

# **PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE**

## **Inquiry into Fraud and Corruption Control in Local Government: A Follow Up of Two Auditor-General Reports**

Melbourne – Monday 31 March 2025

### **MEMBERS**

Sarah Connolly – Chair

Nicholas McGowan – Deputy Chair

Jade Benham

Michael Galea

Mathew Hilakari

Lauren Kathage

Aiv Puglielli

Meng Heang Tak

Richard Welch

**WITNESSES**

Peter Stephenson, Municipal Monitor,

Julie Eisenbise,

Frances O'Brien,

John Tanner, and

John Watson.

**The CHAIR:** Thank you. I declare open this hearing of the Public Accounts and Estimates Committee. I ask that mobile telephones please be turned to silent.

I begin by acknowledging the traditional owners of the land and pay my respects to elders past, present and emerging as well as other elders from other communities who may be here with us today.

On behalf of the Parliament, the committee is conducting this Inquiry into Fraud and Corruption Control in Local Government: A Follow Up of Two Auditor-General Reports. I advise that all evidence taken by the committee is protected by parliamentary privilege. However, comments repeated outside this hearing may not be protected by this privilege.

Witnesses will be provided with a proof version of the transcript to check. Verified transcripts, presentations and handouts will be placed on the committee's website.

I welcome Municipal Monitor Peter Stephenson as well as former commissioners of inquiry Julie Eisenbise, Frances O'Brien, John Tanner and John Watson. Welcome. I am going to invite whoever would like to make an opening statement or presentation of no more than a couple of minutes, beginning with Mr Stephenson. This will be followed by questions from the committee.

**Peter STEPHENSON:** Thank you, Chair, and committee members. I will be brief. I have got a couple of pages here, but I certainly will not read them all, given that advice. My involvement in local government began about 27, 28 years ago; I was a councillor. I was a councillor for a decade, a mayor a couple of times at Darebin, and I was elected after Darebin had been dismissed for all kinds of things. I did not run a decade later, for family reasons, but I have been involved in local government ever since, from paid and unpaid roles, mentoring, I have been a monitor four times, I have been an administrator twice, I have done presentations at both peaks and mentored people. I have maintained a strong interest in and connection to local government in that time. I am currently a monitor at Casey council, and that role ends later this year, in November.

Just a couple of points I would say. In my professional life I have done lots of different things, but a lot of them have related to either research and investigation, investigation – as in policing in the military and workplace investigations and other things – and continuous quality improvement. Risk, continuous improvement and investigations have been part of my background in many of the roles that I have had. That is why this particularly interests me as well.

In terms of the two VAGO reports that are at the heart of this committee or this particular event, I think the recommendations were well made in both of those, and, from my understanding of the councils that I have been involved in since, had been well taken on, but it is important to note that it is okay to say – and we see it often in auditors' reports – if you did this, this, this and this, the world would be wonderful, but your recommendation has got to be fit for purpose. If you look at Strathbogie, where I was last year, it does not have the capacity of Casey, where I am this year, so to do the data analytics on vehicle use and odometers and all those sorts of things, which came out of the 2019 VAGO report, that is all analogue stuff – Casey can press buttons. I think it is important to note that while the recommendations are great, the policies and the processes have to be fit for purpose, but I think by and large, from what I have seen, the organisations that I have had connections with since those reports have since taken those on board. I do say that it is a bit

worrying with the lack of governance officers, but also with the movable chairs and CEOs and in some cases those CEOs disappearing early from the scene and with so many vacancies at the moment. Culture was mentioned before – very important. Values alignment and controls, of course. But I will shut up now.

**The CHAIR:** Thank you, Mr Stephenson. Does anyone else wish to say something before we jump straight into questions?

**John TANNER:** If I may, Chair, and I am only reflecting on my experience in the commissions of inquiry, I think it is important to note – and it was identified in the last session and Administrator Stephenson just mentioned it then – the culture of the organisation is crucial. We may have policies et cetera in place that can handle corruption and fraud, but at the end of the day it is the responsibility of the CEO, and the appointment of the CEO is the responsibility of the council. My comments today are very much at the higher level, at the broader aspect of this, and this is all about culture and ensuring that the culture is in place. In my experience, the issues that have arisen with commissions of inquiry can all be cited back to a decline in governance over a long period of time, and at the end of the day that is the CEO's responsibility. I will rest my case with that.

**The CHAIR:** Thank you, Mr Tanner. We will go straight to Mr Welch.

**Richard WELCH:** Thank you, Chair. Thank you, everyone, for coming in this morning. I guess in some sense you are right at the coalface with the day-to-day machinations between councillors and officers et cetera. I guess, just as a broad generalisation, from a governance point of view, do you see greater risk in the councillors or in the officers?

**Frances O'BRIEN:** It is my view it is the officers that are the central problem. I have done three commissions of inquiry, and I was reflecting on it when this question arose at the weekend. I do not think there is any doubt that the problem is with the officers. There is certainly minor corruption in the councillors, but that is the central problem at the moment, as far as I can see it. Ararat 2019, Geelong 2015 and Moira in 2022 – there were major issues at Moira with undoubted corruption amongst the officer class.

**Julie EISENBISE:** I think that is an interesting question, because, also having been on a commission of inquiry – that commission of inquiry was South Gippsland, where it was behaviour of councillors – it just did not show that there was anything wrong with corruption within the organisation's behaviour, and that does occur as well.

