



# ***ECONOMICS AND GOVERNANCE COMMITTEE***

## **Members present:**

Mr LP Power MP (Chair) (via teleconference)  
Mr RA Stevens MP (via teleconference)  
Ms NA Boyd MP (via teleconference)  
Mr ST O'Connor MP (via teleconference)  
Mr DG Purdie MP (via teleconference)  
Ms KE Richards MP (via teleconference)

## **Staff present:**

Ms L Manderson (Committee Secretary)  
Mr J Gilchrist (Assistant Committee Secretary)

## **PUBLIC BRIEFING—OVERSIGHT OF THE QUEENSLAND INTEGRITY COMMISSIONER**

### **TRANSCRIPT OF PROCEEDINGS**

**MONDAY, 30 MARCH 2020**

**Brisbane**

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### **The committee met at 9.30 am.**

**CHAIR:** Good morning. I declare this public briefing open. I would like to acknowledge the traditional owners of the land on which we meet and pay my respects to elders past, present and emerging. This morning's briefing is an audio-only briefing as all of the witnesses and members are participating via teleconference. My name is Linus Power, the member for Logan and chair of the committee. The other members of the committee who are present in the teleconference are: Ray Stevens MP, the member for Mermaid Beach and deputy chair; Nikki Boyd MP, the member for Pine Rivers; Sam O'Connor MP, the member for Bonney; Kim Richards MP, the member for Redlands; and Dan Purdie MP, the member for Ninderry.

The purpose of today's briefing is to assist the committee with its responsibilities for the oversight of the Queensland Integrity Commissioner. The briefing also provides an opportunity for the committee to ask questions of the Integrity Commissioner regarding the commissioner's annual report for 2018-19. This briefing is a proceeding of the Queensland parliament and is subject to the standing rules and orders of the parliament. The briefing is being recorded as an audio-only broadcast and broadcast live on the parliament's website.

### **STEPANOV, Dr Nikola, Queensland Integrity Commissioner, Office of the Queensland Integrity Commissioner**

### **VICKERS, Mr Michael, Director, Legal and Operations, Office of the Queensland Integrity Commissioner**

**CHAIR:** Good morning, Dr Stepanov and Mr Vickers. I now invite you to make an opening statement, after which the committee will have some questions for you.

**Dr Stepanov:** Thank you very much, Chair. Good morning and thank you for the opportunity to speak about the Office of the Queensland Integrity Commissioner. For the purposes of the record, I am Dr Nikola Stepanov, the Queensland Integrity Commissioner. My term as commissioner commenced 1 July 2017 and is for three years. As said, joining me today is my director of operations and legal, Mr Michael Vickers. I will briefly take you through some of the activities of the integrity commission, and then I would like to turn over to my director, Mr Vickers, to speak about our lobbying functions. I have also prepared a half-year update for your information. I wish to seek leave of the committee to table the report. I understand it was shared with you last week. The title is *Half year update: 1 July-31 December 2019*.

**CHAIR:** Leave is granted.

**Dr Stepanov:** As you are aware, the Queensland Integrity Commissioner is an independent officer of the Queensland parliament and reports through you, the Economics and Governance Committee. The functions of the Integrity Commissioner are set out in section 7 of the Integrity Act 2009 and they are: to give written advice to designated persons; to provide and meet with members of the Legislative Assembly; to keep the lobbyists register and have responsibility for the registration of lobbyists; and to raise public awareness. The commissioner can also be asked at the request of the Premier to set standards for ethics and integrity issues.

On 27 September 2019 the Hon. Curtis Pitt, Speaker of the Legislative Assembly, tabled before the House my second annual report as the Queensland Integrity Commissioner. This covers the 19th year of operations of the commission. In the last financial year, and certainly within the almost three years that I have been involved as the Integrity Commissioner, the extraordinary demand for my services and the services of the office has continued. In my view, this has been due to our efforts to raise the profile of ethics and integrity across sectors and settings and a sustained and heightened commitment to ethics and integrity by those responsible to the public.

