



# ***STATE DEVELOPMENT AND REGIONAL INDUSTRIES COMMITTEE***

**Members present:**

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

**Members in attendance:**

Mr JP Bleijie MP  
Mr JM Krause MP

**Staff present:**

Ms S Galbraith—Committee Secretary  
Ms M Salisbury—Acting Committee Secretary

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

### **TRANSCRIPT OF PROCEEDINGS**

**WEDNESDAY, 9 FEBRUARY 2022**

**Brisbane**

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### **The committee met at 9.00 am.**

**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 the custodians of the land we represent 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 Jim Madden, member for Ipswich West; Mr Michael Hart, member for Burleigh; Mr Don Brown, member for Capalaba, who is substituting for Mr Tom Smith, member for Bundaberg, for the initial part of the hearing; and Mr Robbie Katter, member for Traeger, who is joining us by videoconference. We have also given permission today for members to appear and participate: Mr Jon Krause, member for Scenic Rim; and Mr Jarrod Bleijie, member for Kawana. They will be appearing today with leave of the committee.

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.

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 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 mobiles phones off or to silent mode.

The committee is mindful that there may need to be discussion on confidential matters today. If so, the committee will conduct these discussions in private. Should the need for private discussion arise, individuals in the gallery will be asked to leave the room and the broadcast will be switched off. Thank you all for your understanding.

Finally, in line with Queensland parliament's COVID-19 requirements, all members and visitors will be required to wear a mask during today's proceedings. Members and witnesses may remove their mask when speaking.

### **ANSTEE, Ms June, President, Councillor Conduct Tribunal**

### **NEWMAN, Mr Troy, Member, Councillor Conduct Tribunal**

**CHAIR:** Good morning and thank you for appearing before the committee today. I invite you to make an opening statement, after which committee members will have questions for you.

**Ms Anstee:** Good morning, Chair, and good morning, members. I would like to acknowledge the traditional owners of the land on which we meet today and pay my respects to elders past, present and emerging. On behalf of the tribunal, thank you for the invitation to attend today and to provide a submission. In relation to that submission, I have a brief opening address before you ask any questions.

I wish to refer the committee to my letter of 28 January, which I am sure you all have received, which briefly indicates the limitations in relation to responding to questions that may specifically be addressed to case matters and decisions. We can still address general questions. The tribunal, as a quasi-judicial decision-maker, must maintain impartiality and independence in relation to those matters and also in relation to all stakeholders. However, the tribunal is able to comment on the operational procedures and aspects of the councillor conduct framework that touch on the decisions and functions of the tribunal and that, in the tribunal's experience, could work better to support the intent of the legislative provisions and the goal as described by the councillor complaints panel in 2017 which, as you all know, is to establish a 'streamlined complaints system that is fairer, more effective and more efficient' than the previous local government conduct review panels and the former tribunal.

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In the tribunal's experience and observations there exist some understandable teething issues that have arisen. These issues are to some extent to be expected with the implementation of a vastly different reporting and investigation process regarding complaints made about councillor conduct and including the prosecution of those complaints by the investigative body. The establishment of the tribunal also represented a significant change to the previous system and took over those functions, as I mentioned earlier, of the conduct review panels and many of the functions of the Local Government Remuneration and Discipline Tribunal.

In relation to the terms of reference and any amendments to the Local Government Act or changes to the functions of the framework, I make the brief point that the tribunal was established primarily to hear and determine complaints of serious allegations made against councillors. In doing so, our requirement is to observe natural justice and to, as I have said before, act quickly and consistent with a proper consideration of the issues of each matter. In practice, these goals are difficult to achieve because of some significant issues.

These issues—I can direct you to the submission—involve resourcing and funding of the tribunal. When the act was established there was no provision made for accommodation for the tribunal. There were no full-time or part-time appointments to the tribunal. That has led to difficulties with coordination of a tribunal consisting of a number of members who are sessional and who all hold other careers. They were the members appointed at the time and they still are the members. In addition, as you know, the decisions of the tribunal are subject to review—a full merits review by QCAT—which adds to the complexity and the standard of work required by tribunal members.

There has also been a significant change—and this is no criticism of the system—with the introduction of legal representation to all hearings. In the former system you will be aware that councillors did not have any ability or an automatic right to have legal representation. In the majority of those hearings from my experience, as I was on those panels, it was probably less than 10 per cent—that is a ballpark figure—where they would have attended hearings. In addition, there was no prosecutor, so there was no legally qualified prosecutor present in those hearings. Now we have everything. We have the legally qualified prosecutor and we have the councillor's legal representatives. That is all understandable and all in support of the principles of natural justice, but the complexity of the tribunal work is vast as a consequence of that.

In relation to the requirements of what our role is, section 150AL of the act is very precise and it stipulates our role—which is, in mandatory terms, that the tribunal must hear and determine matters of misconduct. There is no leeway there. There is no discretion. We cannot decide prior to a hearing that new evidence has occurred—this is an example—or there are no public interest grounds or financial reasons to tax the resources of the state government or local councils in relation to hearing that matter. Because of that mandatory provision, the tribunal still must have the hearing. We can then at the end decide not to proceed and find it is not sustained, but that is at the end of a hearing process and a very complicated drafting of decisions because somebody may wish to appeal that to QCAT. I think at this point I will stop talking and throw it open to you for questions.

**CHAIR:** Thank you for that. I understand the constrictions that you have in talking about what you do. We will talk about the operational procedures and some of the issues that you have talked about. I will lead with the issue of the legal overdrive that has emerged in the system. You said that when you started just 10 per cent of cases would have legal representation.

**Ms Anstee:** Roughly, yes, if that.

**CHAIR:** Now it is virtually 100 per cent.

**Ms Anstee:** That was prior to the new system. I was a member of the local government panel. Under the local government system, there were some lawyers but minimal and no prosecutor. There was no real push for councillors to need legal representatives. They could get legal advice but there was no real requirement for them to appear, and most of them did not see the need to do that.

**CHAIR:** You have not changed. You have 11 members; is that right?

**Ms Anstee:** Yes, we have changed.

**CHAIR:** In terms of the changes that have come in in recent times.

**Ms Anstee:** When we were first established on 3 December, the inaugural tribunal was a president plus six members. That is what we had as our complement in 2018. For various reasons, by August or September—I would have to get you specific dates—of 2019, six of those seven members had resigned, I believe, by that stage. In less than 12 months, six of the seven had resigned—or it could have been five of the seven, but I think it was six by that date. It may have been by November that six had resigned.

**CHAIR:** The point I am trying to explore is that the numbers have remained relatively low. I am interested in that you are all sessional, not part-time. You are essentially casual. How do you prepare for these cases if you have people who are sessional sitting at home on laptops knowing that they have to face a range of barristers when they come in for the hearing?

**Ms Anstee:** It does pose difficulties for the members. I think that has to be looked at in terms of the ongoing resignation rate over the period. It is very difficult to do this sort of work. It involves a much greater time commitment than it ever did prior to the new system. You have really dedicated members spending a lot of their own time trying to prepare for these cases and then the drafting of the full reasons for decisions. They usually extend from 8,000 words to 16,000 words once you do the full reasons for decision. It is a complicated task. Doing that from your laptop at home without the three members getting together regularly—that is almost impossible because they generally have careers. It is very difficult to coordinate it. In terms of preparation, they do that but that is reflected in the time delays in getting matters out. There was a backlog of cases arising from those resignations in the first 12 months. There were not sufficient members to complete tasks.

**CHAIR:** How do you get legal advice in? Obviously you would need to bring in a lot of legal expertise to help you prepare and hear these cases; is that correct?

**Ms Anstee:** Most of the members are lawyers themselves—the majority. There are some who are not lawyers but they are highly experienced in local government areas. I would say that 80 per cent of the tribunal are legally trained and qualified. They are either barristers or experienced lawyers and on other tribunals. That is the problem: they have other competing work needs. In terms of legal advice, we do seek, through the department of local government—is that right?

**Mr Newman:** Yes.

**Ms Anstee:** The department of local government provides resourcing to the tribunal to an extent. We can make applications or requests to them to give us advice through Crown Law. However, that is not on a regular basis.

**CHAIR:** Regularly you would have to ask the department, 'Can you give us advice?'

**Ms Anstee:** We have no independent budget so our resourcing is through, as you can see, 150DU of the act and 150W. The department does provide other resourcing—for instance, training for the tribunal members and IT resources. They provide the laptops and things like that. There is some resourcing coming through the department.

**CHAIR:** One of the issues that became very clear is the high number of conflict-of-interest matters happening at council meetings. I think in your submission you said it was about 48 per cent.

**Ms Anstee:** Yes.

**CHAIR:** You said initially that you were established to hear serious complaints about misconduct, but now half of your work is about conflicts of interest at council meetings. Can you discuss that a little more?

**Ms Anstee:** Certainly. Can I ask one other question on that? When you say that we were set up to hear and determine matters of misconduct but that half of our cases are conflict of interest, are you assuming that conflict of interest is not misconduct?

**CHAIR:** No, not at all. That is one of the things that I wanted you to talk about. In our inquiry, conflicts of interest have been well ventilated and, amongst our submitters, there is a variety of opinions on how serious it is. It is a serious issue. Certainly what we would like to explore is how we have got to that situation where conflict of interest, among all other issues, is providing a stumbling block.

**Ms Anstee:** This is our observations and experience and I think Troy would agree with this. The conflict-of-interest provisions have been targeted since the new act came in, in December 2018, and have become a specific offence or a specific section of the act. In our experience, prior to 2018 these sorts of matters of conflicts of interest were not really being investigated. They were not really on the radar of councillors. They were not really on the radar of anybody. It is just a community change in values in relation to ethics and integrity. Now the act actually specifies it and it is very clear in the act.

At the moment the tribunal is only up to matters of conduct that occurred in 2020. We have not even reached the misconduct matters of 2021 because of the backlog that the tribunal has had. I am referring at the moment to the act that was current in June 2020, and I think there were changes in December 2020. We have not got to any matters in relation to that act. If you consider the act in June 2020, the provisions for conflict of interest are very clear in the act. There is no room for misinterpretation; there is rarely room for misinterpretation.

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I think from the tribunal's experience, looking at those cases as they come to us, we have been taking, in effect, a lenient approach on the basis that it is such a new system, councillors were not experienced with these specific provisions in the act prior to that and they need a clear and simple explanation on what these provisions are saying. I am sure they are getting that in training; it is not any reflection on the training. But we have been erring on the side of caution and thinking that if they go to specific training on this then perhaps this would not have happened.

A lot of these matters on conflict are to do with turning up to a meeting of council that is not an ordinary meeting and not declaring an interest. All they had to do under that act was declare the interest and ask council to decide if they could stay or not stay. Instead they have been, I think, influenced by the previous culture of, 'Well, if you knew that developer or you knew that contractor, that's okay.' It is not okay under this act. It may be. All you have to do is declare it and you may be okay. It depends on the circumstances. In some of these matters there would be multiple allegations and some allegations will be sustained and some will not be. It depends specifically on the facts of each allegation.

Sure, there are some councillors who may not have wanted to declare it, but I think they come across as confused. When you look at the legislation you cannot understand how they could have been confused, but perhaps it just slipped their mind. I think as time goes on—because you will only be seeing decisions under this new act for 18 months from the tribunal. That is 2019 up to June 2020. We have not had time to do the rest. We are basing this on a period of 18 months, really, because of our difficulties in processing those matters.

**CHAIR:** I think you have explored well that we are at the start or in the midst of cultural change and also the importance of training, which other people have addressed as well. I have other questions but I will go to the member for Lockyer.

**Mr McDONALD:** Thank you, President and Member Newman, for being here. This is the first I have heard that you are still dealing with matters from 2020.

**Ms Anstee:** We are up to June 2020 on last count, as far as I know.

**Mr McDONALD:** Goodness me. Have the people who are the subject of those matters been informed of that delay?

**Ms Anstee:** When the registry receives these matters, a letter should go out to the councillors. I can take that on notice if you like, but as far as I know the procedure is that a letter goes to the councillor saying they will be notified when the tribunal is able to hear the matter. We do not have sufficient members at the moment, or all the members are already on 10 other matters. We do not give them those details.

**Mr McDONALD:** You mentioned before in terms of resourcing that you make requests to the department—or do you go through the Office of the Independent Assessor to do that?

**Ms Anstee:** No, we are completely separate from the Office of the Independent Assessor. We communicate on an administrative level, and I think I have put that in the submission. The registries communicate in terms of exchanging applications, but we do not link our discussions with the Independent Assessor. If we did that we would be considered by many players to be tainted with bias.

**Mr McDONALD:** Sure, so resourcing requests go from yourself straight to the department?

**Ms Anstee:** Yes.

**Mr McDONALD:** You outlined in your submission that you have 11 members now. In answer to the chair's question you said that you started off with the president and six members.

**Ms Anstee:** Yes.

**Mr McDONALD:** Can you give us a time frame? I am not going to hold you to it, but you mentioned in August or September there was the resignation of five or six members and then you got new members. When did you grow from six to 11?

**Ms Anstee:** I do have a document here and I can give you some details. In 3 December 2018 we had six appointments plus the president, so seven. All of those people except for two, which was myself and—no. By November 2019, there was one of those remaining; that was me. In the meantime, we had had one further appointment, made in August—I am just running through the list. There was one further appointment in August 2019, so that made two.

As you know, the tribunal forms panels of three people. We can, in certain circumstances, form a panel of two but that is not my preference as president because if you reach a decision and the members cannot agree, which is not uncommon, that panel would have to be reconstituted and the whole matter reheard. I will move on to the next lot of appointments. We had an appointment in 14 November 2019. That was a member. We had a new president appointed on 14 November 2019.

**Mr McDONALD:** Was that yourself?

**Ms Anstee:** No. This is in the first 12 months of operations. That president resigned in December 2020—sorry, no. That president resigned in December 2019. I withdraw that; that was incorrect. He was only there for six weeks, roughly. That meant that at that point, by the end of December 2019, I was a member, we had another member who had been appointed—Avelina Tarrago—and I am trying to think who the third member was. I am sure we had three members by that stage. We were limited—very limited—at this point. Then we move into 2020 and we had another resignation in February. The minister then made new appointments in late February 2020, so that was when we could start operating again effectively. We had a number of appointments in February and that was—

**CHAIR:** We do not need any names.

**Ms Anstee:** Five people were appointed in February 2020. One of those resigned quite soon afterwards but the others remained and, as far as I know, they are still all here with us today. Then I had a meeting with the minister and asked for further appointments and they were made in September 2020.

**Mr McDONALD:** Was that September 2020?

**Ms Anstee:** In September 2020 we had another lot of members. There were seven appointments in September 2020.

**Mr McDONALD:** So that took you to 11?

**Ms Anstee:** It did, yes, from September 2020. As you can understand, when people come onto the tribunal they themselves need training. They cannot just start work. They would then receive some induction training. To get that organised the department provides the resources for the training, so we had to set up a training room and get the members in. That was probably about another month later. I think it was by October that we had the training in 2020. We have had no further appointments since that date.

**Mr McDONALD:** Any resignations?

**Ms Anstee:** Yes.

**Mr McDONALD:** How many have resigned?

**Ms Anstee:** Since then? There was one resignation in September 2021. I think we have only had two resignations, but of the 11 members we currently have on the books—we have 11 members on the books—three are currently inactive, which means they are not available for matters. Of the eight who are available, with the exception of myself, they are all working full-time.

**Mr McDONALD:** On your position, I think you said before that you do not have full—

**Ms Anstee:** Technically, I am sessional.

**Mr McDONALD:** Is that a contract or is it casual employment?

**Ms Anstee:** No, it is just like sessional work. We are all appointed by the Governor in Council for, I think, four-year appointments, but the actual status of the members is sessional. They have tenure under the appointment by the Governor in Council to an extent.

**Mr McDONALD:** During this time, what requests for additional resourcing did you make to the department or minister to see your full complement of tribunal members? Could you qualify: many or dozens?

**Ms Anstee:** I became president in February 2020 and I was acting president in January 2020. I approached the minister in January, I would think, and maybe had a meeting with him—

**Mr McDONALD:** Is that Minister Hinchliffe?

**Ms Anstee:** Yes, Minister Hinchliffe. The minister appointed tribunal members very quickly once they realised there were difficulties. I cannot give you the dates, and I could take that question on notice.

**Mr McDONALD:** That would be great.

**Ms Anstee:** I did meet him in February and January and members were appointed late February, and then again later that year he appointed another group of members.

**Mr McDONALD:** Chair, I wonder if to assist the president we could, as she offered, ask her to provide that in writing. Perhaps you could give us a summary of those meetings.

**Ms Anstee:** I can do that with the minister's—

**Mr McDONALD:** Would that be appropriate?

**CHAIR:** We will discuss that and if it is not appropriate we will soon find out. Ms Anstee said that five people were appointed in February 2020 and seven people were appointed in September 2020.

**Ms Anstee:** Yes.

**Mr McDONALD:** Particularly as per my question, I was interested in the number of meetings and requests for resources that you have made, so you can take it on notice.

**Ms Anstee:** Yes, I will take that on notice, but I can roughly just say now that in 2020 there were possibly three meetings with the minister and then in 2021 we had a new minister and I met with the Deputy Premier in March. I requested it in October/November 2020 and met with him, I believe, on 2 March 2021 and there were requests late last year to the department as well for further members.

**CHAIR:** Just clarifying, Ms Anstee: did those requests go through the department? What is the chain through which those requests are made?

**Ms Anstee:** It varies. At the moment everything is going through the department.

**Mr HART:** What do you mean 'it varies'?

**Ms Anstee:** When I was first appointed president I was meeting directly with the minister, but I did not set that up, member; it was through the director-general at the time to the minister. The current system is through the executive director and I think then to the deputy director-general and it goes up the line. It is a different process at the moment, but I think in the end it is the same process.

**Mr HART:** Interesting.

**Mr McDONALD:** It is a complete failing, isn't it, in terms of timeliness for the—

**CHAIR:** No, I would not say that, member. It is a—

**Mr McDONALD:** A failure to achieve the objective of timeliness regarding dealing with these matters. Goodness me, the people subject of the investigation—18 months behind.

**CHAIR:** I would caution Ms Anstee. We have commentary and asking for an opinion on that. I think the points about timeliness have been made, and that certainly has been a theme constantly from the people who have put in submissions, but there were five and seven people appointed in those six months. So initially the department reached out and then took that to the minister and then all the rest of it—

**Mr HART:** Point of order, Chair: we do not need your commentary defending the government. We have plenty more questions, if we can move on.

**CHAIR:** We are just clarifying this because you were asking about the chain of command and I am just clarifying it. So initially the department reaches out and then you reach out to the department in that clear chain of how to put forward your requests?

**Mr McDONALD:** And the president has taken that matter on notice and is going to provide us with the requests for—

**CHAIR:** Yes, I am just clarifying this.

**Ms Anstee:** It is actually that the requests are initiated by me to the department, because when I identify a need I have made requests to both the chain earlier through the director-general to the minister and now through the department to the deputy director-general and to the minister. Yes, I do make the requests.

**Mr McDONALD:** In those requests did you say that you were 18 months behind?

**Ms Anstee:** In matters?

**Mr McDONALD:** Yes.

**Ms Anstee:** We have progressed through the backlog to June 2020 and we do have eight active members currently.

**Mr McDONALD:** Could you give us a forecast, then, of your prospective of catching up?

**CHAIR:** Bear in mind this is an opinion. I know it is putting you on the spot a bit.

**Ms Anstee:** I can give you an example of the time it takes to conduct the average hearing—and this is one of the simpler hearings, not the oral hearings where they are in court and there are contested verbal hearings. A lot of our hearings can be on the documents under section 150AP, so we do not have to go to an oral hearing with witness evidence. In the simpler cases, we have three

members involved. Once we get this set up into a hearing and start conducting the hearing and then drafting the full reasons for the decision, which are required by the act, the average time for that appears to be—and I have asked for a selection of cases recently to try to work this out myself—about 200 hours for that panel. That is a simple case, so that is quite a bit of work. In the more complicated cases they have gone up to maybe 300 hours.

**Mr McDONALD:** Is that 200 or 300 hours per individual or total?

**Ms Anstee:** No, that is for the total three members. A higher proportion of that would be for the chair of each panel because they are required to write the full reasons for decision, and if it is on review those decisions or full reasons go to QCAT. They are required by QCAT, so I do not know if that helps.

**Mr McDONALD:** It helps greatly. You mentioned before about changes to legislation regarding two matters—one in terms of the opportunity to deal with matters that may not now be in the public interest if there is further interest coming up and also that matter you just raised then. Have those requests for changes to legislation gone to the department as well?

**Ms Anstee:** I have raised all of those issues with the department.

**CHAIR:** That is fair enough. Are there any other questions?

**Mr McDONALD:** We can keep going.

**CHAIR:** No. We will go to the member for Ipswich West.

**Mr MADDEN:** Thanks very much, Chair, and thank you both for giving us an insight into how the tribunal operates. It find it fascinating as a former lawyer.

**Ms Anstee:** Okay.

**Mr MADDEN:** I am just curious: you talked about the support you receive from the department. Are you able to seek advice from the department, not about a matter but interpretation of the act? Does it come back to that level or is it simply training?

**Ms Anstee:** Sometimes. Each matter is really up to the independent panel, which is the three members, to interpret. We are a statute based tribunal, so we are based on interpreting the statute. If there is any ambiguity in the statute, there are certain procedures the tribunal goes through, and that is looking at the common law—as you know, the common law principles, cases or ordinary meaning. If there is no definition, we go to the ordinary meaning of those words and then any civil case law. Tribunals generally are informal, as you know. They are set up to be faster than courts and less formal. The procedures we are operating under with this particular piece of legislation are court-like procedures. Unfortunately, a court needs a lot of resourcing. Although the provisions are there and clearly the intention of everyone was that it be informal—and we still have the old procedures of section 213 where you can deny legal representation—it is not fair to the councillor to deny legal representation when we have the prosecutor who is legally qualified and appearing. They have a right. It is natural justice that they have that, so there are a few inconsistencies in terms of the tribunal operations. So we are not technically an informal tribunal; we are a court-like tribunal and a disciplinary tribunal. I can understand the formality because it is damaging the reputation of councillors if they end up with a misconduct finding, so a lot of effort and time goes into making sure we have that right—that interpretation in the legislation.

**Mr MADDEN:** Just to make it clear, you can seek something akin to an advice from a barrister with regard to the act? That was what my question was.

**Ms Anstee:** I understand that. When we are funded under the model we are funded under, that is not my decision.

**Mr MADDEN:** But you can seek that from the department?

**Ms Anstee:** I can request it.

**Mr MADDEN:** Yes, that advice. When the hearings are conducted, say you form part of the three, would you be addressed as ‘the president’ and would Troy be addressed as ‘member’? Is that the way—

**Ms Anstee:** Yes. Generally, if I am not on that panel, the chair is called ‘the chair’ and then there are two members.

**Mr MADDEN:** And that is the proper address—‘the chair’ and then ‘member’?

**Ms Anstee:** Yes, or sometimes I am addressed as ‘president’ if I am chairing it, but either/or is acceptable.



**Mr MADDEN:** In your answers to questions you mentioned natural justice and the importance of precedent. How much of a role do previous decisions of the tribunal play? Are they binding? What about the decisions of QCAT where a matter has been appealed to QCAT? Are those decisions binding on subsequent decisions and subsequent hearings?

