



STATE DEVELOPMENT AND REGIONAL INDUSTRIES COMMITTEE

Members present:

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

Staff present:

Ms S Galbraith—Committee Secretary
Ms R Stacey—Assistant Committee Secretary

PUBLIC BRIEFING—OVERSIGHT OF THE INDEPENDENT ASSESSOR

TRANSCRIPT OF PROCEEDINGS

MONDAY, 22 MARCH 2021

Brisbane

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The committee met at 10.00 am.

CHAIR: Good morning. I declare this public briefing open. I begin today's proceedings by acknowledging the traditional owners of the land on which we meet today. My name is Chris Whiting, I am the member for Bancroft and chair of the committee. The other committee members here with me today are: Mr Jim McDonald, deputy chair and member for Lockyer; Mr Michael Hart, the member for Burleigh; Mr Robbie Katter, the member for Traeger, who will join us soon; Mr Jim Madden, the member for Ipswich West; and Mr Tom Smith, the member for Bundaberg.

The purpose of today's briefing is to hear from the Independent Assessor and officers of the Office of the Independent Assessor about its functions, relevant performance indicators and matters contained in its annual report 2019-20. I remind committee members that officers are here today to provide factual or technical information. Any questions seeking an opinion about policy should be directed to the minister or left to debate on the floor of the House.

The committee's proceedings are proceedings of the Queensland parliament and are subject to the standing rules and orders of the parliament. Media may be present and will be subject to my direction. The media rules endorsed by the committee are available from committee staff. All those present today should note that it is possible that you might be filmed or photographed during the proceedings. I ask officials that if you take a question on notice you provide the information to the committee by Monday, 29 March 2021. Finally, I remind everyone to turn their mobile phones and computers to silent mode

BUTLER, Ms Nicole, Director of Media, Engagement and Prevention, Office of the Independent Assessor.

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

KOHN, Mr Charles, Deputy Independent Assessor, Office of the Independent Assessor

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

Ms Florian: Good morning. I welcome the opportunity to appear before the State Development and Regional Industries Committee and to answer your questions on the functions and performance of the Independent Assessor. The OIA was established on the recommendation of the report titled *Councillor complaints review: A fair, effective and efficient framework* and following a series of investigations into local governments by the Crime and Corruption Commission. It commenced on 3 December 2018 with the objective of helping to strengthen integrity and public trust in local government by effectively and independently managing complaints about the conduct of councillors.

The OIA receives and assesses complaints about suspected inappropriate conduct, misconduct and some corrupt conduct matters under the oversight of the CCC. The OIA also investigates misconduct and, where appropriate, bears the onus of proof in progressing those matters before the Councillor Conduct Tribunal which I will refer to as the CCT. The OIA can also prosecute some offences under the Local Government Act before the Magistrates Court.

It has been a particular priority for the OIA to build the capacity of councillors to recognise high-risk areas for misconduct, to comply with their legal obligations generally and to develop a shared understanding of the standards required of elected representatives. The OIA uses the unique insights gained from our complaint and investigation data to identify trends and issues and proactively intervene with particular councils where a pattern of like complaints would suggest that training would be a useful prevention measure.

Some of our other proactive prevention measures include the development of resources that are designed to inform and assist councillors. These are often produced in collaboration with key stakeholders so that resources are used most effectively and to maximise the content reach. More so than any other level of government, local government councillors are making high-frequency, Brisbane

high-volume, high-value decisions relating to planning and developments, major infrastructure projects, the provision of significant community services, the disbursement of Commonwealth and state grants and programs, including in response to natural disasters and reconstruction efforts, and local government is also a key plank in Queensland's current strategic response to rebuilding the economy following the impacts of the COVID-19 virus.

