understood from your long experience as an officer, including at the Police Prosecutions Corps, that that was a piece of persuasive advocacy intended to present Ms Kelsey's case in the best possible light and her opponents' case in the worst possible light?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** So it would necessarily be an imbalanced and partial recitation of the evidence and the arguments relevant to Ms Kelsey's case?

**Det. Sgt Beattie:** No.

**Mr McMILLAN:** You would not agree with that?

**Det. Sgt Beattie:** No.

**Mr McMILLAN:** All right. Did you think it important for at least someone in Operation Front to read and consider the submissions made by the other parties to that litigation?

**Det. Sgt Beattie:** No.

**Mr McMILLAN:** You did not?

**Det. Sgt Beattie:** No.

**Mr McMILLAN:** Notwithstanding the CCC's responsibility to act independently and impartially?

**Det. Sgt Beattie:** Yes, the CCC does have a responsibility there, yes.

**Mr McMILLAN:** You did not think that only reading the submissions of one party to civil litigation that would necessarily be a persuasive piece of advocacy on behalf of that party would tend to give the CCC an imbalanced or partial view of the evidence and arguments presented in those submissions?

**Det. Sgt Beattie:** It would certainly give one side of the view.

**Mr McMILLAN:** A way to correct that one-sidedness would be to read the other side's arguments, would it not?



**Det. Sgt Beattie:** You could, yes.

**Mr McMILLAN:** Is there any other way?

**Det. Sgt Beattie:** Sorry?

**Mr McMILLAN:** Is there any other way to correct that imbalance or one-sidedness, as you have described it?

**Det. Sgt Beattie:** Well, no, you could read both sides and then you would have both sides of the argument; I would agree with that.

**Mr McMILLAN:** You then reply to Detective Senior Sergeant Andrews's email later that same day, about two hours later, at 1.08 pm. I take it during that two hours you read the submissions?

**Det. Sgt Beattie:** Quite possibly, yes.

**Mr McMILLAN:** You respond—

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?

**Det. Sgt Beattie:** Yes, that is correct.

**Mr McMILLAN:** Again, you did not think to yourself that extracting parts of the arguments made by Ms Kelsey's lawyers on her behalf might give those who were receiving your email a one-sided or imbalanced view of the evidence and arguments presented?

**Det. Sgt Beattie:** No.

**Mr McMILLAN:** How did you think you might correct that imbalance if you did not consider you needed to read the other side's submissions?

**Det. Sgt Beattie:** I did not have any concern in my mind that I needed to correct any imbalance.

**Mr McMILLAN:** I see. You say you have cut and pasted from those submissions where MinterEllison have submitted that the respondents gave false evidence. You did not think it important to consider what the reply to those submissions might be?

**Det. Sgt Beattie:** No.

**Mr McMILLAN:** Why not?

**Det. Sgt Beattie:** At that point in time the reason I had cut and pasted, as I have said there in that email, bits from the MinterEllison closing submissions where the respondents gave false evidence was a preliminary—starting to conduct some preliminary investigations in relation to whether or not, as they were there respondents, but the councillors—the seven councillors had potentially perjured themselves.

**Mr McMILLAN:** Had you read the affidavits filed by those councillors in the Queensland Industrial Relations Commission proceeding?

**Det. Sgt Beattie:** I had read three of them.

**Mr McMILLAN:** Three of the seven?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** In fact, the seven are the seven named respondents, but some of them filed more than one affidavit, didn't they?

**Det. Sgt Beattie:** Yes, I believe they did.

**Mr McMILLAN:** You only read three of the however many total affidavits had been filed?

**Det. Sgt Beattie:** I could elaborate: I read affidavits pertaining to three of the councillors.

**Mr McMILLAN:** I see.

**Det. Sgt Beattie:** So I am not entirely sure exactly how many affidavits.

**Mr McMILLAN:** Did you have access to the transcripts of those councillors' oral evidence before the Queensland Industrial Relations Commission?

**Det. Sgt Beattie:** No.

**Mr McMILLAN:** You understand, do you not, that where evidence is provided in chief by way of affidavit in a proceeding and that person is called to be cross-examined in a proceeding that is the opportunity for the other parties to the litigation to challenge the evidence that is contained in the affidavit?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** That would be important information for you, would it not, in assessing what weight to give to the information in the affidavits to see how that evidence had been challenged by the advocates representing the other parties?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** Again, you would not necessarily expect to see a fair or indeed positive account of that cross-examination in the submissions made by Ms Kelsey's lawyers, would you?

**Det. Sgt Beattie:** I do not entirely agree with that, no.

**Mr McMILLAN:** Well, putting aside the fairness, you would not expect to see a positive account of that evidence in Ms Kelsey's submissions, would you?

**Det. Sgt Beattie:** It would certainly be perhaps coloured to favour Ms Kelsey's point of view of the argument, yes.

**Mr McMILLAN:** Yes. And might not, for example, include portions where the evidence did not favour Ms Kelsey's arguments?

**Det. Sgt Beattie:** I guess there is potential for that, but I would have had no means to be able to check that.

**Mr McMILLAN:** This is the difficulty, isn't it, with you cutting and pasting from Ms Kelsey's submissions, having not had regard to the submissions that might have been filed on behalf of any other party, or indeed the transcripts of evidence given by those parties before the Industrial Relations Commission?

**Det. Sgt Beattie:** Yes, it certainly is a difficulty.

**Mr McMILLAN:** Do you accept now, with the benefit of hindsight, that that lacks the independence and impartiality that is required of an investigation being undertaken by the CCC?

**Det. Sgt Beattie:** No. At that point in time, it was very preliminary in any investigation that never got off the ground in respect of the potential perjuries by the councillors.

**Mr McMILLAN:** I see. It was very preliminary in the stage of an investigation that never got off the ground?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** You are referring to the fact that none of those seven councillors were ever charged with perjury?

**Det. Sgt Beattie:** Correct.

**Mr McMILLAN:** And, indeed, no formal investigation was in fact ever undertaken by the CCC or, to your knowledge, anyone else about that?

**Det. Sgt Beattie:** Correct.

**Mr McMILLAN:** You say it was an early stage in the investigation. Can I take you then to Detective Sergeant Francis' email responding to yours on the same day, about 18 minutes later, at 1.26 pm. I am sorry, I have skipped over Senior Sergeant Andrews' email. Senior Sergeant Andrews responds to you fairly promptly, in less than 10 minutes, and says—

2 May is set for submissions in QIRC ...

And then says in the second sentence—

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

Did you understand that there was some particular urgency in the investigation that required the mayor and 'a decent portion of The Fab7' to be arrested and charged before 2 May?

**Det. Sgt Beattie:** No.

**Mr McMILLAN:** What did you understand Detective Senior Sergeant Andrews to be referring to when he said, 'We really need to arrest those people before 2 May'?

**Det. Sgt Beattie:** His personal view on the matter.

**Mr McMILLAN:** And you did not have any understanding at that stage as to why that was necessary?

**Det. Sgt Beattie:** No.

**Mr McMILLAN:** You had asked the question in your email: 'When's the QIRC decision?'

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** Why was that important to you?

**Det. Sgt Beattie:** I felt it was important just to keep abreast of the QIRC proceedings generally.

**Mr McMILLAN:** Nothing more?

**Det. Sgt Beattie:** Nothing more.

**Mr McMILLAN:** You did not think that the intention, at least at that stage, to resume the QIRC proceedings on 2 May had any impact on your investigation at all?

**Det. Sgt Beattie:** No.

**Mr McMILLAN:** Were you aware at that stage that Ms Kelsey was seeking reinstatement as the CEO of the Logan City Council?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** And that, when those proceedings in the Industrial Relations Commission resumed, the commission was scheduled to hear closing oral submissions by the parties?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** And that one of the issues that would be the subject of submissions on that date would be whether or not Ms Kelsey could or should be reinstated if she was successful in her action?

**Det. Sgt Beattie:** I am not entirely sure that I was cognisant to that level of detail.

**Mr McMILLAN:** You had just read the written submissions made by her Queen's Counsel, had you not?

**Det. Sgt Beattie:** Yes, I had.

**Mr McMILLAN:** And surely that issue would have been apparent in your mind at that time, having just read the submissions made by her Queen's Counsel?

**Det. Sgt Beattie:** Well, I do not have a recollection of actually what particular submissions Ms Kelsey's counsel was making in respect of her petition before the QIRC, other than his summation of the respondents' false evidence.

**Mr McMILLAN:** What did you understand to be the consequence of arresting the mayor and 'a decent portion of The Fab7' before the QIRC proceedings resumed on 2 May?

**Det. Sgt Beattie:** They would be charged, to face a criminal court in the Magistrates.

**Mr McMILLAN:** And did you understand at this stage—that is, on 26 March 2019—that the team were considering charges that might result in the councillors being removed from office upon being charged?

**Det. Sgt Beattie:** I do not recall any discussions around whether or not the councillors may be removed from office, no.

**Mr McMILLAN:** At this stage, what charges were the team considering?

**Det. Sgt Beattie:** Misconduct in relation to public office, to the best of my recollection.

**Mr McMILLAN:** And were you given any advice by Ms McIntyre or anyone else that a charge of that kind would cause the councillors to be suspended from office by operation of the Local Government Act?

**Det. Sgt Beattie:** I do not recall whether I received any advice from Ms McIntyre or anyone else on that point, no.

**Mr McMILLAN:** When do you think you found out that there might have been a charge being contemplated against the councillors—putting aside the mayor for a moment, who I understand there were other issues and other charges being considered. Dealing with the other seven councillors, when did you become aware that Operation Front were considering charging an offence that would cause those councillors to be removed from office?

**Det. Sgt Beattie:** I think after the vote of 7 February 2018. That was the point in time in which the CCC considered that the seven councillors who had voted were suspects in relation to that matter as well.

**Mr McMILLAN:** Yes. And from that very date, was the CCC considering charges that might cause the councillors to be removed from office?

**Det. Sgt Beattie:** Certainly they were suspects for misconduct in relation to public office, yes.

**Mr McMILLAN:** From 7 February?

**Det. Sgt Beattie:** When they became suspects, yes.

**Mr McMILLAN:** And I am asking you: was that on 7 February?

**Det. Sgt Beattie:** To my recollection, yes.

**Mr McMILLAN:** So on the very day that the council resolves to terminate Ms Kelsey's employment, the police officers attached to Operation Front formed a view they were suspects who might have committed misconduct in public office?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** At that stage—having conducted no investigation whatsoever into the reasons that they might have had for taking that action on 7 February?

**Det. Sgt Beattie:** I disagree with that.

**Mr McMILLAN:** At that stage, had you personally—that is, on 7 February—read the affidavits filed in the QIRC proceedings by those councillors?

**Det. Sgt Beattie:** No.

**Mr McMILLAN:** And you understood, having read them later, or at least some of them, that those affidavits set out reasons that those councillors had for taking that action?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** That is a critical piece of evidence in an investigation for misconduct in public office, is it not—to understand what the accused might say their reasons were?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** And yet, without that information or having taken any steps to obtain those councillors' explanations, you as part of the team formed the view that they might be guilty of misconduct in public office?

**Det. Sgt Beattie:** No, that is not correct.

**Mr McMILLAN:** What part of that is not correct?

**Det. Sgt Beattie:** That they might be guilty.

**Mr McMILLAN:** They were suspects.

**Det. Sgt Beattie:** Correct.

**Mr McMILLAN:** For that offence.

**Det. Sgt Beattie:** Correct.

**Mr McMILLAN:** Having taken no step whatsoever to understand the reasons that they might have had for taking the action they did on 7 February?

**Det. Sgt Beattie:** No, I disagree with that.

**Mr McMILLAN:** What investigative steps had you taken to understand their reasons?

**Det. Sgt Beattie:** I had appraised myself of the telephone intercept material.

**Mr McMILLAN:** When did you do that?

**Det. Sgt Beattie:** When I returned to work in January 2018, mayor Smith's line was being lawfully intercepted and I received daily briefings in respect of the communications that were intercepted over that line.

**Mr McMILLAN:** Yes. Is that all?

**Det. Sgt Beattie:** I am not entirely sure when the WhatsApp on mayor Smith's phone was extracted as well, but definitely had recourse to the telephone intercept material.

**Mr McMILLAN:** Could I ask you to turn to page 97 of that same bundle, please, Detective Sergeant.

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** This is, we have heard from other witnesses, a memorandum that was principally prepared by Detective Sergeant Francis for consideration by the senior executive of the CCC as to charges that might be considered against the mayor Luke Smith.

**Det. Sgt Beattie:** Yes, that is correct.

**Mr McMILLAN:** Did you contribute at all to the creation or preparation of this memo?

**Det. Sgt Beattie:** I did.

**Mr McMILLAN:** What was your contribution?

**Det. Sgt Beattie:** Reviewing the document as it was prepared in draft form and providing some research, the telephone intercept material.

**Mr McMILLAN:** Do you recall when you made your contributions—and I think the first iteration of this memo, we can see, is dated 25 March 2019.

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** There are other versions of it in the bundle, Detective Sergeant, but my question is: when you contributed to the first draft of it, do you recall whether you had already read the submissions made by Ms Kelsey's lawyers in the Queensland Industrial Relations Commission?

**Det. Sgt Beattie:** Just one moment.

**Mr McMILLAN:** Sure.

**Det. Sgt Beattie:** No, I would not have. I only received those submissions on 26 March.

**Mr McMILLAN:** Did you contribute to later versions of this memo, from your memory?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** It evolved over some time and ultimately a version of the memo was presented to the chair of the CCC for consideration in April 2019, shortly before the mayor and seven councillors were charged with fraud?

**Det. Sgt Beattie:** Yes, that is correct.

**Mr McMILLAN:** Did you contribute at various times between March 2018 and April 2019 to evolutions of this memo?

**Det. Sgt Beattie:** I did.

**Mr McMILLAN:** At any time during that period did you cut and paste portions of Ms Kelsey's submissions into the memo?

**Det. Sgt Beattie:** No.

**Mr McMILLAN:** Do you know if anyone else did?

**Det. Sgt Beattie:** No.

**Mr McMILLAN:** You do not know, or you can say affirmatively they did not?

**Det. Sgt Beattie:** I do not know categorically, but it would have stood out had it been the practice to do so.

**Mr McMILLAN:** All right. Can I take you to page 149, please. This is another version of the memo, and my interest is only in the tracked changes. You will see there a number of tracked changes comments with the initials 'DB'.

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** Are they your comments?

**Det. Sgt Beattie:** 'DB' is certainly my initials, but I am not—I could not say with any confidence that it is particularly—that it is me.

**Mr McMILLAN:** Can I ask you to take a few moments to look through the more substantive comments, other than the typographical ones, and see if that assists your memory as matters that you thought needed further consideration or further attention in the memo? Particularly, there is a comment on page 150 that might assist you.

**Det. Sgt Beattie:** Yes, they certainly seem like comments I have made.

**Mr McMILLAN:** So that assists you to confirm that the comments in this document are your comments?

**Det. Sgt Beattie:** I think so, yes.

**Mr McMILLAN:** Thank you. That is helpful. It seems, at least on this version of the document that you commented upon, Detective Sergeant Beattie, that at this point in time the officers who have contributed to this memo, including you, have not given any consideration to charging the seven councillors with fraud as it relates to the termination of Ms Kelsey's employment. The charge that seems to be considered on page 158 of this version is reprisal/misconduct.

**Det. Sgt Beattie:** Oh, yes.

**Mr McMILLAN:** You see that?

**Det. Sgt Beattie:** Yes, I see that.

**Mr McMILLAN:** And to the extent the memo refers to fraud, it refers to the charge of fraud that is considered against the mayor for a different reason?

**Det. Sgt Beattie:** Let me just turn to an earlier page. I can see on page 148 a misconduct there in relation to mayor Luke Smith.

**Mr McMILLAN:** I will take you to 152; 152 is the mention of fraud.

**Det. Sgt Beattie:** Oh, yes. I agree with you, yes.

**Mr McMILLAN:** Do you recall when it was that the team started thinking about—if indeed ever the team started thinking about—whether the seven councillors should be charged with the offence of fraud rather than the offences which are considered in this memo, namely, reprisal and misconduct?

**Det. Sgt Beattie:** I think it—excuse me. Upon review of the material that the committee supplied me, I notice there was a briefing note that had returned back from the chair where the chair had commented his approval to charge with fraud.

**Mr McMILLAN:** Yes.

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** So you think, at least from your memory, the idea of charging fraud came from the chair rather than from your team?

**Det. Sgt Beattie:** I think so, yes.

**Mr McMILLAN:** Was that unusual in your experience—by this stage your substantial experience at the CCC and previously the CMC—for the chair to suggest a particular charge that might arise from the investigation undertaken by the seconded police?

**Det. Sgt Beattie:** No, not particularly.

**Mr McMILLAN:** It was not?

**Det. Sgt Beattie:** No.

**Mr McMILLAN:** Had you given consideration yourself, given your experience particularly in fraud investigations, as to whether or not the evidence that your team had gathered could support a charge of fraud against the councillors?

**Det. Sgt Beattie:** I think it would be fair to say that I would probably turn my mind to it, given that the element of dishonesty is common between both misconduct in relation to public office and fraud generally, yes.

**Mr McMILLAN:** Yes?

**Det. Sgt Beattie:** Mm.

**Mr McMILLAN:** Did you give consideration to how you might establish that each of the seven councillors individually—how you could prove that their actions in individually voting in favour of Ms Kelsey's termination could have caused her a detriment?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** And what was your conclusion?

**Det. Sgt Beattie:** My conclusion was that I was satisfied that we could.

**Mr McMILLAN:** Even though the individual vote of a single councillor could not have caused Ms Kelsey a detriment or the detriment which was alleged, namely, the loss of her employment?

**Det. Sgt Beattie:** No. I saw it as a joint enterprise.

**Mr McMILLAN:** I see. Did you give consideration particularly to the WhatsApp communications as evidence of that joint enterprise?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** And what did you make of the fact that councillor Russell Lutton was not a party to those communications?

**Det. Sgt Beattie:** I did not see that as a particular hindrance.

**Mr McMILLAN:** Even though that was a critical piece of evidence, in your view, demonstrating the joint enterprise?

**Det. Sgt Beattie:** Correct.

**Mr McMILLAN:** So how did you think that you might be able to sustain a charge of fraud against councillor Lutton given that he was not part of that communication?

**Det. Sgt Beattie:** Yes. There was telephone intercept evidence that corroborated the fact that Lutton had been included in the discussions post a particular WhatsApp episode, so to speak.

**Mr McMILLAN:** I see. And you did not think it an impediment that, in fact, the vote of the councillors was but one step in the chain that ultimately led to Ms Kelsey's termination of employment that was taken by the council itself rather than the individual councillors?

**Det. Sgt Beattie:** No, I did not see it as an impediment.

**Mr McMILLAN:** Did you ever seek or obtain legal advice about those issues of proof and how the investigation team might prove the charges that were being considered against the councillors?

**Det. Sgt Beattie:** No.

**Mr McMILLAN:** Is that not a usual step as part of an investigation, at the CCC at least, that the lawyer attached to the operational team would provide that type of advice?

**Det. Sgt Beattie:** Yes. I was aware this memo had progressed up to Mr Alsbury, who is a former Crown prosecutor.

**Mr McMILLAN:** Could you turn to page 43 please of that bundle.

**Det. Sgt Beattie:** 43?

**Mr McMILLAN:** Yes, 43.

**Det. Sgt Beattie:** Yes, I have found that page.

**Mr McMILLAN:** You will see here a document headed 'Legal Advice—Observations', prepared by Ms McIntyre. You can take it from me that it was prepared sometime in December 2018.

**Det. Sgt Beattie:** Okay.

**Mr McMILLAN:** It sets out in it—this is only an incomplete draft, but Ms McIntyre has told the committee that she prepared this document in late 2018 and considered, for example—take your time to have a look through it—the elements of the offences that might be considered as, at least, against the mayor at that stage and how the evidence gathered might sustain those elements.

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** Had you seen an advice like this provided by the lawyer attached to your operational team in other operations that you were involved with at the CCC?

**Det. Sgt Beattie:** In other operations, yes.

**Mr McMILLAN:** Did you ever see this document?

**Det. Sgt Beattie:** No, I do not believe I did.

**Mr McMILLAN:** And no other lawyer ever provided a document of this kind to Operation Front?

**Det. Sgt Beattie:** No, not to my knowledge.

**Mr McMILLAN:** Wouldn't that have been of assistance to you and the other police officers to understand a lawyer's view of the legal issues that might arise in terms of proof and how the evidence might or might not sustain any of the charges that were being considered by the officers?

**Det. Sgt Beattie:** Yes, I would view it as assisting.

**Mr McMILLAN:** To the extent that you did not receive advice of this kind, does that mean that the investigation was not complete or that your work prior to charging had not been undertaken in the way that it ordinarily would?

**Det. Sgt Beattie:** No.

**Mr McMILLAN:** Was there any particular reason that you are aware of that the mayor and councillors were charged on 26 April without the team having received this kind of advice?

**Det. Sgt Beattie:** Any reason? No.

**Mr McMILLAN:** Not that you are aware of?

**Det. Sgt Beattie:** No, none that I was aware of.

**Mr McMILLAN:** There was no particular urgency, I think you have said, in your mind at least, in having the mayor and councillors charged on that date in April 2019 without waiting for further advice?

**Det. Sgt Beattie:** Correct.

**Mr McMILLAN:** Could I ask you to take up volume 1 and turn to page 590.

**Det. Sgt Beattie:** Yes, I have found that.

**Mr McMILLAN:** Your email at 2.49 pm on 30 May is the email that I particularly want to ask you about, but take your time to look at the chain of emails that leads to yours. I think it starts at the bottom of page 591 with an email from DS Francis to Mark Andrews at 1.59 on 30 May.