**Richard WELCH:** There do not have to be other answers, but in just in case there are.

**John WATSON:** I do not think it is as clear-cut as being one group or the other, because the potential is there in both cases. In my statement, which I provided to you in advance and I assume you have got, I expressed the view that I do not believe fraud and corruption are rampant – you know, wide – in local government, but I think it occurs both at the council level, as we have seen with the likes of Casey and the very public report there, and occasionally with the officers, but they are relatively rare.

**Frances O'BRIEN:** I do not disagree with John about that. I am not suggesting there is corruption across every council. I know South Gippsland well and I know there is not, and that is because of the culture of the shire, not for any other reason.

**Mathew HILAKARI:** What led to that culture?

**Frances O'BRIEN:** Well, it is a very businesslike shire in the sense that there are lots and lots of farming and business activities. It is very successful in its farming and business activities, and these are very competent businesspeople. They are involved in all their local community organisations. They keep tabs on what is going on. Everybody knows everybody else. It makes for an honest affair, if I can put it crudely like that. It is not a place where people do not know who works for the shire.

And the other thing I think is absolutely crucial in rural shires – and people refer to this all the time, that they cannot attract people; I think that is rubbish. In shires in rural areas the jobs are some of the best jobs

in the shire, if not the best jobs in the shire, and not only paid extremely well – much better than anything at any level – they are attractive for their security of tenure.

**Mathew HILAKARI:** Then why do the statistics say otherwise?

**Frances O'BRIEN:** I will tell you why: because at Moira –

**Mathew HILAKARI:** I am so sorry. I am going to shut up.

**Richard WELCH:** But it is a relevant question. I do not mind if you –

**Mathew HILAKARI:** You can cut into mine.

**Frances O'BRIEN:** Because at Moira there were no professional recruitment processes in place. There were no professional governance processes in place. So two crucial aspects of the CEO's role in one case were almost wholly deferred to a junior member of the staff, who controlled it – leave those politics aside. There was no competence, there was no impartiality, there was no responsibility and there were no comprehensive policy processes. To the extent that there were any policies, they were almost incomprehensible. To the extent they were adhered to, it was only for the purposes of covering up what otherwise was going on. We had senior positions worth large sums of money –

**Mathew HILAKARI:** I am going to curtail your answer just so we can get back to it.

**Richard WELCH:** Just for disclosure, my dad was a councillor on the old Woorayl Shire Council back in the 70s.

**Frances O'BRIEN:** I probably knew him. Welch – was he also the deputy principal of the school at Leongatha?

**Richard WELCH:** Yes, he was indeed.

**Frances O'BRIEN:** Well, I knew him well. I was one of his pupils, so be very careful.

**John WATSON:** Just picking up on that question, I probably slightly disagree. And I started my career at the Shire of Woorayl as a junior officer.

**Frances O'BRIEN:** He was at the high school before me.

**John WATSON:** I have chaired the Central Goldfields shire audit and risk committee since it was dismissed in 2017. In terms of being able to attract and maintain staff of any quality, it is a revolving door. They simply cannot compete on a monetary level. They may be one of the better payers in the area, but staff arrive, get a bit more knowledge, and then they are off to a bigger municipality. So that is a real problem in the rural sector.

**Richard WELCH:** Thank you for actually illuminating it from both perspectives. I think that is useful. One thing I am curious about is – and I think you will have experienced this as much as anyone – as the remit of councils widens, so does I think the expectation of councillors coming in and what democratic mandate they have been given, and then that comes into conflict with the actual realities of local government and the processes. Has that been your experience? Are we actually preparing our councillors before they get to council to deal with that reality? Because I sense there is a mismatch.

**Julie EISENBISE:** I think that the mandatory training has been a very good idea, except when they actually get into the room on day one there is more interest in what I will call some of the trivialities of induction – as in 'Let's get your phones right, let's get your laptops right; let's get all these bits and pieces together.' At the same time there is some jostling going on about who wants to be on what committees and who is going to be mayor and all that. There is not that discussion right at the front: 'Let's all go through your code of behaviour before we start. Let's all go through the conflict-of-interest policy before we start. Let's look at fraud and corruption before we start.' They are important things that they often do not even

start to talk about, let alone their budgets and the important things that are coming up, till months in. They are focused so much on some of those trivial things. I think that could be modified a bit to pull some of the very important things right to the front of their inductions.

**Peter STEPHENSON:** If I might add as one of the two monitors at Casey at the moment, we are experiencing the induction, if you like, of 10 brand new councillors and a couple that have not been around too long, and some of what Julie says has been amplified out there: not just what I call a focus on the accoutrements of the role rather than the strategic part of the role, but ‘I promised this in the election campaign. When do I get it?’ – well, hang on a minute. ‘When can I get my CCTV and my lights in that park?’ Well, when you get a budget and you get a council plan that has them in there. I will leave that bit there, but there is a tension there.

**Frances O’BRIEN:** But that is a governance issue; a governance person is responsible for it at councils.

**Richard WELCH:** And then the frustration of the councillor would lead to ‘Well, let us get around the governance’ or –

**Julie EISENBISE:** Yes.

**Frances O’BRIEN:** Well, it is done very badly. It was done extremely badly at Moira. They did not get much past emails and telephone numbers in my experience. One councillor described that as their induction.

**Richard WELCH:** Thank you, Chair.

**John WATSON:** Through you, Chair, if I may, it is very difficult to train people before they stand, because in the lead-up and when they decide to stand or announce they are going to stand there is really not a lot of opportunity to say, ‘You’ve got to be trained.’ The induction that is now required is a vast improvement, but it does take time, and one of the challenges is that a lot of it is provided by the same providers across the sector, so there is a resourcing issue to get it all done earlier in every council.