Councillors are drawn from the communities that they serve, rightly valued for their business, investment, employment, familial and social networks in those communities. Some bring extensive local government experience and for others their election is their first experience of being key decision-makers for their communities and the high level of scrutiny that sometimes goes with that. For some councillors the breadth of these responsibilities and the oversight that goes with them can feel overwhelming, making capacity building an essential issue. In this context, taking a balanced and measured regulatory approach that takes into account the relevant experience of a councillor and which provides opportunities for councillors to learn from complaints made where that is appropriate, is also essential.

In its first two years the OIA has received 2,273 complaints, commenced 827 investigations, finalised 542 investigations and 128 investigations were progressed to the OIA legal team to undergo a natural justice process prior to a possible referral to the CCT. As at 3 December 2020, the OIA had referred 86 matters involving 140 separate allegations to the CCT. Whilst the high volume of complaints has meant some delays in finalising investigations and progressing matters before the CCT, this level of engagement with the OIA would also seem to indicate a level of previous under-reporting and/or an increased preparedness to make complaints to a body independent of council. Nowhere is this more important than in the local government sector itself. In the first quarter of the OIA's operations, local government accounted for just 11 per cent of all complaints received, but by the last quarter of 2020 it accounted for 55 per cent of all complaints, overtaking the public as the main source of complaints for the first time. The OIA has also seen an increasing number of self-referrals from councillors, which is another important indicator of a growing integrity culture. It is a positive thing that complaints can be raised and independently and authoritatively dealt with, whether that leads to the substantiation of a complaint or, just as importantly, the dismissal of a complaint with reasons.

Overall, it is my sense that the work of the OIA, the CCT, the councillors themselves and other key stakeholders is moving local government integrity in the right direction and strengthening ethical practice and public trust. However, there are always areas that require more work. As foreshadowed in the OIA's last annual report, one of those areas is how inappropriate conduct is dealt with. The OIA cannot investigate inappropriate conduct unless it is tied to alleged misconduct and must instead refer these complaints to the relevant council to investigate and to resolve. We have observed a range of issues in this space, including a reluctance by councillors to sit in judgement of their peers. The OIA is working with councils to mitigate these issues and to help councils fairly and consistently apply standards. The OIA is also closely monitoring the impact of new legislation governing conflicts of interest. For the reasons that I touched on earlier, conflicts of interest pose a major misconduct risk in the local government context and the new laws significantly alter the previous framework. It is an area where continuously building the capacity of councillors is essential. I thank the committee for the opportunity to explore the work of the OIA and I am happy to take any questions.

CHAIR: Thank you, Ms Florian. Working with councils on capacity building is probably one of your most important functions. What we have seen with the declaration of conflict of interest has been a discovery for all of us. In previous times it was a relatively simple process, but with more laws and more recognised potential conflicts of interest that would have obviously built up the body of knowledge needed to deal with those conflicts of interest. Can you talk a bit more about the work you are doing in capacity building, especially around the recognition of conflicts of interest.

Ms Florian: Thank you for the question. The changes to the legislation in relation to conflicts of interest commenced on 12 October of last year. In response to those changes the department of local government is responsible in the first instance for providing induction and training around specific legislative changes. The work that we have done around conflicts of interest I suppose falls into two categories. Firstly, anticipating the changes to the legislation and the need to get councillors across that legislation, we were keen to provide some support which continued past just a training session, some tool that councillors could have, and could have regard to, to build their capacity in everyday decision-making. Working with the LGAQ we developed a conflict of interest app. That required us researching the legislation in particular detail, creating a decision tree for how councillors could go through determining whether they have a conflict of interest or not and then working their way through the app. The app allows them, in the event that they do have a conflict of interest, to automatically report that interest with full details to the CEO as required under the legislation.