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** Senior Sergeant Andrews forwards that to Inspector Preston and you and Sergeant Francis with his comments. You reply at 2.49 and in your second paragraph say—

I strongly echo Andrew and Mark's comments.

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** I take it you had read Andrew and Mark's comments in their entirety?

**Det. Sgt Beattie:** I had, but I will just take a moment to read them again.

**Mr McMILLAN:** Sure.

**Det. Sgt Beattie:** Yes, I have read those two emails.

**Mr McMILLAN:** You understood at the time of having received the email from Detective Senior Sergeant Andrews that he was responding to a number of comments and observations made by Detective Sergeant Francis?

**Det. Sgt Beattie:** Yes, that is correct.

**Mr McMILLAN:** And that Detective Sergeant Francis' observations and comments were made on the basis of his discussions with Ms Kelsey and the councillors named in his email?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** Did you know whether Detective Sergeant Francis had had any conversations directly with the administrator, Ms O'Shea, who is referred to in the email?

**Det. Sgt Beattie:** No.

**Mr McMILLAN:** Do you know whether he had raised any of the matters discussed in that email with her or the acting CEO, Silvio Trinca?

**Det. Sgt Beattie:** No.

**Mr McMILLAN:** You would have observed in Detective Senior Sergeant Andrews's response that he described the information given to the Queensland Industrial Relations Commission by the administrator and/or the acting CEO as incorrect or dishonest?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** And you replied shortly thereafter to that email, which was copied to, relevantly, your inspector, and say—

I strongly echo Andrew and Mark's comments.

**Det. Sgt Beattie:** I did.

**Mr McMILLAN:** So you strongly echoed Mark's comments that that information given by the administrator and/or the CEO to the Industrial Relations Commission was incorrect or dishonest?

**Det. Sgt Beattie:** I would not have thought that it was dishonest, but certainly the sentiment around incorrect.

**Mr McMILLAN:** That is an important distinction to make, is it not?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** And you did not make it in your email?

**Det. Sgt Beattie:** No, I did not.

**Mr McMILLAN:** You were adding your support to Detective Sergeant Francis' concerns raised in his email?

**Det. Sgt Beattie:** Yes, I was.

**Mr McMILLAN:** And then, when added with Detective Senior Sergeant Andrews's characterisation of the information as 'incorrect' or 'dishonest' and then your strong support for that, this paints a picture rather to the detective inspector, doesn't it, that Ms O'Shea and/or Silvio Trinca are providing incorrect or dishonest information to the Industrial Relations Commission?



**Det. Sgt Beattie:** It does.

**Mr McMILLAN:** Yet you had no basis whatsoever to assert that either of them had been dishonest in the information they had provided to the Industrial Relations Commission, did you?

**Det. Sgt Beattie:** No, I certainly had not spoken with them independently.

**Mr McMILLAN:** That is a significant departure, is it not, from the obligation to act independently and impartially?

**Det. Sgt Beattie:** Can you explain that, please?

**Mr McMILLAN:** You asserting to your inspector your strong agreement with an allegation of dishonesty for which you had absolutely no evidence or factual basis is a significant departure, is it not, from your obligation to act impartially and independently?

**Det. Sgt Beattie:** Well, it certainly would be had I been asserting that. You see from the contents of the paragraph underneath where I said—

I strongly echo Andrew and Mark's comments.

**Mr McMILLAN:** Yes.

**Det. Sgt Beattie:** The thrust of my sentiments are in relation to unbiased, impartial information, not in relation to—I have not certainly touched on any suspicions that I had that dishonest information was being passed on by the administrator.

**Mr McMILLAN:** So you were concerned that Ms O'Shea was not administering the council in an unbiased and impartial way?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** Based on the information contained in Detective Francis' email?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** Not based on any investigation or inquiries that you had made?

**Det. Sgt Beattie:** Correct.

**Mr McMILLAN:** I see. And you take it then a step further and say—

I would be supportive of the Chair taking our concerns to the Minister to petition the Minister to have the Administrator removed due to apparent bias which offends principle 1 (Integrity and Impartiality) of the Public Sector Ethics Act ...

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** That is an extraordinary step for an investigator in the CCC to take, is it not, to suggest that the chair of the CCC approach the Minister for Local Government to have the administrator of the council removed from office?

**Det. Sgt Beattie:** Some people would certainly view it as that, yes.

**Mr McMILLAN:** Do you accept that it is an extraordinary step for you to have taken at this point?

**Det. Sgt Beattie:** Yes, it certainly looks that way, yes.

**Mr McMILLAN:** At this stage the administrator had been appointed for less than a month, had she not?

**Det. Sgt Beattie:** I am not sure of the exact time, but certainly a short period of time, yes.

**Mr McMILLAN:** Did you yourself undertake any investigations to establish whether or not the allegations made by Ms Kelsey and the four councillors named in Detective Francis' email about the administrator were correct or reliable?

**Det. Sgt Beattie:** No, I did not.

**Mr McMILLAN:** Do you know whether Detective Francis did?

**Det. Sgt Beattie:** No, I do not.

**Mr McMILLAN:** And so, having undertaken no investigations yourself and being aware of no such investigations being undertaken by Detective Francis, you said you would support the chair approaching the Minister for Local Government to have the administrator removed?

**Det. Sgt Beattie:** Yes, I did write that.

**Mr McMILLAN:** And I would suggest to you, Detective, that that is wildly outside the proper operation of your responsibilities as an investigator as part of Operation Front?

**Det. Sgt Beattie:** No, I disagree with you.

**Mr McMILLAN:** That is, you as an investigator, with no factual or investigative basis for your action, seeking to intervene in the administration of the Logan City Council after the councillors have been removed from office?

**Det. Sgt Beattie:** I agree with you. All I had to go on was the correspondence that I had received from Detective Francis.

**Mr McMILLAN:** Is it usual for the CCC, in your experience, to intervene in the administration of government on the basis of allegations that are not investigated and for which there is no proof?

**Det. Sgt Beattie:** No.

**Mr McMILLAN:** Is that not precisely what you are recommending occur in this email?

**Det. Sgt Beattie:** Well, certainly making the suggestion, yes.

**Mr McMILLAN:** And you do not think that that is a complete dereliction of your duty?

**Det. Sgt Beattie:** No.

**Mr McMILLAN:** You then make another suggestion—

Failing that why not apply to the Supreme Court to have the Administrator removed?

**Det. Sgt Beattie:** Yes, I did make that suggestion.

**Mr McMILLAN:** What was the legal basis that you thought might ground an application to the Supreme Court to have the administrator removed?

**Det. Sgt Beattie:** I was aware the CCC had a power to commence an injunction under the CC Act.

**Mr McMILLAN:** And did you request or obtain any legal advice about the legal bases for such an action?

**Det. Sgt Beattie:** No, I did not.

**Mr McMILLAN:** So again you are just throwing out ideas of ways that the CCC might intervene in the proper administration of government with no factual or investigative basis?

**Det. Sgt Beattie:** Yes; it was an idea.

**Mr McMILLAN:** Upon reflection, Detective, aware that you would be appearing before this committee today, do you regret that action in sending that email?

**Det. Sgt Beattie:** No. I think the—I stand by the contents of the paragraph there in respect of my concerns that, on the information I had received from Detective Francis, perhaps it appeared to me that the administrator was not acting in accordance with those principles I had outlined.

**Mr McMILLAN:** Did you take some comfort from the fact that this was a discussion amongst you and your police officer colleagues offered for the inspector's consideration that would ultimately be passed up the chain and either accepted or not?

**Det. Sgt Beattie:** Of course.

**Mr McMILLAN:** And so officers senior in the hierarchy, at least of police, to you you expected would give consideration to those ideas and would tell you if they thought they were not good ideas?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** And that ultimately there was little risk that your ideas would be taken further if those superior to you did not agree with them?

**Det. Sgt Beattie:** Correct.

**Mr McMILLAN:** And that is pretty standard in the chain of command, in policing at least, is it not, that if you were in any way unsure you would seek the advice of your superior officers and be guided by their views, at least to some extent?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** All right. Can I take you now please to page 649 of this bundle.

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** I am sorry; 650 is your email?

**Det. Sgt Beattie:** Yes, I have found that.

**Mr McMILLAN:** Now, going back in time, 650 is the email I am interested in asking you about, Detective Sergeant—your email to the chair, Mr MacSporran QC, on 23 October 2019.

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** But the chain, it seems, starts with some correspondence between Mark Andrews, you and others earlier on that day and then at 12.09 pm on that day you send an email directly to the chair of the commission, the Crime and Corruption Commission?

**Det. Sgt Beattie:** Yes, I did.

**Mr McMILLAN:** That email completely bypasses the chain of command that we have just discussed that involves your superior Detective Senior Sergeant Andrews, Detective Inspector Preston and Detective Superintendent Mark Reid, does it not?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** Was it common that you emailed or corresponded with the chair directly, outside of that chain of command?

**Det. Sgt Beattie:** I think that was one of perhaps two emails that I did.

**Mr McMILLAN:** And other than in Operation Front, in your long service at the CCC and previously at the CMC, had you had direct communications with the chair of that organisation, outside of the chain of police command?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** Was that unusual?

**Det. Sgt Beattie:** No.

**Mr McMILLAN:** All right. So here we see in October 2019 you corresponding with the chair directly in relation to Ms Kelsey and proposed reforms to the Public Interest Disclosure Act?

**Det. Sgt Beattie:** Yes, that is correct.

**Mr McMILLAN:** Have you read this email recently?

**Det. Sgt Beattie:** Last week I read it, yes.

**Mr McMILLAN:** All right. It immediately, I suggest, jumps out that you have included in your email some headings that are fairly eye catching—

**But wait there's more!**

Is that the way that you would ordinarily correspond with the chair of the CCC?

**Det. Sgt Beattie:** Well, I was on a first-name basis with the chair. I viewed him as a colleague. I did not see any particular impediment to corresponding in that manner with him.

**Mr McMILLAN:** The second setting is—

**This is our opportunity.**

We, as in the State of Queensland and the people of Queensland, will get left behind if we don't lead this reform to make the public sector more PID friendly.

These are squarely matters of policy for the executive government of the day, are they not?

**Det. Sgt Beattie:** They are.

**Mr McMILLAN:** What role do you, as a police officer seconded to the CCC, have to inform the policy of the government of the day?

**Det. Sgt Beattie:** Yes. I am well aware that under the Crime and Corruption Act one of the statutory functions of the Crime and Corruption Commission is a prevention function and a research function.

**Mr McMILLAN:** Yes?

**Det. Sgt Beattie:** I had previously worked on Operation Belcarra, as you can see there in the opening paragraph to that email referencing that fact, and was well aware that the recommendations for legislative reform in the local government space had resulted in several acts of parliament being passed, so it was in that vein, in that context.

**Mr McMILLAN:** You thought you as an individual, Detective Sergeant Beattie, might seek to influence law reform in Queensland by this email?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** And you did not think that that was outside of your responsibilities as a seconded police officer attached to an operational team at the CCC?

**Det. Sgt Beattie:** Not at all.

**Mr McMILLAN:** All right. You then say the third heading, 'There is risk', and you describe in that part of the email what you perceive to be a risk that Ms Kelsey might sue the CCC.

**Det. Sgt Beattie:** Yes, I did.

**Mr McMILLAN:** What did you think was the possible basis upon which Ms Kelsey could sue the CCC?

**Det. Sgt Beattie:** From my perspective, that comment was made in respect of: the CCC had a power to commence an injunction in the Supreme Court, and my perception of the risk that the CCC may be sued by Ms Kelsey was that in the lead-up to the vote of 7 February 2018, where it was abundantly clear to me that Logan council was rolling to a situation where it appeared the councillors may be about to commit an offence and the CCC had a legislative power to prevent that vote from taking place, potentially, by taking the injunctive action in the Supreme Court—

**Mr McMILLAN:** Can I just stop you there? The CCC had legislative power?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** Do you understand what legislative power is, Detective Sergeant?

**Det. Sgt Beattie:** Well, an act in legislation that affords the ability for the CCC to take an injunction in the Supreme Court.

**Mr McMILLAN:** Yes. Because there was a section of an act that allowed the CCC to take action to seek an injunction in the Supreme Court, you thought that might found a basis for Ms Kelsey to sue the CCC for not doing so?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** Because in your mind the failure of the CCC to take that action on its own behalf, Ms Kelsey might allege, caused the financial detriment that she suffered after she was terminated?

**Det. Sgt Beattie:** Potentially, yes, in my mind, that there was some potential fault there.

**Mr McMILLAN:** Again, did you take or request or receive any legal advice about that issue?

**Det. Sgt Beattie:** No.

**Mr McMILLAN:** You do not have any legal training?

**Det. Sgt Beattie:** Correct.

**Mr McMILLAN:** Do you have any experience as a police officer in the jurisdiction of the Supreme Court that deals with injunctions?

**Det. Sgt Beattie:** None whatsoever.

**Mr McMILLAN:** So you raised this concern with the chair of the CCC that Ms Kelsey might sue the CCC, having not taken any advice and with no personal experience or understanding of the legal basis upon which she might do that?

**Det. Sgt Beattie:** That is correct.

**Mr McMILLAN:** I see. And you did so because, you say in your email, 'the CCC has left itself exposed to being sued by Ms Kelsey' and that was a risk that you wanted to bring to the chair's attention so that it could be mitigated; is that right?

**Det. Sgt Beattie:** Yes, it was certainly playing on my mind. I thought for those reasons it needed to be ventilated.

**Mr McMILLAN:** Is the risk that the CCC might be sued by someone, in your mind, a proper basis for the CCC to take action or discharge its functions under the Crime and Corruption Act?

**Det. Sgt Beattie:** No.

**Mr McMILLAN:** So why is it important for you to be identifying to the chair of the CCC directly, and outside of the chain of command of police officers, this risk and the need for the CCC to do something to mitigate it?

**Det. Sgt Beattie:** It was in the context of potential strategies for reforming the Public Interest Disclosure Act. In the bottom of the email there I have suggested several strategies, such as public hearings, public report and/or a report to the Attorney-General, and it was in the context of that I thought that potentially, from my perspective, this risk should be explored.

**Mr McMILLAN:** You say in the second last paragraph on page 650—

I propose that we sit down with Ms Kelsey and Dan Williams—

who you understood to be her solicitor?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:**—

to draft an agreement that Ms Kelsey will not take legal action against the CCC ...

That suggestion that 'we sit down with Ms Kelsey and Dan Williams' was no part of your function as a police officer seconded to the CCC, was it?

**Det. Sgt Beattie:** I certainly did not envisage doing that myself, no.

**Mr McMILLAN:** And yet you say 'I propose that we sit down with Ms Kelsey and Dan Williams'.

**Det. Sgt Beattie:** 'We' as in 'the CCC'.

**Mr McMILLAN:** So you as a police officer are suggesting to the chair of the CCC that the CCC should sit down and negotiate a settlement with Ms Kelsey and her lawyers in order to mitigate the prospect that she would sue the CCC?

**Det. Sgt Beattie:** Yes. In my mind it was a risk that needed to be negotiated, yes.

**Mr McMILLAN:** Surely you can see, Detective Sergeant, this is well beyond your duties as an officer seconded to the CCC.

**Det. Sgt Beattie:** No.

**Mr McMILLAN:** And this demonstrates, does it not, that you had become completely partial in the exercise of your duties and lacking the independence required of you by the Crime and Corruption Act?

**Det. Sgt Beattie:** I disagree with you entirely.

**Mr McMILLAN:** And that lack of independence, I want to suggest, is reflective of a general lack of independence of the entire team attached to Operation Front.

**Det. Sgt Beattie:** No, that is not correct.

**Mr McMILLAN:** Chair, I note the time. Those are the questions that I have for Detective Sergeant Beattie at this point, noting the committee may well have questions, but that might be a convenient time for a break. I note the noise has been quite distracting for members and I suspect for the witness as well.

**CHAIR:** Thank you, Mr McMillan. We will take a break. Thank you, Detective Sergeant Beattie. If you could come back at 11.15, that would be appreciated.

**Proceedings suspended from 10.56 am to 11.17 am.**

**CHAIR:** We will resume the hearing. Thank you, Detective Sergeant Beattie, for returning. I welcome back the member for Coomera as well as the deputy chair. Thanks for joining us. We will go to members' questions, and first up is the member for Macalister.

**Mrs McMAHON:** Detective Sergeant Beattie, could you advise the committee on how closely you followed the QIRC matters that were running parallel to your investigation?

**Det. Sgt Beattie:** I kept abreast of dates that the QIRC was sitting by emails from Detective Senior Sergeant Andrews. In the process of conducting the criminal investigation, as I indicated to Mr McMillan, I had read affidavits of three of the respondents in preparation for the coercive hearings and had read the closing submissions from Ms Kelsey.

**Mrs McMAHON:** So throughout the investigation you were up to date with relevant dates, and it is your evidence that you had read three of the affidavits of the respondents?

**Det. Sgt Beattie:** Again, I am not entirely sure how many affidavits. It was affidavits of three of the respondents.

**Mrs McMAHON:** Mr McMillan was talking about your lines of inquiry as part of your investigation and which ones panned out. You provided some information in an email where you looked at things like the Corporations Act and the Local Government Act. Were these offences under those acts ones that you were familiar with?

**Det. Sgt Beattie:** Not particularly. I had some familiarity with an offence of failing to update a register of interest under the Local Government Act, but that was the extent of it.

**Mrs McMAHON:** Had you ever charged anyone under the Corporations Act or Local Government Act, either in your time with the QPS or in previous secondments with the CCC?

**Det. Sgt Beattie:** Yes, I had.

**Mrs McMAHON:** In one of your emails that we looked at earlier today you made reference to the respondents having given false evidence. In the questioning that we had from Mr McMillan, we did go into detail about additional offences that you kept an eye out for as information became available to you. When it potentially became clear to you that respondents had given false evidence, did this become a line of inquiry for your investigation?

**Det. Sgt Beattie:** No.

**Mrs McMAHON:** How so?

**Det. Sgt Beattie:** Because the focus was on the vote—any potential criminal offences around that vote of 7 February 2018 rather than any other offences.

**Mrs McMAHON:** We were discussing earlier that the use of the WhatsApp became a line of inquiry, but this potential giving of false evidence did not become a line of inquiry?

**Det. Sgt Beattie:** No. As I indicated to Mr McMillan, it was only in the initial stages of an inquiry that never turned into an investigative line.

**Mrs McMAHON:** Who determines that?

**Det. Sgt Beattie:** My understanding is that would be determined by much senior personnel to me in the commission.

**Mrs McMAHON:** Was there any communication from yourself and the investigative team further up the line in relation to this potential false evidence and any offences as a result of that?

**Det. Sgt Beattie:** I think there might have been some just verbal communications, but I do not recall any written communications to that effect.

**Mrs McMAHON:** You have made reference to information as part of your inquiry from telephone intercepts versus the affidavits that you had read as well as the WhatsApp transcripts. When it comes to investigating this matter, was there any weighting given to either of those sources of information to help assist you in determining the veracity of the facts before you?

**Det. Sgt Beattie:** A weighting?

**Mrs McMAHON:** If I may make it perhaps a bit clearer. It has been raised that not all the affidavits of the respondents were read yet the affidavit for Ms Kelsey was read.

**Det. Sgt Beattie:** Yes.

**Mrs McMAHON:** You made reference, particularly with respect to councillor Lutton, about the telephone intercepts.

**Det. Sgt Beattie:** Yes.

**Mrs McMAHON:** I was wondering if you could advise the committee, when considering all this information before you, whether some were weighted more strongly than others.

**Det. Sgt Beattie:** Certainly in respect of the affidavit material and the closing submissions by Ms Kelsey's counsel, that was not evidence for the criminal investigation. The seven councillors had been offered an opportunity to participate in a criminal record of interview and they declined, so we had no evidence from them in the criminal investigation. We had the telephone intercept material, the WhatsApp material, yes. And that evidence was probative, it was in my opinion admissible and, therefore, had great weight as potential evidence in the criminal prosecution against them.

**Mrs McMAHON:** In quite a few of the email chains there is reference made to Ms Kelsey's affidavit and the information contained in that, but it is your evidence to the committee that the respondents' affidavits were not weighted the same as Ms Kelsey's?

**Det. Sgt Beattie:** I cannot speak for anybody else. The only context in which I had the opportunity to read and consider the respondents' affidavits was in respect of preparation for coercive hearings for three of the councillors.

**Mrs McMAHON:** Just before we went to the break we were looking at some of your correspondence, particularly with the chair, and an email that you sent to him that Mr McMillan spent a bit of time going over. Can I refer you to volume 1 at page 650. At the bottom of your email you make reference to using the Kelsey matter as an example and doing a report to the AG—I am assuming that is the Attorney-General—that errors had been made. I was wondering if you could identify to the committee what errors you felt had been made that you were referring to in that email.

**Det. Sgt Beattie:** Yes, certainly. As I referred to previously with Mr McMillan, my perception of an error was that the CCC had the power under the CC Act to take an injunction out in the Supreme Court in order to stop the vote of 7 February 2018, as it appeared to me that the councillors were

rolling towards a situation where they were about to commit a criminal offence and consequently Ms Kelsey would become a victim of crime. As a police officer with 27 years experience, I have worked under the strategic framework to stop crime, to prevent crime, to identify it, to disrupt it, to investigate it and to prosecute offenders for the commission of crime. Detective Inspector Preston had called a meeting where he identified this power. CCC legal were there and they informed us that we were not going to be utilising that power. It is in that context that I thought that decision was an error.

**CHAIR:** Just one question from me following on from that: can you recall on what basis it was stated that they were not going to exercise that power?

