



## **PUBLIC INQUIRY INTO LIVERPOOL CITY COUNCIL**

**COMMISSIONED UNDER S 438U OF THE LOCAL  
GOVERNMENT ACT 1993 (NSW)**

**PUBLIC HEARING  
SYDNEY**

**FRIDAY, 29 AUGUST 2025  
AT 11.55 AM**

**DAY 23**

### **APPEARANCES**

**T McDonald SC, Senior Counsel Assisting  
Ms B Anniwell, Counsel Assisting  
Mr E McGinness, Counsel Assisting  
Mr J Emmett SC with Mr D Parish and Mr N Andrews, Counsel for the  
Liverpool City Council  
Ms K Richardson SC, Counsel for Mayor N Mannoun  
Ms C Hamilton-Jewell, Counsel for Mr P Ristevski  
Mr D Tynan, Counsel for Mr J Breton**

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**<THE HEARING RESUMED AT 11.55 AM**

**COMMISSIONER:** Yes. We've returned to public session. Thank you.

5 **MS McDONALD:** Mr Breton, an associated topic from what we've been discussing that I first want to ask you some questions about is the independent Ombudsman. You are aware that at one stage, Liverpool City Council had an internal Ombudsman?

10 **MR BRETON:** Yes.

**MS McDONALD:** There was an internal Ombudsman policy?

15 **MR BRETON:** Yes.

**MS McDONALD:** Would we please bring up INQ.001.001.0101. And it can be live streamed. If we just go down that page, it was adopted on 28 March 2018?

20 **MR BRETON:** Yes.

**MS McDONALD:** And if we move to page 2, paragraph 2.1 sets out the responsibility or - under Purpose and Objectives, the responsibilities for the internal Ombudsman?

25 **MR BRETON:** Yes.

**MS McDONALD:** And you've got:

30 "Administering the process for dealing with customer complaints to Council, assessing and inquiring into complaints referred by the mayor, councillors and the CEO, assessing and inquiring into complex and difficult complaints referred by Council directors and managers, assessing and reviewing privacy complaints, assisting the CEO's complaints coordinator in regard to the code of conduct complaints, managing public interest disclosures, training members of council staff  
35 in relation to complaint handling, undertaking internal reviews of decisions by Council under the old GIPA."

And then:

40 "Undertaking reviews of Council's complaint-handling process, policies and processes."

**MR BRETON:** Yes.

45 **MS McDONALD:** And then is it your understanding that - and, sorry, I'll take you to another document. LCC.009.001.0763. Yes. Now, this is dated around January 2023, probably around the time you're starting work at the Council?

**MR BRETON:** Yes.

**MS McDONALD:** Sorry, it's this weird dating at times. It's actually 1 May.

5

**COMMISSIONER:** Okay.

**MR BRETON:** Yes.

10 **MS McDONALD:** And is it your understanding that around this time, Council was looking at whether the role of the internal ombudsman or the internal ombudsman function should be abolished?

**MR BRETON:** Yes.

15

**MS McDONALD:** And you can see there - this is from Mr Portelli. He sets out again the functions and responsibilities of the internal Ombudsman office, which includes, under 2, code of conduct complaints by acting as the Council's complaints coordinator, and really duplicates the type of - if we can jump to 7 - it kind of goes 5, 20 6, 5, 7. Bit weird:

"Other complaints management and/or investigatory roles as the CEO deems appropriate from time to time."

25 **MR BRETON:** Yes.

**MS McDONALD:** And ultimately - I won't take you to the minutes of the council meeting, but it was determined that that role - or that function should be abolished?

30 **MR BRETON:** Yes.

**COMMISSIONER:** The review of that function didn't sit within your directorate at that time, did it?

35 **MR BRETON:** No. No, I was down in Operations at that stage.

**COMMISSIONER:** Do you recall the rationale for the - that position being abolished at that time?

40 **MR BRETON:** No. I knew the internal Ombudsman at the time - I had had some interactions, and this was primarily discussion between Mr Ajaka and Mr Portelli.

**MS McDONALD:** This year, the possibility of the function of the internal Ombudsman returning to Council has been raised?

45

**MR BRETON:** Yes.

**MS McDONALD:** Excuse me. Would you bring up INQ.042.001.0004.

**ASSOCIATE:** Do you want that (indistinct)?

5 **MS McDONALD:** Yes. And you can see from the first page it's the agenda for the meeting of 23 July?

**MR BRETON:** Yes.

10 **MS McDONALD:** And would you go to page 355. Do you see there a notice of motion for the establishment of an internal independent Ombudsman to handle code of conduct and public complaints?

**MR BRETON:** Yes.

15

**MS McDONALD:** Below is the notice of motion.

**MR BRETON:** Yes.

20 **MS McDONALD:** The second aspect of the notice of motion notes the current process whereby complaints and allegations concerning councillors and council staff are managed solely by the council's governance team - presents a potential conflict of interest and risks being weaponised to silence legitimate criticism. And number 3 is the proposal to appoint an internal independent Ombudsman to be appointed by  
25 Council who will be responsible for overseeing and investigating code of conduct issues and also complaints submitted by members of the public?

**MR BRETON:** Yes.

30 **MS McDONALD:** And if we go to page 356, there are other aspects in paragraph 4 which seem to go to impartiality and independence of the role of internal independent Ombudsman?

**MR BRETON:** Yes.

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**MS McDONALD:** And then:

"Develop and implement a framework for the appointment, powers and responsibilities of the internal independent Ombudsman."

40

**MR BRETON:** Yes.

**MS McDONALD:** Now, towards the bottom of that page, we've got chief executive officer's comments?

45

**MR BRETON:** Yes.

**MS McDONALD:** Can I just ask you, was the process - this notice of motion was put forward within whatever the - within the requisite time, and that gave you an opportunity to respond by these comments?

5 **MR BRETON:** Yes.

**MS McDONALD:** And just very quickly, through your comments, you set out your view as to some of the matters raised in the notice of motion. In particular, you raise an issue that the creation of an internal Ombudsman position is a matter to be  
10 determined by the CEO, and then you say:

"No evidence has been presented in the notice of motion to support the premises on which it's proposed."

15 **MR BRETON:** Yes.

**MS McDONALD:** And then you deal with those particular topics. And in particular, over on page 357, you state:

20 "15 of the 115 complaints have been concluded."

**MR BRETON:** Yes.

**MS McDONALD:** I take it they're complaints about people other than the  
25 councillor?

**COMMISSIONER:** There might have been one or two.

**MS McDONALD:** There might have been one or two, yes.  
30

**COMMISSIONER:** Yes.

**MS McDONALD:** Sorry. And then you say:

35 "If it's found in the complaints process that a complaint constituted misuse of the complaints procedure, that would be identified by the CEO, conduct reviewer or investigator and may constitute a breach of the code of conduct."

**MR BRETON:** Yes.  
40

**MS McDONALD:** And then you've got further consideration. You set out, in summary, what the various stages in the code of conduct complaint process are?

**MR BRETON:** Yes.  
45

**MS McDONALD:** And then across the page, your view is that you'll report to Council on 18 June:

"Demonstrates complaints are being progressed through each of the stages. No evidence of any partiality."

5 And then, finally:

"Costs associated with this recommendation are outside the current budget and long-term financial plan."

10 **MR BRETON:** Correct.

**MS McDONALD:** But the minutes of the Council, if we can take up - bring up, I'm sorry, INQ.055.001.0005.

15 **COMMISSIONER:** Whilst that -

**MS McDONALD:** That -

**COMMISSIONER:** I'm sorry.

20

**MS McDONALD:** Yes.

**COMMISSIONER:** Whilst that's happening, Mr Breton, in your CEO comments to that notice of motion - tell me if I've misunderstood them or I'm reading them incorrectly, but there were two main propositions that you were responding to, which - at least you considered arose from the terms of the notice of motion. One, that code of conduct complaints were being raised inappropriately to stifle legitimate criticism, and your proposition in the note was, well, that's - no evidence of that has been put before you. Have I got - understood you correctly?

30

**MR BRETON:** Yes.

**COMMISSIONER:** And secondly, that there was some deficiency in the way that Council was, at that time, dealing with the numbers of complaints.

35

**MR BRETON:** Yes.

**COMMISSIONER:** Was there anything else that was driving the content of your response or your comments on the notice of motion that was presented?

