



STATE DEVELOPMENT AND REGIONAL INDUSTRIES COMMITTEE

Members present:

Mr CG Whiting MP—Chair
Mr MJ Hart MP (virtual)
Mr RI Katter MP
Mr JE Madden MP
Mr JJ McDonald MP (virtual)
Mr TJ Smith MP (virtual)

Staff present:

Ms S Galbraith—Committee Secretary
Ms M Telford—Assistant Committee Secretary

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

TRANSCRIPT OF PROCEEDINGS

MONDAY, 7 MARCH 2022

Brisbane

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The committee met at 10.30 am.

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

This hearing is a proceeding of the Queensland parliament and is subject to the Queensland 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.

These proceedings are being recorded and broadcast live on the parliament's website. Media may be present and are subject to the committee's media rules and the chair's directions at all times. You may be filmed or photographed during the proceedings and images may also appear on the parliament's website or social media pages. Please turn off your mobile phones or switch them to silent. If you are appearing via videoconference and you are not talking, please have yourself on mute. Do not forget to unmute when you do talk.

MATHER, Ms Glenda, Councillor, Livingstone Shire Council (via videoconference)

CHAIR: I welcome Councillor Glenda Mather. Good morning. Thank you for appearing before the committee today. I invite you to make an opening statement after which committee members will have some questions for you.

Ms Mather: First of all, thank you, members of the committee, for this rare opportunity. I acknowledge that we are all here for the same reason and that is to identify any and all aspects of legislative process that could improve the efficient and fair administration of councillor complaints. Only an efficiently run local government will assist the running of a state government.

CHAIR: Do you have anything else to add to that at the moment, Glenda, or are you happy for us to go to questions for you?

Ms Mather: I am happy to expand on answers where you might have questions.

CHAIR: I will start off generally. If you have something active at the moment, please do not feel you have to go into details in regard to that. If you have had an issue can you talk about the process of when you were first contacted, your initial contacts and how it went from there? Can you give us a bit of a description of how it started for you?

Ms Mather: I think it would be fair to paint you a broader picture. I am not sure of the numbers, but I have probably been the subject of up to 10 complaints. I think I am well qualified to speak about each and every one of them. The last five complaints were bundled into one complaint that was thrown out or not processed because of the resources that they needed to be able to investigate it. That does not leave you with a very good taste in your mouth because you feel you are still guilty of these things and yet you have not been given the opportunity to clarify or expand on them. When you get a bundle of five come in like that, the first thing you think is, 'I am out of here. I do not want this job anymore.' That is what it does to you.

Having other complaints put to me previously, it just seemed to be one after the other. It is fair to say that I have been in local government 30 years this month and I have been through some horrific administrations, I have been through some horrific times, but I will not bow down to bullying and the like. I believe I am fair. I have been scoring very well all of those years at all of those elections, so I must be doing something right. No doubt somebody just does not like the way I do business or they might have other reasons.

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My focus has been on the ratepayers at all times. We hold the shire name in high esteem. Trying to juggle those, we are the meat in the sandwich. It has got to the stage, from what I can see, that you are not going to attract quality candidates in the future if they are going to be treated the same way I have been treated in the last couple of years since the OIA came into being.

CHAIR: Glenda, you have been a councillor for a while. Do you want to, for the record, describe how long you have been in council and the area you represent?

Ms Mather: We have open boundaries in our shire of Livingstone. When I first began in 1988, Livingstone was as it is today. I ran for mayor one term later down the track. I was unsuccessful at that time, so I stayed out for four years. I came back in on the following election. In 2008, our shire and two other shires amalgamated with the Rockhampton Regional Council so we came four into one. That was an horrific era. My portfolio was roads which meant I had all of the amalgamated council, the four shires, to deal with at that time. We changed the laws and we changed the laws again and policies to suit the wider council. What was tailor-made for us in Livingstone no longer suited the amalgamated council. I saw a repeat of amendments to not only local laws but also policies during that time. We were amalgamated for five years, but there was agitation from Livingstone's ranks. They wanted their shire back. We went through a de-amalgamation, which was another horrific event that meant changing the laws again to suit Livingstone, as it was before.

I have been, I guess, through the mill, to some degree, with all the changes over time. While you are trying to keep your head up and instil confidence in other people that it will get better, financially we are struggling because of the millions of dollars that were wasted because of political ambitions in government decisions—I have to say that. The government of the day agreed to it, not realising what it would do to us, but Livingstone separated and we are back on our own ground again.

However, now we are under fire from the Rockhampton Regional Council because they want to take over three of our suburbs. We are now facing another invasion of our land and our finances. Of course I am going to fight for our people. I am not going to sit there and take it because they have been through enough. I have seen millions of dollars wasted, millions of dollars we could do so much with out there in the real world. We are fighting there to just retain our reputation. This takes a lot of time, it causes a lot of stress, and we do not have either anymore.

CHAIR: Obviously we have a new system that has come in. Can you describe what has been the training regime or the training that your council has undergone to train you in, say, the new code, the new system in the last couple of years? Can you describe what training you have been through?

Ms Mather: To be quite honest, I think it was fix-it-as-you-go. I cannot recall having training that actually shows us the path: 'This is what happens, this is the legislation, this is how it works and this is how you will proceed through that journey.' I see gaps within the system all the way. What you have to remember is that most councillors—99.9 per cent, I would guess—are laypeople. We have our own careers in the past, but we are laypeople; we are not lawyers, but we are dealing with lawyers all the time. They have directions. They have stipulations. Council has stipulations, directions and timetables. You cannot match the two. We do not have the energy. We do not have that time. They say, 'Look, you might need a legal representative.' We cannot afford that at \$74,000 a year; we just can't.

There has been no training. One of the things that really jumped out at me was the fact that there is no act to say, 'This is the act of the Independent Assessor. This is how it works,' because there is no act. When we are dealing with complaints, it always refers to the local government principles or the Local Government Act or the code of conduct. You have got to take a bit out of this and a bit out of that. There is no one stand-alone piece of legislation that says, 'This is what happens. This is how you respond. These are your options.'

CHAIR: To confirm, the department or the LGAQ has not come to your council to train, and your council has not initiated any training in this system?

Ms Mather: To be quite honest, I am a little vague in a lot of aspects of administration at the moment because I am under heavy fire from some of these responses that I still have to provide. There is nothing that I can recall that is clear in my mind as to what is expected of us and how we can proceed along that journey. That is why I say there is nothing clear-cut that stands alone. There is nothing that we have in front of us to say, 'This is the act of the Independent Assessor and this is how it works.'

To give you an idea, we had a situation the other day where different complaints were lodged against three councillors, myself included. We know each other's problems. I thought mine was because I used the word 'bureaucrat' to a constituent in a letter, and that ended up at the OIA. The CEO admitted he put it in. He did what he was told to do, or what he was expected to do, under his

banner. He told me that. He said, 'I don't like doing this, but I have to do it.' So you go through the hoops. Of course, you are guilty at the other end and you have not really had the opportunity to prove your innocence. It should be the other way around—innocent until proven guilty.

