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TRANSCRIPT OF PROCEEDINGS

O/N 93710

TASMANIAN INDUSTRIAL COMMISSION

PRESIDENT P.L. LEARY
DEPUTY PRESIDENT P.C. SHELLEY
COMMISSIONER J.P. McALPINE

T No 13227 of 2008
T No 13228 of 2008
T No 13229 of 2008
T No 13230 of 2008
T No 13231 of 2008
T No 13232 of 2008
T No 13303 of 2008

GENERAL CONDITIONS OF EMPLOYMENT AWARD

Application pursuant to the provisions of section 23(2)(b) of the Industrial Relations Act 1984 by the Minister administering the State Service Act 2000 to vary the above award re renaming of award, insertion of a new scope clause, adjustment to allowances, insertion of new classification structure, insertion of salary scales, insertion of comprehensive conditions of employment

COMMUNITY AND HEALTH SERVICES (PUBLIC SECTOR) AWARD

Application pursuant to the provisions of section 23(2)(b) of the Industrial Relations Act 1984 by the Minister administering the State Service Act 2000 to vary the above award re insertion of new classification structure with resultant salary scales, the insertion of additional conditions of employment, and the deletion of superfluous allowances

ADMINISTRATIVE AND CLERICAL EMPLOYEES AWARD

Application pursuant to the provisions of section 23(2)(b) of the Industrial Relations Act 1984 by the Minister administering the State Service Act 2000 to rescind the above award

PROFESSIONAL EMPLOYEES AWARD

Application pursuant to the provisions of section 23(2)(b) of the Industrial Relations Act 1984 by the Minister administering the State Service Act 2000 to rescind the above award

OPERATIONAL EMPLOYEES AWARD

Application pursuant to the provisions of section 23(2)(b) of the Industrial Relations Act 1984 by the Minister administering the State Service Act 2000 to rescind the above award

TECHNICAL EMPLOYEES AWARD

Application pursuant to the provisions of section 23(2)(b) of the Industrial Relations Act 1984 by the Minister administering the State Service Act 2000 to rescind the above award

TASMANIAN STATE SERVICE UNION AGREEMENT 2008

Application pursuant to the provisions of section 55(3) of the Industrial Relations Act 1984 by the Minister administering the State Service Act 2000 and the Australian Workers Union (Tasmanian Branch) for approval of the above award

HOBART

10.09 AM, MONDAY, 3 NOVEMBER 2008

PRESIDENT LEARY: Thank you. We have called all of the matters on but we can deal with them concurrently or in the proposed order of proceedings, so can I take appearances, please?

5 MR F. OGLE: Frank Ogle, representing the Minister administering the State Service Act, with MR P. BAKER and MR K. GREY.

PRESIDENT LEARY: Thank you.

10 MS K. JACKSON: I'm Kate Jackson. I appear on behalf of the Community and Public Sector Union, State Public Services Federation of Tasmania Incorporated, and also the Health Services Union of Australia, Tasmania Number 1 Branch. With me I have MR T. LYNCH from the CPSU and MR C. BROWN and MR T. JACOBSON from HACSU. Thank you.

15 PRESIDENT LEARY: Thank you

MR C.J. DODDS: If it pleases, I appear on behalf of the Australian Services Union, Dodds, C.J.

20 PRESIDENT LEARY: Thank you.

MR R. FLANAGAN: If it pleases the commission, Flanagan R, for the Australian Workers Union. I appear in relation to matter T13303 of 2008.

25 PRESIDENT LEARY: Thank you.

MR D. PYRKE If the commission pleases, Darryl Pyrke appearing on behalf of the Association of Professional Engineers, Scientists and Managers, Australia.

30 PRESIDENT LEARY: Thank you. Is that it? Okay. I declare the conference open. The order of proceedings as proposed we will follow, but we give no guarantee that we will wait till we get to point 6 to ask questions, so we will start with the opening remarks from the employer. Mr Ogle, you are going to do that, are you?

35 MR OGLE: Thank you, President. It is intended to make some broad comments in relation to the approach that has been taken, what has been achieved and the program for the future. Obviously I will be speaking from the employers point of view, and as per the order of proceedings, union members will have their say. I suppose we should put on the record that the objectives of what has been achieved were outlined in PSUWA2007, which indicated a framework and certain outcomes and outputs to be achieved.

45 In summary, these were to undertake a comprehensive review of classification standards, structures and salaries; develop a contemporary model of classification standards, structures, progression, focus on work value and individual capability and organisational productivity; provide parity arrangements compared to mainland Sate

Service employees who undertake similar work with similar work value. There was an agreement for a phased-in approach. The parties recognise the significant resources that this would take in research, developing and implementing – probably a fair bit of foresight in that, it did take a while - the parties agree to incremental
5 implementation.

I suppose in summary the approach that was taken was a number of stages. The first stage between July '07, when PSUWA was signed, and December '07 I would
10 categorise as the research stage. Then from December '07 to September '08 was the lengthy negotiation stage. An important stage was once we had reached agreement from September till today's date to come up with the industrial instruments that will be used for the future. One would have hoped that would have been the end of it but really, in many ways it is the start of what is an important implementation.

15 So from today's date through to March I think you could categorise that stage as the preliminary implementation, the review process and evaluation of standards and conditions. There was such a significant increase, I don't think I could stand here and say everything is going to be perfect, and we have addressed some of that in the words we have put in the agreement. Once we get to March '09 hopefully we have
20 removed some of those review processes, and there is an implementation, a true implementation stage, but we've still got some reviews to be undertaken and from March '09 also to monitor the reform stage.

I suppose from the employee's point of view there was a number of outcomes that
25 have been achieved. We believe it's the most comprehensive package involving a state service agreement and awards. It was ambitious when we started, it is probably still ambitious, but I think we have achieved what we set out to achieve, if you look at the objectives in PSUWA2007. Interestingly we have removed a number of anomalies that have evolved over the years, particularly in areas like the technical
30 employees – former Technical Employees Award, an operational award.

We have put in some monitoring report-back requirements. There has been an extensive restructure of the awards and the different levels within the state service. For instance, there has been amalgamation of three awards and 28 levels into the one
35 general stream in the state service and slightly different in the health and human services area. We have established a professional stream with six levels and you will notice that there are correlations between the levels. We have established a separate health and human services award, introduced advancement within levels, basically assessed on performance but as we go through the award there is still a work in
40 progress there, and we implement the new structures, classification standards with effect from 5 March.

Obviously we provide salary increases and changes to conditions. From the employer's point of view that is important when we align with our people
45 management structure in attracting quality persons at all levels in the state service. Generally the salary increases comprise of annual increases of 3.5 per cent from the dates indicated in the awards starting from the state service point of view on

27 November. There are structural adjustments, again commencing on 27 November, changes to progressions, which all in all delivers comparable and competitive salaries.

5 Interestingly and importantly it provides specific employment categories for young Tasmanians but also people re-entering the workforce. I suppose there have been a – if you read graduates traineeships, apprenticeships you tend to think of young people but also I think it is an important vehicle for people who want to re-enter the workforce to take up those sort of classifications. It also identified a number of
10 occupational groups we are still working on - they are called target occupational groups - to work through.

We have delivered conditions that are contemporary and flexible and we have also recognised and established a state service reform agenda which goes through a broad
15 number of agendas within the agreement. I have already mentioned youth employment. We have got to look at gender equity issues, the diversity of our workforce. Health and well being is an important element of the total workforce; amendments to the State Service Act. We also look at redeployment procedures. All of this will also be based on some demographic analysis.

20 I don't think we can set up awards without that over-arching demographic analysis. We are not in an environment where the employer can pick and choose. We've got to establish what our demographics are. Our ageing workforce is significant. Tasmania is the most aged workforce, if you like, and the state service is another step
25 in the aged workforce, which means we have to have flexibility to attract people to the state service. What we produce today and we have handed out - and we might need to give them exhibit numbers - is the State Service Union Agreement 2008, the Tasmanian State Service Award 2008 and the Health and Human Services (Tasmanian State Service) Award 2008.

30 For the information of the bench, what we have done is left the broad issues, the forward-looking issues, if you like, in the agreement, and we have endeavoured to put all conditions into one document; salaries through to conditions. We've gone back over many, many agreements to extract those provisions that, if you like, have
35 been hanging around for years and years. I think we've gone back as far as 1988, grabbed some of those conditions, so there will be a rescinding progress we go through for some of those agreements.

40 As I indicated before, I don't think the task is completely finished. There are ministerial directions and, if you like, custom and practice that have occurred. Where possible we have tried to grab those and incorporate those in the award, but again, that is a work in progress..

45 PRESIDENT LEARY: Is there some sort of moratorium on specific conditions that may come out of the woodwork in 12 months time or is it just going to be open ended, that if something is discovered that the award will be varied to pick up some

unique, specific, unusual, unknown at this stage – the known unknowns or the unknown unknowns or whatever they are?

5 MR OGLE: I think what we have tried to do in the agreement, President, is have two clauses, the no extra claims clause is probably more specific than normal. It recognises yes, there will be no extra claims about the specific of things that we have addressed, but also within the award the award recognises that there are ongoing processes and if you look at the agreement, clause 15, we talk about unintended consequences. I think in a sense that is that moratorium the parties have agreed. If
10 something does crop up and, as I indicated, I wouldn't be so bold to suggest there won't be something crop up - in fact, a few things cropped up this morning, so - - -

PRESIDENT LEARY: There you go.

15 MR OGLE: Yes. So what we have tried to do in that clause 15 is at least highlight for the purposes of all the parties, that we will work co-operatively together to ensure that these sort of unintended consequences aren't used by other parties as a technicality. So I think - - -

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PRESIDENT LEARY: That's the understanding of that. Yes, okay, that's fine.

MR OGLE: And I think you will read the unintended consequences, the no extra claims and the leave reserve matters, in conjunction, I think it paints a picture of
25 co-operation to address any of these issues.

PRESIDENT LEARY: Well, that provides the facility for addressing them if they do, and possibly will occur.

30 MR OGLE: Yes, President, I'm sure that's a possibility.

PRESIDENT LEARY: Okay. That's good.

MR OGLE: What the employer is looking for, I suppose today, is really we are
35 recommending to the bench that we have an order by consent that approves the agreement and the consolidated award, and we will rescind a number of awards through the proceedings today. I would indicate to the bench there are a couple of technicalities we might have to address in relation to amending the AWU Award quickly hereafter, to build in the salary divisor factor and we probably need to have a
40 separate application in relation to the ASU.

PRESIDENT LEARY: Is that the reference to applications needed from the ASU or the AWU?

45 MR OGLE: Yes.

PRESIDENT LEARY: At the end of the paper? Yes.

MR OGLE: Yes.

PRESIDENT LEARY: Could I just refer – you referred to the documents that you've provided.

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MR OGLE: Yes.

PRESIDENT LEARY: I'm swimming in paperwork at the moment. I've got a copy of the two awards that were previously provided to us. Are those the awards that we're working from or are there new copies?

10

MR OGLE: No, the awards you've been provided from this morning are the up to date as of 9 o'clock this morning with some - - -

15 PRESIDENT LEARY: So we've been provided with new copies this morning?

MR OGLE: Yes, new copies this morning.

PRESIDENT LEARY: Okay. Well, I have – both of mine are the same. Both of mine are Health and Human Services. What have you got?

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DEPUTY PRESIDENT SHELLEY: I've got one of each.

PRESIDENT LEARY: Have you got one each?

25

MR DODD: I've got one of each.

PRESIDENT LEARY: Could I have a copy of the other one, the State Service Award. Both of mine are the Human Services. No? Health and Human Services; Health and Human Services – I need one of those. Okay. All right. So get rid of those. Get rid of that. So you want to mark the documents now?

30

MR OGLE: If it please.

35 PRESIDENT LEARY: All right. If we mark the Tasmanian State Service Union Agreement 2008 – if we mark that A1.

40 **EXHIBIT #A1 TASMANIAN STATE SERVICE UNION AGREEMENT 2008**

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PRESIDENT LEARY: The Tasmanian State Service Award A2.

45 **EXHIBIT #A2 TASMANIAN STATE SERVICE AWARD**

PRESIDENT LEARY: And the Health and Human Services Tasmania State Service Award A3.

5 **EXHIBIT #A3 HEALTH AND HUMAN SERVICES TASMANIA STATE SERVICE AWARD**

10 PRESIDENT LEARY: And those are the three documents that we'll be working from. Okay. Thank you.

MR OGLE: That's my broad summary. President, I would indicate that in the order of proceedings it's not my intention to go through every single clause and every single word as we go through the agreement, the awards.
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PRESIDENT LEARY: We've brought our lunch.

MR OGLE: But we will highlight some areas that I think are significant, but I just highlight it's not my intention to go through word by word.
20

PRESIDENT LEARY: Okay. All right. Thank you. Nothing from – no? Ms Jackson, thank you?

MS JACKSON: Thank you. If it pleases the commission, I would like to set some context to this matter and to talk you through some of the history that's brought us here today. As you know, state servants currently draw their conditions from either the General Conditions of Employment Award, which acts as an umbrella for the four stream awards – the Administrative and Clerical, Operational, Technical and Professional – or in the case of employees of the Department of Health and Human Services, the Community and Health Services Award which contains the four streams.
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The four streams were introduced in the mid '90s and since then salaries and other conditions have come from an array of agreements – I think Mr Ogle mentioned dating back to the 1998 State Service Wages Extension Agreement, I think it was – and for some years now the parties have been mindful of the need to review, revamp and possibly replace the four streams because they are somewhat out of date and have fallen into disrepair and often disrepute. They reflect different work practices and really haven't kept pace with changes to work and workplace practices, that kind of thing.
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The parties agreed in 2004, and then again in 2007, to enter into a process to develop a more contemporary system with contemporary classification descriptors and a more relevant structure. In 2007 we registered the interim agreement which gave us the time and space to conduct a comprehensive review of the award classification structures. Mr Ogle talked us through clause 7.1 which contained the purpose, which was the objectives to undertake a comprehensive review to develop a contemporary
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model that delivered a salary increase; that was the 4.5 per cent that people enjoyed in December 2007; and to develop classification standards and instructions that provide parity arrangements for Tasmanian State Service employees with mainline public sector employees who undertake similar work with a similar work value.