**Ms Anstee:** No. In terms of QCAT, we have not had any decisions yet. There are, I think, 11—there are definitely 11, perhaps 12—matters now before QCAT. None have been heard in the last three years. If there was a decision out of QCAT in relation to our matters, we are not necessarily bound by those decisions. That is not the way the process works. We will definitely consider those decisions no doubt, but we are not bound by them.

**Mr MADDEN:** Not bound by previous decisions.

**Ms Anstee:** Of QCAT.

**Mr MADDEN:** Not bound by decisions of QCAT. What about previous decisions of the tribunal?

**Ms Anstee:** We strive for consistency in decision-making, but as a former lawyer you can understand each matter has specific factual circumstances and they are so specific and they are so directed to the circumstances of each allegation that it is possible that something will turn on the facts. I know we have had a matter recently. There are two allegations with almost the same evidence and it turned on the facts; they were different outcomes.

**Mr MADDEN:** In your submission you mention that there are some matters yet to be dealt with—I think it was seven for misconduct and four for serious misconduct.

**Ms Anstee:** That is in progress.

**Mr MADDEN:** In progress. I just wanted to clarify what 'in progress' means. Does that mean the matter is heard and the decision has not been written yet?

**Ms Anstee:** Possibly. There are various stages. When a panel is formed and they are available to hear a matter, the first step they do, apart from reading all of the material, is to issue directions to each party to give them an opportunity to put in any other evidence they might have or any submissions, so that could go over at least a month, four weeks, or maybe longer, and the parties always have the opportunity to come back to us and say, 'We need an extension of time,' so that procedure could take anything from four to eight weeks. Then the submissions come in and a hearing is then formed after that.

**Mr MADDEN:** So you could have a directions hearing, you could have a mention and then you could have a hearing, so that could be that the matter is in progress?

**Ms Anstee:** That is right. We try to keep the mentions out of it. We try not to be like a court, so we will issue directions—on the documents and the parties can come back to us on the document saying, 'We need more time,' or 'We're not available on that date for a hearing,' then they put in their submissions, but they usually need seven to 14 days between each step for, say, the Independent Assessor to put in their submissions and then the councillor or the councillor's lawyers to reply to those submissions—they need seven to 14 days—and then under the directions, and you will probably understand this, the Independent Assessor being the prosecutor and a party to the hearing will want to reply to those submissions. We usually try to reduce the time down there to seven days if we can but, again, the Independent Assessor is time poor as well, I would think, so sometimes we extend that out. You are looking at a six-week step probably before we even get to the hearing.

**Mr MADDEN:** Finally, you mentioned that most matters now have legal representation.

**Ms Anstee:** Councillors.

**Mr MADDEN:** Councillors.

**Ms Anstee:** And the Independent Assessor always has barristers.

**Mr MADDEN:** Of course, but most councillors have legal representation now. How are those costs borne? Obviously you could not make a cost order, could you?

**Ms Anstee:** No, we do not issue cost orders.

**Mr MADDEN:** So the councillor must bear their own costs with regard to legal representation?

**Ms Anstee:** I cannot comment on that.

**Mr MADDEN:** No, but that is the reality, isn't it—

**Ms Anstee:** Yes.

**Mr MADDEN:**—because you cannot make cost orders?

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**Ms Anstee:** That is right, yes.

**Mr MADDEN:** I am not saying this in any sort of pointed way. It is a reality that when a councillor appears before your tribunal they must meet their own costs.

**Ms Anstee:** Yes.

**Mr McDONALD:** For clarity, in relation to the answer you gave to Mr Madden, the Office of the Independent Assessor appoints the prosecutor as a barrister and then has separate legal advice?

**Ms Anstee:** My understanding of the act is that the Independent Assessor is formally the prosecutor. Under the act she is the prosecutor. Then there is another section. The other section—and if anyone has the act here I think it is 150AE or something like that—the parties provision, makes the Independent Assessor a party to the hearing. Then the next provision is the councillor is a party to the hearing. There are the two parties to the hearing.

**Mr McDONALD:** There is a prosecutor and then there are also legal advisers to the independent—

**Ms Anstee:** Yes. When the prosecutor or the Independent Assessor appears at the hearings, she is usually represented by barristers from her office. They are all part of the Office of the Independent Assessor.

**CHAIR:** I welcome the member for Traeger, who is appearing on video, even though I note he has been there for a while.

**Mr HART:** Ms Anstee, you mentioned QCAT had not made any decisions. Do you know how old those processes are or when they were instigated?

**Ms Anstee:** Not precisely, but I will take that question on notice. I think the first matter they had was in 2019.

**Mr HART:** Does the CCT produce an annual report at all?

**Ms Anstee:** Under the act we are not required to; we are not asked to. However, last year I prepared a report which I provided to the executive director, legal services and I think that was included in part of the department's report. I cannot confirm that either, but I did provide a report.

**Mr HART:** You said earlier that resourcing was an issue—and I am not trying to put words in your mouth. I turn to the use of departmental laptops for members. Does every member have a departmental laptop?

**Ms Anstee:** Yes, they do.

**Mr HART:** Do they keep it personally themselves?

**Ms Anstee:** They have to. We do not have an office.

**Mr HART:** Is the process the member is going through the only thing that laptop is used for?

**Ms Anstee:** Yes.

**Mr HART:** What happens to that laptop when the member resigns? Do you know?

**Ms Anstee:** I do know. I know this from the registrar of the tribunal, who is a staff member of the department, so she is employed by the department. She has told me that they go through a process where they collect the laptop and any other resources that member may have.

**Mr HART:** I would imagine that the process the member is going through and the decision and any letters written are a public record under the Public Records Act 2002? Do you know?

**CHAIR:** Is this about publication of decisions?

**Mr HART:** No, it is around the resources and record keeping of the CCT.

**Ms Anstee:** I would have to take that on notice. I could not answer that. All of our records are maintained by our registrar, who is an employee of the department. I think it would be within the departmental processes.

**Mr HART:** This is basically a legal process that you are going through with councillors and mayors and the records are kept on a departmental laptop? That is correct, isn't it?

**Ms Anstee:** Yes, that is correct. We have software programs that are secure and there are all these passwords, as you would understand, but yes they are.

**CHAIR:** Member for Burleigh, if you have questions about laptops that belong to the department and records belonging to the department, we have the department coming along soon. Do you want to ask those questions of the department?

**Mr HART:** I certainly will. I certainly will. Do not worry about that, Chair. The Integrity Commissioner used to provide advice to councillors. From my reading of the act, that could be relied on as a defence if a councillor or a mayor took advice from the Integrity Commissioner and they responded to that advice. Has the fact that the Integrity Commissioner stopped providing advice to councillors and mayors caused part of the problem of your backlog in terms of not being able to respond to—

**CHAIR:** Member for Burleigh, you are asking for an opinion.

**Mr BROWN:** The Integrity Commission is also coming, so you could ask them.

**Mr HART:** I am trying to get to the bottom of why there is such a big backlog.

**CHAIR:** I think it is very clear when it comes to issues about the backlog. I think you are stretching it a bit to try to drag the Integrity Commissioner into that. I agree with your point about the advice; it does give some qualified protection for members. Is that taken note of in cases?

**Ms Anstee:** I was just about to answer that. In terms of our decision-making, which I think is what you are referring to, we certainly would consider any mitigating factors—and we do consider mitigating factors—and that is really important in decisions. That comes to not only the decision but also the penalty. In the example you gave where a councillor goes to the Integrity Commissioner and the Integrity Commissioner gives certain advice and they act on that but they are still found under the complaints system to have breached a provision, I presume, it comes to us and that councillor or their lawyers put that evidence before us, we certainly would consider it. It is part of the process. It is not necessarily—

**Mr HART:** Doesn't the legislation say that it can be used as a defence?

**Ms Anstee:** Not that I am aware of. Do you mean under the Local Government Act?

**Mr HART:** Yes.

**CHAIR:** Perhaps that is a question for the department.

**Ms Anstee:** It depends which act we are talking about as well. As I said, we are still working on the June 2020 act because we have not got to the complaints after that yet. Unless there has been an amendment post that, in the December 2020 act, when the integrity provisions were put in—is that what you were referring to?

**Mr HART:** Yes. Let me get this straight: you are still doing 2020 cases and still responding to those cases under an old act?

**Ms Anstee:** Yes, that is what happens. The allegations come in terms of—some of the 2020 matters we are discussing right now could have allegations of misconduct that occurred in 2013, 2016, 2018—it is very old conduct that is coming through. Thirty per cent of our cases are of conduct that occurred prior to 2018.

**Mr HART:** When you get to the 2021 cases, you will compare those against the latest legislation?

**Ms Anstee:** Absolutely, if the allegations that come in from the prosecutor are aligned with that act.

**Mr HART:** In your submission you say that the department sees itself as a point of truth.

**Ms Anstee:** Yes.

**Mr HART:** And you disagree with that; is that what you—

**Ms Anstee:** I do not disagree with that at all. That is what the department said in their executive summary. I do not disagree with that. What I have said in my submission is that that is the process; they have a role in terms of information. I cannot even talk about their role, but they provide information and training and procedures. The point of truth—I do not disagree with that. My point was that the tribunal cannot be bound by the department's interpretation of the legislation when we are hearing a matter if it does not align with the facts of the case, the circumstances, the mitigating factors and the interpretation of the legislation. We do consider all of the department's procedures and information—they are highly relevant to matters—but we cannot be bound by the interpretation. That is the only point I was making.

**Mr HART:** The department and the minister have put legislation through the Queensland parliament. I imagine they should know what they are talking about because they are training the councillors and the mayors in what they should do. This is not criticism of you; I am just trying to get my head around it. However, your tribunal does not necessarily take their view into account?

**Ms Anstee:** We actually do take their view into account.

**Mr HART:** You interpret the legislation yourselves?

**Ms Anstee:** Yes.

**Mr KATTER:** My personal experience with this is that I have been confused at times. I am sure there is a very rational explanation for how some of the issues that have been captured as significant or have invited a charge of misconduct for councillors and others have not registered. I have trouble trying to interpret why that happens. It was explained to me the other day—and I would like your response—that when a matter is investigated within those terms of reference, as it should be, they say, ‘Did the person declare the interest? Did they step out of the room?’ I can only speak of hypotheticals in this forum. However, there are issues where you would say, ‘There seem to be very strong signs of impropriety, but because the terms of reference limit it to asking, “Did that person step out of the room or declare an interest?” “Yes.”’ Procedurally they did, but the average person in the street would say, ‘That issue still stinks.’ Do you find there are limitations or issues where a rational person would say, ‘That may warrant more investigation,’ but you are limited by the terms of reference as to how far you take it? ‘Yes, there is a good chance there is something to investigate there, but it is not within our charter, so we will stop there.’ Have you experienced that or observed that in your operations?

**Ms Anstee:** Are you referring to the investigation process by the Office of the Independent Assessor, or the tribunal?

**Mr KATTER:** Yes, I might have this mixed up in terms of what you deal with.

**Ms Anstee:** We do not do the investigation. We hear the outcome of the investigation.

**Mr KATTER:** That would still apply though, wouldn’t it? You would still make observations of something that is coming across your desk of matters of reach there and you would be looking at the circumstances around it. I think the question is still relevant.

**Ms Anstee:** We certainly consider all of the circumstances and the facts. We look at the complaint and the evidence that has come in from the investigator. That is part of our considerations. Is that your question?

**Mr KATTER:** It is my question, but I am not sure you have answered it adequately. Like I said, my experience has been—and this has come back from councillors’ reports as well and unfortunately I can only speak in hypotheticals—that they have said that in terms of this decision they have been cleared. However, looking at the circumstances around it you would have to ask the question, ‘Why did they reach that decision?’, and the response might have been, ‘Yes, you have a good point. There may be some impropriety there, but according to the rules by which we are asked to measure it it is okay, so we’re finished with the matter.’ To give you a hypothetical, if a council makes a decision and there is a tender that is \$100,000 cheaper but they have given it to someone else in town, there might not have been a conflict of interest, but collectively you would sit back and say, ‘Hang on. Why the hell would they make that decision?’ I guess it is every councillor’s prerogative to make decisions as they see fit, but the general public might sit back and say, ‘That stinks,’ because everyone knows the councillor is trying to look after that contractor—and, again, that might be their prerogative. Does that register as being of concern? As far as I am aware, the issue just dies, despite of how ugly the circumstances are surrounding it, because technically it ticked all the boxes and so it is fine.

**Ms Anstee:** All I can say is: when we get those matters, once they get to the tribunal and we look at those conflicts of interest at non-ordinary council meetings, for example, an allocation to a contractor of some variety by the council, we look at the legislation and we have to establish on the facts that the councillor did fail to declare some sort of relationship. If we cannot establish that on the facts then the matter will not be sustained by the tribunal. But if we can establish it on the facts and it is sustained, it would be based on the precise application of the legislation to the facts of that case, and they are all different. Each case is pretty much based on its own facts. I might be missing the point of your question, actually.

**Mr KATTER:** I think you have answered the question as well as you can. That is a precise answer to what I was asking. I think the issue remains to be satisfied, but I can see you are doing your job as you are tasked, yes.

**Ms Anstee:** In terms of the investigation process, we really have to rely on the evidence that is before us that is presented by the prosecutor who did the investigation and the councillor’s defence. They will give us material as well to explain the situation. That is all the tribunal can really do in that situation.

**Mr BROWN:** How many matters have been reviewed since the changes in legislation in 2018 to QCAT?

**Ms Anstee:** It is either 11 or 12 to date applications have been made. QCAT has not reviewed any that are listed.

**Mr BROWN:** Eleven or 12 thus far?

**Ms Anstee:** Definitely 11, and it might be 12 as of last week. I would have to check that.

**Mr BROWN:** Are there associates or anyone to assist you in regard to your work?

**Ms Anstee:** No. I have mentioned the resourcing issues, but no. We have an administrative registrar provided by the department of local government, but we have no dedicated appointments to the tribunal such as associates or legal research officers.

**Mr BROWN:** It is always a panel of three?

**Ms Anstee:** It can be two, but, as I said earlier, if we have two and the members disagree—they cannot reach a unanimous decision—it cannot go ahead. We have to rehear it.

**Mr BROWN:** Since the changes in 2018, how often do the panel of three disagree on decisions?

**Ms Anstee:** We can have a majority decision with three. That is the advantage of three people. You can have a majority of two and one dissenting. That means that the matter can still be finalised.

**Mr BROWN:** How often does that happen, out of the 108 cases?

**Ms Anstee:** I think we have completed 46 misconduct and 21 inappropriate conduct. I think that is right. It is in the submission. I would say we have had no more than four out of those.

**Mr BROWN:** Effectively, if the tribunal was sort of set up as a commission with associates, you could do it singly, you believe, and still get the right outcome?

**Ms Anstee:** What do you mean by an associate? An associate helping the chair or the president?

**Mr BROWN:** Instead of it being a tribunal, more like a commission with a single commissioner hearing cases. You have said that it is moving more towards barristers and legal representation and talking about full-time presence there to be able to get the caseloads through. What I am trying to get at is: is it beneficial to only have one tribunal member hear cases?

**Ms Anstee:** I had not thought of that proposal. All I can tell you is that the workload under this arrangement is extensive. There are a lot of manpower hours involved in one matter. If you had just one person writing all those decisions, they would need a lot of resources. They would need legally qualified associates to assist and they probably would not be able to get out 46 case decisions in a 24-month period, which is technically what has happened.

**Mr BROWN:** You free up two other tribunal members.

**Ms Anstee:** I do not know if councillors would be happy with that because it would be just the opinion then of one person. At the moment they have these checks and balances happening with the tribunal, which is what a tribunal is about, so that there is a joint decision on the way the statute is interpreted and the facts of the particular cases.

**Mr BROWN:** I do not want to put words in your mouth, but it was a fair while ago when you gave your opening comment. You were saying that with conflicts of interest you are quite lenient on those at the moment.

**Ms Anstee:** Initially, as I said, because it is a new system. I know from your perspective it is quite well advanced—it is three years later—but from the tribunal's perspective we are still looking at, as you can see, old conduct, up until 2020, and at that point the councillors had not had a lot of experience with the provisions under the act. They had had 18 months.

**Mr BROWN:** They have access to the Integrity Commissioner, they have access to all the council resources, they have had access to—

**Ms Anstee:** I cannot comment.

**Mr BROWN:** But they have.

**Ms Anstee:** Yes.

**Mr BROWN:** When does the leniency stop? These are important changes and we brought them in for a reason. I am trying to understand. If the OIA are bringing forward these matters of conflict of interest they are very important, and it shocks me that they are being dismissed out of an opinion of being lenient.

**Ms Anstee:** They are not being dismissed. Fifty per cent of our matters are misconduct and they are not being dismissed unless there are grounds. They are being sustained, but the penalties are generally pushed towards training and educative penalties. I might have misled you, which I did not mean to. They are actually being sustained, the allegations. They are being found to have engaged in misconduct, but the tribunal looks at all the mitigating factors, what is told to us in the hearing and what the councillor's lawyers have put forward and generally forms the view that more dedicated training will assist this particular councillor at this time.

**Mr BROWN:** Who conducts that training when you order it?

**Ms Anstee:** We know that the department of state development conducts training. Also, I think—

**Mr BROWN:** The council itself?

**Ms Anstee:** The Local Government Association of Queensland I think conducts counselling and also there is another body.

**CHAIR:** Local Government Managers Australia.

**Mr BROWN:** There are a number of bodies out there doing this training and education. I find it fascinating that a lot of time and effort has been put in by the OIA only to have warnings and training as the punishment. Thank you.

**CHAIR:** The use of a commission, from your union background: I can see where you are coming from.

**Mr KRAUSE:** Do you have meetings with the Independent Assessor as the president?

**Ms Anstee:** That has commenced. There is this tripartite forum, you will notice, in the department's executive summary.

**Mr KRAUSE:** Are they public meetings or private meetings?

**Ms Anstee:** They are private.

**Mr KRAUSE:** What do you talk about?

**Ms Anstee:** Usually operational procedures. We have only had one meeting. It only started last November—it was established. It consists of the departmental delegates, the Office of the Independent Assessor and the tribunal, and I think there was a deputy director-general from the local government division there as well. Those meetings are generally private, but they look at the framework generally and how it is operating—operational procedures.

**Mr KRAUSE:** Based on what I have heard here today, and I have been waiting very patiently to ask a question, it sounds like a very legal heavy process in the tribunal, where people are legally represented and there are directions hearings and things like that. It is like a court in many respects.

**Ms Anstee:** It is.

**Mr KRAUSE:** Do you see an issue with the fact that you would be meeting with the Independent Assessor without councillors being present or their legal representatives in such a legal heavy process?

**CHAIR:** Do you mean councillors as in members of local government or counsellors as in legal representatives?

**Mr KRAUSE:** Councillors in the sense of people who have had complaints made about them. A judge would never meet with the prosecutor when they do not have a defence person present.

**Mr BROWN:** Judges would meet with prosecutors to talk about administrative matters all the time.

**Ms Anstee:** This is just operational procedures we talk about at those meetings. To this day I have never discussed a case with the Office of the Independent Assessor. We have only had one meeting. The next one is scheduled in March and it is all to do with operational procedures and how to facilitate the smooth running of the processes between the Office of the Independent Assessor and the tribunal and vice versa. That is my understanding of it. The department delegates are there as well. They are the funding bodies, I believe, for both.

**Mr KRAUSE:** Before I proceed I would like to remake a declaration that I put on the record in the private hearing back in 2021 and also declare that I know one of the previous people who are subject to a tribunal adjudication, Mr Nigel Waistel, but I do not think any of that impacts my ability to participate in these proceedings today.

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You said that it can take 200 to 300 hours for a decision to be come to by the tribunal. That seems like a lot to me. Very much like a court, it is a complicated process. I wonder if you could give us a flavour of the types of matters that you are adjudicating on for this inquiry's records. I have heard about matters involving forwarding emails against council policies, councillors accusing other councillors of being 'slow' in picking things up and I have also heard, of course, about a complaint made against the Barcaldine mayor, Councillor Sean Dillon, about COVID policies and his comments on that. Can you give us, please, a flavour of the other matters that you are adjudicating on that take somewhere between 200 and 300 hours for the tribunal to make the decision.

**CHAIR:** This is outside what is in the written submission? The written submission outlines that. Do you want to talk to the submission in answering this?

**Ms Anstee:** Certainly.

**Mr KRAUSE:** I am happy for the president to point us to the submission, but to the extent that you would like to expand on giving us your impression of flavour—

**Ms Anstee:** I think if you are happy for me to mention generally, I can discuss what is involved in the hearing process.

**Mr KRAUSE:** I am not asking for specific names, places or anything like that but the nature of complaints that you are investigating.

**Ms Anstee:** We do not investigate.

**Mr KRAUSE:** Sorry, I will use the word 'adjudicate' again.

**Ms Anstee:** Okay. We get the complaints and we make a determination. The nature of these includes allegations of racial discrimination, sexual harassment, bullying, serious breaches of the code of conduct and the behavioural standards and, as we have mentioned, conflict of interest. There are quite a number, and that includes failure to declare a material interest at a council meeting or failure to include an interest in your register of interests for a significant period of time—in excess of the 30 days—and that could go over, with some people to a couple of years or more.

**Mr KRAUSE:** That can take 200 to 300 hours?

**Ms Anstee:** This is a hearing we are talking about. For example, if I can draw the analogy between a court case in, say, the District Court or the Supreme Court, they would take at least that time.

**Mr KRAUSE:** Yes, but they do not deal with cases involving failure to declare a conflict of interest or update a register.

**CHAIR:** Member, I think we have talked about the range of issues, including a variety of harassment and other misconduct issues.

**Mr KRAUSE:** They deal with murders.

**CHAIR:** I think characterising these as trivial is trivialising it too much.

**Mr KRAUSE:** I did not say that, Chair. I do not appreciate you saying that about my comments. I did not say I trivialise it. I ask you to withdraw that, please, Chair.

**CHAIR:** Member, you are here on the vote of the committee. I am just cautioning you against how you are characterising the issues raised in this submission already.

**Mr KRAUSE:** Mr Chair, I did not characterise anything and I will not have you put words in my mouth, please.

**CHAIR:** That is fine. Let us just focus on the answer from the president of the CCT.

**Mr McDONALD:** Chair, I have a point of clarification regarding the administrative process.

**CHAIR:** Before we go to that, Ms Anstee, is there anything you wish to add to those sorts of questions?

**Ms Anstee:** The only thing I would have added is that the entire hearing process—that 200 or 300 hours, and that is three people; in a normal court you only have one person—includes the writing process. The writing process is stipulated under the act and it then goes to QCAT, so it is quite extensive. Once you have the extensive report written up, that has to go to the other two members. They have to agree with the way it is argued. That takes time as well. You cannot read a 10,000-word paper in five hours and comment on it and give feedback, and then it may have to be redrafted. We have that in addition to a normal court. We have three people who put in a lot of effort to agree on things and once it is agreed it is released. The hearing process under this act is extensive; it is not just going to a court and asking for a decision and getting an oral hearing on the day. We are not permitted to give oral judgements.

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**Mr McDONALD:** I have a point of clarification that carries on straight from that. In regard to the act, doesn't the act allow you to make a decision to have one tribunal member hear a matter, or two or three?

**Ms Anstee:** Two is the minimum. The one person comes into investigations. We have a small investigative role under inappropriate conduct. Inappropriate conduct investigations—not decisions—are conducted by one member only. You will see in our figures attached to the submission that those matters are processed very rapidly.