There were two other councillors. One expressed his frustration in the media over vegetation. Let me say here that if they are referred to as outbursts or speaking out of school or frustration, it is because we are not making ground in what we are doing. You just get to the point where you think nobody is listening. You do these things or say these things and the next thing you know—bang! You have another one. You cannot work under those conditions.

There was another councillor who used a word when speaking to the CEO. They just asked the question because they were on a different wave length and the councillor was frustrated because the CEO did not understand and she said, 'Are you dull?' She apologised profusely at least three times, including to his face, but then again, there was a complaint put in even after the apologies were laid. That person says, 'Look, I am new at this. I am trying to do the right thing. Why doesn't anybody listen to me?'

Those three were two 'inappropriate' ones and one which was bordering on it. They all went to the OIA. The OIA sent them back for the 'council' to deal with. Because there was confusion, the mayor dealt with it, found all three of us guilty and then it was discovered that it was not up to the mayor at all to determine our guilt or otherwise. Then we had to go back to the table and reverse the process that the mayor and CEO had done and now we are in the process of correcting it. If you only knew how much time that takes and how the secretaries must be fed up with all of this rot—and I can only call it rot—because there is no clear path forward, because there is no stand-alone legislation that says, 'This is what you do and this is what you do.'

Mr McDONALD: Glenda, thank you very much for appearing today and thank you for your 30 years of service to your community. That is outstanding. I really appreciate some of the information you have given us and I just want to seek some clarification about a couple of comments. Earlier you mentioned \$74,000. What was that \$74,000 in relation to?

Ms Mather: That is our wage. That is our annual wage for Livingstone shire. Because we are only that size, that is our pay. Let's face it: you would not have a lawyer working for the community on that wage, so we are not able to afford a lawyer in hearings like this.

Mr McDONALD: I will move on to a question about cost. In your submission you mentioned your concern for the ratepayers. One of the big things we have found across the state is that there are a lot of costs being borne by ratepayers, whether it be staff costs, staff time or independent legal advice. Could you quantify for us the costs that you have incurred or your council has incurred, or is that a question I would have to ask the CEO?

Ms Mather: The costs that the ratepayers bear are not my legal costs. Council does not pay the legal costs for any councillor. I have been fined \$1,000, and that one is under appeal with QCAT. That is my next stage. I am dealing with the OIA, I am dealing with the Councillor Conduct Tribunal and QCAT all at the same time at the moment.

To give you an idea, there was a case where a couple wanted to break their land into five pieces. The councillors had no bearing in that. The submitters—the developers, but they are not really developers as it was their only block—came to us and said, 'We've just heard that our application was going to be refused. We've been working with them for over a year and we've given them all the reports that they want. Not one person has ever come out here to have a look to see what we're talking about.' They did a deputation to the table—a very heartfelt deputation—and we were disgusted to think that nobody had been out there. They had paid thousands of dollars for reports and nobody had even gone out to listen to them and they asked—begged—'Would somebody please come out and see what we're talking about, because it's going to be refused? This is not the way we're supposed to be represented.'

Some of us at the table said, 'We'll go out.' There were four of us saying, 'Yes, we'll go out.' We organised a time in the next couple of days. I even got into trouble from the OIA for organising it. It was a matter of who was going to be available, were they going to be there and what time did they have. That is all it was. I was not instigating anything. We all agreed to go. We all turned up in our own vehicles to the property. The fourth councillor was diverted by the mayor on to another job and he said that he would catch us later but did not because he got lost. He is elderly and he does have dementia; he has just been diagnosed, but that is okay. We all got an OIA because we did not have an officer with us. We said, 'Hang on. They've had years'—plenty of opportunity—'to go out there with all of these reports that they've been asked to do. The officers have not been out there. They've had plenty of opportunity.' The policy says that we cannot go on a one-to-one basis with a developer

unless we have an officer with us. We had three of us there with the husband and wife. This was their only development, so we got into trouble. That is where it all started and that was the \$1,000 because, yes, I was the ringleader.

Mr McDONALD: Goodness me.

Ms Mather: This is what you are dealing with. They said it was because the policy was attached to the local government principles and the local government principles are attached to the Local Government Act; therefore, we have breached the act.

Mr McDONALD: Goodness me.

Ms Mather: So we are under QCAT with that at the moment.

Mr McDONALD: Glenda, with regard to your experience, could you comment at all on what the system used to be like before the OIA and the CCT and what it is like now? Do you have any thoughts about that?

Ms Mather: When we were with Rockhampton council I think they were more organised. No council is perfect—we all have our flaws—but I found that I fitted in there quite nicely. I got on with everybody—I always usually get on with everybody—and I did not have a problem with Rocky council. Let me go back. When we came back to Livingstone, one of the councillors representing Livingstone during the amalgamation was the former mayor. I had no end of trouble with him all the way through. He was always putting me on reports. There is newspaper article after article saying he has demanded I sit and be quiet, demanded you leave the room, demanded this, demanded that. It is common knowledge and it has been well publicised. That mayor is no longer there this term, but it was a horrific one: you do anything wrong, you are in the paper; you are removed from the room. He had a majority at that time and that is why he was able to get away with doing what he did.

With the mayor we have now, yes, we all get excited, but we do not get abusive and we respect each other. We are working well. Nothing is perfect, but we need to get the OIA issue working well for anything to work. We are virtually watching each other and watching each other's backs for somebody making a move in case they get a complaint because they know what it means. Like I said, we are not lawyers and I am dealing with Crown law at the moment and I am dealing with the tribunal and QCAT. This takes me away from my council duties. I work until one o'clock in the morning every day. I have had two heart stents—I am not afraid to say that—and am looking down the barrel of a third one, but I am still here and I am still fighting for the right thing to be done. It is so important that councillors recognise that they have a part to play and if it means being critical of a system so be it, but it is all done for the right reasons. We are all trying to make the system work so that it is fair and it is accountable and, most importantly of all, it is transparent. That is what we stand for.

Mr McDONALD: Finally, during this investigation you have discovered that there have been delays in the Councillor Conduct Tribunal and in fact they are only dealing with matters that have been complained about in June/July 2020. How does it make you feel that they are so far behind with regard to their delays in process?

Ms Mather: It either tells me that there are more complaints than they have the resources to handle—that is what it tells me—or they are handling it the wrong way, and I think the whole thing is back to front to be quite honest. If there are smaller things like inappropriate behaviour where someone needs to be pulled into line, then the CEO should have the discretion to be able to pull whoever it is into line and say, 'Look, I'm giving you a warning now. I want it reported in your file, but we can deal with this. If you're sorry that you've said what you've said or done what you've done, let's move on.' That is where it should start, but we are doing that at the end.

Mr McDONALD: Sure.

