



**Office of the Independent Assessor -
Response to SDRIC request for further
information**

**Inquiry into the functions of the Independent Assessor and
performance of those functions**

State Development and Regional Industries Committee

2 February 2022



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Introduction

The OIA provides the following in response to the Committee's request for further information on:

- How many inappropriate conduct cases have been referred to councils to resolve and which councils have these been referred to? What was the results of these referrals?
- Further examples of where a councillor has responded to an inappropriate conduct complaint with legal representation
- Issues raised in publicly available submissions to the Inquiry

This submission also contains a further recommendation for law reform pursuant to terms of reference three of the Committee's Inquiry.

Inappropriate conduct cases referred to councils and results

Summary: Since its establishment the OIA has received 996 complaints about inappropriate conduct. Following a robust triage process, 105 matters have been referred to local government to deal with. The outcome of these referrals have not been consistent across councils and have raised concerns about whether inappropriate conduct matters are being dealt with effectively.

Inappropriate conduct is a breach of the code of conduct, a council policy, procedure or council resolution. It is assessed by the OIA but investigated and dealt with by councils across Queensland.

From the OIA's records since establishment to 28 January 2022, the OIA has received 1,081 allegations of inappropriate conduct arising out of 996 separate complaints.

Following initial assessment of these complaints, 212 section 150AA notices were issued to councillors as of 10 January 2022. This is the process required under the Local Government Act (LG Act) to provide a councillor with the opportunity to have a say before any decision is made whether to refer a matter to council to investigate and resolve.

Following consideration of the councillor's response, either by legal counsel or direct from the councillor, 105 matters¹ were referred to councils to investigate and resolve.

This is indicative of the OIA's robust triage process for inappropriate conduct, consistent with the assessment outcomes for misconduct matters.

The OIA has tracked data for 105 inappropriate conduct matters which were referred to councils to be investigated and resolved. See **Appendix A** for the list of inappropriate conduct matters referred to councils and outcomes since the OIA's establishment to 10 January 2022.

Note, that this table does not capture every inappropriate conduct outcome, as there are many instances where councils do not respond to OIA requests to be advised of the outcome. This information is provided subject to this proviso.

¹ On occasion, a 150AA notice may combine two or more complaints about the same or similar conduct.



Results

Out of 105 inappropriate conduct matters referred to councils, 31 per cent have been sustained or resolved through an alternative dispute resolution.

Table: OIA data on the results of inappropriate conduct complaint referrals to councils

Outcome	Number
Sustained	29
Not sustained	24
Alternate dispute resolution	4
Withdrawn by complainant after referral to Local Government	5
Dismissed by OIA ²	1
Referred back to OIA ³	1
No response from council	16
On going	25

From this data, 31 per cent of referrals are sustained or resolved through an alternative dispute resolution process by the council, 23 per cent are not sustained. The OIA has been unable to establish the outcome in 15 per cent of matters which were referred to councils approximately more than 12 months ago, while other matters, sent more recently, are awaiting resolution at councils.

By comparison, following the OIA full investigation and legal process for misconduct matters, in the last three years the CCT has decided 61 matters and 80 per cent of those matters were wholly or partially sustained.

In terms of penalties, in many matters the councillor was issued with a reprimand. On occasions the orders included counselling, training, a public apology or to reimburse costs of a local government.

² Councillor did not respond to a section 150AA notice. Following referral to local government OIA became aware that the councillor had been impacted by floods and had not had access to council emails. Section 150AA withdrawn, councillor's response obtained and considered, complaint dismissed.

³ If during the course of an inappropriate conduct investigation misconduct is identified, the council must refer the matter back to the OIA to deal with.



OIA assistance to councils to deal with inappropriate conduct referrals

In 2019-20 only 15 per cent of inappropriate conduct complaints were finalised by local governments. In 2020, the OIA introduced a range of strategies to assist councils to deal with inappropriate conduct matters more effectively.

Consequently in 2020-21, 53 per cent of inappropriate conduct matters were finalised by councils. However, issues remain around the effectiveness of the current inappropriate conduct scheme.

To assist councils to deal with inappropriate conduct referrals the OIA delivered a series of strategies in September 2020.

The strategies included the identification of a panel of external investigators who could assist councils by quickly and independently investigating allegations. The OIA conducted a workshop with the panel members to facilitate a uniform approach to investigations and application of the Code of Conduct. A template investigation report was agreed to support timely, proportionate investigations that complied with natural justice and best practice.

To assist councillors to determine an appropriate sanction when an allegation is substantiated, the OIA also provided a decision-making matrix which was developed by the interim Logan City Council in 2019 in consultation with the OIA. This was shared with all councils in 2020 and updated in 2021.

A further initiative was introduced in 2021 to assist First Nations councillors. A six-month 'telephone trial' was undertaken giving councillors the option to respond to OIA notices by phone, rather than in writing, when they became the subject of an inappropriate conduct complaint. The trial recognised the challenges faced in reliably accessing the internet and devices in remote communities and has supported indigenous councillors to engage in the process.

The effectiveness of the OIA's initiatives were demonstrated in 2020-21, when 53 per cent of inappropriate conduct matters were finalised representing a significant improvement on 2019-20 when only 15 per cent of inappropriate conduct complaints were finalised by local governments.

While there have been improvements, currently there are a number of features of the inappropriate conduct scheme which are impacting on its effectiveness including;

- A reluctance amongst councillors to sit in judgment of their peers or to substantiate a conduct allegation against another councillor
- The impact of alliances or fractured relationships between councillors on objectivity, fairness and consistency
- Issues surrounding compliance with council investigation policies and natural justice provisions
- Dealing with inappropriate conduct at council meetings and conflicts of interest
- Matters referred back to local government that do not appear to have been dealt with at all.



Councillor responds to an inappropriate conduct complaint with legal representation

Summary: Legal representatives responded to 14.6 per cent of 150AA notices issued in respect of possible inappropriate conduct.

Inappropriate conduct is low level conduct.

The OIA sent 212 150AA notices to councillors requesting an initial response to an inappropriate conduct complaint. On 31 occasions (14.6 per cent) it was responded to by lawyers engaged by the councillor.