In the first instance the app was not as user-friendly as we would have liked. It required councillors to go through quite a few clicks to be able to get to the other end. We have been working with the LGAQ more recently to modify and upgrade the app to make it much more user-friendly. The announcement of that is imminent. That is the first way in which we have tried to assist councillors in relation to conflict of interest. The second way is that, as I have indicated, through our complaint and investigation data we get a breadth and wealth of information about how particular councils and councillors are dealing with changes to the legislation and it becomes evident sometimes from complaints data that there are particular councils or councillors who are struggling more. Where it seems to be more of a systemic issue that could be more effectively addressed by going in early and proactively to provide tailored training to a particular council, often around the types of conflicts of interest that that council are seeing—depending on the context of a council, that can be quite unique—then we go in and spend half a day or a day training with the councillors, taking them through not only the conflicts of interest but, just as importantly, the procedural requirements for how to deal with those at various meetings. That is the way in which we assist.

CHAIR: Issues surrounding awarding of contracts throughout Queensland has been in the media recently. We will probably see a lot more of that. You deal with complaints about councillors. Can you outline what the process is for complaints about council officers? They are two different areas, are they not?

Ms Florian: Yes. The jurisdiction of the OIA covers councillors and mayors only. We do not have any jurisdiction over council officers. With council officers, if a matter raises a reasonable suspicion of corrupt conduct that is referred to the CCC and if it does not raise a reasonable suspicion of corrupt conduct then that is dealt with within the council itself. I suppose the issue arises that sometimes there is conduct that is intermeshed and when that occurs then we work with the CCC to identify that situation, essentially identify which investigation will go first and for that reason some investigations may be on hold while that occurs or, alternatively, we may undertake an investigation and then provide the outcomes of our investigation to the CCC so that they or another appropriate agency continue with that matter in relation to the council officers. That can take some additional time, but that is the reality of how we approach that situation.

Mr McDONALD: My question is in two parts. It is around the use of the Independent Assessor and others as a political tool. That is one part of the question. I will expand on that in a minute. The second part is about timeliness of investigations. I will be really interested for you to talk us through the process that you use to triage complaints that are made and then referred, specifically with regard to 75 per cent of complaints are assessed within 21 days but then 90 per cent of complaints are finalised within 12 months. I would like to understand the way in which you triage the complaints but also the number of complaints that may be of a political nature or the number of complainants who seek to benefit from using your agency?

Ms Florian: I think it is the lot of any complaint agency that from time to time there will be people who attempt to misuse the complaints process, whatever that may be, for their own political purposes. Local government is certainly not immune from that. The key thing that we always look for is whether there is substance in the complaint or not. There can be situations where it is a politicised environment but if a complaint is made where there is substance in it then that complaint, if it warrants an investigation, will be investigated.

In terms of vexatious complaints, we have a three-step escalation process to identify vexatious complaints. In the first instance, we will dismiss a complaint as not raising a reasonable suspicion of inappropriate conduct or misconduct, but we will say to the complainant, 'It seems that this complaint is borderline vexatious,' and we make them aware that we can dismiss a complaint as vexatious. If the complainant complains again about that matter, we would dismiss it as vexatious and say, 'This is an offence.' We have jurisdiction to investigate and prosecute vexatious complaints as well. It attracts a maximum fine of \$11,000. That is step 2.

If the complainant complains again in relation to that matter then we may progress to a criminal investigation, and we have done that on one occasion. Generally that process has proved effective in addressing those sorts of complaints. We have a staged process. Not only do we place a lot of emphasis on being reasonable in terms of dealing with councillors, but we think it is equally important to be reasonable and balanced in terms of dealing with complainant conduct.

There is also another really important reason for that—that is, if we end up in a position where we are investigating and prosecuting a vexatious complaint then our chances of successfully prosecuting that complaint will be significantly enhanced if we can demonstrate a course of conduct where a complainant has received appropriate warnings and, notwithstanding those warnings, has continued to escalate that conduct. It makes our chances of prosecution much more successful should someone continue to make such a complaint.

I think the challenge for this agency, as with many complaint agencies, is that sometimes there are people in the community who complain who are not well. I would be reluctant to use criminal prosecution powers against someone who was not well.

Mr McDONALD: How many vexatious complaints would you have stamped as being vexatious?

Ms Florian: We can make some inquiries and get an exact number for you. Perhaps in the last year—I will see if we can get that number for you before we leave. Otherwise I might take that as a question on notice.