Ms Mather: This is why it came back to the table for us to apologise for what we did and it got into the wrong hands and someone made the wrong judgement and that judgement has since been overturned. That is the one we are trying to correct by two sessions. In terms of the delays, it is like the CCC: I know that they were behind with a lot of their investigations because either their investigations were larger than they expected or because they were under-resourced. You cannot have it both ways. I do not have a problem if someone is behind in doing something, but it does tend to take away from your memory and it does tend to take away from your ability to respond efficiently. I also have to say that if they are behind—and I am always behind. I am always apologising because my responses are late because all of this workload takes away from my council duties, and they are the ones who suffer in the long term.

Mr McDONALD: Thanks, Glenda.

Mr MADDEN: Thanks very much for being a witness today, Glenda. I can assure you that all of the committee members have read all of your material and it might reassure you to know that I am a former councillor of Somerset, the chair is a former councillor with Moreton and the deputy chair is a former councillor with Lockyer, so we very much understand the role of a councillor. I am glad you mentioned the issue of remuneration and that you are expected to respond to all of this on a very modest income. My questions are very narrow and they are to do with the method of communication between the Office of the Independent Assessor and you. That is all I am going to ask about. You say you received a letter in October 2020. I am just curious: was that an actual letter you received in the mail or was it a PDF document attached to an email?

Ms Mather: It would have been an email. Everything is done by email.

Mr MADDEN: Okay. How long did you get to respond? I presume that email—that letter—asked you to respond. How long did you get to respond?

Ms Mather: To be quite honest I cannot recall.

Mr MADDEN: It was a short period?

Ms Mather: It certainly was not three months, I know that, because sometimes it takes you three months to catch up with all of your own jobs. I cannot specifically say how many days. I know that the seven days were mentioned, but that does not ring a bell at all.

Mr MADDEN: Okay; that is fine, Glenda.

Ms Mather: I think within a reasonable time, but I do know that once you start getting directions then you have to be there to finalise it on that date, and that is where the trouble comes in. But you are talking about—

Mr MADDEN: I am just talking about that initial letter where you were notified of a complaint—not directions by the tribunal, that initial letter. These are my narrow questions that I am going to ask you. It is really about your communication with the Office of the Independent Assessor. That is all I am going to ask you about—not the tribunal, not any other issues, just this communication. After you responded to that letter—that email—did they send you another email requesting further particulars? I am sorry if you cannot remember.

Ms Mather: Like I said, this goes back a long way now. We are looking at 2018-19.

Mr MADDEN: I am referring to the letter you received in October 2020.

Ms Mather: 2020, so 18 months ago.

Mr MADDEN: Yes. I could rephrase my question: were the ongoing emails backwards and forwards between you and the investigating officer wanting further particulars? Is that how the communication works?

Ms Mather: There have been occasions when they ask if there is anything further you would like to add.

Mr MADDEN: Okay. That is fine; that is enough.

Ms Mather: If they needed clarification, they did not ask for clarification.

Mr MADDEN: Okay; that is fine. When you received that initial letter saying that there is a complaint being made and the Office of the Independent Assessor is investigating it, is your mayor or the CEO also informed of that or—

Ms Mather: I believe so.

Mr MADDEN: Okay, but you are not sure whether they are informed at the same time?

Ms Mather: I believe they are.

Mr MADDEN: You believe they are?

Ms Mather: I found out more recently that everything that we received they have copies of.

Mr MADDEN: Okay. I understand that you tried to communicate directly with the investigating officer and that was not successful at times; is that true? You wanted to ask about the status of the matter as it was dragging on?

Ms Mather: No, I do not think I did, because time to me moves very quickly because I am always so busy. If it is not council duties, we have inspections, we have deputations, we have lots of things going on in our world and we have to fit the OIA responses into those gaps in-between.

Mr MADDEN: Yes. When you say 'we', it is really 'I': it is you communicating with the Office of the Independent Assessor?

Ms Mather: It is anybody responding or any councillor responding to a complaint. When I say 'we', it means any councillor responding to a complaint.

Mr MADDEN: But I am only asking about your matter. I am not talking about—

Ms Mather: Okay; I will speak specifically about me.

Mr MADDEN: Yes. I am only asking about your matter and I am just trying to get an idea—

Ms Mather: My life is always busy, okay, and anything that I need to respond to I do so, and it may not always be on time because—

Mr MADDEN: My final question is on a different issue. What support did you get from the LGAQ with these matters? Were you able to speak to a legal officer at the LGAQ? Was there someone there you could speak to?

Ms Mather: There was only one occasion when I spoke to an officer, who was quite helpful, and that was on one of the later ones. That is the one with QCAT at the moment because of the \$1,000 fine. It is not a monetary thing, it is the principle. The \$1,000 fine I felt was unfair because I was not leading anybody into bad habits. I was thinking of appealing because I needed to tell the truth and people needed to know the truth and people needed to know what sort of strain we are under in trying to provide a service. As a result I thought I should appeal this. I have already spent a lot of money and I needed some guidance from the LGAQ to see if I had any chance of appealing, because it was another \$60 or something down the drain otherwise.

Mr MADDEN: You communicated on just that one occasion?

Ms Mather: Yes.

Mr MADDEN: So you pretty much are dealing with this just yourself?

Ms Mather: Yes.

CHAIR: Unfortunately the time allocated for this session has now expired. Glenda, thank you very much for appearing before the committee today. We do not have any further questions on notice for you. I want to thank you for appearing before us. It has been very illuminating.

Ms Mather: Thank you for this opportunity. I hope I do some justice to the process because it can work, you just have to have enough people with enough input and enough experience to know what they are talking about.

MANN, Ms Fran, Councillor, Mackay Regional Council (via videoconference)

CHAIR: Thank you for appearing today. Did you see the start of our session today?

Ms Mann: No, I did not.

CHAIR: I will quickly go through how this works. With me today are Mr Jim McDonald, the deputy chair and member for Lockyer; Mr Jim Madden, the member for Ipswich West; Mr Michael Hart, the member for Burleigh; and Mr Tom Smith, the member for Bundaberg. The hearing is a proceeding of the Queensland parliament and is subject to the Queensland parliament's standing rules and orders. Only the committee and invited witnesses may participate in the proceedings. You are not required to give evidence under oath or affirmation but intentionally misleading the committee is a serious offence. The proceedings are being recorded and broadcast live on the parliament's website. Media may be present and are subject to the committee's media rules and my direction at all times. You may be filmed or photographed during the proceedings and images may appear on the parliament's website or social media pages. If you have a phone, turn it to silent; that would be great. When you are not talking, please mute. We will ask you to make an opening statement and then the committee members will have some questions for you. Over to you.

Ms Mann: My submission is not around whether it was right or wrong that I was referred to the Office of the Independent Assessor; my submission is around the process and how long it has taken to even get to this point. We are 18 months down the track and I still do not have it resolved. I feel, from my point of view, guilty until proven innocent. I feel that the Office of the Independent Assessor overreaches its boundaries. I have heard it mentioned, and I feel myself, that Ms Florian seems to think that she needs to clean up local government. For me the process has been appalling and has taken a huge personal toll.

CHAIR: Thank you very much for that. I go to the member for Bundaberg to lead off with a question.