Table: Origin of response to 150AA notice for suspected inappropriate conduct matters

Total 150AA notices issued for suspected inappropriate conduct matters (Note: At times, one notice covers a number of similar complaints)	212
Direct response received from the councillor	156
Direct response from councillor by telephone	7
Response from lawyer/legal firm representing the councillor	31
No response received	18

Table: Legal firms engaged in response to inappropriate conduct 150AA notices

Bennett & Philp Lawyers	2
Bottoms English Lawyers	1
Butler McDermott Lawyers	1
Gilshenan & Luton Lawyers	9
Gnech & Assoc	1
Holt Lawyers	5
King and Co	9
Macpherson Kelley Solicitors	1
Reveal Legal	1
Robert & Faith Legal Practice	1

Table: Councils where councillors have engaged legal representatives to respond to section 150AA notices re possible inappropriate conduct

Southern Downs	1
Cairns	1
Mornington	1



Gold Coast	10
Sunshine Coast	2
Townsville	2
Moreton Bay	4
Bundaberg	1
Brisbane	7
Cloncurry	1
Barcaldine	1

Inappropriate conduct matters where lawyers have responded to the 150AA notice

Table: 31 examples of inappropriate conduct matters where legal representation was engaged in response to a section 150AA notice

Date Complaint received	Council	Legal services provided	Summary of complaint allegation	OIA assessment outcome
17/12/2018	Sunshine Coast	King and Co	Abusive email to a resident	No further action - section 150Y(b)(i) - not inappropriate conduct (IC) or misconduct (MC)
30/12/2018	Cloncurry	King and Co	Vindictive behaviour towards another councillor	No further action - section 150Y(b)(i) - not IC or MC
16/01/2019	Gold Coast	Gilshenan & Luton	Media comments relating to resident's complaints	Referred to local government
21/01/2019	Gold Coast	Holt Lawyers	Using official council letterhead to promote one business over other businesses	Referred to local government
6/02/2019	Southern Downs	Macpherson Kelley	Not acknowledging/ disrespecting majority decisions of council during media interviews	Referred to local government
10/02/2019	Gold Coast	Robert & Faith Legal Practice	Used ratepayers' resources to promote political and campaign activity	No further action - section 150Y(b)(iii) - unjustifiable use of resources
28/02/2019	Moreton Bay	King and Co	Discussing council staff tenures and performance with external parties.	Referred to local government
22/03/2019	Sunshine Coast	Butler McDermott Lawyers	Abusive behaviour toward council staff	Referred to local government

Date Complaint received	Council	Legal services provided	Summary of complaint allegation	OIA assessment outcome
6/06/2019	Gold Coast	Holt Lawyers	Sending a rude email based on false allegations to another councillor	Referred to local government
8/08/2019	Gold Coast	Bennett & Philp Lawyers	Making public comments about a complaint about another councillor's conduct	No further action - section 150Y(b)(i) - not IC or MC
19/08/2019	Moreton Bay	Gilshenan & Luton	Undisclosed relationship within Council and impact on decision making	Dismissed after 150AA response - section 150Y(b)(i) - not IC or MC
19/08/2019	Moreton Bay	King and Co	Undisclosed relationship within council and impact on decision making	Dismissed after 150AA response - section 150Y(b)(i) - not IC or MC
16/09/2019	Gold Coast	Gnech and Associates	Failure to moderate defamatory and offensive comments on official Facebook page	Referred to local government
15/02/2020	Gold Coast	Holt Lawyers	Blocking a resident from the official councillor Facebook account	Dismissed - section 150X(a)(ii) - not IC or MC
17/04/2020	Bundaberg	Gilshenan & Luton	Breach of media policy	Referred to local government
7/05/2020	Gold Coast	Holt Lawyers	Inaccurate comments in a letter published in media targeting other councillors	No further action - section 150Y(b)(iii) - unjustifiable use of resources
28/08/2020	Moreton Bay	King and Co	Abusive and offensive language to staff at a private business using councillor email	Referred to local government
16/09/2020	Cairns	King and Co	Regular belittling and abuse of residents via Facebook	Referred to local government
3/11/2020	Brisbane	Gilshenan & Luton	Threats to another councillor	No further action - section 150Y(b)(iii) - unjustifiable use of resources
30/11/2020	Townsville	Gilshenan & Luton	Offensive language misuse of position as councillor	Dismissed - section 150X(a)(ii) - not IC or MC
16/03/2021	Barcaldine	King and Co	Public comments about how council would respond to public health strategy led by a HHS	Investigated as possible misconduct
31/03/2021	Gold Coast	Holt Lawyers	Media comments said to involve racial stereotyping	Referred to local government
1/04/2021	Townsville	King and Co	Derogatory comments about a federal member of parliament made to media that were purported to have been made on behalf of council	No further action - section 150Y(b)(iii) - unjustifiable use of resources

Date Complaint received	Council	Legal services provided	Summary of complaint allegation	OIA assessment outcome
5/05/2021	Brisbane	Reveal legal	Being subject to four orders of unsuitable meeting conduct within 12 months	Referred to local government
15/07/2021	Brisbane	Gilshenan & Luton	Disrespectful behaviour following the passing of a state member	Dismissed - section 150X(a)(ii) - not IC or MC
26/08/2021	Brisbane	Gilshenan & Luton	Inappropriate behaviour toward a resident at a community function	Referred to local government
26/08/2021	Brisbane	King and Co	Failure to deal with another councillor's unsuitable meeting conduct	Dismissed - section 150X(a)(ii) - not IC or MC
1/09/2021	Brisbane	Gilshenan & Luton	Breach of the Act through an email attempting to direct council staff	Referred to local government
17/09/2021	Brisbane	Gilshenan & Luton	Failure to appropriately respond to a resident's concerns about a planning matter	Dismissed - section 150X(b)(i) - vexatious matter
15/10/2021	Mornington	Bottoms English Lawyers	Obscene posts on Facebook	Referred to local government
16/11/2021	Gold Coast	Bennett & Philp Lawyers	Obscene language in message sent to member of public	Referred to local government

Note: When a complaint is received from, or information is referred, by the CEO or a councillor, a decision to take no further action is made under section 150Y. There is no option to take no further action under section 150Y because it is not in the public interest. This ground for dismissing a complaint is limited to complaints from members of the public under section 150X.

Two legal submissions have been received in response to a section 150AA notice of possible inappropriate conduct where the implied right to freedom of political expression has been raised as a response to a complaint received.

Table: Matters where legal counsel raise implied right to freedom of political expression

16/03/2021	Barcaldine	King and Co	Public comments about how council would respond to a public health strategy led by a HHS	Investigated as possible misconduct
1/04/2021	Townsville	King and Co	Derogatory comments about a federal member of parliament made to media that were alleged to have been made on behalf of council	No further action - section 150Y(b)(iii) - unjustifiable use of resources



Additional costs arising out of the involvement of lawyers in councillor conduct matters

While the OIA's costs in regulating the scheme are modest, the indemnity insurance arrangements provided by the LGAQ as trustee for LGM Services, and the increased engagement of lawyers, have resulted in significant legal expenditure that is being met by councils/ratepayers.

The OIA's costs have been calculated in 2020-21 as \$380 per assessment and \$2,704 per investigation. A costing is not currently captured for preparing and progressing matters before the CCT or the Queensland Civil and Administrative Tribunal (QCAT) but given the limited number of OIA legal staff it is likely that this cost is modest.

Councillors have however been engaging legal representation to:

- Obtain advice generally on conduct matters particularly the conflict of interest provisions.
- Prepare submissions or responses to the OIA following statutory natural justice processes in section 150AA of the LG Act (for both inappropriate conduct and misconduct).
- In making written submissions to the CCT on disciplinary matters. The majority of matters are decided on the basis of written submissions, with no requirement for lawyers to appear.
- In a small number of cases lawyers appear before the CCT on contested hearings.
- Lawyers are retained by councillors to prepare and progress review proceedings in QCAT which appears to require significant legal input in preparing submissions and appearances.