**The CHAIR:** Thank you, Mr Watson. We will go straight to Mr Galea.

**Michael GALEA:** Thank you. I just want to, if I may, touch more on that and what we were just talking about in terms of the new induction program. I know some councillors were a little bit grumpy about it, but I think that the point that you made – I was quite surprised at the situation in Moira – Ms O’Brien, was that there was basically no induction at all. If I can ask you as a panel, can you discuss some of the inconsistencies that you have seen and any particular causes of concern and what this new centralised format, I guess you could call it, will address?

**John TANNER:** Just to make it clear: we were talking about Moira prior to the last election –

**Michael GALEA:** Sorry. To be clear: yes, I understand that.

**John TANNER:** and Moira is still under administration. The reform that has come in I think has certainly helped.

**Peter STEPHENSON:** It has helped, but it has been heavily truncated – truncated in terms of the time that was necessary to get it done or the timeframe given. We needed longer, and things that were talked about in week two are being refreshed because it just had not sunk in. Because the amount of mandatory things that had to come in – I do not deny that they were necessary, but it is whether they are in the right order or whether more time is needed. I think there were two schools of thought about whether it should be three months or six months following the election, and I think it probably should have been the latter.

**John TANNER:** At the end of the day there are certain things that we can steer et cetera, but one thing we cannot steer is who are going to be elected as councillors. Now, that is out of everyone’s control – apart from the community, obviously. It is the skills of those people and the capacity of those people that are

crucial in regard to training. You may have people that, no matter how much training they get, will not pick up on proper process and so forth. I am obviously not citing all CEOs in this situation, but at the end of the day it does come back to the responsibilities of senior officers to ensure good governance is carried out within the municipality.

**Michael GALEA:** Some of the integrity agencies that we had at our previous session in their submissions spoke about the need for regular training; this was specifically on fraud and the sort of stuff that we are talking about in this inquiry. Is that something that you individually or as a panel would support?

**Peter STEPHENSON:** Indeed, yes.

**Julie EISENBISE:** Indeed. I have had the example recently where I did some work with IBAC and the inspectorate and some training with some people, and clearly with some of the lower- and middle-level officers in that room – there were 90 of them – that experience was that they did not know what the actual seed was for corruption, that they could be talking to someone and not even realise that they were starting a discussion that could lead somewhere. They did not know what they were meant to do, and I think it seems to be fairly common for that middle and lower level that they do not realise where a seed could be planted and what they are supposed to do.

**Michael GALEA:** That would be a particular concern, because almost by definition council staff are permanent and they are not subject to council terms, so that could be then a long-term issue, whether inadvertent or, in the worst case, if that is allowed to continue.

**Julie EISENBISE:** Exactly. And they did not have any tools. They went, ‘Well, what are we supposed to do if someone speaks to us?’

**John WATSON:** If I may, with officers of the council you do training, but you have to keep reinforcing it, whether it is procurement, OH&S – you name it – or fraud and corruption processes. Councillors should be just the same. I mean, it is no good inducting them once for their term, which is four years. They need to be reminded as well. That is not currently the case in every place, and of course before the requirements for induction it was very hit and miss across the sector.

**Michael GALEA:** And then those sorts of absences and gaps emerge. Just in a similar vein, in terms of inconsistency, another recommendation was around audit and risk committees. I was quite surprised to learn that some councils do not actually as a matter of routine publish those minutes on their website. Some other recommendations were also made around audit and risk committees in particular. Is that an area where you believe improvements should be made? Should they, for example, be required to meet every so often? Should they be required to publish those minutes? Should there be ongoing annual training as part of those committees and those sorts of things?

**John WATSON:** I chair 10 and I sit on another four, so I have got a little bit of experience there. Typically they meet four or maybe five times a year for 2 or 3 hours with a full agenda, so it is a very tight space. Certainly I think there is a problem in the sector. It does not recognise in many places the value of the expertise and skills that people bring to it as independent members. Some try to recruit locally, and that is not the wisest thing to do. There are a range of issues there. I think there could be room to expand the role of committees, but it has to be balanced in terms of all the ingredients. Probably that is enough to be said.

**Michael GALEA:** Thank you.

**Frances O’BRIEN:** Just on the audit committee at Moira, we had a major fraud issue which had been going on for some years. When we arrived in 2022 we were told about this. I went to the internal auditor in a confidential way in an endeavour to determine whether he had been told about it, and I came away after a series of conversations convinced he had not at any time in the previous five years been told at all about it. It was a fraud of hundreds of thousands of dollars on the procurement system. The audit committee then was comprised of local people. It has since – just when we arrived – started to change, and there were

some very good people moving on. But that audit committee also contained a councillor who I believe did know about it and did not tell the other members of the committee. Now, that is just my belief from discussing the matter with him. I did not believe what he had to say about it. They are not foolproof, and I am sure John agrees with me. I am not saying processes are foolproof, but because we had no processes, it magnified these issues. So processes competently, impartially and comprehensively done do provide a break and policies do provide a break on these kinds of –

**Michael GALEA:** And more opportunities for intervention if done well.

**Frances O'BRIEN:** yes, exactly – very serious issues that arose at Moira. We had no competent HR, we had no competent governance. I think competent HR governance officers – and by that I mean both 'ers' and 'es'; the office of governance and HR and competent officers in there – can provide a very vital resource to a CEO. I will not say anything more about that. I think that is one way of seriously addressing some of these issues.

**Julie EISENBISE:** One of the things is that the audit committees are not necessarily valued that well, because financially they are not remunerated terribly well.