Mr SMITH: Thank you, Chair, and thank you, Councillor, for joining us today. I might pick up where you left off. Could you provide some more details and elaborate on how you believe the OIA overreaches in its role?

Ms Mann: This case was referred for misconduct, what they feel might constitute misconduct. In my case I sent an email to a director of my council stating upfront that my brother-in-law had asked me a question and I was following up on his behalf about a tree removal from his property. I did not at any time try to hide the fact that it was my brother-in-law. I have now been referred to the Councillor Conduct Tribunal nearly 18 months down the track. I feel that I gave enough background behind it and that the decision on my case was already made at an operational level. I simply asked a question of the director. I am at a loss as to why it has taken this long to even get an answer.

CHAIR: Bear in mind this case is still active at the moment.

Ms Mann: That's right.

CHAIR: I caution members on that point. You can talk about the process of your contact with the OIA. That is probably what we would like to focus on. I think you covered that very well in the information we have.

Mr SMITH: I might look for your guidance on this, Chair, if it is inappropriate: Councillor Mann, would you be able to say which part of the act the OIA is citing to you? Chair, is that appropriate?

CHAIR: I think that will be fine—briefly, do not go into details.

Ms Mann: Section 150L(1)(c)(iv) and section 150EZ of the act. There is one further section, 150EN, quoted as well.

Mr SMITH: On your understanding of the code of conduct, if you had to scale it between one and 10, you have a 10 out of 10 understanding of the code of conduct. What is your confidence around that?

Ms Mann: I believe that I have a 10 out of 10 understanding. We get lots and lots of training. I think my actions display all the time that I have a very good understanding of the code of conduct and I guess relevant legislation too. From my point of view, I just felt that I was dealing with a constituent problem like I would any other constituent who came to me. I do not believe that I did anything out of the ordinary that I would not have done for any other ratepayer or resident in our region. The legislation changed days before this so maybe I did not have a clear understanding of the new legislation. I did feel like I had a really good handle on it. Certainly in a hook-up just prior to the legislation coming in, in October 2020, the department of local government's own people could not interpret some of the legislation around conflicts of interest. They could not tell us how to interpret it.

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Mr SMITH: Do you believe that the wording in the code of conduct is achievable? Are there some words that are superlative? For instance, the question of the highest ethical standard: how do you have the highest ethical standard as compared to an ethical standard?

Ms Mann: Correct. Some of it is probably ambiguous and open to how you interpret it yourself. You could feel that you are acting to the highest standards but somebody else might interpret that differently. It is probably a bit ambiguous.

Mr SMITH: When you do go through training, do councillors actually read through the Local Government (Councillor Complaints) and Other Legislation Amendment Act and the Local Government Act? Is that part of the training or is that very much left to councillors to read for themselves?

Ms Mann: That is for the councillors to read for themselves. Certainly our officers here at this council will provide any guidance that we need and they might highlight sections that they think we really need to pay particular attention to but, no, as far as reading the whole act, no, that is not something we do in a training session.

Mr SMITH: Have you yourself read the chapter that is probably more specific to the OIA in the Local Government Act?

Ms Mann: No.

Mr SMITH: Thank you for answering my questions. I really appreciate your time.

Mr HART: Did you have an opportunity to watch Councillor Mather's testimony a little while ago?

Ms Mann: No, I did not.

Mr HART: On the conflict of interest side of things, the office of the Integrity Commissioner used to be able to give advice that could be relied on legally by councillors once they became designated persons. Is there an advantage in having something like that in place in the future?

Ms Mann: Absolutely, because I had taken advice from her office previously, particularly around conflicts of interest or just anything that I was not 100 per cent sure on. I think that her office was absolutely valuable.

Mr HART: In Mount Isa the other day there was a suggestion that the department provide someone to attend council meetings and give advice, sort of on the run, which maybe could be relied on as well. In Victoria they are termed 'municipal monitors'. Is that something that you would support?

Ms Mann: Our executive officer here at this council attends every council meeting to give advice on the run to us if it is needed and he is also a very good source of advice any other time as well because he is very clear on the legislation.

Mr HART: Councillor Mather intimated that the legislation was not clear and the evidence before the committee even from the OIA is that she needs some sort of court ruling or a precedent set in order to lock down exactly what some of the legislation means. I am glad to hear that you have someone who says they are over it because I have a real concern that there is not enough information available to councillors.

Ms Mann: That is a fair comment, particularly if people are feeling that way. In my particular case, when I tried to seek advice about the letter after I received it when I contacted the person whose name was on the letter—and by the way I could not get through for three weeks—she just said to me, 'Well, I am investigating it so I cannot help you anyway.' Where do you turn when people who are investigating it cannot help you? You get no advice at all out of the Office of the Independent Assessor. You have got to go and seek your own independent legal advice or try to find out where you stand just on your own, so possibly more clarification would be really good.

Mr HART: How long have you been a councillor?

Ms Mann: This is my second term and I also worked for council for nearly 10 years prior to being elected.

Mr HART: Can you tell us whether things are better now that the OIA is in place or were they better before?

Ms Mann: Better before.

CHAIR: Following up on that, in what way were they better before 2018, before the current system came in?

Ms Mann: I do not think there was as much ambiguity. Following on from what happened at other councils, I believe every single council was put under the spotlight, whether there was an issue or not. I think that the legislation went way too far in terms of keeping local government accountable and on track. I believe that the legislation prior was easy to understand and easy to know where you stood.

CHAIR: All of the complaints were channelled through the CEO. Was there any issue in Mackay previously that perhaps caused some conflict or people did not get their complaints seen to satisfactorily?

Ms Mann: No, I do not believe so. I believe any that went through the CEO were resolved at that level. I do not believe they needed to be taken any further than that.

Mr MADDEN: I have two quick questions. I just need to correct the record because I pointed out to the previous witness that there are a number of former councillors on this committee. I mentioned myself, the chair and the member for Lockyer, but there is also the member for Traeger, so we very much appreciate your situation. I am curious about this issue of seeking legal advice. I am very pleased you raised the issue of your legal officer attending council meetings and being able to provide that advice. What sort of advice were you able to receive from the LGAQ?

Ms Mann: When I contacted the LGAQ, they told me questions I should ask but then pointed me in the direction of a solicitor who deals all the time with local government.

Mr MADDEN: So you had to engage a private solicitor?

Ms Mann: Yes, I did. They said that they could not provide specific legal advice on my case, but they suggested questions I might ask when I did contact a solicitor.

Mr MADDEN: So the LGAQ were limited in the advice they could give to you?

Ms Mann: Yes.

Mr MADDEN: The other question I was going to ask may not apply in your matter. The issue of anonymous complaints has arisen. Do you have a comment to make about that?

Ms Mann: From my point of view?

Mr MADDEN: Yes.

Ms Mann: I do not believe that an anonymous complaint should be dealt with. I think people should put their names to it, knowing that you do have a certain amount of anonymity anyway. My understanding is that if it goes to the OIA then it remains confidential between you and the OIA, so I am not sure why people would not put their name to a complaint.