Impact of Integrity Commissioner withdrawing from providing advice to councillors

Councillors more than any other level of government are involved in high-value, high-volume and high-frequency decision making. Legislation is complex so councillors need access to reliable consistent advice that they can act on.

The Integrity Commissioner previously provided a high volume of advice, free of charge, to councillors but withdrew from this area in 2020.

The increased use of lawyers to obtain legal advice generally is likely a result of two events - amendments to the conflict of interest provisions in October 2020 and the subsequent decision of the Queensland Integrity Commissioner (QIC) to decline, under section 21(4), from providing advice to individual councillors and mayors on how the new conflict of interest provisions might apply.

The Integrity Commissioner experienced high levels of demand for advice from mayors and councillors when they were nominated as 'designated persons' under the 15(1)(h) of the *Integrity Act 2009*. Between February 2018 and December 2021 the Commissioner received 425 requests for advice (refer to page 6, second last paragraph of [QIC submission](#)).

Councillors were not charged for advice from the Integrity Commissioner.

The withdrawal of the Integrity Commissioner is significant as under section 40 of the *Integrity Act 2009* councillors benefited from a statutory protection when they acted substantially in accordance with the Integrity Commissioner's advice on conflicts of interest.

40 Limited protection for acting on conflict of interest advice

- (1) This section applies if a designated person—
 - (a) asks under section 15 for the integrity commissioner's advice on a conflict of interest issue involving the designated person; and
 - (b) discloses all relevant information in relation to the issue to the integrity commissioner when seeking the advice; and
 - (c) **does an act to resolve the conflict substantially in accordance with the integrity commissioner's advice on the issue.**
- (2) **The designated person is not liable in a civil proceeding or under an administrative process for the act taken by the person to resolve the conflict.**
- (3) To remove any doubt, it is declared that subsection (2) does not affect the designated person's liability for an act or omission done or made in connection with the conflict of interest issue before the person receives the integrity commissioner's advice.

[Emphasis added]

LGAQ, LGMS, JLT and professional indemnity insurance

Councils/ratepayers, not councillors, are funding professional indemnity cover for a councillors legal representation as a result of the commencement of disciplinary investigation or proceedings.

The increased engagement of lawyers generally is also likely because councillors are entitled under professional indemnity insurance arrangements to retain one of a group of approved lawyers, such as King and Co to represent councillors on disciplinary investigations and proceedings, at no cost to the councillor.

The LGAQ established, and is a trustee, of Local Government Mutual Services (LGMS) and JLT Public Sector is the LGM Liability insurance scheme manager.

The [LGM Board of Management](#) on its website currently shows the former LGAQ CEO Greg Hallam as a member as well as on the Management Committee of LGW Workcare. LGAQ's Principal Governance Advisor – Insurance Services is shown as occupying a Trustee position. See **Appendix B** for LGM Our People web page.

From the [Local Government Mutual Services](#) (LGMS) website 'Through the LGM Board of Management, the LGAQ as Trustee of LGM oversees the administration of LGM Queensland as a valuable service to Queensland Local Government, on behalf of Members.'

The members of the LGMS insurance scheme are Councils who pay an annual premium for the scheme which covers a large range of liability exposures for councils, councillors and council officers including coverage for councillors responding to disciplinary investigations or proceedings. In addition to insurance premiums it is understood that councils also pay an excess fee per claim.

A councillor can access this professional indemnity cover for councillor conduct matters without recourse to the CEO or other councillor as it is considered that disciplinary matters are of a confidential nature.

From [LGAQ website](#), 'LGM Liability provides members with \$400 million in public liability and \$300 million professional indemnity cover. This is well in excess of the minimum levels of cover prescribed by the Queensland Local Government Act. Members also receive cover for councillors and officer's liability, employment practices liability and casual hirers of council facilities.'

From the LGMS website, 'LGM has, since 1994, provided the vehicle by which Queensland Local Government has been able to collectively exercise control over the management of legal liability exposures confronting local government.'

By contrast, the Queensland Police Union of Employees also provides protection for its members in industrial and legal matters but this is funded by police officers themselves by way of a nominal fee on an annual or fortnightly basis.

Potential impact of insurance arrangements on QCAT reviews

QCAT reviews are unsustainable for the OIA. Applications for reviews are increasing and may be incentivised by the professional indemnity insurance arrangements.

For a disciplinary investigation or proceeding the LGMS insurance policy works to advance costs of defending the disciplinary investigation or proceeding to a councillor.

If the CCT subsequently finds that a councillor has engaged in misconduct, the insurers may recover costs from the councillor under the scheme's policy. Whether cost recovery occurs however depends on the seriousness of the conduct and whether all avenues of appeal have been considered.

The councillors insurance scheme extends cover to conduct reviews in QCAT. These are considered on a case-by-case basis.

These arrangements may be operating to incentivise use of the review process, which unlike an appeal, operates to re-run the matter in full before a different Tribunal who, unlike the CCT, are not experienced in local government and councillor conduct matters.

Since the OIA's first submission, which noted 14 reviews to QCAT had been filed, the OIA is now aware that 16 matters have been filed for review.

Re-prosecuting matters before QCAT has created an unsustainable workload for the OIA which is diverting resources from preparing and referring matters to and progressing matters before the CCT.

This also impacts on OIA investigations as investigators are periodically re-deployed to the OIA legal team to assist with managing backlogs.



Response to submissions

The OIA has considered the submissions to the Inquiry that are publicly available and is providing further information on several themes which have emerged.

- Key Performance Indicators (KPI) for investigations
- Communication
- OIA process updates on website
- Vexatious complaints versus complainants
- Politicisation of complaints
- Response to Queensland Law Society submission

Key Performance Indicators (KPIs) for investigations

Summary: The OIA welcomes KPIs for investigations but notes that KPI's must take into account complaint volumes and OIA resourcing.

The OIA has long flagged the issue of timeliness of investigations stemming from the significant increase in the number of complaints received, the increased functions given to the OIA on establishment and following the addition of the Brisbane City Council to the OIA's jurisdiction. These issues have been raised in OIA annual reports, in its *Insight* publication, and in responding to questions during the Estimates process. Timeliness indicators were reported in more detail in the [OIA's first submission](#)⁴.

The OIA's permanent staffing has increased by one since its establishment. Budget allocation and approval to extend the contracts of six temporary FTE and add two new additional temporary FTE was provided in the 2021-22 State Budget.

Prior to this the OIA diverted funding from other budget line items; savings found from funds allocated to build an electronic case management system, travel and training and development of staff; to support the engagement of some temporary staff.

The Department of State Development, Infrastructure, Local Government and Planning (DSDILGP) until 2021-22 provided the OIA with one officer, at no cost, from its re-deployment list.