**Det. Sgt Beattie:** Yes, I can.

**CHAIR:** What was that?

**Det. Sgt Beattie:** The reason given was that it had never been done before and it would cost \$100,000.

**Mr TANTARI:** I refer to page 27 of volume 2, your email to Makeeta McIntyre and Mark Andrews, and particularly the comment you make within that email that you believed that each of the Fab 7 councillors would indirectly benefit from political capital that had to be repaid in the future. How did you draw that conclusion? Was that from what you got from the WhatsApp transcript investigations?

**Det. Sgt Beattie:** Yes, WhatsApp and the telephone intercept material.

**Mr TANTARI:** It was your belief that because of that they were in breach of the Local Government Act, basically around material personal interest; is that correct?

**Det. Sgt Beattie:** Potentially, yes.

**Mr TANTARI:** Obviously one leads to the next and that could be deemed as corrupt conduct under the act?

**Det. Sgt Beattie:** Potentially, yes.

**Mr SULLIVAN:** In response to the member for Macalister's questions about the weighting on the affidavits of the respondents in the QIRC matter I think you said—I will paraphrase—that it was not evidence that you could use for criminal charges.

**Det. Sgt Beattie:** Correct.

**Mr SULLIVAN:** Do you think that the evidence that was put to the QIRC would be relevant for criminal charges?

**Det. Sgt Beattie:** Not at all.

**Mr SULLIVAN:** In deciding whether the councillors were charged and what they were charged with, you do not consider the evidence that was before the QIRC relevant?

**Det. Sgt Beattie:** No.

**Mr SULLIVAN:** In pursuing a successful prosecution beyond reasonable doubt, do you think you should consider what evidence would have to be put to the court, including what defences would be raised?

**Det. Sgt Beattie:** Yes.

**Mr SULLIVAN:** Do you think that in April 2019 the CCC would have had a fair idea what defences would be raised?

**Det. Sgt Beattie:** Yes.

**Mr SULLIVAN:** What would those defences be? What would be the source of that knowledge?

**Det. Sgt Beattie:** Potentially a defence under section 24 of the code—mistake of fact. Ms Kelsey had entered into a contract of employment with Logan council. That contract of employment had a provision there where her employment could be terminated with no reason given. That was a potential defence.

**Mr SULLIVAN:** Did you think that the councillors would raise mistake of fact as a defence?

**Det. Sgt Beattie:** Yes.

**Mr SULLIVAN:** Did you think there were any other defences that would be raised?

**Det. Sgt Beattie:** That they had legitimate reasons to terminate Ms Kelsey's employment, yes.

**Mr SULLIVAN:** Apart from theorising that, was there anything you could point to as to why you could be pretty confident that those would be the defences raised?

**Det. Sgt Beattie:** Well, their versions of those had been given in the QIRC.

**Mr SULLIVAN:** That is right, but you just said that was irrelevant at the time of charging.

**Det. Sgt Beattie:** At the time of charging.

**Mr SULLIVAN:** In terms of a successful prosecution, you understand that you have to prove the offence beyond reasonable doubt?

**Det. Sgt Beattie:** Yes.

**Mr SULLIVAN:** You have to—I think I said yesterday negate—I think it is negative any defence raised beyond reasonable doubt?

**Det. Sgt Beattie:** Yes.

**Mr SULLIVAN:** At the time of charging, you did not consider what defences the Crown would have to negate for a successful prosecution?

**Det. Sgt Beattie:** No, that is incorrect.

**Mr SULLIVAN:** Can you weigh up those two responses you have given to me in this exchange, where at the start you said that the QIRC evidence from the respondents in that matter is irrelevant to the charging and now you have said that the defences that they would obviously raise—I say 'obviously' because we quite literally have their evidence in court on record—

**Det. Sgt Beattie:** Yes.

**Mr SULLIVAN:** You said that that was considered at the time of charging. Is that what you are saying now—that it was considered?

**Det. Sgt Beattie:** Clearly, one would have to turn your mind to any potential defences that would be raised.

**Mr SULLIVAN:** You would hope so. Did you turn your mind to it at the time of charging?

**Det. Sgt Beattie:** Yes. As I indicated, the issue of the contract—

**Mr SULLIVAN:** Section 24.

**Det. Sgt Beattie:** Yes.

**Mr SULLIVAN:** But you did not think it was relevant as to, I think you described it as, 'their version' of the events around the vote?

**Det. Sgt Beattie:** I am not entirely sure when—yes, I must have had an awareness of what their potential defences were at the time of charging because they were charged on 26 April 2019.

**Mr SULLIVAN:** Correct.

**Det. Sgt Beattie:** Yes. I had had the opportunity to read QIRC closing submissions prior to that, yes.

**Mr SULLIVAN:** As well as the affidavits, yes. In your evidence today, you did not turn your mind to if it was proper that they be charged and what they be charged with—what evidence the QIRC case would clearly show as relevant to a possible criminal charge?

**Det. Sgt Beattie:** I would correct that. Clearly there would have been in my mind some thought as to what potential defences they might raise, yes.

**Mr SULLIVAN:** It is just that you said it was irrelevant.

**Det. Sgt Beattie:** Yes. I would correct that.

**Mr SULLIVAN:** In the questions from the member for Hervey Bay in terms of the email he took you to where you spoke about the seven voting as a cohort for future 'political capital'—that might not be the exact phrase—

**CHAIR:** It is, actually.

**Mr SULLIVAN:** In response to the question from the member for Hervey Bay, you said that the evidence that brought your mind to that conclusion was the WhatsApp material and phone—

**Det. Sgt Beattie:** Yes.

**Mr SULLIVAN:** Was any of that material likely to be admissible in a criminal prosecution?

**Det. Sgt Beattie:** Yes.

**Mr SULLIVAN:** What material?

**Det. Sgt Beattie:** The WhatsApp and the telephone intercept material.



**Mr SULLIVAN:** None of that was using the compulsive powers of the CCC?

**Det. Sgt Beattie:** No.

**Mr SULLIVAN:** Those are my questions.

**CHAIR:** You said none of that evidence was obtained using compulsive powers or coercive powers. What about the TI material?

**Det. Sgt Beattie:** The TI material was obtained under a telephone intercept warrant and the WhatsApp material was obtained as a result of execution of search warrants. None of the compulsive power that is used in a coercive hearing drew in that material.

**CHAIR:** Before I go to the member for Coomera, I might ask a question. It is in relation to the same email. I want to explore your thinking a little bit further. It is in volume 2, page 27, where you talk about material personal interest. In particular, I want to put something to you in relation to your assertion that, voting collectively, the councillors indirectly benefited because they 'bought political capital that would be repaid in future'. It is a very intangible concept, 'political capital', isn't it? Would you agree?

**Det. Sgt Beattie:** Yes.

**CHAIR:** How would you explain that concept, Detective Sergeant?

**Det. Sgt Beattie:** It is in the formation of alliances. The capital is an attribution of value in that alliance and the potential for a reward.

**CHAIR:** You said in that email—

... in doing so they (1) demonstrated their allegiance to the Mayor, and (2) maintained their membership of Council's power block.

It seems like a long bow to draw, because about 40 metres down the corridor we have a chamber where people regularly vote together collectively to demonstrate their allegiance to a leader and to maintain membership of a power bloc. Are you suggesting that that conduct could potentially be seen as a material personal interest that should be subject of some sort of sanction in the future?

**Det. Sgt Beattie:** No, clearly—

**CHAIR:** I know we have different legislative regimes, but you have explored it very generally here. The concept of 'political capital' is quite hard to define the bounds of.

**Det. Sgt Beattie:** This email was in relation to the information I had at hand in respect of Logan council and not directed at any broader government or parliament other than that.

**Mr CRANDON:** I was not here earlier so I am going to rely on a question that I have asked others, and I am sure you are prepared for it. I hope you are prepared for it, given we went into some detail. It relates to the Andrew Francis, aka Donny, email from Thursday, 30 May 2019 at 1.59 pm, which is on page 591 of the first volume. It is quite an in-depth email. It is certainly a very dense full page of material in that email, starting on page 591 and going over to page 592—a tad more than a very dense full page of comment from him.

**Det. Sgt Beattie:** Yes, I have found that.

**Mr CRANDON:** That was sent from him to Mark Andrews. It does not look like anyone else was included, although I suppose 'blind copy' could always work. Do you blind copy other people in on emails?

**Det. Sgt Beattie:** No, it is not my practice.

**Mr CRANDON:** Not your practice? Do others?

**Det. Sgt Beattie:** I am unaware.

**Mr CRANDON:** Anyway, it went to Mark Andrews and four minutes later Mark Andrews wrote six lines. Well, within four minutes he wrote six lines and sent the email on to David Preston and copied yourself in, and also back to Andrew Francis. He was very strong—we got to this point late yesterday—in his support of the material from Andrew Francis. David Preston then, 46 minutes later—so he has managed to read all of Andrew Francis' stuff and also the comments from Mark Andrews—sent it on.

We have Mark Andrews sending to David Preston on page 591. There appears to be an email missing in the middle. What might have happened is that you have responded. You were cc-ed in and it looks like you have responded 46 minutes later, having absorbed everything. The interesting thing is that the email from Andrew Francis talks about 'LCC administrator concerns'. Then the forwarded one has an extra little bit added to it—

... (consider this version)

Are you familiar with the previous version of the document?

**Det. Sgt Beattie:** No.

**Mr CRANDON:** You had no knowledge of it?

**Det. Sgt Beattie:** No.

**Mr CRANDON:** Did you have any discussions with anyone about this matter before this particular email stream came to you?

**Det. Sgt Beattie:** No.

**Mr CRANDON:** You had no discussions with anyone?

**Det. Sgt Beattie:** No.

**Mr CRANDON:** So he has flicked it on four minutes later, having made his comments. You have then said, 46 minutes later, in your email to Mark Andrews and David Preston—so you are forwarding it onto David but also forwarding it back to Mark Andrews and then copying in Andrew Francis—

I find the Administrator's claim that Ms Kelsey's return would be disruptive to be unjustifiable, given the findings by Rachel Hunter that the majority of staff viewed Ms Kelsey favourably.

Interesting. I have read some evidence that suggests there were other aspects to the decision by the administrator, but it was interesting that that was the only comment that you made. You go on to say—

I strongly echo Andrew and Mark's comments.

In 46 minutes you have managed to receive it—and you might not have necessarily been sitting at your desk at the time, but you have certainly in that 46 minutes received it and I assume that you have gone straight to it. You have read the lot, you have absorbed the lot and you 'strongly echo Andrew and Mark's comments'. And—

I would be supportive of the Chair—

this is the extraordinary part, to my mind—

taking our concerns to the Minister to petition ... to have the Administrator removed due to apparent bias which offends principle 1 ...

Then you go on to outline all of these things. So not only—unless you have a really good memory, you have then gone on and said—

... principle 1 (Integrity and Impartiality) ...

Then you have gone onto principle 2, principle 3 and so on and so forth. You have gone in-depth outlining all of these things. All of this was done in a 46-minute turnaround, which I find just extraordinary. That has then gone to David Preston and he has not done anything other than simply say—

Here are some further comments from the team on the matter of the LCC administrator.

So he has played a dead bat.

**Det. Sgt Beattie:** Yes.

**Mr CRANDON:** But you have plenty of opinion in all of this. Over the page we find that Paul Alsbury has said—

Have we got a copy of the administrator's affidavit?

Mark Reid has sent something to Paul Alsbury—

FYI and discussion with the Chair.

Then finally, it fell at the last hurdle in fact, in that David Caughlin said—

... I've discussed this with Mark this morning, I've considered this from a 'devil's advocate' perspective.

Then he goes on to say what his thoughts are and, thankfully I would suggest, Paul Alsbury says—

Agreed. We are not going to help anyone by going off half—

Is that an unparliamentary word? You get my drift. This whole period of time—this was in less than an hour—we have seasoned police officers absorbing a document that has a lot of detail in it, putting their opinion forward and sending it on for an administrator to be sacked. I want your feedback on how that all happened within an hour. There must have been a whole bunch of other stuff going on. Your advice to us is that you have not seen a previous email and there were not any other discussions going on, as far as you were aware—or you were not involved. Give me your feedback, if you wouldn't mind.

**Det. Sgt Beattie:** My feedback on how I composed that email?

**Mr CRANDON:** How you managed to do all of this as quickly as you did—seasoned police officers who dwell on things, mull on things, consider things. How did you manage to do all of that, please?

**Det. Sgt Beattie:** I accessed a copy of the Public Sector Ethics Act Code of Conduct and, with reference to the email from Detective Sergeant Francis, composed that email response.

**Mr CRANDON:** Okay. But there were not any other conversations going on? Some of these emails talk about 'as previously discussed', 'consider this version'. No other conversation was going was on? All of this came from the email stream?

**Det. Sgt Beattie:** I do not recall any other conversations, no.

**Mr CRANDON:** You are not aware of any other version of the original email?

**Det. Sgt Beattie:** No.

**Mr CRANDON:** Okay. What were your thoughts when Paul Alsbury finally said—

Agreed. We are not going to help anyone by going off half—

What were your thoughts? Disappointment, anger, frustration? Shrug your shoulders: 'Oh, well'? What?

**Det. Sgt Beattie:** No, I was completely satisfied with Mr Alsbury's response.

**Mr CRANDON:** A one-liner?

**Det. Sgt Beattie:** Yes.

**Mr CRANDON:** That was enough? What were the thoughts of the others in the email trail? You must have discussed it after that. What did they think?

**Det. Sgt Beattie:** I do not recall.

**Mr CRANDON:** Thank you, Chair.

**CHAIR:** Thank you, member for Coomera. Detective Sergeant Beattie, we spoke earlier with Mr McMillan about the fact that the submissions from the former councillors in the QIRC were not reviewed by yourself in preparing that document relating to possible charges but the submissions from Ms Kelsey's counsel were. That is my recollection of what we discussed earlier this morning. Feel free to correct me if I have that a little bit wrong. Is it generally correct?

**Det. Sgt Beattie:** I am not entirely sure whether Ms Kelsey's closing submissions were considered in that document, no.

**CHAIR:** It was certainly considered in one of the documents you prepared, which was referred to by counsel this morning. I just do not know the exact document. It was one of the documents that you were contributing to, if not the author of; is that correct?

**Det. Sgt Beattie:** I contributed to the memorandum that Detective Francis composed, yes.

**CHAIR:** And also did not take advantage of the opportunity, which would have been there, to review transcripts from the QIRC hearing.

**Det. Sgt Beattie:** No, I did not.

**CHAIR:** No. Do you consider that at best that can be seen as slack on your part?

**Det. Sgt Beattie:** No.

**CHAIR:** No? Not considering other evidence in an independent setting, the QIRC, which might affect the credit of witnesses?

**Det. Sgt Beattie:** No.

**CHAIR:** No? You said that—and, again, correct me if I am wrong—you could not recall what relief Ms Kelsey was seeking through that process—it was in answer to one of counsel's questions this morning—but you could recall a submission about false evidence on the part of the former councillors.

**Det. Sgt Beattie:** I have a general understanding that she was seeking to be reinstated.

**CHAIR:** So you do remember that now and you did at the time?

**Det. Sgt Beattie:** I am not sure, in the passage of time, when I became aware of that, but that was, I understand, one of her petitions before the QIRC, yes.

**CHAIR:** Thanks for clarifying. Document 590 in volume 1, which is the email about the administrator, I want to ask you: at this point in time, where the charges have been laid, councillors have been suspended, council is dissolved and an administrator has been appointed, what interest does the CCC have and on what grounds would they have been seeking to intervene in the affairs of the administrator and the council?

**Det. Sgt Beattie:** Just to ensure that any decisions of the administrator were being made unbiased, impartial.

**CHAIR:** On the basis of a complaint or comments/feedback received by the four other councillors?

**Det. Sgt Beattie:** Yes.

**CHAIR:** Which, I think we found out this morning, too, there was no investigation into?

**Det. Sgt Beattie:** That is correct.

**CHAIR:** I want to ask you: at what point would the CCC or did the CCC allow the QIRC process to run its course without the CCC seeking to circumvent it?

**Det. Sgt Beattie:** At what point did the CCC seek to allow the QIRC to run its course?

**CHAIR:** Yes.

**Det. Sgt Beattie:** At every point.

**CHAIR:** I do not think that is correct, with respect, Detective Sergeant, because there are considerations here to discussion around trying to have the administrator removed, and one of the grounds, if I am not mistaken—in fact, we heard it in evidence yesterday—was because there was not a move made to reinstate Ms Kelsey. So isn't discussion around trying to remove the administrator an attempt to circumvent the QIRC process—

**Det. Sgt Beattie:** No, not at all.

**CHAIR:**—because she had not made that decision?

**Det. Sgt Beattie:** No. In my mind, the QIRC is its own entity. The commissioners there were responsible for the decisions in respect of that case. The administrator was involved in the functions of Logan council. In my mind, the two were separate and distinct.

**CHAIR:** After all of this has been done, do you consider that the better view of things is that it was the administrator's role to run the council and assess matters like whether the CEO should be reinstated and how budgets should be run and how to deal with the four remaining councillors, not the CCC's?

**Det. Sgt Beattie:** I completely agree it is the administrator's role, yes.

**CHAIR:** So why was the CCC having such an interest in what she was doing?

**Det. Sgt Beattie:** I can only speak for myself. My interest in that was that role be undertaken in an unbiased and impartial manner.

**CHAIR:** Do you consider, though, that it would be the administrator who actually had a clearer, independent view of how to do these things than the CCC, given all of the other involvement by the organisation in both the QIRC matters and other criminal matters?

**Det. Sgt Beattie:** I certainly recognise that the administrator was the person on the ground, so to speak, yes.

**CHAIR:** That was not my question, though. Do you consider the administrator would have had a clearer, independent view of how to deal with these operational matters than the CCC, who had been so involved in the QIRC process and associated criminal matters?

**Det. Sgt Beattie:** I am certainly confident that the administrator would have a very clear view of the operation of Logan council, yes.

**CHAIR:** And a more independent view as well and impartial?

**Det. Sgt Beattie:** At the time I wrote that email, no. That was the whole basis of my concern for writing that email.

**CHAIR:** I want to ask you again about the discussion around the possibility of working with MinterEllison and Ms Kelsey to have legal fees waived—

**Det. Sgt Beattie:** Yes.

**CHAIR:**—an arrangement come to in relation to that, and then to use that matter as impetus for reforms to the Public Interest Disclosure Act. Do you think it might appear to the outside observer as a little bit odd that a public body like the CCC would involve themselves in discussions with a commercial law firm seeking to have someone's legal fees waived?

**Det. Sgt Beattie:** Some people may see it as odd; some people may not. I cannot really speak for other people.

**CHAIR:** I think the member for Coomera has another question, but before we go to him are there any other questions from that end? We will go to the member for Cooper.

**Ms BUSH:** Detective Sergeant, this may be a broad question. I am very interested in the process that you encountered, obviously coming from QPS and being seconded into the CCC, just generally around any type of operating previously under the police powers act primarily. What type of onboarding supervision support was afforded to you to consider and apply the broader considerations that now potentially fell to you under the CC Act and the broader legislative framework that you were now obliged to consider?

**Det. Sgt Beattie:** Yes, I undertook an induction commencing at the CCC and I was given a copy of the CC Act, given the opportunity to read through that prior to then commencing the first investigation.

**Ms BUSH:** On an ongoing basis in terms of the professional supervision framework that would wrap around your investigations. I am curious about that.

**Det. Sgt Beattie:** Yes. Corruption operations would hold a training day roughly every three months where someone from one of the teams would be tasked to host the day, set the agenda, and training on various topics would be delivered.

**Ms BUSH:** Thank you, Chair.

**Mr TANTARI:** Just further to what the member for Cooper said, I am a little bit interested in exploring the team dynamic at the CCC, particularly the group in which you are involved. Also, do you work within a closed environment? Obviously, as we go through these emails, there seems to be a little bit of a mismatch with regard to what information goes up and down the line from your team or the group of members within your team up to the executive. Can you just explain to us a little bit about the dynamic of how it works within the CCC—the power structures, the reporting structures and those sorts of things?

**Det. Sgt Beattie:** The most usual practice would be that reporting would be through the chain of command, which would be through the team. That had a detective senior sergeant running the team, supervised by a director who would be a detective inspector, supervised by the detective superintendent, and then over the top was the senior executive officer of corruption operations, Mr Alsbury. So it would be the usual practice reporting through that chain of command.

**Mr TANTARI:** In reference again to some evidence you gave earlier about you giving your opinion directly to the chair, it is just interesting what you have explained there—that in some instances you sort of give direct opinion above your grade. Effectively, there were three levels of supervision above you and you went above those directly to the chair in your opinion. Is that the normal course of events that happened in the CCC?

**Det. Sgt Beattie:** Well, there was that formal reporting process, but we also held team meetings where ideas were discussed. It was very much a multidisciplinary team where input was sought from everyone in the team—whether that be the police investigators, civilian investigators, financial investigators, intelligence officers and the lawyers. Ideas were sought from everyone. All ideas were equally welcomed and considered so that the team could then develop the best strategy forward to pursue the investigation.

**Mr TANTARI:** So you come to a collective position in regards to moving forward on an investigation?

**Det. Sgt Beattie:** Yes.

**Mr TANTARI:** Thank you.

**Mr SULLIVAN:** Can I take you to page 327 of the second folder. While you are getting there, 327 starts a series of handwritten notes.

**Det. Sgt Beattie:** Yes, I am there.

**Mr SULLIVAN:** You will see about four lines down—and these are notes that Detective Senior Sergeant Andrews confirmed were his handwriting yesterday, for your information—it lists initials there, including 'DB'. Can I assume that is you?

**Det. Sgt Beattie:** Yes, that would be correct.

**Mr SULLIVAN:** So you were in that meeting. This is 24 April 2019. Are any of the following handwritten notes of that meeting yours? There are about five pages following that. Can I let you have a look at your handwriting?