Mr MADDEN: Thanks, and thank you for giving evidence today.

Mr HART: At the meetings that your executive officer attends, are you able to seek advice from him or her before you ask a question or get involved in an issue? If you do, have you discussed with the OIA whether that is any protection for you for anything that is referred to the OIA?

Ms Mann: Our executive officer just gives general advice in meetings based on the mayor asking for him to clarify something for us. What was the second part to your question?

Mr HART: Whether you have discussed with the OIA that, if you follow the advice of your executive officer, that grants you any protection in any case moving forward.

Ms Mann: No, it would not grant any protection. When my case was received by the OIA, I did have the conversations with the executive officer around what I needed to do. It was still suggested that I seek independent legal advice.

Mr McDONALD: Thanks for your appearance today. I really appreciate you having the courage to come forward with your story because it is quite sincerely an unbelievable case study in service and response and also in delays. During our inquiry, we have discovered that the Councillor Conduct Tribunal is only dealing with investigations or complaints that were made back in June-July of 2020. How does that make you feel?

Ms Mann: Not real good. When I was first referred, I tried to work out based on what the complaint was what the penalty might be and no-one could assist me with that. All of this time, the thought hanging over my head is maybe it will be a warning, maybe it will be a fine or maybe it will be dismissal. That is the range. When you refer to the relevant section of the act, that is the range of penalties so it gives me no comfort whatsoever that they are still only dealing with things from 2020. Potentially, it might be another 12 months before I get any resolution.

Mr McDONALD: How does that make you feel?

Ms Mann: It does not make me feel good at all. This has taken a really big personal toll. While you try to not let it override everything, it is always in the back of your mind. I just do not understand how there is no face to these complaints. We are all just a number.

Mr McDONALD: In your submission, there are a couple of dot points towards the end—

CHAIR: Hang on there, member for Lockyer. Just make sure—

Mr McDONALD: It is about the process.

CHAIR: Not about what we cannot talk about.

Mr McDONALD: No. In one of the dot points, it refers to a letter—

CHAIR: Jim, perhaps you could just talk about the process and not what may be in any document.

Mr McDONALD: No. I am not going to ask what was in the document. I am interested to know if you actually received the letter because it said you were going to get a letter. Did you ever receive the letter?

Ms Mann: I did. I did receive the letter but it took another month to come.

Mr McDONALD: In terms of the personal and financial cost to you through this process, can you quantify that at all? I am asking that from a personal point of view and then I am going to ask from a council perspective.

Ms Mann: In terms of the cost, the council has provided me with legal assistance. At this point in time there has been no financial cost to me, but the personal cost is enormous as far as I am concerned. You really cannot move on. I do not know whether I am still going to have a job at the end of this. That is the reality. When you read the relevant section of the act, that can be the case.

Mr McDONALD: Obviously there is a personal cost, but what about your family?

Ms Mann: I have tried to make that minimal. I have tried not to involve my husband in it too much because he has a very busy job that sees him go away a lot. I have tried to handle that as best I can. Some of my colleagues are good sounding-boards for what is going on. I just find it unacceptable that 18 months down the track I still do not have an answer.

Mr McDONALD: You mentioned before that council have employed a legal officer who comes to council meetings to assist. That is obviously a cost to the ratepayer, as was your cost, even though the council picked up the tab.

Ms Mann: It is our executive officer, not a legal officer. Our executive officer does a range of work for council, providing advice on legislation and different things. It is already an appointed role. He comes to all of our meetings just in case we need any advice on process in the meeting.

Mr McDONALD: Thanks again. I really appreciate you sharing your story.

CHAIR: You have said that once you entered this process no-one explained to you what the next step might be and what the possible consequence may be. You said that you did not know if it would be a fine, what the cost would be or whether it would even lead to dismissal. No-one took you through that process; is that correct?

Ms Mann: That is right. When I first got the letter, it took me three weeks to get through to the person whose name is quoted in the letter. The explanation for that was she had been working from home and not checking emails. That in itself was quite distressing—when you get this letter saying you have been referred and you are not sure on the whole process. Anyhow, she then told me she could not give me specific advice. She just referred me to sections of the act, so I read in the act what the possible penalties would be. No-one has confirmed that, other than when council appointed King & Company to act on my behalf when I was told the case was being referred to legal. The discussion around their experience was what they felt the penalty may be, but nobody could tell you that for sure anyway.

CHAIR: So your next step was that you talked to the CEO or LGAQ first?

Ms Mann: Yes, I did. I got the letter. I spoke to the LGAQ. I spoke to the CEO and the executive officer here. I decided that I would plead option 1, which is early cooperation and resolution of the matter. I put all the facts down as I saw them. I provided all the email trails and all those sorts of things, and I did not hear another thing for 12 months until I initiated a phone call to the Office of the Independent Assessor and was told then it was being referred to legal.

CHAIR: So through the LGAQ you got King & Company. Just reiterating, are the costs covered by council or by yourself?

Ms Mann: By council.

CHAIR: Thank you for clarifying that. This is what we wanted to know—what the process has been. I think you have covered what your feelings have been about that.

Ms Mann: I will just clarify. The initial legal advice has been provided by council on the basis that they can stop that at any time and I will have to wear the further costs. It is up to their discretion.

Mr SMITH: Is it fair to say that a councillor, once elected, has a perceived level of elevated power and influence throughout the community?

Ms Mann: Not power, and I would not have thought influence either, but certainly I think people do look up to you. I think they come to you for assistance on a range of things, and people love to chat about what is going on with council and the community as well.

Mr SMITH: I suppose someone comes to you because they believe you are more likely to be able to help them than their neighbour.

Ms Mann: Certainly in an advocacy role.

Mr SMITH: Again, not speaking about your own council necessarily, but have you ever witnessed or heard stories of councillors with a nature that can be intimidating?

Ms Mann: Yes, most definitely.

Mr SMITH: With that, does having the opportunity to put in a complaint anonymously not provide greater security to individuals who may be fearful of intimidation or a perceived greater level of power and influence?

Ms Mann: That is a tough one. If you feel strongly enough to put in a complaint, then I think you have to back yourself on that as well.

Mr SMITH: Even if you may feel scared or intimidated by the local government process or by the entity, would that not discourage people from making complaints if they felt as though that only fuelled their anxiety and potentially made them a target if we were dealing with an individual who was intimidating?

Ms Mann: I still think you have to back yourself. The process is the process. I just think if you feel strongly enough to make a complaint then you should put your name to it. At the end of the day, the person you are putting the complaint in about may be a bully, whatever, but I think you are still afforded a certain amount of protection in that case.

Mr SMITH: Thank you.

CHAIR: There being no further questions, we will close this session. Thank you for appearing. We are getting some great feedback and some great case studies from the councillors who have appeared before us. Thank you for all that you do.

