



STATE DEVELOPMENT AND REGIONAL INDUSTRIES COMMITTEE

Members present:

Mr CG Whiting MP—Chair

Mr MJ Hart MP

Mr RI Katter MP

Mr JJ McDonald MP

Mr TJ Smith MP

Staff present:

Ms S Galbraith—Committee Secretary

PUBLIC HEARING—INQUIRY INTO THE FUNCTIONS OF THE INDEPENDENT ASSESSOR AND THE PERFORMANCE OF THOSE FUNCTIONS

TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, 2 MARCH 2022

Mount Isa

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The committee met at 2.49 pm.

CHAIR: Good morning. I declare this public hearing open for the committee's inquiry into the functions of the Independent Assessor and the performance of those functions. My name is Chris Whiting, member for Bancroft and chair of the committee. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today, and pay our respects to elders, past and present. We are fortunate to live in a country with two of the oldest continuing cultures in Aboriginal and Torres Strait Islander people, whose lands, winds and waters we all share. With me here today are committee members: Mr Jim McDonald, deputy chair and member for Lockyer; Mr Michael Hart, member for Burleigh; Mr Tom Smith, member for Bundaberg; and Mr Robbie Katter, member for Traeger.

This hearing is a proceeding of the Queensland parliament and is subject to the parliament's standing rules and orders. Only the committee and invited witnesses may participate in the proceedings. Witnesses are not required to give evidence under oath or affirmation, but I remind witnesses that intentionally misleading the committee is a serious offence. Media may be present and are subject to the committee's media rules and the chair's direction at all times. You may be filmed or photographed during the proceedings and images may also appear on the parliament's website or social media pages. Please turn your mobile phones off or on to silent mode. Finally, in line with Queensland's COVID-19 requirements, all members and witnesses will be required to wear a mask during today's proceedings. Members and witnesses may remove their mask when speaking.

BARWICK, Mr Phil, Deputy Mayor, Mount Isa City Council

TULLEY, Mr Mick, Councillor, Mount Isa City Council

CHAIR: I now welcome representatives from the local council, Mount Isa. We invite you to make an opening statement and then we will have some questions for you. Who would like to go first?

Mr Barwick: Thank you, Chair. I am here today to talk to the council's submission. I have some closing comments as well. We have put a submission into this inquiry about the performance and the functions of the Independent Assessor. I will just point out the highlights. The council has encountered quite a number of difficulties with the duration of and dealing with councillor complaints and the council resources required to assist the Independent Assessor in dealing with these complaints. We have cited a couple of examples in the submission, which I will not go through. Where the Independent Assessor is investigating a councillor complaint, the investigation can cause substantial distress to a councillor, especially when the investigation has no set time frame and no support system is offered to councillors being investigated. This is a collection of views from the council that has been put together by the staff. They have done a very good job. I thank them for that.

It is very damaging to city councillors to have complaints that are not upheld placed in the public domain, even under the confidentiality arrangements. This has the latent consequence of damaging the reputation of councillors and the council itself by giving these complaints air time, even though false, frivolous and vexatious, and developing a very staining perception of councillors who are doing their job and receiving such allegations. These complaints should not rate for mention in my view. Being cleared of a false complaint does not go anywhere close to rectifying the damage done by these detrimental, unnecessary complaints to the wellbeing, productivity and mental health of the falsely, frivolously or vexatiously accused councillor.

Other points that we make in the submission are that contacting various employees directly ties up valuable council resources, sometimes on multiple fronts. That minimises council's service to the community, especially with smaller councils such as Mount Isa City Council. We believe that the performance of the Independent Assessor is not consistent with the intent of the local government complaints system. It is not being applied in accordance with the public interest. We believe that the Independent Assessor should better scrutinise complaints. We also believe that, where these types of complaints are identified, the complainant should be issued with a written warning from the Independent Assessor. The Independent Assessor should be provided with more resources to manage councillor complaints to remove the burden from councils in dealing with these matters.

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Other items we suggest—I will not read them all out—are in the submission. We would like the Independent Assessor to set time frames for investigations, to investigate matters of suspected and inappropriate conduct and misconduct and not refer the matters back to local government. Any councillor being investigated should be provided with access to support. The Independent Assessor, I highlight, should limit all contact with the council to an official OIA liaison officer. We also believe the Independent Assessor should publicly report on the number of complaints that are assessed as vexatious, frivolous or having no merit. I will hand to Councillor Tulley to make some comments.

Mr Tulley: I thank the committee for turning up and for its inquiry into the functions of the OIA. It is well overdue. The office has been around since 2018, is that correct? Clearly, it is not working. Something needs to be done. I reiterate the position that council took maybe 12 months ago in terms of the fee for people to make complaints. We suggested \$200. We need to make it an amount commensurate with the seriousness of the allegation. People need to be willing to part with \$200. I think that is fair. There is also the issue of the assessor refusing to accept and investigate the complaint if the complaint is anonymous. Our local government in Mount Isa spent over \$200,000 in the last 18 months and not one complaint has been substantiated. This is not our money; this is the ratepayers' money that we are using. This is pretty important. For a small council such as ours, \$200,000 is a lot of money. We could do a lot of good things for the community instead of wasting money investigating these complaints.

I will just touch on what Phil said about the councillors against whom the complaints are made. Councillors are good people and some are—how would I say it?—soft. Some people can take criticism easily and some people cannot. The complaints that are made against some councillors have a detrimental effect on them and they have no support from anyone except their family. People in local government in Queensland are the most scrutinised in public office. If we want good people working as councillors, something needs to be done—and it needs to be done pretty soon—because otherwise you will have people running for council when all they are doing is looking for a job.

CHAIR: Thank you very much, Councillor Tulley. I will start off with a couple of questions. The \$200,000 that has been spent, can you give an approximate breakdown on what that was spent on? Was that spent on legal fees?

Mr Tulley: That is just the time that the officers—the council employees—have spent getting information and relaying information to the assessors. Some of that is legal fees as well. Regardless of the amount, it is important to mention. Over the 18 months or two years that these complaints have been put forward to the OIA, not one has been substantiated. I have gone on other council websites and looked. We are not alone. Mount Isa is not out of the ordinary. There are plenty of other councils that have the same lists.

CHAIR: I notice on the conduct register that all of the complaints that have been recorded there have been dismissed. Your register is fairly fulsome in describing what happened, when compared to other registers which have a brief and basic description of the issue. Have you considered altering what details you place on the register?

Mr Tulley: I am not sure how that works.

CHAIR: I might take that up with the CEO later.

Mr Tulley: When complaints have been made against me personally, I have ensured that my name is attached. I want people to know what is being alleged.

CHAIR: Are a lot of these complaints anonymous?

Mr Tulley: They all are.

CHAIR: For complaints coming from within council, would you still feel comfortable with putting a \$200 bond or fee on laying those complaints?

Mr Tulley: Are you asking for my opinion?

CHAIR: Yes.

Mr Tulley: Maybe I am a bit old-school. If I have a problem with someone, I will talk to them and sort it out like that. I am not a person who will put a complaint in against someone and not put my name against it, so I am probably the wrong person to talk to.

CHAIR: One of the things we have found in talking to the outback and the western councils is that conflict of interest is a much bigger issue. Can you describe the training that you have done for councillors around conflict of interest?

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Mr Barwick: There has been a range of training over my time in council—in the last term and half of this term. That has been provided by organisations like LGA and LGAQ. It is fairly routine. The administration often offers us a refresher course, which we sometimes take up. I can get that information to you, if you would like to pinpoint dates. Certainly there are opportunities for conflict of interest training.

CHAIR: Some councils make sure that all their councillors partake in this training; is that an approach that you have here?

Mr Barwick: I guess we would pull up short of mandatory. There is a concentrated effort to ensure attendance by councillors. It is highly recommended. A lot of effort goes into making sure that the dates are suitable so that there is an opportunity to attend.

CHAIR: There is obviously training provided by the LGAQ. Do you proactively go out in search of training opportunities, focusing on particular areas that you need to train councillors on?