At present 48 per cent of the OIA's staff are temporary. In October 2021 following the 2021-22 State Budget allocation the OIA reached its new maximum staff allocation of 19 FTE (includes 11 permanent employees and eight temporary positions). Since then, two temporary staff have left to take up longer term or permanent positions offered to them. The OIA also has three staff members on maternity leave. The turn-over of temporary staff results in the regular diversion of experienced staff in training and mentoring of new staff members.

Current reporting

The [OIA's service delivery standards](#) (SDS) are reported by DSDILGP. They are set and reported by DSDILGP in consultation with the OIA and the Department of the Premier and Cabinet. The OIA's service delivery standards are based on:

- Complaint clearance rate
- Average cost per assessment of complaint
- Average cost per investigation

⁴ OIA submission to SDRIC Inquiry pages 17,18

The service delivery standards that have been approved are consistent with a preference across government to move away from timeliness measures in favour of cost-based efficiency measures.

The [OIA's Annual Report](#) information is proscribed in the LG Act, section 150 EB, and includes,

- (a) a description of the following matters for the year—
 - (i) complaints made, or referred, to the assessor about the conduct of councillors;
 - (ii) complaints dismissed by the assessor;
 - (iii) investigations conducted by the office;
 - (iv) decisions made by the assessor to take no further action after conducting an investigation;
 - (v) suspected corrupt conduct notified to the Crime and Corruption Commission by the assessor;
 - (vi) suspected inappropriate conduct referred by the assessor to local governments to be dealt with;
 - (vii) decisions about whether councillors engaged in misconduct or inappropriate conduct made by the conduct tribunal; and
- (b) details about the number of times each power under part 4 was exercised by the assessor and other investigators during the year; and
- (c) details of other functions performed by the assessor during the year.

As previously advised to the Committee, the OIA would welcome KPIs for investigation timeframes, however timeliness measures must take into account the OIA's volume of work and resourcing status.

OIA current timeframes for investigations

In the OIA's first submission, it had 132 active investigations (not including parked matters) and as of 28 January 2022, the OIA has less than 100 active investigations.

In 2020-21 and 2021-22, the OIA has been prioritising finalising older matters.

An examination of OIA data reveals the timeframes for finalised investigations which have been achieved since the OIA was established. The timeframe begins from when the complaint received in each financial year and includes finalised matters that were once parked. The table also captures the changes in staff levels and its impact on timeframes.

Table: Investigation timeframes and staff levels 2018-2021

	0 - 6 months	6 - 12 months	Over 12 months	Investigator FTE
2018-19	219	61	37	5.3
	69%	19%	12%	
2019-20	145	71	33	6
	58%	29%	13%	
2020-21	106	117	24	6.2
	43%	47%	10%	



Events which impacted on investigation timeframes

Brisbane City Council added: In 2020-21, the Brisbane City Council came into the jurisdiction of the OIA following the 2020 local government elections.

Investigators re-deployed: Two temporary investigators were re-deployed into OIA legal to address the growing backlog in legal matters at various times between September 2019 until March 2021.

QCAT reviews: From April 2020, QCAT reviews began to be filed by councillors contesting the outcome of a CCT hearing.

If the current QCAT review process remains, it will be necessary to again re-allocate investigators into OIA legal from time to time to reduce backlogs there. This will again impact on investigation timeframes.

Funding for temporary positions: The 2021-22 State Budget allocation allowed the OIA to extend contracts of six (6) temporary staff and take on one additional staff member, in addition to taking over the funding of a re-deployed DSDILGP employee previously funded by DSDILGP.

As of 1 February 2022, the OIA has 7 investigators (3 permanent, 4 temporary) undertaking investigations.

OIA suggested KPIs for investigations

Based on current investigation timeframes the OIA is offering suggested KPI targets. Two sets of timeliness indicators have been developed based on two different scenarios:

1. Suggested KPIs if there is no change to OIA's permanent and temporary staffing arrangements and if QCAT reviews remain.

Table: Suggested investigation KPIs if no change to OIA current circumstances

Timeframe	Under 6 months	Under 12 months	Over 12 months
KPI	50%	45%	5%

Should there be reductions in complaint numbers over time this will provide an opportunity to further increase these timeliness targets.

2. Suggested KPI's based on the following changes;

- OIA resourcing stabilised at the current 19 FTE and that temporary positions are made permanent to avoid the short-term churning of employees.
- Reviews to QCAT be replaced with review to Supreme Court on point of law.

Table: Suggested KPI if permanent staff and QCAT review reform

Timeframe	Under 6 months	Under 12 months	Over 12 months
KPI	65%	35%	0%

Again, please note that once a matter is referred for a CCT hearing the OIA has no control over the length of time a matter is with the CCT before it is decided. The CCT is an independent body.



Communication with complainants/councillors/councils

The OIA provides three-monthly updates to complainants on the investigation progress of their complaint. This is not a requirement of legislation but is provided consistent with the Australian and New Zealand Standard – Guidelines for complaint management in organisations⁵.

The OIA does not provide three monthly written updates to a councillor who is the subject of an investigation but when the councillor is advised of an investigation, the councillor is provided with the name and contact details of an OIA officer who can be contacted at any time to discuss their matter.

The OIA considers it is not appropriate that council CEOs are informed of all complaints, or the progress of complaints unless they are the complainant or referrer in relation to the matter.

OIA contact with council staff

It is the OIAs general practice to submit all enquiries or requests through the CEO.

However, there are occasions when a council employee may be a witness to the conduct which requires direct contact. For example, if it is alleged that a councillor has breached the acceptable request guidelines, which is a specific head of misconduct, the OIA will obtain an affidavit or statutory declaration from the employee that the councillor spoke to. This is because CCT directions require evidence to be produced in the form of a statutory declaration or affidavit. A statutory declaration or affidavit are taken from the direct witness.

Also, there are occasions when councillor conduct alleged also involves the CEO and, in these circumstances, the OIA will contact relevant council staff directly. Examples can be provided in camera.

Website update

In January 2022, the OIA began updating its website to address Inquiry submitter requests for further detailed information relating to OIA processes. Suggestions for greater clarity through diagrams and case studies were also noted. The OIA is currently updating information on its investigation and legal processes and plans to do more with case studies, subject to resources.

Politicisation of complaints

The politicisation of complaints by politically motivated persons or other councillors is not new or unique to councillor conduct or to Queensland.

At any given time, there are a small number of councils where relationships between the councillors and/or the CEO are so fractured that the making of, and dealing with complaints, requires a high degree of awareness of the challenging circumstances. The OIA is acutely aware of the relationship dynamics within this small group of councils and will not engage in the politics of those relationships.

The politicisation of complaints is particularly challenging when dealing with **inappropriate conduct** complaints which must be referred back to the local government to investigate and resolve. To try to mitigate this, the Independent Assessor makes a recommendation under the LG Act that such matters should be independently investigated. It is still the councillors however who

⁵ AS/NZS 10002:2014. best practice for complaint agency guidelines

must make the decision whether their colleague has engaged in inappropriate conduct.

