




Speech By  
**Charis Mullen**

**MEMBER FOR JORDAN**

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Record of Proceedings, 15 November 2023

**LOCAL GOVERNMENT (COUNCILLOR CONDUCT) AND OTHER LEGISLATION  
AMENDMENT BILL**

 **Mrs MULLEN** (Jordan—ALP) (12.27 pm): I rise to speak to the Local Government (Councillor Conduct) and Other Legislation Amendment Bill 2023. I would like to begin by reiterating part of my speech in 2018 when we introduced the then bill creating the Independent Assessor. I said at the time—

I strongly believe that the majority of local government councillors within Queensland operate professionally and with due regard to the requirements of the law.

I also said—

Equally, ratepayers have a right to ensure that this is indeed the case—

and to be able to use a third party to investigate any claims of misconduct or bad behaviour.

As noted by the parliamentary committee in its examination of this bill, an effective independent councillor conduct and complaints framework is vital to maintaining public confidence in local government, building capacity across the sector and providing positive outcomes for communities across our state. Since its introduction in 2018, there has been some time to allow the system to operate and to determine if further improvements should be implemented. In fact, between the introduction of the OIA and the start of what has been a comprehensive review into the Independent Assessor and councillor complaints system, 3,800 complaints have been lodged. To put this into context, there are 578 councillors in Queensland so it equates to more than six complaints per councillor.


The State Development and Regional Industries Committee report was very comprehensive and made 40 recommendations, of which 19 are being implemented through this bill. I want to commend the committee and the department for their work on this bill. Both the bill and the review into the OIA saw significant interest in consultation, and I would like to thank all of the local councils, individual councillors and key stakeholders who have contributed to making the complaints system more agile and better informed.

I wish to add that it is really important that we get this right for local governments. I have had the opportunity to speak with many councillors not only in my own regions of Ipswich and Logan but also right across Queensland, and getting the complaints framework right matters. An elected representative's integrity, their reputation, is vitally important, and when matters drag out for long periods of time or on matters that are simply vexatious or deliberately political, it can have a significant impact on those individual councillors.

Even before the review recommendations were released and based on my discussions with councils, it was clear that there was dissatisfaction with the length of time needed to resolve complaints against councillors. During the review, the OIA provided context to the matter of timeliness by highlighting its workload. The agency, as I said, has dealt with more than 3,800 complaints since it was established. In 2021-22 they assessed 881 complaints. Of these, 64 per cent were assessed and

dismissed or no further action taken, five per cent were referred to councils as potential inappropriate conduct, 18 per cent proceeded to a full misconduct investigation following assessment, and three per cent were referred to the Crime and Corruption Commission. The review found that the councillor complaints system needs to be more closely and efficiently aligned with public interest and the intent of the legislation.

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 **Mrs MULLEN** (Jordan—ALP) (12.41 pm), continuing: As I was saying, the review found that the councillor complaints system needs to be more closely and efficiently aligned with public interest and the intent of the legislation. The system must also be capable of resolving complaints in a timely and cost effective manner. Information provided by the OIA indicates that a large number of complaints—64 per cent—are dismissed on initial assessment, or subject to no further action. The information provided also indicates an upward trend in this regard. The bill seeks to introduce a preliminary assessment process that aims to increase the overall efficiency of the system by allowing the OIA to focus on substantive conduct matters and to improve the timeliness of complaint resolution. It provides that the IA must dismiss a complaint or take no further action for a notice or information about councillor conduct in certain circumstances including: it was not in the public interest to proceed; it was received outside of the prescribed period; it relates solely to a councillor's personal conduct; or the conduct was engaged in by the councillor to comply honestly and without negligence with a guideline made by the director-general.