**Frances O'BRIEN:** No, that is true.

**Julie EISENBISE:** So they are not valued. But when you look at the smaller councils, they do not have the resources that these large councils have. Every time they are trying to do something they are trying to squeeze things. As has just been said, it is very difficult within a very tight budget to ensure that you are going to be able to attract a good governance officer. They are getting as rare as hen's teeth now. So how do you attract those into those smaller councils? There is a real difficulty there.

**Frances O'BRIEN:** They often end up doing the FOI. I suppose you know that.

**Julie EISENBISE:** Yes, definitely.

**Frances O'BRIEN:** That is why they do not want to do the job. That is a godforsaken –

**John TANNER:** If I may go back to the question, I think there is an opportunity to strengthen audit risk, even though we do have those challenges there. I think it is important that that is a focus, but also I take the opportunity to expand on that and say the same should be said for the CEO remuneration and appointment committee.

**Michael GALEA:** That is a good point.

**John TANNER:** My experiences there – and it is legislated that there is an independent member on that committee – have been that that independent member has just been bypassed totally. So there is some better practice coming in where some municipalities have adopted the opportunity to appoint the independent person as the chair of that committee, and I think that is a really good move.

**Peter STEPHENSON:** If I might add, it was probably more than 20 years ago – John will remember – when independent chairs became the best practice of audit and risk committees. And at the time I thought it was a bit of a slap because I was chair of ours, but we got a woman called Merran Kelsall, who at the time was chair of APRA. She was a local, and she came and chaired our committee and brought it to a new height. I think, similarly, when you get a good chair of the CEO remuneration and performance committee, it can bring it to heights. But one of the problems is – and I saw it at South Gippsland; I saw it at a number of places – every councillor, because there might be a lack of trust or they are not getting on, wants to be on the committee. They all want to be on the committee to select the shortlist and then vote on the person. There are probably opportunities for improvement.

**Michael GALEA:** I am so sorry, that was my last topic, and the Chair has been very generous with my time. I would love to ask more.

**The CHAIR:** We might put other questions to you in writing, and I am sure that you will very much provide us with a lot of information. We are going to go straight to Ms Benham.

**Jade BENHAM:** Thank you, Chair. Just to get a couple of things on the record: one, I could not possibly assume the answer to this question, but do you think that good governance, or governance on the whole, is a bigger problem for councils at the moment than fraud and corruption are?

**Peter STEPHENSON:** Some, yes.

**Frances O'BRIEN:** Undoubtedly.

**John WATSON:** I think, as I indicated in my written information, poor behaviour and bad behaviour are just the way people respond to each other, to officers, CEOs and their councils. It is failure of good governance, yes.

**John TANNER:** I would agree with that, and on top of that, I think something that we should identify when we are talking about fraud and corruption is that there is fraud and corruption internally and then externally. Now, internally, a good example of that is where a council makes a decision as a recommendation from the CEO that they carry out a certain task. And one instance I have referred to is where illegal collection and dumping of asbestos was carried out because the council or the CEO recognised that this was the only way that they could do it, illegally, to keep the cost down. Obviously it ended up costing them twice as much. I think internal fraud and corruption is important, and you can go on from that, as far as bullying and harassment of staff, so that they get the best outcomes as far as fraud and corruption is concerned.

**Frances O'BRIEN:** You may disagree with this and I am not an advocate for it in relation to all aspects of the Act – I am not – but the Act was changed specifically to provide for these independent members on the selection of CEO committees and the necessity for KPIs to be formulated and then used to determine the rates of pay et cetera. None of that happened at Moira: 'My goodness, gracious me. Why would we possibly do that? We just increase the pay, you know, during a probationary period and then we extend the term of the contract without any reference to any KPI whatsoever' – an undoubted breach of the Act. The problem? No consequences – none whatsoever. So you have got the Act being blatantly, outrageously and very financially disadvantageously to the shire being breached in every respect, and our seven councillors go on their merry way, with no consequences whatsoever.

**Jade BENHAM:** So what is the solution to that?

**Frances O'BRIEN:** A penalty. Where councillors are obliged to use KPIs and to have an independent person at the committee, all the other criteria for the employment and contract renewals of CEOs must have penalties. There do not have to be penalties everywhere in the Act, but there have to be penalties there.

**Jade BENHAM:** So then should there be penalties for any breaches that councillors also commit?

**Frances O'BRIEN:** Well, they are committing these ones.

**Jade BENHAM:** For all of those?

**Frances O'BRIEN:** Yes, they are committing breaches. Their failure to get the independent person, their failure to not use KPIs to give someone an increase in pay after two months, giving an increase during the course of a probation and extending a contract without reference to a KPI are all breaches of the Act. There have to be consequences. What is the purpose of having an Act without the most important thing that they are supposed to do? The Act said that – this is the most important thing that councillors are supposed to do. And they could not even do that.

**Jade BENHAM:** Their job. So with regard to that then, should councillors also have their own KPIs? How easy would that be to implement?

**John TANNER:** I think as far as behaviour is concerned, yes.

**Julie EISENBISE:** That is a KPI. That is their major one.

**Jade BENHAM:** But again there are no consequences.

**Frances O'BRIEN:** That is a KPI, as Julie says.

**John TANNER:** There is a code of conduct.

**Julie EISENBISE:** There is a KPI, which is their code of conduct. However, it has got to be managed by them and their CEO – their partnership with the CEO. They have got to manage that code of conduct, and that is where it all falls over, in my opinion – they do not manage it within their team. Then it blows up and you end up with all these personality issues driving the whole thing, rather than ‘Let’s stick with this; what is our internal challenge?’