Mr Barwick: I think we deal with conflict of interest quite well as a council. The records show that probably nearly all of us leave at some point or another when it is close to even looking like conflict of interest. We have quite a good handle on that issue. I do not have too many concerns.

CHAIR: If there was no requirement under the law to publish an allegation on the register, would that mitigate or limit what you see as reputational damage to some of these councillors?

Mr Barwick: It goes to another point that I will make in a minute. For councillors who are allegedly doing something and a complaint goes up—even if it is not upheld—there is still an aura of staining the reputation of the particular councillor, if it is known who that particular councillor is. As Councillor Tulley has indicated, some councillors are placing their names on the register. If a complaint is not upheld I do not think it should warrant any publicity because, clearly, it is not a complaint that is worth much. Why put it up there? Fair enough if it is upheld and there is enough evidence to indicate that the complaint was valid, but, apart from that, I do not see the need for it.

CHAIR: On talking to other councils and getting to the nub of the issue—and we discovered it very much in Cairns yesterday—there is fear. We have got a new system and there is an element of the unknown. There is some fear about what happens once you get that legalistic notice from the OIA. That obviously is part of the stress. Is that weariness or fear something that you have seen from people who are exposed for the first time to this councillor complaint system?

Mr Barwick: I can talk from the perspective of Mount Isa, which I think is important. What members of the committee need to realise is that from a Mount Isa point of view, the Office of the OIA has been hijacked by political opponents of sitting councillors. Basically, every complaint that I see going through is a complaint against a sitting councillor and it is politically driven and it is vexatious. It is not in any way, shape or form about the conduct or the activity of a councillor, but really about trying to put some public humiliation on that councillor, stain their reputation and thus defeat their support within the community. That is the whole objective. It is a political strategy. Unfortunately, the Office of the OIA has been drawn into this. I am sure this goes on in other LGAs, as well. As I said before, every complaint I have seen is certainly underwritten by a political motivation from opponents to sitting councillors.

Mr McDONALD: I heard the amount of \$200,000 mentioned—maybe that is a question for the CEO later because in terms of the breakdown of those costs it is a very large amount. How many complaints are we talking about over the last four years?

Mr Barwick: I do not have a number. I know it is a lot, and I know that councillors live under a shroud of harassment from this activity. At any given moment we are expecting a complaint to pop up in our emails, whether it is upheld or it is to be investigated or dismissed. That shroud is very evident and everything that a councillor says and every activity of a councillor is under scrutiny by opponents who are looking for an opportunity to place a complaint. It is a shroud of harassment. The chair indicated before that there is fear—there is no question of that. The problem is that the respect by the councillors for the Office of the OIA, despite all their good work at times, is not there because they know that these complaints are coming through and they are politically driven.

Mr McDONALD: A couple of questions to both of you: how long have you spent in local government; how long have you been a part of local government; and have you had the experience with integrity matters prior and current? Could you give us a rundown on what you believe it is like now versus before?

Mr Barwick: We have both been part of this council for six years. Regarding integrity, we have always been fairly well trained and briefed on integrity matters. What we have to do is for the community and we apply that. I am a very experienced board director. Councillor Tulley is also. There

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are other councillors, as well as Councillor Tulley, who are experienced business people in town. They do know how to manage people and how to operate ethically and with integrity. There is a high level of awareness within the council group, yes.

Mr Tulley: As Councillor Barwick said, I have been in local government now for six years. The only reason I joined local government is because I was sick of complaining about the ones that were in there. I thought, there is no use complaining about them, I might as well get in and have a go. So, I did. I did not think it was going to be like this, to be honest. You have to jump through a lot of hoops to get things done. I have slowly learnt to live with that and I would like to think I have made some change. You cannot teach integrity. You can go to every course in the world on integrity and if you have not got it, you have not got it. Asking whether we have integrity and whether we have been to courses, is a waste of time—you have either got it or you have not.

Mr McDONALD: The next question I have asked in a couple of different places. Some people feel that the OIA and CCT system is a very legalistic process—so much the Councillor Conduct Tribunal is only now investigating matters from June 2020. How does it feel when you know that your integrity is potentially being questioned and investigated and there is such a delay?

Mr Barwick: It is onerous. It is certainly demoralising and affects the mental health of councillors—there is no doubt about that. They are concerned, particularly when they know complaints are politically driven. If you throw enough dung around, it can stick. That is certainly a real problem.

Mr McDONALD: Do you agree?

Mr Tulley: Yes, I agree.

Mr SMITH: Thank you both for being here today. I flew in on the member for Traeger's plane and got a good look at Mount Isa. It is a wonderful place to be. It is good to be on the ground, as well!

Could I get a breakdown of the demographics of the council in terms of residents? What are the age demographics? Is it an ageing population or is there a balance?

Mr Barwick: Compared to Queensland as a whole, it is a young population. It has around a 20 per cent Aboriginal and Torres Strait Islander representation. It is fairly close in terms of males and females.

Mr SMITH: What is the unemployment rate?

Mr Barwick: It is reasonably low in most groups. I would say it is quite high in some youth groups and also in some Indigenous areas.

Mr SMITH: What is the average income, roughly?

Mr Barwick: Quite high compared to the rest of the state, yes.

Mr SMITH: Every council that we have spoken to has mentioned vexatious complaints. There are concerns about the intent of some of those complaints and a lot of councils are talking to us about deterrents. I note the \$200 amount attached to every complaint—I do not agree with that. Anecdotally, do you believe that if people cannot have these unsubstantiated complaints published on the conduct register, it would take away the incentive for these vexatious complaints?

Mr Barwick: In my view, that would go some way towards—if it were completely confidential between the councillor and the OIA and done in a timely manner to not put pressure on the councillor. I have received one complaint. I must say on record that I have never lodged a complaint with the OIA, and I have no intention of doing so at the moment. I have received one complaint. It popped up on my email one morning and it said, 'Your charge has been dismissed'. In some respects, I am glad that I never knew about the charge before it was dismissed because it could have been one, two or three months that I was sweating about it. I do not think councillors need to be subject to that.

Mr SMITH: Procedurally, if the OIA believe that there is something there to be further assessed they send you a letter letting you know that they believe there are grounds for a further assessment. Mostly for the vexatious ones, it is a letter which says, 'A complaint has been made; however, it has not been substantiated.' Are you aware of any complaints that continued and progressed further through assessment but were then later deemed to be vexatious or is it always at that first letter stage?

Mr Barwick: Only anecdotally that there are complaints that have gone past the opening stage, gone through some sort of investigation and then been proved to be invalid. That is the case, yes.

Mr SMITH: Are you aware of how many people have been financially penalised by the OIA as being vexatious complainants?

Mr Barwick: I am aware of one. That is in the time that I have been in council.

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Mr SMITH: That brings me to the idea of deterrent. As councillors—and of course answer individually and personally—would you like to see greater enforcement of penalties put upon vexatious complainants?

Mr Barwick: That is something that we are alluding to. The first thing would be the anonymity of complainants. We believe that is not a good thing. There is no transparency there at all. We also believe that the fee would be something, but you have suggested that you are not in favour of that. It certainly would sort out a lot of people who were wanting to put in frivolous complaints. If they were not lodged on to the system—I think that is what you are asking, is it?

Mr SMITH: Yes. If something was deemed to be an unsubstantiated complaint, there is no need for it to go on to the council conduct register. Anything that is not proven would not go on there—no name, no details about anything. Essentially, the complaint is invisible to the public if unsubstantiated.

Mr Barwick: That is my preferred position, yes; absolutely.

Mr SMITH: What is your level of understanding of the code of conduct?

Mr Barwick: Personally, I think mine is good. I have a high level of understanding of it.

Mr Tulley: Mine is probably not the best. I try to treat people how I like to be treated. I do my best to do the right thing. Obviously there are some times where I may slip up. Going back to that other point regarding the fee, some of these OIA complaints are coming from the one person. Maybe something could be charged. If 10 complaints are made against councillors and they do not come to fruition, maybe that person could be fined. Maybe something should be against them. If nothing happens and nothing changes, it is going to be the same, isn't it?