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At clause 10 of that agreement we set out the review process and guardian principles for conduct during the review. This was supplemented at the time by a proposed approach to review of award classification standards and structures document which was tabled here in matter T12987. This document contained the best distillation of the objectives of this entire undertaking, which were – if you’ll permit me to read them to you:

To provide for a job classification methodology that is flexible, adaptable, dynamic and which has strong, consistent work value integrity and clearly delineates between levels; (b) to fairly assess work value in a public service environment to meet the challenges of a changing workforce demographic, workforce planning and advances in technology; to encourage recruitment attraction, development and retention of employees with particular consideration –

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as Mr Ogle mentioned –

for women, youth, workers from a disadvantaged background, and to recognise the development of skill and expertise acquired through learning and development that increased this organisational - - -

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PRESIDENT LEARY: Can you just slow down a bit?

MS JACKSON: Sorry – “productivity” – I’ve practised this so many times –

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to reward the higher value contribution of individual employees through active performance management, and finally, to provide better workforce management, tools and improvements in the workplace relationships and culture. This document set out a collaborative and co-operative arrangement between the parties to allow us to tackle such a wide-ranging and complicated issue.

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And all that that says is a kind of potted history of the impetus, rationale and objectives for the process, which is of course why we’re here today. Thank you.

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PRESIDENT LEARY: Okay. Thank you. Anything the other unions – want to add anything? No. All right. We’re up to point 4. Thank you, Mr Ogle?

MR OGLE: Thank you, President. I think the reference is A1, the Tasmanian State Service Union Agreement. I think the issues that I would highlight here for the advice of the bench – I indicated before what we tried to do, and I think we achieved, was only have those matters in the agreement of future – or actions of intent, or those

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issues we just didn't feel quite fitted within an award. So in a sense the agreement is the lightweight document, if you like. But it also sets out, importantly a state service reform agenda. I think you've probably seen such clauses in agreements before and sometimes you could think, well, will they ever get round to it. But it is important in the changing environment – we see these state service reform agendas to align with our management of people directions that we're developing for the state service.

As I indicated we need to align conditions, have flexibility with awards and agreements that recognise that we are in a changing environment when it comes to our workforce. Just some of the indicators we have is that obviously we have an aging workforce. We have a median age workforce of 51 years old in the state service. We only have 11 per cent youth employment in the state service. We need to right that ship to ensure we have younger people and make it attractive for younger people to want to come into the state service.

But the other group I think is important when we look at our employment market is to attract people who want to return to the workforce. Predominantly that might be women who have taken over care responsibilities. We've got to make it attractive to those sorts of people with different sets of skills to come back into the workforce. There's a whole list of issues there that we refer to. Health and well being is an important program, and again people could say, "Well, this is not going to happen." I can assure the bench it is. We'll have someone starting on Thursday as the project manager of that new initiative and we'll see things happening as soon as that person hits the ground. In fact some of these things are already starting to happen in a number of the categories.

So what we've tried to describe in the agreement is what we mean and what we intend to do, and you'll see that we also have a change in consultative clause that sets out the intent of the parties to work together through these change agendas. There's a number of issues there – 8, 9 and 10. Quite frankly we didn't know where to put them so they didn't quite fit with the award. Again they are extracts of previous agreements. I think the three of them come out of the 2004 agreement. So what we've just picked up is the words out of the 2004 agreement and put them in this agreement.

We've talked about award modernisation which again illustrates that we're down the path and we've taken the big step but again we believe that there are things that will come out of this process where we need the vehicle to come back to say we want – hopefully minor changes but, you know, in three years time if we don't have this sort of clause we'll find that the world does change; our employment market does change very quickly and we need the flexibility to address that.

Clause 12 is probably something both parties grapple with a bit because the Allied Health Professionals you know is an agreement and the Radiation Therapists General Agreement would be a separate agreement. We just believe we needed to make reference to that so there wasn't any confusion. Similarly with the AWU, they'll have a separate agreement. The grievance and dispute-settling procedures - - -

PRESIDENT LEARY: Just going back to the two agreements, are they going to continue on – what, until such time as they may be incorporated in the award, or are they just going to continue on separately as agreements, or hasn't that been determined yet?

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MR OGLE: For the time being they'll continue on as separate agreements.

PRESIDENT LEARY: Yes.

10 MR OGLE: I think the intent of the parties if we can is to build them as an appendix to the award but that will be - - -

PRESIDENT LEARY: Eventually.

15 MR OGLE: - - - party to those sort of negotiations. But you'll find that a lot of the conditions that are in those agreements have great similarity and it's the intent of the parties – you'll see at the moment that in some clauses there are different words. We would like to think as times goes by if the intent is the same we can have the same words. And we would hope through the Allied Health Professionals Agreement we
20 can align those sorts of conditions similarly with the radiation therapists and again the AWU will have a separate agreement award - - -

PRESIDENT LEARY: So this is basically just a holding arrangement until you work out how to do that?

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MR OGLE: Correct.

PRESIDENT LEARY: Okay. That's fine.

30 MR OGLE: That's certainly the intent. The grievance settling is standard. As I said previously, if you read clause 15, the unintended consequence is the no extra claims and the leave reserve matters. I think you should read those in conjunction. It sets out the intent of the parties. I suppose it's unusual in some ways in 16D to have sort of a reference to national and state federal issues, but quite frankly that's - - -

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PRESIDENT LEARY: It could be unusual from next year onwards.

MR OGLE: Quite correct, President. But it also could be about specific conditions and one of the ones that we would highlight there might be parental leave. So we left
40 ourselves sort of the flexibility if there are negotiations either of federal state or between the unions that we can come back and address those issues.

PRESIDENT LEARY: Well, that would also cover the possibility – is that the right word – of the national employment standards changing, which would be by
45 government anyway.

MR OGLE: Correct.

PRESIDENT LEARY: So that would be intended to pick up those sorts of changes that may or may not happen.

5 MR OGLE: That was our intent to at least give us that ability without getting into technicalities. The leave reserve matters, I would just point out that you embark on a review of districts, location allowance at some time. We've set ourselves a timetable to do that but we just believe until we bed down this award neither party has really got the time. We believe – and we'd be silly not to believe – that once we implement from 27 November there's some work to do in agency land in terms of review, target
10 occupational groups, review process. That will no doubt throw up some issues as we go, and even after that we believe that the bedding down and the implementation will take some time, hence we've left ourselves a timeframe for looking at district allowance, and the issue of shift work provisions in the State Service Award was as fundamental as it – we've never really had those sorts of provisions in the Tasmanian
15 – well, in the GCOE.

One could question how we did arrive at what we do. It is the intention of both parties to sit down and work through that, but one of the issues we found, that it's the nature that the state service has so many different occupational groups with different
20 arrangements that we need to look at that and try to come up with a standard framework and no doubt from that there might have to be individual agreements or flexibilities occur. We just don't believe it's one standard set of shift and roster provisions, although it's our intent to come up with a framework that sets the scene for those negotiations and agreements. So if the commission pleases, that's the
25 employer's submission in relation to the agreement.

PRESIDENT LEARY: Okay. Thank you. Ms Jackson?

30 MS JACKSON: Thank you. I would largely like to repeat a lot of what Mr Ogle has said about the agreement. As we mentioned, this agreement is quite small, because as far as we could we put the matters into the award rather than having - - -

PRESIDENT LEARY: But small in page numbers?

35 MS JACKSON: That's right, but not in substance – to have things in the award rather than the agreement. One of our big objectives in this was to have a much more simple set of conditions so people can go to the award that applies to them and not know that they have to look to different determinations and agreements and so on and so forth. So the period of operation – this agreement will go from 1 January
40 2008 until 8 March 2011, at which time I guess we'll start it all again. The State Service Reform Agenda – as Mr Ogle mentioned – is a very exciting forward-looking part of this agreement. There's still some work to be done in modernising and re-vitalising the public sector and I think there's a lot of things in here that we can do that we can start looking at very soon to give us a more vital public sector;
45 particularly things like the youth employment, the demographic review, the gender equity.

We've all heard the frightening workforce profiling assessments of how there will be nobody left in a very short space of time. Well, I think a lot of these things will help us deal with that and really come up with something pretty good. Then we have, as we mentioned, the email and internet access, breastfeeding facilities and training and
5 developing. These were things that all came from the '04 agreement and were thought not to be award matters but certainly something that we wanted to continue and to have available to us. We have the award modernisation which will be an ongoing process to make sure that we keep having modern and up-to-date awards.

10 Then the allied health professionals and radiation therapists will continue to draw their conditions from either the Tasmanian State Service Award or the Health and Human Services Tasmanian State Service Award as appropriate. We have the grievance and dispute-settling procedures, which of course mean that we will try to deal with grievances in the best fashion possible. And then the unintended
15 consequences – really, I mean, I'm sure you'll understand something this complicated may well result in something that we hadn't anticipated dropping off or something having been misplaced.

PRESIDENT LEARY: I think it's inevitable.
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MS JACKSON: Well, this gives us the opportunity to deal with that as locally as we can, so we'll say, "This was an unintended consequence" and then discuss that. Then we have no extra claims clause, which limits us to matters in the award but doesn't of course limit us to matters not contained in the award. So where the
25 awards are silent we'll have the opportunity to pursue those things. So this means the things currently contained in administrative determinations that we feel might be better placed in an award and that kind of thing, and the leave reserve matters: there are two things that we would really like to start on quite soon. One is the location or district allowances which I understand haven't been examined for some time and
30 could do with a review, and the second is shift work.

More and more operations are becoming more constant, more 24-hour, and the General Conditions of Employment Award or the new Tasmanian State Service Award really doesn't have enough to deal with shift working provisions in the public
35 sector. So we'd like to look at those and come up with a framework to guide this. As Mr Ogle mentioned, this might require separate or local arrangements with different groups, but it would be nice to have a framework that provides parameters for that.

40 PRESIDENT LEARY: Well, both of those issues are huge issues to be dealt with, so you're going to have your work cut out for you.

MS JACKSON: We're used to that. And that completes my submission on the agreement. Thank you.

45 PRESIDENT LEARY: All right. Thank you. Do you have any questions on that matter? Okay.

MR FLANAGAN: President, I wonder if I might be able to address one aspect of the agreement.

PRESIDENT LEARY: Yes, please do.

5

MR FLANAGAN: The AWU supports the approval of the agreement which is before you, but I do seek to clarify one aspect of it, and that's the relationship in clause 11C to clause 13 of the agreement. The expectation of the AWU is that its Tasmanian State Sector Award will continue as a stand-alone award into the future.

10 However, as a part of this agreement the classification structure which will be incorporated into a Tasmanian State Service Award, as it's proposed to be named, will be incorporated into the AWU Award. Also as a part of that process the formula for the payment of wages for people regulated by the AWU Tasmanian State Sector Award will be brought into line with the formula which applies to employees
15 regulated by the Tasmanian Service Award.

Now, the simple distinction in the different formula is that the AWUs formula is based on payment by the week, whereas the formula for the Tasmanian State Service Award is based on payment by the day, and that in fact has an impact on the figures
20 which are paid. So as a part of improving efficiency for those departments that employ people under the AWU Award we've agreed to that.

PRESIDENT LEARY: So are you saying that the AWU Award will reflect basically what's in the State Service Award other than - - -

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MR FLANAGAN: To the extent of the classification for salaries, yes.

PRESIDENT LEARY: - - - other than the payment formula?

30 MR FLANAGAN: That's right. It will reflect what's in there, but it doesn't – it will continue to have its own - - -

PRESIDENT LEARY: Why is it continuing?

35 MR FLANAGAN: We have different standards in respect of our work penalty rates, etcetera.

PRESIDENT LEARY: Okay. So the award is going to continue on, what, indefinitely?

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MR FLANAGAN: Correct, yes.

PRESIDENT LEARY: We might ask you about that later.

45 MR FLANAGAN: Okay.

PRESIDENT LEARY: Thank you. All right. We're now up to questions from the bench, I told you we wouldn't comply. You have no questions? The Tasmanian State Service Award which is A2, are you going to take us quickly through that document?

5

MR OGLE: Quickly through, yes.

PRESIDENT LEARY: Quickly means not word-by-word.

10 MR OGLE: Quickly, but it's not my intention to go through it word-by-word. I think I've read every word 35 times and I have dreams about it.

PRESIDENT LEARY: Well, can we test you and see whether you can do it without referring to the document?

15

MR OGLE: I could just about do that, but I don't want a test today. Really, just some general comments. I think the Tasmanian State Service Award intends to develop and have one industrial document that has the terms and conditions of employment. Previously those sorts of conditions sort of existed in GCOE. By anyone's measure it wasn't comprehensive. There was a lot of gaps, even though it was the called the General Conditions of Service. I don't think general meant detailed, I think general just meant general, so there was a lot of gaps as I said. What we've tried to do is incorporate agreements, the negotiations that occurred, the salaries and entitlements, and as you may be aware we've had issues like ministerial directions and custom and practice and all sorts of things that occurred.

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Now, the intent of the parties was to put everything we could into this Tasmanian State Service Award, and as you would also appreciate a number of other agreements and awards hang off, or did hang off the General Conditions of Service. They have a cross reference to the General Conditions of Service. We would anticipate they would have a cross reference again to the Tasmanian State Service Award. As I've indicated I believe this is a work in progress that we need to leave it open to keep continuing to develop this award to ensure that it does become the one document that covers the conditions of employment for state service employees.

