

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T No. 5044 of 1994

IN THE MATTER OF an application by
the Health Services Union of
Australia, Tasmania No. 1 Branch
to vary the Welfare and Voluntary
Agencies Award

re Clause 7 - Definitions

DEPUTY PRESIDENT ROBINSON

HOBART, 6 July 1994
continued from 24/6/94

TRANSCRIPT OF PROCEEDINGS

Unedited

DEPUTY PRESIDENT ROBINSON: Thank you. No change in appearances? Just a preliminary matter I think I should deal with first, Ms Harvey. It concerns a request, your request, Mr Fitzgerald for priority to be given to the production of transcription on this particular case. And you wrote to me on 30 June, and perhaps it is best if I read it. It is only short.

MR FITZGERALD: That is right.

DEPUTY PRESIDENT ROBINSON: It is addressed to me, headed WAVA Hearings, and says, quote:

I have been asked by TCCI members to seek transcript as a matter of urgency and I have been informed by your association -

associate, I think that should be.

MR FITZGERALD: Associate.

DEPUTY PRESIDENT ROBINSON:

that it will not be available for another eight weeks.

It goes on:

As you are aware, the current proceedings are extremely significant, in terms of the potential implications for the industry as it represents the most significant changes in the past 10 years. Employers believe that they can only properly respond to such a detailed claim with the provision of transcript. I therefore request that you seek to expedite the provision of transcript so that it is available in adequate time prior to the employer response.

From - or it is signed on behalf of Bill Fitzgerald, adviser advocate, industrial services. And just to complete the picture, I wrote back to Mr Fitzgerald the next day, and acknowledge receipt of the letter and said I would advise it - that:

This is not a matter within my province and I have referred the letter to the president for his attention -

which I did and I have received a response back from the president. He wrote to me on 5 July and said, quote:

I refer to your note to me of 1 July 1994 and wish to advise that I have requested the audio section to treat the provision of transcript

*in matters T5044 and 5110 Welfare and Voluntary Agencies Award,
with some urgency.*

And he says to me:

*You might care to liaise with the audio section to determine when
the above transcript will be available -*

which I have through my associate. And the picture there is that it is estimated the transcript in respect to hearings held to date will be available by this Friday pm. And so, priority has been given and it will be speeded up. But I would emphasise that the provision of ancillary services by this commission such as transcript and directions to staff of the commission is quite properly within the province of the registrar and the president of the commission, and not individual commissioners. And it just says an aside, that the situation of - in relation to commissioners associates is, of course, a little bit different.

I would stress that the provision of transcript is extremely costly and the limited resources of the commission are already quite stretched to the limit and in meeting TCCIs request for priority to be given to producing transcript on this occasion has meant contracting out of the work rather than it being done by our own staff, and it has meant the imposition of additional expenditure by the commission, which was not budgeted for, and for those reasons I would hope that the measures taken in this occasion would be appreciated as being special, and would not necessarily set any precedent for such requests to be automatically met in the future. And I suppose it is a little bit ironic that generally speaking, private sector employers quite properly would encourage government and government departments to curtail their expenditure, not increase it, as it has done on this occasion. I do not know how that - how you respond to that, Mr Fitzgerald?

MR FITZGERALD: Oh, certainly, I would, if I could respond to it, by firstly thanking both yourself and the president for taking such steps. As I indicated in my letter, we believe that this is one of the few - oh, sorry, I indicate this in my letter but I would indicate now, this is one of the few matters of such importance and such complexity which has gone to arbitration, and given that it covers a very wide field, I think it is essential that we have it, and we do appreciate very much that the commission's efforts in achieving that, and we do acknowledge that it is, in these special circumstances relating to this case, that the commission has so acted; so, appreciate that.

DEPUTY PRESIDENT ROBINSON: Yes, thank you. I take it, Mr Fitzgerald, that the emphasis is on having transcript produced in

relation to the HSUA case. You are not going to wait for transcript to be produced in respect of your own submissions before you go on with the next?

MR FITZGERALD: Oh, no, no. No, that - I am sorry if that was misleading to that extent. It is not intended to be that way at all. Yes, the main concern, of course, is to have complete transcript of the HSUA case.

DEPUTY PRESIDENT ROBINSON: Yes.

MR FITZGERALD: We have attempted, where possible, to make our own notes of what has occurred, but it is not always easy and I think so far Ms Harvey has been very complete in her submissions - - -

DEPUTY PRESIDENT ROBINSON: Yes. —

MR FITZGERALD: - - - and I am sure she will be.