**Mr McDONALD:** Thanks for the clarification.

**CHAIR:** We have just about run out of time, but I want to raise a couple of issues we may have to address on notice. Your submission is to change 150AL to give the tribunal the ability to dismiss a case. Could you outline why this might be a better option than what is being outlined elsewhere? Would you like to take that as a question on notice?

**Ms Anstee:** I can briefly address that. At the moment, the tribunal must go to a hearing. There is no option; we must go. We can decide that it is not sustained but, as has been alluded to, that could be quite a lengthy process. You still have to write the decision so there still could be a lot of time involved.

I am referring in that to certain limited matters that may come to the tribunal and by the time we get to the hearing something has happened in terms of there being new evidence or there being exceptional circumstances—for instance, somebody has had major health issues, has left the country or whatever. There could be certain matters where it is not in the public interest—in terms of resourcing or in terms of transparency and accountability issues—to continue with that matter. At the moment, we do not have any power to dismiss that matter.

It also could be that it has come over from the prosecutor and the prosecutor has sent us more evidence and decided that after six months or something they no longer wish to proceed with that. In the interests of transparency and the principles of the act, accountability and integrity, it does appear that it would be more appropriate for the tribunal—which is tasked with determining those matters in accordance with the principles of the act—to make a fast decision to dismiss them if there is substantial evidence and it is made by an impartial decision-maker. I hope that clarifies it.

**CHAIR:** That should be fine. The time allocated for this session has expired. There are some questions on notice: from the member for Burleigh about time frames regarding QCAT cases; from the member for Burleigh on record keeping and laptops of the CCT; from the deputy chair on notifying complainants; and from the deputy chair on the summary of meetings with the minister requesting resources. If we have an issue with those we will let you know, but they will be communicated to you. We ask if you can provide the answers to those questions on notice by Wednesday, 16 February. If there is an issue with that, just let us know. Thank you for your time today.



**FLORIAN, Ms Kathleen, Independent Assessor, Office of the Independent Assessor**

**HODGKINSON, Ms Jane, Director, Media and Engagement, Office of the Independent Assessor**

**KOHN, Mr Charlie, Deputy Independent Assessor, Office of the Independent Assessor**

**CHAIR:** I welcome officers from the Office of the Independent Assessor. Thank you for appearing before the committee today. I invite you to make an opening statement, after which committee members will have questions for you.

**Ms Florian:** I begin today by respectfully acknowledging the traditional custodians of the land on which we meet and pay my respects to elders past, present and emerging. I would like to start with two points of clarification, if I may. The first is a point of clarification arising out of the earlier evidence. The OIA employs no barristers. The OIA has two permanent solicitors—one is a PO5 and one is a PO6. It also employs graduate lawyers. The four lawyers who conduct tribunal matters are the two graduate lawyers and the PO5 and PO6.

Another point of clarification arises out of an exchange with the member for Lockyer on the last occasion—and my apologies for not addressing this at the time. During the last meeting, I reported that the OIA had dismissed 51 per cent of all complaints on initial assessment and that this had increased to 63 per cent in the last quarter. I believe the member for Lockyer interpreted that as meaning that just under half of the complaints still continued to be investigated by the OIA.

To make this clear, since establishment the OIA has investigated 28 per cent of complaints received. Over time, the number of matters that are investigated has decreased. In this financial year it is 20 per cent of matters. As for the remaining percentage of matters, the committee would understand that some complaints are referred to the CCC as suspected corrupt conduct and that others are assessed as suspected inappropriate conduct and are referred to local governments to determine. Some are reclassified as Enquiries.

At the conclusion of an investigation, matters are again reviewed depending on the evidence which comes out of an investigation and the full circumstances of the complaint are then understood. After this, only six per cent of all complaints progress to OIA legal. At this point, they undergo a statutory natural justice process, which leaves four per cent of all complaints referred to the CCT to decide. Notwithstanding this, the number of matters referred to the tribunal by the OIA and the number of matters sustained by the tribunal have substantially increased compared to the disciplinary system that existed prior to the establishment of the OIA and the CCT in 2018.

I would also note, as previously reported, that the OIA has dismissed a large number of matters where there is evidence of misconduct but there is no public interest in proceeding or where proceeding is not a justifiable use of resources given the growing backlog of matters within both the OIA and the Councillor Conduct Tribunal. The OIA is acutely aware that councillors have very important and difficult jobs and that this level of oversight is new to councillors. Balancing this is the important positions of trust that local government councillors hold and public expectations rightly held of integrity, accountability and transparency in local government. The legislative amendments introduced in 2018 set a high bar for councillor integrity standards and included a new code of conduct for councillors in Queensland, a new extended definition of misconduct, new mandatory reporting requirements for local government officials, new offences and penalties that could be prosecuted in the Magistrates Court and new procedural fairness requirements. The OIA has applied this legislation consistently and in good faith.

The OIA is conscious that there is a view held by some that integrity standards expected of councillors are too high. Ultimately, that is a policy question. Consistent with terms of reference No. 3 of this inquiry, however, the OIA has made a series of sensible, balanced recommendations that could be applied to make the system more effective while maintaining appropriate high integrity standards for elected officials who perform important public roles. I would open up to questions at this point.

**CHAIR:** Excellent.

**Mr HART:** Chair, before you proceed, something has just been brought to my attention that I think we need to ask the OIA about before we proceed any further.

**CHAIR:** Well, you need to ask—

**Mr HART:** I think we should ask the OIA how many complaints the member for Capalaba has made to her office before we proceed any further, and then the committee may need to decide whether we proceed.

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**CHAIR:** We might need to go into a closed session for that.

**Mr HART:** I think so.

**CHAIR:** We are going to have a closed meeting.

**Proceedings suspended from 10.30 am to 11.00 am.**

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**CHAIR:** Before we recommence questions, I am going to ask the member for Capalaba to address any questions of perceived conflict of interest.

**Mr BROWN:** Thank you, Chair. It is well documented on the public record that I have made complaints to the OIA. I think many members have had many dealings with government departments and tribunals. I will not be entering into those specific matters about those specific cases, as this is a general review into the operation of the OIA and the CCT.

**CHAIR:** I emphasise that if those matters arise then that will be addressed—if they do arise. I also want to emphasise that all confidential submissions to the committee in this inquiry have remained confidential to all permanent members of this committee.

I want to ask a question about something that has been raised by a number of different submitters. They do not believe that council should be recording the complaints about inappropriate conduct that have been dismissed. Those who have opposed that have said that having it listed is a good educative tool for people to see what has been dismissed and what has not been dismissed. It might be said the other way, that having this listed on a public register on a council's website may encourage people to launch some more complaints. Can you talk a bit more about the impact or the role of a councillor conduct register?

Firstly—and I will lodge this—last night I printed out the councillor conduct register for my council, the Moreton Bay Regional Council. It has listings from December 2018 of what has happened. I will table this. Certainly many matters have been dismissed by the OIA. There are some serious ones in there or some significant ones but also some others. For example—

It was alleged that a councillor 'liked' and therefore endorsed a comment on a post to a community Facebook page, which in part referred to a member of the public by an offensive name

What are the advantages or disadvantages of recording those dismissed inappropriate conduct complaints?

**Mr McDONALD:** Before the Independent Assessor answers that, Chair, could you clarify for the public forum that you have agreed to extend the time?

**CHAIR:** Yes, we have agreed to extend the time between 12.00 and 12.15.

**Ms Florian:** I suppose the advantage of recording that material on a public register is that there is full transparency of both complaints that are dismissed and complaints that are sustained. The disadvantages are that what appears on the public record is just a small summary of the complaint and a summary of the outcome so I think it would be difficult, without having a proper understanding of the facts of each matter, to take from it educative lessons. Some certainly you could, but broadly I would make that observation.

One of the reasons we have advocated in the law reform submission for dismissed matters not appearing on the councillor conduct register is that, while there are advantages to that, there is a substantial resource commitment required to ensure that those conduct registers are kept up to date. The OIA makes recommendations to council, but it is a question for council ultimately as to what they include on those registers. Our observation has been that those registers are followed closely, including sometimes by the media, and that, based on the limited information that is in the register, things can be extrapolated, sometimes not factually. In my view it can be a bit mischievous in that regard. Whilst I accept fully the advantages of including that on the register, I think on balance our view is that it should not be on the register, noting that the OIA does report and is required to report in its annual report on the number of matters dismissed or the subject of no further action overall.

**CHAIR:** Another issue that has been raised in submissions, and people will be able to see this, is that a few people have proposed having a liaison officer at councils for when matters do need to be assessed or investigated by your office. Once again, what would be the advantages or disadvantages of this proposal?

**Ms Florian:** Essentially and informally we already have that. Most inquiries that are made with councils by the OIA are made through the chief executive officers. There are two circumstances in which we do not go through the CEOs. The first circumstance is when it relates to a witness we would need to speak to either to assess the matter or to investigate the matter who has direct knowledge of the matter and from whom we would obtain an affidavit to take a matter to the tribunal. In that case we would need to speak to the direct person. As an example, if there was a complaint that a councillor had breached the acceptable request guidelines then we would need to speak to the council employee whom the councillor spoke to. We would not go through the CEO and get a second-hand account of that, as it were. The second circumstance in which we will not go through the CEO is a

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small number of matters where it is alleged that the CEO has been involved in conduct with a councillor or is in some way connected to a complaint or conduct about a councillor. I can give examples of that in camera, if you would like that.

**CHAIR:** I think that should be fine at this point. Essentially, it sounds like something that is for councils to decide. Practice is evolving about this. Certainly it is more incumbent on the councils to decide how they actually deal with it if they have a liaison person.

**Ms Florian:** We certainly go through the CEO. If a councillor would prefer to nominate a liaison person—and the Brisbane City Council has—then we are certainly open to that as well. It is whatever is the most efficient way of us being able to get timely responses so that we can turn things around.

**CHAIR:** This is a larger question, and once again it is seen in some submissions. People have a variety of opinions on how you apply the public interest test in assessment. What is the definition that you consider, or what is the expanded definition of what you use when you decide whether to assess, investigate or follow up a complaint?

**Ms Florian:** There is no public interest test that is required—

**CHAIR:** More of a definition?

**Ms Florian:**—specifically in the legislation other than in the local government principles that apply to all decision-makers under the act who are to have regard to the public interest generally. The OIA, in determining whether there is a public interest in progressing a matter to the tribunal, for example, or in progressing a matter to an investigation, has looked at things such as the experience of a councillor, whether they are a new councillor, whether their tenure is short. We have looked at things like new legislation that has come in and whether the mistake was made on the day or the day after the new legislation and before training had been delivered, for example.

We have looked at things like where a councillor has subsequently become ill and has a significant health condition. We have looked at where there are indications that not only one councillor but all councillors have engaged in misconduct and that is because of systemic capacity issues within a council. We have looked at issues such as whether a councillor is still a councillor and whether the matter is sufficiently serious for a former councillor to proceed with the matter or whether that is a matter that should not be proceeded with.

We have looked at matters like whether a councillor has been acting on legal advice. If the councillor had acted on conflict-of-interest advice from the Integrity Commissioner, for example, we would not proceed with the matter. If a councillor has taken the initiative to think that there may be a concern and to obtain legal advice, we will not act on the matter because even if we disagree with that legal advice there is evidence there that the councillor has, in good faith, attempted to deal with the conflict-of-interest provisions.

We have applied a broad concept of public interest and when it is in the public interest to proceed and when it is not. That includes both at the decision to investigate stage and the decision to refer a matter to the Councillor Conduct Tribunal. We balance the fact that we have legislation that is complex and has changed and there are capacity issues with our statutory role to uphold the integrity of local government councillors. That can be a difficult balance, but we attempt to deal with that in good faith.

**CHAIR:** Obviously public interest is a principle that can be applied to a range of extenuating circumstances.

**Ms Florian:** Correct. There is no statutory definition, as it were. The examples that I have given you are examples of where we have applied the public interest not to proceed with either investigations or CCT matters where there are circumstances in the manner that I have described.

**CHAIR:** Certainly some of the submitters would love to see a high-level definition for that. But if we are talking about principle, I understand where we are coming from. I have a few other questions but I will hand over to the member for Lockyer.

**Mr McDONALD:** Ms Florian, thanks for the clarification of some of those figures from our last meeting. Some of the submissions have talked about the conflict-of-interest provisions that were once substantially ethical and integrity issues now being much more about legal interpretation. Do you agree with that?

**Ms Florian:** The conflict-of-interest provisions have undergone a few iterations. When the OIA was established, roughly at about the same time there were new conflict-of-interest provisions introduced in 2018. They were introduced following the Belcarra report. They were quite straightforward and, in my view, really supported councillors to develop their capacity. Councillors did not really have a long time to settle in with those conflict-of-interest provisions.

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The conflict-of-interest provisions that exist now are much more extensive. I think they went from being over four pages and eight sections to being over 25 pages and a significant number of sections. It is certainly the case that conflict of interest now is a much more legal exercise. I think there is an issue with legislation that when you try to be really prescriptive about it you cannot anticipate all the different circumstances that may come up. The more prescriptive you are about legislation, the more you can end up with unintended consequences. I guess they would be my observations.

**Mr McDONALD:** Certainly in her submission to us the Integrity Commissioner outlined that she believed it was very legally heavy now and was one of the reasons she stopped providing advice to councillors and mayors. Has the Integrity Commissioner not providing advice to councillors and mayors impacted the operations of the Independent Assessor?

**Ms Florian:** It was the case that if the Integrity Commissioner provided advice to a mayor or councillor and someone made a complaint, we raised that with the councillor. For example, we raised an investigation and then the councillor said, 'I got advice from the Integrity Commissioner. Here's the advice.' If they had acted substantially in accordance with that advice, then we would not proceed with the matter. We continue to do that, even though the advice is now being obtained from a range of other solicitors. My view on that is that that advice is very inconsistent. We do not proceed with a matter even when we do not agree with that advice, but it is an issue about consistency of that advice.

**Mr McDONALD:** Tell us about that process. That is the first I have heard of it. You actually go out to other solicitors to seek information around—

**CHAIR:** I think that is solicitors for the people who have cases before them.

**Mr McDONALD:** Is that the case?

**Ms Florian:** Yes. I think one consequence of the Integrity Commissioner no longer being in the field is that this is an area where solicitors have gone out to other lawyers to obtain advice at additional expense, because the Integrity Commissioner's advice came at no cost to the councillors or the insurance scheme that delivers that support for the councillors.

**Mr McDONALD:** When we last met you outlined to the committee how you were relying on decisions of the tribunal and other findings to use as a precedent for other matters. We have heard this morning that the tribunal is dealing with a backlog going as far back as June 2020. How is that impacting the operations of the Independent Assessor?

**Ms Florian:** It impacts significantly on the experience of councillors and the concerns that they raise about the length of time. I think there can be a perception that the OIA is responsible for all. You have heard this morning that the tribunal have had their own issues in terms of being able to address matters in a timely way. I do not think anyone would argue that that length of time is acceptable or appropriate, but I think people are working to the best of their ability in good faith to progress these as soon as we possibly can.

**Mr McDONALD:** Were you aware of the delay before this morning?

**Ms Florian:** I reported that in both my first submission and the second submission.

**CHAIR:** Perhaps you can point out which pages.

**Ms Florian:** The longest matter that has been at the CCT was referred by the OIA 20 months ago and no directions have been made on those matters.

**Mr McDONALD:** We also heard this morning that a meeting was established in November 2021—it was described as a tripartite meeting—between yourself, the tribunal president and the department to try to resolve these things. The tribunal has been operating since December 2018. This is a terribly long time and a failure on timeliness in addressing the matters. Has that meeting of November last year produced any outcomes that could see the complainants and those subject to these matters being satisfactorily dealt with?

**CHAIR:** Bear in mind the Independent Assessor is being asked by you to report on a meeting where perhaps not everyone at that meeting has agreed to release that information. You could perhaps talk about some of the things that may have flowed from that meeting—like this review, for example.

**Mr McDONALD:** It is about resourcing and it is about—

**CHAIR:** You are asking her to report back on a meeting when not everyone may have agreed to release all that information. I am just saying to the Independent Assessor to bear that in mind in answering the question.

**Ms Florian:** My understanding of those meetings is that they were to discuss administrative matters and law reform issues that may be common across the areas. On the question of resources, there is no decision-maker at that meeting that can make any decision about resources. That would continue to be something that the department and/or the OIA separately or the CCT separately would advance.

**Mr McDONALD:** Would the department or anyone hold minutes of those meetings?

**Ms Florian:** I would imagine so, yes.

**CHAIR:** For clarification, you talked about legislative reform. Are they the kinds of things that have been reproduced in some of the submissions we have seen before us?

**Ms Florian:** We have had one meeting, which was in late December of last year. By that point the law reform submissions that we had made had been made in the submission, although we had previously reported to the department many of those law reform submissions.

**Mr McDONALD:** That meeting was actually called after this inquiry was requested or started?

**Ms Florian:** As reported by both ourselves and the department in the last evidence, yes.

**Mr McDONALD:** Can you point me to any legislation—I am thinking of the Public Service Act—that would require the provisions of the Public Service Act to apply to local councillors or mayors?

**CHAIR:** I know where you are going with this, member for Lockyer. That is pretty broad and it is going out on a tangent. The Independent Assessor may or may not want to answer that. I am struggling with that question and I think we all would be.

**Mr KRAUSE:** On what basis are you struggling with it, Chair?

**Mr McDONALD:** It is a pretty simple question.

**CHAIR:** How does this apply to—what is the question before us?

**Mr McDONALD:** Does the Public Service Act apply to mayors and councillors?

**CHAIR:** How does this apply to our terms of reference?

**Mr BROWN:** It does not.

**CHAIR:** The Independent Assessor can answer or not answer that one.

**Mr MADDEN:** Or take it on notice.

**CHAIR:** Or take it on notice.

**Mr McDONALD:** It goes to the interpretation of legislation, particularly around political freedom of speech and how a mayor or councillor can be brought in under the code of conduct under the Public Service Act.

**CHAIR:** Hang on. You are looking at the Public Service Act, implied freedom of political speech and councillors. That is very broad. I do not know if the Independent Assessor has anything to add at this point.

**Mr McDONALD:** She has not had the opportunity to answer the question.

**Ms Florian:** There may be some confusion here and I can address that. The Public Service Act does not apply to mayors and councillors. The code of conduct, which is made under the regulations and required by the Local Government Act, does apply to mayors and councillors.

**Mr MADDEN:** My questions relate to the public interest test, and you have mentioned previously the threshold as to whether the public interest test might mean a matter is not investigated because it does not reach that threshold. Where you have an investigation with regard to a councillor and that councillor either resigns or is not re-elected, are there situations where an investigation ends at that point?

**Ms Florian:** Yes. Firstly, I would like to clarify about being able to dismiss matters in the public interest. We can dismiss matters under two sections, 150X and 150Y. We can only dismiss matters in the public interest under 150X. That means only matters that have complaints that have been raised by members of the public. We cannot, for example, dismiss complaints from councillors or CEOs in the public interest. We must dismiss those, if it is appropriate, as an unjustifiable use of resources. That is why you see a large number of matters that may be dismissed for an unjustifiable use of resource, and that was a question raised on the last occasion. Going more directly to the question—

**Mr MADDEN:** Whether a councillor is a councillor or a former councillor—that is what I am asking about.

**Ms Florian:** After the last local government elections we reviewed all matters for which an investigation had been commenced where a councillor was no longer a councillor and had regard to public interest considerations as to whether we would proceed with those investigations. That was a process which was anticipated by the then minister, Mr Hinchliffe, in the explanatory speech. We dismissed something like 57 investigations at that point. We retained about another 30 investigations into former councillors where the misconduct that was alleged was more serious and the public interest weighed in favour of continuing with those matters.

I would like to make it clear that the public interest is not necessarily the councillor's interest. I know the councillors are very well represented by the LGAQ in expressing what are the councillor's interests in particular matters. That is not necessarily the public interest. We certainly take into account the unique and difficult circumstances of the councillors in the situations I have previously covered.

**Mr MADDEN:** There was a review at that time which you mentioned. It was reviewed on the basis of whether a councillor resigned or was not re-elected. That is the case?

**Ms Florian:** Correct.

**Mr MADDEN:** That being the case, if a decision was made to cease an investigation on the basis that a councillor was not re-elected or resigned but subsequently a councillor resumed being a councillor with that same council, does that mean that that investigation could reactivate?

**Ms Florian:** I would say no. There have been some matters, for example, where criminal charges have been preferred against a councillor where we have not dismissed the matter but we have parked the matter awaiting a further outcome of those criminal charges or other circumstances. I would like to distinguish that process.

**Mr MADDEN:** When you say 'criminal charges', do you mean that criminal charges may apply ultimately at the end of your investigation but not criminal charges at the present time?

**Ms Florian:** There may be situations where we receive a complaint about a matter and either before or after we receive that complaint the councillor is criminally charged by another agency. In those circumstances, it is not going to be the best use of our resources to invest time in investigating and proceeding with that matter if they are facing criminal charges which are more serious. In those situations we will park those matters to await the outcome of those criminal charges or, where that has occurred, we have in fact reviewed those after a substantial period of time has elapsed and dismissed them.

**Mr MADDEN:** The substantive answer to my question is that it is not your practice that you park a matter and then if the councillor is re-elected you reinvestigate? That is not your practice?

**Ms Florian:** No—well, if we park a matter then we can re-enliven the matter because it is not dismissed.

**Mr MADDEN:** Was it the practice of the Office of the Independent Assessor in 2020 to notify any councillors that if they did not renominate for council or were not re-elected for council—if they gave written undertakings not to do that—you would not pursue the matter?

**CHAIR:** Please be cautious with that. There may be some cases that are currently live. Feel free to answer.

**Ms Florian:** I am happy to answer that. That is a slight misrepresentation of the situation. What occurred was that there were some councillors who belonged to councils that were disbanded. They were the subject in some cases of criminal investigations and some cases they were not. We received complaints in relation to the conduct of the former councillor. In trying to determine the public interest in whether we should proceed with those matters, we asked councillors whether it was their intention to run for local government again. Based on that advice, we then made a decision about whether there was a public interest in continuing to invest resources in that matter or not.

**Mr McDONALD:** Ms Florian, you just mentioned that sometimes you park matters and then recommence matters. Has Mayor Dillon been updated on the status of that investigation?

**CHAIR:** Hang on. This is a matter we have dealt with in a private meeting.

**Mr McDONALD:** It was in public that it was disclosed that the matter was parked pending this inquiry.

**CHAIR:** Can I caution—

**Mr McDONALD:** What process do you have of notifying—

**CHAIR:** I think that is talking about the process of notifying a person generally—not this case but in general ones that have been in some form of abeyance.

**Mr McDONALD:** And now recommenced.

**CHAIR:** We are talking about a general process of notifying people if for some reason it has been parked or in abeyance.

**Ms Florian:** It does not happen that often so I am not sure that we would say that there is a general process.

**Mr McDONALD:** Point of clarification: it does not happen that often that we park and recommence matters?

**Ms Florian:** Correct.

**Mr McDONALD:** Or it does not happen that often that we let them know?

**Ms Florian:** It does not happen that often that we park and then recommence matters. Often if we park matters they may ultimately be dismissed.

**Mr McDONALD:** But you usually then advise the complainant that you have recommenced the matter?

**Ms Florian:** We would, because there would be an outcome. Whether we advise them immediately that we had recommenced the matter—

**CHAIR:** Can we bear in mind that we should not be talking about cases in any sense that are still live. I caution everyone. We need to be very careful about this. Member for Burleigh?

