



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

**Members present:**

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

**Staff present:**

Ms M Telford—Acting Committee Secretary  
Mr Z Dadic—Assistant Committee Secretary

## **PUBLIC BRIEFING—LOCAL GOVERNMENT (COUNCILLOR CONDUCT) AND OTHER LEGISLATION AMENDMENT BILL 2023**

### **TRANSCRIPT OF PROCEEDINGS**

**Tuesday, 26 September 2023**

**Brisbane**

## TUESDAY, 26 SEPTEMBER 2023

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### **The committee met at 10.30 am.**

**CHAIR:** I declare open this public briefing for the committee's inquiry into the Local Government (Councillor Conduct) and Other Legislation Amendment Bill 2023. My name is Chris Whiting. I am the member for Bancroft and chair of the committee. I would like to respectfully acknowledge the traditional custodians of the land on which we meet and pay our respects to elders past and present. We are very fortunate to live in a country with two of the oldest continuing cultures in Aboriginal and Torres Strait Islander peoples whose lands, winds and waters we all share. With me today are: Jim McDonald, the member for Lockyer and deputy chair; and Jim Madden, the member for Ipswich West. Attending via videoconference are: Michael Hart, the member for Burleigh; Tom Smith, the member for Bundaberg; and Robbie Katter, the member for Traeger.

This briefing is a proceeding of the Queensland parliament and is subject to the parliament's standing rules and orders. Only committee members and invited witnesses may participate in today's 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. I remind committee members that departmental officers are here to provide factual or technical information on the bill. Any questions seeking an opinion about policy should be directed to the minister or left to debate on the floor of the House.

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 my 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. Could everyone turn off mobile phones and computers or put them onto silent mode.

**BARTHET, Ms Catherine, Acting Director, Policy and Legislation, Local Government Division, Department of State Development, Infrastructure, Local Government and Planning**

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

**CHEE, Ms Natasha, Director—Development, Queen's Wharf Brisbane, Infrastructure and Regional Strategy, Department of State Development, Infrastructure, Local Government and Planning**

**KRAUTZ, Mr Paul, Project Executive Director, Queen's Wharf Brisbane, Infrastructure and Regional Strategy, Department of State Development, Infrastructure, Local Government and Planning**

**CHAIR:** I now welcome participants from the Department of State Development, Infrastructure, Local Government and Planning. I now invite you to make an opening statement of approximately five minutes after which the committee will have some questions for you.

**Ms Blagoev:** Thank you, Chair. I thank the committee for the opportunity to brief you on the bill today. As you are aware, on 14 October 2022 the committee tabled report No. 28 of the 57th Parliament, making 40 recommendations to improve the councillor complaint framework in Queensland. The Queensland government tabled its response to the committee's recommendations on 12 January 2023, supporting or supporting in principle all of the committee's recommendations. This bill addresses 19 of these recommendations.

The bill has been introduced following an extensive consultation process with the local government sector and broader community to address concerns about the operation of the councillor complaints framework. In addition to the committee's own consultation process, during its inquiry

engagement with the sector has included consultation with key stakeholders on a draft of the bill in recent weeks. This has included the Office of the Independent Assessor, the Councillor Conduct Tribunal, LGAQ, LGMA, the Crime and Corruption Commission and the Queensland Law Society.

In addition to amending the framework for the complaint system, the bill also: further clarifies and enhances councillors' conflict of interest requirements; modernises local government advertising requirements; provides discretion to the Electoral Commission of Queensland in relation to recovering election costs from local governments; and makes consequential amendments to a range of acts to reflect a change of classification for the Moreton Bay regional council. Finally, the bill also makes amendments to the Queen's Wharf Brisbane Act 2016 to address technical anomalies relating to the state's ability to grant necessary tenure to meet its obligations under various development agreements.