Ms Mann: Can I make one more point. The other thing I wanted to say is that from my point of view I do not know why I would risk my reputation and my career by doing something wrong, when particularly with my council I would know that I would never get away with doing something improper or that goes against the act. It just seems counterproductive. That is my final point. I would not risk my reputation, and I was absolutely shocked when I got referred.

CHAIR: Okay. I understand.

WILLIAMSON, Mr Greg Williamson, Mayor, Mackay Regional Council (via videoconference)

CHAIR: I now welcome Councillor Greg Williamson. Good morning and thank you for appearing before the committee today. You probably heard my spiel to Councillor Mann earlier that this hearing is subject to the standing rules and orders of parliament.

Mr Williamson: I understand that, yes.

CHAIR: I will ask you to make an opening statement. After that we will have some questions for you.

Mr Williamson: Thank you for the opportunity to make a submission to this parliamentary inquiry into the functions of the OIA and, in particular, whether the performance of the independent inspector and the functions of the office are consistent with the intent of the local government complaints system and whether the powers are exercised in the public interest. I think that is what is on the top of everybody's mind at the moment. It is pleasing to see the make-up of the committee. Mr Chair, your 12 years in local government brings you great focus, in my view, as does the extensive local government experience of the deputy chair, the former deputy mayor and mayor of Gatton. Mr Katter and Mr Madden also have local government service under their belt, although in the case of Jim I cannot work out whether, after serving one term on Somerset, you could not wait to get out or it propelled you on to better things.

Mr MADDEN: I was drafted in.

Mr Williamson: The majority of elected members in local government in Queensland support the existence of a robust and independent arbiter of elected member conduct. It was indeed a resolution of an LGAQ conference several years ago that an independent body be established. I think that has to be said right at the start.

Our council certainly does not want to revert to the old system of the CEO and mayor being the arbiter or the complaints manager. We, along with most other councils I suspect, want the OIA to be the triage point for complaints. The thrust was right and the intent was certainly correct, but we believe the management of complaints by the OIA since 2018 has been dysfunctional and, in my view, not in the public interest. We all wanted the OIA to strengthen local government's ability to represent the communities that elected us. We have seen the OIA powers used, in my view, to hamper the ability of democratically elected mayors and councillors who have been seeking to speak freely to and for the people who elect them.

Regardless of local governments' non-inclusion in the Queensland Constitution, members of Queensland's 77 councils are democratically elected. We are not elected to be a voice piece for the government of the day. The increasing expectation of the people who elect us is that we represent the community. Whether the government likes it or not, as instanced by the pandemic, communities are now expecting their regional council to have a voice.

There is a major concern throughout the elected members of Queensland that the councillor code of conduct is and has been used by the OIA to challenge our freedom of political expression. For instance, compare the OIA's challenge of Mayor Sean Dillon and his comments with the story of Councillor Fran Mann you have just heard from. The OIA was very quick to jump on Mayor Dillon for daring to voice an opinion and yet Councillor Mann has been waiting over two years for the resolution of the complaint levied against her—a complaint, I might say, to which she said, 'Yes, I did do that. I'm sorry. I understand.' That was two and a bit years ago now. When you look at the 2,713 complaints received up to March last year, over half of them required no action. Surely that must be an indicator of the cost of the weaponised complaints system, the unsubstantiated complaints system and the fact that it has either been underresourced or they are barking up the wrong tree in terms of the complaints that the OIA seeks to resolve or ditch.

A major concern for me is the fact that there is a lot of wasted public money here. I will instance one matter that came to me last year. This goes on for all of the elected members. You get the big email from the OIA saying, 'Private and confidential, only to be opened by the addressee,' and it is to me as the mayor. It starts off with, 'We received a complaint against your conduct as a councillor in Queensland.' Then it goes on to list why the complaint was heard and all of the outcomes that the OIA has actually put in place to deal with the complaint. The complaint was that a car had been parked on the side of the road and a stone had been thrown up and broken the windshield. It was a complaint against me as an elected member and the mayor of Mackay Regional Council. All of the machinery of operation of the OIA went into play to say to me via a letter—it came in and my EA said, 'Oh God, what's going on here? What's the problem? What's the matter?' It was about a stone breaking a windshield on a car parked on a rural road.

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My contention here is that the waste of public money in dealing with that sort of a complaint is enormous. Why can't it be batted back right at the start? There is a litany of those—over 1,300 of those up till March last year—and a lot of them should have been batted back right at the start. Something is wrong with the way the legislation is written. Something is wrong with either the way the legislation is being interpreted or the fact that we have an OIA now that wants to take everything on board. Increase their staff and make sure that they are operating by the letter of the law and doing something that they think is necessary to Queensland. What we are saying is that you can see a lot of either misinterpretation or mismanagement of the way the system is operating.

The process of dealing with matters relating to councillors really has to have an extra focus. I could not welcome the formation of this review committee more. I think it is high time and well overdue.

CHAIR: I have a few questions on the issue you talked about. A letter came to you from the OIA about this complaint of a stone having been thrown up and some damage being caused. Did the OIA say in that letter that they dismissed it or were they inviting you to give some information for a further response?

Mr Williamson: No, they said they had dismissed it and I rang them about it. They were very nice about it. My point is, why wasn't this triaged right at the start? Why didn't somebody say, 'This is clearly nonsensical. A mayor or an elected member has nothing to do with stones being thrown up on the road. Please contact this number at the council.' End of story. Why go through this whole regime of wasted public money by putting an officer on it and sending a letter that detailed the decision-making process and all the acts they operate under? It is a nonsense. Why did it actually get to that stage?

My question is: how many more of those are going on day in, day out? Yet we have a complaint raised against our councillor here—and you have just heard from her—two years ago and there has been no resolution. There is clearly some mismanagement going on here. Clearly the interpretation of the act is not right. Something is not right.

CHAIR: Was there any information as to whether it was an anonymous complaint or someone had tried to raise it through another way and they were perhaps trying this way? Do you have any information on that?

Mr Williamson: We do not get information on who it is. It is always anonymous. Once again, whether it is anonymous or somebody put their name to it, it should never have gotten past the telephone call.

CHAIR: We have talked to a number of different councillors and mayors about inappropriate conduct. Say a complaint goes to the OIA and they send it back to your council saying, 'No, that is inappropriate conduct; council itself will deal with that.' What is the process for your council to deal with those complaints about inappropriate conduct that come back to you?

Mr Williamson: We have a formal policy of dealing with whatever comes back to us—not that we have had to deal with anything that has ever come back to us. We would just follow normal policy and procedure. Whether that is myself or the CEO and then the council with a resolution, that is the way it would happen.

CHAIR: You have a specific policy about how to deal with that?

Mr Williamson: Yes.

CHAIR: Would the policy cover using an external dispute resolution service if need be?

Mr Williamson: It certainly has. The policy has never been used against an elected member. We have exercised the policy with me as the decision-maker for an officer of the council. We utilised an external consultant legal firm—two, in fact. The second one was to double-check or ground truth the decision that I had elected to make. Yes, the policy works. Whilst I have never used it and I hope I will never be asked to use it against an elected member, we have acted on a complaint against a staff member.