DEPUTY PRESIDENT ROBINSON: You would be, yes, assisted by the exhibits which have been produced - - -

MR FITZGERALD: Certainly, yes.

DEPUTY PRESIDENT ROBINSON: - - - and the way they have been tabulated. And even with witnesses - - -

MR FITZGERALD: Witness statements.

DEPUTY PRESIDENT ROBINSON: - - - you have had witness statements, which is not always the case.

MR FITZGERALD: I would acknowledge all that, all those points, certainly.

DEPUTY PRESIDENT ROBINSON: Thanks, Ms Harvey?

MS HARVEY: Thank you, Mr Deputy President. Certainly we may be seeking to avail ourselves of some more assistance in relation to when we need to respond to the employers case and - so, certainly we would reserve our right to put similar submissions to you in relation to that matter. If I could just deal with a couple of preliminary matters before I resume my submissions. First of all I want to foreshadow to you, Mr Deputy President, that it will be necessary for the HSUA to undertake inspections.

I have attempted to get an agreed schedule, if you like, of inspections and the way in which those will be carried out. And I have requested that Mr

FitzGerald meet with me sometime today to see whether we can expedite that.

DEPUTY PRESIDENT ROBINSON: Well, I have got every confidence that you will work out a mutually acceptable program of where you go and what times.

MS HARVEY: Given the history of this matter I wish I could say I could share your confidence, but I am not sure that I actually do. We have not had a great deal of success to date on trying to get agreement on procedure.

DEPUTY PRESIDENT ROBINSON: I am not quite sure whether there was any difference in the definition of an optimist and a fool.

MS HARVEY: If I could also foreshadow to you, Mr Deputy President, following our previous days of hearings when we dealt with issues that related to conditions, award conditions, I wish to foreshadow that the HSUA will be making an application on award matters, that we will seek to join as part of the structural efficiency exercise and seek to have dealt with in the same manner that the employers have been granted in relation to their application as far as it goes to conditions. So I just foreshadow that and we will provide the application to the employers and yourselves as soon as we are able to.

MR FITZGERALD: Does that complete the threshold points or are we
- - -

DEPUTY PRESIDENT ROBINSON: I do not think so. You were going to seek leave to amend your claim.

MS HARVEY: Yes, I was. I have a number of other matters. I have got the questions that you asked at the last hearing which I have a response to and then I was going to deal - resume my hearing - my submissions in relation to exhibit 5.2. So I will deal with the questions before I deal with the exhibit 5.2, if I may, Mr Deputy President?

DEPUTY PRESIDENT ROBINSON: Yes.

MS HARVEY: At the last hearing you asked me a number of questions which I undertook to respond on. First of all you asked me: are the special class tradesperson within the Metal Industry Award required to teach? And I can respond by saying to you that quite clearly in the Metal Industry Award special class occurs at C8, which 110 per cent and C7, which is 115 per cent. Neither of those two levels are required to train and the exact

wording as it goes to training in the classification definition reads, and I quote:

*(ii) provides trade guidance and assistance as part of a work team.
(iii) assist in the provision of training in conjunction with supervisors and trainers.*

End of quote.

So, really what is anticipated is that they would, you know, within teams that they would be providing some trade guidance and one would assume that that would be to apprentices. Certainly something that we would anticipate happening within the level 4 of our award, which is that 100, 105 and 110 per cent of our classification structure and I note that the employers as part of their application is to look at the insertion of apprenticeship training clauses. And certainly that is something that we would be happy to expedite whilst we reserve our rights in relation to the form of that clause.

In terms of 2, the second - sorry, the second question you asked me was whether the Miscellaneous Workers Union Supported Employment award was consent to arbitration. I can confirm that it was consent. And in relation to the - the third question was you asked for the scope of the South Australian Social and Community Services Award which I have a copy here of today. If I could hand it up, and in doing so seek to amend 5 - exhibit 5.2 by adding this to it.

MR FITZGERALD: Sorry, could I just seek clarification, the second award Ms Harvey mentioned, the Miscellaneous Workers Award, was it?

MS HARVEY: The FMWU - it was in relation to exhibit 5.2 you asked the question and I will just find the exact title award - it is the FMWU Supported Employment Award of the Australian Industrial Relations Commission.

MR FITZGERALD: Oh, thank you, yes, yes. Yes, that is clear now.

MS HARVEY: If I could just seek leave to amend exhibit 5.2 to add this at the beginning of tab 3.

DEPUTY PRESIDENT ROBINSON: This exhibit is in relation to that?