In implementing the government's response to the committee's recommendations and making other enhancements to the complaints system, the bill introduces several substantial changes to the complaints system and the local government framework more broadly. The reforms seek to recalibrate the framework to make it more effective and efficient and ensure that only matters of substance and in the public interest proceed to the Councillor Conduct Tribunal for determination. The bill provides that the complaints system does not apply in relation to former councillors unless the conduct is corrupt conduct. The Independent Assessor will be required to dismiss matters where it is not in the public interest for a matter to proceed or the conduct relates solely to behaviour engaged in by a councillor in a personal capacity—again unless the conduct is suspected corrupt conduct. Further, the Independent Assessor will be required to dismiss matters where the office of a councillor is vacated—again, unless the conduct is suspected corrupt conduct—or where the conduct was engaged in honestly and without negligence and complied with a departmental guideline. The bill responds to the committee's recommendations as well as concerns from the local government sector in relation to the Independent Assessor's powers to deal with vexatious complainants. The bill establishes a process for a person to be declared a vexatious complainant.

Finally, the bill will require councillors to complete mandatory training. While the bill provides for suspension or dismissal for failure to complete the training, it is the government's intention that every councillor will be appropriately supported by the department to fulfil these compulsory training requirements. We are happy to take questions from the committee in relation to the bill.

**CHAIR:** I will start off with a very quick question. Regarding the naming of Moreton Bay, is it City of Moreton Bay or the Moreton Bay City Council?

**Ms Blagoev:** In relation to that, it is a change of classification. The council is going from a regional council to a city council. We understand that sometimes councils will brand themselves in a particular way—such as the City of Moreton Bay—versus the regulation, which will prescribe it as Moreton Bay City Council. Just to be clear, what we are dealing with is a change of classification rather than a name change.

**CHAIR:** In relation to councillor conflict of interest requirements, there has been a recent QCAT decision regarding conflict of interest. We will be extending the application of circumstances in which a person is considered a close associate or a related party of a councillor. Instead of 'ought to reasonably know' it becomes 'all persons and entities currently prescribed as a close associate or related party'. In a nutshell, it looks like it is raising the bar. People will need to know what a related person or close associate is doing before they need to declare a conflict of interest. Do I have that right?

**Ms Blagoev:** No. I think it is trying to reflect that relationships between councillors and other parties are often complex. Maybe the best way is to talk about a scenario where I might have a close associate or someone who would be a close associate but there are particulars about their life I do not know. What we have done is insert the words 'in relation to a matter' only if the councillor knows or ought reasonably to know about the person's involvement in a matter. If I am a councillor, I might not be aware that they have a particular interest in a development or a contract with the council or something like that. It is recognising there may be circumstances in which a councillor does not know and also reasonably ought not to know that interest exists. They may not have declared a conflict of interest, but it is about appreciating that those relationships between people are complex. If I am a councillor I may not have declared an interest, but that might be because not only did I not know about their interest in a matter but it is reasonable that I did not know.

**CHAIR:** Thank you for clarifying that. You have explained it quite well.

**Mr McDONALD:** Following on from that, I am concerned that the interpretation of that area could still be just around personal matters or a personal friendship or long-term family relationship and not material matters. Can you clarify for me that there must be some sort of material interest for one of the parties?

**Ms Blagoev:** It will come down to the definition of what is a conflict of interest under the legislation. We encourage councillors to pull out the definition of what is a conflict of interest and work through it. It is not necessarily whether or not something is material. We used to have a term 'material personal interest' and we steered away from that. It is sometimes difficult to know when something is material, and what is material to one person is not material to another. I would probably suggest that in that case materiality is not necessarily a factor. It is just a matter of getting the definition under the Local Government Act and working through: does that interest exist, and should it be declared?

**Mr McDONALD:** I have a different view to that. Given the definition of what it may be, are you still having tripartite meetings with the department, OIA and the CCT to make sure that point of truth is carried through?

**Ms Blagoev:** We do have regular tripartite forums between the department, the CCT and the OIA. We are aware of concerns from the sector that there are differences in interpretation, in particular sometimes from the department and the OIA. I guess there are a couple of points on that front. Outside of that tripartite forum we do regularly discuss with OIA staff matters, and they have been very good in speaking to the department about particular matters of interpretation. Similarly, when the department releases a guideline or other supporting information for councillors, our starting point is to consult with the OIA to make sure we are all on the same path. It is a bit like anything: you can get five lawyers in a room and everyone will have a different view. We appreciate that consistency is key. The state has to provide consistent messages between the tripartite forums. We do have very regular conversations with the OIA, and in that consultation we are trying to close the opportunities where there is a divergence of views between us.