40

**MR BRETON:** No, I just relied on the facts.

**MS McDONALD:** Would you go to page - sorry. You can see from this page it's the minutes of the meeting where that notice of motion was put forward?

45

**MR BRETON:** Yes.

**MS McDONALD:** Would you go through to page 45, please. These are the minutes that consider that notice of motion that I've taken you to.

**MR BRETON:** Yes.

5

**MS McDONALD:** And if we can go across to page 46. We've got the Council decision, and that is:

10 "To direct the CEO to provide a report on alternate methods to deal with the code of conduct complaints, including internal or external Ombudsman, and report back to a future council meeting."

15 And then a reference to this public inquiry. And also the Minister and the Office of Local Government looking at reforms to the code of conduct process. The first part of the resolution that was passed directs you to provide a report. Has that report been finalised as yet?

**MR BRETON:** No.

20 **MS McDONALD:** The section in paragraph 2 which raises this inquiry and also - I think it's the discussion paper or the working paper that you were referred to on Wednesday - are you proceeding with your report on alternate methods or, in a sense, given what was said in paragraph 2, have you put that on hold?

25 **MR BRETON:** On hold. 2 must come before 1. I accept number 2 is - is likely, and I'm very, very interested in number 2 as it informs the response to number 1.

**COMMISSIONER:** We end up being a bit circular, Mr Breton -

30 **MR BRETON:** Yes.

**COMMISSIONER:** - but I'm very interested in your views to inform number 2.

35 **MR BRETON:** Okay. I guess my point is that it would be a little bit silly of me to start talking about Liverpool alone, because Liverpool alone has different circumstances than the whole of the Local Government cohort. So I guess - particularly with the OLG document as well, and what comes out of this - I just want to hear and see the general feeling before I respond, and to take a really informed position about the best outcome.

40

**MS McDONALD:** And this isn't being critical - I can understand what you've just said, given the interrelationship between 1 and 2 - have you looked at all about how other states deal with code of conduct complaints within local government?

45 **MR BRETON:** Yes, and many of them still have an internal Ombudsman model. And only last week, I sat with general counsel and Mr Portelli to discuss options. I'm actually agnostic - I want to get better and I want to improve the Council. And if it

assists, I'm happy to do number 1 before number 2, but what I - I'm looking for is I'm really looking for the best information available, because we've only just changed. And, I mean to - again, that doesn't mean we can't change back.

5 **MS McDONALD:** Sorry, change the structure or -

**MR BRETON:** From the model of an internal ombudsman to not the model of an internal Ombudsman. Functionally, all the activities prescribed in the documents I've seen to date are being managed. It's just - it's the key critical areas now of separation,  
10 transparency, and to go - and go back to a model that allows us to remove any perceptions that may be advantageous at this stage.

**MS McDONALD:** All right. You just used the word "I'm agnostic." Is that agnostic towards whether the - putting to one side budgetary restraints, et cetera, agnostic  
15 to - as to whether the internal Ombudsman position should be re-enacted in some form?

**MR BRETON:** Yeah. Agnostic is I'm sitting on the fence and I'm really - I don't think it's a cost play, and the reason I say that is the model we would have to apply  
20 looks like an FTE. Because if I played a cost position, I'd have to rely on anecdotal evidence. And if I outsourced it under my current numbers, the price to be too high. So I have to think about the average - the mean average across councils - say, five or six matters a year and all the other things that this person would do, and it sounds to me like it's an FTE, with appropriate separation from a transactional perspective and  
25 in the organisational design.

**COMMISSIONER:** Separation in the sense that it would report directly to the CEO/GM?

30 **MR BRETON:** I think - I've got a model currently under consultation in the Office of the CEO. It appears that the natural fit now would be to put that - and I've got a heightened responsibility to ARIC in that model, and Governance, and it looks now like it's - it's a hand that fits in that glove.

35 **COMMISSIONER:** Do you see any downsides in that structure and what's being discussed?

**MR BRETON:** Only, if I can just localise it a bit - if we had the same numbers, I might need two of them.  
40

**COMMISSIONER:** Yes. Yes. But do you see benefits?

**MR BRETON:** I do. And the number - and the benefits have become clearer during this process, Commissioner, and it's - it's something that - I've got this 28-day period  
45 now where I'm looking at this model, and it's a perfect opportunity at this stage - rather than to retrofit, is to adjust.



**COMMISSIONER:** Accepting that you disagree with the premise of the notice of motion was put, but - on some matters, but you still see there being benefits from a - I think you used the word "transparency" earlier, and perception?

5 **MR BRETON:** Yes, but the notice of motion was put in the context that tacit - not impropriety, but tacit biases were inherent.

**COMMISSIONER:** I understand that. That's why I prefaced it by acknowledging you didn't accept those premises. Yes. Outside of the code of conduct process,  
10 though, do you see there being benefits in that role if it were occupied with, well, what seems to be the average - five, thereabouts, a year - of taking on some of those other functions that were within its remit in the past?

**MR BRETON:** I really do, and the reason it's Liverpool is a growth council with  
15 extensive growth into the north-west, towards Aerotropolis, and the emerging issues in and around developers and some of the other complaint areas, which - which are complex matters under the description just presented. They would be important - that we have some kind of professional approach to managing those as well.

20 **COMMISSIONER:** What about enhancing or restoring confidence in Council processes after - you've described them as unprecedented times and some - what others have described as periods of instability?

**MR BRETON:** Yeah. I think, to the extent that it - it demonstrates a status quo that  
25 we will continue with - I think we have to start baselining some of the processes and removing the ambiguity that one process or another is better or worse than the other. I think we need to embed the processes back to a static position, where everybody understands the role and the implications, and I think the reintroduction of the internal Ombudsman could do that.

30 **MS McDONALD:** I didn't quite understand that last answer, when you start talking about baselining and -

**MR BRETON:** Yeah, I say - what I'm saying is I'm a little bit sick of change. So  
35 I - I kind of - I want to - if this is a position we need to take, then let's put it in play, embed it and let's not have motions like this come to Council because there should be no - then there should be no ambiguity about this position's role. So that should go across every decision I make in relation to change. "Let's get the organisation back, future-focused, start looking at blue sky a bit and let's get back to our business." But  
40 it must be embedded on a foundation that these roles are understood and known. And if this is a conduit to that, that will certainly assist.

**COMMISSIONER:** And this would - this, as in a model that sat within your  
45 office - this is not a criticism of those who perform the function currently, but I think you've described it as being a bit buried within the organisation - or deep down or something like that.

5 **MR BRETON:** Yes. Commissioner, it fascinates me about - and most of the businesses around where we're sitting now, the CFO wouldn't sit three levels down. The Ombudsman wouldn't sit - or the person in charge of those roles in other businesses in Sydney wouldn't sit there, and I don't know why councils have - or our council has or other councils have positioned people where they have, for certain reasons. Doesn't make much sense to me.

10 **MS McDONALD:** And just for my benefit, when you use the word "embedded", does that mean introduced?

**MR BRETON:** Introduced, but on the premise that we're not going to change back.

**MS McDONALD:** Right.

15 **MR BRETON:** So I - I - if we're going to -

**MS McDONALD:** So not a temporary introduction?

20 **MR BRETON:** No, not a temporary. Again, we need to - these - these things become noise, right? These are policies and processes and organisational design. It's enough for the staff that every four years it triggers a review. What I'd love to do in the next four years is say, "I've reviewed it, let's move on," in one day and that's the process finished. But on every occasion in the past, it's meant a fundamental change to the way we transact. So what we've done on this occasion is taken a very, very  
25 transactional approach to the things that Council do. And when I finally land on the organisational design, I would hope that that satisfies us, moving forward, over many terms.

30 **MS McDONALD:** And just to confirm your view of the interaction between 1 and 2 - although you're thinking and discussing, for example, with Mr Portelli alternative methods, you were going to delay reporting or you will report to Council shortly?

35 **MR BRETON:** Well, I've been given a bit of a free kick because it says to - I've got to report back at a future council meeting, so I'm taking a literal approach to the word "future", also the hint from the Commissioner today - I understand that.