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Just some comments on some specific issues. In terms of the salaries I'd like to make the point they are the actual salaries. You might say, "Why is he saying that?" In the past we've had issues with some of our payroll clerks, well intentioned, developed their own spreadsheets, all those sorts of things which have thrown a dollar here, a dollar there, and as you evolve over the years it can be about \$10 out; it just makes it a mess. So what we're saying is, these salaries are the salaries to be applied.

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PRESIDENT LEARY: So they're paid rates. Total rates, consolidated rates, the actual rates, real rates.

45

MR OGLE: Real rates there then, I would like to describe them as.

PRESIDENT LEARY: So if I pick up the award and I'm a classification B5R1A, as of 1 December last year – no, '07 – yes, '07, my total salary was 56,854.

MR OGLE: I don't guarantee that bit, but I'll guarantee the future.

5

PRESIDENT LEARY: All right. Well, let's pick a contemporary date, 27 November this year, if I'm a B5R1B I'm on \$61,012.

MR OGLE: You're testing me, President, but I'll say correct.

10

PRESIDENT LEARY: So there are no other – and I think Ms Jackson made the point – there are no other agreements or documents that will give me anything extra in my salary, in my 38 hour, 35 hour or 40 hour whatever it is.

15 MR OGLE: That's what it is.

PRESIDENT LEARY: Okay, so they're paid rates awards which is the terminology that's usually used in industrial jurisdictions. Paid rates awards is the total rate of pay with no agreement document increases on top.

20

MR OGLE: No.

PRESIDENT LEARY: And they're different to – I won't go there, I'll save that up for later.

25

MR OGLE: That's the only comment I wanted to make on salaries. I suppose on the classification I'd have to indicate I believe these are the most comprehensive classification standards written and I think they're a compliment to the parties who worked through these standards. Not only do they set out standards and descriptors to be able to classify jobs, but it also highlights differences between the levels. I suppose in many ways it becomes easy to classify jobs when you have differences and you have less of them. In the old – in all the general streams there was little differences between - - -

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35 PRESIDENT LEARY: They were very general.

MR OGLE: Yes – different levels. And we believe this will establish a better vehicle to classify a job, to establish differences between jobs.

40 PRESIDENT LEARY: For those of us that work in this arena it reads fairly well to me and quite simple to understand. Is there going to be some sort of training or information to the agencies as to how these classification definitions apply?

MR OGLE: Absolutely.

45

PRESIDENT LEARY: Because it's pretty simplistic to us, but I think for people who are not familiar with the way these are to be applied it may be a bit confusing.

MR OGLE: The intention of the employer is to commence training as soon as it's approved, over at least the next three weeks towards implementation. But I think you raise a good point that there needs to be an ongoing process.

5 PRESIDENT LEARY: Yes.

MR OGLE: Classification standards are easy for those that live with them daily. I think it's important that I make the point that the classification standards relate to work value, the salaries are, if you like, a bargain negotiated outcome.

10

PRESIDENT LEARY: That was the difference I was going to talk about, but I decided I'd leave it, because Mr Baker was going a bit purple in the face.

MR OGLE: So what we've tried to do there is in those descriptors what it brought together is the previous three streams and based the level then on work value. But I need to make the point that the actual salaries were negotiated outcomes.

15

PRESIDENT LEARY: Yes. The classification definitions are based on the value work. Just apropos to that is there anywhere in any of the documents what is the work value rate? For instance there used to be or it used to be a requirement under the principles to have the minimum rate award – the minimum award rate, and then any bargained outcomes were a separate figure, and then there was a total figure.

20

MR OGLE: No, we didn't - - -

25

PRESIDENT LEARY: You've just got a total package here.

MR OGLE: A total package.

PRESIDENT LEARY: Okay. That may be something that – because we don't know what the future holds it may be something that we need to have reference to - - -

30

MR OGLE: Are you talking about a minimum base rate are you?

35

PRESIDENT LEARY: We moved away from minimum rates which reflect work, theoretically anyway, not maybe in this jurisdiction, but reflect work value. I'm just thinking for historical purposes.

MR OGLE: Can we make a note of that, President? I'm sure we can do it.

40

PRESIDENT LEARY: I'm happy to talk to you about that, but it should be fairly easy before this becomes the practice several years down the track.

MR OGLE: Yes, okay.

45

PRESIDENT LEARY: Because we don't know – well, we don't know what the future holds as far as wage fixation, and I'm quite sure that somewhere down the track someone is going to wake up to the wonders of work value and over award payments and so forth, and it might be handy just to have a historical document there
5 that records what that was.

MR OGLE: I think all the parties agree with that. We probably just need time to figure out exactly what that calculation - - -

10 PRESIDENT LEARY: Well, that's right, where to start.

MR OGLE: My next reference is in relation to meals and travel allowance. Really this has been on the agenda for a couple of years now in terms of updating the rates, and what we've related to is the Australian Tax Office rates in linking travel
15 allowance. The rest of that part incorporates other conditions from various sources, but largely it doesn't change them. Part V is a workforce flexibility. It reflects, I believe, the requirements of both business and individuals. The hours of work in Part VI largely reflects present provisions and actual conditions. It updates, again,
20 And you will find it starts to align up all state servants covered by availability and re-call. Part VI on shift work is a leave reserve matter as far as the state service generally is concerned.

PRESIDENT LEARY: It's part of the leave reserved.
25

MR OGLE: And the President is right that that will be a decent body of work. I think it's fair to say we tried during these processes, but recognise that we couldn't hold up everything for these proceedings, and that will take - - -

30 PRESIDENT LEARY: All that one.

MR OGLE: It will take some time. Leave and holidays I think we've modernised and incorporated all those things from different places into the leave and holidays component. Translation is probably an interesting one here. What we've tried to do
35 is establish all the translation arrangements. We've established a review process that is probably from a personal point of view more prescriptive than I would like, but it also recognises the need for some sort of detailed process that people know exactly what their rights and the steps and the time frames are.

40 The important part of that review process is to recognise that we believe there's a preliminary process where people talk to their manager, and some of these issues hopefully can be sorted by that level of communication at a lower – sorry, at a local level and then if there's still disputation then it can be billed up the chain.

45 PRESIDENT LEARY: So is it initially just point-to-point translation, and then where's there's queries or questions they'll be dealt with at a local level?

MR OGLE: Correct. Yes, it's point to point as at December. So in effect that becomes an increase, and then technically from December to March is the review process where the person may be dissatisfied or query their – well, there are two issues – can query the actual duties on which the assessment has been made, or query
5 the classification standard. What we've agreed, where there's a query on the duties, or a grievance on the duties that have been assessed, that sort of grievance will go to the State Service Commissioner. If there's still a problem then with the classification level then eventually it can come to the Industrial Commission. But if there's a pure grievance on an industrial matter it goes through the process of this local level,
10 agency level but can end with the Industrial Commission.

PRESIDENT LEARY: Because it almost then becomes an issue about classification rather than translation.

15 MR OGLE: Correct. And what we've tried to do – well, more than tried, we've done in the translation tables particularly for groups – I think the admin/clerical is relatively straightforward. There's some broadbanding, but generally speaking it is simpler. In terms of the technical stream we've had to specifically identify for technical level 2, level 4, how they translate. What's actually occurred there, we've
20 recognised for technical 2, for example, that against the classification standards they're quite rightfully classified at band 3. So what happens at December is they receive the 4 per cent increase, but rather than go through a review process it is recognised that people at that level then translate to band 3, based on the classification standard.

25 Again, the same thing happened for technical level 4 and operation 7 and operation 8; operation 7 in the state service being the trade qualified level. If you then read what you expect of a trades qualified, and then read the classification standard, it was recognised by both parties it was silly to go through a review process
30 to achieve that. The parties recognised that the assessment against the classification standard made them band 3. So as at March they go straight to band 3.

PRESIDENT LEARY: Okay.

35 MR OGLE: That's probably the level of detail I would submit.

PRESIDENT LEARY: All right. Ms Jackson, did you want to add something to that?

40 MS JACKSON: Yes, thank you. With your permission I'd like to talk first about the major change to these awards, and that's the classification structures and standards, and then move to some of the more interesting clauses in the award, and I think they're all very interesting. The renamed awards will contain 10 general stream bands and six professional stream bands for the Tasmanian State Service
45 Award. The eight bands of the general scheme, the first eight cover the 28 levels that were previously in the Administrative and Clerical, Technical and Operational Awards. The last two bands haven't previously existed, so that's band 9 and 10.

These provide a range to recognise and cater for specialist high-level skills. So previously there wasn't a range appropriate to dealing with these people.

5 The six professional bands encapsulate 1 to 5 of the current Professional Award and then bands 5 and 6 of the professional stream align with bands 9 and 10 of the general stream – no, that was – sorry. The new structure features some broadbanding as Mr Ogle said, at certain levels, and this, I think, includes two or more levels of the current awards, and this allows for a greater range within the bands which is designed to cater for growth in skills and abilities and experience within a role, as I'm sure you'll appreciate.

15 Developing the new classification standards across an operation as complex as the public sector was a monumental and sometimes daunting task. We undertook rigorous debate on both how to approach the process and what the final product should look like. As with all such complicated negotiations the result is something of a compromise. While of course we support the application here today, we do hold some reservations as to whether all of the elements of the classification standards are ultimately ideal.

20 However, we are reassured that the parties have committed to review the process and in appendix 1, clause 2 of the award we have a review process that gives us the opportunity to look at the classification standards once we've tried to reclassify people on a large scale, and to make adjustments and modifications that become apparent as necessary. We're confident certainly in the substance of these classification standards, but remain mindful that without having used the standards on a large scale, it's hard to be sure about what, if anything, would require attention.

PRESIDENT LEARY: It is a work in progress.

30 MS JACKSON: It is. So there are a number of elements here I'd like to talk you through, but they all get a bit intermingled, so I'd like to deal with the salaries first, because they're the one that can be dealt with as a discrete unit, as it were. During the life of the agreement that we discussed earlier, salary increases will be made up of annual increases and also structural adjustment increases. The annual increases will be paid as follows: three-and-a-half per cent on the 27th or the first full pay period from 27 November 2008 and then three-and-a-half per cent from the same first full pay period from 26 November 2009, and a final three-and-a-half per cent from 25 November 2010.

40 In addition there will be structural adjustment increases paid on the first full pay period from 27 November 2008, so the first of those is paid on the same day as the first annual increase; one-and-a-half per cent on 5 March next year, and a final two per cent on 3 March 2011, which of course is the end of this agreement – yes, the end of the agreement. In addition to the structural increases there is now a progression point in the bands that is a minimum of 2.6 per cent higher than the highest point a person could previously have reached under the old increments.

The next thing I would like to discuss is the translation into this new structure. Now, I think it important firstly to point out there is a no disadvantage clause in this award, which reads:

5 *It is a term of this award that no employee is to be disadvantaged by the
implementation of the new classification structure and any associated review
including salary levels that employees were expected to progress to under the
previous employment arrangements. This guarantee will be subject to normal
10 satisfactory performance as required in the previous arrangements to access
salary progression points.*

This is particularly important for - currently in the Technical Award at level one due to a decision in 2006, people currently at technical level 1 are entitled to progress through technical level 1 years 1 to 5, and then following 12 months satisfactory
15 service at that level into technical level 2, and then all the way up through years 1 to 5 there. This is important to note at this point because that covers some three bands of the new structure. So we picked out the points that technical people will progress to so that they're not disadvantaged. They will in fact pick up the old technical points, which means that they skip every other point in this new - - -

20 DEPUTY PRESIDENT SHELLEY: And they don't stay at a training level forever.

MS JACKSON: They do not, which they are very pleased to hear. On then to the translation process. Now, as Mr Ogle said, effectively this will occur in two parts.
25 The first is the point-to-point translation, and I have for you here a little table, because this is hard to explain without looking at it. So can I hand these up?

DEPUTY PRESIDENT SHELLEY: Please.

30 MS JACKSON: I've got one for you.

DEPUTY PRESIDENT SHELLEY: Can I just go back to the no-disadvantage clause? Does that apply to conditions as well as to wages?

35 MS JACKSON: I believe not, because some conditions have been changed, but there is the unintended consequence part. So if anything has been dropped out unintentionally, then that will be picked up, but some of the conditions have been changed and that was intended. All right, so the first point of this translation is point-to-point, so on 27 November the Tasmanian State Service Award people will
40 follow their salary into the new structure. This will effectively free us from the four streams and mean that people are now within the new bank structure.

On the same day they will receive the 3.5 per cent annual increase that I mentioned, and the 0.5 per cent structural adjustment increase. So just by way of example, the
45 green line that you have shows you what will happen to people currently classified at admin and clerical level 4, year 4. Now, this is the run of the mill point-to-point translation, if you will. These people are currently on the salary of \$46,771 although,

as Mr Ogle says, there could be a margin of error here across the agency. They will follow their salary to exactly the same point, \$46,771 and on the same day receive the four per cent made up of the three-and-a-half and the half a per cent, and on they go.

5

However, people at A and C 4 year 1 have a slightly different track. They are currently on a salary of \$44,019. They follow that point-to-point, only to discover that that salary point has been phased out. So they go immediately to the next available point which takes them to \$46,736, which includes the four per cent and another increase as well. So they're now in the new structure. And I've coloured for you all of the orange bands on the left-hand side, bands that have a letter rather than a number. This means that they're not permanent so they'll phase out, some immediately and some slightly later on. But ultimately we'll only have bands with a number. We'll have a band and then a range, and then a number down the side. All the letters will disappear.

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15

PRESIDENT LEARY: That's a progressive thing.

MS JACKSON: It is.

20

PRESIDENT LEARY: Yes.

MS JACKSON: A lot of these do drop out immediately but a few carry on for a little while. So that's the point-to-point part taken care of. The next part of the translation is concerned with aligning work to the classification standards. Obviously part of the impetus for this whole thing was the fact that a lot of people feel they are not currently classified appropriately. Often this is due to restrictions in the awards as much as anything else. So moving people point-to-point with the new structure would not necessarily fix the whole problem. There would still be people who feel that they don't align appropriately.