**Mr McDONALD:** How many times in the year would the tripartite forum meet?

**Ms Blagoev:** That tripartite forum will typically meet every quarter; however, I would suggest that I speak to OIA staff multiple times every week.

**Mr McDONALD:** That is encouraging. I think that point of truth and having that interpretation, whatever the definition might be, would certainly be helpful. I need to ask this question: is there any regulation or change in this bill that enables compulsory preferential voting?

**Ms Blagoev:** No.

**Mr McDONALD:** In relation to freehold land around the Queen's Wharf development, is that as per the original contracts, or are there new processes that have come to light?

**Mr Krautz:** When we went through the original process of quite complex land tenure matters—and we meet every six to eight weeks, including Department of Resources personnel as well to figure out how we do all of this—we realised there was a gap in tenure that would happen if we were not able to make this change. That means we would not be able to freehold and meet our obligations under the development agreement contracts. Is it new? Yes, we knew there were complex matters. We thought we had them all covered off. We did not have them all covered off, so this now means that we have all of the matters covered off so we can fulfil our obligations under the contract.

**Mr McDONALD:** From reading the information, I understand some land will convert to freehold.

**Mr Krautz:** Yes.

**Mr McDONALD:** Then that will be leased?

**Mr Krautz:** Yes, that is correct.

**Mr McDONALD:** Going back to something else I thought of about the OIA and their processes, I still have the strong belief that we still face the risk of falling into a legalistic interpretation and a lot of complex thoughts around things that actually are quite simple—I just want to put that on record. I know there seems to be a theme of making it more simplified, but how can I be assured that that is going to be the case?

**Ms Blagoev:** That is a good question. I think the reality is that there is probably no assurance that a piece of legislation can give to you in that respect because all parties that are involved in the process still need to make judgement calls. I think the legislation probably goes as far as it can in terms of clearly showing to all of the parties involved in the framework what the government's policy is and what the government wants to see in terms of an efficient and effective system. The way that the preliminary assessment of complaint sections read, it requires the Office of the Independent

fourth dot point to ask in regards to that early advice from the assessor around potential penalties, whether it be education or training or an apology, and clarifying it for people so they are not in this world of 'maybe I am going to lose my job', because that is real. Is that still continuing?

**Ms Blagoev:** We have put that in the legislation, which was not already there, and certainly what we were seeing was a matter would go into the system, it would come all the way out from the tribunal and the tribunal would order training. To be honest, by the time they have ordered the training we have already gone out and trained that councillor three times in between. It allows for us to more appropriately consider what training has a particular councillor or a council collectively had to date, what else could we beef up to make sure that this does not happen again. We have talked at length in previous hearings as well that we do not want the system to necessarily capture the oops moments. The oops moment can be caught through things like training.

**Mr McDONALD:** Obviously the sector is unusual in that we have the LGAQ as the representative body which does a great job for the councils. You have been keeping them up to date along the way. Are there any issues that still remain unresolved?

**Ms Blagoev:** We have definitely been consulting strongly with the LGAQ. They have been excellent in raising issues with us as well, and in particular some of the amendments around conflicts of interest have been proactively raised with us by the LGAQ. We have consulted with the LGAQ all the way along. They have seen consultation versions of the bill and certainly are supportive of the direction of the bill.

**Mr MADDEN:** Thank you very much for coming in. My question relates to the Office of the Independent Assessor. In our committee's report completed in 2022 we made a number of recommendations to address the delays in assessment and the investigation of councillor conduct. Can you outline how the proposed bill will improve the complaints system in terms of time frames and can you outline if the department proposes to have any measurable performance targets?