For **misconduct matters** the OIA assesses matters strictly on the facts of the complaint. Complaints from political opponents that have no substance will be dismissed. Complaints however that raise a reasonable suspicion of misconduct will be investigated and, if appropriate will be referred to the CCT.

It should also be noted that in this context, councillors may be well placed to understand when another councillor has engaged in misconduct and they have a statutory duty under section 150R of the Act to report that conduct to the OIA.

Response to Queensland Law Society submission

The Queensland Law Society (QLS) highlights issues which are in some cases supported by generalised examples which are not identified. The OIA provides the following general further information to address the issues raised.

Impact of increasing evidentiary standards and standard of proof on investigations

Section 213(1) of the Act provides that in undertaking a councillor conduct matter the CCT **must** –

- observe natural justice; but
- act as quickly and informally as is consistent with a fair and reasonable consideration of the issues raised in the hearing.⁶

Section 213(2) further states:

For example, the CCT **may** –

- (a) Act in the absence of a person who has been given reasonable notice of a hearing; or
- (b) Receive evidence by statutory declaration; or
- (c) Refuse to allow a person to be represented by legal practitioner; or
- (d) Disregard the rules of evidence; or
- (e) Disregard any defect, error omission or insufficiency in a document; or
- (f) Allow a document to be amended; or
- (g) Adjourn a hearing.

(Emphasis added)

Section 150DV further provides that the president may issue practice directions **for conducting a hearing**. The President of the CCT has issued four practice directions:

- [Practice direction #1 of 2019 - General Hearing Protocol](#) - 5 February 2019 (effective date)
- [Practice direction #2 of 2019 - Notices Requiring Witnesses to Attend Hearings to Give Evidence or Produce Documents](#) - 17 September 2019
- [Practice direction #1 of 2020 - Use of Technology During COVID-19 Response](#) - 16 April 2020
- [Practice direction #2 of 2020 - General Hearing Protocol No.2](#) - 28 October 2020

The CCT has issued no practice directions on the evidentiary standards required to prove a

⁶ [Local Government Act 2009](#) (Qld), section 213 (i)

councillor conduct matter. The CCT's expectations in this regard have emerged over time on a case by case basis or in directions made by the CCT in particular matters.

The standard of proof applied is the civil standard of 'on the balance of probabilities'. The civil standard is not a set standard but rather a sliding scale and, generally speaking, the more serious the allegation or potential consequences, the higher the standard of proof⁷ that will be applied. The evidentiary expectations of the CCT and the standard of proof being applied before misconduct has been found to have engaged in are significantly higher now than they were prior to the commencement of the CCT and are also higher than the standards applied by the new CCT in 2018 and early 2019.

This has occurred since the CCT commenced in approximately May 2019 directing on each matter that the evidence of witnesses be provided via affidavit or statutory declaration. Further, this CCT direction has impacted on the way in which council documents are now produced. Previously this information was included in the brief as a stand-alone document.

Now, if a council document is not publicly available it is produced either in an affidavit of a council staff member or CEO. Alternatively, the information is produced through a notice served on the council by the OIA and included in an affidavit filed by the OIA investigator.

Notwithstanding that the LG Act provides that it is open for the CCT to disregard the rules of evidence, some legal representatives routinely challenge evidence produced by the OIA even when obtained in the form of an affidavit and or obtained under notice arguing the strict application of the laws of evidence. This has directly impacted on the investigations and briefs of evidence prepared by the OIA, which over time, have become more comprehensive and affidavit based.

Criticisms of OIA investigations are likely to relate to early briefs produced at a time when it was unclear what the evidentiary expectations of the Tribunal would be.

Notwithstanding this, more matters have been referred to the CCT by the OIA and more allegations are being sustained than were sustained by the CCT's predecessors. In the last three years, 132 matters have been referred to the CCT, 61 matters have been decided and 80 per cent of matters have been wholly or partially sustained.

By contrast, in the three and half years preceding the establishment of the OIA and the CCT, 42 matters were referred to the two Tribunals that predated the CCT, 40 matters were decided and 37 per cent of matters were sustained.

Case study: Changing CCT expectations or processes

When the first few matters were referred to the CCT, the material provided was more limited in nature and the majority of referrals were for matters where the councillor had accepted they had engaged in conduct that amounted to misconduct.

The OIA's application and annexures filed with the CCT in the early stages contained written emails or statements from a witness rather than an affidavit or statutory declaration and council documents including confidential documents, agenda papers and meeting minutes were provided without an affidavit or statutory declaration from someone at council producing them.

On receipt of the application, the CCT issued directions simply setting the matter down for either a direction hearing or in most instances a hearing. This was done within a short time frame.

⁷ *Briginshaw v Briginshaw* (1938) 60 CLR 336

The CCT did not require the parties to file submissions addressing the allegation and the facts supporting a finding of misconduct.

It is understood that this was consistent with the practices of the Tribunals that preceded the CCT.

As more matters progressed through the CCT and councillors or their legal representatives challenged evidence or contested allegations the CCT changed its processes and is increasingly clarifying its expectations.

Consequently, the OIA has changed its investigations and briefs of evidence to reflect the requirements of the CCT.

CCT penalties

It is well established that the purpose of disciplinary proceedings and orders are to ensure compliance with regulatory standards⁸ rather than to punish councillors. This is reflected in the sanctions imposed by the CCT.

In most cases where a fine has been ordered additional orders are also made for the making of a public admission at a council meeting and/or counselling.

Timeframes for OIA legal processes

Timeframes for OIA legal

In 2021 the average time taken by the legal team to prepare a matter, leading to either a referral to the CCT or a dismissal/NFA by the OIA, was eight (8) months. Approximately 50 per cent of matters were dealt with within 3 – 7 months, but complex matters took more than 12 months.

A significant driver for legal delays has been the increased requirement to obtain affidavits or statutory declarations and the increasing resource impact of dealing with QCAT reviews. The taking of affidavits or statutory declarations has occurred by emailing backwards and forwards with a witness due to both COVID restrictions and diversion of travel budget into paying for temporary staff.

Time to respond to a section 150AA request

The standard response time frame to respond to section 150AA is two weeks. If a matter is complex or had a significant number of allegations, a longer period is provided.

Not infrequently legal representatives request an extension to respond to a matter. Extensions are routinely provided. There have been a number of matters where councillors or their legal representatives have sought a lengthy extension, however, a lesser period was agreed to by the OIA.

⁸ Walter v Council of the Queensland Law Society Incorporated (1988) 77 ALR228, applied in Legal Services Commissioner v Madden [2009] 1 Qld R 149 at [82]; Harvey v Law Society of New South Wales (1975) 49 ALJR 36.