Mr SMITH: Absolutely. I just think the back end penalty warrants that instead of the first part. With the code of conduct—and you both have stated your levels of understanding—do you believe that some of the language is achievable when they talk about 'show respect to all persons' and 'clearly and accurately explain council's decisions'? Is it entirely achievable for an individual to wholeheartedly, always and every single day uphold to the code of conduct?

Mr Tulley: I think some people can. Some people do not speak their mind and some people do not like to be known to be going against the grain. I am probably totally different. If I see something that I do not like, I will make sure people know about it. That may not be in accordance with the code of conduct, but, like I said, I treat people how I like to be treated. If you do that, you can be pretty well assured that you are going to have some sort of conduct which is appropriate.

Mr Barwick: There needs to be an allowance to some extent for the different types of personalities who get elected to council. I do not think that one role model for councillors across our state is entirely going to work. If there is a high level of expectation there, it is going to be easy to lodge complaints against that. That needs to be taken into account.

Mr HART: I wanted to flesh out a couple of your recommendations, including the \$200 fee. I assume that you are attempting to get rid of anonymous complaints? You cannot charge a fee if you do not know who to charge it to.

Mr Tulley: That is right. They go hand in hand. The anonymous ones are probably the most important. If you are going to make a complaint against someone, surely you would want to put your name to it. That is the way I was brought up. As I alluded to before, one of the reasons I came onto the council was that I was sick of complaining about the mob on here. I put my hand up, I got elected and hopefully I am doing my best. I guess that the \$200 is irrelevant. It might just slow a few people down, that is all.

Mr HART: At the moment if somebody makes an anonymous complaint, the only way anybody knows about it is if it is listed on the councillor complaints register. If we take away the anonymous complaints, do you think that people will publicise the fact they have made a complaint in the media in order to score political points?

Mr Barwick: I agree. I do not think that is something that we could consider from our end. If we are having complaints made against us, we are saying that people need to put their names to them and be ready to back them up with a possible lodgement fee. I think that would stop a lot of the garbage that goes into the Independent Assessor's office. If we want Mount Isa City Council to be operating fluently and functionally, we need this shroud of harassment that has been created lifted from the council. It is ongoing, constant and never ending. You never know when a complaint is going to come. I think all the councils are feeling that. It just creates a bad situation; it really does.

Mr HART: You said before that you thought all these anonymous complaints were coming from one particular person. Can you give a sense of the sorts of complaints we are talking about here? Is it anything specific or is it along the same lines?

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Mr Tulley: I am not saying that it has come from one particular person. I am guessing it has, that is all. Going back to the question you just asked before about going to the media, at least if someone goes to the media they have to put their name to it. If they are going to start a blue with someone, they have to be prepared to put their name up. If someone comes at me, I will come back at them. If they are anonymous, you cannot do anything. All you can hope is that the OIA does its investigation properly. It is out of your hands, isn't it?

Mr HART: One of your other suggestions was that the OIA should only come through official channels to communicate. Can you explain what that is about?

Mr Barwick: There are a few elements to this. One of them is that there is a high staff turnover in council. The OIA ringing a particular person in a particular role about something that happened six months ago is not likely to get a good result. Plus, that particular staff member then does not know whether they should be responding to this. It has to go to the CEO. It creates a lot of turmoil. Our suggestion is that there is one particular person in council who is a liaison officer for the OIA and that is the person who should be the conduit to the OIA.

Mr HART: I asked the mayor of Burketown in Carpentaria this morning a pretty blunt question about what should happen with the OIA. I will ask you one as well. Is the system better or worse since the OIA came into existence?

Mr Barwick: As I indicated earlier, for me the OIA has been hijacked for political purposes entirely in Mount Isa's perspective. We have a council meeting for example and we get zero, one, maybe two people turn up. They usually read out some request that they have or something like that. They are not unhappy. They are not coming in there banging down doors or anything. Why are we getting all those complaints through the OIA? I ask the question. I cannot see any reason for it except for politics. When I look at the complaints, I can see how they originate and I can see what the purpose of them is. It is simply to tarnish the reputation of councillors. If you are asking me about the Office of the Independent Assessor, I am sure the good people working in there do not want to be hijacked by political opponents of sitting councillors. Whose side is it on? Why are we subjected to this harassment?

Mr KATTER: I will ask the same question I asked this morning: can you throw a figure—and obviously it is a highly subjective figure—on the percentage of time and maybe even emotional energy that you spend in council now? Your job is to give strategic direction to the council over a council budget; that is your real job. You are turning up there to do that. This seems to be a pretty significant part of your role now—that is, going over complaints. If you had to throw a figure at it, what percentage of your effort do you think it takes up in council? Just to be clear, not of your life but of council effort, because you have a certain amount of time when you are part-time?

Mr Barwick: The strain on councillors is more emotional and that sort of thing, but then they may have to engage lawyers to represent them. There is a cost there and there is the time as well. The big draw is for administration—what they have to provide back to the OIA. Clearly there is a cost to all that and there is also energy that goes away from the community because they are busy every week addressing some form of complaint. There is staff time there. The CEO gets drawn into it and a range of officers throughout the council as well. That is all taking time and effort away from things that we could be doing for council.

Mr Tulley: What about the time that it takes the CEO away from their normal duties to address these issues—and the CEO may back me on this. People probably complain about me every day. I am not saying it is through the OIA. It does not bother me. It does bother some people. Personally, they are the people that I am concerned about. They cannot do their job when their thoughts are on something else. It is human nature. When you are thinking about something that is hanging over your head, you are not prepared to stand up and talk, make good decisions and put thoughts forward in fear that you are going to get a complaint against you. It certainly takes up a lot of the CEO's time. That is not a good thing because the CEO is there to do the CEO's job—not to investigate OIA complaints against councillors.

Mr HART: The Integrity Commissioner used to offer advice that could be relied on as a legal defence, provided it was followed. She stopped doing that, claiming a lack of resources. Was that useful to you; did you ever use the Integrity Commissioner's advice?

Mr Barwick: I have not personally, no. I cannot speak for other councillors as to whether they have used the Integrity Commissioner. I do not know that it is seen as a defence in complaints against councillors. It seems that councillors are feeling that there is a lack of support. Perhaps there is some work that needs to be done in making that information more available.

Mr HART: It was more around conflict of interest type issues.

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Mr Barwick: I think councillors know about it. We know it is there, but, as I said before, I think we deal well enough with conflict of interest. There is always a fair bit of discussion about it. People tend to leave the chamber fairly easily—we do not go kicking and screaming.

CHAIR: Thank you very much, gentlemen. We do not have any questions on notice.

Mr Barwick: Thank you. We appreciate the opportunity.

CAMPBELL, Mr Gregory, Mayor, Cloncurry Regional Council

CHAIR: Thank you for coming along. We offered your fellow councillors the opportunity to come but they are a bit shy, or they trust you deeply! Tell us about your experience—what you think works well, what you think does not work well—and we will have some questions for you.

Mr Campbell: Thank you. Members of the committee, welcome to the North-West. You have dipped out—you did not get to Cloncurry, unfortunately.

Mr HART: I have been there!

Mr Campbell: I have been a councillor for a number of years. I have been a councillor for a term, a deputy mayor for a term and I am into my sixth year now as mayor. I have seen plenty of different personalities with different councillors and mayors over that time. There have been a range of different frameworks with the CMC, the tail end of the CJC and local government complaints during the last term and then the current reforms that we have seen. There is a lot of information and examples which I can give. I will work through those insights and provide examples of complaints that have been made against me personally. It highlights how confusing, I believe, the conflict of interest rules are.

There was a comment about the technicalities around the CCT. That is very real, but we can examine that further when you ask questions. Probably one of the key things that we have seen in the last number of months is how the department of local government staff, whose act this is to manage, do not understand the rules. We have had senior department staff attend council meetings who cannot agree on what our declarations should look like, what constitutes a conflict of interest and what a model way of recording that should be. I think we are getting there.