**Ms Blagoev:** I can answer that on a couple of fronts. In terms of the time frames, the department is aware that there has been considerable delay in getting matters all the way through to a hearing and that is certainly not how we wish the system to function. I think we have targeted that in a couple of ways through the bill. The first is around the preliminary assessment of complaints. Ultimately we are ensuring that the OIA has sufficient powers and abilities to dismiss complaints so they are not making their way through the system. We are hoping that the preliminary assessment process itself will reduce the number of matters making it through. We appreciate that the matters received by the Independent Assessor can look like all sorts of different things. You can have complaints that have one allegation in them. You can have one complaint that has 50 allegations in it. It makes it a little difficult to treat all complaints the same. The bill implements a statute of limitations in terms of how old a complaint can be. What the bill does is it says that in terms of complaints received by the OIA, they must be received within one year of the conduct occurring or, secondly, within six months of the conduct coming to a complainant's knowledge but within two years of the conduct occurring. What we are trying to do is avoid a system that is dealing with old complaints. It also places more of an onus on complainants to act swiftly, to not wait for a certain period. We had heard stakeholders' concerns that people would sit on complaints until an election. This is sending a clear message to complainants that you must act swiftly or the OIA will be unable to proceed further.

We will expect that the CCT and the OIA will be reporting their time frames as well, either through a combination of the annual report or SDSs, so we would expect that the time frames for how long it takes to investigate a matter and, in particular for the CCT, how long it takes to hear a matter will be transparent so community members will be able to see that. We are still working through exactly what that looks like, but appreciate that the bill has attempted to achieve that by the statute of limitations and that has been supported by stakeholders.

**Mr MADDEN:** I come from a lawyer background. I did not do a lot of criminal law, but I am aware that people can just enter a plea on the first return date in the Magistrates Court. Do we have a similar system? Will this bill provide for a similar system with regard to our councillors where at the first opportunity something is brought to their attention they can put their hands up and say, 'Look, I didn't realise it. I admit it.' Is that system in place and how is it dealt with?

**Ms Blagoev:** That system, I understand, operates administratively and it certainly would be something that the Independent Assessor could speak further to versus the department. My understanding is that is something that the Independent Assessor has proactively done: put in place a process with the tribunal so that matters where there are clear findings of fact are dealt with

expeditiously. That is, I understand, an administrative arrangement in place, but that is not something that the department is so much involved in so I probably would not want to make any further comment, but there is something there.

**Mr MADDEN:** If the Independent Assessor was of the view that it was inappropriate to deal with this, what are the options open to the Independent Assessor? Is it training, is it referral back to the council?

**Ms Blagoev:** The preliminary assessment process provides the Independent Assessor with the ability to consider a whole range of factors. The ones that you have mentioned there, in particular training, if the Independent Assessor when assessing a matter believes that it is appropriate that a matter is handled by training they can elect to take the training path versus sending the matter all the way through the tribunal.

**Mr MADDEN:** Thank you for that. You have clarified a number of issues.

**Mr HART:** I have a couple of questions that have come out of what I have heard today so far. On conflict of interest, I know various councillors and the LGAQ have been concerned about that. Is there anything that the LGAQ has suggested around conflict of interest that has not flowed through to this bill and if there is, why not?

**Ms Blagoev:** No, we believe that we have captured everything from the LGAQ. One of the LGAQ's key things they did wish the department to consider was how the Office of the Independent Assessor would consider, in particular, cultural factors for our Indigenous councillors. We know that our Indigenous councillors have an extra layer of cultural responsibilities and these can impact on what conflicts of interest may exist when they are wearing their councillor hat and also how they manage that. We have put a particular provision in the bill which requires the Independent Assessor to consider the cultural elements that may apply to an Indigenous councillor before they send the matter all the way through to the CCT. The LGAQ had proposed a range of changes to the conflict of interest provisions, particularly around what is not a conflict of interest, and the bill picks up on that in terms of things such as particular events that a councillor may attend, particular travel, donations to religious or charitable organisations. They were very much factors that the LGAQ had proposed to us. I am not aware of anything that is outstanding from the LGAQ.

