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Website: [www.seqalliance.org](http://www.seqalliance.org)

*Advocating responsible planning and governance in Queensland*

15 December 2021

Committee Secretary  
State Development and Regional Industries Committee  
Parliament House, George Street  
Brisbane Qld 4000  
Email: [sdric@parliament.qld.gov.au](mailto:sdric@parliament.qld.gov.au)

Dear Committee Secretary

**SEQ Community Alliance submission to inquiry into the functions of the Independent Assessor and the performance of those functions**

The SEQ Community Alliance Association Inc. (SEQCA) welcomes the opportunity to make a submission to this inquiry.

SEQCA’s membership includes various community associations in southeast Queensland. Our members work collaboratively to advocate for improved planning and governance with a particular focus on local government in south east Queensland.

The SEQCA generally supports the Government’s actions in undertaking various reforms to improve local government in Queensland in response to Crime and Corruption Commission (CCC) investigations: Operation Belcarra and Operation Windage.

The functions of the OIA should be considered as an important element in a suite of independent agencies (including the CCC, the Ombudsman and the Queensland Audit Office) which co-exist to ensure the public interest is well served by those who are paid from the public purse.

These various accountability agencies depend upon the support and involvement of the community to raise issues of concern about the behavior of mayors or local councillors.

The community’s capacity to fulfil this role is currently challenged by:

1. Local government becoming less transparent through artifices such as:
  - a. Discussing matters in closed or non-public meetings;
  - b. Establishing companies to undertake activities such as property development thereby avoiding or reducing public scrutiny; and
  - c. Restricting access to information about local council activities (which is facilitated by Queensland’s inadequate Right to Information laws).
2. Declining quality and quantity of mainstream media reporting on local government activities. Some local newspapers now print as news stories the media releases issued as propaganda by local councils - with no additional investigation and analysis.

In view of such challenges to local government accountability, it is important that accountability agencies including the OIA be empowered and resourced to investigate and deal with misbehavior by people elected to public office.

In response to the terms of reference for this inquiry, the OIA has provided a submission which clearly explains important issues and recommends actions including legislative changes to improve the process of dealing with complaints about local councillors.

The SEQCA supports in general the OIA's recommendations contained in its submission to this Inquiry. We wish to provide some specific comments on the following matters.

## **Timeliness**

The overall process of dealing with complaints about misconduct and inappropriate conduct is unacceptably slow, from the community's perspective.

We are aware of a misconduct complaint which was lodged several months before the 2020 local government elections that still has not been resolved.

This lengthy timeframe for dealing with such matters (which involves activities by both the OIA and the Councillor Conduct Tribunal) appears to be typical.

Potentially, people who have engaged in misconduct are being allowed to campaign for re-election without their misconduct being drawn to the attention of voters.

In considering the issue of timeliness, we invite the Committee to consider how disciplinary processes operate in other activities.

In many sporting codes matters which can't be resolved during the game e.g. by a video referee are then considered by a judicial process which is usually held before the players concerned are due to play their next match.

If conduct decisions can be achieved by most sports codes in a few days, why does it take over two years for a decision about whether a mayor or councillor is guilty of misconduct or inappropriate conduct?

## **Inappropriate conduct**

The OIA has drawn attention to the problems where allegations of inappropriate conduct are referred to a local council for investigation and decision.

SEQCA believes that it would be better for inappropriate conduct and misconduct to be dealt with in the same way i.e. with the matter being investigated by the OIA and determined by the Councillor Conduct Tribunal.

We endorse the OIA's recommendation: "That investigations and decisions be undertaken quickly and, in a manner, proportionate to dealing with lower-level conduct".

This should allow matters to be considered as being either misconduct or inappropriate conduct and dealt with accordingly once the facts have been established. At present we understand that if a matter is investigated as misconduct and the complaint is not sustained it can't then be considered as inappropriate conduct.

## **Councillor on councillor complaints**

It appears that a significant proportion of complaints about councillors are being lodged by other councillors. In response to Question on Notice 1141, the Deputy Premier advised that in the case of

Redland City Council, 22 of 109 complaints lodged with the OIA between 3 December 2018 and 17 September 2021 were lodged by councillors in relation to another councillor.

It should be noted that these statistics would not include any anonymous complaints that councillors may have lodged about other councillors.

It may be that a councillor is well positioned to make a complaint about another councillor because they have access to far more information about councillors' activities than the general community.

But it may also be the case that the complaints process is being used vexatiously by some councillors as a weapon to attack councillors who they perceive to be their political opponents.

The Committee should consider whether the OIA's powers are adequate to deal with vexatious complaints being lodged by councillors about other councillors.

### **Anonymous complaints**

At present it is possible to lodge anonymous complaints about the conduct of councillors.

The OIA says in its submission to this Inquiry that about 10% of complaints are submitted anonymously.

We understand that the reason why complaints can be made anonymously is to err on the side of encouraging disclosure of misbehavior and that it is presumed that some people would fear the consequences for them if they put their name to a complaint.

In an ideal world, people making complaints should expect to be able to do so on a confidential basis without fear of their whistleblowing role being disclosed to the subject of the complaint, potentially exposing the whistleblower to retribution.

Until such time as there is general confidence in the level of confidentiality guaranteed to whistleblowers, it is appropriate and necessary that complaints can be made anonymously.

Those councils and councillors who are concerned about the lodgment of anonymous complaints could usefully reflect on whether the culture of their council is mature and supportive enough to encourage employees and others in their community to put their names to councillor complaints.

### **Appeals to the Queensland Civil and Administration Tribunal (QCAT)**

The OIA has recommended in its submission that matters only be reviewed by QCAT on points of law.

Given that a QCAT rehearing would add significant cost and a lengthy delay to resolving a complaint, SEQCA supports this recommendation.

### **The cost of the complaints process**

Through submissions and presentations to the Inquiry we have learnt that some councils may spend thousands of dollars on investigations of inappropriate conduct. Councils are also funding some costs of insurance that cover councillors who are responding to a complaint.

We suggest that in their annual reports, local councils be required to disclose, for a financial year the costs incurred by the Council in dealing with councillor conduct complaints.

### **Fines and other sanctions**

The consequences of a finding of misconduct or inappropriate conduct may include fines, requirements to make apologies or requirements to undergo training.

We think it would be useful if public reporting by either a local council or the OIA were to include information confirming that fines and/or other sanctions have been complied with.

### **The benefits of the councillor complaints process**

It is remarkable that the number of councillor complaints has increased enormously since an independent investigation process has been put in place.

While the process may have some costs associated with the investigation and determination of complaints it should be bringing about improved behavior of mayors and councillors.

We can observe that in public council meetings that mayors and councillors are now being much more fulsome in disclosing conflicts of interest than used to be the case before the OIA was established.

### **Conclusion**

The SEQCA supports measures and actions to improve the effectiveness of the OIA generally in line with the recommendations contained in the OIA's submission to this Inquiry.

We consider that an effective councillor complaints process is an important component of various measures to ensure that local government operates in the public interest.

The SEQCA would be pleased to provide further information to the Committee including by attendance at a committee hearing.

Yours sincerely

Chris Walker

President

SEQ Community Alliance