**Det. Sgt Beattie:** Yes, page 329 is my handwriting.

**Mr SULLIVAN:** What was discussed at that meeting?

**Det. Sgt Beattie:** Page 337 is my handwriting.

**Mr SULLIVAN:** Thank you. That seems to be a duplicate, doesn't it?

**Det. Sgt Beattie:** Sorry, I missed your question.

**Mr SULLIVAN:** My question was: what was discussed at that meeting?

**Det. Sgt Beattie:** The arrangements to charge the councillors.

**Mr SULLIVAN:** And did you use the memo from Detective Inspector Preston as the basis for that discussion—his memo of 26 March that is at 315 in that same pile?

**Det. Sgt Beattie:** I do not have any recollection of personally using that memorandum. A copy of it may have been at the meeting. I am not sure.

**Mr SULLIVAN:** I have asked your former colleagues these same questions, so considering you were in the meeting I want to give you the opportunity to try to expand. Can I take you to page 315, which is Detective Inspector Preston's memo which is based in turn on DS Francis' memo.

**Det. Sgt Beattie:** Yes, I have found that page.

**Mr SULLIVAN:** Down the very bottom paragraph of 315, it says—

... outlines the actions of all seven LCC councillors and Mayor Smith which appears to amount to reprisal and/or misconduct.

**Det. Sgt Beattie:** Yes, I see that.

**Mr SULLIVAN:** Was there any discussion about those charges in that meeting on the 24th—of pursuing reprisal and misconduct?

**Det. Sgt Beattie:** My understanding is: on the meeting of the 24th the decision to charge all the councillors had been made that it would be fraud.

**Mr SULLIVAN:** In that meeting?

**Det. Sgt Beattie:** No, I do not think it was in that meeting. I think that meeting was about our decision to charge. I think that the decision of what to charge with had been made prior to that meeting.

**Mr SULLIVAN:** So the decision what to charge and what would be required for a successful prosecution for preferred offences was not discussed in that meeting of the 24th?

**Det. Sgt Beattie:** Not that I recall, no.

**Mr SULLIVAN:** And certainly in no detail?

**Det. Sgt Beattie:** No, not that I recall.

**Mr SULLIVAN:** I will take you to your handwritten notes on page 329 that you have identified for us. Am I correct in reading your handwriting down the bottom of that page there—

Chair support to charging all. ASAP

**Det. Sgt Beattie:** Yes.

**Mr SULLIVAN:** Am I reading that correctly?

**Det. Sgt Beattie:** Yes, you are.

**Mr SULLIVAN:** So it was very clear from that meeting that the direction was all of them charged and as soon as possible?

**Det. Sgt Beattie:** Yes.

**Mr SULLIVAN:** And, indeed, on that afternoon lawyers were contacted from the councillors and then charges were laid on the Friday, by appointment I think it has been described.

**Det. Sgt Beattie:** Yes, it was by appointment on the 26th. So, yes, that would have been the Friday.

**Mr SULLIVAN:** Yes, that is right. It was. Was there any discussion in that meeting of the 24th around whether all of the councillors should be charged?

**Det. Sgt Beattie:** No.

**Mr SULLIVAN:** Not all of the councillors. I mean all seven councillors.

**Det. Sgt Beattie:** I do not recall.

**Mr SULLIVAN:** So there was no discussion in detail of whether each of them, what evidence each of them—or what each of them would put up?

**Det. Sgt Beattie:** No, not that I recall.

**Mr SULLIVAN:** Can I take you to Detective Sergeant Francis' memo, which is at page 228. That is the end of his memo which then formed the basis of Detective Inspector Preston's memo. Can I take you to paragraph 91. Counsel assisting explored this with Detective Sergeant Francis in terms of what he has described as 'tactical considerations'. I do not want to pursue the intent of that or otherwise. Have you read paragraph 91?

**Det. Sgt Beattie:** No, I have not.

**Mr SULLIVAN:** Would you like to read that?

**Det. Sgt Beattie:** Thank you, yes. Yes, I have read that.

**Mr SULLIVAN:** I do not want to go to the operational issues or strategy behind that. In his evidence before the committee, Detective Sergeant Francis was asked about what was his thinking about that, and I will quote from *Hansard* on page 22 from 20 August—

The reason I proposed this is because the varying culpability amongst the seven, for example, the mayoral cabinet—

Did you consider that there was varying culpability amongst the seven?

**Det. Sgt Beattie:** No, I thought that they were equally culpable.

**Mr SULLIVAN:** And did you discuss that with Detective Sergeant Francis?

**Det. Sgt Beattie:** I do not have a clear recollection of discussing it, but I am sure that I would have.

**Mr SULLIVAN:** And from all of the material that was put before the QIRC, you do not think that there were—I will put it a different way: did each of them have identical relationships with the mayor?

**Det. Sgt Beattie:** No, I do not think so.

**Mr SULLIVAN:** Did each of them have identical relationships with each of the seven?

**Det. Sgt Beattie:** No, I do not think that would be the case.

**Mr SULLIVAN:** Did each of them contribute in identical ways on the WhatsApp material?

**Det. Sgt Beattie:** No.

**Mr SULLIVAN:** Okay, but not in the memo of Detective Inspector Preston or in the cover note from Mr Alsbury or in the meeting of the 24th was it discussed whether the seven behaved the same, had the same culpability, would put up the same defences and had the same prospect of success?

**Det. Sgt Beattie:** I am not aware.

**Mr SULLIVAN:** And you were in that meeting and you do not remember that discussion?

**Det. Sgt Beattie:** No, I do not.

**Mr SULLIVAN:** Thank you, Chair.

**CHAIR:** No lengthy preambles, please.

**Mr CRANDON:** I am apparently not going to go into lengthy preambles. Just coming back to those emails that we were discussing earlier, I see the Andrew Francis email reflects on comments to him by Kelsey and 'the four'; he refers to them as 'the four' right the way through. His evidence here over the last couple of days was that he was quoting them and relying on them. So you could argue—would you argue?—that that was their opinion or hearsay in that regard.

**Det. Sgt Beattie:** Yes, I would agree with you.

**Mr CRANDON:** That is fair?

**Det. Sgt Beattie:** Yeah.

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**Mr CRANDON:** Thank you. And indeed he says such things as—

My concerns are following a discussion with Ms Kelsey yesterday and also Mr Power, Ms Bradley, Mr Raven and Ms Koranski ('the four') last week.

and so forth. He even managed to have a go at the minister in his third last paragraph at page 592—

The four have communicated to the CCC their concern in regards to the Ministers direct advice ...

So he is even having a go at the minister that you are supporting the CCC chair to go to get rid of the administrator. I just want to come back to your email. You come under the Police Powers and Responsibilities Act?

**Det. Sgt Beattie:** Yes.

**Mr CRANDON:** Is there a section in the Police Powers and Responsibilities Act that would be to do with ethics?

**Det. Sgt Beattie:** No.

**Mr CRANDON:** No? Would there be a part of the Police Powers and Responsibilities Act that would have to do with integrity and impartiality?

**Det. Sgt Beattie:** No.

**Mr CRANDON:** Nothing?

**Det. Sgt Beattie:** No.

**Mr CRANDON:** What about the CC Act?

**Det. Sgt Beattie:** I am not entirely sure whether that sets out those criteria for a commissioned officer.

**Mr CRANDON:** I am just using the terminology 'integrity and impartiality'. Would there be anything reflected in the Police Powers and Responsibilities Act that could be suggested as relating to integrity and impartiality?

**Det. Sgt Beattie:** No, not to my recollection.

**Mr CRANDON:** So in your role as a police officer you are not required to be impartial in your investigations, going through an investigation et cetera?

**Det. Sgt Beattie:** Yes, you are.

**Mr CRANDON:** You are?

**Det. Sgt Beattie:** Yes.

**Mr CRANDON:** So there is—does that come out of the Police Powers and Responsibilities Act or another act?

**Det. Sgt Beattie:** Police Service Administration Act—

**Mr CRANDON:** Right.

**Det. Sgt Beattie:**— Public Sector Ethics Act, which is devolved of the code of conduct.

**Mr CRANDON:** Do you come under the Public Sector Ethics Act? Is that what you said there?

**Det. Sgt Beattie:** Yes.

**Mr CRANDON:** So you come under that as well?

**Det. Sgt Beattie:** Well, that code of conduct would be applicable, yes.

**Mr CRANDON:** Okay. Thank you. And what about the next section, promoting the public interest? Would that be something that a police officer would be responsible for?

**Det. Sgt Beattie:** Certainly when considering a prosecution, yes; the public interest test is integral to that.

**Mr CRANDON:** Supporting the system of government?

**Det. Sgt Beattie:** Yes, absolutely.

**Mr CRANDON:** Accountability and transparency?

**Det. Sgt Beattie:** Definitely.

**Mr CRANDON:** Okay. So you and other officers in this investigation come under all of those subsets that you quoted?

**Det. Sgt Beattie:** Yes.

**Mr CRANDON:** And yet you called for the CCC chair to go to the minister with a view to having the administrator removed due to apparent bias which offends all of those principles?



**Det. Sgt Beattie:** Yes.

**Mr CRANDON:** On hearsay and opinion?

**Det. Sgt Beattie:** Yes.

**Mr CRANDON:** And you stand by that email?

**Det. Sgt Beattie:** Yes.

**Mr CRANDON:** On hearsay and opinion? No investigation done?

**Det. Sgt Beattie:** I agree with you, no investigation was done. It was on—

**Mr CRANDON:** Indeed Andrew Francis said there was no investigation done; he relied on them. No investigation done, but you are calling for the removal of an administrator—your words—on the basis of hearsay and opinion?

**Det. Sgt Beattie:** Yes, I wrote that email.

**Mr CRANDON:** Thank you.

**CHAIR:** Thank you. Mr McMillan, I think you indicated you had some follow-up?

**Mr McMILLAN:** Yes, thank you, Chair. There are a couple of matters arising from members' questions, if I might. Detective Sergeant Beattie, you said in response to one of the members' questions about your email to the CCC chair—I am sorry, about your email on page 590 about the administrator—have you got that page with you?

**Det. Sgt Beattie:** I do. Yes.

**Mr McMILLAN:** Thank you. You said in response to one of those questions that you considered that the CCC had made an error in determining not to take its own action pursuant to its power under the Crime and Corruption Act to seek an injunction to restrain Ms Kelsey's termination. Do you recall giving that evidence?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** You spoke about being present for a meeting at which CCC lawyers conveyed to you the decision of the organisation that the CCC would not exercise that power and take its own action in the Supreme Court?

**Det. Sgt Beattie:** That is correct.

**Mr McMILLAN:** In that same meeting was it explained to you that, instead, the CCC would support Ms Kelsey and do whatever it legitimately could to assist her in conducting her own action in the Queensland Industrial Relations Commission?

**Det. Sgt Beattie:** I do not recall.

**Mr McMILLAN:** Were you aware after that meeting that steps were taken by other officers within the CCC, including lawyers, to assist Ms Kelsey in the Queensland Industrial Relations Commission proceedings?

**Det. Sgt Beattie:** No.

**Mr McMILLAN:** Were you aware that, for example, Mr Hutchings, the Director of Legal Services, was offered as a point of contact for Ms Kelsey's lawyers at MinterEllison?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** And that he had regular contact with MinterEllison during the course of the Queensland industrial relations proceedings?

**Det. Sgt Beattie:** I was not aware of whether it was regular contact or not, but I was aware that he was appointed as that point of contact.

**Mr McMILLAN:** And you were aware that following that appointment he had some contact at least with MinterEllison?

**Det. Sgt Beattie:** Yes.

**Mr McMILLAN:** That was fed back to the investigative team at Operation Front—that those communications were occurring between the CCC and Ms Kelsey's lawyers?

**Det. Sgt Beattie:** I had heard, yes.

**Mr McMILLAN:** Would you prefer—and I am asking for your opinion now with the benefit of hindsight. Would you prefer that the CCC had taken its own action rather than assisting Ms Kelsey in hers? Is that the reason for your expression to Mr MacSporran that you thought that was an error?

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**Det. Sgt Beattie:** Yes, that was my preference.

**Mr McMILLAN:** At the time were you uncomfortable that the CCC was operating in the background rather than taking its own action, as it was entitled to do under the Crime and Corruption Act?

**Det. Sgt Beattie:** No.

**Mr McMILLAN:** Is that something that you thought about on reflection and then raised with Mr MacSporran when you had the opportunity?

**Det. Sgt Beattie:** Certainly I, yes, had had the opportunity to reflect upon it, yes, and raise it with Mr MacSporran, yes.

**Mr McMILLAN:** I am sorry. I directed you to page 590 sooner than I intended. I want to ask you now just a follow-up question about that email, and it arises from one of the members' questions. It is apparent on the face of Detective Sergeant Francis' email to which you respond, which starts on page 591—it is apparent in that email that he expresses some concern that the administrator had determined not to reinstate Ms Kelsey as the CEO of the council after the council had been disbanded and she was appointed as administrator. Did you share that view?

**Det. Sgt Beattie:** No. My concerns were more around the suggestion raised that the administrator was not perhaps being impartial.

**Mr McMILLAN:** Detective Sergeant Francis says on page 592 in the second full paragraph, the last sentence—

The Administrator now remarkably advocates for the respondents—

one of which was the council that she was administering—

opposing Ms Kelsey reinstatement and it appears offered Ms Kelsey no consideration to her request and instead attempted to influence Ms Kelsey position in respect to a stay application without reinstatement through financial incentive.

Were you aware, through many discussions with Detective Sergeant Francis, about the circumstances of that interaction, or were you relying entirely on his email?

**Det. Sgt Beattie:** Just relying entirely on his email.

**Mr McMILLAN:** In your email addressed to Mark Andrews and others, was your effort to have the administrator removed from her position as administrator motivated to any extent by the fact that she had declined to a point to reinstate Ms Kelsey as CEO?

**Det. Sgt Beattie:** No.

**Det. Sgt Beattie:** No.

**Mr McMILLAN:** Thank you, Chair. They are my questions.

**CHAIR:** If there are no other questions?

**Mr McMILLAN:** If there are no other questions, Detective Sergeant Beattie should be stood down, with your leave, Chair.

**CHAIR:** Thank you for your assistance this morning, Detective Sergeant Beattie. We will stand you down for now.

**Det. Sgt Beattie:** Thank you, Mr Krause.

**Mr McMILLAN:** I think the next witness will be Ms Tamara O'Shea, when the committee is ready.

**CHAIR:** Mr Horton, I think we should carry on before lunch. You will be requesting Ms Tamara O'Shea?

**Dr HORTON:** Yes, but might I do one thing before that? Could I please seek to table four documents? They are emails from me to the counsel for the CCC in respect of the topics that we were going to ask these witnesses, so that there is a record of that before the committee and what people did and did not have notice of. They are already within the record-keeping system of the inquiry, so I will just read the identity of the documents into the record, with your permission.

An email of 19 August 2021 at 15.15 from me to Mr Dunning and Mr Matthew Wilkinson regarding indicative topics for DS Francis. The second document: email from me to Mr Dunning and Mr Wilkinson, topics for DI Preston, email dated 19 August 2021 at 16.19. Document 3: email from me to Mr Dunning and Mr Wilkinson, indicative topics for Detective Sergeant Beattie, sent 19 August 2021 at 16.34. The fourth document: email of 19 August 2021 sent at 16.40, indicative topics for DS Andrews, email from me to Mr Dunning and Mr Wilkinson. I seek to have those tabled.

**CHAIR:** Thank you, Mr Horton. We will deem those documents to be tabled but, subject to previous guidance, not published at this time.

**Dr HORTON:** Thank you. Chair, I call Ms Tamara O'Shea as the next witness.

**Ms Tamara O'SHEA** (accompanied by Mr Barry Dunphy)

*Witness was sworn—*

**CHAIR:** Thank you, Ms O'Shea. Mr Horton?

**Dr HORTON:** You are Ms Tamara O'Shea; is that right?

**Ms O'Shea:** Yes, that is correct.

**Dr HORTON:** I understand you are presently retired?

**Ms O'Shea:** Yes.

**Dr HORTON:** But previously you worked in government?

**Ms O'Shea:** That is correct.

**Dr HORTON:** In particular the Queensland government as, at one stage at least, acting director-general of the department of local government, racing and multicultural affairs between January 2018 and March 2018?

**Ms O'Shea:** That is correct.

**Dr HORTON:** Could you very briefly summarise what other roles you had prior to that time?

**Ms O'Shea:** I have worked in both the Commonwealth and Queensland governments. I have been in senior executive roles since 2010, heading up the government's waste reform agenda and then also as deputy director-general for conservation and sustainability services in the department of environment and also as director-general for national parks, sport and racing prior to my decision to retire, at which point I agreed to act in the director-general role for the department of local government while a recruitment process was undertaken to fill that role.

**Dr HORTON:** Ms O'Shea, I understand you were director-general of the Queensland department of national parks, sport and racing for the period July 2015 to December 2017?

**Ms O'Shea:** That is correct.

**Dr HORTON:** Thank you. I understand you have also served as a casual member of the Councillor Complaints Tribunal?

**Ms O'Shea:** That is right.

**Dr HORTON:** And you are presently a member of the board of the State Library of Queensland?

**Ms O'Shea:** Yes.

**Dr HORTON:** And have been since 2018?

**Ms O'Shea:** Yes.

**Dr HORTON:** Thank you. I would like to ask you about 10 topics. I will take you through them one by one and I will try to flag the topics about which I would like to ask you as I am going. You were appointed as the interim administrator of the council on 2 May 2019?

**Ms O'Shea:** That is correct.

**Dr HORTON:** And your role in that capacity ended on 20 April 2020?

**Ms O'Shea:** Yes, at the conclusion of the election for Logan City Council.

**Dr HORTON:** Yes, I see. Thank you. We will come to that. The first topic is to talk about your role as the interim administrator. Was it your understanding in that capacity you acted in the place of the councillors of the local government?

**Ms O'Shea:** That is correct.

**Dr HORTON:** And that you had all the responsibilities and powers of the local government and the mayor?

**Ms O'Shea:** That is correct.

**Dr HORTON:** What did you do upon starting as the administrator on 2 May 2019?

**Ms O'Shea:** I was technically appointed to the role on 2 May. I physically started—it was a long weekend; my daughter was getting married—after the long weekend, which was on the Tuesday. I met with the minister to discuss the role and his views on interim administration. We discussed what priorities I might have. I had explained to him that I thought there were three priorities I needed to focus on: business as usual—I was conscious that the council was in somewhat disarray and there was uncertainty across the city around how the local government would operate—to give certainty to the community; good governance; and stable leadership.

**Dr HORTON:** Yes. And did those priorities remain as your priorities for the duration of your interim administration?

**Ms O'Shea:** They certainly did. They pretty much guided my decision-making throughout my tenure as the administrator.

**Dr HORTON:** Thank you. Now, one of the matters I understand you had to deal with as interim administrator was what would be the response and action in connection with the industrial relations matter that had been instituted by Sharon Kelsey, the former chief executive officer of the council.

**Ms O'Shea:** That is correct.

**Dr HORTON:** And what did you decide in that regard?

**Ms O'Shea:** Is it all right if I refer to my notes?

**Dr HORTON:** Please do.

**Ms O'Shea:** So, to give you some context first—well, I will take a step back. I was not overly familiar with the industrial relations case and I certainly did not know Ms Kelsey or any of the co-respondents. I made a decision fairly early in the piece that I would take a neutral stance in relation to that and I can say that I never met with any of the parties to that proceedings as part of that neutral approach.

The acting CEO met with me, I think it was within the first few days of my term, and it was agreed that he would relinquish his role in terms of the industrial relations matter. I believe he had been coopted into undertaking a considerable body of work under the previous council, but it was agreed that it was more appropriate that I do it now. We established that he would not have any role to play other than any procedural aspects to the case. All the decision-making would be made by me and we would establish, in effect, a Chinese Wall in relation to that decision-making process. We had also agreed that the senior executive responsible for organisational and governance services would provide me with the direct operational support that I might need. So, for example, if I needed a resolution by council to give effect to a decision, I would do that through the director of organisational services. I would only really consult with the acting CEO if there were budgetary concerns or other matters but, as a general rule, only to consult but not to make decisions.

**Dr HORTON:** And to what extent, if at all, did you—I do not need to know the detail of it—find it necessary to take legal advice and from whom?

**Ms O'Shea:** My legal advice was from council's lawyers for the industrial relations matter, which were King & Company, and council's barrister, Mr Andrew Herbert QC.

**Dr HORTON:** Yes.

**Ms O'Shea:** I did not take advice from anybody else. I did occasionally seek input from council's insurers as well.

**Dr HORTON:** Thank you. Now, you made various decisions along the way in relation to the council's conduct of its defence of the QIRC litigation; is that correct?

**Ms O'Shea:** That is correct.

**Dr HORTON:** What stance did you resolve to take in connection with it?

**Ms O'Shea:** As mentioned, I had decided to take a neutral stance in relation to the matter. The basis for that decision was that, to all intents and purposes, a lawful resolution had been passed by council relating to a decision to terminate Ms Kelsey's employment contract and so consequently, in my view, that lawful decision still stood and the best place to make a decision as to whether that was lawful or not was the Queensland Industrial Relations Commission. I would like to point out here that this was not at the beginning of the industrial relations matter; it was at the very end of the industrial relations matter and, in fact, final submissions had already been made and the only remaining portion of the industrial case was final oral submissions. So, to my mind, the case had already been—had already played out through a proper process and it was right and proper that that court be the decision-maker, not me.

**Dr HORTON:** Did you receive any requests to meet with Ms Kelsey in the time that you were interim administrator?

**Ms O'Shea:** I did, through the minister's office. I think it might have been the day I was appointed or the day after, the minister's office contacted me to say that Ms Kelsey had contacted them asking if she could meet with me. I declined that meeting. In my mind it was not proper for me to meet with any parties to litigation with council without me clearly understanding what the matter pertained to. I felt it would have been a conflict at that juncture for me to do so.