**John WATSON:** I fully support the idea of an independent person chairing that committee. In fact that is really important, similar to the audit and risk. CEOs are sort of in a unique position in that they are employed by the council and they are responsible for everything that happens below them, but they also have to have the skill to manage the council, their own employer, and that is a real skill to be successful at it.

**John TANNER:** Yes, it is.

**Jade BENHAM:** As far as best practices go, to enhance and enforce good governance and mitigate fraud and corruption, like you said it could be as simple as a conversation that seeded fraud and corruption within offices, which is really simple and sometimes would go unnoticed. Are any best practices across all the councils that you have all been involved with that you have seen that really stand out, or is it something that needs legislative change and enforcement?

**Peter STEPHENSON:** Can I say, most of these things have been mentioned before. You need positive culture, so you need that leadership at the top and filtering down. But again, it has got to be fit for purpose when we are talking about policies and processes. Whatever your policy is, it needs to be easily understood, it needs to be signed onto and regularly reviewed. It does not mean that you have the same policy at Casey as you do at Strathbogie or South Gippsland, but they need to work and they need to achieve the same ends with a number of checks and balances along the way to make sure they happen. But again it gets back to that governance and that culture of leadership.

**John TANNER:** Can I just make a comment in regard to culture: this is one aspect that I am really passionate about, and I will tell you why. Local government is quite often criticised by all, by community et cetera – in a lot of cases rightfully so and in some not. Again, just drawing on my experiences – when you have got an organisation that predominantly accepts bad culture driven right from the top, it spreads through the organisation, so everything is acceptable by smaller players within the organisation and it becomes part of the culture. The danger in all this, though, is that it also creates this two-way double standard of handling things. People that are in a favourable position with the CEO or senior management get away with whatever they like, and others get persecuted. But it goes further than that, because it then becomes the norm of how that council facilitates their activities within a community. The same double standards are then applied to community by council, and that is really dangerous stuff. That is really dangerous, and this is where local government in general can get a bad reputation.

**Frances O'BRIEN:** Can I say something about competence?

**Jade BENHAM:** Please.

**Frances O'BRIEN:** I was on the commission at Geelong. Geelong had always had very good CEOs – I mean, outstandingly good CEOs – and for obvious reasons. It is incredibly rich; it has everything going for it. I say this to you acknowledging that just because you do not have a tertiary qualification does not mean

to say you cannot do any particular job. But the swimming pool attendant is not a qualification for the corporate affairs position at the Geelong city council – it never was, it never could be. And can I say the example I am citing is an outstanding example of why tertiary qualifications are necessary for the executive service. He was unable to explain to the commission what a strategic plan was, despite taking home close to \$300,000 a year. This necessity for tertiary qualifications – and I am beginning to think increasingly at every level of local government – is essential, or some qualification. Even at the depots there were people who – well, we will not go there; it is a bit unfair to the depots. But at the very well paid upper levels below the senior executive level there were still people with no qualifications whatsoever to do the job. Mr Fenaughty, who was running the procurement program, had a welfare qualification and was exploiting that procurement program for the better part of five years to the extent of thousands and thousands and thousands of dollars. Nobody looked twice to see what his qualifications were, whether he was fit to do the job. No, he was not. This is my plea in relation to culture: if we have competent, qualified HR people and then have recruitment processes consistent with competently organised and responsible processes, we will attain a level of qualification in those upper levels so that the culture will be changed by the leadership of these competent people. I just think that is one of the major issues, especially in country councils.

**The CHAIR:** Thank you, Ms O'Brien. We will go straight to Mr Tak.

**Meng Heang TAK:** Thank you, Chair. Just one specific question: I just would like to follow on from your submission, Mr Tanner, in terms of your example. If you had just one specific reform, what would that be?

**John TANNER:** I think it would be the strengthening of the appointment of the CEO in the first instance, and particularly the comments that we made in regard to ensuring that the independent person chairs that committee –

**Mathew HILAKARI:** Is one independent person enough? It strikes me that it actually probably should be reversed – like the reversal of the independent person versus councillor or councillors: are they actually in the right position to be appointing CEOs?

**John TANNER:** Look, I think it would be difficult to take it to the extent where CEOs were appointed totally externally. I think that would be a step too far, because at the end of the day it does have to have community representation and buy-in on that, in my opinion. It gets back to the quality of councillors, obviously. Certainly the independent person should be the chair of that committee in the first instance, and perhaps there is an opportunity to strengthen that up and add extra representation from independent members, but independent members that are well qualified in HR areas.

**Meng Heang TAK:** All right. Thank you. That is all from me.

**The CHAIR:** Mr Hilakari.

**Mathew HILAKARI:** Yes, I am happy to go on. So 16 of 79 councils had monitors in the last 12 months. That is not a very good record.

**John TANNER:** No, it is not, but obviously government has sought to do that for a reason, yes.

**Mathew HILAKARI:** Of course.

**Peter STEPHENSON:** It is fair to say that, well, like me at Casey and my colleague at Casey, where they are not –

**Mathew HILAKARI:** Not to subsume –

**Peter STEPHENSON:** Well, not to investigate anything that has happened but to try and help them get a fair start. And there are a number of other councils in that position.

**Mathew HILAKARI:** No, that is right.

**John TANNER:** I might just also add to that: the one council that did not go to election this period of time was Moira, and that was again because of this cultural change required, which cannot happen overnight.