**Mr HART:** When the office of the Integrity Commissioner ceased giving advice to councillors and mayors, is it your understanding of the legislation around that advice that mayors and councillors could have used that as a defence in their cases moving forward?

**Ms Florian:** There is a specific provision in the Integrity Act. It is referenced in the most recent submission. I will just access that for you. It is section 40 of the Integrity Act which is limited protection for acting on conflict-of-interest advice which says that if a designated person, a mayor or councillor does an act to resolve the conflict substantially in accordance with the Integrity Commissioner's advice on the issue then they are not liable in a civil proceeding or under administrative process for the act taken by the person to resolve the conflict.

**Mr HART:** Has the office of the Integrity Commissioner withdrawing from giving this advice led to some of the problems with finalising these cases at all, from your perspective?

**Ms Florian:** I think it would have led, member for Burleigh, to councillors having regard to other persons for legal advice—a range of other persons.

**Mr HART:** What would the range of other persons be? Given the Integrity Commissioner's advice was free, are they now having to pay for a solicitor to give them advice?

**Ms Florian:** Yes. It would be solicitors, maybe from the LGAQ or the department, but neither provide legal advice, as I understand it.

**Mr HART:** Inside your office, where are your records kept?

**Ms Florian:** All our records are kept electronically.

**Mr HART:** Would they comply with the Public Records Act?

**Ms Florian:** Yes, of course.

**Mr HART:** Does anybody else have access to your computers?

**Ms Florian:** No, they do not. The department provides assistance to the OIA on a range of issues such as human resource, finance and IT services. Our IT services are provided by the department.

**Mr HART:** Does that mean the department has access to your records?

**Ms Florian:** I do not know the answer to that question.

**CHAIR:** I think you will need to ask the department that one.

**Mr HART:** I will ask the department that one. You gave us a table of some complaints that had been received. I will not go into specifics. You have identified a number of quite concerning cases that you have had no response from the councils around. Some of them are very concerning. What is the process in place if a council takes no notice of your referral to them about these cases? What do you do?



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**Ms Florian:** I think you are referring to the matters listed in appendix A. These are inappropriate conduct matters which are assessed by the OIA but referred back to the local government for investigation. The OIA has no statutory oversight of how inappropriate conduct is dealt with, but we have attempted to track those matters so that we understand how the system is working, effectively. We have contacted the relevant councils asking for outcomes and have not been provided any outcomes on those matters. If it has only been in about the last 12 months then we will refer to that matter as active, but if matters are one, two, three years old and the council has declined to provide a response to the outcome of an inappropriate conduct matter then we list that as no response.

**Mr HART:** What happens to those complaints about inappropriate conduct then? Is it nothing? Are they referred to the department to deal with?

**Ms Florian:** Under the legislation it is a matter for local governments to deal with inappropriate conduct.

**Mr HART:** Have you raised this as a concern with the department, that some councils are not responding to investigate cases of inappropriate behaviour?

**Ms Florian:** I have raised concerns about inappropriate conduct in our annual reports, to the department and to the local government mayors and councillors in various forums in which I have spoken. We have also taken the step—and you will see from the list of inappropriate outcome referrals that from the first matters referred nearly all of them were not sustained or no response until about September 2019. At that point we introduced a series of initiatives to try to assist councils to deal with inappropriate conduct consistently and fairly. That involved identifying three independent investigative people who could undertake investigations for councils if they asked, worked with those investigation agencies to prepare a draft investigation report, which did not overdo those investigations but met necessary standards of natural justice and consistent with the investigation policy and the level of low-level conduct that this was. We shared that information with all CEOs across Queensland. We also provided them with a sanction table that had been developed by the administrator of Logan in consultation with us which would provide councils with some very general guidance about possible sanctions if inappropriate conduct was made out. We did everything that we could to make this easier for councils. Since that time, how inappropriate conduct matters have been dealt with has substantially improved, but I think if you look at annexure A you will see that that is starting to drop off again now.

**Mr HART:** Yes, there are still a few 'no responses' in there. Are you aware whether councils have taken up of the offer of dealing with the three people you identified there? Is anybody doing that?

**Ms Florian:** Yes, I am aware that a number of councils have done that and we, in fact, can recommend that under the legislation if we refer a matter back to local government, and we will do that if it is a complaint about a mayor so it can be done at arm's length, or if it is a councillor or councillor complaint, so that there is no sort of politicisation of that, so that is independently looked at. We will recommend that in those two circumstances. Both the Brisbane City Council and the Gold Coast council have determined separately that they will send all their matters to the CCT to investigate those matters. The CCT, however, does not have investigative powers so generally they are dealing with those matters based on what is referred by the OIA which is not an investigation because we cannot investigate that under the act.

**Mr HART:** Are you seeing a trend in any particular area or any particular council that needs to be addressed?

**Ms Florian:** I think it is the case that there are a small group of councils across Queensland where there are relationships which are highly politicised and I think it is particularly difficult in those councils for them to deal with inappropriate conduct matters consistently, with the best will in the world, because it is very difficult in those circumstances.

**Mr KATTER:** There are gaps in my knowledge of how you operate, so I am really interested in the response. My interest comes from the point of view that I see in my own electorate matters that are brought to the OIC that are investigated that seem to me of smaller significance when there are bigger ones that have been left or considered not worth further investigation. My understanding from that is that there are elements of an issue where if they tick the box in this and this area—say in the case of a councillor they did step out of the room or did declare a conflict of interest but there was still that public perception, and any reasonable person observing the facts surrounding that issue would say, 'Crikey, there would still be a lot of consideration that there is something untoward happening there,' but that falls outside your terms of reference of what you investigate. Do you see that as an

issue affecting integrity issues in the councils—that there are limitations on how far you can investigate? I do not understand that triage process of ‘do we go further with this?’ or ‘do we put that one back to the council?’

**Ms Florian:** Thank you for your question. I can assist with that. Because of the volume of complaints that we have received, we undergo a very rigorous triage process. We have introduced a standard, I suppose, for ourselves for commencing an investigation, and that is whether a matter raises a reasonable suspicion of inappropriate conduct or misconduct based on the complaint that has been received and preliminary inquiries that we can undertake. We had to undergo that triage process—and it is not dissimilar to processes that are undertaken by other integrity and complaint agencies—to ensure that we are investing our resources in the matters that most warrant an investigation or which are most likely to result in a CCT referral, for example. Often people are very invested in the complaints that they take forward and under assessment we do not undertake a detailed investigation at that point. We assess it based on the complaint and based on preliminary inquiries, and that is driven by a need to rigorously manage how we apply our resources to the matters under consideration.

To the second point—and please forgive me if this is not where you are going—I think what you are referring to there is: in conflict-of-interest matters sometimes councillors will declare a conflict of interest but then remain in the room and continue to vote on a matter. You are concerned about the appearance of that; is that correct?

**Mr KATTER:** Not so much. I was speaking more in general terms. You are being specific there. That might be the element of scrutiny in terms of the OIC but then all the other issues surrounding that matter do not look good. The people of that town might say that still stinks, that whole thing. It goes through this process of integrity and then it comes back saying, ‘We did not find anything there.’ I wonder if there is enough scope for your organisation to say, ‘It passed this and this and this’. I understand that you can refer things back to council, but is there latitude for you to say, ‘You complied with this and this and this element, but we think you should have a serious look at this’? On some of the correspondence I have seen sent back on some issues—and I did not thoroughly investigate it myself—I have been very surprised that it did not suggest it should be looked at further.

**Ms Florian:** It is the case that we have to rigorously determine what we do proceed with and what we do not, and in making that decision we are applying the legislation and we are applying the information that has been obtained on assessment or during the course of an investigation. Bear in mind that sometimes allegations will be made and the witnesses do not support those allegations or they are fearful of supporting those allegations, but we must make decisions based on the evidence or the information that is obtained.

**Mr KATTER:** Yes. Just to clarify, there is no real latitude for you, though. You have made that pretty clear. You make the decision on the evidence. Granted, you have to try to get through this stuff and you have to be rigorous in trying to deal with it and get it out the door, but there is no real latitude or requirement for you to think it should go further based on what you have been asked to look at and what has been put in front of you; there is no referral for you or anything else or to give some commentary beyond it? There is no latitude to provide commentary or anything saying that someone should have another look at it?

**Ms Florian:** There is no provision in our act that allows us to report matters, as there may be in other legislation. If it raises a reasonable suspicion of corrupt conduct then we will refer the matter to the Councillor Conduct Tribunal. I think you might be talking about a particular matter and if there is assistance that I can provide in camera then I am happy to do so.

**Mr KATTER:** Sure. Thank you.

**Mr BROWN:** With regard to councillor-on-councillor complaints, when you are tracking that does it include anonymous complaints from councillors against another councillor or can you tell that information?

**Ms Florian:** Our councillor-on-councillor complaints are about 12 per cent of all complaints that we receive. We will only identify it as a councillor-on-councillor complaint if it is identified as a councillor, bearing in mind that councillors have a mandatory reporting obligation under the act to raise inappropriate conduct or misconduct on the part of another councillor. It is clear from the circumstances of some anonymous complaints that they are coming from councillors, and I would note that since the LGAQ voted on the issue of whether or not the OIA should be receiving anonymous complaints the number of anonymous complaints that we have received has increased and it is clear from those complaints that many of those are coming from councillors.

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**Mr BROWN:** Do you know a number? That percentage increase would be up to what, do you think?

**Ms Florian:** Perhaps I could take that question on notice because I do not want to mislead you by reading something on the hop; I want to make sure we get that information correct. Prior to that, we did not receive a great number of anonymous complaints and we tended to receive more anonymous complaints from First Nations councils. I think that is a product of people making complaints in very small communities.

**Mr BROWN:** Earlier you talked about the tracking of inappropriate issues, but how do you track the ones that you refer up to the CCC and how is that published as well?

**Ms Florian:** I think it is a requirement in our annual reports that we report on the number of matters referred to the CCC. If not, we certainly do report on that in all our annual reports. We do not track what happens with those matters if we refer a matter to the CCC because that is a matter for them to deal with. A large majority of those matters do come back to us to investigate, so although it meets the definition of corrupt conduct we investigate it as potential misconduct.

**Mr BROWN:** And then it is tracked if it comes back?

**Ms Florian:** Yes.

**Mr BROWN:** For the ones that go to the CCC, does the CCC detail those or publish the outcomes of those, in your experience?

**Ms Florian:** The CCC also have statutory reporting requirements. I am not sure that they report down to the level of particular agencies like the OIA or units of public administration, though.

**Mr BROWN:** Finally, when you are reasoning with regard to resources, is the CCT's experience taken into consideration? Does that have to weigh into your reasoning? Is that a consideration?

**Ms Florian:** Clearly it is a consideration and it is a concern, because the more matters are backlogged in the OIA or the CCT the longer it takes for what are misconduct matters—not criminal matters but misconduct matters—to be resolved one way or the other. It may be that they are resolved that there is no misconduct, so it is a concern that these matters are hanging over people's heads for a period of time.

**Mr BROWN:** Therefore, when these matters come before you and you are weighing the decision about resources to use on this, the performance of the CCT at that very moment is a consideration?

**Ms Florian:** Under the act we can take into account public interest considerations and whether it is a justifiable use of resources in determining whether we dismiss or take no further action on a matter.

**Mr BROWN:** Thank you.

**Mr KRAUSE:** Ms Florian, in a hearing on 11 October last year for which the transcript has been published I asked you to apologise to the *Fassifern Guardian* for the actions undertaken by the OIA in issuing a notice to produce notes of an interview. I am not going to ask you to apologise again; however, I would ask if you still consider your course of action in relation to the *Fassifern Guardian*, which led them to apply to the Supreme Court of Queensland to have that notice set aside, to be appropriate.

**CHAIR:** Is this case still active?

**Ms Florian:** No.

**CHAIR:** Okay. Is any higher court action happening on this at the moment?

**Ms Florian:** No. I am happy to address that question.

**CHAIR:** Okay, good.

**Ms Florian:** Thank you, member for Scenic Rim, for your question. The matter that you referred to is a matter where a notice was issued asking for the *Fassifern Guardian* to provide information about conversations they had with an identified councillor who had also been identified in their reporting and relevant notes of those conversations because the statements made by the councillor were allegedly false or misleading. The purpose of that notice was to obtain evidence of a category of misconduct. Subsequently, the *Fassifern Guardian* reviewed that matter to the Supreme Court. The matter was not heard by the Supreme Court. It was withdrawn on a without-prejudice basis, with no decision prior to the matter proceeding further. That decision was not made by me. That decision was made by the Acting Independent Assessor on that matter, but had I been involved in that matter I would have done the same, and that is because it would not have been a good use of our resources to progress with that matter in circumstances where we have a substantial piece of work on our plate.

**Mr KRAUSE:** So you would have put the matter to the side? You would have done the same thing that the Acting IA did?

**Ms Florian:** Yes.

**Mr KRAUSE:** My question, though, was the issuing of the notice in the first place. Do you still think that was appropriate?

**Ms Florian:** The act allows us to issue notices to media representatives—

**Mr KRAUSE:** I understand what the act allows you to do, but my question is whether it is appropriate.

**CHAIR:** The IA is answering the question.

**Ms Florian:** The act allows us to do it and it did not identify a confidential source, so it did not come within the requirements of the shield laws. So that is an appropriate use of power.

**Mr KRAUSE:** Mr Chair, if I may, the *Fassifern Guardian's* submission to this inquiry indicates the OIA has requested notes from journalist Brian Bennion and this is in addition to the matter we were just talking about. So the OIA, as I can see from the submission, has requested notes both from Mr Bennion and also the one we just referred to, which was in relation to a Mr Creighton. Mr Bennion in his submission makes the point that these notes could contain matters that are off the record and having those notes disclosed to the OIA or potentially the CCT, if the matter proceeds, will reduce the willingness of local representatives to actually engage with media and represent their constituents in the media and to hold the council to account in the media.

**Ms Florian:** Yes.

**Mr KRAUSE:** Do you acknowledge those issues raised and those concerns and do you stand by the actions of the OIA in relation to Mr Bennion?

**Ms Florian:** Okay. I do not know what you are referring to in that matter, and we can certainly look at that, but let me address that generally. With notices that are served on media agencies, the issue is whether it identifies a confidential source or not. We have never sought a notice from a media agency seeking the identification of a confidential source, so what Mr Bennion and what you are advocating there is a step further than what the shield laws have discussed. The shield laws apply not at the investigation stage but at the stage of when there is a proceeding, except for in one jurisdiction, but elsewhere in Australia they do not apply at the investigation stage except for in Victoria. So what you are advocating there and what Mr Bennion is advocating there is a significant extension on what the shield laws currently apply.

**Mr KRAUSE:** I was not actually advocating in any respect, Ms Florian. I was just asking you a question.

**CHAIR:** Yes, and she is replying.

**Ms Florian:** There is a balancing issue that needs to be taken into account in relation to the issues that you have identified in terms of journalists being able to maintain their relationships with identified sources who are quoted on the record and issues of whether councillors should be able to be found to have engaged in misconduct when they engage in that misconduct on the record and when it is appropriate to obtain evidence of that. There is balancing of policy considerations.

**CHAIR:** On the issue of policy, bear in mind we are talking about shield laws and we are going into government policy on this, so I caution—

**Mr BROWN:** Actually, there is a bill before parliament.

**CHAIR:** Yes, okay. I caution both the member and the IA on—

**Mr KRAUSE:** Mr Chair, I have not mentioned the shield laws once.

**CHAIR:** Yes, but we are venturing into that area of shield laws. I am just saying please be cautious. We are not asking for opinions on policy. Please continue.

**Mr KRAUSE:** Thank you. Thank you, Ms Florian. Just on another matter, I noted your comments previously about how the OIA may be able to dismiss complaints as not being a justifiable use of public resources. How was it a justifiable use of public resources to investigate Mr Nigel Waistell for the forwarding of an email outside of council in relation to a council gravel pit which was information very innocuous in nature provided to a constituent? How was that a justifiable use? It actually went to the Supreme Court.

**Ms Florian:** Are you happy for me to address this on the record?

**CHAIR:** Member for Scenic Rim, do you really want this addressed on the record?

Public Hearing—Inquiry into the functions of the Independent Assessor and the performance of those functions

**Mr BROWN:** Chair, I thought we went over issues about specific matters and I note that there have been—

**Mr KRAUSE:** The matter has been resolved.

**Mr BROWN:**—specific cases as well. This is a wideranging review and the member for Burleigh cautioned me quite harshly with regard to entering into specific matters on specific cases.

**CHAIR:** That they have been involved with. I understand that. Member for Scenic Rim, you are venturing into territory that has already provided a discussion for the committee today.

**Mr KRAUSE:** I actually declared my interests, though.

**CHAIR:** I know you did and you are still pursuing this matter here. I am on the verge of saying that we are not going to rule that out of order, but I am also saying this: if the matter is finished, do you really want all sides of the story out on the public record?

**Mr KRAUSE:** Mr Chair—

**Mr HART:** That is the point of his question.

**Ms Florian:** Maybe I might be able to assist the member for Scenic Rim. If you could have regard to point 3 in our law reform recommendations, they expressly address that issue that you have raised and why that law reform is sought in those circumstances.

**CHAIR:** Coming back to the issue of conflict of interest, a number of submissions have said that they need more definition on what is ordinary business matters or what is perceived bias. They are obviously asking for a greater level of prescription or proscription when there is already quite a lengthy amount of it there. Can you address those issues they have talked about—where they want more definition about ordinary business matters or perceived bias?

**Ms Florian:** Firstly, ordinary business matters were extended in the new legislation, which took effect from October 2020. That is a matter of what is in the legislation now. In terms of perceived bias or actual bias, you are talking about prescribed or declarable conflicts of interest. They are defined in the act. The prescribed conflicts of interest are very prescriptive, as the name would suggest, about the circumstances in which they apply. In terms of the declarable conflicts of interest, we would recommend that councillors look at that legislation, attend all training that is possible and apply the tests that we use and the Councillor Conduct Tribunal use, which are applied across all disciplines on conflict-of-interest matters. That is whether a reasonable person in possession of all the relevant facts would think that a councillor might not make a decision which is in the public interest.

**CHAIR:** So you are saying there is a lot of written matter about what these things would mean, but a greater degree of familiarity of the material and a greater amount of training on these specific issues should help address some of those questions about what these things mean?

**Ms Florian:** Yes.

**CHAIR:** Does the OIA discourage councillors from interacting with developers? What is your view on these interactions?

**Ms Florian:** No. In short, the OIA does not discourage councillors from interacting with developers, but there are particular circumstances that a councillor should have regard to in determining whether they do engage and, if they do engage, how they engage. Those circumstances include what stage a development is at and whether the councillor has a conflict of interest in relation to the matter. It is the case that some councils and some councillors take a very risk averse approach to engaging with developers. To try to address that, we did do some work to identify the circumstances in which it was fine to engage and the circumstances in which it was not and also, if you do engage, what sensible things you can put in place to ensure there is a record and protection around that engagement so that if a matter becomes a complaint down the track that is easily addressed and remedied.

**Mr McDONALD:** I want to ask a question again, and I have tried to change the format somewhat. The matter of the mayor of Barcaldine is on the public record and arguably of great public interest. I believe the assessor could answer the question about the status of that investigation, given the former chair of the CCC talked about current matters before him. I remember he was talking about a phone call he received from Jackie Trad while he was making some IKEA furniture. The former chair of the CCC, Mr MacSporrán, talked about matters of public interest to give an update of that. I wonder if the Independent Assessor, on those grounds, could give an update on the public interest matter of the mayor of Barcaldine and the status of the investigation.

Public Hearing—Inquiry into the functions of the Independent Assessor and the performance of those functions

**CHAIR:** Member for Lockyer, you are talking about the issue of the mayor of Barcaldine. The matter has been enlivened. I know you are finding ways to do this, but I do not know what the Independent Assessor can answer on this one. I am very wary of this.

**Mr McDONALD:** Did you say that the matter has been enlivened?

**CHAIR:** I just said the matter is alive and enlivened. It is a matter that the case is clearly not finished, shall I put it that way.

**Mr McDONALD:** I will move on to ask a question. If a matter was reported in February 2021 and the backlog is 20 months, that means a matter of that nature would not be dealt with until December this year.

**Ms Florian:** Are you saying if it was referred to the Councillor Conduct Tribunal?

**CHAIR:** It is of substance if it is referred.

**Ms Florian:** I want to be respectful of the situation here but I also want to make it very clear that that matter is at an investigation stage. An investigation is not evidence of wrongdoing. It is not evidence that someone has engaged in misconduct. It merely means that we are looking at the matter. It is the case that the matter has been enlivened, as the chair has said. It is the case that the mayor has been advised of that.

**Mr McDONALD:** In regard to the matters that are under investigation, did you update us earlier that 63 per cent in the last quarter had been dealt with within three months?

**Ms Florian:** So 63 per cent of matters had been mostly dismissed or no further action taken within 21 working days, and I think it is 98 per cent were dealt with within 21 working days. Nearly 63 per cent of matters are dismissed within 21 working days. We then focus our resources on 20 per cent of matters which are investigated, six per cent of which we go ahead with after the end of an investigation, four per cent of which go to the Councillor Conduct Tribunal. Notwithstanding all of that, the matters that are referred to the Councillor Conduct Tribunal are much more substantial in number than had been referred in previous iterations of the system, and 80 per cent of matters that are referred to the Councillor Conduct Tribunal have been sustained, either wholly or partially.

**Mr McDONALD:** Thank you for your clarification earlier about the application of the Public Service Act versus the code of conduct. I would like to get further clarification of that. Do you think it is the place of the Office of the Independent Assessor to investigate what mayors say, given that they are not public servants?

**Ms Florian:** I think there is some confusion here. The Public Service Act has nothing to do with this. The Local Government Act provides that councillors have a code of conduct, and it is the role of the OIA to receive complaints that are made that a councillor has breached the code of conduct and to assess those matters and, in some circumstances, if it is misconduct, to investigate those matters. Sometimes those complaints are made about statements that mayors and councillors have said publicly. It then becomes a question of whether those matters come within the code of conduct or the definition of misconduct.

I think the confusion here might be the reference I made in the previous evidence about the High Court's consideration about the application of a code of conduct and the implied freedom of political expression. I referred to that case as an example of where the High Court has said that a code of conduct can read down, as it were, the implied right to freedom of political expression—or, to put it another way, that the implied right to freedom of political expression is subject to what can be in legislation and what is in a code of conduct. Does that assist?

**Mr McDONALD:** Yes, it does. So is speaking out against the state government or a department a breach of the code of conduct of the Local Government Act?

**CHAIR:** Member for Lockyer, you cannot ask that one. It is an opinion straight on that relates to this case. I understand what you are getting at, but no matter which way you try you still go back to the same.

**Mr McDONALD:** Is speaking against the state government a breach of the code of conduct?

**Ms Florian:** Certainly not.

**CHAIR:** You are as happy as Larry now, aren't you, but bear in mind too that the code of conduct does include what people say. We go to the member for Burleigh for a last question.

**Mr HART:** I go back to appendix A and inappropriate conduct matters. Do you think this committee should consider speaking to the government about giving the OIA or the CCT the power to investigate inappropriate conduct, or should it just be left with councils, given especially that some of them are not responding?