I have an example. We made a resolution on a declaration and then had to rescind it five minutes later because it was deemed that we could not make that resolution. When the department staff struggle to understand the rules, when it is their act to administer, then us as essentially lay legal people focused on the best outcomes for our communities, how are we going to acknowledge what the rules are?

The CCT president recently said in their findings that the training is robust and the rules are clear—it is nothing but and it does not even come close. There are some generalisations that we get during the training such as ‘if in doubt, step out’, especially around perceived conflicts of interest. If you do not believe you are conflicted, then you are not going to declare something.

I supported a lot of Phil’s comments in his opening statement around issues that happen with the OIA and around declarations. Once you start getting complaints, the process is not about the criminal process where the burden is to be proved beyond reasonable doubt. Rather, it is to be proved on the balance of probabilities. If you have a range of complaints and they have proven to be incorrect or vexatious, when the next one comes along, the balance of probability should be that it has been based on the same misuse of the process.

It feels as if every allegation is pursued vigorously in order to get a scalp. I feel a real sense that the OIA, especially now they have been under some pressure and under the microscope, is feeling pressure to get a mayor scalp is highlighted, to the point where they will even encourage complaints to achieve an outcome.

CHAIR: The last point that you made about encouraging complaints, can you flesh that out? Was that the office itself encouraging complaints? That is obviously based on something that you have seen.

Mr Campbell: Yes. I have recently been dealt with through the CCT and found guilty of misconduct. That was through a complaint that I know was from a previous councillor. The allegation was made not through the council meeting process and under section 150EW, which is a good rule which states that if councillors are aware of something that somebody has not declared, then they have to raise it. That process should have been what was highlighted by the OIA staff—that would have helped fix the process and driven conversation around the council table.

CHAIR: I was pinged under that when I was a councillor.

Mr Campbell: Yes, it is not nice.

CHAIR: You said that the local government department have attended and worked with your council—that is news to us. Can you give us some more details about what happened and why they went?

Mr Campbell: I can provide a pack for you as the chair and for the members of examples. In 2019 after a particular complaint, the Independent Assessor wrote and said that she had seen systematic breakdowns in how Cloncurry managed its conflicts and offered to come and do training, Mount Isa

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which I agreed to. I am not sure what happened but she never came and it was 12 months later after another lot of complaints that that offer was taken up again and the department staff came. For two council meetings in particular at the end of last year, we had three senior staff attend. It took about 2½ hours to get through the declarations at the start of the meeting. The following meeting they came back again. It was at that point, where they were on the phone to another member that did not come from Brisbane that time, that we rescinded a declaration motion and made another one.

CHAIR: They came to do a workshop. You are saying after that workshop it took you a while to start your actual council meeting because you were going through a range of those declarations; is that correct?

Mr Campbell: No. We started the council meeting with the department staff in attendance to help us work through the declaration of conflicts process.

CHAIR: You stated that the CCT said that the training is robust and clear. Can you give some more details about what they said to you, or what their involvement was?

Mr Campbell: Limited to the extent of the letter I got following that outcome. We did multiple different lots of training, but it was vague. The Independent Assessor said herself at the local government conference in Mackay that they need to prosecute to get case studies to understand what the level of conduct is that they will pursue. The rules are not clear when they have to make those sort of statements. There are some generalisations. If you have a cup of coffee with a developer, you should declare that. If you have dinner with somebody, that should be classed as a close associate. A business transaction is classed as significant. In my case, a business transaction was \$3,000 compared to a turnover of a business with \$1 million—that is insignificant. It depends on your perspective on what those rules are, and they are not clear.

CHAIR: You said that the training was vague; we heard similar things today in Karumba. It was suggested that the training focus on real-life examples. Would that be a more effective way of doing it?

Mr Campbell: Yes, and to a fair degree, they do try to focus on examples that might be relevant to your council, but you cannot cover every scenario. Again, if you do not believe that you are conflicted, you will not raise it to see if it is real or not. There is a backup as well. The OIA, the department and the LGAQ have got an online ready reckoner. I have entered information there and it said that I did not have a conflict—that is contrary to what the CCT and the OIA have said.

CHAIR: So you did not find the online resources helpful.

Mr Campbell: It would have been helpful, if it had supported the outcome.

CHAIR: Looking at your council conduct register, I wrote down a question—which you have partially answered—do you think your councillors are fully across their obligations under the act? From what you have said, you are questioning if the department is fully across their obligations under the act, or the impact of their obligations?

Mr Campbell: Yes. I well and truly question whether they are across it. I do not think it is any fault personally of any of the staff given the number of changes and inclusions over the last number of years. I think the act has doubled or tripled in size. When there are so many different parts to it, the staff are not going to be able to keep up, either.

CHAIR: You are saying that you agree that perhaps your councillors are not fully across the inclusions, but, at the same time, neither are local government staff?

Mr Campbell: Yes, I would agree with that.

CHAIR: What do you think you can do internally to resolve the problems with, for example, conflict of interest? Obviously there is some external training. What are the things that you would like to do internally to solve these issues?

Mr Campbell: The rule—and it is there and it should have been there all the time—of having discussions around the table. If a councillor feels that somebody has not declared something and they are aware of something, they should have the backbone to raise it. Then, if you do not have the ability, try not to spear somebody in the shadows.

Mr McDONALD: Thank you for being here and for your presentation. Given your experience in local government, which you outlined earlier, can you talk to us about how the system was before and how the system is now—is it working better or worse?

Mr Campbell: It is different rather than better or worse. To support Phil's comments in different language, the OIA has allowed itself to be weaponised for petty, personal and political reasons. I do not know if they can acknowledge that or find a mechanism to stop that happening. There have been

the same sort of vexatious complaints for many years. I do not think there has ever been anyone held to account over it under any of the previous frameworks either. As far as I am aware, nobody has to this day. I think there have been a few more letters—looking at the OIA submission—where they have written to complainants saying that their complaint was vexatious. In my circumstances, I am not aware of that ever being done.

Mr McDONALD: Some have said that the OIA/CCT process is very legalistic. In fact, CCT matters from June 2020 are only being dealt with now—that is a 20-month delay. Have you had any experience with that? How does that make you feel that a question of your integrity could be delayed for that long?

Mr Campbell: I am definitely part of that. I have complaints from 2018 and 2019 that are only just going through the system and been dealt with. There was definitely a rise at the end of 2019 and early 2020. It may have just been a coincidence that there was an election coming up. There was definitely a peak at that time, especially around perceived conflicts of interest. It is grey. The only way I can explain it is that, instead of it being a line in the sand, like a rule should be, it is a piece of string hanging in a tree in a cyclone. There is no way to understand where that line is.

I have had explained to me that a 'reasonable person' is a legal term, but it still comes down to your perspective. For somebody in Brisbane who has their circle of friends, the level of interaction with their community is totally different to that of somebody in Cloncurry or Burketown where they have some interaction with absolutely everybody. You could get around it by giving a broad, disingenuous declaration to almost every item on a council meeting and call that a get-out-of-jail free card, but that is not fixing the system. We need an acknowledgement of the difference between a major council and a smaller council and an understanding that a perceived conflict of interest means that nothing wrong has happened. If the complaints are not coming from your broader community, is there actually a perceived conflict of interest?

Mr McDONALD: You raise a really good point. What is the population of the Cloncurry shire that you cater for?

Mr Campbell: The census says about 3½ thousand but, with the impact of mining and mining camps, we believe it is closer to 5,000—and growing.

Mr McDONALD: Which is a lot different to some of the larger councils, obviously. In terms of the language you just used, a lot of councillors and mayors have said that the terms 'inappropriate behaviour' or 'misconduct' have very broad connotations. Some of the words you used there would possibly be more appropriate and give the community a better understanding of what is actually going on. Is that a fair comment?

Mr Campbell: I think so. The perception of misconduct is that something really bad has transpired—you are actually taking brown paper bags of money. That does not even come close.

Mr McDONALD: That is true. I notice that there have been 50-odd complaints regarding the Cloncurry council spread very evenly over 2018-19, 2019-20 the 2021 financial year but then none in 2021-22. Is there a reason for that?