Brief material to the CCT and the councillor

Brief material at the time of issuing the 150AA

A brief of evidence is not provided at the time that a section 150AA notice is issued. This is because section 150AA(2) (b) provides only that the notice must describe the nature of the conduct. The purpose of a section 150AA notice is to provide a councillor with an opportunity to say why a matter should not be referred before any decision is made.

The QLS submission did not acknowledge that the OIA draft Statement of Facts (SOF) is provided to councillors as an annexure to the section 150AA notice. The material provided to the councillor during this natural justice process is not limited to an allegation and a set of particulars.

The SOF is a detailed document setting out the background, allegation, particulars, supporting facts and on what basis the conduct is potentially misconduct. Notwithstanding section 150AA(2)(b) this amount of detail is provided so that a councillor can fully understand the allegation before addressing why a matter should not be referred.

Brief material provided to councillor after referral to CCT

Section 150AJ(2)(d) of the LG Act states that the application to the CCT must include information about the facts and circumstances forming the basis for the assessor's reasonable satisfaction of misconduct.

A brief of evidence is forwarded to the councillor, either on the same day or at least within a week of the application being filed with the CCT, if a brief cannot be electronically shared.

Due to a backlog of matters before the Tribunal, once referred by the OIA matters are currently waiting up to 19 months, with no directions issued, before they are reached by the CCT.

If a matter is referred to the CCT, the practice directions issued by the CCT give councillors and their legal representatives the ability to file evidence and make submissions regarding the allegations.

CCT practice directions

The OIA supports the need for practice directions and for forms to be provided by the CCT.

The CCT did not issue detailed General Hearing practice directions until 28 October 2020 and, directions issued have been limited to procedural matters. As the CCT's expectations and processes have evolved through the consideration of particular cases, or in directions issued, the OIA has adapted its investigations and processes in line with this.

Contact between OIA and CCT

It is an incorrect statement that OIA investigators or lawyers have direct contact with members of the CCT. Contact between the two organisations is very limited and formal. Only the Independent Assessor (IA) meets with the President of the CCT.

The IA has met with the President of the CCT to discuss issues such as the tribunal's proposed processes, practice directions, electronic transfer of brief materials, the impact of COVID-19 on hearing processes, legislative and law reform matters, and procedure for QCAT reviews. The following table lists, by financial year, the number of meetings between the IA and the President of

CCT. There have been four tribunal presidents since December 2018.

Table: Meetings between IA and President of CCT

	2018-19	2019-20	2020-21	2021-22
Meetings as of 27 January 2022	10	3	6	4

Further law reform submission

Vexatious complaint offence

Summary: Under the current LG Act, the OIA can only consider prosecuting individual ‘complaints’ and not the course of conduct of a ‘complainant’.

While the OIA has an escalating process for dealing with complaints from members of the public that are vexatious, it submits that the LG Act should be amended in line with the original Solomon Review recommendation to apply to ‘complainants’ and not just ‘complaints’.

The OIA currently uses a three-step escalation process to deal with improper complainant behaviour from members of the public. The three steps are,

- First complaint dismissed but complainant given vexatious warning
- If there is a second complaint - dismissed as vexatious and offence warning provided
- If there is a third complaint – dismissed as vexatious and OIA may commence an investigation into the complainant.

In 2020-21, 34 complainants advanced to the second step. Two complainants advanced to step three, and investigations were commenced. To date, the OIA has commenced three investigations into vexatious complainants but no person has been charged over a single ‘complaint’.

The original Solomon Review recommendation in relation to frivolous or vexatious complaints offence would be easier to prove and therefore more effective in dealing with the small number of complainants who persist in making complaints, notwithstanding that they have previously had a complaint dismissed as vexatious and have been provided with an offence warning.

The relevant Solomon Review recommendation is:

Frivolous or vexatious complaints

4.6 The offence in s. 176C(8) – a person must not make a complaint about the conduct of a councillor if the complaint is substantially the same as a complaint the person has already made and the person has been warned not to repeat it – be deleted.

In its place the Act be amended to include a section making it an offence for a person to:

*(a) **make repeated complaints** about a councillor —*

- (i) vexatiously; or*
- (ii) not in good faith; or*
- (iii) primarily for a mischievous purpose; or*
- (iv) recklessly or maliciously; or*

(b) counsel or procure another person to make a complaint about a councillor as mentioned in point (a).

(Emphasis added)



As previously reported three members of the public have persisted in making complaints with no substance notwithstanding that they have been provided with vexatious warnings and complaints have been dismissed as vexatious. A case study of one of those matters is provided to illustrate this issue.

Case study: Vexatious complaint v complainants

One complainant has made 17 complaints against six councillors from the one council. The OIA received 12 of the complaints directly from the complainant and five were referred from the council. Often the same complaint that was made simultaneously to council and the OIA.

One early complaint, on the face of it, raised a reasonable suspicion of inappropriate conduct and was referred to the local government to investigate and deal with. Following a council investigation this complaint was not sustained.

As further complaints were received and dismissed, more context came to light and a pattern emerged. The complainant received a warning and, notwithstanding that warning, persisted in making eight complaints that were all dismissed as vexatious.

Following a criminal investigation, this complainant will not be criminally charged. A consideration of the evidence in relation to each complaint concluded that no individual complaint reached the threshold of proof for a criminal prosecution in the Magistrates Court.

If however, the offence provision allowed the OIA to lead evidence of the course of conduct by the complainant in making 17 complaints from which collectively patterns have emerged - prosecution of such a matter would be easier rather than being required to prove, in isolation, that **a single** complaint was made vexatiously beyond any reasonable doubt.

.....



APPENDIX A

Results of inappropriate conduct matters referred to councils to deal with

Table: Inappropriate conduct matters referred to councils and outcomes

Date Complaint received	Council	Legally represented?	Summary of complaint	Council decision
4/12/2018	Gold Coast	Nil - direct response from councillor	Media comments relating to residents' complaints	Not sustained
4/12/2018	Gold Coast	Nil - direct response from councillor	Media comments relating to residents' complaints	Not sustained
17/12/2018	Logan	Nil - direct response from councillor	Disrespectful behaviour toward another councillor and providing a false information during a workplace bullying investigation	Sustained
17/12/2018	South Burnett	Nil - direct response from councillor	Breach of council policy	Withdrawn by complainant after referred to local government
21/12/2018	Gold Coast	Nil - direct response from councillor	During media interview - misrepresenting a CCT decision	Not sustained
16/01/2019	Gold Coast	Gilshenan & Luton	Media comments relating to resident's complaints – 2 complaints	Not sustained
21/01/2019	Gold Coast	Holt Lawyers	Using official council letterhead to promote one business over another	Not sustained
6/02/2019	Southern Downs	Macpherson Kelley	Not acknowledging/disrespecting majority resolution of council during media interviews	Not sustained
9/02/2019	Redland	Nil - direct response from councillor	Social media comments about a complainant following a news story on the councillor's behaviour	Withdrawn by complainant after referred to local government
15/02/2019	Doomadgee	Nil - no response received	Councillor with family members threatened a resident at their home	No response
18/02/2019	Douglas	Nil - no response received	Social media comments about excluding a particular community group from council business	Not sustained
28/02/2019	Moreton Bay	King and Co	Discussing council staff tenures and performance with external parties.	Not sustained
22/03/2019	Sunshine Coast	Butler McDermott Lawyers	Abusive behaviour toward council staff	Sustained
9/04/2019	McKinlay	Nil - direct response from councillor	Removing a resident from a meeting	Withdrawn by OIA ⁹

⁹ Councillor did not respond to section 150AA notice and matter was referred to local government. It subsequently came to the OIA's attention that the councillor had been flood affected and did not have access to council email at the relevant time. Matter withdrawn from local government, further opportunity to respond provided, complaint dismissed.