The Queensland government supported the recommendations in the most recent strategic review of the functions of the Integrity Commissioner which were designed to reduce barriers and significantly broaden the range of people who can seek my advice. This led to amendments in the Integrity Act to enable senior executives and senior officers to seek my advice without chief executive approval. Also, former designated persons are now able to seek my advice for a further two-year

period after leaving their position. I was aware at the time of the amendments in April last year that the changes would have a significant impact on my ability to meet my statutory obligations in a timely manner, and therefore I implemented a range of measures based on public interest. I will speak about those shortly.

I will firstly turn to data for the 2018-19 financial year. I received 394 inquiries, of which 335 were formal advice requests. I responded with formal written advice on 274 occasions. This represented an increase on the 216 requests and 201 formal advices provided in the 2017-18 year. As I have noted in the half-year update, the high volume of requests has continued, certainly in the first six months of this financial year. I received 161 formal advice requests and a further several dozen requests that did not meet the criteria to be considered a formal request. To date, in my 33 months as commissioner I have provided preliminary opinion or formal advice on more than 600 occasions. I am expecting the final number of formal advice requests this year to be in excess of 300 and formal advice to be provided in in excess of 200 occasions.

Much of my work continues to involve providing advice on complex matters where time is critical. The overwhelming majority of requests relate to either conflicts of interest or conflicts arising because of dual roles. The sustained and continued rise in demand for advice requests suggests that users of this service find it beneficial. Certainly I have had a number of occasions where we have repeat advisees, and that continues to grow.

With these significant demands, my greatest challenge remains to be able to respond to demands without any negative impact on the advice quality, the comprehensiveness of service and timeliness. Under the act I am not able to delegate the advice functions. Each advice essentially is personal and from me, although I am fortunate to enjoy the skilled assistance of a small team that helps me with drafting. To avoid any negative impacts on the standard of the quality of advice I provide, I introduced a system of prioritising requests according to the impact on public interest, and I have also taken to reading the Integrity Act more narrowly. This has meant delays in some areas; for example, delays in providing advice to those who have left the Public Service or public office and who are seeking advice about post-separation matters, many of which really relate to contract issues and are not strictly ethics and integrity matters. Further, I no longer provide advice where matters are not substantially ethics matters; for example, where a matter is largely a question of law, policy, process or some other administrative matter or where matters fall within the jurisdiction or expertise of other agencies and departments.

The sector where the impact has been most keenly felt last financial year and going into this year is that of local government; however, last financial year saw the establishment of the Independent Assessor in December 2018 as well as some significant leadership and standard setting being shown by others such as the Electoral Commission. This has meant that other and more appropriate avenues are available for mayors and councillors to direct their inquiries and concerns. Mayors and councillors now make up a large body of the work I call out of jurisdiction referrals, of which there were 33 in the first half of this financial year. Generally speaking, these requests for advice were in relation to making a complaint about the conduct of another mayor or councillor and therefore appropriately best dealt with by the Independent Assessor.

Consistent with previous commissioners, I have delegated oversight of the lobbying functions to my second in charge, the director of the commission, Mr Michael Vickers. He will follow me shortly to speak about this function. As you know, I am statutorily obliged to encourage public trust in public institutions. As such, I continue to be very committed to enlivening the public awareness function of the act, and to that end we continue to develop resources that deliver training. I have listed our updates and the resources we developed in the first half year within the half-year update you have been provided with. The focus on developing and making available these really high quality resources has the added side effect of assisting in the longer term sustainability of the office. It also enables best practice standards to be set and builds capacity of decision-makers so they are able to better recognise and resolve their own issues.

Until recently, I also travelled extensively as part of our outreach engagement program. This was designed to meet the needs of the diverse range of people who fall under the act and who live and contribute in rural and remote areas. Examples include senior executive councils in hospital and health service boards. I understand our services in this area are viewed very positively.