**CHAIR:** I think the answer is in your submission, isn't it?

**Ms Florian:** Yes. The second or third recommendation in our submission talked about the inappropriate conduct scheme. If the inappropriate conduct scheme is robust and working well, then there could be options to look at lower level misconduct and redirecting it into an effective inappropriate conduct scheme. They are some of the observations that were made in our law reform submissions in response to terms of reference No. 3, which expressly asked that. Ultimately, it is a matter for policy, and for the legislature and for the department what they want to do with that.

**Mr HART:** And for this committee to possibly make that recommendation. I guess the resources that both your office and the CCT have would need to be dramatically increased to move to that sort of investigation.

**Ms Florian:** I would make the observation that previously the department could recover costs from local government for investigations and work done on assessing complaints. The OIA cannot. There may be more effective options for making the system more effective but without increasing substantive costs.

**Mr KRAUSE:** Ms Florian, I have looked at point No. 9 in the submission. It is a very sensible suggestion that the IA be allowed to withdraw matters that have proceeded to the tribunal. It is one in fact that I made about two years ago but has not been actioned by the government. My question is whether it was an appropriate use of public resources to pursue that complaint against Nigel Waistell, which is a separate matter from the one you have made a submission about. How do you justify using—

**Ms Florian:** No, it is the same matter.

**Mr KRAUSE:** No, it is a different stage in relation to the investigation. You could have dismissed the complaint, as I understand your previous evidence, at the outset as an unjustifiable use of public resources but obviously that decision was not made.

**CHAIR:** Please just give a brief answer to this. We have dealt with this. I am very wary of us chasing down individual issues like this that we are all involved with.

**Mr KRAUSE:** This is where the frustration has arisen in the community.

**CHAIR:** Take your pick which case you are talking about. What we have is a lot of comment and a lot of frustration about individuals wanting their cases re-prosecuted.

**Mr KRAUSE:** I would like to know how it is justified.

**CHAIR:** Bearing that in mind, can the OIA give a brief comment on that?

**Ms Florian:** The OIA referred that matter as inappropriate conduct to council to deal with. The council referred it to the CCT to investigate. The CCT, during the course of that investigation, identified that it came within the definition of misconduct. When a matter comes within the definition of misconduct under the act, they must refer it to the OIA to deal with. When that happens, the OIA either have to proceed with it or give notice to the CCT about why they did not proceed with it.

We had regard to the public interest considerations. We took into account that he was currently a councillor at that time. We took into account that he had previous disciplinary history for the same conduct. We took into account that it was misconduct under the act. We referred the matter to the Councillor Conduct Tribunal. He subsequently did not nominate for local government. My view was that that changed whether this was a justifiable use of resources so I tried to withdraw the matter, given that change in circumstance. There is no provision under the act for me to do so. This is why we have made—

**Mr KRAUSE:** How much did it all cost?

**CHAIR:** I am going to pull it up on that one. You have an answer. As I said to you before, I do not know if you want to go down that track of putting all of this on the public record. The time allocated for this session has expired. There is a question on notice about the member for Capalaba and the number of anonymous complaints. We will be more specific about that when we get the transcript. Could we have that answer by Wednesday, 16 February? The committee will now have a break.

**Proceedings suspended from 12.14 pm to 12.33 pm.**

**BLAGOEV, Ms Bronwyn, Executive Director, Local Government Division, Department of State Development, Infrastructure, Local Government and Planning**

**SMITH, Dr Caroline, Executive Director, Economic and Policy Futures, Department of State Development, Infrastructure, Local Government and Planning**

**CHAIR:** Thank you both for appearing before the committee today. I invite you to make an opening statement.

**Ms Blagoev:** Good afternoon and thank you for the opportunity to brief the committee again today. I acknowledge the traditional owners of the land on which we meet and pay my respects to elders past, present and emerging.

I note the committee received in excess of 50 submissions, and the department would like to thank everyone for their time in making submissions and assure submitters that the department has thoroughly considered each and every submission. Despite the number of submissions, many of the themes were consistent across the submissions: the handling of anonymous complaints, frivolous and vexatious complaints, the handling of inappropriate conduct matters, the timeliness of prosecutions and tribunal hearings.

The department also wishes to thank the Office of the Independent Assessor for briefing the department on its proposed recommendations. The department has provided its response to those recommendations to the committee.

The department remains of the view that the legislative framework for the management of councillor complaints is sound and there are sufficient legislative powers in place to allow for complaints to be appropriately assessed. Importantly, the department's view is that there are sufficient powers that allow the Independent Assessor to exercise a discretion not to take any further action in relation to a complaint for a number of reasons, including where it would be in the public interest not to do so. There are also sufficient powers to allow for the Independent Assessor to deal with frivolous or vexatious complaints.

The department also acknowledges the minor nature of many of the complaints received and the importance of ensuring the resources of the Office of the Independent Assessor are used in a manner that targets systemic or more serious misconduct. To that end, the department would support an approach from the Office of the Independent Assessor where only these more serious matters are prosecuted through to the tribunal. A robust assessment of which complaints should be prosecuted is required to ensure the system operates effectively. I note the Office of the Independent Assessor did speak to that this morning and did talk through the matter that the office takes into account in determining when to prosecute a matter. I am happy to take questions from the committee.

**CHAIR:** Thank you very much, Ms Blagoev. One of the issues that we have seen—and there has been some response to this—is the proposal to extend the meeting code to include councillor briefings and workshops. Obviously there is a contentious issue there. Are we seeing any evidence of decisions being made informally before council meetings at briefings and workshops?

**Ms Blagoev:** I am not aware of councils having made decisions in informal workshops.

**CHAIR:** It is hard to specify.

**Ms Blagoev:** It is very hard for the department to specify that. We are aware, I guess, of the contentious nature of this. Ultimately, the government's policy to date has been to not regulate those informal meetings. As I said, we have not seen any evidence that decisions themselves are being made in those meetings. The department goes to great lengths to explain to councils, when we are talking to them about informal meetings, that decisions cannot be made in that forum.

**CHAIR:** I want to touch on the issue of public interest, which we talked about with the Office of the Independent Assessor. This ties in with the submission from King & Company and Tim Fynes-Clinton. The submitter said that the OIA are claiming public interest in assessing some cases but says that it is very broad. Obviously when representing councils they want it more narrowed and more defined. The Office of the Independent Assessor has said they are applying one of the principles that we have and that is being used to capture the circumstances of the broad experiences there. I know we do not want an extension of or more things written into the code of conduct or any of the regulations to help guide what is public interest, but is this something that we can address through better education and better training instead of expanding the code of conduct?

**Ms Blagoev:** I think ultimately this is a question about how the Independent Assessor assesses complaints. The Independent Assessor did list a large number of factors that she takes into account in deciding whether or not to assess those matters, and I did hear those this morning and



endorse that list. Whether or not that list or some sort of list should be enshrined in legislation is, I guess, a question for the government in due course. We just need to be careful that in prescribing a list we are not excluding other matters. The way it was drafted, it was drafted in broad terms to allow greater discretion to the Independent Assessor to determine which matters should be considered in making a decision to prosecute or not.

**CHAIR:** With more prescription, you do not have that discretion to dismiss and therefore it could be perceived as perhaps lengthening the process because, 'Well, it's in black and white so I have to go and apply it this way.' It is having those broader principles or a broader description or broader prescription that allows the flexibility to work quickly; correct?

**Ms Blagoev:** I think flexibility is important.

**CHAIR:** One of the other issues is in terms of defining some of the terms that some of the submitters have talked about. The submission from King & Company asked if you can help define 'significant proportion', referring to the proportion of the public when you talk about conflict of interest. Once again, what would be the advantage or disadvantage of going down that prescription path? This is probably repeating what we were talking about previously.

**Ms Blagoev:** The issue around 'significant proportion' has been raised by councils, by local governments. It is a very difficult thing to define. Sometimes one might think that five per cent is a significant proportion and on other matters it might be that it is 20 per cent or 30 per cent. It is very difficult to determine that. I think councillors need to be very confident before using that provision in the legislation.

**CHAIR:** Has the department at any stage provided any written resources or administrative prompting to help councils define what that means?

**Ms Blagoev:** I am not aware of anything more generally. It is a question that we work with one on one with councils as issues arise. Councils do call the department for advice: 'We have this particular issue that has come up and we are meeting tomorrow; can we have some advice?' In that context it is a lot easier for the department to work through with the council because we know the factors and we know what the scenario is. When you are dealing with a scenario, it is so much easier to provide advice than just a general 'what would be a significant proportion of voters'.

**CHAIR:** Looking at the impact of the decision by the Integrity Commissioner about giving advice, people have asked whether that has had an impact on timeliness. We have also heard that councillors are going to alternative sources of advice. Is that helping the timeliness when they can access those other sources of advice?

**Ms Blagoev:** I cannot comment on that specifically. My views in relation to that matter are that by seeking advice from a variety of people you are opening yourself up to get inconsistencies amongst the different providers of that advice. We were aware that a lot of councillors were contacting the Integrity Commissioner for advice the day before a meeting. It is much easier for the department to provide some assistance to a council. We do not provide legal advice but we can definitely provide assistance and guidance and workshop through a particular scenario. We do a lot of that. We do a lot of that at the last minute. A councillor will call and say, 'Hey, I've got a meeting in an hour; how do I handle this?' That is a lot easier for the department to handle than an expectation that the Integrity Commissioner can turn around these complex advices in a short period.

**CHAIR:** If there was a meeting in an hour about an issue regarding a conflict of interest, different sources of advice would lead to inconsistencies. We have talked about the issues of significant proportion and public interest. The OIA has adopted the threshold of reasonable suspicion in their triage system. Is that specified in the legislation? What is specified about how they can proceed? Obviously there is the use of 150X and 150Y. On the use of reasonable suspicion, which we have talked about before, it is not specified by the department.

**Ms Blagoev:** No, it is not specified in the legislation.

**CHAIR:** What did the department use previously as a threshold?

**Ms Blagoev:** I would have to take that on notice.

**Mr McDONALD:** Thank you, Ms Blagoev and Dr Smith, for being here today and giving us a further briefing. I appreciate the summary of your responses to the recommendations. I will come to that in a moment. We heard this morning that there is a delay in the Council Conduct Tribunal, that they are still dealing with matters from June 2020. We heard about resourcing matters where there was a president and six members to start with and we had a number of resignations and new appointments and processes. I have asked a question on notice to see the requests from the president for additional resources. I do not know if you can advise the committee about your Brisbane

knowledge of those requests for resources and why they were not filled—or were they filled? I am also really interested to understand this issue of sessional employment by the president and the members because there just does not seem to be the resources and weight there to get these matters done.

**Ms Blagoev:** My understanding is that the tribunal has 11 members and a president. In terms of the support from the department, the tribunal has access to three internal lawyers—so three of our lawyers. It also has two dedicated staff in the registry. My understanding is that the department does also pay for the cost of Crown Law advice and performs research on behalf of the tribunal. I understand that research is turned around in a very quick time frame. I understand we also provide facilities in 1 William Street for the tribunal's use. I cannot comment specifically because I am not across the actual requests that have come in, but my understanding is that there is support from the department to the tribunal.

**Mr McDONALD:** Why is there such a long delay, given this started on 3 December 2018?

**Ms Blagoev:** My understanding is that the tribunal has finalised 47 misconduct matters over 38 months. In terms of the timing of that, that would be a question for the tribunal.

**Mr McDONALD:** Surely that is not acceptable to the government.

**CHAIR:** Are you saying government or department?

**Mr McDONALD:** Surely that is not acceptable to the department. What steps have you taken to bring that delay under control?

**Ms Blagoev:** The department has been speaking at length with the tribunal about the resources. As I have said, the resources that we have provided, in the department's view, are sufficient. In terms of the administration of the tribunal and why matters are moving through the tribunal at that rate, I cannot provide a comment.

**Mr McDONALD:** In terms of the question about sessional employment—is that the right terminology?

**Ms Blagoev:** My understanding is that the members are paid on an hourly or sessional basis.

**Mr McDONALD:** Who determines that sessional rate or when they are actually engaged, or is that up to the individual members?

**Ms Blagoev:** My understanding is that the tribunal president will allocate a matter to three of the members and once a matter is allocated to those members those members, the three of them, will work together on that particular matter. The department pays the members based on the session. I think it is a four-hour block, so you are paid for every four hours. Essentially, from the department's perspective, we expect the members to carry out the hours required to perform the tasks and we pay for that on the sessional basis.

**Mr McDONALD:** We are hearing and seeing at the moment through many different forums that integrity matters to Queenslanders, and I am just concerned that local government in Queensland is a vehicle of the state enlivened under the Local Government Act—

**Mr SMITH:** Point of order, Chair. I wonder if we are not straying away from the terms of reference here.

**Mr McDONALD:** I have not even asked the question yet.

**Mr HART:** You have not heard the question yet.

**Mr SMITH:** I heard the preamble.

**CHAIR:** I think you exposed yourself with the preamble. Keep asking the question, but bear in mind that if you are going to go into this area we are going to jump on you.

**Mr HART:** If he is going to ask questions you do not like you are going to jump on him? Is that what you just said?

**CHAIR:** Yes.

**Mr HART:** Okay. Interesting.

**CHAIR:** Questions that I do not like because they are outside the terms of reference.

**Mr McDONALD:** Local government is enlivened under the Local Government Act in Queensland and the integrity matters that local government face are dealt with by the councillors themselves, by the council and also by the Office of the Independent Assessor and the CCT, and obviously the department provides training in that respect. Surely when there are such delays in these matters the community cannot have confidence in that integrity system.

**Mr SMITH:** Point of order, Chair.

**Mr HART:** They do not like that question.

**Mr SMITH:** Inference and imputation.

**Mr McDONALD:** What is the department doing to try to regain some confidence and recover from those delays?

**Ms Blagoev:** The department continues to monitor the level of resources. The department is constantly having conversations with the tribunal about that level of resourcing. I cannot provide any further commentary other than the factual basis of what support the department has provided to the tribunal. Eleven members plus a president is substantial and it is far in excess of what the tribunal has previously had.

**Mr McDONALD:** Would there be any benefit to the president being full-time?

**CHAIR:** That is a big policy call. It is something we will need to talk about ourselves. I think it is unfair to ask Ms Blagoev about that.

**Mr MADDEN:** My questions relate to anonymous complaints. As a former lawyer I find it very difficult to accept that anonymous complaints are even accepted. I notice in your submission you say that in certain circumstances they should be investigated. Can you outline what those circumstances would be or give an example?

**Ms Blagoev:** A good example would be where a council employee has pertinent information that should be provided through to the Office of the Independent Assessor but because they are in an employment relationship they may not feel that they can put their name on that. I think the key thing in terms of an anonymous complaint is how much information is in the complaint. The Office of the Independent Assessor, if they get an anonymous complaint where there is not enough information, would need to go back to the complainant to ask further questions. That is a circumstance where they probably cannot progress it any further. A few lines, for example, on a piece of paper with no name would be difficult to progress, but, for example, numerous pages attached with evidence from someone who for a number of reasons may not wish to put their name on it—it may actually be a very substantial complaint capable of being followed up and in the department's perspective we do not want to stop those types of complaints.

**Mr MADDEN:** Do you have anonymous complaints where you actually know the name but they want to remain anonymous?

**Ms Blagoev:** That would be a question for the Independent Assessor.

**CHAIR:** You talked about First Nations people as well. There are different cultural issues we are dealing with.

**Mr MADDEN:** Yes. Those are my questions.

**CHAIR:** Member for Burleigh?

**Mr HART:** It is a real concern to me that we are seeing a real delay in the CCT outcomes, and the same with the OIA, but the government does not seem to be concerned about the time that it is taking.

**Mr MADDEN:** Government?

**Mr SMITH:** Point of order. I do not believe that the department can make comment on the government and that was the question.

**CHAIR:** Member for Burleigh, keep asking the question, but make sure it conforms to standing orders.

**Mr HART:** The department is the government of the state, basically, at the end of the day. At the meeting this morning with the CCT they basically told us that they are way behind with their outcomes and that that is because of a lack of resources. Whether it is because some of the members have resigned—obviously, reading between the lines, it sounds like they were not happy with the whole process so they actually left the CCT—they do not have enough resources. The CCT president said she had taken it up with the government and the department a number of times, but those delays are still there. If the department cannot answer the questions the committee has around why these delays are happening, who can?

**CHAIR:** I am not sure what the question was.

**Mr HART:** If the department cannot answer the question, who can?

**CHAIR:** We can answer that ourselves.

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**Mr HART:** Sorry, Chair, you are happy giving a lot of commentary; I am entitled to give some commentary as well.

**CHAIR:** Let me finish. I let you finish. I do not know how the executive director can answer that without going into policy and opinion, but feel free to give it a go.

**Ms Blagoev:** To respond to your question, the department would like to see matters progressing through the system in a timely manner. We understand that when a councillor is subject to a complaint that is a burden that sits on their shoulders and the quicker that they can move through the system the better. As I understand, before I think I said that over the last 38 months the tribunal has processed 47 misconduct matters, which is 1.2 matters a month on average. The department would like matters to move through the tribunal quickly.

**Mr HART:** Does the government have any plans to make it move through quicker by giving them more resources?

**CHAIR:** You mean the department.

**Mr HART:** The department then. That is really pedantic.

**Ms Blagoev:** At this point in time the department believes that the access to three lawyers, two dedicated staff, 11 members and a president is in excess of what was provided previously, but we do continue to monitor.

**Mr HART:** There are massive delays in outcomes. How can the department possibly say that they have enough resources if the outcomes are not coming to fruition then?

**CHAIR:** I think we have the answer to that.

**Mr McDONALD:** As a supplementary to that, we heard from the president this morning that, whilst there is a president and 11 members, there were three people who were not active. How many of the 11 members are not active for how many weeks or months of the year?

**Ms Blagoev:** I cannot comment on that. I am not aware.

**Mr McDONALD:** Could you take that on notice?

**CHAIR:** We could write to the CCT and ask for some more information about people being inactive.

**Mr McDONALD:** I think it is important, because the executive director rightly says there is a president and 11 people, but how often are all those people on deck to deal with the matters? There is a reason for the delay. I am just trying to find out why.

**CHAIR:** Yes, but bear in mind it goes into personal circumstances.

**Mr McDONALD:** Then perhaps there needs to be an improved system: to have 15 or 18 people available so that we have 11 members or whatever addressing the backlog.

**CHAIR:** That would be perhaps something we discuss in recommendations. The department has been very clear in what they think of the resourcing.

**Mr HART:** The CCT told us that they have to seek permission to obtain Crown Law advice. Can you tell us if that is approved every time or what the process is for that approval?

**Ms Blagoev:** I can tell you what the process is. The matter would come in through the tribunal. As I said, the tribunal has access to our three internal lawyers. The lawyers would then brief Crown Law, liaise with Crown Law and then provide the advice back through. I cannot provide commentary on the number of requests that have come into the department from the tribunal and the number of Crown Law advices provided. What I am aware of is that the department does provide as much assistance as we possibly can.

**Mr HART:** The president of the CCT this morning told us that she used to hold meetings directly with the minister and then that changed to some executive directors of the department. Is it normal for someone like a CCT president to meet directly with a minister to discuss what their area is doing?

**Mr SMITH:** Point of order. I am not sure if it is the department's role to necessarily determine the meetings of the minister.

**CHAIR:** You are saying the member is asking for an opinion on these things. I do not know how well Ms Blagoev can answer that. I am not quite sure where the question is going, but certainly feel free to furnish something.

**Ms Blagoev:** The member for Bundaberg has correctly said that the Deputy Premier's calendar is not something that departmental officers can control. If there is a matter that we can help the tribunal with, it may be more efficient for that to occur through departmental officers.

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**Mr HART:** I do not see it as being normal for a minister to directly meet with someone like the president of the CCT. Are you telling me I am wrong?

**Ms Blagoev:** No, I am not saying that at all.

**Mr HART:** The Office of the Integrity Commissioner used to offer free advice to councillors and mayors. My understanding is that that advice could be relied on as a defence moving forward. Is that the department's understanding as well?

**Ms Blagoev:** Yes, that is the department's understanding, as per section 40 of the Integrity Act.

**Mr HART:** When the changes were made to make the councillors and mayors a delegated person and therefore open them up to seeking advice from the Office of the Integrity Commissioner, that was happening quite regularly, but then it ceased because the OIC decided that they would not offer that advice anymore. How does that work legislatively if the legislation is that these people can seek that advice but the office is no longer allowing that to happen?

**Ms Blagoev:** The only comment I can make on that is: my understanding is that councillors were designated as, I think, 'designated persons' or similar under the Integrity Act, thereby allowing the Integrity Commissioner to provide that advice to councillors. My understanding is that the Integrity Commissioner indicated that she does not have the resources to provide that service.

**Mr HART:** Has the department considered that if the Office of the Integrity Commissioner does not have the resources to deal with this maybe she needs more resources?

**Ms Blagoev:** It is not a matter for this department.

**Mr HART:** Which department is it a matter for?

**Ms Blagoev:** I understand the Integrity Commissioner—it is an administrative unit through to—I think it is the Department of the Premier and Cabinet.

**Mr HART:** Public Service Commission?

**Ms Blagoev:** I think it is the Department of the Premier and Cabinet.

**Mr HART:** So the Premier is responsible?

**CHAIR:** No need to answer that. That is a comment.

**Mr HART:** The CCT again tells us that they use laptops which are given to them by the department to operate all of their operations on. I asked the CCT president this morning if she was aware what happens to those laptops when a member resigns—because we have had a lot of members resign—and she was a little bit unclear as to what happens. Can you tell us what happens to those records that are on those laptops? Are they secured as far as the Public Records Act 2002 goes? Do you know what the process is there?

**Ms Blagoev:** I cannot comment on what would happen from an ICT perspective when a laptop is returned to the department. My understanding, however, is that, yes, each tribunal member is issued with a laptop. When they resign, that laptop is returned to the department. All the records from tribunal members are public records under the Public Records Act, and my understanding is that the registry within the department does ensure that records form part of the department's records management system for the purpose of the Public Records Act, so they are captured. My understanding is that appropriate security is placed on each of those records so that the only people who can access them within the department are registry staff. For example, I cannot access anything from the tribunal.

**Mr HART:** The OIA, in their submission—I assume the department has seen the OIA's latest submission?

**Ms Blagoev:** Correct.

**Mr HART:** They gave us, in appendix A, a list of inappropriate conduct cases that they had referred back to councils. There were some really concerning reports—and I will not go into the specifics of them—where councils had been referred something and there had been no response for a number of years. I notice in your response to the recommendations from the OIA that you do not support the OIA having jurisdiction in that particular area. Can you alleviate my concerns that councils are not responding to these requests? What process is the department seeking to put in place to fix that?

**Ms Blagoev:** The department is aware of a number of concerns in terms of how councils are handling inappropriate conduct. We have had queries raised with us directly by councils in relation to a number of matters, including matters dealt with in closed or open session, how natural justice Brisbane

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obligations are complied with, and how they deal with investigation reports. We work closely one on one with councils when they ring us to say, 'Hey, I have a stack of questions on how inappropriate conduct happens.' I note that this is not something councils deal with every day. They may have one turn up and they have not had one before, so we work with them one on one.

We are also now looking at our resources around inappropriate conduct and trying to come up with some simpler flow charts and guidance materials. In my experience, those councils that only get one or two will struggle because if you do not do it regularly you forget what you are obligated to do, so we try to come up with some very simple tools for those councils. My understanding is that the councils that deal with them more regularly seem to be processing them through a system. Most councils seem to engage an independent investigator and the matter is investigated and then returned to council for them to make a resolution in a council meeting.