25
30

So the second part of this involves aligning the duties people are doing to the classification standards we now have. Agencies are currently examining everybody's statement of duties - which is a task that should be commended - and assigning them to a classification band. This will result in a letter being sent to each employee to advise them of the band to which their duties will translate. This is to be concluded by 5 March for the Tasmanian State Service Award. 5 March is important because it serves as the date to which any backdating will be made if the translation letter is late, or if, subsequent to a review, people are translated higher than they were originally.

35
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It's also the date people get the one-and-a-half per cent structural adjustment increase and it's also the date people who have been on the top of their current classification for more than 12 months will have now access to the new classification point, the one I mentioned, that's a minimum of 2.6 per cent higher than the one they could previously have obtained.

45

PRESIDENT LEARY: Just slow down a bit. You're losing me.

MS JACKSON: Sorry, what would you like me to go back to?

5 PRESIDENT LEARY: Back to the structural adjustment increase.

MS JACKSON: Yes.

PRESIDENT LEARY: It comes in on 1 March.

10 MS JACKSON: 5 March.

PRESIDENT LEARY: It says here 1 March.

15 MS JACKSON: It does, you're right.

PRESIDENT LEARY: Yes. So that applies – why is that paid? What does that represent?

20 MS JACKSON: That is one of the structural adjustment increases that are made as a part of this award. One of the things we wanted to do was align compensation to similar compensation for other state service employees in other jurisdictions.

PRESIDENT LEARY: So it's got nothing to do with the classification structure or

25 the position descriptions, because you were talking about lining up the position descriptions against each individual.

MS JACKSON: Yes, they occur on the same day.

30 PRESIDENT LEARY: I misunderstood you, that that's what that represented. That's not the case.

MS JACKSON: No, these are the - - -

35 PRESIDENT LEARY: That's another exercise.

MS JACKSON: These are part of the salary increases, on the same day however.

PRESIDENT LEARY: Okay, so it's just a salary increase under a fancy name.

40 MS JACKSON: Yes.

PRESIDENT LEARY: Okay.

45 MS JACKSON: Also, when we're discussing the classification there, it's important to note there a bunch of target occupational groups, who are groups we have elected to deal with as a group independently. Some of them already have separate

structures registered under the State Service Agreement, no, the State Service Act, with the State Service Commissioner. So they are the computer systems officers who have had their own structure for quite a long while. There are customer service officers who also have a separate structure. They're the Service Tas people.

5

We have also the quarantine officers, the inspectors at Workplace Standards, the transport inspectors, electrical trades workers, the public sector – sorry, police public inquiry officers, so they are the customer-service people in police stations, the environmental analytical laboratory, both technical and professional people there, the parks rangers and field officers and Royal Botanic Garden staff and school-support staff and library technicians.

10

These are all people who either have a structure that's currently independent and need to be addressed, or in the case of some are contained currently in a section 55 agreement and which is due for examining, or who have a structure that doesn't look like it will align perfectly with the new band, so for these people we will look at them and either amend the structure slightly to suit them better or look at the best place to put them into the structure, and this is to be concluded by 27 November this year for these people to be notified shortly.

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PRESIDENT LEARY: Three weeks away.

MS JACKSON: I know.

25

PRESIDENT LEARY: Or thereabouts.

MS JACKSON: The next thing then is the review process, as you might imagine. People will not all necessarily be happy about the translation letter they get. They may feel that their duties are still incorrectly classified, so we have three steps to this review. The first is an internal review.

30

PRESIDENT LEARY: Is that on request, or is that just automatic?

MS JACKSON: No, it's on request.

35

PRESIDENT LEARY: On request, yes.

MS JACKSON: People have 14 days to bring the issue up at a local level. There will be an agreed template. They take this to their line manager and explain their concerns with the translation. The agency is then to notify people of the outcome of this translation within 14 days as well. And I would note at this point there are timelines in the award and we all expect to keep to them, but of course there may be some unforeseen circumstances and we understand that this can happen, and we commit to perhaps extending or amending timelines where appropriate.

40

45

So the first review is very informal, internal. People take the agreed template to their line manager, have the discussion. If they're still dissatisfied they can apply for a

second internal review, again using an agreed template. So within 28 days they must use the template, state the grounds for their review, which includes either their concern with the duties and responsibilities, whether or not they're agreed, or whether the duties have been appropriately classified. This is submitted to the
5 director or manager of the HR department, who will then - - -

PRESIDENT LEARY: But is any – are any of the employees having their duties changed in this exercise? This is just a translation, isn't it?

10 MS JACKSON: It is - - -

PRESIDENT LEARY: So it's really a review of the current position.

15 MS JACKSON: It is, but some statements of duties haven't been examined for quite some time.

PRESIDENT LEARY: I'm just thinking 27 November is not far away, that's why I'm asking.

20 MS JACKSON: This is to be done by March. Sorry, I should have mentioned that.

PRESIDENT LEARY: March 1, okay.

25 MS JACKSON: This is the March one.

PRESIDENT LEARY: All right.

30 MS JACKSON: And this gives us another three months or so, and I think it will be well needed.

PRESIDENT LEARY: Because you'll need to be clear which position is being reviewed, whether the current position has not changed but there's a disagreement about the translation, or whether the position has changed and should be reclassified, because they are two different exercises.

35 MS JACKSON: Absolutely, and a lot of this is going on at the moment. So this is where people explain that either they're unhappy with the duties and responsibilities, the description of those in their statement of duties – they may feel that that's not appropriate – or they may feel that the duties are described appropriately but they're
40 not assessed appropriately against the classification descriptors. This is to be submitted to the director or manager of HR, who will then undertake a review and – who will have a review undertaken. They will sign that off and provide a recommendation to the head of agency. As far as possible employees are to be
45 advised of the outcome of this review within 28 days.

And finally we get to the external leg of this review. Now, if people are still unhappy with the description of their duties and responsibilities they can take that to

the Office of the State Service Commission within 14 days, who will make a decision. Also there may be people who are happy with the description of their duties and responsibilities, but not happy still with the way that's assessed against the classification descriptors. So they will have 14 days to bring that to the Tasmanian Industrial Commission.

PRESIDENT LEARY: Are we reviewing the State Service Commissioner's decision, or are we looking at the application fresh and new?

10 MS JACKSON: Fresh and new I believe.

PRESIDENT LEARY: So they get two bites at the cherry. If you don't like one you take it somewhere else. Is that it?

15 MR LYNCH: No, Madam President. There's actually two separate processes. The – what would go to the State Service Commissioner would be seeking a review of my statement of duties, my grievance about my statement of duties. Once that statement of duties is agreed - - -

20 PRESIDENT LEARY: That it's wrongly classified.

MR LYNCH: - - - then there may be an issue about classification.

PRESIDENT LEARY: Right.

25

MR LYNCH: It would only be the classification that would then go to the TIC.

PRESIDENT LEARY: And what do you go to the State Service Commissioner for?

30 MR LYNCH: To reach agreement on the statement of duties. That somebody may be aggrieved that their statement of duties doesn't actually reflect the job that they're performing.

PRESIDENT LEARY: Okay, yes, all right.

35

MR LYNCH: So when they came to - - -

PRESIDENT LEARY: We'll deal with that as it happens.

40 MR LYNCH: When they came to the commission there would be agreement on the statement of duties.

PRESIDENT LEARY: Yes.

45 MR LYNCH: Their only discrepancy would be around whether that was then correctly classified.

PRESIDENT LEARY: Correctly classified or not, okay. So the commission has nothing to do with what's done in the other places. It's separate - - -

MR LYNCH: That's correct.

5

PRESIDENT LEARY: That's what I needed to clarify, otherwise we have to exercise House v King.

10 DEPUTY PRESIDENT SHELLEY: Yes, but the classification dispute is no different to the classification disputes that we currently deal with.

MS JACKSON: Absolutely.

DEPUTY PRESIDENT SHELLEY: Yes.

15

MS JACKSON: At any point during these review processes the application may result in a substantive classification change, so it may be decided that the person should have been translated to a different level, in which case that will be made with effect from 5 March which is when this is to be concluded.

20

DEPUTY PRESIDENT SHELLEY: That exercise.

MS JACKSON: Translation does not apply to duties assessed by bands 9 and 10 of the general stream of 6 of the professional stream because they're not a level to which anybody can translate currently. They're new levels. And then again, to reiterate the timeframes, as far as possible what we will adhere to, but of course there may be circumstances beyond a person's control. So I would like now just to talk quickly through the award in not much detail. So firstly of course the award has been renamed to the Tasmanian State Service Award, and the scope – this will include everybody employed under the State Service Act 2000, except of course the people employed by the Department of Health and Human Services who will have their own award.

25

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DEPUTY PRESIDENT SHELLEY: What about people employed, the nurses, the teachers and the police and fire brigades?

35

MS JACKSON: I don't believe they are covered by this award because they have their own - - -

DEPUTY PRESIDENT SHELLEY: They're not covered by the award but they're covered by the State Service Act.

40

MS JACKSON: Yes, but they will continue to have their own awards. They may well - - -

45

DEPUTY PRESIDENT SHELLEY: Do you want to put some exclusion in there, just to absolutely clarify it beyond any doubt?

MS JACKSON: I believe there is one.

DEPUTY PRESIDENT SHELLEY: Is there?

5 MS JACKSON: Yes, there is, because this award covers people who have a classification in here, which is why we had to go to the trouble of stating the allied health professionals and the radiation therapists, to indicate that they'll continue to pick up their conditions from here.

10 PRESIDENT LEARY: Yes, that's not the scope though, is it?

MS JACKSON: No.

PRESIDENT LEARY:

15

For whom a classification is claimed in this award –

Yes, it might cover it.

20 MS JACKSON: The day of operation, this is effective from 28 – sorry – 27 November 2008, but I would note the whole classification structure will not be effective until 5 March 2009.

25 COMMISSIONER McALPINE: Sorry, just for clarity here, we – on the cover sheet we've got from the first full pay period, but in item 4, date of operation, it says on and from the 27th. Can we get some consistency?

30 MR LYNCH: Commissioner, I think that is correct. The pay itself will be from the first full pay period after the 27th. We want the award to come into effect on the 27th, so the other conditions matters within this award would be in place from the 27th. The only exclusion then is the classification structure itself, which is not effective until 5 March. So we've got that interim period between December and March.

35 COMMISSIONER McALPINE: And is 5 March an absolute date, or is it first full pay period afterwards?

MR LYNCH: 5 March, again by way of payment, is for the first full pay period on or after, but for the classification structure it will be effective from 5 March.

40 COMMISSIONER McALPINE: Okay, thank you.

45 MS JACKSON: So just some new parts to this award. We now have a definition of employment categories, or we have a clause dealing with employment categories which includes definition of the categories, and it also includes a definition of casual employees which we haven't previously had. At Part II, clause 1 we have the calculation of salaries. This has picked up customer practice from agencies and put it into an award. It also includes calculation for part-time employees, which I

understand hasn't previously existed, and has resulted traditionally in some inequities, but this one is structured so it will be the same, but to the number of hours. At clause 4 of Part II we have the advanced assessment-salary progression.

5 DEPUTY PRESIDENT SHELLEY: Have you got the page numbers?

MS JACKSON: Yes, I can - - -

DEPUTY PRESIDENT SHELLEY: Thank you.

10

MS JACKSON: Page 15, yes, this clause will be the advanced assessment points. I printed yesterday's version so we may have different lines, but Tom has got the right one.

15 PRESIDENT LEARY: I've got a spare one if you want one, I think.

MS JACKSON: Just because I like to make things hard I printed it really small. The advanced assessment and progression guidelines, because this is a new thing we'll now have advanced assessment and salary progression, rather than increments. We'll develop agreed guidelines for these and these will be in effect from March. I also should have mentioned before, on 5 March, this is when progression through the bands will start, so as people's increments fall due they'll receive the increments – sorry – the progression points as they fall, except of course for those people who have been previously at the top of their range for more than 12 months and so haven't been entitled to an increment for 12 months or more. They will start from March in the new structure and go from there. Until the agreed guidelines are developed, normal progression arrangements will apply. So that will be the current, I guess, requirements of satisfactory performance.

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30 PRESIDENT LEARY: That's through each of the bands, but to move into the next band.

MS JACKSON: No, within the bands.

35 PRESIDENT LEARY: Yes, and what's the criteria for moving in the next band? Is that continuing?

MS JACKSON: No, no, same as currently. So that would have to be an advertised vacancy. The next new thing we have is clause 9, which is page - - -

40

PRESIDENT LEARY: Part II?

MS JACKSON: Sorry?

45 PRESIDENT LEARY: Still at Part II, yes?

MS JACKSON: Part II still, yes. This is page 27. We have a market allowance, which is again one of the factors designed to deal with attraction and retention in the public sector. There are some occupations that require very specialist skills or very scarce skills often, or they have a real critical impact, the skills that we're looking
5 for, or in some cases the market dictates that these may be paid possibly above what we've always considered the work value level, so there will now be an allowance of up to 10 per cent above the maximum salary specified for the bands that these duties would fall into.

10 PRESIDENT LEARY: Is that for an individual or a particular band classification?

MS JACKSON: For an individual or an occupational group.

PRESIDENT LEARY: Okay. So is the award going to be varied, or is that going to
15 be some separate arrangement?

MS JACKSON: No, it will just apply to the group or the person.

PRESIDENT LEARY: So the individuals?
20

MS JACKSON: Yes.

PRESIDENT LEARY: Whether they're in a group of individuals or an individual
25 individual?

MS JACKSON: Yes.

PRESIDENT LEARY: Yes.

30 MS JACKSON: It's designed to maintain the integrity of the structure, while still - - -

PRESIDENT LEARY: That's why I'm asking whether the award moves.