Mr Campbell: I do not know. We are not in election time for another four years.

Mr McDONALD: I understand the answer! Could you provide either now or later the costs in terms of legal costs, cost to council, cost to officers and what have you?

Mr Campbell: I cannot give it to you now, but I can take that back as a question on notice to the CEO. To calculate the cost of council staff's time would be significant, but we can definitely get something that is reasonably close for you.

Mr McDONALD: Thank you very much. Do not make it too onerous. It does not have to be before the auditors. Just give us some idea, because it is a huge cost. The ratepayers and the councils have to wear the cost of this legalistic process. We are told that sessional members of the CCT deal with matters for 200-300 hours to produce an education outcome or perhaps an apology. Have you got any thoughts about that legalistic process and an outcome?

Mr Campbell: I was not aware of how long it takes to get that. Supposedly the aim of those outcomes is to create education. To drag somebody's name through the mud to do it is not creating education; it is creating fear amongst councillors.

Mr SMITH: Separation of powers aside, how is the role of a councillor different to that of a member of parliament in your mind?

Mr Campbell: Our council chambers are not as flash.

Mr SMITH: Ours is falling apart!

Mr Campbell: Without being disrespectful, councillors deliver a lot more to people on the ground. The council is the frontline of services. The smaller the council or the more regional the council, the more the services councils provide. We have had an acting CEO who was the long-term CEO of Noosa. I would be lobbying for health services or lobbying Queensland Rail or Aurizon for more jobs. That was never in his wheelhouse at Noosa. Regional councils or councils like Cloncurry or Mount Isa lobby for education and we lobby for health. We do not just lobby for it, we fund our private medical practice. We run the day care. We run the airport. We run the saleyards. It is much more than just roads, rates and rubbish. We are the economic driver for the region compared to a city council. Compared to a member of parliament, we deal with a lot more of the basics that affect the lives of people daily.

Mr SMITH: The political nature between a member of parliament and a councillor is different in terms of different levels. However, do you in any way feel as though your political expression is restricted in your role as a councillor?

Mr Campbell: No, I have never felt that. In reference to the high-profile case of Sean Dillon, no. I do not know whether he was just in the wrong place at the wrong time. I have seen his comments. At the time, I had made very similar comments to our health district through our district disaster group. You had to take it in context at the time. It was unchartered territory. There were plenty of issues in the delivery of COVID vaccines and even prioritising who was going to get it in a small town. If you only had a couple of hundred people in your town, you would not categorise it by age; you would do the whole town. That was part of the core of his comments. To be potentially penalised, is an overreach of power.

Mr SMITH: I did ask the other two gentleman this before, but what is your personal level of understanding of the code of conduct?

Mr Campbell: Probably not enough technically. I do not read the act. I do not read those documents very much because they should be based on what is right and wrong. Mick's comments were that you cannot teach people how to know what is right or wrong—you either know it or you do not. It does not matter how many times the legislation gets changed or we create a different edition to an act, if you do not have it you are not going to get it.

Mr SMITH: Principle 3 of the code of conduct has a third dot point—

In representing and meaningfully engaging with the community, Councillors will:

...

- accept and value differences of opinion.

Is that practically achievable to value everyone's opinion?

Mr Campbell: Having not had much time to think about it, it would be harder to accept rather than value because I would value other people's opinions, but it is whether you accept it or not. An example was COVID, again, where there was plenty of social media talk about closing highways into our towns and closing airports. That was something that I had a fair bit of pressure on me to do. If we had closed our airport, which is the gateway for 50,000-odd mine workers, that would have meant mines would have closed. They may not have reopened. Instead of the state bouncing back after COVID, it would have been in a hell of a hole. While we acknowledge all those comments, it is our job to make policy and not to make policy driven by what is popular.

Mr SMITH: Absolutely. It is interesting you say that, because I can certainly accept differences of opinion but I do not always value them. That might go to the point about the code of conduct.

Mr HART: Hopefully you heard my question to the previous two councillors around the Integrity Commissioner. It seems most of your issues are conflict of interest. Have you ever used the Integrity Commissioner as a form of legal defence because when councillors were made 'designated people' they could seek advice from the Integrity Commissioner and use that as a defence in the CCT if it got to that stage? That is legislated. Did you know that to start with?

Mr Campbell: Yes.

Mr HART: Did you ever use it?

Mr Campbell: I had a few meetings with the Integrity Commissioner. The outline of her role was good, I thought. I had sent things to her to give advice and support on such as as the chair of meetings to understand what my boundaries should be or what I should make the boundaries of the conduct of meetings. Her response was, 'I cannot give you advice on the conduct of others, only yourself.' Essentially I was asking what the boundaries of conduct should be to manage the meeting properly. She said, 'You can only give examples of your circumstance not of others.'

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Mr HART: The advice of the Integrity Commissioner ceased because of a lack of resources in her office. That is evidence before the committee. Do you think that the Integrity Commissioner should be providing training in this area? Should the OIA be providing training in this area? The department seems to think that they are the final point of truth. Are they the best to provide training to get this right? The committee will look whether there is clarity in the legislation and whether it can be misinterpreted, but who should provide the training?

Mr Campbell: Ultimately I do not think it matters who gives the training, but the training has to be accountable. As far as I am aware, you can get advice from departmental staff that has no standing with the OIA or the CCT. When essentially the gatekeepers of the legislation are ignored by the investigators, what is the point of even going to them for advice? I can give an example around procurement policies. I sought advice from a senior departmental staff member and it was said that if a procurement policy is broad and general in nature and does not talk about any specific business or trade then nobody has a conflict of interest. Through that we have had one ex-councillor and had one current councillor who was found guilty of misconduct for not declaring a conflict. This was in total contradiction to the departmental staff's advice. Ultimately I do not think it matters where the training comes from, but as long as that training and advice you can stand by.

Mr HART: It is similar to the Integrity Commissioner then—whoever provides the advice—in that it should be a legal foundation for a defence in the CCT?

Mr Campbell: Yes, totally.

Mr HART: Some of the other mayors and councillors we have met with have suggested that people who make vexatious claims should be put on a register and should never be allowed to make a claim again. Do you agree?

Mr Campbell: No. Looking from the outside at Ipswich council there were probably people making complaints which were not going anywhere when, ultimately, there was wrongdoing. There has to be some mechanism in which complaints are dealt with—not just for petty political reasons or to be weaponised.

Mr HART: The mayors we talked to this morning thought that there was a case for one level of councillor to have a sterner set of rules than regional councillors. Do you see any value in that suggestion?

Mr Campbell: No. Ultimately, right is still right and wrong is still wrong. The level of calibration of what the difference between a major council and a smaller one is where there needs to be some discrepancy—not on saying that you can be 'less right' or 'less wrong' in a smaller regional area.

Mr HART: What do you think should happen with the OIA? Are things better or worse now than they were before the OIA came into existence?

Mr Campbell: Different is still the first answer, but generally worse. It is like the OIA has created a vacuum of complaints. I believe it was at the Mackay conference that Goondiwindi was raised. It was said that there must be some serious issues there because there have been no complaints. You get the sense that the office believes that local government is rotten to the core. They have a preconceived idea that they have to find fault and I do not believe that local government is rotten to the core.

Mr HART: Following on from the member for Bundaberg's question, do you think that there should be a different level of scrutiny on councillors than state members?

CHAIR: I do not think that was the question, but it is a good one.

Mr Campbell: No, and I do not understand what the level of scrutiny is on state members. I have never looked at what happens in Parliament House, but I would assume that the level of declarations that we are held to account for is not the same as what is at state or federal level.

Mr KATTER: Councillor Andrew Murphy from Normanton in the Carpentaria shire raised a point with me this morning that I think would be relevant to Cloncurry and other shires. The issue comes back to the definition being hazy. He said that, if I donated \$500 to the swimming club, there is a material conflict—the conflict is very tangible. If another councillor works very hard in the club and invests a lot of time, there is nothing tangible but she has a lot more interest in that club than he does. She may not necessarily qualify technically as having a conflict of interest. I am not sure whether that is isolated to small councils, but I thought it was an interesting point. Do you have a comment to make on that?