**Mathew HILAKARI:** I mean, that question goes to really the CEOs and the councils, both of them, and we have had varying different views on what is the most important element of it. But my broader point is: are we seeing council sizes that are actually fit for purpose? Are they too small to undertake some of these governance and some of these fraud and corruption controls? Are they activities that should be undertaken across councils, or is it just that the councils are too small to undertake some of this activity? I will keep my questions short because I understand we are running out of time.

**Julie EISENBISE:** In the interest of pooling resources, it should be investigated whether that may be an opportunity for some of those smaller councils.

**Frances O'BRIEN:** And the low-down staff, the general staff, do not know where to go with it. They never know where to go. They know it is wrong; they see it is wrong. Somebody made some complaint, so the stupid CEO ordered some investigator in to talk to everybody; none of them talked about what the complaint was, because it was rubbish, but they all talked about the corruption of the CEO in his dealings with various motor vehicles – the then CEO, the immediate predecessor.

**Mathew HILAKARI:** I guess I get to the point of: are councils the right size to undertake these important processes?

**John WATSON:** Since the integrity body reports which sit behind this inquiry, generally councils have really picked up the game in terms of putting in place quite good and quite sophisticated fraud and corruption frameworks and the training that sits below those. So there has been quite an uplift in the sector in that space. Certainly some councils struggle to create those, but there is a lot of sharing in the sector. So I do not think it has to be something applied by a group of councils to them all; they share. As a member of a number of committees I often take from one to another examples of good practice, whether it is fraud and corruption or procurement or whatever. So I think there are ways of doing it without going too over the top of councillors.

**John TANNER:** If I may just add: being the age I am, I do go back a little way in local government and back to amalgamation times back in the mid-90s, when there was a broad-brush approach to that, and the approach was, from my point of view, that the metropolitan model of amalgamation was then just spread right throughout all communities, including the smaller rural ones, which caused a number of problems, particularly when they had to come in with certain returns et cetera. So I think it gets back to the point that everyone has got to be assessed on an individual basis, and there may be some smaller councils that could benefit by amalgamation going into the future, but it all depends on their communities of interest around it. So I think it is all an individual case.

**Frances O'BRIEN:** I mean, Moira is too small, full stop.

**Mathew HILAKARI:** I will go down the other side, which is the councillor side, and to one of particular interest to myself and others on the committee: is any of the training provided in language – support for multicultural communities? Councillors come from all sorts of communities with English as a second language, and it is becoming a more regular matter. Are any of these supports provided in language or to multicultural communities and then further out across communities that you are aware of around fraud and corruption control and the types of behaviour that are appropriate on council?

**John TANNER:** Certainly in places like Brimbank, where they are very multicultural with a lot of languages spoken and a lot of issues with people not having English or a second language. As a council, within the offices a lot of work is done to communicate, but there are limits for any council when it comes to that because the cost of interpretation into a whole variety of languages is very, very high and to maintain that is always a financial challenge. But the bigger ones that are I guess in the front line of multiculturalism certainly put a lot of effort in.

**Mathew HILAKARI:** In your experiences across different councils, are councillors in a position – we think about their remuneration, which, beyond the mayor and deputy mayor, in a typical council is fairly low. That causes people to need outside employment or to be self-sustaining themselves. Are they given enough opportunity through that to undertake the appropriate training and to be engaged in that? I know people sign up as volunteers for elections. Everyone volunteers for elections and signs up, but do they have the capacity to actually undertake all these important processes as they lead into becoming a councillor, so that post-election period immediately following.

**John WATSON:** I was in Local Government Victoria when there was a panel established to look at the question of allowances. At that stage allowances were very low, and they were actually adjusted as a result of that panel process. The recommendation and the advice – and I think it still sits behind where allowances are at – is that they are compensation for a part-time role. That has remained the case. It is now in the allowances. I do have a view on allowances which is connected to training. I said when I was in Local Government Victoria that there should be a base allowance and then there should be additional components to add on to the allowance if you successfully undertake certain training, as a bit of a carrot, to succeed in those areas. I still believe that could be a very useful tool.

If I could also just take the opportunity so I do not lose it, in terms of changes, an independent person to chair the CEO committees. The other – as a bit of a heavy stick and a disincentive for doing the wrong thing – is that in the 89 Act there was a provision that if a councillor caused a vacancy either through becoming ineligible or for whatever reason, they could not stand for the by-election to fill it, because previous to that they could, which was a bit of a nonsense. That is not in the 2020 Act. I would suggest that that should be there.

**Mathew HILAKARI:** Thank you. Are there any other views on councillors?

**Peter STEPHENSON:** Just in terms of allowances, my wife was a councillor pre amalgamation, and she still tells me how their allowance of about \$1000 did not even cover child care. Now they get child care. The allowances are not terrible, but I do not think the improvement in allowances has improved the standard of councillors at all in 25 years, 30 years, to be honest.

**Mathew HILAKARI:** I will finish on this question: if there was one thing that you could do – you are given the magic wand to improve councillors and officers and to improve particularly around fraud and corruption controls – what is that one thing that you would be wanting this committee to recommend?

**John WATSON:** Could I go back to the code of conduct which was discussed with the prior witnesses. The changes that were made were very much what I recommended out of the Darebin monitor's report. It was really good that they then picked up the same sort of recommendations. There is a problem in the time it takes to get a result. If there is a formal matter – and it could be 12 months later – it is like a slap over the wrist. The sanctions need to be serious and they need to be more immediate. Certainly if that could be compressed, I think that would be a major advance.

**John TANNER:** I think that comes to an issue to do with resourcing. Whether it be IBAC or the inspectorate, are there enough resources there? That would be my question. I am not suggesting there are not, but that is my question. Is local government supported to the degree it should be by those organisations?