Looking ahead, obviously these are extraordinary times for the community. In recent weeks we have seen another jump in the number of advice requests as urgent issues are arising, as those in the Public Service and public officials take on expanded and unfamiliar roles or are making decisions on an urgent basis. As well, we are committed to being involved in induction programs for our new councillors, including being booked already for Logan and Ipswich.

Naturally, the sustainability of the advice service remains a live issue. It is now almost five years since the strategic review into the functions of the Queensland Integrity Commissioner, and with the changes it is very timely that the next strategic review is due relatively soon, with the appointment of a reviewer due before February 2021 under subsection 86(3) of the Integrity Act 2009. This will provide an opportunity for the functions of the Queensland Integrity Commissioner to be further considered in light of the new integrity era.

Further, I note that Mr Peter Bridgman in his review titled *A fair and responsive public sector for all: independent review of Queensland public employment law* in May 2019 discussed the financial and operational aspects of the Integrity Commissioner and has made a recommendation in that respect in terms of the budget and resources moving forward.

On a final note, I would like to thank each of my team for their continued support and give a special mention also to the other integrity agencies that are my collaborative partners in a number of ventures, including education and training. I would also like to thank the committee for providing us with this opportunity to speak today about our work. It is a privilege to be in public service and we certainly do not take that privilege lightly. I would now like to hand over to Mr Vickers to speak briefly about our lobbyists function.

**Mr Vickers:** Thank you, Commissioner. The Integrity Commissioner's functions under the Integrity Act include: registering lobbyists, approving the Lobbyists Code of Conduct and maintaining various lobby related registers. As at 31 December 2019, the Queensland register of lobbyists had 112 registered lobbyists and 280 listed persons. Listed persons are the actual individuals who can engage in lobby activity. In the six months to 31 December 2019, two lobbyists and eight listed persons sought to be deregistered.

Under the Lobbyists Code of Conduct, a lobbyist making initial conduct must inform the government or operation representative of their registration as a lobbyist, the identity of their client and the reason for their approach. After the lobbying activity the lobbyist must then enter details about the contact on the log maintained on the commission's website. This must occur within 15 days following the month in which the conduct occurred. In the 12 months to December 2019, lobbyists recorded approximately 200 lobbying contacts on the log. This compares to approximately 230 contacts recorded in the previous calendar year.

At the end of last year the Integrity Commissioner commenced an audit of the contact log to ensure compliance. This included crosschecking the records of lobbying contacts kept by departments in respect to portfolio agencies for the 12 months to December 2019. The last of the responses are due this week and will be reviewed to determine a need for further action.

Given the Integrity Commissioner's functions under the act, her office is also often asked to advise on requirements in relation to lobbying. In the six months to December 2019, the Integrity Commissioner received 16 lobbying related requests. Based on the requests received, the Integrity Commissioner has compiled a list of lobbying related questions and answers which are currently in the process of being put on the commission's website. It is anticipated that this resource will aid compliance and reduce the number of requests received by the commission going forward.

**CHAIR:** Thank you. We will now turn to questions.

**Mr STEVENS:** I note that in this half-year update you provided to the committee there were 161 formal requests for ethics and integrity advice in six months. As somebody who has been in parliament and faced a lot of requests for the tabling of Integrity Commissioner's reports on matters concerning me, have you ever recommended to those 161 people that you do not publish the advices you give?

**Dr Stepanov:** In advices I make it explicit in the last paragraph that it is at their discretion as to what they do with the advice; however, if they choose to make an advice public I request that it is in the interests of transparency that they make the advice public in full. Ultimately, it is at the discretion of the person as to whether they do that, subject, of course, to things like being compelled under other acts to do so.

**Mr STEVENS:** You do not advise them not to publish your advice? That is exactly what you are saying?

**Dr Stepanov:** Yes, that is correct. What I advise them is: if they are going to make the advice public—and that might include referring to it—they should make the advice public in full and release the whole document.