Date Complaint received	Council	Legally represented?	Summary of complaint	Council decision
9/04/2019	Scenic Rim	Nil - direct response from councillor	Breach of council policy	Council/CCT referred back to OIA as potential misconduct
3/05/2019	Whitsunday	Nil - no response received	Making an obscene gesture to another councillor in the council carpark	Withdrawn by complainant after referred to local government
22/05/2019	Moreton Bay	Nil - direct response from councillor	Sexual harassment involving council staff	No response
27/05/2019	North Burnett	Nil - direct response from councillor	Inappropriate comments during a council teleconference	Not sustained
27/05/2019	North Burnett	Nil - direct response from councillor	Inappropriate comments during a council teleconference	Not sustained
6/06/2019	Gold Coast	Holt Lawyers	Sending an inappropriate email based on false allegations to another councillor	Not sustained
21/06/2019	Rockhampton	Nil - direct response from councillor	Inappropriate comments to a council staff member	Alternate dispute resolution
23/07/2019	Tablelands	Nil - no response received	Bullying, aggressive and threatening behaviour toward a resident	Not sustained
4/09/2019	Gympie	Nil - direct response from councillor	Disrespectful media statements about council internal investigations and staff	Not sustained
12/09/2019	Gold Coast	Nil - direct response from councillor	Harassing members of a community service by attending the office and alleging they are acting unlawfully	Not sustained
16/09/2019	Gold Coast	Gnech and Associates	Failure to moderate defamatory and offensive comments on official councillor Facebook page	Not sustained
OIA initiatives introduced to assist councillors to deal with inappropriate conduct				
29/09/2019	Pompuraaw	Nil - direct response from councillor	Inappropriate behaviour toward staff of a community corporation	No response
13/10/2019	Paroo	Nil - no response received	Breach of a local law	Sustained
21/11/2019	Bundaberg	Nil - direct response from councillor	Inappropriate social media comments about a resident	Sustained
22/12/2019	Southern Downs	Nil - direct response from councillor	Abusive/disrespectful posts about a resident on Facebook	Sustained
17/04/2020	Brisbane	Nil - direct response from councillor	Entering a community facility to campaign for election after being told not to attend	No response
17/04/2020	Brisbane	Nil - direct response from councillor	Breach of council policy	No response
17/04/2020	Brisbane	Nil - direct response from councillor	Obscene and threatening language toward a council employee	Sustained
17/04/2020	Brisbane	Nil - direct response from councillor	Inappropriate comments by councillor on official councillor Facebook page	Sustained

Date Complaint received	Council	Legally represented?	Summary of complaint	Council decision
17/04/2020	Bundaberg	Gilshenan & Luton	Breach of media policy	On going
27/04/2020	Ipswich	Nil - no response received	Inappropriate comments in a social media post	Sustained
28/04/2020	Wujal Wujal	Nil - direct response from councillor	Posting threatening content on Facebook	No response
25/05/2020	Gympie	Nil - direct response from councillor	Inappropriate and disrespectful behaviour toward staff	On going
8/06/2020	South Burnett	Nil - direct response from councillor	Inappropriate and disrespectful comments about one community member to another	Not sustained
11/06/2020	Brisbane	Nil - direct response from councillor	Inappropriate comments by councillor on crs official Facebook page.	Sustained
25/06/2020	North Burnett	Nil - direct response from councillor	Disrespectful and sexist behaviour toward another councillor	Alternative dispute resolution
30/06/2020	Gympie	Nil - direct response from councillor	Abusive behaviour toward council staff	No response
7/07/2020	Douglas	Nil - direct response from councillor	During a community meeting raising fists in a fighting stance toward a resident and threatening to hit the resident.	Not sustained
13/07/2020	Toowoomba	Nil - direct response from councillor	Disrespectful treatment of a council staff member	Sustained
27/07/2020	Cassowary Coast	Nil - no response received	Breach council policy	Sustained
7/08/2020	Southern Downs	Nil - direct response from councillor	Inappropriate swearing at another councillor	Sustained
13/08/2020	Tablelands	Nil - direct response from councillor	Offensive language towards council staff during a councillor briefing	Sustained
15/08/2020	Bulloo	Nil - direct response from councillor	Inappropriate swearing at a council staff member	Sustained
16/08/2020	Brisbane	Nil - direct response from councillor	Breach council policy	No response
21/08/2020	Aurukun	Nil - no response received	Inappropriate and disrespectful Facebook post about a council employee	Sustained
26/08/2020	Southern Downs	Nil - direct response from councillor	Abusive statement toward a council staff member who had made a complaint about the councillor's behaviour	Sustained
27/08/2020	Barcaldine	Nil - direct response from councillor	Obscene language toward other councillors - two separate complaints	Sustained

Date Complaint received	Council	Legally represented?	Summary of complaint	Council decision
27/08/2020	Doomadgee	Nil - no response received	Threatened staff at a community organisation that the councillor would use their position to remove the organisation from the community	No response
28/08/2020	Moreton Bay	King and Co	Sending abusive and offensive email to staff at a private business using councillor email	Alternative dispute resolution
7/09/2020	Woorabinda	Nil - no response received	Failure to treat members of the community with dignity and respect	Sustained
16/09/2020	Cairns	King and Co	Inappropriate belittling and abuse of residents on Facebook	No response
17/09/2020	Cassowary Coast	Nil - no response received	Failure to treat another councillor and their immediate family with respect	Not sustained
18/09/2020	Cassowary Coast	Nil - no response received	Failure to treat another councillor and their immediate family with respect	Sustained
24/09/2020	Scenic Rim	Nil - direct response from councillor	Inappropriate and disrespectful comments to another councillor	Not sustained
26/09/2020	Scenic Rim	Nil - direct response from councillor	Breaching council policy	On going
6/10/2020	Logan	Nil - direct response from councillor	Using a fictitious Facebook account to make statements about a resident that would damage their reputation	Sustained
15/10/2020	Gympie	Nil - direct response from councillor	Inappropriate and offensive post on Facebook	No response
16/10/2020	Tablelands	Nil - direct response from councillor	Aggressive behaviour towards the CEO	Not sustained
29/10/2020	North Burnett	Nil - direct response from councillor	Abusive behaviour toward a traffic controller at roadworks	Sustained
3/11/2020	Scenic Rim	Nil - direct response from councillor	Failing to participate meaningfully in council meetings	Sustained
7/11/2020	Winton	Nil - direct response from councillor	Aggressive, intimidating and belligerent behaviour toward council staff	Withdrawn by complainant after referred to local government
12/11/2020	Scenic Rim	Nil - direct response from councillor	Failing to follow standing orders when presenting a petition to council	Not sustained
13/11/2020	Brisbane	Nil - direct response from councillor	Inappropriate comments to another councillor	No response
20/11/2020	Moreton Bay	Nil - no response received	Breach of privacy policy by forwarding a resident's email to another community organisation	Alternative dispute resolution
27/11/2020	Logan	Nil - direct response from councillor	False and misleading statements on Facebook	Not sustained
27/11/2020	Scenic Rim	Nil - direct response from councillor	Bullying, intimidation and harassment toward council employees	No response