Mr McDONALD: It is great to have you before the inquiry. Thank you for your submission from the council and the CEO and also for your appearance today. From what you have said already I can see that you have a very great professional understanding of the system and you have given us some great criticism. I would like to turn to the issue of costs. We heard from Councillor Mann that at the council you have an executive officer who comes into council to provide legal advice. There is obviously a cost for that. Are there other independent legal costs that the council has had to bear through this from the introduction of the OIA and the CCT?

Mr Williamson: We have borne the cost of the litigation surrounding Councillor Mann's case. The other case, the officer's case, has been referred to the CCC. The CCC has instigated some costs that we have had to come up with as well for that one. We have money put aside in our budget to make sure that if a councillor needs representation, up to a certain point, we can provide that from the ratepayer funds. There has been a limited use of that—not extensive. Councillor Mann is certainly the first time this term that it has been used.

Mr McDONALD: Could we receive that information regarding the costs, confidentially? We are trying to build a picture of what the unforeseen costs are to ratepayers right across the state.

Mr Williamson: Certainly. I can get our CEO to deliver that to you.

Mr McDONALD: Thank you very much for that. During this inquiry we discovered that the Councillor Conduct Tribunal is only now dealing with matters that were complained about back in June-July 2020. How does that make you feel?

Mr Williamson: As I said in my opening statement, it is either mismanagement or the whole system does not work for whatever reason. That is why I think your inquiry is extremely timely and relevant at this stage. To have a complaints system that has had probably 3,000 complaints by now, you have to start asking why? Is it being weaponised? The unsubstantiated ones—people do not put names to them so is it an anonymous complaints system. Do we need to look at all of those sorts of things and come up with a better solution that triages them right at the start when the complaints come in?

Nobody is saying that this should not exist. We need a robust complaints system for elected members in Queensland. But, gee whiz, to have 3,000-odd complaints and over half of them are either unsubstantiated anonymous rubbish or weaponised. There needs to be some sort of a triage system that deals with them right at the start and bats them back or bats them off to another area so that the OIA can focus their attention on the substantiated ones—and I believe there are about 800 or 900 of those substantiated ones a month. And that is a worry for elected members in Queensland. But to have 3,000 complaints? All the public hear is: '3,000 complaints? What a load of rubbish these local members are, these local elected people in councils are,' and that is not the case.

All of you have served on local government before. Everybody I have met from local government is here to do the right thing. Sure, some people in elected roles overstep the mark. That is what the OIA should be there to do; it should be there to say, 'You have overstepped. Make sure you fix it up and do not do it again.' If it is a substantial overstep of the mark then, obviously, there is a tribunal that deals with that. All we are saying is that there cannot possibly be a mechanism that allows it to go through. With the one that I talked about, the stone on the windshield: how does that get to me, a 'Must be opened by addressee only' letter?

Mr McDONALD: It is a good case study, Greg. You suggested having time frames for the performance of an investigation and adjustments on the seriousness of the complaints. That is in the CEO's submission.

Mr Williamson: That is in our council submission. Obviously for a council, to have it drag on, it is hanging over our heads, not only for the elected member but also the council to know that we have had a complaint out there for two years. Is this going to cost the council more in terms of our legal requirements for representation for that councillor? What do we put in the budget for that?

There needs to be a time frame for substantiated complaints to say, on behalf of the mental health and wellbeing of the elected member—whether they are right or wrong—that elected member should not have to put up with a complaint that is over two years old. There are many of those throughout Queensland. You only need to talk to people at the LGAQ conference to find out how many have got a complaint that has been either unsubstantiated or unresolved. It takes a toll. Worse still, it paints a bad picture of councillors and councils in Queensland. I do not believe that is the picture that needs to be painted at government level because, as most of you know, it is not like that.

Mr McDONALD: One hundred per cent. Thanks, Greg, I appreciate it. A great response.

Mr MADDEN: Mayor, thank you very much for making a submission today. With regard to your opening comments as to my tenure as a councillor, I very much miss being a councillor. It is a very special role. I have learnt the difference between being an MP and being a councillor during the recent floods in our area. With regard to the submission we received from your chief executive officer, Michael Thompson, is that a submission on behalf of the councillors?

Mr Williamson: Yes, it is a submission penned by the council. It is mainly the operational reaction to the Office of the Independent Assessor. Of course, councillors have their own view about how it affects them personally. The summary that we have in the submission from the council is

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operational in its point of view. We are saying that, operationally, we support the OIA as being the initial triage. We do not want it to come back to local government. We do not want it to come back to mayors and CEOs to have to make a decision.

We believe the process needs to be reinforced from an operational point of view and it needs to be speeded up somehow. It cannot be bogged down in this continual litany of toing and froing and letters. The only people who win out of all of this are the legal people, not the least of which is the growing Office of the Independent Assessor. They have some 3,000 complaints to deal with. What are they going to ask for? More staff! And then it just grows. To answer your question, it is from the council in terms of an operational viewpoint, but we support it from the council elected member body.

Mr MADDEN: Are you informed by the Office of the Independent Assessor when a complaint is made against a councillor in your council? I am not going to refer to previous to the previous submitter. I am just going to ask you that as a general question.

Mr Williamson: No.

Mr MADDEN: You are not informed?

Mr Williamson: No, I am not informed.

Mr MADDEN: Is the CEO informed?

Mr Williamson: I think the CEO is informed, but whether the CEO is allowed to actually inform me—I am pretty sure that he is not.

Mr MADDEN: That is a very important thing. In this whole issue, we need to deal with the issue of confidentiality.

Mr Williamson: Correct.

Mr MADDEN: The confidentiality of this process should be respected. We have received different views from submitters as to how confidential the process is. Your understanding is that you are certainly not informed as the mayor, but you believe the CEO may be informed?

Mr Williamson: I am pretty sure that the CEO is informed. There is no official note that comes to me that says, 'A councillor on your council is either under investigation or has had a complaint made against them.'

Mr MADDEN: I understand that you can move a resolution in council whereby you can provide financial support to a councillor where there is an investigation with the Office of the Independent Assessor; is that the case? I am talking about legal costs.

Mr Williamson: We do not have to move a motion. We have a policy that allows for that. Essentially, if the CEO determines that there is a need for council to support an elected member in terms of litigation, then the CEO can make that decision. There are some parameters around it, but we do not go to council and make a decision around every particular instance.

Mr MADDEN: Each individual council makes that decision themselves; is that the case?

Mr Williamson: I guess that would be the case. We have elected to have a policy that surrounds it, which makes it a little bit easier, and that forms a delegation of council to the CEO to make that happen.

Mr MADDEN: Thank you very much for making your submissions today, Mayor.

Mr HART: Mr Mayor, you were talking about the standard procedures that your council adopts when issues are referred back from the OIA. Is that specific to your council or is that something from the LGAQ?

Mr Williamson: I could not answer that, Mr Hart. I think that is a council policy. We do not do anything the LGAQ suggests. We want to make our own policy.