**Peter STEPHENSON:** I would ask: is it possible to beef up the information to people before they stand? I am not saying that they need to necessarily undertake any stronger training than the current thing that they do. Casey is a \$600 million business. They arrive and they go, 'I didn't sign up for this. Where's my stuff in my park? This is huge'. I think there has got to be a little bit more communication around what they are signing up for. I am all for diversity. I did a trade as a kid. I only went to university as I was older. You apply yourself and you can do the role, but some of these people did not know what they were in for. That is a long four years when you are in that position.

**The CHAIR:** We are going to go to Mr Puglielli.

**Aiv PUGLIELLI:** Thank you, Chair. Good afternoon – we just crossed over. I would like to begin with this idea of fraud and corruption but the lower thresholds, which perhaps are not prosecuted or do not meet the requirement that another agency is pursuing them ongoing. How widespread are these sorts of behaviours in the community? Is there any evidence you can point to to signify how widespread potentially these behaviours are? Do you have any case studies you might want to point to from your own experiences? Anyone at all.

**Julie EISENBISE:** Mr Watson has probably put together his little chart. There have not been many councils that have been dismissed because of fraud and corruption. They are the big cases, the very big ones. You presume that if there is some lower level corruption going on both the CEO and the councillors will be able to manage that. They should have their policies so tight that that can be managed. Absolutely, getting numbers on what might be going on before it even gets to the inspectorate or to IBAC is the difficult part, because you hope that it is managed at that local level, and that is what they should be able to do.

**Peter STEPHENSON:** I have got two small examples that relate to the 2019 VAGO report around vehicles and travel. At a previous council down in South Gippsland, the mayor and the CEO were invited to go to an event in Bairnsdale. The CEO said, 'Well, I'll give you a lift, Mr Mayor.' Mr Mayor said, 'Oh, no, I can't travel as a passenger.' It was probably not true, but the idea was he wanted to be able to drive his own car to get the mileage – the 300 k's return or whatever. That is low level, but it was nipped in the bud. 'Well, if you're going there, you get in this car. We're taking the council car.' It was nipped in the bud. At Strathbogie there was a councillor who did not want to fill out his claims properly and justify where he had been in his role to claim this 500 kilometres worth of travel, and the CEO said, 'I'm not signing off on it; I'm not paying you. And it'll be up to the council to decide whether you actually get it, because you didn't fill it out.' The council decided not to pay him.

**Julie EISENBISE:** That is a miracle.

**Peter STEPHENSON:** It was a miracle, but it could have been a bloodbath too. So these things can be nipped in the bud along the way. But you need strong people to push back, and it gets back to culture and leadership in the organisation.

**Frances O'BRIEN:** And competence. Culture is about competence, competence, impartiality, responsibility, comprehensiveness, policies. That is what it is about – culture. And if those things do not exist, as they did not in Moira and to a large extent they did not at Geelong – even at silly old Ararat the CEO went off with \$100,000 at the end of his term, which he was not entitled to. Why? Because he got a subordinate to sign off on the recommendation as to what he should be paid, and the council was, 'Oh, well, thank you very much.'

**John TANNER:** \$170,000.

**Frances O'BRIEN:** 'Thanks very much. That's very nice. Yes, of course.'

**John TANNER:** To go to your question – and I have no evidence along these lines – I am sure there is corruption at all low levels, at a very low level. But that does get back to the culture of the organisation. When it is demonstrated that at the highest level good governance is not reinforced and good culture is not provided or is not demonstrated, it is natural that this will happen, and there will always be people who will take advantage of it – perhaps small money.

**Frances O'BRIEN:** And there are no consequences.

**John TANNER:** And there are no consequences.

**Frances O'BRIEN:** This is the other issue: there are no consequences for council wrongdoing. I am not talking about someone stealing money out of the till; I am talking about this low-level crookery – employing your friends, your family, getting the jobs to your mates, sending the work to the council as business et cetera. That is what I am talking about, always. If there are no consequences for the

appointment of a CEO, which is statutorily provided for, no wonder we ended up with the Moira situation. There were no consequences for them not complying with the Act, so there are no consequences for them doing other things.

**John WATSON:** I was a little disappointed in the response earlier to your question about the low level and the high level from the people sitting here, that they did not have some better handle on that. I think they should be able to distinguish between the minor stuff and the more serious. That was a bit vague, the answer, and nobody on the table actually jumped in. One of the problems is just even the requirement of councils to maintain records of the numbers of complaints – very much out of Ombudsman’s reports. A missed garbage bin being reported is treated as a complaint. I think there is more work to be done to really get to what is a true complaint.

**Frances O’BRIEN:** Yes, that is a really good point.

**Aiv PUGLIELLI:** Thank you, each of you, for your points. Just in terms of the intersection then of budget constraints, in terms of prevention and improving culture, for example, where does that come in, and what influence does that have on the risk profile of councils regarding fraud and corruption?

**Peter STEPHENSON:** I suppose if you are looking in the finance area, in which I have got absolutely no expertise, I do know that if you do not have enough staff in there, sometimes you have got someone who theoretically can sign off twice on something. A small council finds it hard to split those tasks, but there is a way, and they have to.

**John WATSON:** Procurement, though, is a much more serious matter within councils now. Through the audit and risk committees, one, a new council has to have a procurement policy, so it is regularly looked at. They go through the audit and risk committees for their perusal and advice. They are the subject of regular internal audits, and on the subject of internal audits, there is a limit there. There is what we call the audit universe – internal audit. There are over 100 things that you might audit. A council typically might do four, five or six a year, depending on their financial ability. But some things like procurement, OH&S and a couple of others do need to come up fairly frequently through the internal audit process. Internal auditors do not look at things that are not the subject of internal audit. So something has to be identified as a priority against risks, scoped and then an audit is commissioned.