**Mr HART:** On declaring someone a vexatious person, is there any appeal process for someone to have that undone?

**Ms Blagoev:** Yes, there is. The bill provides for an internal and an external review. The internal review would be carried out by someone who is more senior than the original decision-maker. The external review would be a review to QCAT.

**Mr HART:** Finally, on the Queen's Wharf development, I was on this committee 10 years ago when the Queen's Wharf bill went through. I do not remember there being any requirement for freeholding at the time. I think the state was going to give a 99-year lease to Star afterwards. Why the requirement for freehold? Is all the land now going to be freehold? The last part of the question is: is there anything in there to stop the state from selling it?

**Mr Krautz:** The requirements for the freeholding is so that we can then look at other options into the future. Freeholding allows the development agreements to not have a gap in the tenure with the leases that are currently in place. We have gone through this, I must admit, with the Department of Resources and other personnel for quite some time to decide what is the best way to do this and this is the best way to do it. The land remains in the state's possession and the 99-year lease still applies as it did in all the development agreements, so nothing has changed in that. The development agreements remain as they are, it is just the methodology of transferring the rights from the leasehold to the freehold in an intervening period that required us to actually declare this land as freehold for the purposes of making sure that the rights that attach to the land can be transferred through prior to Queen's Wharf Brisbane, the new casino, opening. I have not made that terribly clear, but that is as clear as I think I can be.

**Mr HART:** I understand that. Is there anything to stop the state from selling that land or transferring it to somebody else?

**Mr Krautz:** Once it is freehold, then those options are available. There is no intention, I think, for the state to do that. The freehold pieces are heritage listed buildings, so all of those requirements are attached to those freehold lots as well. There is no intention for the state to sell off any of this land at all.

**Mr HART:** Is it the whole precinct that will be freehold?

**Mr Krautz:** Most of the land in the precinct is freehold. This is the leasehold which is the Treasury Building and the Land Administration Building. They will be converted to freehold, but all the requirements that are attached for heritage listing and under the development agreement are attached to those. A lot of the land in the whole development is freehold already.

**Mr SMITH:** Ms Blagoev, in regards to the CCT, the bill says that there will be no more than three members for council conduct matters that may be complex or serious, and then the CCT can have one member for administrative and procedural matters. In the explanatory notes it says that there was communication with stakeholders. Was the CCT hesitant to only having one adjudicator?

**CHAIR:** You are asking for an opinion, member for Bundaberg.

**Mr SMITH:** Sorry, Chair. The department, in the explanatory notes, says a community stakeholder consideration was taken into account. I am wondering if the CCT communicated back to the department in regards to that matter in particular.

**CHAIR:** That is a much better way to say that, yes.

**Ms Blagoev:** No, I do not recall any concerns on that particular front being raised by the CCT with the department.

**Mr SMITH:** Does the department have concerns about the CCT having one member to adjudicate on complex and serious matters?

**Ms Blagoev:** I think what we would expect is that the complex and serious matters would most likely, in reality, be heard by three members. I think we would see that it is the simple matters that are heard by one member. I say that because a lot of the matters are relatively routine, and it is the department's expectation that a large portion of them could be heard by one member which would considerably speed up the time frame for consideration. These are matters, however, that would need to be determined by the president on a case-by-case basis, not the department. It really will be a matter, quite frankly, for the new president coming in, in due course, to determine in what instances he or she would do one-, two- or three-member panels.

**CHAIR:** Ms Blagoev, the key to this would seem to be the preliminary assessment process. Out of all the bill, I would say this is arguably the most important part because it deals with what we talked about with respect to fixing the system up-front to remove any issues perhaps down the track. The preliminary assessment process, as we have in the bill here, I think, will be key. Can you perhaps describe how it will be key to all those reforms and improvements that the bill is trying to enact?