MS HARVEY: Yes. It deals directly with one of the awards that I am citing in that exhibit.

DEPUTY PRESIDENT ROBINSON: Oh, right.

MS HARVEY: And you asked for the scope, so this gives the scope.

DEPUTY PRESIDENT ROBINSON: Yes, right. Perhaps we had better call this HSUA 5.2A.

MS HARVEY: Yes. I am starting to think, Mr Deputy President, that at the end of this hearing I think I am going to come to your point of view about the way we number exhibits.

DEPUTY PRESIDENT ROBINSON: Really?

MS HARVEY: Yes.

DEPUTY PRESIDENT ROBINSON: Do you want to repeat that on transcript?

MS HARVEY: I already have, I will say it again if you like. I did not anticipate, I suppose, amending my exhibits which I think is where some of the problem may come.

DEPUTY PRESIDENT ROBINSON: And I have been round a little bit longer.

MS HARVEY: Yes. So, if I could go to the scope, and this is an extract from FATEXT, which is a system - the national system that deals with awards. So, the text, and it goes to A3.2 and I quote:

This Award shall not be binding on those persons who are (described and listed below).

Sorry, it could start from A3.1

DEPUTY PRESIDENT ROBINSON: Yes.

MS HARVEY:

Except as provided for in sub-clause A3.2 hereof, this Award shall be binding on and whether members of a registered association or not.

3.2 then goes on to deal with the exemptions, and I quote:

This Award shall not be binding on those persons who are (described and listed below):- or other public or statutory authority appointed by the South Australian Government under the following Acts:

end of quote. I will not read those out. I think the important of (c) is that it basically it is removing the public sector:

(d) employed in services in which a local government authority is the employer; in facilities or homes established to provide nursing and or "personal care" -

And it got - it has some definitions there -

(k) employed as a Psychologist or Graduate Officer Psychology where such persons are not primarily engaged in social or community services work (as defined herein). employed as a Physiotherapy Aide, Speech Pathology Aide -

etcetera. Look, I will not keep reading through it, I think it is enough for the commission that it is before you.

The point is, I suppose, the critical exclusions are where awards already exist which is fairly limited particularly in the federal jurisdiction to supported accommodation, obviously it excludes local government and the public sector and some key awards, principally teachers and other such.

DEPUTY PRESIDENT ROBINSON: And under the age of 21 years.

MS HARVEY: Yes, that is interesting, I had not noticed that.

Maybe that is in support of the view that we are putting, Mr Deputy President, about the appropriateness of junior rates in this award.

DEPUTY PRESIDENT ROBINSON: I did not say that; you did.

MR FITZGERALD: Never miss an opportunity.

MS HARVEY: So, now if I could deal with the issue of 5.2 and seek leave to amend exhibit 5.2 in terms of the correspondence which I sent to you on 4 July - and a copy was sent also to Mr FitzGerald. My apologies for this amendment, Mr Deputy President. They were oversights in terms of the checking of the exhibit, and I will add that there are a number of other typos, if you like, in the exhibit, but I have not gone to correcting those because in all cases it is clear what it means and it is really just minor changes. So, if I could seek leave to amend the application in terms of my correspondence of 4 July to yourself, and I will go through that if you like. In terms of tab 3, which is where the amendments occur - - -

DEPUTY PRESIDENT ROBINSON: Mr FitzGerald has received a copy?

MR FITZGERALD: Yes, thank you, yes.

MS HARVEY: That is correct. I do not need to go through it unless you require me to for the sake of completeness.

DEPUTY PRESIDENT ROBINSON: Well, if Mr FitzGerald has got a copy, I think I will just ask if there is any opposition for leave to amend?

MR FITZGERALD: No, there is no opposition to leave to amend.

DEPUTY PRESIDENT ROBINSON: All right. HSUA 5.2 is amended in accordance with the letter dated 4 July.

MS HARVEY: Thank you, Mr Deputy President. Now, on the last day of the hearings I was dealing with the section of our submissions that go to the issue of appropriate relativities to be set for this award. I was dealing with section 5.2 of our submissions, that in relation to appropriate relativities - and you will recall, Mr Deputy President, I was talking about the particular requirement of the structural efficiency principle to establish appropriate relativities within awards and across awards with respect to skill, level of responsibility and work environment. I had got to page 17 of HSUA 5.2 in tab 3.

MR FITZGERALD: Well, if Ms Harvey is finished the preliminary threshold points I wonder whether I could raise one prior to her proceeding to her primary submissions?