**COMMISSIONER:** No one should interpret my questions as a hint or otherwise.

40 **MR BRETON:** Sorry, Commissioner. What I was trying to say is - yeah, I - in all fairness, I should sit back and examine the evidence presented at this public inquiry and give it its due weight to - when I put my report in play. That's what I mean by that.

45 **MS McDONALD:** All right. Now, excuse me for a minute. Sorry, Mr Breton. I wanted to move to two other topics, which are linked with some of your evidence on code of conduct complaints. But, Commissioner, hopefully we don't have to move into a private session concerning those. The first one is social media use. Again,

starting broadly, the Council has some social media - sorry, I'll start again. The Council itself has some social media? So for example, it has a Facebook page.

**MR BRETON:** Yeah, some platforms.

5

**MS McDONALD:** Thank you. Good. If you've been listening to every minute of this inquiry, you'll probably realise this area is not one of my fortes, but anyway - so we've got a number of platforms. Also in addition to that, individual councillors may have a social media platform which is in the title or the handle of "Councillor X", but they're, in a sense, private social media platforms?

10

**MR BRETON:** Yes. Only where a councillor doesn't disclose - the word "private" is difficult.

15 **MS McDONALD:** When I use the word "private", not controlled by the Council.

**MR BRETON:** Correct.

**MS McDONALD:** Yes.

20

**MR BRETON:** In that context, they are private Facebook or whatever platform accounts. Yes.

**COMMISSIONER:** Personal to them?

25

**MR BRETON:** Yes. Yes.

**MS McDONALD:** And on a general level, obviously Council can control the content of the Council social media platform?

30

**MR BRETON:** Yes, with the exception of comments. So in the scenario that Council posts something, they have control over that. The responses therein they may not have control over.

35 **MS McDONALD:** But do they have control to the extent that they can't prevent a comment or a post but they can remove it?

**MR BRETON:** They have a - they have an option to moderate. So any person who has a Facebook account can moderate - can put some conditions around either blocking comments - they could allow comments, and the latest technology, through artificial intelligence, is they can filter comments.

40

**MS McDONALD:** All right.

45 **MR BRETON:** So we do have some control over what the public or other - what the public might say on Liverpool City Council's Facebook page.

**MS McDONALD:** And again at a general level, turning to the social media platforms that are controlled by, for example, individual councillors, Council cannot control what's put on those?

5 **MR BRETON:** No.

**MS McDONALD:** And also Council can't control by either filtering or blocking any comments made in response to postings on those social media pages?

10 **MR BRETON:** No. Only the owner has access to what's called the content management system, or the CMS, and only those persons can control what happens on those individual platforms.

15 **MS McDONALD:** Now, we've seen this through the evidence that you have given about code of conduct complaints, but a number of those complaints raise social media posts or comments.

**MR BRETON:** The vast majority.

20 **MS McDONALD:** And since towards the beginning of 2025, have you been issuing emails or other notices to councillors about social media?

**MR BRETON:** I have.

25 **MS McDONALD:** Would document LCC.022.001.0060 be brought up.

**ASSOCIATE:** Do you want that document (indistinct)?

30 **MS McDONALD:** Yes. Now, this is dated 6 January?

**MR BRETON:** Yes.

35 **MS McDONALD:** I think you might have to go - sorry, Ms Associate - go down a little bit further. Yes, there. This is under a subject heading of Code of Conduct Obligations?

**MR BRETON:** Yes.

40 **MS McDONALD:** And if you could keep on going down - can you see you state that you've been monitoring media and social media "reflecting on our brand"?

**MR BRETON:** Yes.

45 **MS McDONALD:** That's the Council's reputation, basically?

**MR BRETON:** Yes. Everything about our brand. Very protective of our brand.

**COMMISSIONER:** When you use the word "brand", what do you - what's within that umbrella?

5 **MR BRETON:** It's - it's about the way our business is perceived. Not only from our councils to councils, not only from the constituents to the - the constituents into council offices, and not only council to council. This is about investment. This is about surety. This is about future possibilities and opportunities that - if our brand is affected, then people have less confidence in all the things that Liverpool City Council need to do in the future to be a fantastic growth council.

10 So brand is all-encompassing. And when a brand is affected, people may deviate - people may not want to be associated with the brand, and it is really a holistic piece. I am fascinated by this concept of brand as a council because, again, it's a \$530 million business, Commissioner, and it's a big business and I - it's - and  
15 the brand is really important to me.

**COMMISSIONER:** So that's those outside - well, there's internal communications brand issues and perception within the workforce, et cetera, but a big part of what you've described to me seems to be outside looking in, "What is the view?" What is  
20 the perception that -

**MR BRETON:** So -

**COMMISSIONER:** - those people might take of the organisation and whether they  
25 want to have dealings with it.

**MR BRETON:** Yeah. I mean, it's been in evidence before the - this inquiry. I mean, there was indications that our brand is affected by people threatening our workers - this came through the evidence of Morthen. There's evidence that, you  
30 know, Liverpool are hopeless. The kind of comments that came on media and social media is that we're this bumbling cohort of people that don't know how to do anything, don't do it very well, and that's a really important thing from an employee-value proposition perspective, from our culture perspective, from our workplace safety perspective - it's really important that the councillors understand  
35 that if they trigger a response like that, it will get read by staff members and it may have a deleterious effect.

**COMMISSIONER:** I might come back to that rather than continue to interrupt at this point.  
40

**MS McDONALD:** Now, in addition - and I probably don't need to take you to the next entry, but on 28 January you sent a briefing email to all councillors about social media posts?

45 **MR BRETON:** Yes.

**MS McDONALD:** Again, reminding them of their obligations under the Council's media policy and code of conduct?

**MR BRETON:** Yes.

5

**MS McDONALD:** And then on 26 February, you sent an email to all councillors and the executive leadership team, conducting - attaching an article. I think it was from a law firm, Marsdens Law Group?

10 **MR BRETON:** Yes.

**MS McDONALD:** Now - excuse me for a minute. I've just been asked about the document IDs. If I can just state for the transcript, if people want to look at them -

15 **COMMISSIONER:** Yes.

**MS McDONALD:** - they're LCC.003.001.0078, and one which I think has already been tendered, LCC.003.001.0053. Can you just excuse me. And apparently they're all on HighQ.

20

**COMMISSIONER:** Thank you.

**MS McDONALD:** Now, in that last email you refer to the social media policy of the Council?

25

**MR BRETON:** Yes.

**MS McDONALD:** And in May of this year, a new social media policy was passed by the Council.

30

**MR BRETON:** Correct.

**MS McDONALD:** Would document INQ.002.001.0015 be brought up, please.

35 **ASSOCIATE:** Do you want that document (indistinct)?

**MS McDONALD:** Yes, please. Now, this is the media policy. If we can - sorry, I'll just - what I was - excuse me for a minute. Could you go to paragraph 3.8, please, which I think is on page 5. Now, this is headed Standard of Conduct:

40

"Council officials must comply with the Council's code of conduct and this media policy when engaging with the media."

And then there's:

45

"Council officials must not share information or make comments to the media through either direct or indirect mechanisms" -

and then they list:

5     ".. defamatory, offensive, humiliating, threatening or intimidating, contains content that's false, inaccurate, misleading or deceptive."

Next one, "profound language", et cetera:

10     "Constitutes harassment and/or bullying."

**MR BRETON:** Yes.

**MS McDONALD:** Then over the page:

15     "Contrary to their duties under the Work Health and Safety Act" -  
et cetera.

20     **MR BRETON:** Yes.

**MS McDONALD:** And that section refers to "council official". Could we just backtrack to paragraph 2:

25     "Council official: mayor, councillors, members of staff, delegates."

**MR BRETON:** Yes.

**MS McDONALD:** So it's not just for staff or just - not for the governing body.

30     **MR BRETON:** No.

**MS McDONALD:** Then if you can go to - if we can jump back to 3.10. Excuse me for -

35     **COMMISSIONER:** Was this the first policy of this kind?

**MS McDONALD:** No, there was - I'm sorry.

40     **COMMISSIONER:** No, no. It's all right. Doesn't matter.

**MS McDONALD:** There was a previous media policy of July 2020.

**COMMISSIONER:** Okay.

45     **MS McDONALD:** And, sorry, I was at 3.10:

"For the purposes of this policy, a council official's social media engagement will be considered private use when the content they upload is not associated with or does not refer to the Council or any other council officials."