**Ms Blagoev:** Absolutely. You are right, it is key, because it, in a nutshell, explains the government's intention in terms of what sort of matters should be sitting in the system and proceed through the various stages of the system. I think of the assessment framework as a couple of key gates and you have to keep moving the matter through the key gates. There are a few factors in there that talk about jurisdiction. That is where we talk about the considerations of: is the complaint in relation to a former councillor; is it about a matter that is in the private capacity of a councillor versus their professional capacity; was it made by a vexatious complainant; and is it time barred. It is about looking at the jurisdiction issue. If you get through that gate, there are then a variety of factors that the OIA will consider such as: is it in the public interest to proceed; is it dealt with in any other way? We want to see the most serious, systemic issues proceed through. This is the point at which the OIA would be thinking, 'Can I deal with the matter in another way? Can I send it off for training? Can I make a recommendation that looks something other than the matter proceeding all the way through investigation?' It is about looking at jurisdiction and then it is about looking at the dismissal/alternative actions filter. Then it should be only those matters that are sufficiently serious that cannot be resolved using any other way, where there is a clear public interest, that proceed all the way through for investigation and the tribunal hearing.

**CHAIR:** With regard to the personal conduct of councillors, what we are seeing here is that the OIA can dismiss a complaint or take no further action, say, if it relates to behaviour in a personal capacity. For example, someone sends in a complaint, 'A councillor was nasty to me in a comment on Facebook.' It can be assessed. It may possibly be dismissed through that, as a personal capacity, or it could be referred back to the council as a breach matter.

**Ms Blagoev:** Yes. There are a couple of ways that those particular matters can be handled. Conduct breaches will have to go back to the local government if they proceed through the gates. Conduct breaches are always dealt with by the local government rather than the OIA. The issue around the personal conduct has come about because there can be instances where a councillor, by way of example, has fallen foul of the Criminal Code and they have done it on a weekend or they have done it in a way that is not reflective of their role as a councillor. For example—and this is

hypothetical for the basis of the scenario—they may have attended a barbecue on a Saturday and assaulted someone. Unless there is some way to show that that was part of their role as a councillor, it really is, in our opinion, a matter that the Queensland Police Service should handle, and it is not something that should fall within the jurisdiction of the OIA. What we are seeing potentially otherwise is an overlap between the Queensland Police Service and the OIA. This will not always be so straightforward. There will be instances where it is not clear-cut on whether or not a councillor is acting in a personal capacity or in a professional capacity, but that will be something that the Independent Assessor will need to work through and form a landing on in terms of does it fall inside or outside jurisdiction.

**Mr SMITH:** Thank you for putting forward that particular scenario. Following on from that, I imagine that would then apply to Facebook comments, posts and so forth, which came up during our inquiry. If a councillor makes a comment that is inappropriate in terms of community values but is done so on a private Facebook page and making comments that do not relate to council or council matters, where we have previously seen the CCT come in and recommend suspensions, is that now potentially changed under this bill?

**Ms Blagoev:** Potentially. Again, it comes down to what the Independent Assessor determines is inside or outside jurisdiction—that is, what is carried out in their capacity as a councillor. You raised a good point there in terms of social media because social media does blur those lines somewhat. We know that some councillors will have an official Facebook page which will read, 'Councillor Jane Smith—Division 2, Sunshine Council', so they are very clearly identifying themselves as a councillor. We know that there are councillors who have that type of Facebook page which is a clear link to their role as councillor. Where it will become a little bit difficult is where they are exercising an opinion on a private Facebook page. One would think that the default position there is that that is in a private capacity. Again, it might depend a little on what the message reads. For example, a councillor may use their private Facebook page and may make a disparaging comment about the council meeting or a policy of the council or something like that. I just want to be clear that it is not black and white there, particularly around social media. The Independent Assessor will be called upon to exercise discretion, thinking about a range of factors: is it on a clearly identified council email address; is it about council business; is it just about something completely random that happened on the weekend; is it a disparaging comment about the football? There is that range of factors. I say that that is not something in legislation that we can provide a clear definition on. It is appropriate in that circumstance that the OIA just works through their own decision-making process to determine what is personal versus professional. We will see, I guess, how that develops over time to monitor the Local Government Act and how that section works.