**Dr HORTON:** Thank you. And were you aware at the time you were the interim administrator that there were some or had been some criminal charges laid against one or more of those who had formerly been councillors?

**Ms O'Shea:** Yes. I appreciate that the circumstances that led to my appointment were a consequence of a number of the councillors being suspended as a consequence of criminal charges and that led to the dissolution of the council and the appointment of an interim administrator. Yes, I was aware.

**Dr HORTON:** And to what extent, if at all, did you consider that affected what your approach should be to the QIRC litigation?

**Ms O'Shea:** To my mind, they were two completely separate actions: one was a criminal matter; the other one was a civil matter. I was conscious that the evidentiary bar for one was completely different to the evidentiary bar for another. So again, to my mind, even if the matters relating to Ms Kelsey were successful in the Industrial Court or industrial commission, it did not necessarily flow automatically that the criminal charges would be so successful either. So to my mind there were two completely separate matters and so I resolved that the criminal case would have no bearing on my decision-making with respect to the industrial case.

**Dr HORTON:** Thank you. I would like to move to a slightly different topic but related, and that is the Interim Management Committee structure that you had to assist you in your role.

**Ms O'Shea:** Yes.

**Dr HORTON:** Could you just very briefly outline what that was and how it did or did not assist you?

**Ms O'Shea:** Okay. With interim administration there is an option for the minister to appoint an interim management committee to assist the interim administrator. I would point out at this stage that the circumstances surrounding a council going into administration are never the same, so an IMC is—the circumstances are completely unique to that council, so an IMC by its very nature will need to be unique and somewhat bespoke, so what worked for another council under administration may not have worked for Logan.

The minister had made a decision early on in the piece, prior to my appointment—I think it may have been at the time that the council was sacked—that he would be appointing the four former councillors who had not been charged to the IMC, but on my appointment we did discuss the role of the IMC and the minister agreed to allow me some time to understand what further assistance I might need for the IMC.

My exposure to local government had been limited to this point in terms of practical experience within the local government sector, so I determined that two areas that I might need assistance with were actually how local government would work in a practical sense and also planning law. I had no experience in planning law, so I put forward a number of nominations to the minister to consider in those two areas of expertise, which the minister did consider, and then that resulted in the appointment of two additional members to the IMC with expertise in those two particular areas.

**Dr HORTON:** Those areas were, as I understand it, planning law, which was Mr Brent Lillywhite of a law firm?

**Ms O'Shea:** That is correct, yes.

**Dr HORTON:** And Mr Gary Kellar, a former Logan City Council chief executive officer and local government specialist.

**Ms O'Shea:** That is it. Correct, yes.

**Dr HORTON:** You were chair of that committee as the administrator; is that correct?

**Ms O'Shea:** That is right. That is the requirement under the legislation. I would point out that the four former councillors were full-time to the committee and Mr Kellar and Mr Lillywhite were part-time.

**Dr HORTON:** Thank you. The involvement of the four councillors: did it change once campaigning started for the forthcoming election?

**Ms O'Shea:** That is right. The four former councillors had indicated their intent to recontest the quadrennial election in 2020. We had reached an understanding that it would be inappropriate for IMC members as public officials to also actively campaign at the same time, so the agreement was reached that once they elected to actively campaign they would resign from the IMC. In the case of Councillor Power, I think he resigned in September. He had made a public statement that he would run for mayor, so his campaigning commenced much earlier than the other three, which was in January.

**Dr HORTON:** In terms of instructing council staff in the period of your interim administration, did that occur through you or was there other means by which instructions could be given to council staff?

**Ms O'Shea:** Council staff only could receive instruction from me so the IMC, if they needed information or needed to request anything—those requests would come through me. I would like to take this time to point out that I was also very conscious that under the legislation a councillor who has been suspended or dismissed is not allowed to actively appear as a councillor whilst they are in suspension or they have been dismissed, so I was very conscious that whatever role I gave the four former councillors within the IMC it needed to be a role where there was no confusion in the eyes of the public that they were acting as a councillor. So they were not allowed to chair any subcommittees of council. They were not allowed to represent council at any events or functions. They were not allowed to advocate or become community representatives because they were, in effect, the role of a local government councillor and I did not want to put them in harm's way of being accused of acting as a councillor when they should not have been.

One of the key platforms of my tenure was good governance, and I saw this as a unique opportunity to revisit most of the governance policies and procedures. I would like to state that there was a view that the council administration was operating very well and efficiently, but it was an opportunity to take a step back and review a number of those policies and procedures. The role of the four former councillors, beyond those two expertise IMC members, was to provide some lived experience in terms of how some of the reforms that we were going to put in would work practically on the ground.

**Dr HORTON:** Did you have occasion at any time in your interim administration to consider whether Ms Kelsey should be reinstated to her position, at least on an interim basis?

**Ms O'Shea:** Yes, I did.

**Dr HORTON:** Could you just outline how that began and what your decision-making processes were in that regard?

**Ms O'Shea:** I think I approached the position about Ms Kelsey's reinstatement, I believe, with an open mind. One of my first actions was to contact the Public Service Commissioner to ask him for assistance with regard to a facilitated approach to reinstatement of Ms Kelsey, whether it be a decision of the Industrial Commission or whether it was my decision to temporarily or interimly reinstate. The Public Service Commissioner gave an undertaking to look to make inquiries as to whether there were consultants who could assist me in that facilitated approach. I was conscious that in Ms Kelsey's litigation a number of staff had been called to give evidence and there were some fractured—potentially some fractured relationships that could have arisen out of that process, so I wanted to ensure that if she was returning it was done in a way that would achieve the best outcomes for her and for council staff. I make that comment because I believe that I had an open mind at that juncture as to whether it was appropriate for Ms Kelsey to be reinstated.

I was obviously briefed by council's lawyers with respect to the industrial relations matter, but I also wanted to form my own views and judgement so that I could, I hope, take an unbiased view regarding Ms Kelsey's reinstatement. Very early on I had asked lawyers to provide me with copies of all the material relating to the case. I attempted to familiarise myself with that material. I certainly very quickly read the final submissions of all the parties—not just council but the co-respondents and Ms Kelsey as well. I also contacted Ms Rachel Hunter, whom I understood provided what has been termed the probationary report for Ms Kelsey, to get a sense from her her judgements around Ms Kelsey. She declined to discuss Ms Kelsey in particular with me, but we did talk more broadly around the role of a CEO for a council not dissimilar to Logan City and what those management expectations might be. Based on my own assessment, plus those discussions with Ms Hunter, I concluded that it was not dissimilar to a role that I myself was familiar with, which was a director-general.

**Dr HORTON:** And Ms Hunter, to be clear, when you spoke to her even then, had had long experience in the past at fulfilling a director-general role; is that correct?

**Ms O'Shea:** That is right, and at that point in time she was also a current director-general in the state, yes.

**Dr HORTON:** Thank you. I am sorry, I interrupted you.

**Ms O'Shea:** That is all right. So, from my perspective, one of the key elements of the role was the ability to work closely with elected representatives and, whilst I noted in the probation report that Ms Kelsey got glowing—can I be clear that in my view, even though it is titled as a probationary report, Brisbane

it was really a 360-degree report, which is not really a full probationary report because there was no analysis or assessment of Ms Kelsey's performance, per se; it was a series of interviews with staff and Ms Kelsey's elected representatives. From that 360-degree review there was no doubt that Ms Kelsey was held in high regard by staff in the administration, but there had been some concerns expressed from some of the elected representatives and, whilst they were not overly concerning, they did sort of raise a little bit of a red flag for me that I thought I needed to look into some of those concerns in a bit more depth. They related to Ms Kelsey's political nous in relation to how she interacted with elected representatives.

So the role of a director-general, not dissimilar to a CEO, is to be able to work closely with their elected representatives so that they had confidence that you were impartial, could give frank and fearless advice. For a director-general it is not that difficult. You have a minister or ministers and a government of the day that you report to. Sadly, I would have to say for an unaligned council like Logan City Council, Ms Kelsey had 13 people that she needed to manage in terms of being able to demonstrate impartiality and not having an alignment to any one councillor over another. That would have been an incredibly complex and difficult area to navigate.

In the course of my reading of industrial relations material I came to see that concerns had been raised around perception of Ms Kelsey's alignment to some councillors over others. They raised some red flags for me. I also was questioning some of Ms Kelsey's decision-making post her termination that included attending council events at the invitation of the councillors who had not voted to terminate her contract and also to attend ratepayer events and things like that, which included GoFundMe pages and things. It called into question Ms Kelsey's, I guess, judgement in respect of that role. I would have to say that decision led me to think that perhaps reinstatement at that juncture was not a good thing. Did you want me to talk about the conflict? There was a conflict of interest in my mind as well.

**Dr HORTON:** Yes, I want to move to that next. If it is a convenient time, can you tell us what you perceived that to be?

**Ms O'Shea:** I was also conscious that I had by this point made the decision to continue council's defence of the industrial matter. My CEO: whoever that happened to be, I needed to work very closely with them. I needed to have confidence in them and them to have confidence in me. I had a huge governance agenda and reform package that I wanted to introduce in a very short period of time—less than nine months—so I needed to be able to work with that person incredibly closely. If that CEO was someone I was in active litigation with, I could not see how that conflict could be resolved. I was also conscious that four of my IMC were people who were actively supporting Ms Kelsey in her litigation matter and the CEO would have been a crucial, pivotal role in the IMC and its body of work. I was concerned about the conflict with Ms Kelsey and those four former councillors and I could not see how that would be resolved.

**Dr HORTON:** Did you or anyone else on your behalf communicate decisions that you had made about the reinstatement issue to Ms Kelsey or anyone else?

**Ms O'Shea:** Can I just check with counsel?

**Dr HORTON:** If it helps, Ms O'Shea—

**Ms O'Shea:** Sorry, I was just checking that I was not breaching any privilege that was not mine to breach or that was not mine to—

**Dr HORTON:** Yes. I do not want to ask you about any legal advice that you obtained or any content of that but really just whether there was a communication that went about that correspondence.

**Ms O'Shea:** Yes. That was communicated to Ms Kelsey's lawyers. I believe it was an open letter.

**CHAIR:** Ms O'Shea, can you clarify what was communicated?

**Ms O'Shea:** The decision not to reinstate Ms Kelsey was communicated to her lawyers I believe around 28 May via an open letter to the Queensland Industrial Court. Yes, I think it is in my witness statement. A letter was sent from council's lawyers to Ms Kelsey's lawyers on 28 May advising her that I would not be supporting her request for reinstatement on an interim basis.

**Dr HORTON:** I think we may have a copy for you to identify, if you do not mind. I think there is a bundle of material here. If you turn to page 11 of the bundle, Ms O'Shea, that you are about to be shown. I ask for copies to be circulated please to the committee as well.

**CHAIR:** Has this document been tabled?



**Dr HORTON:** Not yet. I do intend to table this and a few others that are in connection with it. If it is all right, I might have the witness identify this, Chair, and then ask a few more questions and come back and table it and a few other documents at the same time, rather than do it piecemeal. Is that appropriate? It is page 11, Chair. Ms O'Shea, is page 11 of the document in front of you a letter of King & Company to Mr Dan Williams of MinterEllison dated 28 May 2018 and is that the letter you have in mind?

**Ms O'Shea:** Yes, it was.

**Dr HORTON:** I ask you to turn the page to page 12, the second page of the letter. Go to the second last paragraph, which does not have a number in front of it. It is about two-thirds of the way down the page. It is said there that an offer is made of paying 'a sum equal to the periodic salary payments'.

**Ms O'Shea:** Yes, I can see that.

**Dr HORTON:** Could you recall the nature of that offer made and whether it was accepted?

**Ms O'Shea:** I will start with the last part of your question. No, it was not accepted. With your permission, I would like to go into some of my thinking around that offer, if that is all right?

**Dr HORTON:** Yes. Tell us about the offer, if you would, and the reasons you came to make it.

**Ms O'Shea:** The offer was to pay the equivalent of Ms Kelsey's salary under certain terms. The terms were, from memory, to the conclusion of the industrial matter or her employment contract, which was June 2021, whichever was the sooner; that the payment, if Ms Kelsey's case was successful, would be taken into consideration in terms of any compensatory amount owing to her; and if she was not successful that council would be entitled to get reimbursement of those funds.

The reasoning behind that was that I was conscious of the obligation of council to act as a model litigant. Council approached the matters subsequent to the criminal charges being laid as part of its neutral stance, so we did not support or oppose any of the stay applications or subsequent appeals by the co-respondents, but I was conscious that that process was likely to result in significant delays to the outcome of the industrial case. My reasoning for this was that I was conscious that it was the right of the co-respondents—that is, the mayor and the seven former councillors—to explore every legal avenue open to them to ensure that the outcome of their civil matter did not prejudice the process relating to their criminal matter. This was particularly important because there were significant penalties associated with the criminal matter, including considerable jail time, so in my view they had every right to explore every one of those legal avenues open to them.

As said, I was conscious that this was going to result in significant delays to the outcome of the QIRC process. Ms Kelsey's lawyers had raised with council that Ms Kelsey was suffering financial detriment and that was likely to be exacerbated as a consequence of these delays. This offer was my attempt to try to balance my obligations as a model litigant with Ms Kelsey's considerable financial constraints and the delays that were no fault of hers against the rights of the co-respondents to explore their legal avenues. This was an attempt to level the playing field—and I know that phrase has been used in testimony here prior. Certainly that was my attempt to level that playing field. Ms Kelsey refused on more than one occasion.

**Dr HORTON:** And how many occasions was the offer made?

**Ms O'Shea:** At that time, we had made the offer earlier than the 28th and then on the 28th again.

**Dr HORTON:** Were reasons given by her for declining the offer?

**Ms O'Shea:** At that point, Ms Kelsey's view was that her only remedy was reinstatement.

**Dr HORTON:** And did she or someone else communicate that to you?

**Ms O'Shea:** Through the lawyers. Reinstatement was what Ms Kelsey wanted.

**Dr HORTON:** Was that in writing or orally?

**Ms O'Shea:** I believe it was in writing. I cannot recall exactly, but I believe it was in writing.

**Dr HORTON:** Chair, might I just before the break seek to table that letter of 28 May 2019 from King & Company to Dan Williams and MinterEllison so that it is before you properly?

**CHAIR:** Yes.

**Dr HORTON:** Just that one letter. There might be others after the break.

**CHAIR:** Just the two or three pages or the entire bundle?

**Dr HORTON:** For the moment the three-page letter, but I will seek to tender the others that are in the same bundle.

**CHAIR:** Thank you. We will deem that three-page letter from King & Company dated 28 May 2019 to be tabled but not published, in accordance with previous guidance.

**Dr HORTON:** Thank you. Is that a convenient time for a break, Chair?

**CHAIR:** It sounds as though you have a way to go yet.

**Dr HORTON:** Thank you. I do.

**CHAIR:** I think we should probably have a breather. We will resume at two o'clock. Ms O'Shea, if you can hang around and come back at two o'clock, we will resume then.

**Ms O'Shea:** No problem, thank you.

**Proceedings suspended from 1.01 pm to 2.03 pm.**

**CHAIR:** Mr Horton, could you continue, please?

**Dr HORTON:** Ms O'Shea, we were speaking about the letter of 28 May 2019 from King & Company.

**Ms O'Shea:** Yes.

**Dr HORTON:** So far as that communicates reasons said to be yours—that is, the interim administrator's reasons—do they accurately state the reasons that you held at the time?

**Ms O'Shea:** Yes, they do.

**Dr HORTON:** And one of those reasons was that you had formed the view that it was not consistent with the objective of maintaining stable administration for the benefit of the city and the next council to allow Ms Kelsey to return as the council's CEO on interim basis?

**Ms O'Shea:** That is correct.

**Dr HORTON:** Did you at any stage have contact with the CCC about the question of whether Ms Kelsey should or should not be reinstated?

**Ms O'Shea:** Yes, I did.

**Dr HORTON:** And when was that?

**Ms O'Shea:** From my recollection, on or about 29 May.

**Dr HORTON:** That would be the day after the letter was sent which I have just tabled?

**Ms O'Shea:** I believe so, yes.

**Dr HORTON:** Are you fairly certain about 29 May date? You seem maybe a little bit uncertain.

**Ms O'Shea:** I think attached to my submission is a file note that I—or my testimony, a file note that I made.

**Dr HORTON:** Thank you. Do you have a copy with you of that?

**Ms O'Shea:** I do.

**Dr HORTON:** That is a diary note of two pages, 27 May to 2 June; is that correct?

**Ms O'Shea:** That is correct.

**Dr HORTON:** I have had a copy circulated to the committee members and I would seek to have that tabled, Chair, as the note to which I understand Ms O'Shea to be referring.

**CHAIR:** Thank you, Mr Horton. We will consider that document tabled but not for publication at this point in time, in accordance with previous guidance.

**Dr HORTON:** Thank you. Was this a note that was taken immediately after the telephone call to which it refers?

**Ms O'Shea:** No, and that is why I have tentatively circled the 29th. I made that note probably about a week or so after the phone call.

**Dr HORTON:** Thank you. Should the committee take it that the day on which you think it was likely to have occurred was 29 May?

**Ms O'Shea:** That is right.

**Dr HORTON:** Just explain then, would you, what happened to make you bring into existence that note.

**Ms O'Shea:** The detail of the phone call or my reasoning for making the note?

**Dr HORTON:** First just go to—what happened in the phone call? Who called you and when was it?

**Ms O'Shea:** The phone call was initiated by the CCC chair, Mr Alan MacSporran. He called me regarding the industrial relations matter. In the course of the conversation, he wanted to know why council was persisting in its defence of the litigation, and he also wanted to suggest that I reinstate Ms Kelsey to her role as CEO. With regard to the question about why council was persisting with its defence, I did not provide Mr MacSporran any reasoning other than I had received advice and that that was the decision we had made. With regard to Ms Kelsey, I know he pointed out that she was a lawyer and had formerly worked in corruption areas and would be useful to me in my term as administrator. I believe I said to him that it was not my intent—I do not think I gave him an indication as to whether I would reinstate or not, other than just to take on board his suggestion and to say I would note his suggestion. But I did point out to him that I believed that there was a conflict of interest in regard to Ms Kelsey's reinstatement, and by that I was referring to the conflict of interest that I had mentioned earlier, my conflict in continuing with the litigation and Ms Kelsey's role as the CEO, and the conflict with the former councillors. But Mr MacSporran said that with the council's dismissal that conflict had ceased to exist. That was a comment he made.

**Dr HORTON:** Did you agree with that assertion by him about the conflict ceasing to exist?

**Ms O'Shea:** I am not sure what he meant by that, to be honest with you. I am not sure what he meant by the conflict ceasing to exist, but I disagreed there was an ongoing conflict, for want of a better phrase.

**Dr HORTON:** That is, you thought there was—

**Ms O'Shea:** There was a conflict. It was a different conflict to the conflict that predated my term.

**Dr HORTON:** Yes.

**Ms O'Shea:** My understanding was that there was a conflict with the former seven councillors and Ms Kelsey that prevented her reinstatement. My conflict was a different conflict to that. So in my view there was an ongoing conflict; it was just different in nature to the previous conflict.

**Dr HORTON:** You said you did not give him undertakings either way about what you would do?

**Ms O'Shea:** No. I undertook to note his suggestion but I did not give him any indication one way or other what I would do.

**Dr HORTON:** Did you give any indication about whether you were going to let the QIRC make the decision about whether the actions taken were lawful?

**Ms O'Shea:** Good point. I did make that point when Mr MacSporran asked me why council was persisting in its defence of the litigation. I think I may have used the words, 'I am not there to play judge and jury on this matter.' That was more properly a decision made by the commission.

**Dr HORTON:** If we turn to your note in the diary, does that reflect your recollection, at least a week after the call had occurred, of the true exchange that did occur during the course of the telephone call?

**Ms O'Shea:** Yes, it does.

**Dr HORTON:** What was the nature of the call? Was it a threatening call? Was it a friendly call? What was the general feeling the caller conveyed?

**Ms O'Shea:** It was a collegiate call. I did not feel at all threatened or bullied by Mr MacSporran in that phone call. I did not feel any compelling argument, any insistence from him once I had made my comments and undertook to note his comment. We ended the conversation, I thought, on friendly terms. I did not feel in any way concerned in terms of his nature through the call.

**Dr HORTON:** Were you surprised by the call or its content?

**Ms O'Shea:** I was very surprised by the call and I would have to say that that was the reason I made the file note. I was somewhat taken aback that he would call me in relation to the litigation and reinstatement.

**Dr HORTON:** Why were you taken aback and surprised?

**Ms O'Shea:** I am not familiar with obligations to people who make a PID, but I was taken aback because I believed that the CCC had commenced a criminal proceeding and the matters were factually similar. I was concerned that there was a conflict of interest from Mr MacSporran in making that call to me to advocate for Ms Kelsey's reinstatement and questioning why council was persisting in its litigation. I thought it was a little odd and it raised some concern.

**Dr HORTON:** You said 'advocate for Ms Kelsey's reinstatement'. Is that the sense of what you took to be that part of the call to you from him?

**Ms O'Shea:** Perhaps I misspoke in using the word 'advocate', but certainly there was a strong suggestion that she would be beneficial to my term as interim administrator.

**Dr HORTON:** I would like to go to two other topics, and I will come back to this period of 29 and 30 May because there have been some other matters aired, as you know, in this place in the last few days about that. Can I ask what role you had, if any, in the 2019-20 council budget?