35 MS JACKSON: No.

PRESIDENT LEARY: It doesn't, okay.

40 MS JACKSON: Because that's what had happened in the past, the award had moved and really it had got sort of out of whack with itself.

PRESIDENT LEARY: I don't want to know.

45 MS JACKSON: Fair enough. New things we have also, still on the same page and line, page 27, the clause 10, still at Part II, the higher-duties allowance, and then the more-responsible duties allowance. These formerly, as in previously, had some quite rigorous requirements around them. It was – I think – 40 days for one level, or 10 or

20 days, depending on classification for two or more levels that a person acted in a higher-duties position or a position that had higher duties or part of that position. The new award now requires people to act in a – or to undertake duties that are classified one band higher for five days or more, which is quite a radical change from
5 the previous arrangements. We then get to Part III, which - - -

PRESIDENT LEARY: So are those two allowances the same?

10 MS JACKSON: For the - - -

PRESIDENT LEARY: It has a familiar ring to it. Mr Lynch is having a bit of a grin there.

15 MR LYNCH: Are they the same as previously?

PRESIDENT LEARY: The higher duties and more responsibilities, are they the same allowance?

20 MR LYNCH: No, they're not. Higher duties is when you take on the whole of the role.

PRESIDENT LEARY: Right.

25 MR LYNCH: And more responsible is when you take on part of the role.

PRESIDENT LEARY: Okay.

30 MS JACKSON: But the requirement is the same, the five days for one or more level. We then have the classification descriptors which are page 29 – so this is the first part of Part III. We have brand new classification descriptors for the general and professional streams. Firstly, I would say at A, Part II, we describe the best fit requirement for these because these descriptors are much broader and wider. It's not the case with the previous descriptors that they were so small you had to satisfy each and every word. These are more of a best-fit scenario, so - - -
35

DEPUTY PRESIDENT SHELLEY: And in fact, teachers, nurses and so on could actually fit within this classification descriptor, so I think you probably do need to go to the scope clause – the exclusion proposal that was discussed a while ago. I mean, anybody could fit into these, pretty well.
40

MS JACKSON: Yes.

45 DEPUTY PRESIDENT SHELLEY: Yes. It didn't matter what your occupation or profession was.

MS JACKSON: I don't feel at all qualified to discuss nurses, teachers or anyone else, but yes, I take your point. So people are to find the best fit within these

descriptors. These descriptors deal with seven components, so each and every level talks about seven different components of work which are the focus: the context and framework, the expertise, the interpersonal skills, the judgment, the implement and outcome, and finally the responsibility and outcome of each of these are set out in
5 each and every band. And the next thing we have at Part III is a summary of differences between the general stream bands. So this explains the major differences between each band but cannot, of course, be used in isolation; you would have to look at one and then the other.

10 And then, of course, we have the descriptors. The next thing is at Part V, when we move to the professional stream bands, and we have again the summary of different services that highlights the major differences. Then we get to Part IV, which is page 77 in my copy. This is expenses and other allowances. So the first one I would like to draw your attention to is the location allowance. This, as we mentioned earlier, is
15 the first leave reserve matter, so this is something we will be looking at immediately to update, renew or review. In – the next thing is the travel allowances. These have changed quite a bit. We have new travel rates, we have a new method for calculating rates, new method for adjusting the rates, and more contemporary rules for eligibility and payment of the allowances. So the rates will now be taken from the Australian
20 Taxation Department who put out annually a determination with rates they have - - -

DEPUTY PRESIDENT SHELLEY: So to move those rates will there still be applications to the commission or is there a formula that deals with them?

25 MS JACKSON: I understand we will apply to the commission after the new determination issue.

PRESIDENT LEARY: So each time the ATO issues a new determination you will seek to vary the award - is that what you are saying - rather than just having a
30 formula in there that would automatically do it?

MS JACKSON: I believe so, yes. We do mention the appropriate determination in there.

35 PRESIDENT LEARY: Yes.

MS JACKSON: These rates have changed a fair bit and – I've lost myself.

MR OGLE: Could I just - - -
40

MS JACKSON: No, no, I haven't.

MR OGLE: Could I just intervene there? Could I make the point there are some cross-reference problems in that clause. I don't know how you want to handle it.
45 We could give you a replacement page later on or I could - - -

PRESIDENT LEARY: This is clause 3?

MR OGLE: This is the travelling allowance - - -

PRESIDENT LEARY: Yes.

5 MR OGLE: - - - page 82 and 83, same for 84 and 85 in relation to kilometreage. There are just some cross-reference problems.

PRESIDENT LEARY: Okay.

10 MS JACKSON: Okay. The next thing, still in this part, clause 9, which is page 87, is a correctional officer allowance. This is brand new to the award. This says that:

15 *An employee of the Department of Justice engaged in duties classified under this award at either the Risdon Prison complex, Ron Barwick Medium Security Prison, Mary Hutchinson Women's Prison and associated administrative and training buildings, Hayes Prison Farm, all the remand centres, is to receive a correctional allowance of seven-and-a-half per cent of their salary so long as they are required to have regular contact with and who is required to supervise inmates and who are responsible for the safety, containment and security of*
20 *those inmates.*

We would note this applies to the Department of Justice which we contend may create some inequities as employees of other agencies may on occasion be required to undertake the same duties, which is something we would like to deal with. I
25 would note too this allowance is to be backdated until 1 July 2007, which is when agreement on this matter was struck but it was going to go into the award and hasn't - - -

30 PRESIDENT LEARY: An administrative exercise, I take it.

MS JACKSON: It is.

PRESIDENT LEARY: Yes.

35 MS JACKSON: Hasn't been paid until now. Some things we took out of this award were the electrical trades allowance, the plumbers allowance and the licence reimbursement allowance. We are informed that no one is paid these allowances and that there would be no reason to pay these allowances, however, should an event occur we – the parties agree that we will discuss these allowances in the event that
40 that is required.

PRESIDENT LEARY: So that will come under your unintended consequences.

45 MS JACKSON: I think not, because it is intended. We intended to take them out but we don't intend to take it away from anyone who is getting it.

MR LYNCH: So it's an unintended consequence.

MS JACKSON: So it's a known unknown.

PRESIDENT LEARY: So to speak, yes.

5 MS JACKSON: Okay, we are nearly there. At Part V we have the workplace flexibility arrangements. The most exciting of which - - -

PRESIDENT LEARY: Sorry, can I just go back to the allowances?

10 MS JACKSON: Yes.

PRESIDENT LEARY: Other than the ones that are set by the ATO or perhaps you are relying on elsewhere, how are the allowances to be moved? In the normal manner?

15

MS JACKSON: In the normal manner?

PRESIDENT LEARY: If there's a state wage case, those sorts of things.

20 MS JACKSON: Yes, that's right.

PRESIDENT LEARY: All right, thank you.

MS JACKSON: You are welcome. Page 88 we get to the workplace flexibility - - -

25

PRESIDENT LEARY: Sorry, which one?

COMMISSIONER McALPINE: Eight-eight.

30 MS JACKSON: Eighty-eight, Part V. The first is workload management. This is coming from the 2004 wages agreement and gone into the award. And then Part III – or, sorry, clause 3 of Part V is the workplace flexibility arrangement. This is one of the new exciting things about the award. The intention of the workplace flexibility arrangement clause is to allow employees and employers to enter into flexible
35 arrangements that suit both parties. This means that matters such as hours of work and arrangements for when work is performed, overtime rates, shift and penalty rates, allowances, availability and re-call provisions and substituting another day for holiday with pay can be varied by agreement between the parties to allow for more contemporary working arrangements.

40

PRESIDENT LEARY: Are these arrangements going to be put in writing somewhere and kept?

45 MS JACKSON: Yes. They will be put in writing and copies sent to both of the people agreeing and the public sector management office and the appropriate unions. They will also be for a specified duration and can be terminated in writing within appropriate notice periods. Then we get to Part VII which is different – sorry,

Part VI, that's why, because I can't read Roman numerals, which is page – what page have you got? Ninety-two. This is – the first is the availability and re-call clause.

5 The GCOE used to contain clauses for standby availability and another for call-back and these were confusing. There is now one clause with two components, so one to compensate people for the inconvenience of being required to be available, and another to compensate people for the work they do when available, so if they have to come back to the workplace or if they can do work from home, which I think are much simpler now.

10 Then we move to Part VII, which is the shiftwork part. So this was the second leave reserve matter. We wanted to develop a proper set of shiftwork provisions for the GCOE – sorry, the Tasmanian State Service Award to cover people working shiftwork patterns.

15 DEPUTY PRESIDENT SHELLEY: Can I just take you back a bit to the previous part which is time off in lieu of payment for overtime?

20 MS JACKSON: Yes.

DEPUTY PRESIDENT SHELLEY: There are some changes there, are there not?

25 MS JACKSON: Yes, there are. People can elect to take time in lieu instead of overtime, so if they work additional hours some people prefer to have that in the time rather than the money. By agreement, time will be given as time for time, so an hour for an hour. People can enter into an agreement to take time at other times. You see what I mean? So the appropriate overtime rates. But, of course, time off in lieu not taken within 28 days is to be paid out to those people at the appropriate rates at which - - -

30 DEPUTY PRESIDENT SHELLEY: Well, that's what the State Service Wages Agreement says is at the appropriate rates, but this actually sets out what those rates are, which is a difference.

35 MS JACKSON: It – yes.

DEPUTY PRESIDENT SHELLEY: Yes.

40 MS JACKSON: That's right. This is a much simpler setting out of those arrangements.

DEPUTY PRESIDENT SHELLEY: And it establishes that if it's not taken within 28 days it's actually paid out at penalty rates.

45 MS JACKSON: That's right. That's exactly right. That has been one of the concerns so far, that people can rack up hours and hours and hours but never get it, and so now it's to be paid out at the appropriate rate. So shiftwork, that's a leave

reserve matter. We will work on that. Then at Part X we have the workplace delegates clause. This was another of the clauses from the 2004 wages agreement that has been picked up and put into the award. So this sets out the rights and responsibilities of workplace delegates at page 127. And then finally we have the no
5 disadvantage clause, which I read before, so this states that:

Nobody will be disadvantaged by the implementation of this classification structure or any associated reviews.

10 And that, I believe, concludes my submission on the Tasmanian State Service Award.

PRESIDENT LEARY: On translation, my very quick looking at this and at the documents, everybody translates to a rate of pay either consistent with what they are
15 now getting or higher. If and when there are reviews about classifications, and it may well be determined that someone is over-classified, is there some sort of red-circling process - - -

MS JACKSON: Yes.
20

PRESIDENT LEARY: - - - that you have agreed to?

MS JACKSON: Yes.

25 PRESIDENT LEARY: So that no one gets anything less than what they have started with.

MS JACKSON: That's right. People's classification may, indeed, go down but - - -
30

PRESIDENT LEARY: Yes.

MS JACKSON: - - - their salary won't.

35 PRESIDENT LEARY: It will be maintained until it catches up - - -

MS JACKSON: That's right.

PRESIDENT LEARY: - - - through the band system.
40

MS JACKSON: Yes.

PRESIDENT LEARY: Okay, thank you.

45 MS JACKSON: Thank you.

PRESIDENT LEARY: All right, thank you. Did any of the other union officials want to add anything further?

5 MR OGLE: Could I just make one point? The table that was handed out, we would just note the dates of effect inconsistent with what is in the award. So just - - -

PRESIDENT LEARY: Yes, picked that up.

10 DEPUTY PRESIDENT SHELLEY: We already – yes.

PRESIDENT LEARY: Okay. Do you want to mark that? We will mark that J1.

15 **EXHIBIT #J1 TRANSLATION TABLE**

PRESIDENT LEARY: Mr Jacobson.

20 MR JACOBSON: Can I just clarify and perhaps correct a comment that was just made on the record in relation to people’s salary being frozen, if you like, until – the intention was, as I understand it, that no one would be declassified as a result, their personal classification, but further wages increases apply and to that particular individual will continue to apply. It will be the position itself that will suffer the loss of classification, not the employee, and that no disadvantage provision, as I
25 understand it, will continue to apply. In simple terms they will maintain their current classification and continue to receive any future increases.

PRESIDENT LEARY: So they are over-classified basically.

30 MR JACOBSON: Yes.

PRESIDENT LEARY: Okay.

35 MR OGLE: Can I just make one point? And I’m probably being pedantic, but the State Service Act doesn’t have positions and I keep hearing the reference “positions”. We have duties that are assigned. Now, people might argue that’s being a bit technical but I think it’s an important point to make, that duties can be assigned. So in terms of the issues that Mr Jacobson arrived at, I would be suggesting that duties – if someone is found to be over-classified then there’s a number of options that are
40 available.

PRESIDENT LEARY: Bring them up to the classification, if practical.

45 MR OGLE: And one of the things that we would be first looking at is to re-assign duties that brings people up to the right classification or at, quite rightly, as Mr Jacobson – if that can’t be done then that person would retain their – the classification at which they are paid, but I would be hoping that agencies would

actively lift the responsibilities. But the practicalities are that those duties would be reviewed on vacancy and that's the time when they might be downgraded or the duties re-assigned to keep the level. Whichever way - - -

5 PRESIDENT LEARY: So there are a couple of options there - - -

MR OGLE: Yes.

10 PRESIDENT LEARY: - - - to deal with it if, in fact, that case ever arises. It may not happen.

MR OGLE: Yes.

15 PRESIDENT LEARY: Okay, do you have any further questions on that award?

MR BROWN: President, for me one further matter, and I'm relying on my memory here which probably from time to time cannot be that reliable, but I go back to the discussion that was had regarding the paid rates award and whether this award is paid rates award. My understanding from quite some time ago, and it would have been at
20 least six or seven years ago, in a review of the wage fixing principles, the commission and the parties agreed to delete all reference to paid or minimum rates awards from the wage fixing principles.