Mr McDONALD: Coming back to my original question about the number of complaints that were politicised, do you have any idea how many of the 42 per cent from local government may have been political in nature?

Ms Florian: That is difficult to say.

Mr McDONALD: Would it have been a large majority? What is your feeling?

Ms Florian: I think the act places a positive obligation on councillors and CEOs to report either complaints that they receive or information that they receive that may indicate that a councillor has engaged in inappropriate conduct or misconduct. That needs to be borne in mind. There are balancing policy considerations. There is obviously an important reason for that. Sometimes there will be a happy coincidence with people who are perhaps on opposing political sides where they make a complaint but it is a complaint that has substance. We will never deal with a complaint that is substantive as vexatious or lacking in good faith. We also have power under the act to investigate councillors who make vexatious complaints. In the lead-up to the local government election, we have had cause to proactively write letters when we can see a pattern of conduct emerging, to raise that issue to try to nip that in the bud, as it were.

Mr MADDEN: As a former councillor, I find it fascinating how your organisation operates. My question relates to the fact that it is now almost 12 months since you took over jurisdiction for the Brisbane City Council. Could you outline how that has affected your officers' workload and if there has had to be any changes to procedures to accommodate that widening of the jurisdiction?

Ms Florian: It was from about 1 April last year that Brisbane City Council came into the OIA's jurisdiction, so the same sort of framework and consistent approach applies to all councils now. It was anticipated in the early days that you will get more complaints from a particular council when they are new to the framework and then that will level out, particularly as we do education about the jurisdiction of the OIA and what is within the OIA and what is not. In the first instance, people who may have concerns about decisions of local government, as opposed to councillor conduct, can be more likely to make those sorts of complaints. It is working through an education process about our jurisdiction.

We have received quite a significant number of complaints relating to the Brisbane City Council. I expect that that will level off in time. We are probably seeing that initial reaction to the council coming within the OIA jurisdiction. In our Insight reports, which we put out quarterly, we transparently report on the number of complaints that we receive per council in South-East Queensland and then by region, including in a de-identified way the number of complaints, the number of complaints under investigation and the number of matters that are the subject of disciplinary action or concluded disciplinary action. There is transparency, I suppose, around the number of complaints that we have received from Brisbane City Council and where they are at in the stage.

Mr MADDEN: With that bubble at the beginning, are you coping with that extra workload?

Ms Florian: In December last year the Deputy Premier made an announcement to provide additional funding to the OIA which allowed to us to take on three temporary staff. With that assistance we have been put in an enhanced position. We are working through that as best we can. I acknowledge up-front that, due to the unanticipated volume of complaints, there are delays both in investigations and in referring matters to the Councillor Conduct Tribunal.

Mr HART: Chair, you would be surprised that I have a number of questions.

CHAIR: I am not surprised at all.

Mr HART: Cut me off when you like. Ms Florian, you have 11 staff. Is that correct?

Ms Florian: We have 11 full-time-equivalents. At present we have eight temporary staff. In addition to that, we have one staff member who is provided free of charge by the department.

Mr HART: Can you fill the committee in on particularly what your background in local government is, as well as Mr Kohn's and anybody else on your staff? Do you have staff with a history in local government?

Ms Florian: Certainly. I will start with my background. I am a barrister. I spent four years at the Director of Public Prosecutions in Queensland. Then I have spent 10 years with the National Crime Authority investigating organised and major crime. I have spent another 10 years at the Australian Crime Commission, heading up national investigations and also intelligence operations. I have spent six years at the Crime and Corruption Commission as both the Assistant Commissioner (Crime) and Assistant Commissioner (Misconduct). In that role I oversaw local government, police, public sector, universities and government owned corporations.

I have spent a year working in a completely unique disciplinary framework only, which I think was really good in terms of getting the head set for this space. That was in the Office of the Health Ombudsman overseeing registered and unregistered medical practitioners. Then I came to this role as the inaugural Independent Assessor.