CHAIR: We might get a copy of that policy.

Mr HART: That was my next suggestion, Chair. Would you be able to provide a copy of that policy to the committee, even on a confidential basis?

Mr Williamson: Yes, we can send the policy in.

CHAIR: We will follow that up.

Mr HART: I might play the devil's advocate. I do not disagree with what you are saying, but with the Office of the Independent Assessor, if things are batted back from them wouldn't that defeat the purpose of what is an independent assessor?

Mr Williamson: No, quite the contrary. What I am saying is that you do not go through the whole machinery of the Office of the Independent Assessor to actually refute or dismiss a complaint. Take the example of the complaint against me: the stone that broke somebody's windshield. Anybody in their right mind would say that I do not have to go through the whole machinery of the Office of the Independent Assessor to say to the person making the complaint that there is another process for this. 'You are clearly utilising the Office of the Independent Assessor incorrectly, sir or madam'—and this has been enshrined in legislation but I do not think it is enshrined at the moment—'What we suggest is you ring this number in the Mackay Regional Council and complain that your car has had windscreen damage on this road and they will take care of it.' That is all it needs to be.

Instead, somebody in the office has had to deal with the complaint. They have had to register the complaint. They have had to write me a letter that dismisses the complaint and outlines all the reasons in the letter why it was dismissed. It just seemed like an absolute nonsense to me. How many times that goes on is obviously a concern in terms of the expense and the time that is wasted in the office.

Mr HART: The Office of the Independent Assessor came about because of the Crime and Corruption Commission's inquiry, Belcarra. It was one of their suggestions at the end of the day. I assume they put that forward because they did not think councils could deal with this and it needed to be somebody independent. Again I am playing the devil's advocate. Are we defeating the purpose if we bat things back right at the start? Who should they be batted back to? What process should that take?

Mr Williamson: We do not want the serious stuff to come back to council where the mayor and the CEO have to make a decision—on some of the serious stuff that goes on. Admittedly, in 77 councils, with all those elected members, yes, there are going to be times when that happens. What we are saying is that, surely, there has to be a mechanism that allows the Office of the Independent Assessor to do its job on what it was designed to do. At the LGAQ conference we said that there needs to be a robust independent assessor that makes these decisions. Do not send them back to council, because for a mayor quite often it is very difficult politically to make those sorts of decisions and the CEOs have to work with the councillors. To all intents and purposes, it is the councillors, as an elected representative body, who make the resolution to employ the CEO so it makes it really difficult.

All we are saying is that surely there has to be a level of complaint within the system that can be dealt with very quickly right on the phone or sent back to the council—that is the operational aspect of the council. Then the real ones—the ones that the Office of the Independent Assessor, in our view, was set up to actually assess—can be dealt with. Then we would not have two years to wait for a very simple complaint against a councillor.

Mr HART: On that particular question, do you think that complaints should be deemed 'not substantiated' or 'refused' if not dealt with within a certain time frame?

Mr Williamson: No, I do not think so. I think you have to set the KPIs and make sure it is dealt with. If a too-hard complaint falls off the tree simply because it has not been dealt with in time, that defeats the whole purpose as well.

Mr HART: Would there be any advantage to your council in having somebody present in every council meeting to advise you on what you do, the processes you go through and whether you have a conflict of interest, which could be used as a defence when seeking advice?

Mr Williamson: That might be going a little bit too far. I think there needs to be someone somewhere who holds the hand and says, 'This is the time frame you can expect, these are the KPIs we set for ourselves, this is what we expect from you.' What is happening now, of course, is that the councillor has to obtain legal advice. King & Company, at a great expense per hour, is having to do that. I do not think that we need to create more bureaucracy here. We need to streamline the bureaucracy. We need to make sure that the bureaucracy, which was set up to do this, has the power to do it without being constrained by these unsubstantiated rubbish complaints that are gumming up the system and creating a huge time frame.

Mr SMITH: Mayor, on a quick point of clarification: all you want is that if a complaint comes to the OIA the can OIA says, 'This is not a real complaint. I'm not going to bother sending an email or a letter to the councillor. I'm just going to write back to the complainant to tell them that this is not a complaint and if they wish to talk to the council they can do that.' That is fairly simple.

Mr Williamson: Correct, Mr Smith. I think you have summed it up, but there needs to be some legislative boundary set around that. Obviously right now the OIA has a legislative requirement to fill. They have to tick all of these boxes: 'We have received a complaint. We have advised the complainant
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of the complaint. We have said whether we have dismissed it. Here are the reasons why we have dismissed it.' They have to go through all of this at great expense. It is going to take someone a day to write that letter. Somebody is paying for that. Then that time frame has been utilised by not doing something else that is probably much more important. I think you have summed it up.

Mr SMITH: The council's submission talked about the importance of allowing anonymity with complaints. Could you give a quick summary as to why you believe that is important?

Mr Williamson: It is a difficult question, isn't it? Anonymous complaints can be weaponised, of course. With anonymous complaints, a lot of people will say, 'If you are not game to put your name to it, why should we pay any attention to it?' I think there is a degree of protectionism that is required—like a whistleblower who has the ability to anonymously say, 'I think something's wrong here.' If they have enough in terms of their substantiated advice then that is a tick in the box and it should be proceeded with.

That is where the power of the Office of the Independent Assessor has to come into play. They have to determine whether this is a weaponised, unsubstantiated, vexatious complaint and throw it out or whether they actually proceed with it. We believe that you have to come down on the side of the fact that there may be an anonymous complaint that uncovers some serious misgivings or wrongdoings within the elected body. Even though it pains me to say it, I think you have to have that somehow or other enshrined within the power of the Office of the Independent Assessor.

Mr SMITH: Mayor, thank you so much for that.

CHAIR: The time allocated for this session has now expired. Thank you, Greg. We have really appreciated your input today. We have a question on notice. Could we have an answer to that—work for your CEO to do—by Monday, 21 March? We are looking for the cost of legal representation dealing with complaints. I will add to that: we have asked a couple of other councils to show how much they spend on RTIs as well so we can get some comparisons on that. The second thing was the policy you have for dealing with inappropriate conduct complaints and the policy regarding financial assistance for councillors as decided by the CEO.

Mr Williamson: Certainly, no problems. We will get that back to you by Monday, 21 March.

CHAIR: Thank you very much, Mayor Williamson. All the best up there. I hope your weather continues to be sunny.

Mr Williamson: It is sunny and quite hot. To all of you who have been flooded out, we have been there before. We know what you are going through. If there is anything we can do, just let us know.

CHAIR: Thank you for that.

Mr McDONALD: Thanks, Greg. Sorry we could not get up to Mackay this time.

Mr Williamson: Next time.

CHAIR: We will make that a priority next time, Mayor Williamson. That concludes the hearing. Thank you to everyone who has participated today. Thank you to Hansard and the secretariat. A transcript of these proceedings will be available on the committee's webpage in due course. I declare the meeting closed.

The committee adjourned at 12.03 pm.