**Ms O'Shea:** My term formally commenced on 2 May. Council has an obligation under legislation to make its budget and rate decisions prior to the beginning of the new financial year. It was a very short period of time in which to finalise the budget and pass a resolution through council to give effect to that budget. I would have to say that it was one of my very first priorities. I knew I had a very short period of time in which to do that in order to meet the 1 July deadline. It was very early in my term a very high priority to get that done.

**Dr HORTON:** That budget—correct me if I am wrong—meant that one had to look at various electoral divisions within the council?

**Ms O'Shea:** No, I did not consider the electoral divisions of the council in my consideration of that budget. There was a considerable body of work that had already been done to prepare for the budget. Council had commenced work way back in January of that year. Part of that was to understand what the council's fiscal position was and provide a raft of scenarios in terms of what rates we would be applying: should the rates go up or should they go down? There was a whole raft of scenarios. That included issues around what sort of income council would be generating through development applications and other fees and charges to try to balance the books and to make sure that council remained in a positive fiscal place.

Like any ordinary government budget process, each section of council brought forward budget proposals for consideration. I will be frank: council administration saw this as a unique opportunity to put forward proposals that may not have been favourably considered by elected representatives. My experience as a director-general, I have to say, is that sometimes the budget that is required for the internal efficiency and operation of an organisation has to be balanced against budget applications that relate to more external-facing projects and things that the community wants as opposed to the efficient functioning of an organisation. It is a bit like the foundation piece of a house: you do not see but it is really important. There was a unique opportunity for the council administration to bring forward a number of projects that may not have been as favourably considered had there been 13 elected representatives who needed to meet the needs of their constituents. That was part of the process as well.

**Dr HORTON:** Did you engage with council's external auditors for the process of that budget preparation?

**Ms O'Shea:** Not the budget preparation, per se. PwC, through the Auditor-General, was undertaking council's annual audit. As part of my briefing of PwC, I asked them to do a deeper dive into council's budget and financial position. I wanted confidence that the books were as good as they said they were and also a look at council's financial policies and procedures.

**Dr HORTON:** What were the results of the audit?

**Ms O'Shea:** It was a favourable audit outcome in relation to those two matters. There was one qualification in the audit that related to the way council had, in previous annual reports, reported its ex gratia payments.

**Dr HORTON:** Was that a significant issue in your mind?

**Ms O'Shea:** No, council reported them in a lump sum. According to PwC and the Auditor-General, they should have been itemised. That is something that has been put in place for the future.

**Dr HORTON:** In the course of doing this work, did you have occasion to look back at the breakdown or any part of the 2018-19 budget that the council had prepared?

**Ms O'Shea:** With respect to previous budgets, I was aware that there had been allegations of some electorates receiving a favourable allocation over others. I wanted to satisfy myself as to whether there was merit to those allegations. I asked for a breakdown of previous budgets by division. I could not find any extraordinary favouritism to one division over another. There were some divisions that would appear to receive a lot more funding, but that was usually for whole-of-city projects.

I would say that, like all electorates, electoral areas, your budget allocation naturally waxes and wanes with need. For Logan in particular, being the former Albert shire and the former Logan shire, there was disparity in some respects in terms of infrastructure. Certainly the eastern part of the city

probably has better infrastructure than the western part. From a whole-of-city perspective, there was naturally expenditure—you might need to put footpaths, for example, in a part of the city that did not have footpaths, so that might appear like that division was getting more money when in reality it was not really, from a favouritism perspective.

**Dr HORTON:** Did any part of your work involve analysing whether there had been voting blocs within the council?

**Ms O'Shea:** Yes. I looked into that as well. I asked council to provide me with a breakdown of voting decisions over the last 12 months and I could not find any evidence of a voting pattern or a voting bloc. It seemed to be all over the place.

**Dr HORTON:** You could not see, for example, a clear division between seven councillors voting one way and four or five the other in a consistent way?

**Ms O'Shea:** Absolutely not.

**Dr HORTON:** You say 'absolutely not'. You seem very certain about that.

**Ms O'Shea:** I am very certain about that.

**Dr HORTON:** Just so we understand, exactly what analysis did you do on that?

**Ms O'Shea:** I asked for all the committee meetings—this is my recollection; this is well over two years ago now—and the resolutions to be broken down to see whether there was a pattern of seven versus five or four versus eight or whether there was some voting pattern. I could not see any evidence of that at all. I was concerned about these allegations, so as part of our governance reforms Logan City Council meetings are now live streamed. I think in the past it was a show of hands or a yay or nay. Now there are voting buttons and the decision of a councillor is actually recorded electronically.

**Dr HORTON:** Apart from the 29 May call, did you have other contact with the CCC, either from them or you to them, in your time as interim administrator?

**Ms O'Shea:** My recollection is I had two more telephone calls with Mr MacSporran. The remaining two calls were initiated by me. One was in relation to a council officer. I rang to see if there were any investigation or adverse actions being undertaken by the CCC in relation to that officer.

**Dr HORTON:** About when did you make that call? Do you remember the date?

**Ms O'Shea:** I do not know the exact date, but it would have been within a month to six weeks of my time there.

**Dr HORTON:** And the other occasion?

**Ms O'Shea:** The other occasion is not dissimilar in period of time. Somewhere around mid-June I contacted Mr MacSporran to inquire of him if he could give me some advice around concerns that I had about electioneering by the former councillors who were going to be coming onto my IMC. I knew that they were public officials and I had some concern around electioneering whilst they were on the IMC, so I was seeking Mr MacSporran's advice and his thoughts on the matter. At that time I was in discussion with the department to establish a protocol to guide the actions of the IMC.

**Dr HORTON:** And you received that advice from him?

**Ms O'Shea:** It was just over the telephone.

**Dr HORTON:** And you acted on it?

**Ms O'Shea:** Yes. His advice was, yes, there were concerns of a conflict but that if I had a proper protocol in place that conflict could be abated.

**Dr HORTON:** Another topic, and probably my last, is this: you will have known about matters that have been the subject of evidence in this place over the last few days and, in particular, an email of 30 May 2019 at 1.59 pm from Andrew Francis to another in the CCC raising concerns about your conduct. I wanted to give you an opportunity while you are here to say, if anything, what you feel needs to be said in response.

**Ms O'Shea:** For the benefit of the committee, I received a copy of the emails late on Thursday last week.

**Dr HORTON:** Had you ever seen them before then?

**Ms O'Shea:** No, I had not.

**Dr HORTON:** Had anyone ever raised with you on or about 30 May 2019 that serious concerns were being raised about your conduct within the CCC?

**Ms O'Shea:** No. This is the first time I have seen or heard of these concerns. You asked me how I felt about them. Can I say—

**Dr HORTON:** Yes.

**Ms O'Shea:** I was shocked to see those concerns written there but, more importantly, I was very disappointed that the corruption body that has been brought in to safeguard against these types of things was making these allegations without any evidence or natural justice. So I was very disappointed in the CCC.

**Dr HORTON:** Thank you. Did you wish to say any more? I do not want to cut off anything else you wish to say, if you wish to say it. I am not suggesting one way or the other whether you should, but I am conscious that they are about you and that the views expressed are strong ones.

**Ms O'Shea:** I know that ultimately I would hope common sense prevailed. If it is all right, may I read into *Hansard* the comments made by Acting Director David Caughlin? Would that be all right?

**Dr HORTON:** I am sure it will be there before the committee. They are at page 589 of volume 1.

**CHAIR:** Just one moment, Ms O'Shea. Are you referring, Ms O'Shea, to an email of Friday, 31 May 2019 at 12.18 pm?

**Ms O'Shea:** That is correct, Chair.

**CHAIR:** Go ahead.

**Ms O'Shea:** Are you comfortable with that?

**CHAIR:** Yes.

**Ms O'Shea:** Thank you. I appreciate that. On that date, Mr Caughlin, Acting Director, Office of the Senior Executive Officer Corruption, wrote—

Without seeing the correspondence and the affidavit, it's difficult to judge, but I think each of the steps taken by the administrator are capable of being seen as an effort to maintain the status quo with respect to the contentious matters within council.

Obviously we need to bear in mind that the administrator's role is to run the council, not to favour the views of one side or another, and certainly not to protect the interests of either the four councillors or Ms Kelsey (or the charged councillors).

I appreciate those words by Mr Caughlin, because I think they accurately reflect my endeavours during my term as the interim administrator and I hope set the record straight with regard to, I think, a very disappointing event and where I was given no natural justice in terms of responding to concerns that were purportedly held by the CCC investigative officers.

**Dr HORTON:** Thank you, Ms O'Shea. They are the questions I have for this witness, Chair and committee.

**CHAIR:** Thank you, Mr Horton. Any questions from committee members? Member for Coomera.

**Mr CRANDON:** I have been told to keep my preambles short. I assure you I will. Thanks for making the time to come before us to, if you like, set the record straight on a number of issues. That last one was a particularly bothersome one for me. You were appointed on the 2nd of the 5th. You started work on the 6th of the 5th, the following Monday. I note that 24 days later, on the 28th, you started to become—unbeknownst to you—the topic of conversation. How long was your appointment for? Was it a contracted period?

**Ms O'Shea:** The interim administration contract was from the dissolution of council, which was 2 May through to the formation of council following the quadrennial election in 2020. Each council election is its own election, so in my case—Logan City Council—council was not declared by the ECQ until 20 April, I believe.

**Mr CRANDON:** Okay. So, roughly, close to a year?

**Ms O'Shea:** Yes, 11 months, yes.

**Mr CRANDON:** It was an agreed contract with the minister?

**Ms O'Shea:** It is a statutory appointment through Governor in Council.

**Mr CRANDON:** Okay. Thank you very much. And it was a contract. On the last topic—the email trail—if the CCC officers were successful in their quest to sack you, would there have been any recourse for you as far as being paid out your contract or making a claim for wrongful dismissal?

**Ms O'Shea:** I am not certain, to be honest with you. I would have to go back and look at the terms of my contract. I cannot, with any certainty, say.

**Mr CRANDON:** The CCC has made comments about public money and the cost of paying out CEOs from councils. That is the reason for my question. It seems to fly in the face of that concept, of sacking people short of their contract term; would you agree?

**Ms O'Shea:** I would have to say there is a potential to conflate two issues here—whether these were genuinely held or whether they were frivolous and vexatious concerns by the CCC. In fairness to the CCC, if they hold corruption concerns and my dismissal was as a consequence of those corruption concerns, that is different to the concerns that the CCC currently hold, I believe, in relation to the turnover that we see at local government of CEOs. A council may come in and it may decide to terminate for no reason, other than contractually they can.

**Mr CRANDON:** Okay, thank you. Did the four ex-councillors work full-time when they were appointed to your interim management committee?

**Ms O'Shea:** Yes, they did.

**Mr CRANDON:** Set hours?

**Ms O'Shea:** Yes.

**Mr CRANDON:** What hours?

**Ms O'Shea:** I think they were just a standard 7¾-hour day.

**Mr CRANDON:** A typical 7¾-hour day, did you say?

**Ms O'Shea:** Whatever a standard day is, yes.

**Mr CRANDON:** Whatever the standard days are?

**Ms O'Shea:** Yes.

**Mr CRANDON:** Did they turn up for work?

**Ms O'Shea:** Yes, they did.

**Mr CRANDON:** Every morning?

**Ms O'Shea:** Yes, they did.

**Mr CRANDON:** Finish on time, have lunch—all of those sorts of things?

**Ms O'Shea:** I believe so, yes. They used to put in timesheets, so—

**Mr CRANDON:** Were they free to come and go? Were they flexible in that regard or were they under your direction?

**Ms O'Shea:** Do you mean free to come and go physically or—

**Mr CRANDON:** Were they regarded as an employee and, therefore, if they needed to have time off they needed to—

**Ms O'Shea:** Yes, so if they needed to have time off, yes, they did need to advise me of the time off.

**Mr CRANDON:** Okay.

**Ms O'Shea:** Just to be clear, they are an appointment of the minister. Their contract was with the department, not with council. Council reimbursed the cost of the IMC, as it did my employment as well. So my contract was with the department, not with the council. If they were taking time off, we would let the department know and maybe their rates were adjusted to accommodate that.

**Mr CRANDON:** Okay, or they might have had some sick pay accumulated or whatever?

**Ms O'Shea:** Yes.

**Mr CRANDON:** Do you know what the salary package was? Was it similar to a councillor's package?

**Ms O'Shea:** I cannot say for certain what the package was, but I think, again from recollection, it was probably around the same rate as a councillor.

**Mr CRANDON:** Okay, thank you. Just to be clear, we had one of the councillors from May—was it 2 May for them as well?

**Ms O'Shea:** No. They were appointed I think through Governor in Council by the minister on 14 June, from memory.

**Mr CRANDON:** 14 June?

**Ms O'Shea:** So all the committee was appointed at the same time, on 14 June.

**Mr CRANDON:** Okay. So 14 June through to September that same year?

**Ms O'Shea:** September for Councillor Power. I believe it was January for councillors Bradley, Koranski and Raven.

**Mr CRANDON:** Okay, so 14 June to the—

**Ms O'Shea:** I should say 'former councillors'. Well, they are current councillors now—

**Mr CRANDON:** Sorry, say that again?

**Ms O'Shea:** I should have said they were former councillors at the time, even though they are current councillors now.

**Mr CRANDON:** Yes. Were there any termination payments made to the sacked councillors in May 2019?

**Ms O'Shea:** Not to my knowledge.

**Mr CRANDON:** That would have been, I imagine, because there was fraud charges laid. So there was no compensation whatsoever?

**Ms O'Shea:** I think if the council is dismissed the councillors no longer get paid, irrespective of why they were dismissed. They just no longer get paid. And that would have included the four former councillors that had not been charged. So if they had not been appointed to the IMC, they would not have been—

**Mr CRANDON:** Right, so there was not a termination payment for them either?

**Ms O'Shea:** No.

**Mr CRANDON:** Okay, thank you. Timing wise it seems, if I have the dates right—did you say the CCC chair rang you on 29 May?

**Ms O'Shea:** On or about 29 May.

**Mr CRANDON:** The emails that we referred to earlier were the 30th, the day after he rang you—that that tirade commenced within the CCC. Is the timing curious?

**Ms O'Shea:** It would be speculation on my part. I cannot comment on the timing, I am sorry.

**Mr CRANDON:** Thanks very much. That is it from me, Chair.

**CHAIR:** Thank you, member for Coomera. The member for Stafford has some questions.

**Mr SULLIVAN:** Thank you, Chair. Ms O'Shea, I just wanted to pick up on some of the language you used. You read into the record part of an email from May 2019, and I think you used the phrase 'clearing the record' or 'clearing the allegations'. Just to make it obvious in that regard, none of those allegations were put to you at the time, were they?

**Ms O'Shea:** This is the CCC emails?

**Mr SULLIVAN:** Yes.

**Ms O'Shea:** No, they were not.

**Mr SULLIVAN:** So there was no investigation and, obviously, no charges or action taken against you in that regard?

**Ms O'Shea:** I do not know whether any investigation was done but certainly no charges.

**Mr SULLIVAN:** In terms of the public record, you were asked to do a job, you did it and you left in terms of your contract?

**Ms O'Shea:** Yes, I did, thank you.

**CHAIR:** Ms O'Shea, in your time as administrator, putting aside matters clearly referred to in this inquiry relating to the QIRC and the criminal charges as well, were there any instances of corrupt conduct that you came across in Logan City Council, either individual or systemic?

**Ms O'Shea:** No. I can categorically say that Logan City Council administration is impressive. The people of Logan should be very grateful for an amazing council. It was an absolute privilege to work there. The officers there are dedicated and professional, and the circumstances of the dismissal of the former council should not be a reflection on the council administration at all.

**CHAIR:** Just to be clear, that was the state you found upon your commencement?



**Ms O'Shea:** Yes.

**CHAIR:** As well as your departure?

**Ms O'Shea:** Yes. As a former director-general, I would have been privileged to have any one of those executives work for me in state government.

**CHAIR:** Deputy Chair, I can see you out of the corner of my eye.

**Mr SULLIVAN:** You just raised an issue. I do not want to ask details of the ongoing court matter that is still outstanding, but as the interim administrator did you have any role in providing materials or records or anything like that in relation to that separate matter?

**Ms O'Shea:** The matter with the former mayor?

**Mr SULLIVAN:** Correct.

**Ms O'Shea:** No.

**Mr SULLIVAN:** Thank you.

**Dr HORTON:** Might this witness be excused, Chair?

**CHAIR:** Ms O'Shea, we appreciate you coming in to our inquiry to give your perspective, and an important one it was. We appreciate the time it has taken and the effort you have had to go through to do that. Your contribution has been valuable, and we now excuse you from the inquiry. Thank you very much for your time and thank you, Mr Dunphy, as well.

**Dr HORTON:** The next witness we would seek to call is former councillor Russell Bruce Lutton.

**Mr Russell LUTTON** (accompanied by Ms Caitlin Connole and Mr Charles Massy)

*Witness was sworn—*

**Dr HORTON:** Good afternoon, Mr Lutton. You are Russell Bruce Lutton; is that correct?

**Mr Lutton:** Yes.

**Dr HORTON:** You were formerly a councillor of the Logan City Council?

**Mr Lutton:** Yes.

**Dr HORTON:** You were some years a councillor on that council, as I understand it?

**Mr Lutton:** Thirty-four years, first elected in 1985.

**Dr HORTON:** You served a period as deputy mayor?

**Mr Lutton:** I did as deputy mayor, yes.

**Dr HORTON:** Yes. Between what years?

**Mr Lutton:** 2008 to 2012 and 2012 to 2016.

**Dr HORTON:** Thank you. You served on council committees in that period?

**Mr Lutton:** I have been on every committee that council has ever had. I have represented council at forums across Australia and overseas.

**Dr HORTON:** Under how many mayors did you serve as councillor?

**Mr Lutton:** I think it was about seven—six or seven.

**Dr HORTON:** And in your 34 years on the council, how many CEOs did the council have?

**Mr Lutton:** Well, we had two that lasted 34 years between them. The first one, Gary Kellar, was 24; Chris Rose, 10. Then at 2016 Chris Rose left and we appointed one that lasted seven months before we had to get rid of him, and then following that Sharon Kelsey was appointed.

**Dr HORTON:** Thank you. I would like first to ask you a little bit about the employment of Ms Kelsey. Were you involved in the decision to give her the job?

**Mr Lutton:** Yes, all of the candidates—council engaged consultants who did an Australia-wide search and they presented—I think they might have presented more to a select committee, maybe the mayor and the mayoral cabinet, but then it was narrowed down to three, and they were presented to all the councillors sitting as a whole. We all interviewed, asked questions—we all had a series of questions, and then from that Sharon Kelsey was selected by the majority. Not entirely everyone was happy, but the majority supported it.

**Dr HORTON:** At that time did you support her appointment?

**Mr Lutton:** I did. I thought on the day she performed very well compared to the other two. Yes, I will leave it at that.

**Dr HORTON:** Did you support Ms Kelsey's termination ultimately in the vote in February 2018?

**Mr Lutton:** I did.

**Dr HORTON:** At what time did you form the view that you should vote in the way you ultimately did?

**Mr Lutton:** Well, as my affidavit to the QIRC highlights, there were a number of small issues maybe in the scheme of things to others, but when you are looking for a CEO, the CEO is the only person that councillors can direct, and so you want a CEO that can work with you. We have had, as I said before, two CEOs long term. Those guys, Gary Kellar and Chris Rose—Gary was actually appointed to the interim management committee working with Tamara O'Shea. If they did not like the direction you wanted the council to go, they would push back and argue and argue and argue. But in the end, if the councillors put their hand up in support of a direction, they would do it.

Sharon Kelsey was the exact opposite. She would just ignore any directions that councillors gave her and do what she wanted to do anyway, and there were only a—some of them, as I said before, were small in the scheme of things, but they all added up and added up and added up to someone that was going to be very difficult to work with. But the final straw was the budget presentation day when we started the budget in 2018. Her performance on that day was terrible. Here we have a person who is getting in excess of \$500,000 a year leading a council with over a billion dollar budget, one of the fastest growing areas in South-East Queensland with growth issues all over at all ends of the spectrum, and she could not give us any direction, any idea where we were going to get the money to fund things et cetera.

**Dr HORTON:** You said these things in your affidavit, I understand, in the QIRC?

**Mr Lutton:** Yes.

**Dr HORTON:** You say that evidence was true that you gave in the QIRC about this?

**Mr Lutton:** Yes.

**Dr HORTON:** You have heard some other suggestions here, but to this day you say that evidence that you gave in the QIRC was correct?

**Mr Lutton:** Yes.

**Dr HORTON:** Understood. Now, you also have heard some talk, as you did at the time, of some WhatsApp communications. Do you know what I am talking about?

**Mr Lutton:** Yes. I did not even know what WhatsApp was. I am a tech dinosaur. I did not even know what WhatsApp was until the CCC asked me if I had it on my phone when they took it at seven o'clock one morning. They raided my house with a search warrant and took my phone and said, 'Do you have WhatsApp on this?' and I go, 'What's WhatsApp?' I was never part of a WhatsApp group.

**Dr HORTON:** And were you aligned with any particular group of councillors on the issue of Ms Kelsey's termination?

**Mr Lutton:** I voted not to support Sharon Kelsey's ongoing employment, but I voted according to my conscience. I never, ever in my term of council voted because someone else wanted me to or voted because these guys were voting that way. I was elected as an independent person, and that is the way I voted.

**Dr HORTON:** Thank you. It has been suggested here that the council did not have good governance processes, by one witness in particular. Was that your experience while you were at the Logan City Council?

**Mr Lutton:** My experience of the governance at Logan City Council was that it was excellent. We used to have visits from other councils across Queensland looking at our best practice models on all forms of governance.

**Dr HORTON:** While you were in the council but before other matters had happened, was it the case that the CCC officers attended on more than one occasion the council premises?