**Aiv PUGLIELLI:** Do I still have time?

**The CHAIR:** You have got about 3 minutes.

**Aiv PUGLIELLI:** About 3 minutes – wonderful. Could you maybe speak a bit more about what specific government processes are most vulnerable to fraud and corruption that we are seeing? If you have got case studies here, that is also useful.

**John WATSON:** I did not quite catch that, I am sorry.

**Aiv PUGLIELLI:** Are there any specific governance processes that are most vulnerable to fraud and corruption in the local government sector?

**John TANNER:** I think the –

**Frances O’BRIEN:** Procurement.

**John TANNER:** Well, procurement – there has to be a policy on procurement, so it is up to the municipalities whether they endorse that policy and continue that policy and monitor it and manage it. Going back to my point about internal corruption, I think it is an important one, because that is not identified as such. I cite my example of the removal of asbestos in an illegal manner, because that was to save money for the council and to make the CEO look good as far as his finances were concerned, basically. Council agreed to all that, so they were all guilty of it. That endangered community, endangered the health of community. Asbestos was openly transported through a community to another site, which

again provided health issues. It then led to a clean-up of that, after the commission of inquiry, which came at three times or at least double the amount of the cost than what they did illegally in the first instance. So these internal fraud and corruption issues that take place are never accounted for really unless they are called out.

**Frances O'BRIEN:** I mean, your point is an interesting one in this context, John, because Moira council at that time had a highly competent waste management manager. He not only knew the regulations, he knew how to apply them. He had won awards across the local government for his waste management skills and processes, and they had a very good set-up at Moira in relation to their waste. And the CEO, for the reasons that John has given, just completely overrode him. He fought hard to say to them, 'You can't do this. You must do it like this.' He fought very hard. He was persecuted to a very extreme degree, driven out of the organisation and continued to be persecuted after that. So John's larger point about the CEO saving money was also about a CEO who had really given up. He was on his way out. He was in retirement mode, could not give a damn, blah, blah, blah. How do you deal with that? You will always have bad eggs in organisations. Processes and all of these things do not necessarily give you every time what you want; it is only on occasion. Mostly they do. But that asbestos was an example where they did not. And there were the long-term problems as well, but they did not, despite having this really brilliant waste management person.

**Julie EISENBISE:** If I could just go back to also the question – and I understand this was a really, really important issue. But one of the other potential areas that is staring people in the face is the community grants, where there should be some independence of how they are allocated. It does allow for some opportunity for councillors, who very often fight to sit on a community grants committee, to sway things their way, and I think that gives an open opportunity for some of them. And that has traditionally been an area that has caused some councils a bit of –

**John WATSON:** Best practice with community grants, though, is council should set the guidelines.

**Julie EISENBISE:** Exactly.

**John WATSON:** There should be an independent committee who makes the assessment, makes the recommendations, obviously back to the council. I think the council still needs a role; if they want to change the recommendations, it is probably their prerogative, but they should be able to justify it in the same way as the committee that did the initial work justified the recommendation for them.

**Frances O'BRIEN:** The other thing with councils and community grants –

**Mathew HILAKARI:** Just on decisions like that –

**Frances O'BRIEN:** We would have had substantial money for the flood mitigation at Numurkah. They received it when we were there, and not a mention was made of it. We discovered it by, you know, making proper inquiries –

**Mathew HILAKARI:** Just noting we have got 10 seconds left, I was just going to a question on councils and confidential meetings and confidential processes. We have seen an increase of this. Are you concerned about this increase in use of confidential meetings, discussions, decisions? Is this really just to shield councils from critique?

**John WATSON:** The previous Act had special provisions around those things as to when and what they could do. The new Act does not provide those things, and we have seen growth across I think all councils of briefing sessions to which there is no public access, no minutes. So it is really a, you know, behind-doors sort of discussion. Used properly – when I was the monitor at Darebin, certainly when I was there it was restricted to officers giving background briefings on matters that would be before the council and some opportunity for questions, but not for decisions. But I do worry that more goes on in those briefing sessions than should.

**John TANNER:** I would agree with that. As we know, transparency is a great tool in regard to good governance and best practice, and the more that can happen the better. There is a need, though, obviously.

**Mathew HILAKARI:** Of course.

**Frances O'BRIEN:** It was a major problem at Moira. That is all they did; they did nothing in council.

**Peter STEPHENSON:** I have not seen it. I have not seen it as an issue, likely because I am there.

**John WATSON:** Could I make one last comment?

**The CHAIR:** Just one last one. We are aware we are about 10 minutes over time.

**John WATSON:** The CEO sets the tone. If the CEO has an interest in procurement or any other matter, then chances are that that will be a focus of the organisation. But if the CEO takes their eye off the ball on any of those things, then it will probably fail somewhere down below them.

**Peter STEPHENSON:** That is a good point, John. A really good point.

**The CHAIR:** I want to thank you all so much. I think we could have you here all afternoon. It sounds like you have got a wealth of knowledge and experience – some may say war stories. But it is very, very useful for us to hear these kinds of stories and this kind of evidence, so thank you very much. The committee will follow up on any additional questions. We probably will have additional questions for you that will be sent out to you. Any questions that were taken on notice we record as well. Your responses are required within five working days of the committee's request. The committee will now take a lunch break before recommencing the hearing. I declare this hearing adjourned.

**Witnesses withdrew.**