5 Et cetera:

".. and is not related or does not contain information acquired by virtue of their employment or role as a council official."

10 And then:

"If a council official chooses to identify themselves as a council official, either directly or indirectly, then they will not be deemed to be acting in their private capacity for the purposes of this policy."

15

**MR BRETON:** Yes.

**MS McDONALD:** Can I just ask you, the upshot of this policy - in comparison to the previous policy which I wasn't going to intend taking you to, this now seems to be trying to engage with those social media platforms of the governing body where the name or the handle or something along those lines is "Councillor Jane Smith"?

20

**MR BRETON:** Yes.

**MS McDONALD:** And the effect of this media policy - where, for example, Councillor Jane Smith posts a comment or something along those lines which would breach this media policy, it is now, in a sense, caught up with this media policy and would be seen to be a breach of this media policy?

25

30 **MR BRETON:** Correct.

**MS McDONALD:** However, the limitations that you identified previously of Council can't, in a sense, remove, filter or block anything on that private social media platform still exists?

35

**MR BRETON:** Correct.

**MS McDONALD:** But what this does is if Councillor Jane Smith made a posting which, as we saw before, was derogatory of, say, council staff, saying that they were lazy, that is a breach of the social media policy, potentially?

40

**MR BRETON:** Yes.

**MS McDONALD:** And also a breach - potentially a breach of the code of conduct?

45

**MR BRETON:** Correct.



**COMMISSIONER:** A breach of the code of conduct perhaps not only because of the content but also from a failure to comply with this policy?

**MR BRETON:** Correct.

5

**COMMISSIONER:** Is that the import of your answer?

**MR BRETON:** Double-edged sword on that scenario.

10 **MS McDONALD:** And maybe if we jump up to 3.4 - we've got:

"The code of conduct provides that the council officials must not conduct themselves in a manner that's contrary to council policy."

15 So as you've just said, if it's a double-whammy, in a sense. And then just in 3.3:

"Implementation of the policy will be enforced by the CEO and/or delegate and the manager, Communications, Marketing and Brand."

20 At the moment, who's enforcing it? Is it - remained with you or -

**MR BRETON:** Yes, it's - it's exactly as it's presented there. So it depends who identifies the issue and where it goes from there. So it can be enforced by somebody notifying me or somebody notifying the manager, Communications.

25

**MS McDONALD:** And I know there's an overlap, as you identified with the code of conduct complaints, but since this policy has been introduced - or adopted, I'm sorry, in about May 2025 - and it might be a little bit early, but have you perceived any change in social media postings on social media platforms by any member of the governing body?

30

**MR BRETON:** No.

**COMMISSIONER:** What prompted the review of this policy in May?

35

**MR BRETON:** The very circumstances we found ourselves in, where there was an influx of these types of issues that forced the policy change. We had to tighten it up around a more contemporary approach in relation to social media. It was a byproduct of the circumstances we found ourselves in.

40

**COMMISSIONER:** Were you involved in the development of this policy?

**MR BRETON:** Shayne Mallard's team did it. I was aware of it and it was certainly mentioned at the executive leadership team level, but Shayne and the team put this together.

45

**COMMISSIONER:** You're leaving this now, Ms McDonald?

**MS McDONALD:** Yes. I'm -

5 **COMMISSIONER:** Can I ask, whilst it's on the screen - you see there in 3.5, Mr Breton, it deals with training and compliance?

**MR BRETON:** Yes.

10 **COMMISSIONER:** And the third paragraph down:  
"Council will provide training for council officials."

Which we saw earlier includes the councillors. And then in the last paragraph:

15 "Councillors will receive a briefing."

If you know, what training have the - have the councillors received training on this policy yet?

20 **MR BRETON:** Yeah, in their induction. And also by nature of other forums, notwithstanding the evidence before the commission today in relation to the emails sent from other senior counsel or - I think it was Marsdens who may have given instruction in relation to social media and their roles.

25 **COMMISSIONER:** So they wouldn't, though, have received training on the content of this policy and induction. Or was it picked up as part of the ongoing process? Is that what you meant?

30 **MR BRETON:** It's part of the ongoing process, notwithstanding that this policy must be - go before Council, and was part of a councillor briefing and also the governance meeting, and also ARIC sought it - saw it. So there's been a number of - there's been a number of opportunities. I don't think there's any - any of the governing body would be - would be surprised about the - this media policy being in existence.

35 **COMMISSIONER:** If you don't remember, it doesn't matter, because there'll be a record, but do you remember whether there was any dissent in the governing body when this process - this policy went up for adoption?

40 **MR BRETON:** No, but my mind takes me back to Mr Mallard. There was a lot of iterations and it was quite - I think Shayne was very thorough, but it took a lot of iterations to get this policy landed. A lot of to and fro between the governing body and the executive leadership team and the practitioners within the media team. Eight, nine, 10 iterations before we got it right.

45 **COMMISSIONER:** All right. And if we can just go down to paragraph 3.17. It's on page 8. Just have a read of that and let me know when you've finished.

**MR BRETON:** Yes.

**COMMISSIONER:** So I'm interested in the last paragraph:

5

"All collateral and promotional material featuring images must include all serving councillors or there is to be no photograph."

10 Do you know what - did anything prompt the inclusion of that paragraph, to your knowledge?

**MR BRETON:** Yes, it did.

**COMMISSIONER:** What was it?

15

20 **MR BRETON:** It was the photoshopping out of a Labor councillor in the previous year. And then there was some collateral - every time collateral was released into a positive event, only the mayor's image appeared. The other councillors took - didn't like that position and - and it was - it was discussed on the floor of Council and the decision was that all councillors - if there was an image of the mayor, all councillors' images had to be presented at the same time, and it was to make sure there was, again, some parity in how we presented our council governing body.

25 **COMMISSIONER:** What was the photoshopping that you referred to?

30 **MR BRETON:** So a number of people had turned up to an event - I just can't recall what the event was. It was an official event, and there was an official photograph and one of the councillors was on the right edge or the left edge, and that one - that councillor was on the other side of politics in the former Council, so they were in the Labor Party, and they were photoshopped out of it. So literally cut out of it.

**COMMISSIONER:** When did you become aware of this?

35 **MR BRETON:** Some time in '24. It was an issue. It was raised to Mr Ajaka. I think it appeared - I think it appeared in a post by Councillor Ammoun.

**COMMISSIONER:** All right. But you weren't responsible for investigating it at that time?

40 **MR BRETON:** No.

**COMMISSIONER:** Right. Thank you. I'm sorry. And since the implementation of this policy, have issues like that arisen and complaints of that kind continued or has this policy -

45

**MR BRETON:** No, I -

**COMMISSIONER:** - had its desired effect?

**MR BRETON:** In relation to the last sentence there, it's had its desired effect.

5 **MS McDONALD:** So with any social media platform of Liverpool City Council, any, as it says, collateral or promotional material from a particular event should contain photos of all councillors who attended that particular event?

10 **MR BRETON:** All or none. So all of them - it either is a picture of all of them or refrain from including any photograph. So it's all or none.

**MS McDONALD:** All right.

15 **MR BRETON:** But just not the mayor's head alone.

**MS McDONALD:** And when you say "all", if there's a particular event and only four councillors rock up, it has to be a photo of those four or nothing?

20 **MR BRETON:** The policy says all serving councillors. So obviously if there's only - if it's a collateral piece which wasn't a piece on the day, then it should be all of them. If it was a piece on the day and six turned up, it should be all six of them. That's the intent.

25 **MS McDONALD:** All right. Can you just excuse me.

**COMMISSIONER:** What's within collateral and what's within promotional?

30 **MR BRETON:** Collateral in the interpretation of this policy is, kind of, standard collateral - that maybe notices or informations to staff, or the weekly updates - these kind of things, that's collateral. Promotional material is really where we're promoting events. Like, we have six international events per year, and some of them are religiously specific. Those kind - that's promotional material. Something that's getting something to a council event -

35 **COMMISSIONER:** What about announcing council initiatives?