**Mr Lutton:** I am sorry, could you repeat that?

**Dr HORTON:** When you were a councillor and before other things had happened, was it the case that the CCC attended more than once the council offices?

**Mr Lutton:** Yes, they visited several times.

**Dr HORTON:** And for what purpose did they say they were attending?

**Mr Lutton:** They issued warrants to take away documents, go through all of our computers. We had to print out every email and correspondence with relation to these issues.

**Dr HORTON:** Thank you. On those days that they attended, was there other business happening in council?

**Mr Lutton:** On two occasions they came and we were in budget meetings, and it was very embarrassing and very stressful—we would be sitting similar to this—to have an officer of the CCC walking around giving you a warrant in front of everyone else, even those who were not getting a warrant. That to me was not right. We were all in the meeting. We could have all been tapped on the shoulder and said, 'Could you come outside? Someone wants to see you,' and done it in private, but I think it was designed to maximise the embarrassment for us.

**Dr HORTON:** Do you have any knowledge of how the CCC learned that there were council budget meetings that day?

**Mr Lutton:** I believe it was from Sharon Kelsey.

**Dr HORTON:** You believe, but do you have any objective knowledge of that?

**Mr Lutton:** Well, all morning in the budget meeting she was on her phone, totally distracted. This was not the main budget meeting, but you have a series of budget meetings and she was on her phone. It was called committee of the whole. She would be on her phone, and I think the majority of us believed that she was orchestrating that.

**Dr HORTON:** On 5 February 2018 Logan City Council councillors were sent a letter by Mr MacSporran QC of the CCC; is that correct?

**Mr Lutton:** That is correct.

**Dr HORTON:** And do you recall receiving a copy of that letter?

**Mr Lutton:** Yes.

**Dr HORTON:** For the benefit of the committee, that letter appears at page 49 and 50 of volume 1. What was your reaction to receiving that letter?

**Mr Lutton:** I was taken aback. I was shocked that the CCC was trying to interfere and encourage us to vote a certain way, with a big threat hanging there if we did not vote that way. It was not until a day or two later, when we were having one of our 16 meetings with solicitors and barristers to discuss the Kelsey issue, that I was assured that we could make a decision so long as we were not making it for the reason of the PID.

**Dr HORTON:** I understand. In the course of these matters, you had the benefit of an insurance policy; is that correct?

**Mr Lutton:** That is right.

**Dr HORTON:** And that insurance policy was taken out by the Local Government Association of Queensland?

**Mr Lutton:** Yes. There are insurance policies and underwriters and a whole convoluted structure there. Councils make hundreds of decisions that affect people and businesses and everything every month. Occasionally you might get one wrong, so there was an insurance policy there to cover just that. This insurance policy covered us so long as we made a lawful council decision, which we did. It covered us in that case. It also covered us for the criminal case as long as we were found innocent. If we happened to have gone to trial and been found guilty, then we would have had to pay that money back.

**Dr HORTON:** And did the insurance policy give you complete freedom over who you chose as lawyers?

**Mr Lutton:** I am sorry?

**Dr HORTON:** Do you know whether the insurance policy gave you complete freedom over who you personally chose as lawyers?

**Mr Lutton:** It did not in the QIRC, I do not think. That was probably a restricted number who dealt with that. Certainly from the criminal case, I was able to engage a solicitor of my choice.

**Dr HORTON:** And is it your understanding that if you had been convicted you might not have been able to retain the money that had been paid under the insurance policy?

**Mr Lutton:** I am sorry, I am struggling to hear.

**Dr HORTON:** I will speak up a bit and I will go a bit slower. Is it your understanding that if you had not been acquitted in the criminal case you might have had to repay the money you had been advanced?

**Mr Lutton:** I would have been bankrupt.

**Dr HORTON:** Thank you. Could I turn now to ask you a bit about the impact of this upon you in your personal life. Do you work now?

**Mr Lutton:** I do. I am working as a casual labourer/trades assistant. If I can explain how it affected me. As I said in my introduction, I have been a councillor for 34 years. I have won 10 elections—10 elections selling my name, Russell Lutton, not a party, not relying on a leader or other policies. I won those elections fair and square as Russell Lutton, so I had a reputation. I had a reputation to represent people in my community. I represented a very tough community of people who did not understand bureaucracies, did not understand many things that affected their way of life, and I would assist them and help them and I always got a good majority in my elections.

To have this charge and dismissal just affected me. As I said in my submission, we were told, 'Turn up to the CCC on Friday and you will be charged.' As I was walking up Adelaide Street, there were plenty of buses there and I thought, 'I should just jump in front of a bus and it will all be over.' It affected me that much.

When I had to go and clean out my office it took me—I went one night in the following week because I could not face staff. It took me three or four hours and I was crying inconsolably the whole time. People who I knew supported me through elections and council and I would see in the street and they would go, 'Hey Russ, how are you doing?'—whatever—'What's happening?,' turn the other way or walk the other way because of what had happened. That will never go away. We have been cleared. The QIRC came down in our favour and said there was no issue. We have had our cases dropped, but still that is hanging over our heads and it will forever.

I am 69 years of age. I would have liked to be able to plan my retirement. One more term of council, I would have been able to do that. This just took—one day I am a councillor earning a very good salary; the next day I am unemployed. This took away all my opportunity to plan a retirement and to ease out. So now I am working, as I said, as a labourer—a third of the salary but none of the stress.

**Dr HORTON:** You mentioned that you had a call to say, 'Come in and you will be charged.' I want to ask you a little bit about that. Do you recall ever being asked by anyone in the CCC whether you would give a statement and cooperate before that time?

**Mr Lutton:** No. I received a phone call on the 24th. I do not know what time of the day. I did not take it so they left a message, and I believe it was Andrew Francis who left a message to ask him to give him a call. I rang my solicitor and told him this and he said—I said, 'Can you follow it up?' He did. He rang me back and he said, 'You have to turn up at the CCC headquarters—I think it might have been midday or one o'clock on the Friday—and you're going to be charged with fraud.' When I heard yesterday that—I listened to proceedings yesterday and heard that we had all been given the opportunity of an interview. I again called my solicitor and he did say—he confirmed that he had been offered an interview when he was contacted, but he advised me against it because they were already going to charge me. Whether I did an interview or not, we were going down to be charged.

**Dr HORTON:** Thank you. Now, it has been said in this case—not by me—that this came at no personal cost to you. Is that a correct suggestion?

**Mr Lutton:** No personal cost to me? It shattered my life. I loved my job. I loved helping people. I loved my career in Logan City Council. It had ups and downs, but I loved the community that I served and I had a very personally rewarding time serving that community. This shattered my life. It affected my family. It affected my partner big time. And to say it did not affect us much—I just cannot agree. It has ruined the later stages of my life.

**Dr HORTON:** And financially speaking, has there been a cost?

**Mr Lutton:** Financially speaking, as I said before, I am on a third of the salary and I will be working for another couple of years. I had a late-life divorce, so a lot of assets go this way and you get some this way. So I will still be working for another couple of years before I can retire.

**Dr HORTON:** Thank you, Mr Lutton. They are the questions I have of this witness, committee.

**CHAIR:** Thanks, Mr Horton. Questions from committee members?

**Mr CRANDON:** Hello, Russell, how are you? For the record, obviously for a period of time, from 2009 when I became the member for Coomera through to 2017, part of my electorate was in the Logan area. Of course, from time to time we would come across each other at Logan City Council chambers for meetings and those sorts of things but, of course, we did not have any social relationships or regular relationships in any way.

**Mr Lutton:** No.

**Mr CRANDON:** It was always on a business basis. Thank you for coming in. I just want to ask you about the letter again. I think you said you saw the letter from the CCC chair as one designed to force you to vote a particular way. I think that is what you said.

**Mr Lutton:** I believe it was intimidatory in that, 'If you don't vote the right way, be careful because we will probably come after you.' It was not in those words, but that is how I read it.

**Mr CRANDON:** Yes, okay. Thank you. Bit of a shock, I would imagine?

**Mr Lutton:** Most certainly. It was an industrial relations matter with Kelsey.

**Mr CRANDON:** Yes. Do you have any idea of how much you would have had to pay back if you were convicted or if you had lost the QIRC? You said, 'I would be bankrupt.'

**Mr Lutton:** Solicitors' fees—sorry, there are a lot in the room, I know—solicitors' fees do not come cheap. I do not know because I never got the accounts.

**Mr CRANDON:** Okay. Thank you. A lot of money. Labourer, trades assistant—honest work but a third of the salary; you have said that?

**Mr Lutton:** Yes.

**Mr CRANDON:** I just want to go a step further to counsel's question of you. Did you have to outlay any money at all in relation to any legal costs? Were there any things that were not covered by the insurance policy?

**Mr Lutton:** No.

**Mr CRANDON:** So you did not have to—I just wanted to completely clear that. No, you cleared up the other one about Andrew Francis asking you to call him back, but you went back through your solicitor. That is it from me, Chair. Thank you.

**CHAIR:** Mr Lutton, just following on from the question about the letter of 5 February 2018, I imagine you would have had some difficulty reconciling what was being asked of you in that letter with your duties under the Local Government Act.

**Mr Lutton:** That is right, because the only person that a councillor can hire and fire is the CEO. As I said earlier, we had just got rid of, at great expense, a person that did not work out. It was an attempt—he was an attempt to go to a whole new world in innovation et cetera. He did not understand local government whatsoever.

**CHAIR:** In government sometimes things like that happen, don't they?

**Mr Lutton:** Yes, that is right. Then to have Sharon Kelsey come along and—initially impressive, but as time went on you start to get more and more worried, and it is a five-year contract. Do you want the city to have this person in charge for the next five years? That is the question. Or do you think that there may be someone better out there? It was a very, very difficult decision, one that has come at great expense obviously and probably one of the hardest decisions of my council career, given the threat of that letter and everything else that was happening—a very difficult decision to make.

**CHAIR:** But one that you and the other councillors were required to make under the act?

**Mr Lutton:** One that we—we had to make a decision, yes or no.

**CHAIR:** Yes, that is right.

**Mr Lutton:** There is no opting out.

**CHAIR:** In relation to that letter and the CCC more generally, do you consider that they understood that was part of your role as councillors and respected it?

**Mr Lutton:** The CCC?

**CHAIR:** Yes.

**Mr Lutton:** I do not believe they have a clue about local government. I have had other conversations with them about planning matters and they did not understand that. And even when you put it in black and white in front of them, they did not understand that.

**CHAIR:** Do you think it was an attempt to replace the decision of councillors, as you were required to do, with the duty under the Local Government Act, with the view of the CCC?

**Mr Lutton:** Sorry, could you just—

**CHAIR:** Do you think that letter was an attempt to replace your view as a councillor, required to be formed in good faith under the act, with their view?

**Mr Lutton:** Yes. Obviously, as we have been listening to what has been going on in the last week or so, there were greater powers at work than what we ever thought at the time. We just thought that letter was a threatening letter: 'If you don't vote this way, be careful.' But obviously there was a lot more happening.

**CHAIR:** You have reflected on the impact it had on you and your family. Do you consider that the process of the laying of charges and dismissal has reflected badly on Logan City?

**Mr Lutton:** Initially, yes. When you have seven councillors charged with fraud and the council sacked, people are going to think, 'Wow, what is happening with my council?' I believe it set the city back a number of years because, in terms of the councillors that were sacked, there was a lot of experience and a lot of very intelligent people working hard for the City of Logan. When you take out I do not know how many years experience, as happened, there is bound to be a setback whilst the new people in the jobs get their feet under the table, understand local government, understand the systems—what you can do and what you cannot do. The city will be standing still for a while.

**Mr SULLIVAN:** Following on from questions from members to my right about that letter on 5 February, I think you said in answer to questions from counsel assisting that in the lead-up to the meeting on that vote for Ms Kelsey's dismissal you were assured that you were able to make that decision in certain circumstances. Was that in relation to your lawyers? I think you said you had discussion with your lawyers.

**Mr Lutton:** Yes. We had a solicitor from King & Company and a barrister.

**Mr SULLIVAN:** That was how I read it; I just wanted to make sure.

**Mr Lutton:** We had I believe 16 meetings discussing the Kelsey issue, from when it first started to then, and at each of them we had the solicitors and the barristers.

**Mr SULLIVAN:** Were they one-on-one meetings?

**Mr Lutton:** No. They would be in a room with the 12 of us.

**Mr SULLIVAN:** With the entire council?

**Mr Lutton:** Yes.

**Mr SULLIVAN:** Minus the mayor, sorry—if you said 12.

**Mr Lutton:** Sorry?

**Mr SULLIVAN:** The 12 councillors?

**Mr Lutton:** Yes.

**Mr SULLIVAN:** Outside of those discussions with your lawyers where you sought that assurance, did you have discussions with anybody else?

**Mr Lutton:** No.

**Mr SULLIVAN:** Did you have discussions with other councillors outside of those meetings?

**Mr Lutton:** No way.

**Mr SULLIVAN:** Thank you, Chair.

**CHAIR:** Mr Lutton, do you have any insights that you would like to share with the committee about the relationship between Sharon Kelsey and the CCC?

**Mr Lutton:** It has baffled me, right from the start of this inquiry. For the life of me, I do not understand why her word and that of the other five councillors was taken as gospel and not interrogating their claims—not even doing any checking on it. At the committal hearing I think Andrew Francis was asked what research he did on Sharon Kelsey and he said, 'I googled her.' If that is the substance of the backgrounding, the interrogation, then I think it has let a lot of people down.

**CHAIR:** Mr Horton, did you want to conclude, or should we excuse this witness as well?

**Dr HORTON:** Would the committee excuse this witness, please?

**CHAIR:** Yes. Mr Lutton, thank you for making the time to come and talk to us.

**Mr Lutton:** Can I thank you for the opportunity to come and speak, as one of the seven. My six fellow councillors are up there watching. To be able to represent them is an honour. I really want to thank the whole committee for that opportunity, thank you.

**CHAIR:** Thank you, Mr Lutton. You are excused.

**Proceedings suspended from 3.15 pm to 3.31 pm.**

**CHAIR:** Mr Horton, you would like to call the next witness?

**Dr HORTON:** Yes, please, Chair—Trevina Dale Schwarz.

**Ms Trevina SCHWARZ** (accompanied by Mr Charles Massy and Ms Caitlin Connoles)

*Witness was sworn—*

**CHAIR:** Mr Horton.

**Dr HORTON:** Thank you. You are Trevina Schwarz; is that correct?

**Ms Schwarz:** Yes, I am.

**Dr HORTON:** And you were a Logan City councillor between 2012 and 2019?

**Ms Schwarz:** That is correct.

**Dr HORTON:** And you were the treasurer—is that right as well—for some of that time?

**Ms Schwarz:** Yes, I was.

**Dr HORTON:** And did you chair a committee of the council?

**Ms Schwarz:** Yes, I did, Mr Horton. I was the chair of the City Treasury Committee. I was also the chair of the audit committee. I was deputy chair of the Disaster Management Committee and, following from the former mayor's suspension, I was acting deputy mayor and then on occasions when the mayor, acting mayor or deputy mayor were not available I was also placed in the position of acting mayor.

**Dr HORTON:** Thank you. And before you were elected as a councillor, what was your professional work?

**Ms Schwarz:** In the earlier years I was within the accounting industry to do with taxation, liquidation and auditing and then, following from there, when the GST was announced I found myself in my husband and father-in-law's family business in the motor vehicle industry. I ran the administration for that and we also imported American vehicles and parts from America.

**Dr HORTON:** Thank you. And what do you do these days?

**Ms Schwarz:** I am not doing anything at the moment, Mr Horton.

**Dr HORTON:** Thank you. Now, Ms Kelsey was hired by the council as CEO in mid-2017; is that correct?

**Ms Schwarz:** That is correct.

**Dr HORTON:** And, as I understand it, there was an informal vote first and then a formal vote; is that the way it worked?

**Ms Schwarz:** Yes, that is correct.

**Dr HORTON:** And in the informal vote did you vote for or against her appointment?

**Ms Schwarz:** Together with Ms Breene and myself, we voted against Ms Kelsey.

**Dr HORTON:** Thank you. And at the formal vote?

**Ms Schwarz:** At the formal vote I decided to go along with my colleagues in support of her, and the reason I did that is I knew it would be only a matter of time before she found out that I voted against her in the informal vote and I felt that that could sour a relationship moving forward being the CEO.

**Dr HORTON:** Thank you. You received a letter from Ms Kelsey's lawyers on 12 October 2017; is that correct?

**Ms Schwarz:** Yes, I did; approximately 9 pm that evening.

**Dr HORTON:** Yes. And you yourself received it; is that right?

**Ms Schwarz:** Yes, I did. It was received in my email inbox and the subject line was 'Sharon Kelsey'. It was not marked as 'private' or 'confidential'.

**Dr HORTON:** Thank you. And what did you do with the letter?

**Ms Schwarz:** When I read that letter that evening, I was quite surprised. We did have a very urgent meeting the next day. However, as per my duty, I forwarded that letter on to the CCC and also the local government appropriate department.

**Dr HORTON:** Thank you. In the course of the CCC's work, did it attend at the council premises?



**Ms Schwarz:** Largely.

**Dr HORTON:** Sorry?

**Ms Schwarz:** Largely.

**Dr HORTON:** Yes. And on what dates did CCC staff attend, do you remember?

**Ms Schwarz:** It was in December or late November. It was the first budget meeting that we had had.

**Dr HORTON:** Could that be 4 December 2017?

**Ms Schwarz:** Yes, it would be—that sounds correct—and then we had another in January.

**Dr HORTON:** I see, on perhaps 30 January 2018?

**Ms Schwarz:** Yes.

**Dr HORTON:** And what occurred on—what was occurring within the council building on those days?

**Ms Schwarz:** We had other meetings on those days where all of the councillors were together in different forms of meetings. However, when the CCC arrived at the first meeting, it was a budget meeting. We had agreed collectively with all of the councillors that we would commence budget meetings early because the newer councillors felt that the previous year they did not have enough time to be able to absorb the budget process and the understanding, so that is why we brought the budget forward and commenced that in December. When the CCC announced the warrant that they had brought in and placed it up on the board, it disrupted the mood, can I say, of the room and many of the councillors, if not all, lost concentration on what was in front of them. So after the CCC officers left I asked the councillors if they would prefer to adjourn that meeting, which they all did because their concentration now would not be reflected on the budget that was in front of them.

The second meeting that occurred in January—strangely enough, it was our next budget meeting when the CCC arrived once again. I was displeased that the CCC interrupted a budget meeting because we had been in council earlier that week and that day all together. My concern for that was we are a very large—arguably, we have been the fifth, the sixth, the seventh, the eighth largest—local government in Australia and we had a budget of around about \$850 million to set down before June, so there was a considerable amount of work in front of us. So, as I say, it was the second budget meeting and the CCC interrupted again. I did turn to Ms Kelsey and I asked her if this was done intentionally—this is the second budget meeting—and she said no.

I followed the detective from the room after the warrant was served. It was served on five councillors. I was not one of those councillors. However, I felt that it was done in a very embarrassing manner and intimidating and it was in front of a number of staff. I did ask the staff if they could please leave. However, the director and Ms Kelsey remained in the room, which is appropriate. When the warrants had been issued to those five councillors, I continued to follow the detective from the room and I asked him if he could possibly have thought of delivering those warrants in a more private manner in council chambers and also if he really had the need to interrupt another budget meeting.

**Dr HORTON:** Did he answer your question?

**Ms Schwarz:** He told me that the councillors were not available all together prior to that meeting.

**Dr HORTON:** Is that a true reflection of what you understand to be the case about whether the councillors are available?

**Ms Schwarz:** No, absolutely not.

**Dr HORTON:** What are the other times when they are available together?

**Ms Schwarz:** We were available the day before and we were available that morning, but even if we were not all together it was a week that we were sitting in council so councillors would have been in their offices available, or it could have been coordinated with their PAs for them to be there to be served.

**Dr HORTON:** And did that detective explain to you why you needed to be together in order to be served?

**Ms Schwarz:** No, he did not.

**Dr HORTON:** What was the name of that detective, to your knowledge?

**Ms Schwarz:** I believe that was Detective Mark Andrews.

**Dr HORTON:** There was a detective called Detective Sergeant Francis.

**Ms Schwarz:** Yes. I do not believe it was Sergeant Francis. I believe it was Mark Andrews.

**Dr HORTON:** Thank you. I am just making sure I get it right. You used WhatsApp at or about the time of the matters that have been discussed in this place here in the last few days?

**Ms Schwarz:** Have I used WhatsApp in the last few days?

**Dr HORTON:** No. I will put that more clearly. At the time, in 2017, you used WhatsApp on your phone?

**Ms Schwarz:** Yes. I originally used WhatsApp in around 2015 when a friend of ours went to America and we used that communication tool to talk to each other so we did not receive rather high telecommunications bills. In 2017, around early June, the mayor had asked us if we would engage in WhatsApp as a form of communication. That tool was generally used as the general chitchat and banter that largely had dissolved and having those general discussions that you would have in corridors or lunchtime or afternoon tea. With the fracture that was happening in council, there was little time for engagement and we were not having morning tea together or having lunch together. We were very, very separated. So we did engage in WhatsApp. I do recognise that I may have—had shared a few frustrations that I had with Ms Kelsey at that time, but by no means was any of my communication or that I was involved in discussed ever the PID, never discussed her probation and also did not discuss the vote on 7 February.

**Dr HORTON:** Thank you. Did you remove your WhatsApp app from your telephone?

**Ms Schwarz:** Yes, I did. It was approximately December, January. The reason that I—

**Dr HORTON:** 2017-18?

**Ms Schwarz:** 2017 December or 2018 January. The reason that I am quite vivid about that timing is because we were up at our farm. I must admit: I am not fantastic with my work-life balance and I had promised my husband and my family that I would have that festive season and my undivided attention towards them. As Christmas festivities come in, there was notifications that consistently came up with WhatsApp and my husband was a little bit frustrated that I was getting distracted from that so I deleted the application itself off my phone and that way the notifications would not come forward.