It also provides that the IA must dismiss a complaint or no take no further action for these circumstances: the conduct is or may be dealt with another entity; the complaint is frivolous or vexatious; the complaint was made other than in good faith—for example, it was made for mischievous or malicious purposes; or it would be an unjustifiable use of resources. If the matter is not dismissed following the preliminary assessment, the IA must decide to refer the conduct to a local government to deal with, investigate the conduct or take alternative action. For example, make any recommendation the IA considers appropriate such as the councillor attending training, counselling or mediation. There has clearly been strong support to introduce a preliminary assessment process, with the need to put a clear public test front and centre as part of an initial triaging process.

I have become aware of councillors being referred on matters that clearly do not have a public interest and seem to fall mainly into the vexatious and sometimes malicious category, but are still taking too long to clear. The bill introduces a requirement for the IA to dismiss or take no further action about councillor conduct on preliminary assessment if satisfied the conduct relates solely to behaviour engaged in by a councillor in a personal capacity, unless the conduct is suspected corrupt conduct. This change is being made to once again enable the IA to focus on conduct that is directly relevant to a councillor's official duties.

As the department noted in the committee report, it is not intended for the system to capture the private behaviour of councillors which, as we know, is more appropriately dealt with at the ballot box by electors. There are also matters that are rightly more appropriately dealt with by the police and the courts, not the OIA. The councillor conduct report also recommended a time limitation period for the acceptance of complaints, unless they involve matters to be referred to the CCC. Clause 46 of the bill introduces a period for making complaints or giving notices or information about councillor conduct that must be made or given within one year of when the conduct occurred or within six month after the conduct comes to the knowledge of the complainant but within two years after the conduct occurred. I believe this is reasonable, particularly for inappropriate conduct or conduct breaches. The councillor conduct report also makes a recommendation in relation to making training and professional development on the councillor conduct system compulsory for all local government councillors, mayors and senior council mangers. I think it is absolutely imperative and I could not see any councillors not complying with this requirement to have approved councillor training about their responsibilities, with consequences for noncompliance.

Finally, I would like to discuss the matter of vexatious complainants which is included in the legislation. I am pleased to see the changes that are proposed in this bill. In my discussion with councillors, along with timeliness of complaints management, this is one of the main issues being raised. It is absolutely imperative that we do not allow the integrity of the OIA and the Councillor Conduct Tribunal to be undermined by allowing it to be used as a political weapon against individuals. Councillors have told me of being referred to the OIA on matters that frankly should never have been referred and

are clearly vexatious and aimed at ensuring that that individual is tied up in defending themselves against such claims. The current vexatious complainant process is limited to complaints that are made by members of the public and not to sitting councillors. It is not surprising, however, that the OIA's experience has shown that the system is most misused by councillors.

Whilst councillors have a statutory duty to make referrals and notifications under the Local Government Act, I agree with the committee's view that further work needs to be undertaken to extend the vexatious complainant's process to include sitting councillors. My electorate spans two local government areas—Ipswich City Council and Logan City Council. I have become increasingly concerned at the OIA referrals that are being made in Ipswich City. I am concerned not because I believe there is widespread misconduct or breaches of duty, but, in fact, the opposite. Ipswich City Council has, since the election of 2020, had approximately 68 complaints referred to the OIA. Of those, just three have been substantiated. The remaining 65 have been dismissed or no further action taken.

What concerns me is that it is clear the majority of the complaints are coming from inside the council. Reading the Ipswich City Council councillor conduct register is an exercise in exasperation for the ratepayers of Ipswich, who are seeing time, energy and resources being spent on complaints which are being summarily dismissed, not substantiated and, in some instances, clearly made politically or maliciously. I question whether council resources and staff are being used to gather evidence regarding these complaints. Is this an appropriate use of staff time? Many of these complaints are a disservice to the people of Ipswich. I encourage our councillors to get on with their proper day-to-day duties and stop using the OIA in this way.

Again, I return to my words of earlier. I do believe the majority of local government councillors within Queensland operate professionally and meet their requirements under the law. The bill today is an opportunity to improve the councillor conduct and complaints process to allow those councillors to continue to undertake their good work in service to their ratepayers. I commend the bill to the House.