**MR BRETON:** Is collateral. Is - and that's collateral, yeah. It's not promoting an event.

40 **MS McDONALD:** And an individual councillor's social media platform, if they have - I'm sorry, withdraw that. If there is an event and there is a Council photographer there or somebody contracted by the Council to attend, are they able to take photos of individual councillors? I'm just using an example - say it was a new exhibition at the Casula Powerhouse gallery. You've got - all the councillors are  
45 there. You've got an official photographer. Can the official photographer take, in a sense, a standalone photo of a councillor beaming in front of a new sculpture or something like that?

**MR BRETON:** They could take the photograph.

5 **MS McDONALD:** Right. That photo would not be - according to this policy, would not be allowed to be posted on the Council social media platform?

**COMMISSIONER:** Unless there were individual photographs of the 10 others.

10 **MS McDONALD:** Yes.

**COMMISSIONER:** Or six or whoever turned up.

15 **MR BRETON:** Again, it talks about the permissions - in paragraph 3, talks about permissions about publications and the fact that they remain Council property. If it was an official photograph - yeah, but - and again, it gets a little bit - in that scenario, it sounds a little bit silly.

**MS McDONALD:** No, no -

20 **MR BRETON:** But - no. So in that scenario, they - I don't think the intent of the policy is around that particular scenario. If somebody - if a councillor was at an event and you see these roving photographers walk around and they took a photograph of a councillor at an official event.

25 **MS McDONALD:** Maybe if I - what I'm looking at is not a roving photographer -

**MR BRETON:** Yep.

30 **MS McDONALD:** - because my example of the -

**MR BRETON:** Yep.

35 **MS McDONALD:** The art gallery might have a roving photographer, local press might have a roving photographer. And obviously in those circumstances, if a photo is taken of an individual councillor, that wouldn't be covered by this policy. But if there is a photographer engaged by Council, if they did take an individual photograph of a councillor - as the Commissioner pointed out, if there weren't individual photos of all the councillors there, it would appear this policy would say, "You cannot post those photographs to Liverpool City Council Facebook page." We  
40 agree with that?

**MR BRETON:** Yes.

45 **MS McDONALD:** But if the councillor turns to the photographer and says, "That would have been a great photo of me. I want to put it on my Facebook page," is there anything preventing the photographer providing that to the individual councillor?

**MR BRETON:** No, nothing covered by this policy.

**MS McDONALD:** Okay. I'll just leave that for the minute. The next associated topic that I wanted to deal with - and there is a lot of overlap - is work health and safety.

5

**MR BRETON:** Yes.

**MS McDONALD:** Now - and again, I'm trying to shortcut this. There was the council election in September 2024. New Council starting in October.

10

**MR BRETON:** Yes.

**MS McDONALD:** In the lead-up to, say, January 2024, in the context of social media, did you have meetings with a councillor to discuss work health and safety concerns?

15

**MR BRETON:** Yes.

**MS McDONALD:** And when you did that initially, was it a matter that you made some kind of record in your diary or something like that?

20

**MR BRETON:** Yes.

**MS McDONALD:** Could you just excuse me for a minute. I'm sorry about that.

25

**COMMISSIONER:** That's all right.

**MS McDONALD:** Would document LCC.003.001.0006 be brought up, please.

30

**ASSOCIATE:** Do you want that document (indistinct)?

**MS McDONALD:** Yes. Now, this one is dated 9 January. And you can see the contents there?

35

**MR BRETON:** Yes.

**MS McDONALD:** Is it your practice that - where you have such a meeting with a member of the governing body, that you make that relatively succinct record in your diary?

40

**MR BRETON:** Yes.

**COMMISSIONER:** Looks like a police notebook.

45

**MR BRETON:** Correct. It's a habit.

**MS McDONALD:** And can - is there another page? Does this follow on to - could you just excuse me. Would you bring up LCC.003.001.0005, and would you just pause before live streaming that.

5 **COMMISSIONER:** So just in the room?

**MS McDONALD:** Could I just have a sec, please.

**COMMISSIONER:** Yes, we'll hold.

10

**MS McDONALD:** Yes, that could be live streamed, please. Now, this, from my reading of the page, seems to be a summary of meetings that you've had with the councillor.

15 **MR BRETON:** Yes.

**MS McDONALD:** Jumping on ahead, did you compile this summary when a SafeWork inspector had been attending Liverpool City Council?

20 **MR BRETON:** Yes. Kathy Maltby had inquired about the times and dates that I had undertaken that activity, and that's - that's why I just made that reference note.

**MS McDONALD:** And just looking at those, 14 October - so that's, like, a - is it a meet and greet?

25

**MR BRETON:** Yes.

**MS McDONALD:** So something you did with all councillors, not controversial?

30 **MR BRETON:** Yes. No, I didn't meet with Ethan. I couldn't catch a - Ethan Monaghan, and I met with Sam Karnib. And I didn't meet with Mira, but I think everybody else.

**MS McDONALD:** All right. Now, 1 November, does that record another meeting with a councillor but it was just general discussions?

35

**MR BRETON:** Yes.

**MS McDONALD:** Then is it 28 November - the initials, to begin with.

40

**MR BRETON:** Casula Powerhouse.

**MS McDONALD:** Right.

45 **MR BRETON:** Yep.

**MS McDONALD:** A general discussion about that?

**MR BRETON:** That was the general topic, I think. Yep.

**MS McDONALD:** Then on 9 January, you've got:

5

"WHS and behaviour discussions."

**MR BRETON:** Yes.

10 **MS McDONALD:** And that reflects the entry that we've just referred to in your diary?

**MR BRETON:** Correct.

15 **MS McDONALD:** And then is that 20 February?

**MR BRETON:** Yes.

**MS McDONALD:** Inglis.

20

**MR BRETON:** Yeah. Actually, all the meetings were at Inglis. So Inglis is a -

**MS McDONALD:** That's the location?

25 **MR BRETON:** It's just outside Warwick Farm Racecourse. It's a coffee shop inside the foyer of the hotel.

**MS McDONALD:** And there you've got, "Focused discussion on behaviour", and is it -

30

**MR BRETON:** It's "politics".

**MS McDONALD:** "Politics". When you had recorded, "Focused discussion on behaviour", what did that - broadly, what topic?

35

**MR BRETON:** Social media posts.

**MS McDONALD:** And I think we've just found the note for that meeting. Can we try LCC.003.001.0007.

40

**ASSOCIATE:** Do you want that on the live stream?

**MS McDONALD:** Yes. Sorry. Excuse me for a minute. Maybe at the moment can we just not live stream it. If it can just go up in the room. This is your note?

45

**MR BRETON:** Yes.



**MS McDONALD:** The first paragraph - or the first - yes, first paragraph of your note you implored him not to pick on staff members.

**MR BRETON:** Yes.

5

**MS McDONALD:** And then you actually refer to a particular staff member.

**MR BRETON:** I do.

10 **MS McDONALD:** So was this - sorry. And then you've got:

"Councillor has no appetite for" -

is it "sloppy"?

15

**MR BRETON:** "Stopping".

**MS McDONALD:** "Stopping", sorry.

20 **".. stopping this behaviour, as he believes he must represent his constituents in this manner."**

**MR BRETON:** Correct.

25 **MS McDONALD:** Just putting it, again, broadly without details, you were raising with him either dealings or his relationship with particular staff members?

**MR BRETON:** I was raising with him that staff members are off the subject. "Don't pick on staff members." And I make a reference to a legal leaning, so, "Don't make it political," and then I named the person.

30

**MS McDONALD:** Yes.

**MR BRETON:** There had been some activity about that person, particularly on social media, and I said, "It's off limits. If you're going to play politics, that's one thing, but don't touch the staff."

35

**MS McDONALD:** All right.

40 **COMMISSIONER:** Sorry, there'd been activity on social media against -

**MR BRETON:** That particular person.

**COMMISSIONER:** That referred to that particular staff member?

45

**MR BRETON:** Correct.

**COMMISSIONER:** And identified that particular staff member?

**MR BRETON:** Correct. Either - Commissioner, either directly or by his direct position.

**MS McDONALD:** And then you record the councillor's response, which was:

"No appetite for stopping this behaviour, as he believes he must represent his constituents in this manner."

**MR BRETON:** In fairness, that's my interpretation of what he said.

**MS McDONALD:** And then the final note was you advised that this matter is one moving into WHS?

**MR BRETON:** Yeah. Well, we're getting very, very close to the edge now, where a - a matter that could be considered as a complaint or a - is now moving into a workplace health and safety environment, which escalates it outside - in a different sphere.