**Mr HART:** There were a whole lot of no responses that were from cases that were put back to council two and three years ago. Is the department worried at all? Has the department done anything—I mean, no response at all, not just the council coming back and saying, 'Hey, I do not know how to deal with this. Can you please help?' There is no response at all.

**Ms Blagoev:** The department obviously would like to see those councils provide a response and handle the matter in accordance with inappropriate conduct provisions in the legislation. We believe that if they are not responding to matters that it is a capability issue and a capability gap within a particular council. Yes, as I said, we are trying to provide further guidance to those councils to assist them.

**Mr HART:** It has been years and years.

**Ms Blagoev:** The department and the OIA have, I think, a good relationship now where the OIA will provide us with some information. They will often say, 'Hey, I have concerns about this, this and this,' and we base our capability program around some of their feedback.

**Mr HART:** I have more questions when you are ready, Chair.

**Mr SMITH:** I will start with questions in respect of the council complaints records. The OIA has made a recommendation, for any complaint that is found not to be a misconduct or inappropriate conduct, to get rid of the paper trail in terms of having to write back and then forward and then put on the register. What is the department's view around that? Are there any concerns there, or does this seem like a good way to streamline bureaucracy?

**Ms Blagoev:** The Office of Independent Assessor has made a number of complaints around those administrative processes and the department very much supports that sort of administrative recommendation. Any legislative amendment will be subject to government policy, but I think in the response we have provided we have said support.

**Mr SMITH:** With regard to that support, in the past has there been feedback from individual councillors around whether or not they find that to be a concern in terms of—I think I mentioned to the OIA last time that of course names are not included. However, if there is only one business owner on a council and a complaint is made about someone poaching staff for a business, it is pretty easy to connect the dots on that. Have councillors ever individually come in and made a complaint or provided feedback in that space to the department?

**Ms Blagoev:** Not that I am aware of, but I also understand that is something they would be speaking more to the Independent Assessor about than the department.

**Mr SMITH:** In the previous hearing, one of the big things that came about was training and access to training—and for councils in remote communities as well. Could you perhaps go through that a little bit more? Are they online modules, DVD modules, interactive, paper modules? Does the department have any view on what boxes need to be ticked for councils in terms of any potential future professional development that the department might recommend to the government which is very different?

**Ms Blagoev:** The department provides a range of capability and training for councillors. Due to COVID, it has been more online than normal. We have found, however, that it is imperative to go back and do face-to-face training, so we do continually loop back to those councillors to provide what we call refresher training, but the refresher training is based on what council has asked for. Some councils will need more focus on something like conflicts of interest, whereas other councils will need more training around another topic. It just depends on what they ask for, really. The department's regional network is out there with councils. We provide daily advice to councillors and CEOs, but we also do that more structured training.

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As I said last time I was here, we are looking at preparing a knowledge centre which will basically be a one-stop shop for resources for councillors and council staff. The thinking behind that is that it not only includes departmental resources; we would ideally like to see councils helping each other as well. For example, if one council has done something really good, then that goes on the knowledge centre and other councils will be able to see that as well. We also are aware that the LGMA has a governance forum, so governance officers from across councils can get together and talk about governance matters such as conflicts of interest and how we are handling inappropriate conduct matters. There are a range of resources there. In my experience, our Indigenous councils do rely heavily on the face-to-face training.

**Mr SMITH:** I imagine that knowledge centre would be in the form of an intranet and councillors then get pass codes and logins each time they are elected?

**Ms Blagoev:** Yes, that is my understanding of it. I think the exact platform is still to be determined.

**Mr SMITH:** Is the way the training is set up just a broad base—‘Here are the different options can you go into’—or is it knowledge escalation in terms of, ‘You must tick this box to tick that box,’ and then go up and increase?

**Ms Blagoev:** There is no mandatory training. Councillors do not need to do mandatory training once they are elected. There is mandatory training before someone nominates to be a councillor. That is, as you would understand, a lower level of understanding. It is basic around making sure they understand their role as a councillor. There are a variety of options thereafter. The department has recently rolled out some training which is essentially finance 101 for councillors. There are a lot of options once you are a councillor, but it is very much not mandatory. What we have done is rolled out what we call standard training. When the Belcarra reforms came through and then when the more recent 2020 amendments came through, we would do standard training. We need to know that every councillor has a base level of knowledge around a particular topic. What it looks like thereafter will depend on a particular council’s need, and each council will be very different in terms of what they need more information on.

**Mr SMITH:** Do you think perhaps in the future there could be a recommendation around some form of mandatory professional development that CEOs would be responsible for in terms of their councillors accessing perhaps 10 hours of the knowledge centre a year to prove a form of ongoing professional development, especially for part-time councillors who are managing some other part of their life as well, with the goal of potentially having frivolous or vexatious or even just inappropriate complaints made that probably are not but would have been not submitted with a further level of training? Is that something that is perhaps foreseeable into the future in terms of departmental recommendations?

**CHAIR:** You are probably straying into government policy, member for Bundaberg. It is something we may want to consider in our findings as well. We are asking about mandatory training among councillors: has the department done that before or considered that?

**Mr SMITH:** Yes.

**Ms Blagoev:** The only mandatory training is *So you want to be a councillor?*. To the best of my knowledge, there has been no other mandatory training. I would certainly welcome any recommendations from the committee in that regard for the government to further consider.

**Mr SMITH:** Looking at the code of conduct which has been put together and then looking at the Local Government Act as well—and I know it strays a little bit to the OIA in terms of their decision-making and judgement—there has been conversation about political expression and implied right to political expression. Is there anywhere in particular on your understanding or definition of ‘political expression’, and anywhere within this code of conduct where there could be argued breach of political expression by a councillor if they were to act in a way against this code of conduct? Maybe just give the best answer you can give around what is ‘political expression’.

**CHAIR:** He has not mentioned bases. He has talked about the principle of freedom of political expression. I would caution you in answering that because it may stray onto a particular case which is—

**Mr McDONALD:** I am keen to hear the response.

**CHAIR:**—enlivened, but I think the question is: is this covered under the code in any possible sense?

**Ms Blagoev:** Both the Local Government Act and the code have what we call the local government principles, and the local government principles require councils to act in certain ways. To get to the nub of your question, there is nothing in the Local Government Act or instruments that

seeks to come over the top of someone's right to political expression. We will certainly be considering whether or not a legislative amendment may be appropriate to confirm that position. Certainly the Local Government Act and principles are not intended to override something such as that.

**CHAIR:** I have a question arising from a submission. Some of the community organisations raised a proposal in their submission that an incorporated body be able to make a complaint, which is quite interesting. Has the department considered that before? Is there a reason it has not been adopted?

**Ms Blagoev:** I do not believe there is any prohibition on a particular body or a person making a complaint. I think any person could make a complaint. My understanding is that an incorporated body could also make a complaint.

**CHAIR:** There is nothing prohibiting it, saying it must be a person instead of an organisation?

**Ms Blagoev:** No.

**CHAIR:** Interesting. This may be something that you will want to take on notice. It is a particular one. The Balonne—have I got the right shire?

**Mr McDONALD:**—or Barcaldine. Which one are you talking about?

**CHAIR:** It is a B-word. They suggested a change to section 150AR(1) to allow the CCT to impose a sanction or action such as a reprimand. However, listening to the evidence today, I am questioning whether you would need to make a change or they, in fact, already have the ability to make such a finding or a direction when they consider a case of misconduct or the like. As I said, you might want to take that on notice. It is a particular one.

**Ms Blagoev:** The Local Government Act does already specify a range of options available to the tribunal which would include a reprimand. If you give me a minute I can find the exact section to walk you through if you would like all of the available options, but there are a range—

**CHAIR:** I think that is fine. I think the answer is that you do not need to change section 150AR to do something which exists in other parts of the act. In their submission the Bundaberg Regional Council—you do not have to declare this, member for Bundaberg—suggested having former council CEOs doing some of the initial assessment in the OIA. Does the department use former CEOs in a range of roles? That is probably the best way I can put that.

**Ms Blagoev:** The department does use former CEOs in a range of roles, but I would say none are relevant to the councillor conduct work.

**CHAIR:** They certainly bring a lot of experience and valuable insight into what is done.

**Ms Blagoev:** Absolutely.

**Mr McDONALD:** I am very interested to understand the delays with the CCT in terms of the changing of tribunal members and presidents et cetera. In terms of continuous improvement, have exit interviews been conducted with those members to find out what the problem has been in that area? This is a really important area of delay that is holding everything up.

**Ms Blagoev:** I would need to take that on notice. My division does not look after tribunal matters.

**Mr McDONALD:** Do you know why so many have been like a revolving door—why they have been leaving?

**Ms Blagoev:** No. I am unaware.

**Mr McDONALD:** Looking at the whole system, we are charged with looking at timeliness and interpretation of legislation, and I appreciate your responses to the recommendations from the OIA, particularly in regards to using existing powers. We have discovered some very large delays and we have also uncovered through this process—I will use the term—misinterpretation or perhaps not correct application of the laws. We have got to October last year for the start of an inquiry with so many delays. Why has the department not been able to communicate and fix those interpretation matters as well before this time?

**CHAIR:** That is a tough one.

**Ms Blagoev:** The whole sector is struggling with conflicts of interest. The department has, through to 2020, put through those most recent amendments which were designed to simplify the system. The way they were designed to do that was to create what is called declarable conflicts of interest. That means, essentially, 'If you tick any of these boxes you have a declarable conflict of interest and you leave the room.' My opinion is that is quite simple. The more difficult box is, 'Okay, I am not ticking any of these boxes, but I still might have a conflict of interest because I know Brisbane



such-and-such and their housing matter is coming before the council,' for example. They are arguably prescribed conflicts of interest. They have always been around. They were around pre Belcarra; they were around pre the 2020 amendments. They have always been there. It is just the spotlight has not been on them.

What we have found since shining a bit of a spotlight and doing further training and really targeting—I would essentially say for a whole term the department's focus on training has been conflicts of interest. When you go out to councillors, all they want to talk about is conflicts of interest. The department has actually invested considerable resources and considerable staff members in talking to councils and training councillors around conflicts of interest. What we probably determined is: that extra spotlight, where everyone has been talking about conflicts of interest, probably shows how much councillors have always struggled with the concept of conflicts of interest, but until you shine a spotlight on it you do not realise they have been struggling that much.

As I said, for the last four years this is really all the department has spoken to councillors about. We would really like to see councillors being in a position where this just becomes business as usual for them or, as I say to them, 'If you're not sure about something, be organised and get advice early before a matter comes to a council meeting.'

**Mr McDONALD:** Are those sessions mandatory sessions for the councillors?

**Ms Blagoev:** They are not mandatory sessions.

**Mr McDONALD:** What percentage across the state would undertake that training?

**Ms Blagoev:** I would have to take that on notice. If you are not looking at an actual percentage, I would say that my own view is that a very high percentage turned up to those training sessions. As I said, the training in 2020 in particular was difficult because of COVID, but we have now managed to loop back to those councils that need further assistance and we have been back providing that face-to-face training.

**Mr McDONALD:** We have discovered through this process the delays in matters at the CCT to June 2020. That is about the time the new legislation came into being. We are actually not even dealing with matters around the new legislation. I ask the question: could the department have done more to fix the mess earlier?

**CHAIR:** 'Mess' is subjective.

**Ms Blagoev:** The department has always been providing training to councils.

**Mr McDONALD:** Particularly around the OIA and CCT is where the delays are and the delays in timeliness that I have talked about and the problems with interpretation and application of existing legislation, which you have rightly pointed out they can do in matters.

**Ms Blagoev:** What we are finding is that there is a very high number of complaints coming into the Office of the Independent Assessor, meaning they are assessing a really high number of matters. We are then finding that the matters are then proceeding on to the tribunal and the tribunal, as you have said, has not been able to process those in a timely manner.

**Mr McDONALD:** It seems to be a very legalistic approach, like a court with directions hearings.

**Ms Blagoev:** Under the legislation the tribunal already has the power to govern how the hearings are to occur, and that also includes whether or not legal representation is to be allowed.

**Mr MADDEN:** I have a question about the code of conduct. As I see it, the code of conduct is a way to put in plain English what is in the legislation. That does create the situation where the code of conduct must be continually updated to keep up with the legislation. Is that the case?

**Ms Blagoev:** We do regularly review the code of conduct. Obviously if there is a change of legislation we will review it. We will also review it if we are aware of councillors needing additional guidance or if a particular issue has come up. If we are aware of issues in the department, we will always ask a variety of questions: 'Does this need a legislative amendment?'; 'Does this need an amendment to something like the code of conduct or model meeting procedures or sample investigation policy?'; or 'Does this need more guidance, more training?' The department does have a variety of levers through which it can make recommendations to the government.

**Mr MADDEN:** Have there been any suggestions when councillors have done the wrong thing or crossed the line where they have said, 'But I complied with the code of conduct,' where the code of conduct was not prescriptive enough?

**Ms Blagoev:** That exact question would be for the Office of the Independent Assessor. What I will say is that, be it an act or a code of conduct, the more prescriptive you become the more difficult it is in practice. As was said this morning, you are often creating unintended consequences.

**Mr HART:** This morning the CCT president told us that when something is referred to QCAT the decisions that come out of QCAT are not binding on the CCT. I wonder if the department has a view on QCAT, because we also heard that QCAT is clogged up with decisions and nothing is coming out of it. What is the value in someone going to QCAT if the decisions that come out of QCAT are not binding?

**Ms Blagoev:** I must say that I cannot make a comment on whether or not the decision is binding. I need to take that on notice. I am not aware of that.

**Mr HART:** That is what the CCT president—

**CHAIR:** It might be something we need to follow up with a specific letter saying, 'Can you give us some more information?'

**Mr HART:** That is a good idea.

**CHAIR:** That was the information from—

**Mr HART:** I asked the CCT about the department being a point of truth on the legislation around this area. They said in their submission—

The Tribunal considers Departmental policies and publications to be useful tools when resolving complaints. However, as an impartial decision-maker whose role is to consider the specific facts and circumstances of each matter, it is important to note the Tribunal is not and cannot be bound by these publications. The role of the Tribunal is to interpret the Act having regard to the provisions as they apply to the specific facts contained in each misconduct allegation and application.

Have you seen that comment from the CCT?

**Ms Blagoev:** I heard it this morning.

**Mr HART:** In terms of the members who are allocated to the CCT, how does the department or the minister—maybe you cannot answer regarding the minister's side of it—decide on the level of qualification of someone to interpret the act and then give a ruling? We heard that about 80 per cent of the members are legally qualified and the other 20 per cent are not.

**Ms Blagoev:** I think the intention behind the tribunal is to have a mix of skill sets. It is not just, 'Let's get three lawyers in a room and see who's got the best legal opinion.'

**Mr HART:** That never works well.

**Ms Blagoev:** My understanding is that the non-lawyers who are tribunal members would have other qualifications—perhaps having a local government background as well. In that context there is often benefit in having people who have practical, on-the-ground experience in what it means to be a councillor as well as having a room full of lawyers.

**CHAIR:** Apology to lawyers.

**Mr HART:** I come back to the Integrity Commissioner and their advice being able to be used as a defence. If a councillor approaches the department for advice, is there any defence mechanism available to them because they followed the advice of the department?

**Ms Blagoev:** No. We do not have the benefit of section 40 of the Integrity Act. What I will say is that, if a councillor approaches me for advice, I will always ask whether they would like that advice in writing and I am prepared to give them that advice in writing. I understand from what the Office of the Independent Assessor said this morning that one of the factors they will look at is: do they have advice from the department, a lawyer or the Integrity Commissioner when she was providing that advice? I think there is benefit in that regard in that it is obviously a factor that the OIA is considering in assessing.

**Mr HART:** That is possibly something we should recommend, Chair.

**CHAIR:** We have many things to discuss. We are getting to the point where we have to have some discussions about where we go. We can ask for more opinions on this, but it is more and more coming down to us.

**Mr SMITH:** In relation to the payment of a fee for a complaint and the suggestion of \$200 to be paid by a complainant, I note that the department is not supportive of that. Even if the department were supportive—which, of course, they are not—that would be discrimination, wouldn't it? You are discriminating against someone's right to make a complaint based essentially on their worth in terms of their finance and economic fortune. Would that be correct?

**Ms Blagoev:** I cannot comment on that, sorry.

**CHAIR:** I was about to say that that is asking for an opinion.

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**Mr SMITH:** Sorry. This question goes to the heart of the difference between an elected member of parliament and an elected councillor. We have an Ethics Committees and so on. In the code of conduct for councillors, value No. 3 states—

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

- ...
- clearly and accurately explain Council's decisions ...

If a councillor chooses not to speak with a group of residents, is that an inappropriate action or a form of misconduct or is this more of a guideline?

**Ms Blagoev:** I think you would need to know all of the circumstances behind a particular matter. I am aware of concerns in the social media space around this in particular. Definitely the local government principles talk about social inclusion and meaningful community engagement, but I would not want to offer an opinion on a particular scenario.

**Mr SMITH:** It is very broad. This is where complaints could come that would be vexatious and frivolous. If someone does not clearly or accurately explain a council's decision or they do not show respect to a person by turning their back and refusing to answer a question, are they in breach of the code of conduct?

**Ms Blagoev:** Again, I cannot provide advice on that.

**CHAIR:** Once again, it depends on the circumstances. We have heard a lot about vexatious and frivolous complaints. Both terms are quite distinct. They have separate meanings. In your role as a department, what is your definition of 'vexatious' and what is your definition of 'frivolous'? Councils have a very set view of what makes something vexatious or frivolous. It would be interesting to hear how you define those terms.

**Ms Blagoev:** The legislation itself does not define those matters, in which case we would use a plain English definition of them. To be very blunt, a vexatious complaint is usually a complaint made for an improper purpose. A frivolous complaint is made without adequate basis.

**Mr McDONALD:** I will go through the recommendations and the department's response to them. I appreciate the support, in principle, to recommendation 5—remove requirement to record in council conduct registers matters. That is obviously a very big impost on people. I come back to the stress created by delays in the current process and the efforts by the department to get on top of this. We heard this morning the president use the term 'tripartite' meetings. With what sort of regularity are you looking at holding those meetings? Are you expecting to be able to get on top of these delays?

**Ms Blagoev:** The purpose of the tripartite meetings is an opportunity really for the three parties to come together to discuss things like key themes and consistency of messaging. We certainly heard feedback from stakeholders about the importance of ensuring that everyone has a consistent way of looking at things. As the Independent Assessor may have said this morning, it does not deal with resourcing itself. I wish to reiterate that the allocation of matters is a matter for the tribunal president. How she allocates matters and the amount of time that parties spend on matters is a matter for her administration rather than the department's.

**Mr McDONALD:** We heard the president mention today that she has the discretion to give one person a matter if it fits in a lower threshold but for any other matters of a higher concern there must be two people, and she prefers to have three people. She told us that there are still legislative requirements that she has to abide by for those appointments. Can you enlighten us with some other information that she has the discretion to conduct a tribunal with only one person?

**CHAIR:** I think that was to do with inappropriate investigations.

**Ms Blagoev:** It says in the legislation that the conduct tribunal is to be constituted by, for hearing a matter about the conduct of the councillor, at least two but not more than three members and, for dealing with an administrative or procedural matter relating to a hearing, the president or not more than three. What you would see is somewhere between two and three members on each matter. That is what the legislation prescribes. How she allocates matters and which matters go to which people and which people have availability remains a matter for her, and she needs to administer the tribunal in a manner that is required to get through the number of cases.

**Mr McDONALD:** Is it then that the 200 hours to 300 hours of a person's time that is being allocated to these things is a direct result of the legal difficulties? We are talking about fairly low-level matters. This is 200 to 300 hours of tribunal members' time to deal with things that are being resolved by, in many cases, an apology or education.

**Ms Blagoev:** The number of hours that a member spends on a matter is entirely at their discretion. The legislation provides no guidance around that matter. One would think that for minor matters the number of hours would be lower.

**Mr McDONALD:** Moving then to this interpretation of the legislation and the consistent interpretation of the legislation, I was concerned at the member for Burleigh's question and when I read the submission from the CCT that they are not bound by the department's policies and procedures. To me it seems that if you are setting the interpretation and delivering that message to councillors and councils and we have the final arbitrator, the CCT, not bound by that message—what is the department doing to close those inconsistencies of interpretation?

**Ms Blagoev:** The tripartite meeting is intended to deal with some of those bigger ticket items where there is not consistency between the parties. We also meet with the Office of the Independent Assessor to have similar conversations.

**Mr McDONALD:** Why hadn't those meetings occurred previously?

**Ms Blagoev:** Meetings have occurred between the department and the Office of the Independent Assessor for quite a long period. I will say that the staff in the Office of the Independent Assessor are very proactive in providing the department with a heads-up on a training matter, for example, and the communication into us has been excellent. The department's recent review did provide a recommendation to form the tripartite forum. Caroline, correct me if I am wrong, but it was in quarter 3 last year when that recommendation came out?

**Dr Smith:** Yes. That piece of work was done last year, after the new department was formed.

**Mr McDONALD:** How many meetings has the department had with the Office of the Independent Assessor from its formation in December 2018?

**Ms Blagoev:** I could not tell you.

**Mr McDONALD:** Could you take that on notice, please?

**Ms Blagoev:** We will not have that information.

**Mr McDONALD:** You won't?

**Ms Blagoev:** No. They are often a phone call where we are talking about a particular matter or a particular issue that has arisen in a council. They are not formal meetings with minutes or anything like that. They are discussions between officers.

**Mr McDONALD:** Do you think there would have been value to have more structured meetings to discuss problems that the OIA and the CCT were having throughout the last three years?

**Ms Blagoev:** The report has found obviously a benefit in bringing the three parties together. Whilst the department and the OIA have long had that relationship, the report found the benefit of bringing the tribunal in for that more formal structured approach.

**CHAIR:** Member for Traeger, do you have a question?

**Mr KATTER:** No. I am good for now.

**Mr HART:** You said just then that the OIA and the department meet to discuss particular issues with some councils.

**Ms Blagoev:** Sorry, that was loose language. I do not mean to suggest that the Office of the Independent Assessor provides the department with any confidential information or any information around particular complaints.

**Mr HART:** I am glad you clarified that.

**Ms Blagoev:** What we are interested in is themes that input into our capacity-building program.

**CHAIR:** And, I think, processes.

**Mr HART:** If the CCT president can decide how many members she allocates to a certain issue and what the time frame might be and how long that inquiry might be, how do you set a budget for her office?

**Ms Blagoev:** Sorry, I cannot provide that response. It is not my division that looks after the tribunal.

**Mr HART:** Can you come back to the committee with what the budget for that office is from your department?

**CHAIR:** Do you mean the CCT?

**Mr HART:** Yes.

**Ms Blagoev:** I can take it on notice and seek some advice.

**Mr HART:** Are you aware at all whether they have a fixed budget or a floating budget?

**Ms Blagoev:** My understanding would be that it would be a fixed budget within the department's overall budget.

**Mr HART:** That could be an issue as to why they are not solving as many issues as they can. If they can allocate their own time to it—

**CHAIR:** Let's have a look at the budget first.

**Mr SMITH:** Don't prophesy on something we don't have.

**Mr HART:** I do not need the constant commentary. I asked the CCT president this morning whether she issues annual reports. Does the department require the CCT to produce an annual report?