My colleague Mr Kohn has extensive experience as an investigator in the Queensland Police Service including many years working in national operations at the Australian Crime Commission and at the CCC and was the lead investigator in Operation Windage at the CCC which looked into the Ipswich matters in particular. Our investigators and our lawyers come from a range of expertise including expertise in local government. We have people who came from Brisbane City Council, for example. They also have investigator expertise as police officers working for ASIC, working in a disciplinary context as well, and also financial expertise.

Mr HART: They are excellent backgrounds for most of your people. Is there anybody working for you who has been a former councillor?

Ms Florian: No. We are an independent agency. We want to be able to look at matters independently. Investigative expertise and legal expertise in dealing with a disciplinary context is necessary for that. I do accept that a really strong understanding of local government is very important and something that I hope we have strongly reflected.

Mr HART: We have four former councillors on this committee and I am not one of them.

CHAIR: We will not hold that against you!

Mr HART: I note in your annual report that there are six top categories of misconduct, and one of them is directing council staff. I am ignorant of that. What level of direction can a councillor provide to staff? What is your tipping point?

Ms Florian: The policy background to that is this: councillors generally have a strategic role. The responsibilities of a councillor are set out in section 12 of the act which really creates that high-level role which is comparable to someone on a board. It is the responsibility of the CEO and council staff to take the strategic direction and that high-level decision-making that councils do and to implement that direction.

Directing staff or breaching what we call the acceptable request guidelines are what I see as the two categories of misconduct that have been created to keep councillors and council officers respectively in their lanes, as it were. It is to address the situation where a councillor goes beyond that strategic high-level decision-making role and starts to engage in a more operationalised role, making the high-level decisions but then also executing those decisions.

Mr HART: For the benefit of the former councillors here, does the Independent Assessor pursue claims or accusations against former councillors? For how long do you do that? What is the time frame for you to finalise an investigation?

Ms Florian: To answer your first question, under the act we can pursue matters against former councillors. Whether we refer such matters to the tribunal will depend on whether it is in the public interest to do so. The sorts of considerations that we will look at in determining whether that is the case with a former councillor include how serious the allegation of misconduct is, how significant or important the issue is that has been identified and whether there is value for other councillors also in getting some guidance from the Councillor Conduct Tribunal on how they would apply the standards in that situation. Those are just some of the considerations. We also take into account that if a former councillor has been found to have engaged in misconduct the steps that can be taken are more limited in terms of sanctions. That needs to be taken into account as well.

If a matter has already been referred to the tribunal, we have been trying to clarify, I suppose, the powers of the Independent Assessor to withdraw matters where there is a change in the public interest—for example, where a councillor does not nominate and is no longer within the jurisdiction. That is something that we have been working through, including with the Supreme Court review, to understand the nature and extent of our powers to withdraw matters in those circumstances. We have recently got some guidance on that, which is that we cannot withdraw but we could make application to the Councillor Conduct Tribunal to seek their support to withdraw a matter.

Mr HART: How does the legislation stand with regard to that?

Ms Florian: It is silent on that point. It comes down to a question of statutory interpretation.

Mr HART: You have pointed out that there have been quite a few complaints made about one particular council in the western cape. Is there something we need to do differently with Indigenous councils, for instance? Are the councillors required to take note of your learnings, your advice and your online videos and things that you are producing? Do they have to tick off on those? What is the process there?

Ms Florian: Recently we have put out a report on the complaints landscape in Indigenous councils. I think there are some significant factors in Indigenous communities and with councillors that are cause for concern. Not least of those is that there is something like a 70 per cent turnover of Indigenous councillors at every local government election. That is a great loss of knowledge and continuity of leadership in those communities. I think that is a strategic question and we really need to understand the reasons that is occurring.