DEPUTY PRESIDENT ROBINSON: It would probably be a most appropriate time, Mr FitzGerald.

MR FITZGERALD: I was just trying to judge the time in which I rose to my feet and it would seem that it is appropriate and I thank Ms Harvey for that. Mr Deputy President, prior to Ms Harvey proceeding this morning in respect to her primary submission I wish to raise a threshold point of concern relating to events which followed the last hearing of this matter, specifically relating to the HSUA, or HACSU, relating to reporting to members of these proceedings, and I will seek to produce an exhibit which in our view misrepresents these proceedings and we do require - we do request the commission take some positive role in ensuring that reporting of this nature does not occur again, and at this point I would seek
- - -

MS HARVEY: Can I just interrupt - - -

MR FITZGERALD: I would seek to produce an exhibit which - in support of those submissions which I will make shortly.

MS HARVEY: I would just like to intervene there, Mr Deputy President. I consider this extremely bad form. I knocked on Mr FitzGerald's door at quarter past 10 this morning and said, "Is there any threshold matters that you're going to raise with me that we should discuss first?" He said, "No. It's another day of hearing," and did not respond to me that he had any issues of concern. I think this is a completely irresponsible way of dealing with the hearings in this case and I would like the opportunity to discuss the matter with him in relation to what his concern is, because I may be able to deal with it rather than have it foisted upon me in this manner in a hearing.

DEPUTY PRESIDENT ROBINSON: And hoisted upon the commission, too.

MS HARVEY: So, I seek leave for an adjournment to discuss the matter.

MR FITZGERALD: Well, Mr Deputy President, we did not give any positive response to that particular question which Ms Harvey said - I said, "The matters will proceed at 10.30," which I indicated, and it is open to the commission to regulate its own procedure. It is a matter of concern which we need to bring to the attention of the commission. It is a matter which we do not believe Ms Harvey will willingly concede that there is an inaccurate reporting to her members in respect to these proceedings, and we believe that the most appropriate way is to put it to the commission direct.

MS HARVEY: I do not know how Mr FitzGerald can say that as he has not discussed it with me in any way whatsoever. I would request again an adjournment of 15 minutes so I can ascertain what it is that Mr FitzGerald's concerns are.

DEPUTY PRESIDENT ROBINSON: I would just draw attention to the fact that in the last week, if not the last week or two, the registrar did send a circular letter to all organisations in which he passed on the president's request in a couple of respects, firstly that applications be more detailed, and did also say that it would be helpful if - particularly in disputed matters, if parties did confer before actually seeking the commission's assistance. In the spirit of that I think it probably might be appropriate that we take a short adjournment where whatever is to be raised can be made the subject of private discussion and then if necessary the commission will certainly deal with it.

MR FITZGERALD: Okay.

SHORT ADJOURNMENT

MS HARVEY: Mr Deputy President, I think - sorry, are we on record?

DEPUTY PRESIDENT ROBINSON: Yes, we are on record.

MS HARVEY: I think that we have resolved the issue. Whilst the employer reserves their right to raise it again we are having some discussions about some wordings and hopefully it will fix it. I think that is the case, I am not 100 per cent sure. Perhaps Mr FitzGerald can confirm one way or the other.

MR FITZGERALD: I can confirm that is the case. Yes, I appreciate the adjournment and the opportunity for discussion at least put in train a process to resolve it. As to whether it does resolve it remains to be seen and we would reserve our position in respect to raising the matter again. Just an important point at this stage, we are not wishing to just simply raise these issues for the sake of delay or to disrupt Ms Harvey in presentation of her case, she has a legitimate claim before the commission which she is entitled to put before the commission and which we are entitled to respond to and that is the way in which we wish to proceed.

However, where matters do arise during the course we believe it is open for us to do so but we are not raising them simply for the matter to be obstructionist or inflammatory but for genuine concerns on behalf of members.

DEPUTY PRESIDENT ROBINSON: Yes. Well, I acknowledge that people have the right to raise objections. I am not quite sure what - at the end of the day what the request to the commission would be. Where the commission is hearing the merit of a particular case and how these sorts of threshold questions ought or ought not affect the merit of the case. the commission has got to be careful to concentrate on the main game.

MS HARVEY: All I can say is I concur completely and that is why we are making some attempt to try and resolve the issue without - on a without prejudice basis because we have just got to focus on what the real issue is here and certainly my organisation does not want to see the relationship with the employers soured because we have got a big future ahead of us in terms of working together so we really are seeking just to run our case and to afford the employers the opportunity to run theirs.

