

Glenda M Mather  
Councillor - Livingstone Shire Council

14 December 2021

Chair  
Parliamentary Committee Inquiry  
into the Office of the Independent Assessor  
Submission

Dear Chair,

**Introduction**

As a councillor of almost 30 years, and having the experience of serving during amalgamation and de-amalgamation, one council twice, I fully understand the stresses, constraints and complexities of what local government had now become.

**THE DIFFICULTIES TO ADMINISTER LOCAL GOVERNMENT**

The pride and honour in servicing the people has been eroded by diversions of petty complaints which are "processed" at great cost to the public. The personal cost to the victim cannot be measured, as they attempt to run a council parallel with the demands of legal directions.

**Under the current structure and process of the OIA, local government is not a recommended career choice, or an enjoyable place to work anymore.**

Everybody is watching everybody else, even cautioning each other in case one slips up. I'm aware of two CEO's who reported frivolous matters, one being an opinion during conversation, "because it was my duty to report it" they claimed - a common phrase. **The discretion of a CEO is no longer a privilege.**

**PROTECTION OF THE COMPLAINANT**

**Recommendation 1:**

**Legislation must provide for the complainant's identity to be disclosed. I believe this would see a marked reduction in the number of minor or vexatious complaints.**

**Recommendation 2:**

**Introduce legislation which enforces prosecution of vexatious complaints.**

While a complainant enjoys the privilege of anonymity, the victim is at a loss as to the reasons for the complaint ie what caused it? Is it jealousy, payback, having fun in seeing someone stressed, or is it even factual? The victim is at the mercy of a protected species.

As I have been a victim in these cases, I can speak with certainty. So much valuable Council time is taken up responding to these, placing an additional and unnecessary workload. This has a detrimental flow-on to the Council, and the home-life.

### **LITTLE UNDERSTANDING**

I'm suggesting OIA members' have little understanding of the workload of local councillors, the hours they keep, the demands around the clock, meeting commitments all of which demand deadlines.

Directions from the CCT also have deadlines, but compete with council demands.

Given some of my previous terms before Belcarra, there was a serious need for a local government "cleanup" causing additional workload for the CCC.

**The adopted mechanism to reform local government is neither effective, nor efficient, and certainly not financially sustainable for the state.**

Question: Has anyone sought the annual financial costs of administering both the OIA and CCT. Then add those costs to the additional workload and costs to QCAT. I believe the waiting list for QCAT is already substantial.

### **INVESTIGATION PROCESS NOT USER FRIENDLY**

Although complaints are measured against various legislations, I would suggest most responses would be by the councillor him/herself, and not a legal representative. (Remuneration in small councils do not provide this luxury).

Whilst the respondent attempts to explain their position, the OIA/CCT responses base their determinations on various case laws, which would not be known, or understood by the respondent. I'm not suggesting the determinations are meant to present an argument which is undefendable, but to a lay person, these examples of explanation do not in any way assist in the clear understanding of the argument.

The current system is onerous, intimidating and costly when a lay person feels the need to employ a legal representative to understand and respond on behalf of his/her client in a meaningful way.

### **Recommendation 3:**

**Judgements/determinations should be based on stand alone legislation.**

An allegation may be made on a breach of minor legislation, but the alleged breach is known to be escalated to a higher, relating legislation, and yet *further* escalated to the most senior legislation. Example: from Policy, to LG Principles, to the LG Act.

This would mean that an alleged breach of a Policy, would eventually become a breach of the LGAct. which would attract a larger punishment. This could trigger an Appeal.

## **COUNCILLORS ARE 'FAIR GAME'**

### **Recommendation 4:**

**Whichever form of administration and legislation prevails following this inquiry, allegations against Council officers, including CEO's be included in that legislation. This places all persons working within local government, on an even footing.**

While both the OIA and the CCT were established to take the load off the CCC in relation to local government complaints, there is NO official or effective body to hear complaints against local government officers. I am aware that complaints against officers are directed to the CEO to deal with, and I'm aware that complaints against the CEO are referred to the Mayor. This alone has the potential to water down the concerns for the sake of keeping the peace. There is NO evidence or guarantee that the matter has been dealt with independently, or effectively. In this case nothing is resolved, and respect can be lost.

### **Recommendation 5:**

Consideration should be given to the following:

1. Recognize the urgent need to have a capable body (up to 5) to hear and separate the trivial matters from those which require further examination. That body can consist of select lay persons with previous local government experience. This be paid service.
2. Those matters referred for further examination go to the next body (stage 2), preferably consisting of a mixture of legal reps and lay persons with either state/local government experience. These lay persons will know and understand the relevance of the complaint. This second body will also remove suggestion of discrimination.
3. Members at Stage 2 seek responses from the accused. Once these responses are examined, the accused is invited to face the examining body to answer questions and explain their actions in an atmosphere which is conducive to mutual respect. At this point all relative information should be obtained, and the determining body will decide whether the answers are satisfactory, or whether the matter needs to go "upstairs" to the Tribunal where legalities are more pronounced.
4. This path of assessing the complaint is more effective because:
  - \* it filters the rubbish complaints from the more serious ones early and cost effectively

- \* it provides a more effective means of finding the truth, giving the accused the opportunity to fully expand on the finer points, without peer pressure.
  - \* this would reduce the need for the accused to employ the services of a representative, by placing the trust in the more informal process of cross-examination, and the demeanor of the examiners.
7. This process should streamline and shorten the process of examining and determining complaints, creating efficiencies.
  8. It will substantially alleviate the time taken to respond to all the legal processes currently used to determine truth and guilt.
  9. This process, or similar principle, will eliminate the paper war which develops between the bodies, and the need for so many (if any) directions.

**As a footnote:**

Most councillors elect to enter local government because they have a passion to do good for their communities.

Along the way, between the stiff laws, the processes, and economics, the going gets tough, and that passion starts to wane.

**I have no doubt that the current structure and process legislated to protect the integrity of local government, is the very same structure and process which will destroy it, along with all the good will.**

Don't be a party in letting this happen.

I have no issue in allowing this submission to be made public.

Yours faithfully, and Good Luck. I trust changes will be made.

Glenda M Mather  
Councillor for Livingstone.