There are also very unique features in Indigenous communities that can make the job of a councillor more difficult. There are small communities where cultural views about relationships may be different. There are communities where there are land trust issues and communities where the people drawn from them on council also hold positions in land trusts and in other corporations that are delivering services in that community. In effect, the conflict of interest issues that arise in Indigenous communities can be more difficult. A concern for me is about building capacity in Indigenous communities and that continuity of leadership.

Turning to your second question, there is no requirement for councillors to tick off on our videos and learnings. One of my observations about how the councillor conduct framework worked previously is that I think there was a big gap for councillors because there was the law about conflicts of interest, for example, but councillors did not always have the visibility of what was coming out at the other end, what the tribunal decisions were and how that affected them particularly in their decision-making and how they could apply those circumstances to their own context and take that on board and say, 'That's going to change so, as a councillor or as an individual, how would I approach that in the future?' That has been one of the key areas where we have tried to fill that gap, to feed those learnings back so that councils and councillors can take that on board and use that information as a prevention.

Mr HART: Is that another legislative gap?

Ms Florian: Under the act the Councillor Conduct Tribunal shares its decisions with the parties and under the act the Councillor Conduct Tribunal is required to provide a summary of their decision to the department, which then publishes that decision. If that summary covers off on the key points and the key learnings, we would leave it at that. If it does not we put out an advice to councillors and send it to councillors so that information is received and can be fed back into that loop.

CHAIR: I would point out that the LGAQ and the local government department have learning modules that candidates have to complete before their nomination is accepted, which is quite new and I think probably works quite well.

Mr SMITH: My question goes to inappropriate conduct. I note that a lack of consistency has been flagged. Is that lack of consistency more around the determination of the act or in terms of the penalties given between councils?

Ms Florian: Inappropriate conduct is assessed by the OIA but can only be investigated by the OIA if it is linked to misconduct. Otherwise we undergo what we call a 150AA process where we provide the councillor with those allegations and give them an opportunity to comment on them and why they should not be referred back to local government to be dealt with. In the event that they are referred back to local government to be dealt with, an investigation is undertaken at that point. Councils may do that internally, they may send it out to an independent agency to do or they may refer it to the Councillor Conduct Tribunal to do an investigation. Ultimately, though, a decision about whether inappropriate conduct is made out and the sanctions that apply are questions for the local government to decide by resolution.

The issues that have arisen in an inappropriate conduct context have been varied. They have ranged from councillors expressing a discomfort with having to sit on a determination about whether their fellow councillors have engaged in inappropriate conduct and also around the consistency of those sorts of investigations and, indeed, whether we are getting the level right in terms of whether it is low-level conduct and how we deal with that conduct in a way that is timely effective consequence management. I hope that responds to your question.

Mr SMITH: Is there any data? Where we are highlighting there is a lack of consistency among different councils, are we seeing, for example, that whatever the alleged act was may be considered inappropriate in one council but another council may take a bit more of a lax approach and say, 'You know what, we'll probably let that one slide.' Is that a concern? Is there a potential for different councils to weigh up different activities comparatively?

Ms Florian: I guess that potential exists and for that reason we have put a number of measures in place. Firstly, we have identified three independent investigative agencies that have experience in local government. We have got them to give quotes that we hope will follow through in terms of what they quote to local government so that they are reasonable. We have developed with them a template for an investigation report that is commensurate to that level of conduct so there is consistency in the investigative approach. We have developed with the Logan City Council administrator a guideline for councillors in terms of applying sanctions to try to get some consistency of approach with the application of sanctions, depending on the disciplinary history and the seriousness of the type of inappropriate conduct that is dealt with. In applying that table, councillors can have a tool or a framework that makes it easier for them to come to a decision that is consistent with other councils.

Mr SMITH: I was reading in the report that the office has the power to review any of the inappropriate actions determined by a council. Do you believe a better path might be to take those investigations out of the hands of the councils themselves and move straight to the independent investigators through the external body in that framework or is the review system strong enough to weed out that lack of consistency?