**Ms BOYD:** Dr Stepanov, we have heard consistently that the identification and management of conflicts of interest has been a source of confusion and difficulty in the local government sector. Can you please speak to the extent to which this is reflected in requests for advice and comment more broadly on any themes in the advices sought by councillors and mayors in the 2018-19 year and the first half of 2019-20?

**Dr Stepanov:** Under the Local Government Act, the process for mayors and councillors to follow is: if they have a material personal interest, they should disclose it and then leave the meeting. They are not entitled to further take part. However, for an interest that might give rise to a conflict the process is that they would declare the personal interest, and then it is for the other councillors—after receiving enough information—to make a decision about whether it is an actual or a perceived conflict of interest and then what ought to happen.

Mayors and councillors were nominated by Minister Hinchliffe in February 2018. At that point we did experience a large number of requests because there was confusion about how the process was meant to work. We had a lot of councillors who just had an interest and, whether it gave rise to a conflict or not, were declaring and essentially absenting themselves from these meetings unnecessarily. When I became involved I developed some materials to assist councillors, and then also as the Independent Assessor's office was established we worked together with the CCC to develop a range of materials councils can use to decide whether their interest is of concern, whether they should raise it with other councillors, what non-conflicted councillors should do it about it and how things could be dealt with.

The Independent Assessor and I also did a lot of workshops. I think we essentially met with something in the order of 66 councils by the end of last financial year. We ran workshops doing hypothetical testing and showing councillors how to work through the various materials and aids we have developed. My understanding is that the aids were very highly regarded and very useful tools but there were some concerns about inconsistent messaging. Councillors thought the premise was; if you had an interest, 'when in doubt get out'. That is not the way to set standards in councils, so it was better that these issues were transparent and discussed openly so that council could understand how they were making decisions about whether an interest was one of concern. That is essentially the process followed under the Local Government Act now. We have a bill currently waiting which will see the conflict of interest section change to be very prescriptive in terms of the things that we are seeing, certainly around property; for example, if a councillor owns a property that might be affected by a decision.

A lot of councillors are small business owners as well. Certainly most councillors do not receive a full-time salary from being a councillor, so they still have their usual work and then their work part-time as a councillor. Particularly in those rural areas we would have sole traders, small businesses who would still be seeking to tender for council business, and essentially they were the only locals able to do that, so we were involved in quite a lot of those issues. With the Independent Assessor coming on board we did see a lot of requests for advice about how a councillor might meet their obligations with regard to concerns about the conduct of another. Fortunately, we have been able to refer them on to the Independent Assessor, who then takes them through the process. That falls within the scope of her role. The general themes were conflicts of interest related to property and business and then concerns about how to meet their obligations under the Local Government Act in terms of the conduct of other councillors.

**Ms BOYD:** Thank you. That is very informative.

**CHAIR:** Building on that, new councils like Logan have a large number of new councillors. Do you anticipate doing that training with some of those councils that have a large turnover?

**Dr Stepanov:** Yes, we do. As early as last year I was booked to take part in the induction for Logan and Ipswich, and we will also do more with the Independent Assessor as part of those induction programs. Together with the Independent Assessor we have kept those materials up-to-date. As the act has not changed the process is the same, so that makes it easier. We are definitely already booked to take part in those induction processes. Because there will be a delay for some of the councils in knowing who has been successful or not with postal votes et cetera, I think we have essentially been booked from probably mid-April onwards to start being involved in those induction training programs.

**Ms RICHARDS:** There were 61 formal requests for advice that were advised as being outside the scope. Can you give us a little bit more detail and some examples of what might have been outside the scope, how we referred them on for assistance elsewhere, and what other agencies might be in play?