25 Now, I'm not quite sure what the implications of that are from the discussion that we have just had, and I note that we will be having further discussion, but I just wanted to put on record by way of being perhaps a little over-cautious that maybe we need to look at that and what the implications were for the way in which we proceed with how we deal with the matter of the work value and the so-called paid rates award. If the commission pleases.

30 PRESIDENT LEARY: Yes, I won't say what I was going to say. Did you want to add something?

35 MR LYNCH: Yes, just one more. I might be gilding the lily but I just thought that it was important to make it clear exactly what happened on 5 March because there were a number of steps there. So on 27 December somebody will be shifted point to point from their old award to the new structure and they will receive a salary increase.

40 PRESIDENT LEARY: Yes.

45 MR LYNCH: On 5 March – sorry, one other thing could then occur. If somebody has an increment that would fall due between 27 November and 5 March they would move up the structure to where their old award classification would have translated them in – had they still been under the old award. So that would occur, and they wouldn't progress another incremental step or another progression until their next anniversary.

PRESIDENT LEARY: But they would get another wage increase if there was a wage increase.

5 MR LYNCH: They would get the increase on the 1st of - - -

PRESIDENT LEARY: December.

10 MR LYNCH: - - - sorry, 5 March, they would get the half a per cent that – one-and-a-half per cent, but they wouldn't move up again. Most people when they get to 5 March are actually going to go up a classification level because they will have – well, one level because they will either have been at their old classification for longer than 12 months or they will have an anniversary due. So there's three - - -

15 PRESIDENT LEARY: So it's an incremental - - -

MR LYNCH: Yes. There are three things that can occur on that date depending on what your anniversary date is and they are laid out in Parts – in the advance assessment and salary progression clause. But I just thought it was worth pointing out that there are a number of different things that can occur there.

20 PRESIDENT LEARY: There are a number of dates there that - - -

MR LYNCH: But nothing can happen on – you can't go anywhere until 1 March and, of course, the other thing that can occur on 1 March, you may also be informed that your current classification – your job is actually being classified at a higher band.

PRESIDENT LEARY: Yes.

30 MR LYNCH: That would also apply from 5 March. There is a fair bit happening on that day.

PRESIDENT LEARY: But we are looking, basically, at individuals there, not at bands or classification groups.

35 MR LYNCH: Absolutely, yes.

PRESIDENT LEARY: All right, thank you. Any of the other unions want to add something about the State Service Award?

40 MR FLANAGAN: President, members of the bench, just in relation to the scope clause in the proposed award. Can I suggest that it be amended so that it's clear that it does not - - -

45 PRESIDENT LEARY: It's you as well.

MR FLANAGAN: - - - purport to have application to persons regulated by other awards of this commission.

5 PRESIDENT LEARY: It may be just to make it absolutely clear that the scope clause be expanded, and I think that's easy enough to do. But you are not party to it or you don't have an award interest anyway.

10 MR FLANAGAN: No, I'm not party to this particular award. If it please the commission.

PRESIDENT LEARY: Okay. All right, Mr Dodds.

15 MR DODDS: Thank you, President. I don't know if it's an appropriate juncture to mention this but my organisation, whilst it has an interest in the award, doesn't have an official formal interest in the award and we will be making application to have an interest.

20 PRESIDENT LEARY: You will be making an application to have an interest? Okay. All right, thank you, Mr Pyrke.

MR PYRKE: Thank you, President. I'm not sure if the intention is to tell you at this stage whether we actually support the application, or do you just want to get a comment on what's been said to you previously?

25 PRESIDENT LEARY: You can do both or either.

30 MR PYRKE: Right. Well, we can certainly do both then. You've heard much from Mr Ogle and Ms Jackson about what had to happen, and what's actually happened, and what's in the agreement. And we certainly concur with what's been put to you there. In terms of the actual bargain itself I think it's a good one, there's plenty for employees in it and plenty for the employer so that's great. Processes are also important, obviously.

35 It's one thing to have good provisions and entitlements in agreements and awards, but obviously sometimes processes have to be there to sort out differences, and I think what's been put to you today is good in terms of translation and thereafter. Members have been consulted certainly about the agreement and they're supportive of it. We think it's consistent with the public interest and on that basis we support the application for variation of the award, and also for registration of the agreement.
40 If the commission pleases.

45 PRESIDENT LEARY: Okay. Thank you. All right, I think we're done with that one are we? All right. If we move on to the Health and Human Services Award which is A3. Mr Ogle?

MR OGLE: Thank you, President. The employer's submission in relation to this, I'll do some general comments. As you would appreciate there is some overlap. I

don't intend to go into that detail, but again there are some differences, so we might highlight those. It was decided as a result of the negotiations to have a separate vehicle or instrument for the health and human services area. I think that came about for a number of reasons; one being the different nature of the workforce. The issue of the different hours became a difficult issue to negotiate through.

There's a fairly hefty component of health and human services areas that are shiftwork and 24-hour rotational shiftwork. By and large in the state service there are very, very few 24-hour rotational shiftwork arrangements. If there are shiftwork they tend to be more of the 16-hour variety, day and afternoon shift. But the health environment is different and the issue of the leave loading in health that is still applied became an issue. So with those variables it was decided to pursue the separate Health and Human Services Award.

I think it's fair to say that in terms of salaries, the salaries are a negotiated outcome as I've previously indicated. By and large the work-value components are the same, but the big variation is in the health services officer's arrangements that we negotiated through. And you'll notice that for bands 3 and above it generally reflects the state service in terms of work value, but we've been more specific when it comes to the health service officer where we've had five levels indicated to separate the difference in classification and work value for those sorts of occupations or duties that occur predominantly in the hospital, but also in other areas of Health and Human Services.

The advancement progression issues are the same as the state service, and we've also introduced specific reference to graduates, cadets, apprenticeships, apprentices and trainees. So that's Part II. As I've said the classification group in Part III has that variation of the health service officer with specific reference to classification standards and specific reference to salaries. I'm aware that the union will make further submission in relation to some more specific detail around that.

In terms of other changes that are slightly different, you'll see slightly different changes because of the 38-hour week, but for a lot of the clauses they're actually the same except for that difference between the awards. The meals and travelling has the same issues associated with the ATO rates. The only variation there negotiated was the re-call provision for four hours is slightly different – the minimum four hours re-call is slightly different from the state service. Quite frankly that simply was a situation of what actually occurs at the present. One was three hours and one was four, and to negotiate both ways became difficult, so we decided we'll just keep the present arrangements.

The same sorts of things occur with workforce flexibility. By and large the hours of work reflect the present situation. More detailed shiftwork provisions for the health and human services area, basically picking up the present conditions in the CAHSA Award. And again the situation in terms of the leave and holidays reflects the conditions that are at present. The translation arrangements again has a separate

table, but takes you through some of those specific translation arrangements that had been agreed.

5 Again, the one thing I'd point out there is that for tech 2s and tech 4s will be the same as the state service, that they move on December then at March it has been agreed that they should have been against the classification standards at band 3 and 5 respectively. The minor difference in terms of the operational stream is it's the operations – got to get this right, I always muck it up – the operations 8 is the trades qualified level in health, while the trades qualified was 7. There wasn't an alignment
10 between the state service and the health and human services area, that's why there's a slight difference there. But again, it picks up that arrangement whereby in December they receive a 4 per cent increase, but at March they go to a new classification level band 3. And I don't know that I have any more to add to that situation with the health arrangements.

15

PRESIDENT LEARY: All right. Thank you. Mr Brown?

MR BROWN: President, I'm only going to go to a few clauses that I just want to make some specific comments about. I think the first one is the scope clause on
20 page 5. This is in reference to the matter raised by Deputy President Shelley whether the exclusions are there. This scope clause obviously is different from that in the TSSA or in exhibit 2 and actually states that except for employees for whom the classification is contained in another award of the Tasmanian Industrial Commission. I mean our view is that that does happen and I'd be interested in whether that's what
25 the bench believes in terms of ruling out other employees that are covered by other awards.

PRESIDENT LEARY: That covers it fairly well.

30 MR BROWN: If I then take you to the travel allowance clause which is in Part V, page 3 and in my award is on page 69, or my exhibit it's on 69.

PRESIDENT LEARY: Yes, page 69.

35 MR BROWN: And there's just a couple of things I want to mention here. One is in relation to the A12 which is the bit that links the rates to the Australian Tax Office determination. I just want to clarify that our understanding of this is that the ATO automatically moves those rates each year just before July.

40 PRESIDENT LEARY: I presume they have some sort of formula do they, or is it - - -

MR BROWN: If there is they keep it to themselves because some go up, some go down and there's absolutely no logic to it.

45

PRESIDENT LEARY: They keep everything to themselves, including our money.

MR BROWN: We won't go into that here. But the intention of this provision is that those rates for employees will also come into effect on 1 July each year. Now, I just noted Deputy President Shelley's comment about whether there would be an application to the commission, and the answer is yes there would, to change the rates to reflect what the current rates are that are issued by the Australian Taxation Office, but the date of effect is already in the award here, and that is a date of effect will be from 1 July.

10 PRESIDENT LEARY: So it could have retrospectivity.

MR BROWN: The other matter which I want to raise actually arises as a result of managers within the Department of Health and Human Services pre-empting that the commission will approve this award, which they probably had good grounds for doing so, but nonetheless they did. And they put out a directive to employees regarding the application of this particular clause, and I'll just read it in part, one paragraph. It states that:

20 *So staying with relatives or friends will not enable staff to claim allowances, nor will staff be able to claim the difference between what they pay for accommodation and the daily rate. So if staff stay in cheaper accommodation for a small fee, they will not be able to claim the balance of the \$117 Tasmanian overnight allowance, they will only be reimbursed for what they've spent.*

25 The rest of the direction I don't have any difficulties with, but I do with that particular aspect. Not the first part of it that states that, "So staying with relatives and friends will not enable the staff to claim the allowance." That is correct. But the second part where it goes on to say nor will staff be able to claim the difference between what they pay for accommodation and the daily rate. Can I take you - - -

30 PRESIDENT LEARY: Is it applied both ways in the memorandum that if you stay somewhere you pay \$119 that you can claim the extra 2?

MR BROWN: Well, it does in the clause. If I could take you to it there are in fact three ways in which accommodation expenses can in fact be either paid or claimed. The first one is at A2 Pre-booking and Payment of Accommodation on page 70.

PRESIDENT LEARY: Yes.

40 MR BROWN: That one provides that the employee can actually enter into a commercial arrangement with commercial providers, hotel, motels or serviced apartments and come up with a rate for which they actually pay.

PRESIDENT LEARY: And the agency pays directly.

45 MR BROWN: That's right. In this arrangement they would book the employee into whatever that accommodation is, and they would directly pay the bills, so the

employee is not responsible for actually paying for any accommodation, but the accommodation therefore is provided. The second arrangements is payment of actual travel expenses and that goes to the fact that an employer and employee may enter into an arrangement whereby it is agreed that the actual cost of accommodation and expenditure on meals - - -

PRESIDENT LEARY: It's a straight-out reimbursement.

MR BROWN: - - - etcetera. In that case the employee has paid, but they have paid a higher amount than what the allowance provides for, but they can claim the higher amount. The third provision over at paragraph 4 allows for the payment for employee choice. And this is the one that goes to the issue that I have with the directive that was issued. And that is an employee may choose not to stay in accommodation for which the employer has a commercial arrangement, in which case the employee is to be paid the rates prescribed in paragraph C1 of this clause. C1 in fact is a typographical error, it should read A1, which are the rates over in A1 for accommodation. In this case in example use Tasmania being \$117.

Now, my understanding of this and I believe it's also the understanding of the PSMO is that if an employee – the only stipulation is an employee must stay in a commercial premises, but providing they stay in a commercial premises they can claim the \$117 regardless of what the accommodation actually costs. And that's where we have the issue with the directive. Now, I understand - - -

PRESIDENT LEARY: Is that how it has applied in the past?

MR BROWN: It has been how it's applied in the past and it was our understanding in negotiating this clause was how it should be applied in the future as well. My understanding that there's probably just a misunderstanding of the reading of it. The reason I'm raising it, however, is at the bottom of that particular directive that was put out, it's stated that it's consistent with the guidelines that are on the intranet website for the department. So it may well have gone a lot wider than simply the people to whom this particular memo was directed.

PRESIDENT LEARY: Perhaps if you have a discussion with - - -

MR OGLE: I'd like to make the point that when this came to my attention I rather subtly suggested to the department that all such references be withdrawn, and my understanding is as of Friday night that should have occurred. If it doesn't, well that would have occurred this morning.

PRESIDENT LEARY: You will follow it up. All right. Thank you.

MR OGLE: But the only issue I would say is that where there are differences the employer actually may request evidence of expenditure, that's the only issue I would refer to.

PRESIDENT LEARY: Don't think there's any argument with that.

MR BROWN: No.

5 PRESIDENT LEARY: No.

MR OGLE: But I would support Mr Brown's summary of what the clause is meant to achieve. And I think – I suggested to the department that really we need to embark on a training program to go through this change before people start interpreting.

PRESIDENT LEARY: A good idea.

MR OGLE: We're going to have enough problem once we go through the training when they interpret, let's do the first step first.

PRESIDENT LEARY: Yes. Don't start interpreting it before the award has even been approved.

20 MR OGLE: Correct.

MR BROWN: And I accept that Mr Ogle moved quickly to rectify that, it's just once one of his bits of papers gets out it tends to have a life of its own.

25 PRESIDENT LEARY: Indeed, that's right.

MR BROWN: The only other comment I'd make is just in terms of referencing, which is the cross-referencing right the way through this whole clause, not just in relation to the travel allowance, but also in relation to kilometreage allowance, that will – that PSMO issue corrections.

MR OGLE: We'll arrange to issue a change.