Date Complaint received	Council	Legally represented?	Summary of complaint	Council decision
27/11/2020	South Burnett	Nil - direct response from councillor	Breach section 3.1 code of conduct - Facebook post	Sustained
9/12/2020	Cassowary Coast	Nil - direct response from councillor	Speaking publicly against a council resolution to undermine the position of another councillor	Sustained
10/12/2020	Gympie	Nil - direct response from councillor	Personal attack on a former employee via Facebook	No response
11/12/2020	Tablelands	Nil - direct response from councillor	Encouraging residents to liaise with landholders to use a public road contrary to resolution of council	Not sustained
11/12/2020	Tablelands	Nil - direct response from councillor	Encouraging residents to use a public road contrary to resolution of council	No response
17/12/2020	Southern Downs	Nil - direct response from councillor	Inappropriate and aggressive behaviour towards another councillor after a council meeting	Withdrawn by complainant after referred to local government
25/01/2021	Doomadgee	Nil - no response received	Neighbourhood dispute culminating in a fight involving a councillor	No response
28/01/2021	Fraser Coast	Nil - direct response from councillor	Regular failure to attend council meetings, workshops and briefings	Not sustained
2/02/2021	Central Highlands	Nil - direct response from councillor	Abusive and threatening behaviour toward a council staff member during a briefing session	Sustained
9/02/2021	Cassowary Coast	Nil - direct response from councillor	Inappropriately interrupting a guest speaking at a councillor briefing and being offensive to another councillor.	Sustained
10/02/2021	Mareeba	Nil - direct response from councillor	Sharing racist and discriminatory material posted on Facebook	Sustained
31/03/2021	Gold Coast	Holt Lawyers	Media comments said to involve racial stereotyping	On going
31/03/2021	Scenic Rim	Nil - direct response from councillor	Disrespectful behaviour toward the President of a community organisation during a council function	On going
1/04/2021	Scenic Rim	Nil - direct response from councillor	Inappropriate email to a resident that criticised a member of council staff	On going
7/04/2021	Scenic Rim	Nil - direct response from councillor	Breach of council policy	On going
12/04/2021	Scenic Rim	Nil - direct response from councillor	Not acknowledging decision of council or stating views expressed were own personal views.	On going
12/04/2021	Scenic Rim	Nil - direct response from councillor	Disrespectful and false accusations toward a council staff member	On going
23/04/2021	Townsville	Nil - direct response from councillor	Inappropriate abusive behaviour stemming from a personal disagreement	On going

Date Complaint received	Council	Legally represented?	Summary of complaint	Council decision
5/05/2021	Brisbane	Reveal Legal	Councillor was subject to four orders of unsuitable meeting conduct within a period of twelve months	On going
10/05/2021	Livingstone	Nil - direct response from councillor	Sending an inappropriate email to a resident that brings council into disrepute	On going
22/06/2021	Kowanyama	Nil - by phone	Abusive, offensive and threatening language towards staff at a local health clinic	On going
2/07/2021	Townsville	Nil - direct response from councillor	Inappropriate misleading comments about council officers and the CEO in a public meeting	On going
23/07/2021	Kowanyama	Nil - by phone	Breach of the Code of Conduct when providing advice to a council employee about dealing with a complaint about racism	Sustained
24/08/2021	Livingstone	Nil - direct response from councillor	Unfairly criticising council officers in a media article	On going
26/08/2021	Brisbane	Gilshenan & Luton	Inappropriate behaviour toward a resident at a community function	On going
1/09/2021	Brisbane	Gilshenan & Luton	Breach of the Act through an email attempting to direct council staff	On going
15/09/2021	Torres Strait Island	Nil - by phone	Twice made an offensive gesture towards residents in public street	On going
22/09/2021	Southern Downs	Nil - direct response from councillor	Abusing staff at a store	On going
15/10/2021	Mornington	Bottoms English Lawyers	Inappropriate posts on Facebook	On going
21/10/2021	Southern Downs	Nil - direct response from councillor	Use of inappropriate language toward another councillor outside a council meeting	On going
27/10/2021	Brisbane	Nil - direct response from councillor	Breach of council policy	On going
3/11/2021	Hinchinbrook	Nil - no response received	Breach of council policy, self-referred	Sustained
12/11/2021	Livingstone	Nil - direct response from councillor	Sending an insulting and disparaging email to council officer	On going
16/11/2021	Gold Coast	Bennett & Philp Lawyers	Inappropriate language on Facebook	On going
17/11/2021	Mount Isa	Nil - direct response from councillor	Breach of council policy	On going



APPENDIX B

LGM Services – Our People web page

Showing former LGAQ President on Board of Management, LGW (workforce) Management Committee and LGAQ as trustee. [Our People – LGMS](#) (as of 22 January 2022).

LGMS LOCAL GOVERNMENT MUTUAL SERVICES

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Our People

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LGM Board of Management

- Mr Ian Leckenby, Chair
- Mr Bill Lyon, Divisional Manager, Organisational Services, Brisbane City Council
- Mr Terry Brennan, Chief Executive Officer, Burdekin Shire Council
- Mayor Rachel Chambers, North Burnett Regional Council
- Mr Greg Hallam AM, Chief Executive Officer, Local Government Association of Queensland
- Mayor Karen Williams, Redland City Council
- Mr John Sharnan, Consultant

LGM Management Committee

- Mr Ian Leckenby, Chair
- Mr Terry Brennan, Chief Executive Officer, Burdekin Shire Council
- Mr John Sharnan, Consultant
- Mr Greg Hallam AM, Chief Executive Officer, Local Government Association of Queensland
- Mayor Rachel Chambers, North Burnett Regional Council

LGAQ as Trustee

- Ms Rachael Lindsay, Principal Governance Advisor – Insurance Services

Scheme Manager

JLT Public Sector, as the appointed managers to the schemes, provide a comprehensive range of services and resources as part of membership, including claims management, risk management, insurance placement, and associated fund management and consulting services.

Member Queries: memberservicesola@lga.com.au

MEMBER CENTRE