Mr Campbell: The issue around donations and gifts is still a bit grey. It is not as bad as it used to be, but it is still a low cumulative amount. You do not have to do much to trigger different reporting rules. Under the prescribed conflict of interest, that rule has been made clearer. If your child goes to football, you do not have to declare an interest. You do not have a greater interest than anybody else. That level is a little bit clearer, but the more general perceived conflicts of interest are still very grey.

Mr KATTER: I am not sure if you said this before, but do you have any recommendations on how you think the system could be improved?

Mr Campbell: The LGAQ has made a very strong submission. The only other admission that I would like to see you consider is around purchasing policies being treated as ordinary business. From what we have seen in Cloncurry, I would gauge that half of rural and regional mayors and councillors would quite likely be found guilty of not declaring a perceived conflict of interest in participating in their purchasing policy. The only reason they have not all been put through the wringer is because there has not been the nature of complaints driven for political reasons.

CHAIR: Thank you for coming along, and thank you to your fellow councillors for coming along and being a part of a slice of parliament.

Mr Campbell: There was a question to Phil and Mick around how things get reported in the annual reports. From my perspective, I would be keen to see the complaints which are dismissed being able to be reported with the name of the complainant and the details. That would stop people making vexatious complaints. I had a complaint made about me that I did not declare a conflict of interest because my father was president of a club—anybody should have had reasonable knowledge that he was never the president. If that whole complaint with the complainant's name could be publicised, then the community would drive the fact that people were telling lies to create political advantage. That would make a difference.

CHAIR: You are not the mayor or councillor to make that point in the hearings. It is a point well made.

Mr Campbell: Thank you for your time.

KEENAN, Mr David, Chief Executive Officer, Mount Isa City Council

CHAIR: We appreciate you coming along and being a part of our committee. We invite you to make an opening statement and then we will have some questions.

Mr Keenan: Thank you. I will clear up a few questions that you asked of the deputy mayor and Councillor Tulley first. The \$200,000 that was referred to—the majority of that has been spent on investigators, lawyers or reviewers. Within that amount, there would be a percentage of staff time but you would take \$30,000 off that.

CHAIR: Would they would be external people you have hired in?

Mr Keenan: External investigators and lawyers on legal advice, going through making sure we respond to the reports that have been put in by not just the OIA but other agencies as well such as the CCC. The second issue you asked about was the words and the names. The words that are put in the recommendations are supplied to us by the OIA. The only thing that can change in those words is, as Councillor Tulley indicated, he could have his name included. The correspondence from the OIA says, 'Please as CEO, can you consult the councillor to see if they want their name included or not?'

CHAIR: To clarify, I know that under sections DX, DY and DZ you have to include some details. Certainly, I notice in some of the other ones they have not detailed the number of circumstances. Only a minor point, but we have looked at a lot of these councillor conduct registers over the past few weeks. It is interesting to see how people have approached that.

Mr Keenan: I would make the observation that not many people look at the Councillor Conduct Register either.

CHAIR: We lead very sad lives!

Mr Keenan: I would say that the councillors have had at least eight to 10 sessions of training during this period of time. That training has ranged from organisations such as Clayton Utz coming in, especially in relation to conflict of interest; the LGAQ; the department has probably been in somewhere between two and four times; and the OIA was here once before I started.

You made the comment about where people go and how they make complaints. I would make the observation—and I am probably going to try to drift away a little bit from this council to councils in general. The CEOs across local government had a high aspiration that after Belcarra there would be a lot more pressure taken off CEOs for the roles they found themselves in. It became very difficult when trying to manage the expectations of the elected officials, the responsibilities that were meant to be followed out under the act, and the establishment of the OIA. That by itself has been quite challenging.

If you have got to the OIA, you have probably failed because what should be happening is prior to getting to the OIA there should be enough training undertaken with the different elected officials to make sure you are not going to end up there. This then leads onto my next point, which relates to training itself. Not everyone is a good trainer and not everyone is a good participant in training. My recommendation—and I have got a copy of it here which I would suggest the committee review—is that in Victoria there is a quasi or full Institute of Company Directors course that is done by all elected officials. Yes, it is an expensive course. I did it many years ago when it was cheap, but it now sits around the \$9,000 to \$10,000 mark. That investment at the beginning of a four-year term where you cover conflict of interest, ethical decision-making, financial management skills, how to set strategy and how to operate as a board or a council, would be of far more benefit than infrequently saying, 'Things are a bit rotten, can you go and do something on conflict of interest' or, 'Hold on, they are getting more complaints, can you address that.'

It is important to remember that the councillors here run an operating budget of \$90 million. They have a capital works budget of \$42 million. They need training that equates to the magnitude of the job that they are doing—that is not going to be through an infrequent visit from the department. Even though the QTC do a wonderful job, a one-day workshop is not sufficient. Training will stop you getting to the OIA.

I would like the committee to consider the use of municipal monitors. I know the word 'municipal' is always shunned upon in the north, but, as a former Victorian, it is very much the word that is used in dealing with local government. Again, where there is the potential for a council to be veering off where they are meant to be, there is a history of appointing municipal monitors who go into a council and sit in council meetings. They see how the interaction is, see how the health of the chamber is and they report back on that to the minister. They do that for a period of time, both in the informal briefings and the workshops as well, to try and understand what is working and what is not working.

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For a number of councils that has proved invaluable. For some councils it has led to further investigations being undertaken by IBAC. There have been some disbenefits one could argue in that argue, as well. It may be that monitors could be a good idea. I do lament the fact that the total number of OIA personnel I have seen in the council meetings from my almost seven years here in Queensland is zero. I do not understand how you can work with an organisation when you have not been to any of its meetings, or you do not understand how it operates.

I can get the department to come in every now and then and ask them—and I have done that here—but I should not be asking the department to be coming in; they should be coming up and saying, 'David, we are coming in to go into one of your council meetings.' I say to the council, 'Watch out, the department is going to be here,' or, better still, have someone attend who they do not know so that can be assumed from there as well.

I have the greatest sympathy for the elected representatives, in answer to your question. They are the most overscrutinised level of government anywhere in Australia—that is, compared to any of the New South Wales and Victorian local governments et cetera. Queensland has the highest level of scrutiny for councillors, without a doubt. Councillors going through the process of continuous complaints—and they do appear to be continuous as the pattern appears to be that you do not just get one, you get two that goes to three—do not have anywhere to go.

I appreciate the comments of Mr Hart in relation to the Integrity Commissioner. That was one place councillors could go. If I have a staff member who is not coping too well with things, I have an employee assistance program. There is not a similar program for elected officials to say, 'This is not doing me much good at the moment and it has been hanging over my head for six months. Who can I go and talk to?' The LGAQ, with young Nathan here, I believe has a similar sort of program that can be accessed. Realistically, they can go to the LGAQ and they cannot really go to the department. There are very few opportunities. Obviously, there is always the discussion about whether the councillors are employees, contractors or simply being paid in a different way.

You have spoken quite a bit about the Councillor Conduct Tribunal. I would turn around and make the observation that if you ask most councillors from any council, 'What is that organisation?' they will not know, nor will they know where those detailed recommendations are that are put out there. Some of the things that have come in include a \$5,000 fine for swearing, if I remember correctly. That was one of the Indigenous councils. Most councillors would not know about the Councillor Conduct Tribunal. I am aware of it. I am aware of the cost and I am also aware that the majority of the sessional members who sit on the tribunal have never worked in local government and have never been to a council meeting. They may have great legal skills, but they purely do not have any experience in local government.

Lastly, from a CEO perspective, the CEO consistently finds himself or herself in a difficult position where they are required to report things. I thought this was going to die down a bit after Belcarra, but it did not. We do not have much of a choice at times but to report something. That is difficult because for a period of time there you can encourage councillors to declare or gently remind them to declare a conflict of interest. In some instances elected officials will forget that they have either declared a conflict of interest previously or they do in fact have one and they will go, 'Oh my God, yeah, I forget about that; I have got one.' There is a point, though, where the CEO needs to withdraw from that entire process, and it is up to the individual. The individual will only know if they have good training. I go back again to the Institute of Company Directors course which is offered to elected councillors in Victoria. Again, that up-front investment is always going to be better than the sporadic bringing in of training on specific issues over and over again. You probably have some questions for me. I might leave it there.