35 PRESIDENT LEARY: You can replace some pages. All right, that's fine.

MR BROWN: The other clause that I'd like to take you to is Part VII, clause 1 Hours of Work Day Worker, we're on page – my page 81. And this was, I think, just the result of misunderstanding in some very late last-minute negotiations that took place late Friday afternoon, so we'll put it down as a typographical error. But references in this clause, Hours of Work Day Worker in (a) that is 7 am to 7 pm should read 7 am to 5.30 pm. So there's three of those, one in the clause and two in the first provided. Then in clause – subclause (c) where it reads on the second line 6 am to 6 pm, that should now read 6 am to 7 pm.

45 PRESIDENT LEARY: The spread of hours, right.

MR OGLE: I'll arrange for replacement pages.

PRESIDENT LEARY: You agree with those amendments?

MR OGLE: I agree with those, yes.

5 PRESIDENT LEARY: All right. Thank you.

MR BROWN: The next clause I just want to take you to briefly is clause 6 of Part VII on page 84, Availability and Re-call. And in comparing this clause to the clause that currently exists in the Community and Health Services Award, as I'm sure you
10 might have already done or you will do in detail you'll notice that there are quite some changes to this clause. And as Mr Ogle has indicated that's simply to reflect what actually happens in practice. What is now in this clause is what's been complied with in the department since at least 1995. So it is simply to reflect what is actually happening in practice. But in particular if I can take you to the actual re-call
15 provision which is subclause (c), just in paragraph 1.2 where it reads:

If the second re-call occurs within 30 minutes, the re-call is considered to be part of the first re-call. If a second re-call occurs after 30 minutes of the employee finishing the initial re-call, a minimum payment of two hours at the appropriate overtime rate.
20

That first bit probably could be a little bit confusing, "If the second re-call occurs within 30 minutes." Perhaps it should read:

25 *If the second re-call occurs within 30 minutes of the employee finishing the initial re-call, then the re-call is considered to be part of the first re-call.*

That is certainly what the intention between the parties is. So the first call-out is for four hours and if the employee knocks off that first re-call for a period longer than
30 30 minutes then they're entitled to the second re-call of two hours.

MR OGLE: I'd support that precedent again.

35 PRESIDENT LEARY: Do you want to change the wording?

MR OGLE: I will arrange for replacement.

PRESIDENT LEARY: Yes, just so it's quite clear.

40 MR OGLE: Go over the page, that's fine.

PRESIDENT LEARY: We don't want the department to get it wrong.

45 MR BROWN: The only other comment, or two other comments I'll make, one is just in relation to the clause 3 of Part IX Personal Leave, but I won't take you to it, there's no particular – the only point actually I want to make is that personal leave within the Department of Health and Human Services is different to that that's

applied within the rest of the state service, so therefore it differs to that which applies in the Tasmanian State Service Award, or exhibit A2. And of course this exhibit, proposed award, also has a no disadvantage clause in it and we have the agreement which talks about unintended consequences. So hopefully both of those will provide
5 an adequate protection and safety net if there's anything else that we've forgotten. If the commission pleases.

PRESIDENT LEARY: All right. Thank you. Anyone else? Mr Jacobson?

10 MR JACOBSON: Thank you, Madam President and members of the bench. Look, I just wanted to make reference to the health services officer classifications. Ms Jackson, I think, went through in some detail the broad standards that apply to all other employees, both in the Tasmanian State Service Award and the Health and
15 Human Services Award, as it will now be known, but the significant difference in terms of classifications in the Department of Health and Human Services will relate, and both awards relate to health service officers.

Firstly, can I say that one of the good aspects, and there are a number of good aspects of the standards, is that it provides for, as Mr Ogle said originally, the employment of
20 trainees directly by the department or by government, and it provides an appointment and progression arrangement so that employees, when they come into the Department of Health and Human Services on a traineeship are paid in accordance with the award, and following at, in this case, health service officer level 1, which is the trainee level, which you will find, I think, on page 61 of my document. It may
25 well be later in – 59.

PRESIDENT LEARY: Fifty-nine.

MR JACOBSON: So an employee could come in as a trainee. If you use, for
30 example, a therapy assistant trainee, during their traineeship they would be employed at trainee level 1, but on the completion, successful completion of their training, they will move to the appropriate classification level for that occupation. In that particular case it would be HSO level 5. So it provides for no break in service, continuity and security in terms of employment for young people within the - - -
35

PRESIDENT LEARY: So are you saying that there is a guarantee of a position once they finish their training?

MR JACOBSON: Once they are employed in accordance with these standards they
40 would be essentially appointed on a permanent basis, subject to, obviously, the successful completion of their training.

PRESIDENT LEARY: Oh, sure, satisfactory X, Y, Z.

45 MR JACOBSON: So we were looking fairly to clarify that, but certainly that would be the way that things would work. Currently trainees are generally employed or

utilised or employed in the Department of Health through the utilisation of group training companies - - -

PRESIDENT LEARY: Yes.

5

MR JACOBSON: - - - so they are not direct employees of the minister, so this, in fact, brings them in – or provides the capacity to bring them in under the current award. We also – given the significant numbers of employees contained within the health service officer classification grouping we have, in fact, provided for indicative translation for a number of those groups.

10

Having said that, it doesn't in any way limit any employee who will translate to a particular level on translation, appealing, and obviously if their appeal is successful, being moved to the appropriate classification level in the standards, and if I go through in some detail, HSO level 1 is a trainee level; HSO level 2, which was previously operational level 2 in the award – sorry, level 3 in the award, will apply- translation to that level will apply to car detailers; food service assistants, however titled; hospital cleaners, however titled; linen sorters, folding at the Repatriation General Hospital. That is the level at which those groups would translate to on 1 March or 8 March next year.

15

20

Again, having said that, it doesn't limit someone's capacity to appeal that particular classification. HSO level 3, which was the previous operational level 4, employees that will be translated into that band are relief attendants at the North-West Regional Hospital; linen assistants at the Launceston General Hospital, and they are clean and fold linen assistants; attendants at the LGH; home helps, however titled; ward hospital aides; multi-skilled domestics; primary health, however titled, and medical orderlies in the Department of Emergency Medicine at the Royal Hobart Hospital.

25

30

At HSO level 4, which was previously operational level 5 and 6, support service officers at the Royal Hobart Hospital; attendants theatre at the Royal Hobart Hospital; attendants general, extended role at the North-West Regional Hospital; specialist hospital aides; personal carers however titled; disability workers; support workers; child and family services; patient transport officers; drivers; medical orderly/attendant/specialists; infection control officers at the Royal Hobart Hospital and theatre support officers at the LGH, and I will make some comment in relation to some of these groups following this.

35

HSO level 5, which is a completely new level for a number of occupational groups and provides for progression beyond what had existed in the previous award, which was the old operational level 7, will apply to therapy assistants; dental attendants/assistants; disability officers; day centre co-ordinators; play leaders; CSD or CSSD technicians in the hospitals. Can I also take you to page 127 which relates to – and Ms Jackson referred to target operational occupational groups that will be dealt with under the State Service Award.

40

45

There are also a number of groups that will be dealt with under the Health and Human Services (Tasmanian State Services) Award as targeted occupational groups. Some of those are listed, or were listed in the translation table that I've just been through. The present list of targeted occupational groups for the Department of Health and Human Services are residential care workers at Ashley, and that's Ashley Detention Centre – Ashley Youth Centre; dental prosthetists, rostered carers; day centre co-ordinators; diversional therapy assistants - and the wording there is, in fact, incorrect. It's got "diversionary", it's diversional therapy assistants, and theatre support officers at the Launceston General Hospital.

This does represent a significant difference in terms of the standards that apply in the Department of Health and Human Services to operational employees as opposed to the general state service, and we believe reflects the significant difference of the nature of work applied in the Department of Health and Human Services. There are – Mr Ogle made reference previously to trades and that there were some differences historically in terms of how trades employees were classified under the old General Conditions of Employment Award or the Operational Employees Award and the Community and Health Services Public Sector Award, and there was generally one level difference in health that was 8. In the Operational Employees Award trades employees were classified at level 7

There is one exception to that in the Department of Health and Human Services, and that relates to chefs who work in hospitals. They have been classified at operational level 7 historically, and through this exercise will move into the appropriate band once the translation occurs on 5 March – 8 March, sorry. The final point in relation to translation for the health services officers is that there are currently operational supervisors who were previously classified under the operational stream of the award, who now will move out of the health service officer standards and will be classified in accordance with the general standards.

PRESIDENT LEARY: Okay.

MR JACOBSON: They were previously classified at operational level 7. Those employees will again, on 8 March, be classified at band 3 and that has been subject of discussion in terms of where people will move and how we keep, essentially, the operational work, and that is the hands-on operational work, the patient-care support work, etcetera, employed under the health services officer standard. But the supervisory responsibilities will, in fact, be classified under the general standards, as they are for the rest of the state service. That is the only point that I wish to make in relation to those standards, unless you have any questions.

PRESIDENT LEARY: Can I just ask you – I didn't ask Ms Jackson, so you can have a tag team, if you like – the movements through the soft and hard bands, to move within a band is incremental at this stage anyway, on year of service?

MR JACOBSON: That's essentially the progression currently.

PRESIDENT LEARY: That's the advancement assessment point?

MR JACOBSON: Yes. There are two ways in the new world that people will move through the structure. One is through progression, salary progression, and it's been
5 agreed between the parties that we will develop appropriate standards - - -

PRESIDENT LEARY: That is part of the work in progress?

MR JACOBSON: - - - as part of the work that we do - - -
10

PRESIDENT LEARY: Yes.

MR JACOBSON: - - - but in the short term that people will continue to progress as they had.
15

PRESIDENT LEARY: As an incremental.

MR JACOBSON: Similarly, the advanced assessment points. Until those are developed people will progress through the classification levels as they had
20 previously, so it would be, for all intents and purposes incrementally - - -

PRESIDENT LEARY: And then to move into the hard band, which is into the new band?

MR JACOBSON: That's right.
25

PRESIDENT LEARY: That's a progression?

MR JACOBSON: And that is a promotional progression point.
30

PRESIDENT LEARY: Promotion on certain criteria that will be established if not already established?

MR JACOBSON: Yes. Basically it's essentially exactly the same as what currently
35 occurs.

PRESIDENT LEARY: That's fine. That's all I wanted to clarify.

MR JACOBSON: Madam President.
40

MR OGLE: President, while I don't doubt Mr Jacobson, I – and I didn't bring my list of comparable health positions and I, after 18 months, still don't profess to be an expert in the health area – I would just prefer if we could have sort of an exchange of letters or something, to make it absolutely clear that we both agree on all those duties
45 and occupations that Mr Jacobson read out. I'm just being cautious, I suppose.

PRESIDENT LEARY: Some of them are in the award but the others you just want to check?

MR OGLE: I just want to make sure we've got them all right - - -

5

PRESIDENT LEARY: Yes, that's fine.

MR OGLE: - - - so there is no fight afterwards, I suppose.

10 PRESIDENT LEARY: Yes. We don't want to encourage that. Any questions? All right. Well, perhaps we – well, we will deal with the applications to rescind the number of awards that we've got which are – those are the two variations – the Admin and Clerical Professional Employees - Operational Employees – there's a very general – Technical Employees. I've got four applications. Who wants to speak
15 to those or is one person going to do the lot or - - -

MR BAKER: Well, I'll move the lot of them if you like. These applications arise due to the very extensive rewriting that has occurred in the General Conditions of Employment Award. The classifications and the conditions of employment that are
20 contained in each of these awards is now found in what will be known as the Tasmanian State Service Award, and as a direct consequence of that these awards, by themselves, become now redundant, and so on behalf of the minister I would move that the Administrative and Clerical Employees Award, the Professional Employees Award, the Operational Employees Award and the Technical Employees Award,
25 being matters T13229, 13230, 13231 and 13232 of 2008 respectively, those awards be rescinded, effective from 27 November to coincide with the commencement of the new Tasmanian State Service Award.

30 PRESIDENT LEARY: Who is going to do that?

MR LYNCH: If it pleases the commission, the – I guess this is the next logical step, as sad as it is to see those four wonderful old awards - - -

35 PRESIDENT LEARY: Like some tissues?

MR LYNCH: Not really, no. I guess we have been through them. What was in there was the classification standards for each of those groups which are now in the new award. There were some matters relating to overtime and a few other matters which have also been picked up now and put into the TSSA, so I can see no reason
40 for those awards to remain. The timing, I guess, is important in that we need to have a structure in place before those four are rescinded and that there are still - I guess, the major part of the public sector is still working under those until the 27th. There is a little bit of a hiatus too, I guess, between 27 November and 5 March.

45 PRESIDENT LEARY: That is why I'm thinking if we rescind them until 6 March and then if there is something to be done they are still live. Or we stand them aside

for a period so that if there is anything that you need to deal with the awards are still there but they're not operative.

MR LYNCH I think that's a fine idea.

5

PRESIDENT LEARY: We will think of some appropriate words.

MR LYNCH: Certainly one of the things that will come up will be those people who will have incremental dates occurring in that period and also the fact that we don't want any sort of classification issues being dealt with in that period under the new classification standards, so - - -

10

PRESIDENT LEARY: That was what I was asking Ms Jackson, because some of those reviews may well be reviews of current classifications which are in these awards.

15

MR LYNCH: Yes, although one would hope that now the statements of duties would be being assessed against the new standards and there really wouldn't be any relevance in whether you were correctly classified - - -

20

PRESIDENT LEARY: If it is an argument about translation it could be.

MR LYNCH: It could be, yes.

PRESIDENT LEARY: I'm just trying to think aloud and cover all options.

25

MR LYNCH: Look, I think leaving doors open is better than closing them at this stage, so I would certainly support us having some flexibility around the timing there. I have also been asked on behalf of APESMA to put forward their support for the rescission of the Professional Employees Award.

30

PRESIDENT LEARY: Okay. Scratching your head there?