**MS McDONALD:** Would that be an appropriate time?

**COMMISSIONER:** Yes. Why had you formed that view? At that time - this is February 2025.

**MR BRETON:** Yeah. Because of the nature of the content of what he was saying in the social media posts. They're - we're now starting to talk about psychosocial welfare and those kind of areas, where - once we're in that space - I mean, it's not a cul-de-sac. You have to take actions and move forward.

**COMMISSIONER:** And where in the note you say irrespective of one's - is it "legal leaning"?

**MR BRETON:** "Legal leaning".

**COMMISSIONER:** What did you mean by -

**MR BRETON:** Liberal Party members.

**COMMISSIONER:** So "legal" is "political" -

**MR BRETON:** Yeah. So - so irrespective of what their legal leaning was and - that -

**COMMISSIONER:** It's a reference to political -

**MR BRETON:** Correct.

**COMMISSIONER:** Yes. Okay. Thank you. Yes, we'll take the luncheon adjournment. We'll resume at 2 o'clock.

**MR BRETON:** Yep.

5

**COMMISSIONER:** Thank you, Mr Breton.

**<THE HEARING ADJOURNED AT 1.04 PM**

10 **<THE HEARING RESUMED AT 2.05 PM**

**MS McDONALD:** Mr Breton, I took you immediately before lunch to those two entries - sorry, there might have been three entries in your diary. I just want to take you through some events that have occurred in January and February of this year.  
15 You've given evidence that, ultimately, Inspector Kathy Maltby from SafeWork attended the Council and also had discussions with you and others about psychosocial hazards that seemed to be emerging at the Council.

**MR BRETON:** Yes.  
20

**MS McDONALD:** Can I just check, within your - not your, I'm sorry - within the Council's work health and safety system, there were procedures for risk assessments to be undertaken?

25 **MR BRETON:** Yes.

**MS McDONALD:** And was there a risk register for work health and safety?

**MR BRETON:** Yes.  
30

**MS McDONALD:** And then was it the procedure that in respect of a particular work procedure or something else, a particular risk assessment looking at that work operation or something along those lines - or even a particular event could be then drafted or compiled?  
35

**MR BRETON:** Yep. The subject of a risk assessment, yes.

**MS McDONALD:** Yes. And in addition to the risk assessment, if at work an employee or a worker is confronted by circumstances which give rise to a work health and safety hazard or a work health and safety risk, was there, first thing, some way of reporting that hazard or risk within the system?  
40

**MR BRETON:** Yes.

45 **MS McDONALD:** Terminology, is it known as reporting a hazard or it is -

**MR BRETON:** Yes. Or an incident. Yeah. Or a safety incident.

**MS McDONALD:** So hazard or safety incident?

**MR BRETON:** Mm-hmm.

5

**MS McDONALD:** You've given evidence about this - during the period that we're interested in, work health and safety was part of - is it Orion, the pay -

**MR BRETON:** Yeah.

10

**MS McDONALD:** The, kind of, pay system.

**MR BRETON:** Unfortunately, our platform for workplace health and safety is that is predominantly a payroll system.

15

**MS McDONALD:** Are you looking at changing that?

**MR BRETON:** We're doing it this year, yes.

20

**COMMISSIONER:** Why do you say unfortunately?

**MR BRETON:** Because it's a payroll system. And I've - coming from places like Downer, you have a commercial off-the-shelf safety solution, which is a bespoke safety management system. But we've retrofitted the payroll system to accommodate the safety function.

25

**MS McDONALD:** And, sorry, let me just think - and with that hazard notification or incident notification system, they're submitted, and then are they downloaded on some kind of risk register which is dealing with those particular types of hazards, risks or incidents?

30

**MR BRETON:** Yes. So there's a duplicate process. So the process on the individual issue will follow the Orion escalation. In these instances, you'd also enter them on the risk register, and the acronym there is CAMMS. That's C-A-M-M-S. That's the system which records all our risks. One of those risk registers is a safety risk register, and on - one of those risks on that register is psychosocial welfare.

35

**MS McDONALD:** And, sorry, just so I get my - understanding this - I'm a worker, I'm exposed to a hazard. That is reported via the Orion system?

40

**MR BRETON:** Yes.

**MS McDONALD:** But in addition, the CAMMS system - is that separate from Orion?

45

**MR BRETON:** It is.

**MS McDONALD:** And if you make a notification of a hazard incident risk via Orion, is it automatically then duplicated into CAMMS?

5 **MR BRETON:** No. I guess if you think about it, the risk register, like any risk register - we used to do them on Excel - we have an enterprise risk management system, which is CAMMS. So that's your risk register, albeit it's an e-register. But the actions and controls that you would employ against each hazard would be followed through on Orion. That is, there'd be an escalation up to, say, a manager, with certain things to do, and the Orion system would reflect that individual issue.  
10 Where psychosocial hazards might be a linear risk description, you might have a number of actions generally - actions and controls generally against that exposure on the risk register.

15 **COMMISSIONER:** So the specific hazard or risk that's been notified, the incident -

**MR BRETON:** The incident is on Orion.

**COMMISSIONER:** - is tracked through Orion.

20 **MR BRETON:** Correct.

**COMMISSIONER:** And the general risk of psychosocial hazards -

25 **MR BRETON:** Yeah.

**COMMISSIONER:** - goes into the risk register, to be managed in accordance with Council's overall management of risks generally, along with the raft of other things that are in a risk register?

30 **MR BRETON:** Correct.

**MS McDONALD:** And the recording within your CAMMS system that this hazard or incident has been notified - I'm just looking at how it gets from Orion into CAMMS. Is it an automatic transfer or does somebody looking at Orion have to say,  
35 "That should go across and be recorded in the risk register"?

**MR BRETON:** That would be the scenario, yes. So there's no automatic interface between the two systems.

40 **MS McDONALD:** Yes.

**MR BRETON:** So the risk register - if one was talking about an action, it might be that one of the actions is to liaise with SafeWork about psychosocial - that's really an action, okay? If a psychosocial hazard had been reported, say, against me and it's in  
45 Orion, the actions against my issue are all in Orion. We're talking more holistically and generally in the other system, but Orion's is where the - it happens. Yep.

**MS McDONALD:** All right. So if I wanted to - I was interested for a particular period in psychosocial hazards that had been notified -

**MR BRETON:** Yes.

5

**MS McDONALD:** - by employees or anybody else at Council, where would I - what would I interrogate to get a list?

10 **MR BRETON:** The Orion system, and that would give you the - a list of - depending on the category you searched, would give you a list of that kind of hazard or risk or more holistic numbers about how many safety incidents.

**MS McDONALD:** Now, I want to go to 2025 in January. Were you on leave towards the beginning of January?

15

**MR BRETON:** Yes.

**<THE HEARING ADJOURNED TO PRIVATE SESSION AT 2.14 PM**

20

**<THE HEARING RESUMED AT 3.45 PM**

**COMMISSIONER:** Thank you. Yes. We've returned to public session.

25 **MS McDONALD:** All right. I want to start off by asking you some general questions about staff surveys, or surveys of staff satisfaction.

**MR BRETON:** Yes.

30 **MS McDONALD:** The Council, on occasion, conducts such surveys?

**MR BRETON:** Yes.

35 **MS McDONALD:** Is there any - for example, is it every year or when it's considered to be needed? Do you know how -

**MR BRETON:** Annually.

40 **MS McDONALD:** It's done annually?

**MR BRETON:** In general principle is annually, yes.

**MS McDONALD:** All right. The surveys are issued to staff. Is it now - if we start in about 2022, is it now done all electronically?

45

**MR BRETON:** Yes.

**MS McDONALD:** It's sent to every member of staff, so every FTE or even if - sorry, any member of staff whether they're full-time or part-time, for example?

**MR BRETON:** Yes.

5

**MS McDONALD:** And the idea is they - it's usually a series of multiple choices or -

**MR BRETON:** It can be multiple choice and some free-form questions.

10 **MS McDONALD:** That's what I was going to ask. And at some time, either at the end of the survey, often there's a, "Is there any general comment you want to make" or something like that, to give staff the opportunity to make a general observation?