DEPUTY PRESIDENT ROBINSON: Are there any other preliminary matters or threshold matters? No?

MR FITZGERALD: No other threshold matters.

MS HARVEY: Not today.

DEPUTY PRESIDENT ROBINSON: Not today. I do not think I would be a very good counsellor.

MS HARVEY: I know I would not be. Right, Mr Deputy President, I was addressing you in relation to tab 3 of HSUA exhibit 5.2 and I had been stating prior to the interruption, just to collect my own thoughts, that as part of this exhibit what we were seeking to demonstrate in support of our application was that there are relativities of which ours are certainly consistent with the general thrust of and indeed we would argue are less than the sort of relativities that are established for equivalent awards and equivalent work, so I was on page 17 when I ceased on the last day of hearing and we were looking at equivalent relativities for the disability support worker 5 and that relativity is 115, 125 and 130 per cent.

DEPUTY PRESIDENT ROBINSON: I am sorry, on page 17 - - -

MS HARVEY: Page 17, HSUA 5.2 tab 3.

DEPUTY PRESIDENT ROBINSON: Oh, tab 3, I am on the wrong tab. Makes a difference.

MR FITZGERALD: There is a deletion there too, is there? CSW3?

MS HARVEY: CS - page 17.

DEPUTY PRESIDENT ROBINSON: Oh yes, yes. As amended.

MS HARVEY: As amended because you will recall that the relativities were not actually in there so by deleting and inserting it it is now 127 per cent, 130 per cent and 137 per cent.

DEPUTY PRESIDENT ROBINSON: I am with you.

MS HARVEY: Right. Which is where we got stuck last time when I suddenly realised it was not there. So, in this award which we have just considered the scope of, I have highlighted the critical parts of the classification definition and I draw your attention to those and I quote:

Under general direction in the application of procedures, methods and guidelines which are well established employees appointed at this level will be under the direct supervision of a senior worker.

Now, you will recall in the HSUAs application for DSW5 it actually says that there will be limited supervision so indeed, in this equivalent relativity there is a much higher level of supervision than in the HSUAs application. And further down, the next underlined section and I quote:

Scope for exercising initiative in the application of established work procedures -

End of quote. Well, in the HSUAs application that is much broader because they are working under limited supervision. At the bottom of the page there importantly - and it is underlined and again I quote:

Three year degree holders shall commence at step 1 of this level.

End of quote. Now, step 1 of this level is 127 per cent in this award. In the HSUAs application it is 125 per cent and I will be coming in more detail as to how this approach is consistent with the metal industry relativities and how we deal with unexperienced people who have a tertiary qualification but no industry experience but the approach is the same. On page 18 again I have underlined which reinforces this:

Graduates on completion of 12 full-time equivalent months service at step 3 shall be advanced to step 1 level 4 -

and again this is this approach of the same as the metal industry and the same in this award, of having a progression based on years of service when people have no experience when they come into the industry, and you will also notice that it is full time equivalent months which is exactly the same as the HSUAs application but we have used the word hours to make it clear.

And further down under level 3 again it says again underlined, and I quote:

Entry level for a degree holder -

so it is just reinforcing the same point. On page 19 the second dot point there is underlined and I quote:

Exercise responsibility for a function within the work area.

End of quote. Now in the equivalent classification level in the HSUAs application on page 19 - - -

DEPUTY PRESIDENT ROBINSON: Yes, it was upside down and looked like 16.

MS HARVEY: In the HSUAs application at the equivalent level of the DSW5, in support of employment it is the same, they have responsibility for a functional area and within the area of residential it is the equivalent in the sense that there is responsibility for co-ordination of a group home so the concept is equivalent.

Over the page, on page 20, again, it reinforces works under general supervision; again, the HSUA application for an equivalent level is limited. Now, if I could take you into the personal care supervisor co-ordinator under the Health Services Union of Australia interim award, the relativities there being 123, 124, and 125. Now, it similar. We have already discussed the role of a personal carer, and the added responsibility for a personal care supervisor is that - and it is underlined there:

via administrative duties and/or the supervision of staff.

So what has been expected at this level is the supervision of staff. now, in terms of the HSUAs application, certainly, at this level there is a responsibility with supervision. in fact, it goes beyond just mere supervision of staff; it is responsibility for a functional unit or co-ordination. And, indeed, the supervision element is in fact brought in at HSUA level 4; so, again, we have got a situation where the relativity is in fact - it demonstrates that the HSUAs relativities are very conservative.