MR BROWN: Yes, scratching my head, I'm just trying to remember which of those four awards the Health Services Union was actually a party to and I think it's two of them, the professional and technical, but for whichever ones we are a party to we support the proposition to actually have them set aside until it is appropriate to rescind them. If the commission pleases.

35

PRESIDENT LEARY: All right. The technical employees and operational employees, I think you are party to both of those. Mr Baker, do you have any problem - I'm just concerned that if we rescind the awards completely we've got no room to move if we need to rely on something in them.

40

MR BAKER: Yes. Look, my own only concern was that we didn't want to have two awards operating concurrently with what may be argued alike classifications. Yes.

45

PRESIDENT LEARY: Yes. So if we set them aside with a finite date - - -

MR BAKER: Yes.

5 PRESIDENT LEARY: - - - rather than set them aside permanently, then if we need to come back and use them we've got some - - -

MR BAKER: Well - - -

10 PRESIDENT LEARY: I mean, chances are we may not, but just to - - -

MR BAKER: No, no. I mean, I would believe that once we put the new structure in place that should be okay.

15 PRESIDENT LEARY: Yes.

MR BAKER: But I have no hard and fast year as to - - -

PRESIDENT LEARY: It's abundant caution I think rather than anything else.

20

MR BAKER: Well, yes, yes. If that's going to the - yes, I mean, if you are going to err on the side of caution, then I'll follow your lead in respect of the matter.

25 PRESIDENT LEARY: Yes. All right. I will think of some way of doing it. All right, point 14 says, "Summary from all parties." Is it to music or - - -

MR OGLE: Yes, some of us may have thought, President, we would never have got to this day. I wasn't one of those persons, I always knew we would, one way or another.

30

PRESIDENT LEARY: Well, you had to.

35 MR OGLE: Yes. I don't intend to summarise. I think we've gone through - one thing I would like to do was to place on the record some individual acknowledgements, which is probably unusual, but this has been 18 months worth of hard work from my people when they really had to keep doing their normal jobs, and I'd like to just put on the record my appreciation to Phil Baker for his wisdom and managing the whole process. Mr McAlpine gave me a funny look there when I said wisdom, but - - -

40

PRESIDENT LEARY: Not a word we hear very often in this courtroom, that's all.

MR LYNCH: Is that what is the problem?

45 MR OGLE: To Keryl Gray, who really was the architect of the classification standards and his work and his wordmanship. I had people like Jane Fitton in my office for her legal background and quality assurance, Jodi Mulhassen, who kept us

interested during the process of putting these awards together and the technical expertise that's required, for her also, quality assurance, for Clare Haberle, who really did all the tables. We drove her mad during 18 months I think it fair to say to such an extent that she left us, but we used her call her back every now and then
5 when we got into trouble. She left us for promotion, so it's not that bad and - - -

PRESIDENT LEARY: Well, that's all right then.

MR OGLE: - - - Clare was one of those people that was really the glue that kept our
10 team together. The agencies, particularly Health, who we relied on very heavily: so Gabrielle Peacock and her team, we relied on heavily. As I said before, 18 months worth of this and I still don't quite understand the - everything there is about health, so I just wanted to place on the record my appreciation and the appreciation of the employer for really hard work above and beyond in many circumstances, and as I
15 said, this was just really work we did when we still all - had all our other work to do.

PRESIDENT LEARY: When you were looking for something to do.

MR OGLE: Yes. And I'd hate - I get a bit annoyed when people say, "At the
20 moment, well, you would be able to put your feet up." I actually believe that come 27 November we have got a whole set of different challenges to address and it's important that the implementation is monitored and that's why we have built in through the whole agreement a whole lot of monitoring, reporting back, flexibilities, because we recognise this has been a mammoth task. So that is the employer's
25 submission. Thank you.

PRESIDENT LEARY: Thank you. Do you want to add something?

MR BAKER: I just needed to add just one last thing which I had forgotten about
30 when I was last on my feet. Currently there are four applications before the commission in relation to award review, the review of the GCOE and the CAHSA awards in matters T13077, 13078, 13082 and 13083 of 2008. The parties will need to have a discussion as to whether those files should be closed and a new one created or whether to use those files as the vehicles for ongoing review of the award, so
35 that's something we will need to have a discussion about. And one final thank you to the registrar, Alan Mahoney, for providing me with all the bits and pieces I needed to rescind all those previous industrial agreements since 1988 and without his advice we would still be in a bit of a mess.

40 PRESIDENT LEARY: The commission would be in a mess without him anyway. Thank you. Did you want to - you have an opportunity to close the conference.

MR LYNCH: Thank you, Madam President. Look, I - just in closing comments, I
45 think the three of you would understand what an undertaking this has been to get to this stage.

PRESIDENT LEARY: Absolutely.

MR LYNCH: And it has required on a number of occasions a leap of faith and I know they are the sort of things that have – you know, presents you – has us back in hearing in years to come arguing whether that leap of faith should ever have been taken. I would just like to reiterate that we have put a lot of information out to our members, as has the government through this process. They've had an open website that they have posted documents on that have shown translation tables, that have shown where people will progress to over the life of the agreement.

I think some of those documents – well, certainly we will be relying on some of those documents in future to say this was the expectation that people had, that they would be able to go from here to here and if doors are closing on that in the future, that that will cause us some concern. So there was an idea that we actually tabled those documents at this stage, but I don't think that's fair and the documents are, I will admit, marked without prejudice, but I think where we have gone out and created an expectation of – a clear expectation with our members as to where they will translate to.

Some of these translation tables we can sit and argue for hours and come up with two or three different points at a time as to where people end up, then I think there needs to be some honouring of those documents that went out. I would also like to thank Frank and his team for the work that they have put in, because it has been a huge effort, and also Kate Jackson for the effort. She carries – Kate's carried the load from both the CPSU and HACSU perspective and it's been quite a load.

PRESIDENT LEARY: Thank you. Did you wish to add something?

MR BROWN: Just very quickly, thank you, President. Just in relation to the matter that Mr Baker raised about whether those current files should be kept open, our view is that they – it is probably neater to close them and open a new – put in a new application and deal with it that way. Just in terms of closing comments, I mean, as both Mr Ogle and Mr Lynch have indicated, this has been a mammoth task. Whilst Mr Ogle may not have doubted whether we would get here, there were times when I actually did.

It was not an easy pathway in many ways and as you are aware unfortunately it did result in some significant industrial action within the public sector, but I believe everyone is now talking to each other so it hasn't done any necessary lasting damage. The ambition that we took on at the time, or what we expected to achieve was extremely ambitious and I recall several conversations with Tom Lynch about how we approach this and how we convince government that it's in their interest to do so and we managed to do that.

And whilst things didn't necessarily turn out exactly the way that we had anticipated or that we wanted them to do and it's probably unrealistic to expect that that would be the case, I think the result that we have, that has come before you today, is a very good result and one that will certainly serve our members long into the future, but also hopefully the Tasmanian public.

I think one of the encouraging things about what is before you is that it's not just about fixing up the awards or registering an agreement, it's also about the future going forward, including things like a further opportunity to review the standards so that they don't get out of date in a way that they have done in the past or we don't
5 leave it so long before we review. I think if we do leave it as long as we have this time around we are in danger of not even having an effective state service into the future, so I think it's important that provision is in there. The State Service Reform agenda, which may look very airy-fairy on the surface - - -

10 PRESIDENT LEARY: If anything.

MR BROWN: Yes, a bit dodgy around the edges. I mean, Mr Ogle has indicated that the government is committed to working forward on those and I can certainly indicate from a union's point of view that we are happy to work with the Public
15 Sector Management Office to advance those things, because again I think they're in the interest, not only of our members, but the Tasmanian community. And then the continuation of the award modernisation process, which hopefully one day will come to an end and possibly even before the Federal awards are all modernised as well, so we'll see.

20 I'd also like to – you know, even though we've had our tense moments and anger and tension between the groups with Frank and his team, I thank Frank and his team for assisting in getting us to the stage that we are at today. I was hoping that we may be able to have a bit of a break from the daily or multiple daily contact with them, but I
25 suspect that that's not going to be the case and we're going to have to continue to suffer for a bit longer.

And I'd also like to put on record, thanks to Kate Jackson, who's been a joint employee of both the CPSU and HACSU throughout this process and for the work
30 and the effort that she has put into it and the fact that we have I think achieved things that either union, CPSU or the Health Services Union could not have achieved alone, but by doing it together I think we have managed to do that, and thanks go to Tom for that co-operative environment. So, if the commission pleases.

35 PRESIDENT LEARY: Thank you. Anyone else want to say anything? Well, I guess on behalf of the bench I'd just say that it's a job well done. It was a mammoth task and I was a bit like Mr Brown, I think, there were times when I thought you would never make it. You've still got a lot of work to do but it's worth pursuing and I think what you've done so far is innovative, forward-thinking and is going to serve
40 you all very well. Well done, and I know how much work is involved so I can understand the difficulties and the frustrations.

So what we need to do is first of all approve the agreement, which is the Tasmanian State Service Union Agreement 2008. It will be approved and it comes into effect
45 from the first full pay period on or after 1 January 2008 and remains in force until 8 March 2011. We just need to get a signed copy. If somebody could provide us with one of those.

MR BAKER: I think you have.

PRESIDENT LEARY: I'm looking at you because - - -

5 MR BAKER: We've actually supplied it, President.

PRESIDENT LEARY: Have we? I haven't got one.

DEPUTY PRESIDENT SHELLEY: There is - - -

10

PRESIDENT LEARY: It's all right, if we've got one, it doesn't matter. Okay, the second thing we need to do is to approve the two awards, the Health and Human Services Tasmanian State Service Award and the Tasmanian State Service Award and we'll approve those on an E and OE basis at the moment. There are some replacement pages to be provided and subject to receiving those and I've had a look through the copies – the original copies that I received, so the bench will just have a quick look through those, but there doesn't seem to be anything in there that's going to cause us any great pain, but if there is you will be the first to know. These awards supersede - or the Tasmanian State Service Award supersedes the General
15 Conditions of Employment Award and that award will be rescinded and is to come
20 into effect - - -

MR LYNCH: No.

25 PRESIDENT LEARY: No, it won't.

DEPUTY PRESIDENT SHELLEY: No.

MR BAKER: No, it's – President, may I - - -

30

PRESIDENT LEARY: Yes.

MR BAKER: It's a re-naming of the General Conditions of Employment Award.

35 PRESIDENT LEARY: That's right, yes. That's right. Yes, so we'll leave the rescission to next, because there's four of those. So this is now the Tasmanian State Service Award and we're going to get a - - -

MR BAKER: Scope clause.

40

PRESIDENT LEARY: - - - new scope clause for that one. I'm just looking for the date. It comes into operation on and from 27 November 2008. The wage increases come into effect from - - -

45 DEPUTY PRESIDENT SHELLEY: December.

PRESIDENT LEARY: - - - 1 December 2007. No, hang on, there's so many papers here. Does the agreement have the wage increases in it?

COMMISSIONER McALPINE: Yes, on that one.

5

MR LYNCH: Yes. On the agreement, sorry, no the agreement doesn't.

PRESIDENT LEARY: No, it doesn't.

10 MR OGLE: There is a – with effect from the first full pay period commencing on or after 27 November 2008.

15 PRESIDENT LEARY: 2008. Okay. That will cover that one. The other award is the Health and Human Services Tasmanian State Service Award. There are some replacement pages for this one. The scope clause is okay in this one and this also comes into effect from the first full pay period after 30 November 2008. All right, so both of those awards can be approved on the basis of our reserving our right to check them. So that's the agreement, the two awards; that's done. And there are four
20 awards that are going to be set aside until say 10 March, because that gives us a few days leeway, when they will be reviewed again and we may well be able to rescind them.

Those awards are the Administrative and Clerical Employees Award, the
25 Professional Employees Award, the Operational Employees Award and the Technical Employees award. The only other thing I need to clarify is there's a couple of applications that we have to get from the AWU and the ASU. Will someone follow those up, both the - - -

30 MR BAKER: Well, in relation to the AWU, yes, we will follow that up and I presume my colleagues on this side of the table will follow up with the ASU.

35 PRESIDENT LEARY: I think I follow that. Mr Flanagan and Mr Dodd have gone, but if someone can pursue those I would be grateful. Now, I don't think there's anything else we need to do. I think that covers everything.

MR LYNCH: Madam President, just one technicality, when you were – the operative date of the Health and Human Services Tasmanian State Service Award - - -

40 PRESIDENT LEARY: Yes.

MR LYNCH: - - - you said from the first full pay period on or after 30 November: that's from 30 November.

45 PRESIDENT LEARY: On the front of it's got operative date, first full pay period.

MR LYNCH: No, that's incorrect, because you want the award to come into effect from 30 November and conditions and matters in that award will apply from that date, and then the salary scales actually say first full pay period after 30 November.

5 PRESIDENT LEARY: So they have both got from the first full pay period, 27 November and 30 November. So if you want them from the day, just another replacement page.

MR LYNCH: Right. Okay. Is that true?

10

PRESIDENT LEARY: Mr Ogle is looking.

MR LYNCH: I understood the conditions would apply from the day - - -

15 COMMISSIONER McALPINE: I think what we said earlier, when I spoke to Ms Jackson, was that the pay is from the first full pay period but the actual conditions are from the date.

MR OGLE: That's exactly right.

20

MR LYNCH: That's correct, yes.

MR OGLE: Yes.

25 COMMISSIONER McALPINE: In both cases.

MR OGLE: Yes.

PRESIDENT LEARY: Yes. So work out what you want to go on the front page.

30

MR OGLE: Yes, the front page.

PRESIDENT LEARY: All right. Okay, I think that's it. All right, thank you, we will just wait to get some replacement pages and the two applications. Well done, thank you.

35

MATTER ADJOURNED at 12.37 pm INDEFINITELY

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