**MR BRETON:** Correct.

15

**MS McDONALD:** When you get the results, what do you do with the results?

**MR BRETON:** They're displayed to the staff.

20 **MS McDONALD:** Right. Even the comments?

**MR BRETON:** No, the metrics are. Some comments may be disclosed to the staff as long as the concept of anonymity is preserved.

25 **MS McDONALD:** From the CEOs perspective, what do you do with the results?

**MR BRETON:** They - they're taken to the Executive Leadership team and then they inform a number of actions. So if we see there are challenges or opportunities within the responses, there will be an action derived from that which will inform a certain  
30 director to do something, usually a small project.

**MS McDONALD:** Upon becoming the acting CEO, did you review or have a look at the 2022 survey?

35 **MR BRETON:** I may have looked at it.

**MS McDONALD:** The first survey I think we've been provided with was the 2022. If I can bring that up, please. LCC.001.004.0009.

40 **ASSOCIATE:** (Indistinct).

**MS McDONALD:** Yes, please. And if we go to - so you can see it's Liverpool City Council Workforce Management Plan Focus Group Themes. If you go through to page 2, the way this has been undertaken, there seems to be topics at the beginning  
45 with comments underneath?

**MR BRETON:** Yes.

**MS McDONALD:** Do you see that? So the first topic is Leadership and the first comment is:

5 "Instability at the top is trickling down and influencing people leaving across the Council."

**MR BRETON:** Yes.

10 **MS McDONALD:** I know you - in 2022 you weren't employed by the Council at that point, were you?

**MR BRETON:** No.

15 **MS McDONALD:** It was at the beginning of '23. But you were there during the instability of during 2023?

**MR BRETON:** And four.

20 **MS McDONALD:** And 2024, thank you. Is that comment a comment that you would agree with?

**MR BRETON:** Yes.

25 **MS McDONALD:** And the issue of "instability at the top", obviously that, in your mind, would involve the CEO?

**MR BRETON:** Correct.

30 **MS McDONALD:** And also directors?

**MR BRETON:** Yes.

**MS McDONALD:** That executive leadership area?

35

**MR BRETON:** Yes.

**MS McDONALD:** Okay.

40 **COMMISSIONER:** Anybody else?

**MR BRETON:** No, I think it's - it's - this is around CEOs and directors.

**COMMISSIONER:** And that's a view you - well, sorry, you started in January  
45 2023?

**MR BRETON:** '23, yes.



**COMMISSIONER:** Is that a view you formed on joining the organisation?

**MR BRETON:** This is what I was told on day one, Commissioner.

5

**COMMISSIONER:** And it persisted through 2024?

**MR BRETON:** Yes.

10 **COMMISSIONER:** And what effect has it had on the organisation, to your observation?

15 **MR BRETON:** I think it's had - I think people are fatigued. I think they're fatigued about change at the top. And I think with every change at the top there will always be a residual implication on what the beliefs or actions or behaviours or the way the people work at the top and things change. And our workforce predominantly doesn't enjoy change. They like it stable. And I think our Council is desirous of a period, whatever period that is, of stability at the top. I think our longest serving CEO is held for four years only, in the last 15 to 20. So - and we've got plenty of workers that  
20 have been there through those CEOs. So stability, consistency of leadership, consistency of management decisions and transparency is something I think is really, really strongly wanted by the workers.

25 **COMMISSIONER:** Do periods of instability at the top create risks for the organisation?

**MR BRETON:** 100 per cent. There's - there's a number of behaviours that will fall down from instability at the top. In particular, there will be a position by the workers that "Things don't matter" or "We don't have to do this" or "There will be a change coming up" or "This circumstance will change." We can see that in the amount of  
30 issues that were forwarding through to the Industrial Relations Court or otherwise where a lot of these things were about instability at the top. And whatever position you take, left or right at the top, it has to be consistent.

35 **COMMISSIONER:** What about strategy?

**MR BRETON:** Strategy suffers because not only is it about the - prosecuting the strategic plan, it's the interpretation and the ability of the leadership and capability of the leadership to actually prosecute the intent of the CSP and other strategic  
40 documents. And then when they see leadership making decisions that are not aligned with what they thought the strategy was, that again presents some problems. Our churn rate is not - that is the people leaving Council, the churn - is not different than most councils. So I don't know to what extent that's influenced people leaving Council. But certainly in the early - early period, people were leaving Council  
45 because of this instability. And I think I've given some evidence about even candidates now talk about it.

**COMMISSIONER:** The earlier period, you mean January 2023 and that early period -

5 **MR BRETON:** When I first got there, I was, you know, just - the image that was created was that, you know, people were running down the street like the opening scene of a Godzilla movie, and I didn't see it. But you keep interrogating this perception. And, yeah, there was chaos, people enjoyed the chaos.

10 **MS McDONALD:** There's a survey attached to this, if we can go through to page 9. Just before I ask that, who was the CEO who was there for four years?

**MR BRETON:** Kiersten Fishburn.

15 **MS McDONALD:** Okay. So that's the commencement of the survey. If we turn to page 10, we've got - there are 122 responses. The annual report for 2022 shows that there were 746 full-time employees. So I think our maths, which are probably wrong, says that it's a response rate of about 16 per cent?

20 **MR BRETON:** I was going to say 15, but yeah, that's - that's quite poor.

**MS McDONALD:** I was about to ask you that. You're experienced with these types of surveys?

25 **MR BRETON:** Yeah. I'm - I'm not relying on the statistics until you're around 40 to 60 per cent of respondents.

**MS McDONALD:** Okay.

30 **COMMISSIONER:** Does the low response rate tell you something in itself?

**MR BRETON:** It tells you that dot point one was probably relevant. Yeah, it does. It means why would I do the survey. It tells me - the lack of survey responses is absolutely consistent with a workforce that's not engaged in the process.

35 **MS McDONALD:** And then if we go through to page 15 which is Employee Sentiment, the pie chart, it seems to be broken down into Promoter, Passive and Detractor.

40 **MR BRETON:** Yes.

**MS McDONALD:** And the detractor rates 51 per cent. And I take it these are responses with promoters only 14 per cent. I'm sorry. If we then jump to, still on that, on page 20, I think they've got some of the verbatim responses but in colour?

45 **MR BRETON:** Yes.

**MS McDONALD:** So the yellow comments are the detractors?

**MR BRETON:** Yes.

5 **MS McDONALD:** Where they're saying, "Disorganised, frustrating, toxic, chaotic, unfair and unsupportive" while the promoters say "challenging" - hold on, "Rewarding, supportive, diverse, busy, inclusive and respectful." And I know this is 2022 but just those results - and, sorry, I should just pause. It would appear that in 2024 the survey changes slightly, so if you can't answer these - but in getting those types of responses, even though it's a relatively small group, it's a rather - a damning  
10 result. Do you know if Council did anything with that, or trying to rectify it or change it?

**MR BRETON:** Yes, I'm sure they did. I mean, there's been employee engagement activities that predate me, that I was aware of. But that dataset is so small that it's  
15 unreliable.

**MS McDONALD:** Okay. In answer to one of my earlier questions, your understanding was that surveys are undertaken annually?

20 **MR BRETON:** Yes.

**MS McDONALD:** The next one that we were provided with pursuant to notice was July 2024. There doesn't seem to be a 2023, or we weren't provided with a 2023 one.

25 **MR BRETON:** That's okay. Look, the intent and certainly even in my recent KPIs as these surveys are annual, so - and if they're not but I might have mistaken it to be a survey annually. So we do community surveys and then we do staff surveys. But there'd at survey at least once annually. If there's not one in - if it's not supplied, I -I assume that it wasn't - it wasn't done.  
30

**MS McDONALD:** Sorry, can we bring up LCC.001.004.0010.

**MR BRETON:** There definitely was one done during Mr Ajaka's tenure. I just - I remember discussing it. So -  
35

**MS McDONALD:** A staff survey?

**MR BRETON:** No - yes, a staff survey.

40 **MS McDONALD:** Of course, see this one you can see is July 2024 and Mr Ajaka had - unless the actual -

**MR BRETON:** The survey may have been done beforehand.

45 **MS McDONALD:** No, no. Sorry, I didn't mean to say "no, no".

**MR BRETON:** That's okay.

**MS McDONALD:** If you go to page 2, you can see:

"Survey was distributed to all staff on 27 June."