Over the page, on page 21, we have the equivalent relativities for the disability support worker 6 and it is 135 and 145 per cent in the HSUAs application. Now, the equivalent definition is, indeed, in the Social and Community Services Award (South Australia) is the CSW level 3, the one that we just dealt with at the level below. So, again, what we are saying is that the HSUAs application is very conservative in terms of equivalent awards. It is a confusing document. It is difficult to do this in a structured way, Mr Deputy President. So what I should have said there is that it is - the definition of CSW3 which has relativities at 120, 130, 137. In the disability support worker level 6 it is 135, and 145; so there is actually an overlap. And you will see by the information we have already provided you about the definition for CSW3, that we are saying that that is in fact very - is less skilled than what we are expecting of our disability support worker 4, let alone at the next level up. If I could now take you to disability support worker level 5 - sorry, level 7, which is on page 22?

DEPUTY PRESIDENT ROBINSON: Yes, I have it.

MS HARVEY: Now, the first award that is mentioned there is the Medical Diagnostic (Private Sector) Award and the relativities are set out there - 125, 135, 145, 150 and 160 and, indeed, this reflects again the

metal industry approach because these relativities are identical to this method of progressing if you have no experience. And I will just also draw your attention to the final phrase at the end of that definition, and it says "all the equivalent thereto". And so what is built into this definition is that you would have that training all the equivalent thereto and that would encompass either demonstrating competency through an appropriate system or being able to actually demonstrate that you have the equivalent skills.

In the Social and Community Services Award, CSW level 4, now you will recall that we did the comparison with DSW level 5, because level 4 is the next level. We had to skip it level 6. Level 4 is the next level which is 145 per cent, 152 per cent and 160 per cent. So in term sof this definition in the underlined sections again- and I quote - it says:

general direction in the application of procedures, methods and guidelines which are well established.

Now, in the HSUAs application, indeed, what we are looking at is a degree of autonomy, responsibility for outcomes. So the level of responsibility is in fact higher than what is anticipated in this award. In the third paragraph the underlined section - and I quote:

General features at this level require the application of knowledge and skills which may be gained through qualifications and/or previous experience.

Well, that is equivalent to what is in the HSUAs application. The next paragraph down - and I quote:

contribute knowledge in establishing procedures in the appropriate work-related field.

Indeed, this requirement in the HSUAs application is at disability support worker level 6, not level 7; so, again, it is showing that we are conservative in relation to this equivalent award and relativities. Over the page, on page 23, the underlined section says:

Employees at this level may be required to supervise various functions within a defined work area or an activity of a complex nature.

Now, in terms of disability support worker level 6, which is the level below in the HSUA application, they are indeed required to supervise more than one functional area and also within a supported employment context and within the residential context to co-ordinate multiple group homes. So,

again, we have got a situation where the equivalent skill is indeed at a lower relativity than this one. It then goes on - and I quote:

Employees may be required to provide specialist expertise and advice in their relevant discipline.

This is identical to the HSUAs application for level 7. The next underlined section says - and I quote:

Graduates with recognised qualification pursuant to this award who have completed the relevant satisfactory service at level 3 shall progress by yearly full-time equivalent incremental steps to the maximum of this level.

Now, again, this is the application in this award context of that metals procedure of moving year by year till you get to the 160 per cent benchmark for degree qualified or diploma qualified staff. Over the page, page 24, in the next dot point - in the dot point that is underlined it says:

less formal qualifications with specialised skills sufficient to perform at this level.

Now, that is equivalent - and, again:

attained through previous appointment, service and/or study an equivalent level of experience and expertise to undertake the range of activities required.

Again, those are both equivalent. Now, with those points above where it talks about an associate diploma or qualifications in more than one discipline, what it is doing is allowing the capacity for people who have a lower level qualification to get extra skills either through experience or through qualification to move up to this degree rate. But the equivalent level for these associate diplomas is in fact the metal industry relativities. At the bottom of the page there is it underlined, it says:

provide expert advice to lower classified officers.

Well, that is identical to the HSUA application. On page 25 there is a series of points there that are underlined and I will not quote them directly but what I will say is that they all deal with this idea of professional officer and the sort of skills that they would use at that professional level. And just to give you a couple of examples, it is talking about taking - undertaking the task of a specialised or detailed nature, exercising professional judgment within prescribed areas that includes supervision of the function.

So it is really dealing with the skills that one would expect from somebody with a degree level qualification, and that is very equivalent to the HSUAs application for the disability support worker level 7.