**Ms Blagoev:** No.

**Mr HART:** How does the department know what is going on there, then—just through these regular meetings?

**Ms Blagoev:** I understand that there is some information relative to the CCT that forms part of the department's annual report. The reality is that every time a misconduct finding is handed down by the tribunal we are reviewing that. We constantly review it from a capacity-building perspective.

**CHAIR:** So it is included in your annual report?

**Ms Blagoev:** There is some information. I cannot off the top of my head tell you exactly what sits in our annual report for the CCT.

**Mr HART:** What do you mean it is reviewed from a capacity-building perspective?

**Ms Blagoev:** Every time the tribunal makes a decision we will look at it. If they have said, 'Councillor X has done the wrong thing,' we need to look at it in terms of: is this a training issue? Do we need to provide more training to a council around that particular issue?

**Mr McDONALD:** To follow up on that matter, you mentioned before that you could not answer regarding the budget for the CCT. Can you explain to the committee then the resourcing structure of how the different elements we are talking about—the OIA and CCT—are funded?

**Ms Blagoev:** I would need to seek specific information from our finance team around how they are funded. There is no specific information.

**Mr McDONALD:** Who negotiates the resourcing, then? Do they make a pitch? Surely there is negotiation with the OIA and the CCT.

**Ms Blagoev:** There would be information through our corporate services team. It is just that I personally cannot answer that question.

**CHAIR:** We can tie those two together—what the CCT is and the department's role in funding structures for OIA and CCT. We will send that through as a question on notice. I think we have come to the end of that. There being no further questions, I will close this session.

We have some questions on notice. The first one is whether the threshold was reasonable suspicion prior to the current session. The second is whether exit interviews are conducted in the CCT. The third is percentage of council—

**Mr McDONALD:** Not just whether they are conducted but what they have discovered as to why there has been such a churn of staff.

**CHAIR:** Are they done and, if so, are there any notable findings?

**Mr McDONALD:** Notable findings regarding turnover of staff.

**CHAIR:** Do you want percentage or numbers of councillors attending conflict-of-interest training?

**Mr McDONALD:** Numbers will be fine.

**CHAIR:** Numbers or percentage. Then from the member for Burleigh: what is the budget for the CCT and then how is that funding structure created for the OIA and CCT through the department? Could we have the answers to those questions by Wednesday, 16 February? We will be liaising with you about the clarity of those as well. Thank you very much.

**Proceedings suspended from 1.47 pm to 1.55 pm.**

**STEPANOV, Dr Nikola, Queensland Integrity Commissioner**

**CHAIR:** Good afternoon and thank you for appearing before the committee today. Would you like to make an opening statement? Then we will proceed to questions from the members of the committee.

**Dr Stepanov:** Thank you very much. I wish to first express my thanks to the committee for inviting me to appear today. For the purpose of the record, I am Dr Nikola Stepanov, the Queensland Integrity Commissioner. I will take the opportunity to make a very brief opening statement.

Save for the aspects of lobbying regulation, the involvement of the Integrity Commissioner in the local government sphere is relatively recent. It occurred following the nomination by then local government minister, Hon. Stirling Hinchliffe, in February 2018. The nomination in 2018 is consistent with recommendation 20A of the Crime and Corruption Commission's Belcarra report. As Integrity Commissioner I welcomed the nomination and I have a deep respect for mayors and councillors and the important work that they do for our communities.

From the time that the nomination brought all mayors and councillors under the advice jurisdiction of the Integrity Commissioner under the Integrity Act to 15 December 2021, I received 425 requests for advice from mayors and councillors. In some cases it was what we refer to as repeat customers: they had come back on a number of occasions to get advice. Many requests for advice related to conflict-of-interest matters and it was mayors and councillors seeking to understand their obligations. Other requests for advice related to particular mayors or councillors seeking to know their obligations to report the conduct of another mayor or councillor.

The functions of the Integrity Commissioner are not limited to the advice function or regulating lobbying. The Integrity Commissioner also has a statutory responsibility to raise public awareness of ethics and integrity issues. Consistent with this obligation and to heighten understanding of ethics and integrity matters in the local government sphere, I developed a range of resources in collaboration with the Independent Assessor. These resources included guides and simple one-page meeting aids to assist councillors in understanding what matters ought to be disclosed before council and the appropriate level and nature of the disclosure. To enhance councillors' understanding of their obligations, together with the Office of the Independent Assessor and, on occasion, the Crime and Corruption Commission, we developed and delivered training and education sessions throughout the state. In this regard, the activities in discharging the public awareness functions of the Integrity Commissioner have been among the most enjoyable and meaningful aspects of this role. I greatly valued being able to work with councils, together with other integrity agencies, to assist to enhance the level of understanding among councillors about their integrity obligations.

Primarily, my main concern has been, and remains, that the substantial number of complex reforms introduced in the local government sector over the past little over four years now has made it difficult for key stakeholders, including myself, to fully grasp what is expected of mayors and councillors, who has set those expectations and standards and the reasons why. The most recent amendments to the conflict-of-interest provisions and the tensions which have arisen between the various stakeholders as each seeks to clearly understand the intent and the practical realities of navigating these complex and novel provisions is, in my view, a case in point.

This inquiry provides an important opportunity for a broad and objective review of the legislative framework that regulates elected local government officials as they perform their vital roles. In my view as a key stakeholder, there has not been any one failing that has given rise to current concerns, nor should any one party be the focus of or source of blame or cause. In my view as a key stakeholder, there is no single cause for the issues which this inquiry will examine. The implementation of the new regulatory regime is a complex exercise and, given the frequency and extent of the changes and reforms in the local government sector over the past four or so years, and the inherent competing views of stakeholders, it is entirely to be expected that there are differing views. I view this inquiry as a very important opportunity to objectively review and consider the local government sector overall. Thank you.

**CHAIR:** Thank you, Dr Stepanov. We have a situation where the mayors and councillors become nominated persons and are able to ask you for advice. Obviously that advice is highly valued because of the protections it offers when dealing with matters of conduct. Then you get 425 cases of people asking you for advice. Under the section of the act, you stopped offering that advice to councillors on conflict of interest matters. Which section of the act? Is that the Integrity Act or the Local Government Act?

**Dr Stepanov:** Under the Integrity Act, I provide advice to anyone who is classed as being a designated person. It is on ethics and integrity matters; it is not on matters of legal interpretation, for example, where there are new provisions and those provisions are not well understood or whether

thresholds have not been set. The changes to the conflict of interest provisions came into force in October of 2020. The act of trying to interpret what is meant by those changes is largely a legal exercise. It is not a substantive ethics or ethics advice issue. That coincided as well with some reductions in staffing.

**CHAIR:** To clarify, under which section of which act did you make that decision not to go down that track?

**Dr Stepanov:** They were nominated under the Integrity Act. If you have a look at section 12(1)(h), a minister can nominate a person or class of persons under that particular provision. Under section 15, I am required to provide advice, however I can refuse to provide advice if I provide my reasons. I have been providing my reasons to local councillors when they have sought advice post those changes in legislation. I also informed the local government sphere before those changes came in, including by way of my submission, that it would really be a question of legal interpretation and, once that was settled, then we could perhaps provide advice on ethics issues, but until then it was largely a question of legal interpretation.

**CHAIR:** As we have seen by talking to the CCT, the OIA and the department today, these conflict of interest issues are increasingly being subjected to legal interpretation. It is the impact or the substance of legal interpretation of these matters which has propelled you down this path. Was there any issue of workload as well?

**Dr Stepanov:** Absolutely. The changes occurred at a time when staffing was reduced. I had had some temporary staff, and those contracts were not continued. It coincided with a time where I had reduced capacity to meet demand. Under the Integrity Act, I cannot delegate the advice functions. Each advice is from me. As you would appreciate, I think in our busiest months with local councils, I had 41 advice requests in that one month. In the year shortly after the election, in the month of December 2020, I received 60 requests for advice and none of those were from local government. I am one person unable to delegate those functions, so it does make it very difficult to be able to meet demand. However, I do think it is a very good thing that people are seeking advice, and I did not wish to discourage that.

**CHAIR:** One of the things we heard this morning is that sometimes the time frames would be very brief. You would be contacted the day or so before a council might have to take action regarding a matter. Was that common?

**Dr Stepanov:** It is common across all of the people I provide advice to, whether it is a minister heading into a cabinet meeting or a member of a statutory board or body, for example, a government owned corporation and the same thing within the local council setting. It is not uncommon for the particular advisee to only become aware of a conflict when they see a name or some sort of application in the papers that are put to them before a meeting. Cabinet meets on a Monday. Boards and bodies tend to meet on Mondays and Tuesdays, and councils as well, so it did mean—

**CHAIR:** We are focusing on councillors.

**Dr Stepanov:** Yes. It is completely common that they would need advice urgently once they have had their meeting papers put to them.

**CHAIR:** Under the act, you are still obliged to give advice, but also under the act you have the power to not do that. Is it possible that some people are insisting—mayors and councillors may insist on getting that advice even though you have previously indicated that you are not going to do that? Can they force the issue?

**Dr Stepanov:** Not really because if, in my view, the question they are asking is largely a legal question and it is not settled—for example, the new conflict of interest provisions—if I were to provide them with advice, because of the legal protections the advice then attracts, I essentially would be setting the standard. I would need to set the standard at the highest ethical standard. Whilst I might have regard for what is in the Local Government Act, it is also open to me under my act to adopt any other standards or codes that I think are appropriate under the circumstances. I think that makes it really problematic in that I have no doubt the intent was not for me, as the Integrity Commissioner, to determine threshold legal questions and set standards across the local government sector.

**CHAIR:** It is an issue that we have talked about—who gets to set the precedence in all these issues.

**Dr Stepanov:** That is right.

**CHAIR:** To the point where you were saying you were not going to provide that advice anymore, who did you liaise with and talk about that? I know you cannot reveal too much about what was said, but can you talk us through a process of how you went about that?

**Dr Stepanov:** Of course. I initially started liaising in May or June of 2019 as staffing numbers were reduced, as temporary contracts were coming to an end. I have liaised with the minister, the department and also the Local Government Association of Queensland. I also have informed the Office of the Independent Assessor and the Crime and Corruption Commission. I made it known quite widely and provided a long period of notice to say, 'My ability to provide advice is going to be reduced because of resourcing.' Then when the provisions came in, I again said that because there was a lack of agreement around how the provisions should be interpreted, it was a matter that is best settled legally and therefore I could not provide advice.

**CHAIR:** We are in a case a little bit further down the track where we are getting more decisions coming through the CCT and being set in a variety of other places. Once there is some more clarification about the role or how this new scheme operates, are there plans, as you have indicated, or an intention to open up access to your advice again?

**Dr Stepanov:** As I had said, I am very limited by the act; I cannot delegate that function. There are literally only so many advices a single person can provide, even when I am supported by a team. I have a small team—I currently have four FTE—but we also regulate lobbying. I do not simply have an advice function; I have other functions as well. What I have suggested in my submission, which is before my committee, in response to Kevin Yearbury's recommendations—he did the strategic review into the functions of the Integrity Commissioner—is that if it was felt that there was a benefit in having the Integrity Commissioner again weigh into the local government space and provide those advices, I anticipated that it would take four full-time lawyers working with me in my office, in addition to the staff that have already been recommended by Mr Yearbury.

**CHAIR:** Which leads me to the next question: I know that the councillors turn to you for integrity advice, but we had cases where it was more appropriate to seek legal advice. In a brutal sense or a nutshell, were they looking for free legal advice?

**Dr Stepanov:** No, I do not believe so. I think that there was a great deal of uncertainty. The majority of advisees that contact our office are genuinely trying to do the right thing. Yes, there may be a minority that have alternative motives. I do not act to counter the minority. I act to meet the needs of the majority. In my view, they were coming forward in good faith because they were trying to understand their obligations and they were genuinely trying to do the right thing.

**CHAIR:** Before I go over to questions, I welcome the member for Kawana. Good to see you again. We are all going to be hanging on your questions. We are keen to see how you frame your question with meeting standing orders and also—

**Mr BLEIJIE:** I have no doubt you will try to block me.

**CHAIR:** No. See if you can make it according to the terms of reference and also meet your requirements as well. We are all hanging on the questions. I will put it straight over to you for your question.

**Mr BLEIJIE:** The member for Burleigh has a question.

**CHAIR:** Oh, disappointed.

**Mr McDONALD:** Just before you go there, thanks very much, Chair, for trying to control the non-government side.

**CHAIR:** I would never try to do that.

**Mr McDONALD:** Thank you very much, Commissioner. You answered a question about the minister in terms of resourcing. Can you clarify, is it the Premier, the department of cabinet, or which was the minister you were referring to?

**Dr Stepanov:** Sorry, it was the former local government minister, Minister Hinchliffe, which is consistent with the time frame which was the 2019 period.

**Mr McDONALD:** Who would the minister be now?

**Dr Stepanov:** Local government—it is the Deputy Premier.

**Mr HART:** Commissioner, the 425 cases that you referred to before, that is correspondence between you and a particular council or a mayor about a particular issue and a private conversation. How are those records stored to comply with the Public Records Act? Are they on your computers or your IT system? How are they stored?

**CHAIR:** We have asked these questions before today because the OIA and CCT have said that that is an issue which has been directed to the department to which this committee has oversight. What you are doing is asking a question about IT services in a department that lies outside this committee.



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**Mr HART:** Sorry, Chair, I have asked that question of every person today.

**CHAIR:** Yes, you have, and I have allowed it because—

**Mr HART:** And now you are not allowing it?

**CHAIR:** No, let me finish. I have said that because the answers to those questions lies with the Department of Local Government. The answer to this question lies with, I think, Premier and Cabinet—

**Dr Stepanov:** That is correct.

**CHAIR:**— which is outside the purview of this committee. You are not going to get an answer through this committee and through this inquiry on that particular one. You might want to rephrase your question because it will be ruled out of order otherwise.

**Mr HART:** Commissioner, you told us that you have talked to 425 councillors and mayors, and you have given those people advice as per the legislation. That advice is private to both sides, is it not? You cannot release that information; the other side can. But those records are somewhere, are they not?

**Mr SMITH:** Point of order, Chair. Is this going along the same line of questioning as before and delving into repetition?

**CHAIR:** We have dealt with this before.

**Mr McDONALD:** It is a simple question.

**Mr HART:** I think we have asked it of everyone today.

**CHAIR:** It is indeed, because you have been able to ask it of the department when they come in. The department of local government looks after the IT services for those other bodies. IT services for the Integrity Commissioner lies with a different department.

**Mr BLEIJIE:** Mr Chairman, a point of order.

**CHAIR:** I have not finished yet.

**Mr BLEIJIE:** You do not have to. I am raising a point of order.

**CHAIR:** I am just saying that the commissioner is not the right person to be asking the question of where the commissioner's information is because it is another department. You might want to rephrase the question. I would certainly remind the commissioner about which departments this committee can actually look at.

**Dr Stepanov:** If the committee does not mind, I might just clarify one point that the member has raised. That is, for an advice request to come from a mayor or councillor the request must be made in writing, for example, an email, so it is not about phone calls, although I keep extensive notes of phone calls. For a request from anyone other than a member of parliament it must be in writing. The responses must also be in writing, so those are formal advices that happen.

**Mr HART:** They are emails, then. I will hand the rest of my questions to the member for Kawana.

**Mr SMITH:** I did have a point of order. You were addressing my point of order and in the meantime you were being interrupted by two members to your left. I would hope that you might caution them about standing orders.

**Mr BLEIJIE:** Stop filibustering. The chair finished his ruling and the Integrity Commissioner answered so stop filibustering and let us get on with the inquiry.

**CHAIR:** Let him finish his point of order.

**Mr SMITH:** Standing orders are important in this place.

**CHAIR:** Your point of order was?

**Mr SMITH:** My point of order was that while you were addressing my point of order there were interruptions from the other side and I was unable to hear your reply to my point of order. I would hope that you may caution those to your left.

**Mr BLEIJIE:** Says the member who missed the committee this morning because he was with turtles and the Premier. He was not here.

**CHAIR:** I will caution the member. Member for Kawana, this is exactly the point that the member was making.

**Mr BLEIJIE:** I have questions, Mr Chair, that I would like to get on with.

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**CHAIR:** Very much so, but can I recommend that all committee members treat each other with respect and not talk over their answers. It is the same thing that I say to my kids. Member for Kawana?

**Mr BLEIJIE:** Thank you, Mr Chair. Integrity Commissioner, thank you for being here today. On behalf of all Queenslanders can I thank you for your comments of late exposing the integrity crisis we have in Queensland.

**Mr SMITH:** Point of order, Chair.

**Mr BLEIJIE:** I think you are doing a sterling job as the highest integrity officer in the state.

**CHAIR:** Member for Kawana, there is a point of order. One moment, member for Kawana.

**Mr SMITH:** This obviously goes to the relevance of what this inquiry is about.

**Mr BLEIJIE:** Thanking the Integrity Commissioner for doing her job? Are you serious?

**CHAIR:** One moment. Member for Kawana, we have already pulled you up for talking over others.

**Mr BLEIJIE:** Unbelievable.

**CHAIR:** It was about the preamble and relevance?

**Mr SMITH:** Yes, that is right—relevance to what this inquiry is about, not about other matters outside what this committee is tasked with.

**Mr McDONALD:** Point of order. The commissioner has clearly articulated that she is not able to delegate the information provision to councillors and mayors and she has to deal with it herself. The member for Kawana is thanking her for her services around integrity.

**Mr BLEIJIE:** I will continue, Mr Chair, if I may, thank you.

**CHAIR:** Member for Kawana, come straight to your question with no lengthy preambles.

**Mr BLEIJIE:** Thank you, Mr Chair, and again, Commissioner, thank you for being here today. Who controls your staffing in your office?

**Dr Stepanov:** I thank the member for the question. For the Integrity Commissioner, the budget and the staffing are controlled by the Public Service Commission. The Integrity Commissioner is an unusual arrangement where it is a statutory office holder but there is no office of the Integrity Commissioner so I have no chief executive function, supervisory responsibility to staff. The budget falls within the budget of the Public Service Commission. The level of my financial delegation is consistent with a senior officer within any public service department. The governance arrangements are such that those things fall under the control of the Public Service Commission, yes.

**CHAIR:** Bear in mind, member for Kawana: relate this to local government councillor conduct.

**Mr BLEIJIE:** Mr Chair, with all respect, the Integrity Commissioner has provided a written submission to this committee. The written submission talks about the functions of the Integrity Commissioner. The Integrity Commissioner has also just given testimony to this committee that there was a staff reduction—

**Mr SMITH:** Point of order, Chair.

**CHAIR:** One moment. We will let the member for Kawana finish.

**Mr BLEIJIE:** There was a staff reduction and one of the reasons the Integrity Commissioner is unable to give advice to local councillors and mayors subject to this inquiry, I would suspect, is staffing.

**CHAIR:** I understand that.

**Mr BLEIJIE:** My question to the Integrity Commissioner is: with respect to the staffing levels of the demand when councillors and mayors became designated persons under the legislation and could seek advice from you, you have said that you had a reduction in staff. So, despite all this extra workload that you had to have—and, as you say, you cannot delegate the work so it is you—the Public Service Commission did not give you additional staff. They in fact reduced your staffing levels; is that correct?

**CHAIR:** I think that is a relevant question talking about the staff who can deal with local government issues. Before you answer that, what is your point of order, member for Bundaberg?

**Mr SMITH:** It was just a point of order about whether the member for Kawana was arguing a point of order or just talking without having the call. That is all. I am happy to move on.

**CHAIR:** I think it is a legitimate point. Dr Stepanov, in terms of talking about staffing available for local government issues, if you could focus just on local government that would be much appreciated.

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**Dr Stepanov:** Of course, and I thank the member for the question. The staffing provided to support the Integrity Commissioner has varied quite a good deal throughout my term. It did reach a high of, I think, 7.8 FTE in the second financial year following the nomination of mayors and councillors. I think after that year it then declined.

**Mr BLEIJIE:** Thank you. Correct. With all the extra workload your staff actually decreased from about 7.8 to the 7.4 that you have at the moment.

**Dr Stepanov:** At its highest it was 7.8; at its lowest within my office there was one.

**Mr BLEIJIE:** When did you have one staff member in your office, Integrity Commissioner?

**Dr Stepanov:** For a short period last year. However, at that point I was not providing any advice to local government. If I did receive a request from a mayor or councillor, I provided avenues for them to have their needs met, including referring them to the department and the Local Government Association. If they raised a concern about the conduct of another, I provided them with the contact details of the Office of the Independent Assessor.

**Mr BLEIJIE:** Thank you. Can you advise this committee please when the Public Service Commission raided your office and took a laptop?

**Mr SMITH:** Point of order.

**CHAIR:** Nice try, Cowboy. That is not relevant.

**Mr BLEIJIE:** With respect, I take offence at the comment, Mr Chair. It is disorderly and I ask you to withdraw.

**CHAIR:** I withdraw the term 'cowboy'. I withdraw my comment. That is fair enough. For some clarity on that, we heard this morning that the CCT was down to one, at one stage it went up five and then it went up seven. Was that due to resignations? That would follow the same pattern—

**Mr BLEIJIE:** Mr Chair, I had a question.

**CHAIR:** We will get back to you.

**Mr BLEIJIE:** No, I am sorry, Mr Chair.

**CHAIR:** You do not need to be sorry. I do not need to be sorry.

**Mr BLEIJIE:** Sorry, you cannot disregard my question.

**CHAIR:** I am not disregarding; I am asking for clarification.

**Mr BLEIJIE:** Mr Chair, your leader, the Premier, said that she wanted public servants to come forward on integrity issues.

**Mr SMITH:** Point of order, Chair.

**Mr BLEIJIE:** You are denying the opportunity for the Integrity Commissioner to give advice to this committee.

**Mr SMITH:** Point of order, Chair.

**CHAIR:** You are warned under the standing orders.

**Mr BLEIJIE:** The Premier has said to come forward, and you are denying the first opportunity—

**CHAIR:** You are warned under the standing orders.

**Mr BLEIJIE:** I want my question answered, Mr Chair.

**Mr SMITH:** Point of order, Chair.

**CHAIR:** We are conducting an inquiry into local government. You need to bear that in mind.

**Mr BLEIJIE:** Which the Integrity Commissioner gives advice to.

**Mr SMITH:** Point of order, Chair.

**Mr HART:** You are running a protection racket; that is what you are doing—a protection racket!

**CHAIR:** Member for Burleigh, I am not going to warn you for that. Member for Bundaberg, you had a point of order?

**Mr McDONALD:** Chair, it is a question.

**Mr SMITH:** The point of order is that there is clearly quarrelling from those members. They are not raising points of order; they are just outright arguing. You have given them a warning and I urge you to caution them as to if they wish to stay here—

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**Mr HART:** You will kick us all out. That would be the go. We would never get any questions answered.

**Mr SMITH:**—get rid of the grandstanding.

**Mr BLEIJIE:** I have asked a question.

**CHAIR:** Thank you, members to my left. I have heard the point of order. Members on my left, I caution you once again: do not breach standing orders with regard to quarrelling. As I have said, can we focus just on how this impacts on local government? I understand how you would love to go into all these other aspects, but we are conducting a specific inquiry under specific terms of reference. I think, member for Kawana, your last question was ruled out of order. Do you have a further one?