**Mr SMITH:** They would be relying on a code of conduct in those matters then?

**Ms Blagoev:** The code of conduct will be relevant in terms of how the conduct compares against their obligations as a councillor, but, in itself, it will not necessarily dictate whether or not a particular action was within jurisdiction—that is, was it personal versus professional.

**Mr McDONALD:** Thank you again for the opportunity to ask a few questions. I have two lines of inquiry. The first is in relation to the capacity to deliver the compulsory training. Is that going to be something the department will be able to deliver? Do you need extra budget? Do you need extra staff? That is not an offer. It is about assistance for yourself in government circles?

**Ms Blagoev:** Our intention is to do everything that we possibly can to ensure all of our councillors get the training. I think we also need to recognise that it is a regulation that will prescribe the mandatory training, and the department will be considering a range of factors there. The reality is we should not be prescribing something as mandatory training if we do not have the resources to deliver what we need the councillors to attend to. We need to make sure that it is a softly softly approach to start with. We will be looking at what is in that first year of a councillor's term, and we know that induction training is key for councillors. They are the sorts of things that we will be looking at: what is our four-year program of training? Then which out of those should be mandatory and making sure we are directing our divisional resources to those areas.

**Mr McDONALD:** The other line of inquiry is around the operation of all of these conflicts of interest. I have watched a few videos—and I am sure the department has watched videos—of people having to declare interests in matters on the run or as things happen or debates come up. Is there any ability under this bill for the local government councillors to have their interests declared and at the start of every meeting they say, 'I have no updates to my interest; that is what they are,' so that they do not have to be such cumbersome meetings with people declaring their interests?



**Ms Blagoev:** There is always the standing registers of interest. They are standing documents that will only ever need to be updated as required. We see councils deal with conflicts of interest in a variety of ways. Some councils will have an agenda item at the start where they deal with all the conflicts of interest in relation to the matters coming up. The bill allows that. The alternative is that you are dealing with conflicts of interest as each agenda item is called up for discussion. Again, the bill allows that. It is important that councillors think about the agenda items and think about what gives rise to a conflict of interest. They should be doing that, we always say, well in advance of a meeting. They get the agenda items. They should be going through and looking at all the papers and declaring very clearly and in a well-prepared manner.

**Mr McDONALD:** Sure, but just taking that thought one step further—I accept your answer that there are those options—I can see how repeated debates around conflicts of interest occur where it is the same topic, the same thing, at each meeting and it has been resolved by the councillor. Is there some way that that issue of the conflict, once the councillors and the mayor discuss it and debate it and resolve it, can then be captured so it is not done again?

**Ms Blagoev:** If they have made a declarable conflict of interest and the other councillors have discussed it and they have allowed them to stay in the meeting, unless there is a change to that conflict they do not need to declare it each time that matter comes before the council. It would only be if there is some variation to either the matter being considered or the conflict itself which would require another declaration.

**Mr McDONALD:** Because that could be very helpful to many of the councils where, once they had resolved that conflict, it is then captured and then it would be just a matter to say, 'Yes, that is relevant.' Is that something that administratively could be done?

**Ms Blagoev:** Yes. It is already allowed for specifically under the Local Government Act, so again it might be something the department could take on in terms of our messaging or training to councils because it is already an option.

**Mr McDONALD:** Okay, and then have a register of interests or something that have been resolved.

**CHAIR:** On that, that was an issue we dealt with during the hearings—that is, that constant training and scenarios on conflicts of interest for councillors, and that comes back to the state and also the local government. Some councils trained well; some did not.

**Mr MADDEN:** Ms Blagoev, you mentioned the gates before. The first gate was, I think, where it was frivolous and vexatious and then you mentioned the second gate which was whether a matter was in the public interest. Could you expand on what that is? Can you maybe give examples of what is in the public interest and what is not in the public interest?

**Ms Blagoev:** The term 'public interest' is always a little difficult because it is subjective and it will require the Independent Assessor to come to that decision, but the best way is probably examples.