DEPUTY PRESIDENT ROBINSON: Very equivalent?

MS HARVEY: Very equivalent. If I can take you to the relevant page
- - -

DEPUTY PRESIDENT ROBINSON: Are they degrees of equivalent?

MS HARVEY: It is indeed - without saying it is identical it is in all essential aspects equivalent.

DEPUTY PRESIDENT ROBINSON: I see.

MS HARVEY: There may be an and or a comma added or deleted, but if you could go to - I could take you to the section on page 18 of HSUA4.

DEPUTY PRESIDENT ROBINSON: What does it look like?

MS HARVEY: It is a blue one, that one.

DEPUTY PRESIDENT ROBINSON: Right. And would you mind repeating the reference?

MS HARVEY: On page 18 in tab 1.

DEPUTY PRESIDENT ROBINSON: Thank you. We are there.

MS HARVEY: Okay. In that third dot point down on page 18 it says:

Where primary responsibility lies in a specialised field, employees at this level would undertake at least some of the following -

Well, instead of using the word "professional" we have used the word "specialised". And then the first dot point says "under general direction"; well, this whole definition here is not under general direction so therefore we have in fact deleted that because the primary general descriptor talks about limited direction, so to be consistent - and then it goes through some of the responsibilities required at this level:

Liaising with other professionals at a technical level -

well, that is a similar sort of thing as under general direction; takes tasks of a specialised or detailed nature; provides reports on project activities

including recommendations. In the fourth dot point down there on page 18 it says:

Provide a reference research and/or professional service; carry out planning studies for particular projects including aspects of design, formulation of policy, implementation procedures and presentations.

At the bottom dot point on page 18:

Assist senior employees with planning co-ordination of a community program of a complex nature.

So what I am trying to get at is that it is an equivalent sort of level of responsibility. In fact when we formulated this definition for level 7, from recollection we took it from some of the skills from the next level up in the community services worker definition and put it back down into this level because we felt that some of these things were really professional skills that should be contained in that professional level qualification. So I suppose it is for you to judge but I would say that that is equivalent.

DEPUTY PRESIDENT ROBINSON: Well, you will have to wait and see. I have not heard Mr FitzGerald yet.

MS HARVEY: Yes. Well, we will wait with baited breath for that. On page 26 there is no further point on which to draw attention in relation to this document of comparison. So in conclusion by way of this section, we believe that HSUA exhibit - the information contained in HSUA exhibit 5.2 supports the HSUA's application for the classification structure. Now, I have taken you to the issue of the skills analysis and shown you how we have drawn together the application structure by, in effect, in broad terms, broadbanding the SNC skills analysis document so that we took the highest level of skill, if you like, from that document and broadbanded it.

We did that - I said to you at the time, Mr Deputy President, we did that because of the need to provide clarity and simplicity in a structure which has good reasons for - both public policy reasons and for the reasons of use in the field. In particular we are concerned that whatever structure goes into the award it is very clear so that funding bodies do not have an excuse to funds of the lowest common denominator; we need to be very explicit about what it is that we are proposing to operate in this industry. I would also add that that is reinforced by indeed the TCCIs application which has a similar approach of banding together groups and having increment points.

In relation to tab 2, we provided a comparison of three different documents: first of all, the HSUA's own application; second, the skills analysis document that I referred to in tab 1; and thirdly, the Metal

Industry Award relativities. We were able to demonstrate to you, Mr Deputy President, through that comparative document that we were being consistent with the wage fixing principles and the requirement to establish appropriate relativities across and within awards with respect to the skill, the level of responsibility and the work environment.

And finally in tab 3 what we have done is to take you to other awards in like industries in other jurisdictions which show a similar comparison, and indeed we would argue that both in tab 2 and tab 3 you can see that our application is very conservative in terms of relativities. We could have gone higher but in fact we have gone a little bit less, and we believe that that supports the commission granting our application as it currently is before you.

Now, Mr Deputy President, there was one other matter that you asked questions about at the last hearing and I gave an undertaking that I would prepare a differences document between the HSUAs application and the TCCIs application; indeed, this was an issue of some discussion, you will recall, many hearings ago about the need for such a document. So if I could now hand that up as exhibit 4.1.

DEPUTY PRESIDENT ROBINSON: 4.1?

MS HARVEY: 4.1. It goes to - 4 is the section of my submissions that deal with applications.

DEPUTY PRESIDENT ROBINSON: Thank you.

MS HARVEY: So 4.1 is the differences: 4 is our application; 4.1 is the comparisons.