**Dr Stepanov:** For the last financial year 35 requests were dealt with by preliminary opinion or a written opinion only—that is, via email. Of those, for some persons I said, 'We are not the agency to go to, but this is where you do get the advice.' On other occasions some requests were withdrawn. If somebody made contact via phone—this was certainly not uncommon for local governments—a councillor might ring me and say they are seeking advice. Essentially, they would test the waters and then not follow up with a written request for advice, so they were out of jurisdiction. Of course, within my act I have no ability to follow up to see if they have actually resolved a matter satisfactorily, so they are recorded as preliminary oral only. Where we have been able to refer to a more appropriate agency such as the Independent Assessor, within each agency we generally have a contact person. Someone coming to us would be given the name of a specific contact person so that we do not usually send them out just to be dealt with through normal processes, and then we were able to step away at that point in time because that matter was being dealt with. I think that made up the bulk of them, so it was just preliminary oral opinion or those that we referred elsewhere.

**Mr O'CONNOR:** I want to get a bit of an idea on how you are going resource wise. We saw in that update the extraordinary increase you have had in requests for advice. How are the resources of your office able to cope with that?

**Dr Stepanov:** As of today I have four staff assisting. They are assisting with all of the functions of the office, not just the advice section. I think all agencies ideally would like more resources, but that might not be fiscally responsible. It is fortunate that, as it is in the third year, I have more than 600 advices I can rely on. We still see unusual matters, but in general I would have provided at least one advice on a similar set of facts over this past 2½ years. Certainly my precedent system is useful, and then I undertake a large body of research every year. Most recently I did that for all Queensland boards and multitember decision-making bodies such as tribunals. I make the resources available, but I actually use those papers myself to draft my own advices so that we have that consistency. When I do those large bodies of research I have them extensively reviewed, including by the Crime and Corruption Commission. I also have the legal aspects settled by Crown Law so that I know that, provided I am continuing to develop my advices in a way that is consistent with my research, I would have ticked off all those points.

It is an unusual role. We do have trouble when we get a new staff member because it generally takes somewhere between six and 12 months, even for an experienced lawyer, to become familiar with conflicts of interest. That has been an issue. I think generally speaking we have implemented strategies that have assisted us to cope, and I think for those matters that are extremely urgent where there is that high public interest focus I am still turning them out on the day or the next day, so they take priority. If you have a private individual seeking advice about a private contract they are entering into where the only impact would be on them personally, clearly where we have a public official or a public servant making a significant public decision those advices have to take precedence and that has to prevail. We have moved away from what would be similar to a cab rank rule, where it is first in first served, and moved to very much a public interest focus on prioritising.

**Mr PURDIE:** Commissioner, I know you did give the figure in your opening address of how many advices you expect to receive this financial year. It was in the low 300s, I think. I remember last year you projected you would receive 303 and you received 335. Is that number plateauing out now at the low 300s because of the training you are doing and the modelling and some of the work that the Independent Assessor is taking on, do you think?

**Dr Stepanov:** I think the number of requests will be around the same, so it will be into the 300s; however, the number of formalised advices I provide has decreased because I have been able to refer people to other agencies where it falls within their jurisdiction and the scope of the work that they do. Essentially, I think the demand will stay about the same, but the need for me to meet that demand has been reduced because we have seen these other agencies, particularly the Independent Assessor, really step up and take on some of that body of work for me, so that has been very useful.

**CHAIR:** There being no further questions, I wish to thank Dr Nikola Stepanov for her appearance today and thank Michael Vickers. I know that you both do a very important job in ensuring that the standards of ethics and integrity in the state are enhanced and built upon and that there is this good professional advice that people can turn to. I wish to thank you for the service that you provide. That brings us to the conclusion of our briefing. Is there anything else you would like to add, Dr Stepanov or Mr Vickers, before we conclude?

**Dr Stepanov:** I would like to thank you for the opportunity to speak about the work we are doing.

**CHAIR:** That concludes this briefing. Thank you for the information you have provided today and thank you to the Hansard reporters for their assistance. A transcript of these proceedings will be available on the committee's parliamentary webpage in due course. As there were no questions taken on notice, I declare this public briefing closed.

**The committee adjourned at 10.02 am.**