CHAIR: We have not heard before that suggestion of municipal monitors, but that ties in certainly with your other submission. Are you happy to have that tabled? We will table that. That fleshes out what you put in your submission as well, which makes perfect sense. I absolutely agree about the AICD course. I did it when I was a councillor and I thoroughly recommend every councillor do it. It is absolutely invaluable. Certainly, it ties in with what we have heard about the need for training. How long have you been in Mount Isa?

Mr Keenan: I have probably been here about eight months. Prior to that, I spent 5½ years at Southern Downs Regional Council.

CHAIR: I think it is a tough job that you have. It is clear that there is some conflict on council. I think that is fair to say. The councillors giving evidence earlier talked about the system being weaponised. Are we seeing the system being weaponised in service of political disputes here?

Mr Keenan: I am probably not going to make an observation on that. I will say that these complaints have an impact on the culture of the organisation. Staff are not silly. They can pick up when there are issues going on, and it helps no-one. It would be different if there were substantive complaints that have been proven and come out and end up in policy change or end up in changing the procedures about how we do things. That is not what happens. From my perspective, our eyes drop every time a complaint comes in, because we know how much more work that requires. We also know that that is going to change the atmosphere within the chamber as well.

CHAIR: The observation you made about if the problem goes to the OIA things have failed already is a very astute observation. Obviously then you make it a priority to change culture and to change the way things operate within council; is that correct?

Mr Keenan: That is correct. To have a positive way of doing things, about not doing things the way we have always done them, about team work and about the values of the organisation being integrity, service and accountability. That is what we try and reinforce on a regular basis, but that needs strong leadership, which means not getting caught up in complaints at that level, from myself and the executive management team to keep pushing the organisation to excel.

CHAIR: Once you have that stronger, more resilient culture, the theory is that that leads to a drop off in the level of complaints coming through. Would that be a KPI for you?

Mr Keenan: It might be part of the KPIs. We deal with a whole lot of different complaints. We have administrative action complaints that come through. We have complaints that come through about human resources, 'Why did I not get that job?' There are the normal ones that come through. The ones that we do struggle with is the amount of work that is required to deal with OIAs. Again, this is across the board—not just at Mount Isa. It is not appropriate for OIA staff to be ringing junior staff or senior staff without them being informed. My junior staff do not know what the OIA is. When they get a phone call saying, 'Can you give me all this information?' 'Sorry, who are you again?' I have had a staff member come up to me and say, 'Am I meant to be doing this, David? Who are these people?' That is not the right way of doing an investigation. It is not the right way to research issues. Similar to the submission that the deputy mayor spoke to, we have a CCC liaison officer. If the OIA continues in the future, we need an OIA liaison officer.

Mr McDONALD: I appreciate your presentation and the concepts that you have talked about. Thank you for your submission. That stands on its own. I like the concept of the temperature of the chamber. What did you say?

Mr Keenan: Yes, the temperature of the chamber.

Mr McDONALD: Local government is a democratic arena. People are elected. In communities, they know where their councillors or mayors come from. They will be judged at an upcoming election. The challenge, as I see it, has been the legalisation of processes with the OIA and the CCT. Once you get in the system, the interpretation of the legislation by them means that there is no chance to make a quick determination and pull out once they finish it. It has to be fully investigated or it has to go through the next pathway, resulting in delays now in matters being investigated by the CCT of 20 months. There has hardly been matters dealt with in the current legislation that was introduced back in 2019 to make precedents. Can you comment about the legalisation?

Mr Keenan: I would make the observation that a number of councillors went through—and I am making this across the state—the last election while still having OIA investigations ongoing. One of the arguments put forward either in my submission or the council's submission is that, realistically, all of those complaints should be dealt with before the next local government election so everyone goes in as a cleanskin or at least with their matters determined so they are not carrying baggage through. I am probably going to keep on steering well away from the word 'weaponisation'. I am a bureaucrat, so I will go back to process and procedure. The time frames are hard for us. The resources are hard for us. I take on board what Councillor Barwick said before in relation to the enormous staff turnover—sometimes up to 50 per cent per annum. With that, the corporate memory walks out the door on a quite consistent basis. In trying to do an investigation—and we had one not so long ago who wanted to investigate back to 2020—we simply do not have those people here anymore. I do not know how you would get that evidence from those people.

Mr SMITH: I will go back to the code of conduct. It was more for councillors but answer where you feel comfortable to. Principle 5 states—

To meet the community's expectations for high level leadership, Councillors will:

- be committed to the highest ethical standards ...

Have you observed your council being committed to the highest ethical standards?

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Mr Keenan: Remember my submission is not in relation to my council; my submission is in relation to what I have put forward. I will talk in broad terms about my experience in Queensland and, for that matter, New South Wales and Victoria. It is a real challenge to do your ethical decision-making unless you have had the appropriate training. Sorry to keep going back to this, but if councillors had gone through the Institute of Company Directors course, ethical decision-making is one of the key topics within that study. Taking them through an exercise formally about how to do ethical decision-making is important.

The code of conduct is linked into the council meeting procedures which then creates some confusion between the hierarchy of the documentation that is in there. I have witnessed in my time in local government some councillors who will use the code of conduct very effectively to manage meetings and very effectively to put an end to discussions. I have seen others who are not really aware of the power of the code of conduct. It is quite a powerful document and it should almost oversee all the operations within a council meeting, the preparation of reports and everything else. At this council, it was reviewed back in December last year. We keep that recycling of the policy going through.

Mr SMITH: Would you be able to communicate a difference between ethical standards and the highest ethical standards?

Mr Keenan: No.

Mr SMITH: As an English teacher, I appreciate that. Finally, in relation to training, in a previous briefing there was a suggestion of an intranet for councillors—a department run intranet that councillors can log on to, access training modules from and so forth. You do not agree with such a proposal?

Mr Keenan: No. There are already modules on the LGAQ website, which I am sure Nathan could speak to, that supply that information. Putting up another website or putting up another app is not the answer. Doing that practical training with councillors is the answer—not getting lost. Sometimes the department has a habit of picking up something obscure and spending an hour-and-a-half working out whether a conflict of interest has occurred on this one. No, that is not what we are after. What we are after is clear decision guidelines—understanding where your conflict of interest sits and understanding what was pointed out by Greg around if you are aware of someone else's conflict of interest and you fail to declare that what happens. That is really important. A lot of people do not understand that. I hope I have answered the question somewhat.

Mr SMITH: Should training be ongoing and mandatory?

Mr Keenan: From my perspective and from a local government perspective, after a local government election, I would do what the Victorians do, which is a hybrid of the Institute of Company Directors course. Maybe you could indicate that not everyone has to sit and do the exam, because that often scares a lot of people who may not be the academic type. But you can encourage them to attend the five-day course and to consider doing the multiple choice questions, the short and the long answer questions, at the end. Many councillors do not just hold the role of a councillor; they will be board members or committee members elsewhere—that is the habit. It would add value to any community, not just this one, to have more people who were trained in that regard. I think that would deal with your high level of ethical decision-making.

Mr HART: You said you have a CCC liaison officer in your council. Do other councils have those?

Mr Keenan: All councils are required to have a CCC liaison officer.

Mr HART: The municipal monitors that you talked about, have you looked to see whether that would require a change of legislation?

Mr Keenan: I have not looked at that. At the moment in Victoria, there is probably somewhere between three and five people who are deployed at the moment. They tend to be ex-CEOs or ex-state government bureaucrats. Again, their obligation, as outlined in those four dot points that I have handed around to you, is simply to look at the health and the governance of each decision they make. Some of these people are well respected and they do a good job. It allows for a feedback mechanism to the state government. For example, the monitor has come back from Cloncurry and here is what the monitor has to say about Cloncurry. What do you want to do? We have got some concerns here—and I am not saying there is concerns at Cloncurry—but this is what we should be looking at doing now.