Ms Florian: There is no power of review. The OIA does not have a power of review. We have put in place strategies to mitigate the concerns and we have seen anecdotally some improvement, which we are encouraged by. Ultimately it is a question of policy and a question for whoever is in government to determine what the best way forward is.

Mr KATTER: Kathleen, you talked about keeping councillors in their lanes. I often see a problem with keeping CEOs in their lanes. A lot of this conversation is focused on councillors getting involved in the operational side of things. My observations are increasingly of CEOs doing interviews, expressing views, turning up to meetings and involving themselves at the policy level or acting as quasi-mayors, probably more acutely in the Aboriginal communities. Is that looked at? It seems like this conversation concentrates on councillors. I do not mean purely in terms of misconduct, but as it applies to keeping in their lanes. Councillors cannot get involved in operational matters, but I am increasingly seeing the CEOs stepping out of their lanes and advocating or encroaching in that space of policy advice and that sort of thing.

Ms Florian: Our jurisdiction is limited to councillors. To the extent that CEOs start to expand their role, which is set out in section 14 of the act, that is not something that we can assist with. That would be a matter of council taking advice and dealing with that in accordance with the act. I referred to the issue in Indigenous communities with the significant turnover of councillors. There were three Indigenous communities at the last local government election where there was 100 per cent turnover of councillors. It is almost inevitable that in those communities the CEO would assume a level of knowledge and experience that may set them apart. There are some complex things feeding into that as well.

Mr KATTER: To explore this thoroughly, is your charter to look at the councillors' roles or the council itself? If there is serious encroachment from outside impacting on those roles, I would have thought that that is something that would invoke your interest.

Ms Florian: Our jurisdiction is about inappropriate conduct and misconduct as defined in the act. Those definitions of inappropriate conduct or misconduct are focused on different categories of councillors' inappropriate conduct or misconduct. I think a council that found itself in the position that you described would need to take legal advice about the role of a CEO versus a council, and then implement that advice.

Mr KATTER: If the council then start acting on that, that can then attract your interest?

Ms Florian: If a council acted on that advice to ensure that their roles were carried out in accordance with the act that would not be inappropriate conduct or misconduct on the part of a councillor; that would be them doing the roles that they have been elected to do.

Mr HART: I notice in your briefing to the committee you said that your officers are working with the State Archivist to produce a guide for record keeping for councillors. This is something that has come up in the Queensland parliament over and over recently. What records are councillors obliged to keep at the moment and what guide do they have?

Ms Florian: There is already some existing guidance that is in place for councillors, including a document that the CCC and the State Archivist did probably about 18 months or two years ago. The guide that we are working on with the State Archivist is short-form, easy-to-read practical guidance directed at the sorts of information that councillors are routinely dealing with to assist them to identify what is a public record and what is not, and if it is a public record, how they act on that.

Mr McDONALD: Ms Florian, in regards to the eight per cent that are left after 12 months—92 per cent of complaints are dealt with within 12 months—is there a trend about those eight per cent as to why it is taking so long? Are there additional things that you need to see happen to address those eight per cent?

Ms Florian: There are a number of reasons investigations can take longer. They include maybe issues with getting an affidavit from a particular witness who may be overseas, or getting information from a council. We have some delay with allocating investigations and so we do that on a prioritisation model. Also we have found that investigations in Indigenous communities have been delayed particularly in the COVID environment because we have not been able to visit those communities so we are working remotely to try to obtain documents and information from those communities which can extend those investigations out.

CHAIR: The time for the briefing has expired. We have one question on notice: the number of vexatious or, shall we say, dismissed complaints.

Ms Florian: Yes. I can indicate that 18 complaints have been dealt with as vexatious since the OIA commenced.

CHAIR: Thank you very much. We have no questions on notice so we do not need to refer to the broadcast for that. The time allocated for this public briefing has now expired. Thank you to everyone from the OIA for coming along today. We have really appreciated it. It has been a very good process for us as well. Thank you to Hansard and thank you to the secretariat. The briefing is closed.

The committee adjourned at 10.48 am.