5

Now, by that time, Mr Ajaka had left.

**MR BRETON:** Okay.

10 **MS McDONALD:** But you have a recollection of a 2023 one?

**MR BRETON:** I think he instigated it. So maybe the survey was distributed on that date, but the work in relation to the survey questions was done during Mr Ajaka's tenure. I absolutely remember sitting in his office talking about this.

15

**MS McDONALD:** All right. Now, can you see there the head count is 930?

**MR BRETON:** Yes.

20 **MS McDONALD:** If we jump through to page 3, we've got 32 per cent of all staff responded.

**MR BRETON:** A little bit of a dark statistic: 32 per cent of all staff finished it.

25 **MS McDONALD:** Yes.

**MR BRETON:** Yep.

30 **MS McDONALD:** Because if you look, 42 clicked into the survey but didn't complete. So incomplete responses weren't included.

**MR BRETON:** Yes.

35 **MS McDONALD:** And then 26 per cent did not click at all.

**MR BRETON:** Yes.

**ASSOCIATE:** Sorry (indistinct)?

40 **MS McDONALD:** Yes. Sorry.

**COMMISSIONER:** So the 32 is those who started and finished?

45 **MR BRETON:** Start to finish, and the 42 had started but for some reason didn't complete, and their caveat there is that they don't include those. But 40 per cent's a good number.

**MS McDONALD:** Now, this time the survey's kind of different in, it would appear, in its questions and approaches. For example, it appears to, if we go through it, if you go to pages 5, 6 and 7 there's kind of a breakdown on who responded by directorate, level, length of service?

5

**MR BRETON:** Yes.

**MS McDONALD:** Do you see that?

10 **MR BRETON:** Yes.

**MS McDONALD:** And then if we jump to page 89 it then seems to have, you know, instead of what I showed you previously - the detractors, the promoters and the kind of sitting on the fence - this time we've got Testing the Aspirational Culture Statement which is Working Together to Deliver - sorry, this is on page 9. Have you got that up there?

15

**COMMISSIONER:** Yes.

20 **MR BRETON:** Yep.

**MS McDONALD:**

25 "Working together to deliver better outcomes for our community and each other."

And the question is:

"To what extent do you think this statement reflects your aspirations for our culture?"

30 And then it's broken down into strongly agree with 62, agree 153, and then neither disagree or agree is 46, and then you've got 21 and 12 down the disagree strongly.

**MR BRETON:** Yes.

35 **MS McDONALD:** Then if you go to page 10, there you appear to have some of the comments?

**MR BRETON:** Yes.

40 **COMMISSIONER:** Comments on the aspirational stage.

**MS McDONALD:** Yes.

45 **MR BRETON:** On the aspirational stage.

**MS McDONALD:** Yes, and there is a clear sentiment that the statement should be more inspiring and compelling. And so it seems to be an assessment of that actual kind of aspiration, you know, because there's comments like:

5 "It's a little bland and could be any council. I agree with it, but it needs something that is more peculiar to us."

And then if you jump through to 35, page 35, this is under the heading Big Ideas, they're asked:

10 "Which of the following initiatives do you think would have the most impact in positively influencing and shaping our organisational culture?"

So the big item is.

15 "Making our processes and ways of working more efficient. 25 per cent leadership development. Clarified roles."

**MR BRETON:** Yes.

20 **MS McDONALD:** And then if you jump to 37, this is:

"What do you think is currently holding us back from achieving these behaviours?"

25 And, again, leadership instability has been raised?

**MR BRETON:** Yes.

**MS McDONALD:**

30 "Lack of clear direction from management. Poor communication between leadership and staff. Resistance to change and innovation. Employee engagement and recognition. Lack of feedback. Culture and trust issues. Operational inefficiencies, and training and development needs."

35 And then if you go across to page 38 there are:

"Other comments you would like to add."

40 And they come under the heading, for example, of Staff Shortages:

"Chronically short-staffed and there are too few staff who care enough, who aren't burnt out to share the load."

45 Etcetera. Now, this particular survey, as it states, it's July 2024. So at that time you were the acting CEO?

**MR BRETON:** Yes.

**MS McDONALD:** It was obviously provided to you?

5 **MR BRETON:** Yes.

**MS McDONALD:** And you read it?

10 **MR BRETON:** Yes.

**MS McDONALD:** What were your - what was your overall view on the survey results?

15 **MR BRETON:** Fantastic.

**MS McDONALD:** Really?

20 **MR BRETON:** Yes, because I've implemented every single - can you go back to one slide above the list - every single dot point there, I can provide evidence that I have challenged and implemented. The other thing is I should say, it's a very - this is a very dark statistic when we look at - if we can go back to the percentage slide on slide 3.

25 **MS McDONALD:** On how many people responded?

**MR BRETON:** No, this one here. This is very informative because -

**MS McDONALD:** Sorry, just a sec. It's at page 3?

30 **MR BRETON:** Yes, page 3.

**MS McDONALD:** Yes.

35 **MR BRETON:** This is informative because City Futures at the time had 27 staff. Operations had 377. So when we talk about - we talk about statistical skew, we have 23 staff with a response rate of 78 per cent. So almost all of his staff, Shayne's staff, responded. But only one in five of the 377 responded operationally. So what I take from that is that the - the overall statistics can't be relied on from the - from a consistent position across directorates. But what is - what is informative is the  
40 comments away from the statistics, in relation to no succession plan or the - sorry can we go back to the list, sorry, the dot point one.

**MS McDONALD:** Was that page 37?

45 **MR BRETON:** Yeah. The leadership is stable. Okay. Again, the management team is stable. And we've had a stack of work around management training.

**MS McDONALD:** You just got rid of two directors.

5 **MR BRETON:** Yes. Well, we can talk to that. That's about a financial decision. But of the leaders that stayed - they're all still there - so there's no change, there's just less. You can argue the word "change". We've done a stack of work on management training. That is training the middle managers because -

**MS McDONALD:** All right.

10 **MR BRETON:** Yeah.

**MS McDONALD:** Can I just pause. So your view of this survey, even though it was, as you described it, skewed in that it was overall 32 per cent, and of the 32 per cent it came from City Futures the most, and a small response from Operations?

15 **MR BRETON:** Yes.

**MS McDONALD:** Your view is that given the comments that were made, for example, on page 37, the benefit to you of this survey is you took into account those comments?

**MR BRETON:** Correct.

25 **MS McDONALD:** And you've started to, in your view, introduce changes to deal with them?

**MR BRETON:** 100 per cent.

30 **MS McDONALD:** Okay.

**COMMISSIONER:** So is that the context in which you said the survey result was fantastic in that it gave you a platform and a basis to take steps?

35 **MR BRETON:** World best audit of - of what my people are thinking at the time. And this - I probably didn't need to see the dot points to understand what it was because it was - it was evident in the workplace.

40 **COMMISSIONER:** Some of the issues are those issues that I think in answer to one of my questions earlier you said were evident to you from day one.

45 **MR BRETON:** Evident. Yeah, I mean, again, we are the most innovative local - local council in Australia. Without a doubt. So resistance to change and innovation is - is a nonsense to me now. Our culture work around employee value proposition is exceptional. Inefficiencies drives Project 26. All these things are in play. At every - our word for this year, Commissioner, is "better". And we don't have to be world's best, we've to be better. And at every town hall, every time I speak to the staff - there's a sign on my door that says, "Does it make the boat" - "can it make



the boat go faster. Enter if you've got great ideas." At every town hall I offer up anybody just to stand up and tell me an idea and I'll take it on. I don't care if it's good, bad or ugly. So some of these concepts were fantastic for me because they gave me a very quick roadmap to improve.

5

**MS McDONALD:** All right. Is that an appropriate time?

**COMMISSIONER:** Yes. Mr Breton, we will need to continue with your evidence on Monday.

10

**MR BRETON:** Yep.

**COMMISSIONER:** I'm sorry, we will see you back here on Monday.

15

**MR BRETON:** Thank you.

**COMMISSIONER:** We'll start at 10 am.

**MR BRETON:** Thank you.

20

**COMMISSIONER:** And I'll adjourn until then. Thank you everybody.

**<THE HEARING ADJOURNED AT 4.11 PM**