At no stage did I believe that deleting the application would delete any messages in there and I still do not have an understanding surrounding that, because my belief is if you log on to any device and you put the password in you are able to re-collect all of those messages that are in there.

I also was not aware that any of that content—and still am not 100 per cent certain if any of that content could be classified as a public record. However, when this became such a concern of the CCC, as we learned in the QIRC—as city treasurer and governance sits under my chair role—I asked the officers if we could please engage in a number of workshops within our committee to better understand what would be a public record, and we had the Office of Independent Assessor come in. I believe, ironically, that we had the State Archivist in too, but it was to allow us to better understand. Even after those workshops there was still quite a vague certainty sitting around what is classified as a public record and what is not, particularly when you are not discussing votes or council business, per se.

**Dr HORTON:** Thank you. On 5 February 2018, did you receive a letter from the Crime and Corruption Commission?

**Ms Schwarz:** Yes, I did.

**Dr HORTON:** That was under the hand, as I understand it, of the chairperson, Mr MacSporran?

**Ms Schwarz:** That is correct.

**Dr HORTON:** What did you, if anything, perceive that letter as conveying to you?

**Ms Schwarz:** Reading between the lines, whether it be right or whether it be wrong, I felt that it was almost a direction to vote in support of Ms Kelsey. However, possibly naively, I felt that the CCC were not aware of the performance issues that were at hand with Ms Kelsey and if they had a better understanding of that then they may have an understanding for possibly why we voted the way we did.

**Dr HORTON:** What did you do, if anything, in response to having received the letter?

**Ms Schwarz:** Councillor Dalley—former councillor Dalley was the deputy mayor at that stage. The mayor had been removed from being allowed to participate in any matters to do with Ms Kelsey and her probation or employment, so councillor Dalley would have been the next person in line and I requested her to get legal advice immediately on that.

**Dr HORTON:** Thank you. Did you consider or did you actually abstain from the vote as a result of receiving the letter?

**Ms Schwarz:** We received legal advice, and we had done on a number of times over this period, and the legal advice that we had received just prior to the vote—we had Tim Fynes-Clinton from King & Company, who is quite renowned in the local government industry and also—

**Dr HORTON:** What I might ask you to do here is—I note that you said you sought legal advice—rather than convey the content, unless you really need to, maybe just state what you did after having obtained the legal advice, if that is sufficient for present purposes.

**Ms Schwarz:** Certainly. My apologies. My choice was to abstain, and I asked for legal advice on my choice to abstain. I was told that if I abstained that could be a dereliction of my duty and I could be removed from office. What I wanted to do I felt that I was unable to do as part of my duty, and when it came to the formal vote I voted in support of Ms Kelsey's termination.

**Dr HORTON:** We know that that all played out in the QIRC and so I do not need to go back there.

**Ms Schwarz:** Yes.

**Dr HORTON:** But there have been suggestions aired here that may not have been aired elsewhere to which I wanted to give you a chance to comment briefly. In your affidavit—and I know it was put generally as councillors' affidavits, but so far as you understood that to be a reference to you, do you wish to say anything in response to the allegations that your affidavit may have contained untrue information?

**Ms Schwarz:** Absolutely. By nature I am a very detailed and particular person and I strongly reject what I have heard here in this hearing that my affidavit has been dishonest. I paid particular attention and went to great detail in my affidavit to ensure its accuracy and it was concise and it was clear. I have also had further time to reflect on the documentation and records, and none of the evidence that has been put forward do my affidavits contradict—any of those documents, any of the WhatsApp communication or any of the transcripts that I have been party to.

**Dr HORTON:** Thank you. You have seen, I think, some of the information prepared for and on behalf of the CCC about matters relating to the criminal charges brought against you. I do not, again, want to re-litigate that because that has been dealt with, but did you have any views you wish to express about the tenor of the way that information is expressed?

**Ms Schwarz:** Would it be appropriate for me to reflect on my QP9?

**Dr HORTON:** To the extent, without going into detail, if there are matters you particularly want to mention in terms of the tone or how it impacted upon you, yes.

**Ms Schwarz:** I believe that the tone of—and I will use my QP9 as an instance. I feel that considerably it appeared to be over-exaggerated. Some of the reflections that the CCC had placed in the QP9 could be read as fact when they were never facts; they were merely allegations or accusations by other members, and I did feel that it was almost misleading, if I dare go that far. A person that was reading that outside would read that as fact when, in fact, it was greatly untrue, what had been put in there.

**Dr HORTON:** Before you were charged, were you offered an opportunity to be interviewed and to cooperate with the investigation?

**Ms Schwarz:** I do not believe so. On 24 April I received a phone call from a CCC officer. It was shortly after 5 pm. That officer told me that I was to appear at the CCC building on Friday morning and I would be charged with fraud. I asked him why I was being charged with fraud. He said that he was unable to talk about it anymore, other than fraud has many different meanings. That is all he would tell me. I telephoned the acting CEO, Silvio Trinca, because I did not have any legal representative at that stage. The insurers, I believe, obtained a legal representative for me whom I went and saw early on Anzac morning and I was to appear with him on Friday morning, the 26th, at the CCC building. I do not recall ever being asked if I could engage in an interview. My lawyer walked in first. I walked in about five minutes afterwards and at that stage they told me what they were charging me with and then I was to accompany them to the Fortitude Valley Police Station.

**Dr HORTON:** Who was the person, if you know, who called you on 24 April just after 5 pm?

**Ms Schwarz:** I do not have certainty who that was, I am sorry.

**Dr HORTON:** But that was the only call you received about the prospective charge, is that correct, at the time?

**Ms Schwarz:** Yes.

**Dr HORTON:** Can you be certain that person did not say to you, 'We'd like to give you an opportunity to be interviewed and to cooperate with the investigation'?

**Ms Schwarz:** I must say, it was a shocking phone call. However, I do not recall him saying that at all. I would be very, very surprised.

**Dr HORTON:** I see. By 'cannot recall', are you saying you have an imperfect recollection or that you do not have a positive recollection of that being said?

**Ms Schwarz:** I do not believe he said that.

**Dr HORTON:** I want to go briefly, or no more than you need to go into it, to the personal impact this had upon you. I can ask you questions about that, or would you prefer to speak from your own belief?

**Ms Schwarz:** If I may, could I read from just some passages that I have written? The only reason I ask is that it may be a little easier without having to possibly consciously think about it and be able to be a little more clinical.

**Dr HORTON:** Yes. Can I communicate with the chair very briefly?

**Ms Schwarz:** Certainly.

**Dr HORTON:** Chair, I have seen the prospective comments, which are personal in nature. I ask that the witness be given respectfully that accommodation, given the emotional nature of what might be said. I have looked at them first to make sure that they will not bring this place into any disrepute.

**CHAIR:** Okay.

**Ms Schwarz:** The evening that I was charged, I have since found out that I went into a state of shock. My husband, on the early Friday morning before I went to the CCC, grabbed me while I was in bed and I did not realise that I was laying there in a lather of sweat. I was cold and shaking uncontrollably. By nature, I am naturally a strong, independent person. I am particularly ashamed that I have not been able to cope with what has been put in front of me as I believe that I should be able to work through that, particularly when, with every breath that I have, I am completely innocent of the charges.

However, during that time I felt like every breath consciously had to be forced. I found it extremely difficult to hold back the tears, and this was on a daily basis. It just felt that I was in an inescapable nightmare where at night-time the nightmares would not stop. During the day I would constantly think about council matters and everything to that effect. I felt that I had no purpose in life, that I was unproductive, that I was a huge burden on my family. I was unemployable. I did not want to take my life; however, I did not want to live. I cannot explain that any more than what I have just suggested to you.

In my upbringing, as a child I learnt from a very early age that a family home has to be worked very hard for, that it does not come easy and it is never to be taken for granted. I felt that the burden that was placed in front of me I could not overcome. I felt there was a coordinated attack between Ms Kelsey, the CCC and the councillors that I could not overcome. I was up against one of the most powerful and influential government bodies that there is in Queensland, and for that I never thought that innocence would prevail. My fear was that none of the evidence would be taken into account, that I would be found guilty of the charges that I was 100 per cent innocent of, that I would then have to repay an insurmountable amount of legal fees back to the insurers, but then I would have the impost of going to jail.

If that occurred, I am of no use to my family. I cannot be a mum. I cannot be a grandmother. All I would be would be that constant burden on their shoulders: 'Oh, we've got to see Mum this weekend because she's in jail.' I could not live with that. I could not live with the fact that my husband and my children and my grandchild may not have a roof and the security and protection of that to come home to.

I chose to take my husband to a lawyer, not to try to save assets and get away with it and live happily ever a couple of years later. I did not do that. I went to the solicitor to have a divorce in its full right. My husband was furious and said that he would stand by me 100 per cent of the way and that love obviously prevails. However, can I say, with him saying that, I felt that I had failed again because now I could not secure my family. I could not ensure that my children and grandchild and my husband had the security of a home to come to.

I am very, very grateful to my family and to my closest friends. I literally owe my life to them. They have given me every breath and I am truly honoured to have them. I am also very grateful to the judges and to the commissioner and also to the PCCC for taking the time to have a look at the Brisbane

detail—not just to have your preconceived idea of what had happened but to take away from the papers and from media and from us as a household name, as a criminal, to actually look into that and invest your time and energy into seeing the people we are and the reasons for doing what we did.

I believe it was the most guarded and analytical decision that I have ever made. I swore an oath as a councillor that that is what I would do and that I would represent my community, and that is what I did. I hope this never happens again to anybody else. I thank everybody for the belief that they have had in my colleagues and in myself.

**Dr HORTON:** Thank you, Ms Schwarz. Those are the questions that I have of this witness, Chair.

**CHAIR:** Thanks, Mr Horton. Are there any questions from members of the committee?

**Mr CRANDON:** Thank you, Trevina. For the record, we have never met. Which division did you represent?

**Ms Schwarz:** A beautiful division, member for Coomera. It was division 11 and it is the largest area in Logan City. It is one with the least amount of infrastructure, however, the most development coming its way. It is largely made up of rural areas but also the priority development area of Greater Flagstone is coming forward. It is gorgeous.

**Mr CRANDON:** Wow—so many comparisons to the Coomera electorate! You have almost described it to a T. When were you first elected?

**Ms Schwarz:** I was elected in 2012.

**Mr CRANDON:** And did you have any views about moving on? You put in a pretty big effort, I would imagine. Did you see your career in public office continuing to represent your community?

**Ms Schwarz:** I loved my job, I absolutely adored it, and I was so privileged to be able to do that. I had lived in the area for some 30 years. I could see myself there for a long time. My husband and I, however, did. We purchased a small farm up in Witta that we would retire on eventually. However, that was many, many years later.

**Mr CRANDON:** Just one final one. I want to be absolutely clear, because we heard evidence from some of the officers that—by the way, those on this side of the table love our jobs, too, doing exactly what you are doing. Coming to the question, I just want to be absolutely clear because we asked the question in detail—I remember myself digging in to a question with one of the other witnesses and finally came to a place where they suggested that they—the original suggestions or the intimations were that they had made contact with you, with the councillors, around the 24th, perhaps the 25th—I am paraphrasing, obviously—to see whether or not they would like to come in to be interviewed et cetera, and that the formal arrangement through solicitors was on the 26th for you to all go in and be charged. On delving into that a little bit more, it was eventually conceded by one of the witnesses that, 'Oh, look, it may have been in the same telephone call.' To your memory, you were not asked to come in for an interview?

**Ms Schwarz:** No. To my memory, member for Coomera, I received a phone call to say I was being charged with fraud—they could not explain to me what that fraud was; they did not even explain to me it was to do with Sharon Kelsey—and that I was to arrive there on Friday morning at the suggested time or they would bring a police vehicle to come and collect me.

**Mr CRANDON:** Thank you.

**Mr SULLIVAN:** Following up from the member for Coomera, I think you said in your evidence—forgive me if I misheard—that on the morning of Friday the 26th you arrived together with your solicitor and he, I think you said, went in for five minutes first and then you went in after?

**Ms Schwarz:** That is correct. I guess I was a little emotional in the morning and somewhat frightened.

**Mr SULLIVAN:** Sure. That was not said with any criticism.

**Ms Schwarz:** No. He asked the police officers if he could go in and approach first and he did that—I think it was approximately five minutes—while I was sitting outside in the waiting room.

**Mr SULLIVAN:** Are you aware if the offer to have an interview or participate in any other form of process was put to your solicitor in that time?

**Ms Schwarz:** No, I have not asked that question.

**Mr SULLIVAN:** And that was not conveyed to you by your solicitor at the time?

**Ms Schwarz:** No, I do not believe so.

**Ms BUSH:** Picking up on those questions, Ms Schwarz, and I know you have been asked it, but that is your statement today—that at no point did the CCC offer you an opportunity to provide a statement prior to being charged?

**Ms Schwarz:** No. There were—can I just ask a question, please?

**Ms BUSH:** Yes.

**Ms Schwarz:** Some months beforehand, the CCC had engaged with us for coercive hearings and we were advised that those coercive hearings were surrounding Luke Smith. That is the only other time that the CCC had asked to engage in any type of interview.

**Ms BUSH:** I apologise, but how long were you an elected councillor for?

**Ms Schwarz:** From 2012, so approximately seven years.

**Ms BUSH:** In that time, had you had other dealings with the CCC prior in any kind of—

**Ms Schwarz:** No, only during this particular period which was in regards to Luke Smith and the coercive hearings surrounding that. They also did an investigation on any election donations, which I did not receive any election donations whatsoever.

**Ms BUSH:** But no meetings with the chair or any members of the CCC to understand perhaps the remit of their work and to help, I guess, solidify your obligations as a councillor and the operations of local government?

**Ms Schwarz:** No, the obligations are very clear in the Local Government Act and also in the other legislation that is put forward to us. I believe Logan City Council does do very good inductions and it covers off very, very well, but I believe the inductions are a lot greater now. In my role as chair—well, of treasury, we certainly do invest a lot of time into different matters as far as QTC, Deloitte, the Audit Office, and the CCC were due to do a presentation, but that seemed to fall away.

**Ms BUSH:** And when you received the initial letter from the CCC—I cannot recall your words; I think it was a 'shocking' letter to receive—in relation to Ms Kelsey and the special meeting, at that point did you speak with your lawyers about potentially meeting with the CCC or proactively providing a statement to them, given the seriousness of what was in the letter?

**Ms Schwarz:** We had engaged our lawyers, who spoke to us, and it was surrounding the vote that was to take place on Ms Kelsey, so I believed that we had fulfilled our obligations at that stage. We were advised that we were to record what our opinions were on the vote and what we wanted to do and those reasons why, in which we did that.

**Ms BUSH:** Just so that I am clear, at no point did you, as an affected person, impress on your lawyers perhaps, given your statement of innocence, the, I guess, obligation or desire from you to proactively meet to try to provide a statement and clear up any misunderstanding?

**Ms Schwarz:** Not at that stage. We had received the letter and then the vote had taken place. Very quickly after that we became respondents in the civil litigation from Ms Kelsey. We had to put forward affidavits. As you may have seen—I am not too sure—my affidavits were quite extensive and certainly had a lot of documentation that sat in behind those, so I felt that was a similar mechanism to what the CCC would use to find out what your reasons for voting were, because everything was put down in that affidavit, which was available to them to read.

**Ms BUSH:** Your assumption was that your affidavits to the QIRC would be made available to the CCC?

**Ms Schwarz:** I believed that they were made available to the CCC and I had never received any engagement from the CCC post that, asking for any questions in regards to her employment or her dismissal. We had received, which is in my submission—after we were charged—approximately 11 days after we were charged we did receive correspondence from the CCC in regards to the WhatsApp material and they forwarded that on to the Office of the Independent Assessor.

**Ms BUSH:** When you say you understand your statements were made available to the CCC, your QIRC submissions were made available, was it your lawyers who made—who made that available, to your knowledge?

**Ms Schwarz:** I believe it could have been discussions with the lawyers, but I cannot be 100 per cent certain. I did see there was who I have since learned to be Detective Francis—I had seen him at least on one occasion in the QIRC.

**Ms BUSH:** You did not instruct your solicitors to make sure that your statements and your defence was put forward?

**Ms Schwarz:** To the CCC?

**Ms BUSH:** Yes.

**Ms Schwarz:** No, I did not.

**Ms BUSH:** Thank you, Chair.

**CHAIR:** In relation to the letter of 5 February 2018, which I think is the one we have been referring to about essentially a cautionary letter in relation to the vote on Ms Kelsey's employment, did you feel a conflict between the tenor of that letter and your duties under the Local Government Act?

**Ms Schwarz:** I thought it to be very odd, quite extraordinary, that they were reaching out in regards to a dismissal. I would have thought that if there were some serious concerns at that stage they may have come and asked us some of the facts or had a presentation with us about that. However, that did not occur. To receive that letter seemed to be quite extraordinary in what seemed to be an employment matter within a council.

**CHAIR:** Did you think at that point in time that the CCC understood the role of councillors under the act, the duties that were imposed on you, and respected the role you were playing?

**Ms Schwarz:** Can I be blunt? I do not actually think they cared. I think there was a complete disregard.

**CHAIR:** I asked another witness this very general question earlier. Do you consider that the laying of charges and the sacking of the council has reflected badly on Logan City?

**Ms Schwarz:** Without a doubt. As we know with another council, I think they will be labelled with that for many years and so will Logan. We were labelled for the most scandalous crime of fraud. People think of money being stolen amongst that. I do believe that that tag will stay with Logan, very sadly, for many years.

**Mr CRANDON:** Much has been said in the material that we have in front of us about a voting bloc—referred to as 'the Fab 7' at times et cetera in correspondence between various officers—pushing the thought that you were a voting bloc and you were all there to protect the mayor. That is the kind of tone that we were getting. We heard from the administrator, Ms O'Shea, that she had some research done by council in relation to voting trends over a period of time. Obviously you are not privy to that material, but what is your sense of it over a period of time? You were there from 2012. Was there a voting bloc over time?

**Ms Schwarz:** No, not in that form—and definitely not in 2012, for that term. In the following term it was a little more difficult. In my role in city treasury I used straw polls significantly. That way we could actually break down the matters in the report in front of us and try to get a consensus amongst all of the councillors, which I believe is important. There is nothing worse when you are chair if you consistently have fractured voting. I do not believe that reflects very well on the chair. When it comes down to the vote, if the reports have been done well enough I do not believe a voting bloc should be there.

**Mr CRANDON:** I think we understand that. We have committees in this parliament and we look for consensus. We look to work together for the overall benefit of the people of Queensland.

**CHAIR:** Especially on this one.

**Mr CRANDON:** Yes, especially on this one. Broadly speaking, as time went on through to 2019—I think that was the final year—you could not sense that there was a particular bloc? There was some evidence that suggested that Mr Power regarded himself as the opposition. He appeared to have been vocal about that in the community. But broadly speaking—

**Ms Schwarz:** Broadly speaking there was not a voting bloc. If it was environmental matters, you would find that myself, Councillor Power and Councillor Bradley would vote similarly. We seemed to have similar ideas on the environmental side of things. For planning matters you would find that councillor Lutton and councillor Dalley would have had more similar thoughts. I was probably similar to Councillor Power with planning matters. There were all of those commonalities amongst different people on different subjects.

**Mr CRANDON:** All over the place.

**Mr SULLIVAN:** I have a quick follow-up. I just wanted to clarify to make sure I did not mishear some of your evidence. Did you say that your previous interaction with the CCC was that they asked you to participate in a coercive hearing in relation to other matters?

**Ms Schwarz:** In regards to Luke Smith.

**Mr SULLIVAN:** Without talking about the content and ongoing issues there, did you subsequently participate in such a hearing?

**Ms Schwarz:** Yes, I did.

**Mr SULLIVAN:** I do not know whether you heard the evidence of Mr Lutton.

**Ms Schwarz:** No, I did not.

**Mr SULLIVAN:** He spoke to, after receiving the letter from the CCC on 5 February, discussions with lawyers. I think you referred to seeking advice from lawyers. He put it in a way, to paraphrase, that there were extensive meetings with the 12 councillors and lawyers. You participated in that?

**Ms Schwarz:** Every single one.

**Mr SULLIVAN:** Again, I am not asking for content of discussions with your lawyers but just that you were part of that process.

**Ms Schwarz:** Absolutely.

**Mr SULLIVAN:** In the lead-up to the vote to dismiss Ms Kelsey, did you discuss that matter with councillors outside of those meetings with the lawyers?

**Ms Schwarz:** No.

**Mr SULLIVAN:** Did you have any discussions with the former mayor in the lead-up to that vote on Ms Kelsey?

**Ms Schwarz:** No, I did not.

**CHAIR:** Mr Horton?

**Dr HORTON:** Might this witness be excused, Chair?

**CHAIR:** Yes. Ms Schwarz, thank you for attending the committee today and for your contribution. I excuse you from the committee.

**Ms Schwarz:** That you, members.

**Dr HORTON:** They are the witnesses we have for today, having completed what was set down for today. I understand that you may have made some arrangements for future hearing dates.

**CHAIR:** Yes, I have. They were announced to the committee yesterday. We will meet again next Friday at 9.30 am. We are scheduled to meet on the Monday after that and the Tuesday as well if required. At this point, they are the only other hearings set down. Mr Horton, is there anything else we need to deal with this afternoon?

**Dr HORTON:** Nothing today, no.

**CHAIR:** In that case, given that we have finished with all of the witnesses today, we can adjourn the inquiry until 9.30 am on Friday, 3 September.

**The committee adjourned at 4.16 pm.**