**Mr BLEIJIE:** No, you did not. You just did not allow the opportunity for it to be answered. Can I say this on my question—

**CHAIR:** No, you cannot say it. I do not need your opinion.

**Mr BLEIJIE:** The local council and mayors seek advice from the Integrity Commissioner. That advice is stored on a laptop. I am not certain that that private information has not been taken by the Public Service Commission. It is up to the Integrity Commissioner to answer the question.

**Mr SMITH:** Point of order, Chair.

**CHAIR:** Member for Kawana, I have directed you on this particular issue. If you want to ask questions about where a department has their IT, you need to ask that department when it is in front of another committee. I am asking you to either recast or redirect your question.

**Mr BLEIJIE:** I am asking you to clarify. Are you telling members on this committee and me, Mr Chair, that laptops that contain sensitive information that the Integrity Commissioner gives advice to local councillors—

**CHAIR:** I am saying: if you have a question about IT—

**Mr BLEIJIE:** May I finish?—is not relevant to this, despite the Premier saying for public servants to come forward on integrity issues?

**Mr SMITH:** Point of order, Chair.

**Mr BLEIJIE:** Are you denying that opportunity to the Integrity Commissioner?

**CHAIR:** No, you keep trying but it is not working. Member for Bundaberg, you have a point of order?

**Mr SMITH:** Chair, the member is on a warning and continues to quarrel with you as the chair. I wonder if it is not time for him to be removed from this committee.

**Mr McDONALD:** Point of order, Chair.

**CHAIR:** I understand that. I have warned him under the standing orders. I am giving a little bit of latitude. There is a point of order from the member for Lockyer.

**Mr McDONALD:** Thank you, Chair. The member for Kawana has asked a question of the Integrity Commissioner. The Integrity Commissioner would record records, as she has said. The IT function may be a different department, but this is a fair question to the person who provides the advice and stores that advice.

**CHAIR:** I think you are arguing the point. You are asking about IT functions for a department that does not come under—

**Mr McDONALD:** Just let the commissioner answer it.

**CHAIR:** Hang on. That is not dealt with by this committee.

**Mr HART:** The laptop is in the possession of the Integrity Commissioner.

**CHAIR:** Thank you. You have already made your points of order. You have already quarrelled on that. All I am saying to the Integrity Commissioner when she does give her answer is to bear in mind that this committee has no ability to look at what other departments do with their IT, and can we just make sure that this relates to local government.

**Dr Stepanov:** I thank the member for the question. Unfortunately, I am unable to provide any comment on any matters that may be with the Crime and Corruption Commission.

**CHAIR:** One more question before we go to the member for Ipswich West.

**Mr BLEIJIE:** Thank you. Integrity Commissioner, in the media today it is saying that you have requested that the Public Service Commission, of which you know you have given testimony today about staffing levels—and I asked you before whether it was the Public Service Commissioner that Brisbane

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controlled your staffing and you have said yes. In the media today it is suggesting that you are suggesting that the Public Service Commission not be involved with your office, that you become an independent office. Can you expand on that to the committee, please?

**CHAIR:** I do not think so.

**Mr BLEIJIE:** So far as it relates to your functions—

**CHAIR:** How are you going to tie this to local government? This is a real stretch for you.

**Mr BLEIJIE:** Should I read the entirety of the Integrity Commissioner's advice? Should I read the functions of the Integrity Commissioner?

**Mr SMITH:** Chair, we have important questions into the functions of this assessment. Instead of grandstanding for headlines, there are genuine questions that we have.

**Mr BLEIJIE:** Staffing and accountability of the Integrity Commissioner's office are very relevant to what they do.

**Mr SMITH:** There are genuine questions we would like to ask, and not the member for grandstanding—not the member for Kawana.

**CHAIR:** I understand that. Member for Kawana, you have to recast your question so that it fits in with what we are here today to inquire into, which is local government. Try it again.

**Mr HART:** Point of order.

**Mr BLEIJIE:** I will, Mr Chair. Integrity Commissioner, is it the case that if you ran your office independently of the Public Service Commission and had more staff you would be in a better position to give advice to local councillors and mayors on ethics and integrity issues?

**CHAIR:** That is hypothetical and asking for an opinion.

**Mr BLEIJIE:** It is not.

**Mr SMITH:** It is an opinion.

**CHAIR:** You are asking for an opinion. I have given you a couple of chances to recast your question.

**Mr BLEIJIE:** No, you have not. You have blocked me, Mr Chair, and you are doing a protection racket for the government.

**CHAIR:** I am helping you. I am trying to help you.

**Mr BLEIJIE:** You are not. You are preventing a member of parliament from asking questions, and 'Mr Filibuster' down the end, who was with the Premier with turtles this morning and missed his committee, is deliberately trying to stop these issues being raised.

**Mr SMITH:** Point of order, Chair.

**Mr BLEIJIE:** These are important issues that Queenslanders deserve to know and the Premier said to come forward and tell everybody.

**CHAIR:** Member for Kawana, there is a point of order.

**Mr SMITH:** Point of order, Chair.

**CHAIR:** Were you with turtles this morning? I am jealous.

**Mr SMITH:** Apart from the member for Kawana's dislike for supporting regional Queensland, he is again quarrelling.

**Mr BLEIJIE:** I take offence at that, Mr Chair, and I ask the member to withdraw the comment.

**Mr SMITH:** I withdraw the comment.

**Mr McDONALD:** Can I seek a clarification, please?

**CHAIR:** Yes, you may.

**Mr McDONALD:** I will try to be as clear as I can. Would any private information from mayors or councillors be on the laptop that was taken?

**CHAIR:** No.

**Mr SMITH:** Point of order, Chair.

**Mr BLEIJIE:** Is that 'no' to that question or 'no' you are not allowing the question?

**CHAIR:** Thank you, member for Kawana.

**Mr McDONALD:** Given the intent that the commissioner gives the advice—

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**CHAIR:** Once again this has come back to the same issue. You are talking about IT in a department that has nothing to do with this committee.

**Mr BLEIJIE:** It is talking about how the records are held of the local councillors and mayors. It is how the records are held in the office of the Integrity Commissioner.

**CHAIR:** I have given you chances to do this and how to relate this to the terms of reference. Unfortunately you have not been able to make the case. I am going to move to the member for Ipswich West.

**Mr HART:** Point of order, Chair. The member for Kawana has been referring to the submission that the Integrity Commissioner made where she talks about those issues, so it is entirely appropriate to ask these questions.

**CHAIR:** I thank the member for that point of order. I have heard that and I am still failing to see how that actually relates to what we are here today to do. I have asked the member for Ipswich West—

**Mr McDONALD:** Chair, there are two functions at play. One is the recording and storing of information in terms of email transactions that the commissioner could answer and the other is an IT issue, which is a separate issue. It is about whether any private information of mayors or councillors was on the laptop that was taken.

**CHAIR:** Member, you have heard my opinion on this. I have dismissed your point of order.

**Mr BLEIJIE:** Point of order, Mr Chair. I refer you and the committee to the submission to this very body from the Integrity Commissioner where the Integrity Commissioner has submitted that the QIC has four functions. The first function is to give written advice to current and former designated persons about ethics and integrity issues. It is in the Integrity Commissioner's submission—

**Mr SMITH:** Point of order, Chair.

**CHAIR:** Wait until the member has finished.

**Mr BLEIJIE:** It is in the Integrity Commissioner's submission to this committee and I am seeking to understand whether that advice given pursuant to the Integrity Commissioner's submission is held privately and secretly and has not been sabotaged by the Public Service Commission, who raided the Integrity Commissioner's office. Where is the laptop? What was on the laptop? That is the question we want to know.

**Mr SMITH:** Chair, the Integrity Commissioner—

**Mr BLEIJIE:** Because the committee cannot be guaranteed that that is the case.

**CHAIR:** One moment, member for Kawana. There is a point of order.

**Mr SMITH:** The Integrity Commissioner did just give an answer that she cannot comment on an investigation that is currently underway and I know that the member for Ipswich West has some wonderful questions that he would like to ask.

**CHAIR:** Members to my left, the points of order you have made I have given my opinion on and I think the Integrity Commissioner has already answered that question so I am going to go to the member for Ipswich West.

**Mr MADDEN:** Thank you for coming in today, Dr Stepanov, and I would like to thank you for your service to the people of Queensland. My question relates to a comment you made previously with regard to your interaction with the Office of the Independent Assessor. I just wanted some clarity about what interaction you have with the Office of the Independent Assessor, the Councillor Conduct Tribunal and the department. Is it face to face? Is it by email? How regular is it? What is the purpose of it? Can you give me some meat on the sandwich?

**Dr Stepanov:** I thank the member for the question. When mayors and councillors were originally nominated, the Office of the Independent Assessor had not yet been established so I ended up in the local government space in February 2018 and the OIA was only established in December of that year. The OIA's office is actually right next to my office. I had already started consultation, including with the Crime and Corruption Commission, to develop a range of materials and to make those available to local government. When the Office of the Independent Assessor was established we quickly formed a very, very strong professional working relationship. We developed materials together. My materials had been reviewed by the Crime and Corruption Commission, among other entities, just to make sure they were of the highest ethical standard. Then, together with staff of the OIA and on occasion Kathleen Florian, my team and I provided education and training across the local government sector. On a number of occasions Kathleen and I would be invited to appear and

speak to a council together, and that continued throughout the time that I was heavily involved in the local government sector. I initially had weighed into that space, the OIA followed about 10 months later and then I regularly met with the department—so the director-general or his deputy director-general—and/or, on occasion, the minister, as is appropriate for someone of my office as a statutory office holder, and regularly engaged with the local government sector, including going to any conferences that they had or doing any presentations that they required. It was quite a lot of involvement and my team and I enjoyed being involved at that level.

**Mr MADDEN:** Do you have much communication with the Councillor Conduct Tribunal?

**Dr Stepanov:** I have had very little to do with the Councillor Conduct Tribunal. I do remember when they were established. Again, they were established I presume around the time of the OIA. It seemed to be in a state of flux, so the numbers of people in the tribunal went up and down. The people in the tribunal went up and down. I think it got down to as little as two. I know that the tribunal has cited some of my advices or particular passages or cases that I have relied on in some of their decisions, but I really had no contact with the tribunal, probably because it just seemed to change quite frequently.

**Mr MADDEN:** Thank you for those answers. I would also like to ask you questions about your role in maintaining the register of lobbyists. It seems to be a dark science: lobbyist. Is there a definition of a lobbyist?

**Dr Stepanov:** Thank you, member, for the question. There is a definition. It is where someone lobbies on behalf of a third party for a reward, for example a payment. It is a fairly limited definition. It does not include things like incidental lobbying. For example, if you are a large company like KPMG where most of your business is not lobbying, those kinds of activities are not captured under the lobbyist regulation. It is only within the local government space there is quite a lot of both registered or lawful lobbying and then also unlawful lobbying.

**Mr MADDEN:** Can you advise the committee who enforces the law when a lobbyist does not register with you?

**Dr Stepanov:** There is not really any ability in my act. It is not an offence to unlawfully lobby someone. There really are no offence provisions in the Integrity Act in relation to whether you are an unregistered or a registered lobbyist. I think Kevin Yearbury in his strategic review has made recommendations to the Economics and Governance Committee around some changes that would benefit lobbying regulation, and I note that the Crime and Corruption's submission was also made available yesterday. It is a matter for that committee then to consider the recommendations of the strategic review by Kevin Yearbury. I have also done a submission on behalf of myself and our team.

**Mr BLEIJIE:** Point of order. I want to clarify: it is okay for Labor members to ask about lobbying activity, which is not subject to this review—

**CHAIR:** What are you getting at?

**Mr BLEIJIE:**—but LNP members are not allowed to ask about the actual staffing and the Public Service Commission?

**CHAIR:** You can ask a follow-up question if you like.

**Mr BLEIJIE:** Labor are allowed to ask whatever they want and the LNP cannot ask what we want.

**CHAIR:** Member, can I point out that you are under a warning.

**Mr BLEIJIE:** Not a good look, Mr Chair. We have an integrity crisis in Queensland. That is not a good look.

**CHAIR:** Thank you for your comments on looks.

**Mr BLEIJIE:** The Premier says, 'Come forward, everyone.'

**Mr SMITH:** The LNP is a horrible look.

**CHAIR:** Member, you certainly want to be kicked out. I have not decided whether I will do it or not yet.

**Mr BLEIJIE:** I do not want to be kicked out. I want this to go all night.

**Mr SMITH:** How many public servants did you sack?

**CHAIR:** Then please heed my advice on sticking to the chair's direction. Member for Bundaberg, you have not asked a question yet.

**Mr HART:** The member for Traeger has not asked any questions yet, either.

**CHAIR:** The member for Traeger does not have a question at this point.

**Mr SMITH:** Integrity Commissioner, thank you so much for being here. I notice that when you were talking about putting together those resources and doing some of those training materials it brought a bit of a smile to your face which is good, because I am a teacher as well so getting that knowledge out there is very important. I am wondering if you could take us through what some of those resources look like. Are there modules? Are they interactive? Are they just single pieces of paper? Is there DVD accessibility and so forth?

**Dr Stepanov:** I thank the member for the question. Yes, it does put a smile on my face. I am an academic so I have a couple of degrees in education as well as my other degrees.

**Mr SMITH:** Wonderful.

**Dr Stepanov:** I was limited in terms of developing resources to what my budget allowed. I undertake the research myself. What we did was develop just little simple one-page meeting aids for councillors. They would be able to take that to a meeting and have a look, and there were some threshold questions that would prompt the councillor to either disclose at the meeting or, alternatively, not disclose. We developed a range of materials, including the councillor aid 'The Duty to Report'. If I as a councillor was concerned about the conduct of another, I could simply refer to this one-page aid, simply write my answers beside it and this would then guide my decisions as to whether I needed to report. It was informed by my research, which is a dense and dull research paper. If you have insomnia, this is the paper for you. This is publicly available and I do that just to show the extent of research that goes into this material.

**Mr BLEIJIE:** I have read it.

**Dr Stepanov:** Have you read it?

**Mr BLEIJIE:** I read all your stuff.

**Dr Stepanov:** Have you really?

**CHAIR:** Maybe you could ask for an autograph later.

**Mr BLEIJIE:** The last few weeks have been very interesting. I have read everything.

**Dr Stepanov:** On page 27, paragraph 2, I said what?

**Mr BLEIJIE:** Exactly.

**Dr Stepanov:** Sorry. Then we developed a simple guide so if there was not enough information in the one-page aids for a council they could resort to the guide, and in here we gave really clear examples. These examples were already based at that time on the most common concerns councillors were bringing to me. For most councillors, they would read the example and they would be able to relate to it. We did develop things like, obviously, PowerPoint presentations et cetera, and then we were delivering training and education in person. That included things like hypotheticals, which were a lot of fun—well, I think they were a lot of fun but perhaps they were not as much fun as I remember them being.

**Mr SMITH:** It reminds me of some of the lessons I used to teach. I thought they were great; students had other things in mind. That brings me to that next stage, because it is about education. Obviously we are dealing with adult education, and we know that English as a second language is more prevalent these days—and then combinations of languages, especially if we go into more remote parts of Queensland. Has there been much review or feedback or way that we make sure we get the best in terms of adult education, dealing with ESL and other languages as well, to make sure it is coming through as clearly as possible?

**Dr Stepanov:** Thank you for the question. It is a very good one. I have a couple of degrees in education, including a Masters of Education. That actually was in adult learning and included things like designing curriculum and the different methods you would use, because we do not all learn by reading. That is why face-to-face is important, particularly for our more remote communities. We had a range of training and education and then we would tailor it, including with the Office of the Independent Assessor, to the particular needs of a council. Before we would go out to do the education and training with the council, they would often email us and say, 'These are the common things we are seeing,' so we were able to tailor what we were doing to meet their needs. Behind the scenes, I had started a project called Uniquely Placed, Better Equipped. I had done some research looking at the meanings of things like related parties, including under the Local Government Act, because they do not recognise, in my view, the relationships—the traditional and cultural relationships, particularly for our First Nations people's councils. I had started that body of work with the Office of the Independent Assessor, but I understand her training and education function is now gone. I will endeavour to continue with that body of work.



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**Mr SMITH:** I am mindful of time, because I think we have only one minute left before we have to say goodbye to the Integrity Commissioner.

**Mr HART:** And you are trying to waste it.

**CHAIR:** You will get there. We will go over here for a last question. Member for Bundaberg?

**Mr SMITH:** I will hand back over to you, Chair.

**CHAIR:** Last question over this side.

**Mr BLEIJIE:** Thank you, Mr Chair. I am going to take the lead from my learned colleague the member for Ipswich West, who asked about lobbyists. I am going to ask about lobbyists, Dr Stepanov. When you raised the issues of Labor lobbyist Anacta and Evan Moorhead publicly, do you think then the Public Service Commission coming in—

**Mr SMITH:** Point of order, Chair.

**Mr BLEIJIE:**—raiding your office. Do you think that put a target on your back from the Public Service Commission?

**CHAIR:** I am ruling that question out of order.

**Mr SMITH:** Typical LNP. How many public servants did you sack? How many did you march out the door?

**Mr BLEIJIE:** I do not think the commissioner heard the question because I was being interrupted.

**CHAIR:** Certainly the question was very clear.

**Mr BLEIJIE:** So Labor can ask about lobbyists but the LNP cannot ask about Labor lobbyists? Is that how it works, Chair?

**Mr SMITH:** How many did you march out the door? How many public servants did you sack? How many nurses?

**CHAIR:** Can I have both sides here calm the farm a bit. Member for Kawana, I understand what you are getting at. Certainly the way you phrased that question has been ruled out of order. Is there a specific question you have about a regulation of lobbyists with regard to local government?

**Mr BLEIJIE:** Yes, absolutely. Integrity Commissioner, have you given any advice or sought advice from anyone else, or legal views, on Anacta, which is Evan Moorhead's Labor lobbyist company, as far as it relates to local government and mayors?

**CHAIR:** Can you make that broader? You are being very specific.

**Mr BLEIJIE:** You want it broader than that?

**CHAIR:** No, if you are going to talk about lobbyists you need to talk broadly across the sector.

**Mr BLEIJIE:** Not a Labor lobbyist?

**CHAIR:** No, it is not narrowing it down.

**Mr BLEIJIE:** Just talk about a lobbyist—

**Mr SMITH:** Chair, I think it is 2.45.

**CHAIR:** Member for Kawana, we have had a number of hours here today when we have talked about refraining from bringing out specifics, whether it be cases or people. I think your question is: can the Integrity Commissioner furnish some answers on her work with regard to lobbyists as a generic cause.

**Mr BLEIJIE:** No, it was not. It was about Labor lobbyists and Anacta and the donations they give to the Labor Party.

**CHAIR:** I am helping you here.

**Mr BLEIJIE:** I do not need help, Chair.

**CHAIR:** Your question has already been ruled out of order.

**Mr BLEIJIE:** Thank you. I will go to the last question for the Integrity Commissioner.

**CHAIR:** Thank you.

**Mr BLEIJIE:** Thank you, Chair. Integrity Commissioner—

**CHAIR:** No, I have thanked you as in saying, 'Thank you, that is enough.'

**Mr BLEIJIE:** I thought you were thanking me for asking another question.

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**CHAIR:** Thank you very much once again. We are very well mannered here.

**Mr BLEIJIE:** Integrity Commissioner, did you raise any of these issues with Mr Dave Stewart, former director-general of the Department of the Premier and Cabinet?

**CHAIR:** Dr Stepanov, can you make general comments about the regulation of lobbyists with regard to local government? We have touched on this. Can you furnish something very briefly?

**Mr HART:** Chair, I do not think you need to re-word the member for Kawana's question.

**CHAIR:** I am just a kind-hearted soul who is helping him.

**Mr SMITH:** Was that a point of order?

**CHAIR:** Dr Stepanov, can you finish there, please?

**Mr BLEIJIE:** Dr Stepanov is a highly educated woman in her own right. I do not think she needs you to rephrase questions so she understands questions. I will ask Dr Stepanov to answer my question so far as it relates to Labor lobbyists in the state of Queensland.

**Mr SMITH:** Point of order, Chair.

**CHAIR:** Thank you very much, member for Kawana. We do not need you to talk over the rest of us as well. Point of order, member for Bundaberg?

**Mr SMITH:** I think you have dealt with that point of order.

**CHAIR:** Thank you very much. Very briefly, Dr Stepanov?

**Dr Stepanov:** Thank you. I thank all the members who contributed to that question. I do have something to say about lobbying in the local government sector because we are very pleased with the results of the most recent audit. Every local government in Queensland assisted us as we did our lobbying audit for 2021. In the local government sector, 57 discrepancies between a local council's register of contact with lobbying and our register of lobbying were picked up and they were reported to us. In one case we had one local government report 15 discrepancies in relation to just one lobbyist. If anyone would like information about our annual lobbying audit, that is now available on our website.

**CHAIR:** Thank you.

**Mr HART:** Can you provide a copy of that to the committee, please?

**CHAIR:** It is on the website.

**Mr McDONALD:** Can I move that we extend the time?

**CHAIR:** You can, but you will not go any further. Do you want to move it?

**Mr McDONALD:** I will move that we extend the time.

**CHAIR:** We will have to go into private session to do this. Do you want to do this? To vote, we have to go into private session.

**Mr HART:** You are going to vote it down. Is that what is going to happen?

**CHAIR:** I am just saying: if you are moving a motion, you know that we have to go into private session to deal with it.

**Mr BLEIJIE:** Mr Chair, I am not a member of the committee; I am a visiting member, and I have enjoyed my time—

**CHAIR:** And we have enjoyed your contributions, too.

**Mr BLEIJIE:** I know what is going to happen: it will be filibustered in the committee private meeting. We will not get the motion up, so I would not worry about it.

**CHAIR:** Filibustering is such a subjective term. I am just pointing out what the process would be. Do you really want to go down this path?

**Mr HART:** It is a waste of time.

**Mr McDONALD:** With your discretion I have a question regarding delays in the current CCT and OIA process and if the Integrity Commissioner was aware of those delays before today.

**CHAIR:** We will take that, but we are closing after that because we started at five to, so we have been here for 55 minutes.

**Mr McDONALD:** With the importance of integrity and public confidence, how important is timeliness in resolving those complaints?

**CHAIR:** That is confidence in the councillor conduct system?

**Mr McDONALD:** The councillor conduct system and the OIA.

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**Dr Stepanov:** I thank the member for the question. I think it is very important that the tribunal is supported by having adequate resources. I think if there are any delays it is completely reasonable to then look at whether it has adequate resources. It is very difficult for those members who join a tribunal to understand the local government environment, particularly as the legislation is so complex. I think that where there are frequent changes to tribunal members that also adds to any delays. We have had a tribunal that has ranged in numbers from something like I think two to 11. I do not know how many chairs they have had exactly, but I think there have been at least three changes in chairs in my time.

**CHAIR:** That was covered this morning, yes.

**Dr Stepanov:** I think when you have a tribunal in that state of flux then we need to look at whether that is a tribunal that is supported to meet the needs of the councillors.

**Mr McDONALD:** Do you think 20 months delay, or being behind, is acceptable to the community?

**CHAIR:** That is asking for opinion. We have covered that. That concludes the public hearing. I thank everyone who has participated today. Thank you to our secretariat and Hansard reporters. We have no questions on notice. A transcript of these proceedings will be available on the committee's webpage in due course. I declare the hearing closed.

**Dr Stepanov:** Thank you very much.

**Mr BLEIJIE:** Thank you for all your work, Integrity Commissioner.

**The committee adjourned at 2.51 pm.**