Mr HART: Have you got any comments on the questions I asked on the Integrity Commissioner before and on training?

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Mr Keenan: I encouraged at Southern Downs a number of my councillors to go and speak to the Integrity Commissioner. I believe, at all times, the Integrity Commissioner supplied the written advice that was required, noting that the Integrity Commissioner cannot or should not provide any verbal advice. The advice that is supplied by the Integrity Commissioner is only shared with the person who asked for it, so I have never seen any advice from the Integrity Commissioner. CEOs, if I remember correctly, were not allowed to ask the Integrity Commissioner for that.

Mr KATTER: I appreciate your presentation.

CHAIR: That concludes our questions. I was looking at an ABC article from 24 February which mentions engaging external investigators in legal advice. Is that a publicly available report from those external investigators?

Mr Keenan: The report itself is not. That was under separate cover confidential into council, following the procedures that were set out by the department. What happens with that—and you may want to look at a Southern Downs report which came out last week or the week before—is that council officers are required to do a report. That report is then presented to an open council meeting but the actual investigator's reports are separate.

There are not a lot of investigators, so when the OIA makes a recommendation that the council engage an external investigator, they are somewhat difficult to find. They are in demand—I do not know if that is a good thing or a bad thing. Finding the appropriate people to do those investigations can be quite challenging. There is the obvious cost that comes into that as well.

CHAIR: Thank you for your time. I will let you get back to work.

COGHLAN, Ms Kim, Councillor, Mount Isa City Council

CHAIR: You have seen what we have done today. We will ask you to tell your story. Tell us what can be improved and what you think works well. We will then have some questions for you.

Ms Coghlan: This is my personal opinion. It has nothing to do with Mount Isa City Council. I want to let you know how this affected me. I was on council, not last term but the term before, as a councillor. I did not know what an OIA was; I did not know what a complaint was. I enjoyed my time on council so much for the four years that I ran for mayor for the next four years. I was defeated, but I had the opportunity to work for the state member for nearly three years. I also had some work with the federal member, which was good for the next time I ran for council. I ran for council again and was successful in getting elected.

Again, I did not know anything about the OIA because I had never had a complaint. The other councillors would always talk to me about how bad the complaints were. I did not know what they were going on about because it had never happened to me. Then, one night I am sitting there and it is about 10 o'clock at night. It was late and I was going through my emails. There was a big 'attention: confidential' written in red, which was very official looking. I opened it and started to read. I will put it in layman's terms: 'I shit myself.' My tongue and my mouth went dry and I got light-headed. The email was listing all these charges against me. I got upset.

I am a single mum with four children. I love this community. I am born and bred in Mount Isa. The reason I went on council is so that I can help people and help make Mount Isa a better place. I have no political ambitions. I am on council to help my community. I am there at night reading this email and then it says at the bottom, 'This is confidential, do not discuss with anyone.' I had no sleep that night. I ended up having to talk to someone about it the next day—that was a bit different. I had to get legal advice. I have had to engage lawyers because I did not know what to do. When it never happens to you and then the next minute it happens, you do not know what the process is. The legal team was dealing with that.

A few months down the track, I got another 'attention' email. I am like 'Oh, Christ.' I opened this one and it said, 'You have been reported but it is not substantiated. You are cleared.' I did not even know I did anything wrong. My point is that that has happened another two times. I hear in the community that I am being investigated. I do not know I am being investigated, yet people in the community are being contacted about me doing something wrong. I see someone in the street who asks, 'What have you been up to? I have got a phone call from this lady and she is investigating.'

I had another list of complaints against me. By that stage I was really riled up so I wrote back to the Office of the Independent Assessor. I thought it was cut and dried. There was no substance to anything that had been written about me. They came back and referred it to council so council have had to bring in an external investigator. I had the investigation. Again, I thought it was cut and dried. I thought he knew what he was doing. Then, the matter had to go to council because he found that I was guilty of some of the things.

I obtained legal advice that smashed his report to smithereens. I do not think that it was done well. In fact, one of the charges that I was charged with, I did not understand. I asked the investigator to explain it to me and he said that he did not understand it either. He asked my support person what he thought. I was found not guilty of everything, but there is a personal toll. I have four kids. I get upset, the kids get upset and it is not fair. Nothing happens to the person who puts the complaint in.

It does not matter what training you get, if someone is out there to get you they will. It is anonymous—which is wrong to start with—they do not have to put up any money. I put in a complaint, which was defeated at the LGAQ conference. They can just go along normally. They are faceless, gutless, vindictive people in the community. If they want to get you, it does not matter how much training I get. David and the staff have gone overboard with our training. Some of it is good, some of it is boring and not worth it. I know we have to do it, but it does not matter how much training I do, if someone wants to get me, because of how the system is, they are going to be able to get me.

I am glad that this hearing is occurring, but I hope you take on board what everyone is saying and do something. Make your recommendations strong. Do not be wishy-washy about it. It is affecting people. I am a good person, but I felt like a Paul Pisasale when I received the first complaint. They accused me of inappropriate behaviour—I do not even know what I did wrong.

CHAIR: You could probably choose a better example.

Ms Coghlan: Yes, in a dressing gown on the front steps! That is how you feel, do you know what I mean? That has never happened to me before. My motivation is not for monetary purposes. I do it because I love my community and I want to see Mount Isa grow. I have got four kids; I have a Mount Isa

grandchild; I have friends here. My investment is big, but it makes you wonder, is it worth it? We are going to lose good people wanting to do good for our communities because of how the system operates. It lets people do what they want to do. I wanted to give my view on how it personally affected me.

CHAIR: Thank you very much, Kim. It is really important for us to hear those personal stories and see how it has affected you. We can see how it has affected you. Your description of how you feel when you get that email is probably pretty accurate.

Mr McDONALD: Thank you for your presentation today. How did the whole process, and the discovery at the end, make you feel?

Ms Coghlan: You think you are doing a good job, and then, someone in the community disagrees. You have to be careful what you say, because I am thinking I might do or say something that might upset someone.

Mr McDONALD: I will remind you that you have parliamentary privilege as a participant in a parliamentary inquiry.

Ms Coghlan: That is great. How did it make me feel? I was very angry because I was doing a good job. I am doing a good job. I am invested in the community. I topped the poll the first time and I topped it the second time. You do not get all those votes for sitting on your butt and doing nothing in the community. Now, I am angry about it. I am just going to do my job. I am going to do it well because I pride myself in the work I do. Sometimes I put the CEO through the wringer—he probably agrees—but I am not going to stop doing my job because of how the system is.

I might be a stronger person than other people out there, but it has still affected me greatly. My youngest child does not want me to run for council again, because she said, 'Mum, it is too much. You get too upset and cranky. It takes up too much of your time.' We are only part-time. I have a part-time job as well and I am running around after four kids. It is not a good system and you need to put recommendations in place that can help the system. We should be accountable, too. I understand that but it has gone beyond a joke now.

Mr McDONALD: Do you think that you would have benefited from being able to respond to some of these issues earlier, with procedural fairness?

Ms Coghlan: I responded to the last allegations against me with the Office of the Independent Assessor. I sent them all the evidence. It was a very short response because I thought all they needed to do was listen to the tape and read the article to know the answer, but that did not happen. They referred it back to council and then council got an investigator. I thought that he would pick up on it and then he did not even pick up on it. I had to get more legal advice. Like I said, I smashed the investigator's report—it was flawed.

Mr HART: We have heard from a number of councillors over the last week or so and we will be hearing from some more, so rest assured that we are hearing you.

Ms Coghlan: I will hold you to that.

Mr HART: Please do.

CHAIR: That concludes our public hearing today. Thank you to everyone who has participated. Thank you to our Hansard reporter, Mandy. Thank you to Stephanie from our secretariat. A transcript from these proceedings will be available on the committee's webpage in due course. All of you who have appeared before us will be in *Hansard*. I declare the hearing closed.

The committee adjourned at 4.46 pm.