**Mr MADDEN:** Yes, that is what I thought.

**Ms Blagoev:** One example might be a councillor has failed to declare a conflict of interest. It is a very serious conflict of interest. Picking up the other point about materiality before, it may be quite a material failure where they have received moneys and it is quite serious. That is something that potentially is in the public interest to prosecute because of the severity of it and the consequences of it, but the factor to also always consider is is there a systemic issue across the sector? Is there a message that needs to be sent to the sector as well? That is a different factor than the oops moment where you are considering what is the point of a prosecution. One of the things to always keep in mind is what is the potential penalty here? If you have a serious matter that proceeds all the way through, you could end up with a recommendation from the tribunal that a councillor be, say, suspended, as we have seen recently, versus, 'Oh jeez, they need to apologise,' and provide a penalty.

I think the Independent Assessor would be constantly thinking, 'What does this potentially look like in terms of penalty? Is it a useful penalty? What are the resources required to get a matter all the way through?', because you obviously have a staff at the OIA that need to spend considerable time in investigating a matter. People are needed as witnesses and then you have the time the tribunal spends on a matter, noting that the local government will pay for that time. There is a whole range of factors in terms of what are the resources and is that a justifiable use of resources? What is the message that sends to the councillor? What is the message that a prosecution sends to the sector? Is there a learning here? Is there a better way of dealing with this? There is a whole range of factors that the Independent Assessor will need to make a decision on. The legislation cannot just provide a definition for 'public interest', as easy as that would be, because it is far more complex than that.

**Mr MADDEN:** Could you maybe give examples of something that got to that gate but was not in the public interest to proceed? I know it is a difficult question but perhaps could you give an example or two?

**Ms Blagoev:** I probably would be reluctant to answer that because that will be a decision that the Independent Assessor will need to make rather than the department.

**Mr MADDEN:** Okay; fair enough. Thank you.

**Mr HART:** Following on from the member for Ipswich West, we saw with the OIA before where they wanted to have like a case law sort of thing in place around their decision-making process. It worries me a little bit about this public interest test that they will not be able to define that without some advice from the department, but anyway I will leave that one with you, unless you want to answer or give us some explanation there. My question was more around whether there is any need for any transitional arrangements. We are making quite a few changes here and there are processes underway already that may no longer need to proceed. Do there need to be any transitional arrangements in place?

**Ms Blagoev:** Yes, definitely transitional provisions in place. We are conscious of the number of matters currently sitting before the tribunal for resolution. We are also aware of the workload that is on the OIA in terms of matters it may have currently under investigation. The transitionals reflect that in that we will require that for any decision or any matter that has not yet been determined by the Independent Assessor they will need to make a further preliminary assessment of that matter. Similarly, in matters before the Councillor Conduct Tribunal they will need to consider whether or not there are matters there that are outside jurisdiction and the OIA may, on that basis, seek to withdraw matters from the CCT. Whilst this is not a matter of there are new offences applying retrospectively or anything like that, it is a matter where the Independent Assessor will have a role in looking at what is currently before the tribunal yet to be determined and what is currently in its investigation pipeline and make some decisions that reflect new processes under the bill.

**Mr HART:** And what are the OIA doing in the meanwhile before this bill passes through the parliament?

**Ms Blagoev:** I cannot comment on that as a departmental officer.

**CHAIR:** Member for Burleigh, the thought is that these issues may well be covered—I would hope be covered—in those reports that the OIA provides to us and that may be something, if we are talking about transitional arrangements, we can talk about in our report.

**Mr HART:** Okay; sure.

**CHAIR:** As there are no further questions, that concludes the public briefing. Thank you to everyone who has participated today. Thank you to Hansard. Thank you to our committee. Thank you to Margaret. I think this is the last time we have her with us, so thank you for all you have done for our committee. Stephanie Galbraith is coming back to this role again, but it has been wonderful having you here, so thank you very much indeed. Thank you to everyone who has participated today. Thank you to all of the departmental staff for coming along. We have no questions on notice. A transcript of these proceedings will be available on the committee's webpage in due course. I declare this briefing closed. Thank you.

**The committee adjourned at 11.23 am.**