DEPUTY PRESIDENT ROBINSON: No comment. This is HSUA4.1.

MS HARVEY: Now, if I could just say in relation to this document, Mr Deputy President, I did meet with Mr FitzGerald on 30 July and provided a draft of this document that had slight modifications and I asked the TCCI or the employers to indicate whether it was an agreed document or not. Unfortunately, we have not had a response as to whether - well, no, that is not correct. What has been said is that it is not an agreed document. I am not sure whether it will be an agreed document at some later date but at this point in time it is not an agreed document. So it is unfortunate but I think we just have to proceed on that basis. So in relation to the - - -

MR FITZGERALD: Well, could I just make a comment on that? We simply acknowledge meeting with Ms Harvey on the 30th, that was the date, on Thursday, and the employers met the following day discussing a

large number of matters and regrettably there was insufficient time in which to discuss this document with employers on that particular day. Now, it has been a very short time frame. The impression I think Ms Harvey is leaving you with is that we do not wish to expedite the matter and reach a point of agreement. That is certainly not our case. We - - -

DEPUTY PRESIDENT ROBINSON: I did not read that. I mean, we should not be over-sensitive.

MR FITZGERALD: Well, I was left with that impression. Okay, but we certainly will, when we have an opportunity, view the document and it may be that we can get to a point where it is agreed but at this stage we just have not had that sufficient opportunity.

DEPUTY PRESIDENT ROBINSON: Thank you. Ms Harvey?

MS HARVEY: Yes, Mr Deputy President. So this document - what we have attempted to do is to draw together a comparison of the critical points of difference between the HSUA and the TCCIs application. Now, before I go to it in any detail it is important that people understand that the page numbers referred to in this document, because I have tried to refer back to the applications to cross-reference - - -

DEPUTY PRESIDENT ROBINSON: They go backwards or something.

MS HARVEY: - - - they refer to HSUA - the numbering in HSUA4, tab 1. So when it refers to a page number in here it is referring to this document.

DEPUTY PRESIDENT ROBINSON: Oh, right, yes.

MS HARVEY: So this document, in the index on the first page, it sets out that it is a comparison of the HSUA and TCCI applications. It is in two sections: section A and section B. Section A deals with generic issues disagreed by the parties that cross all the classifications and it is listed there there are six of them which I will take you to when I come to more detail of this document. Section B goes to the issues specific in each classification level that are disagreed and, sorry, it goes to the issues within each specific classification level, then within that one deals with the agreed variations to the HSUAs applications arising from the TCCI applications.

So some things we are just happy to concede and the second part of that deals with issues of disagreement. Now, formally and technically I assume the way we are going to have to deal with this is once I have gone through it, that I would seek leave to amend my application to incorporate the agreed variations from section B(1) but perhaps the easiest thing is if I go

through it and then we can come back to the form of the - the technical form of how it needs to be processed. So, page 1, this is dealing with section A, the generic issues. One is the skill based structure versus appointment.

The TCCIs application excludes skill based progression through the classification structure. In effect, it allows the employer to determine when and if an employee progresses. The HSUAs application requires skill utilisation for progression. Now, in each of these sections - I should have said earlier of section A - it is divided into two, just an explanation of what we understand the difference to be and then the consequent wording differences. So in the consequent wording differences the TCCI application includes the words and I quote:

Appointed to a position -

in the first sentence of each classification definition under the general description and in 1.2 the TCCI application includes a subclause on promotional criteria at the end of each classification definition. If I could just refer to that it might help to make this clearer. If you could go to the TCCIs application just by way of example.

DEPUTY PRESIDENT ROBINSON: In actual fact - I do not know whether I indicated it before, I think I may have - I had started to carry out the exercise myself to see where the differences between the two applications were and I must say it was not a short exercise.

MS HARVEY: No, sir, I know.

DEPUTY PRESIDENT ROBINSON: I wished I had not started.

MS HARVEY: Okay. On page 9 of the TCCIs application if you go to the bottom there it says promotional criteria and this is a criteria that appears at the bottom of each classification and it says and I quote:

An employee remains at this level until capable of effectively performing position becomes available.

End of quote. So, quite clearly, the intent is that you could stop progression. The issue of utilisation is not the issue. The issue is whether a position is available and that is a fairly fundamental difference between the two approaches in the award.

DEPUTY PRESIDENT ROBINSON: Yes. Would you be arguing that there ought to be - and this is a gross over-simplification - that there be a

lot more chiefs and indians at the end of a period of time? I mean, everybody would end up at the highest level.

MS HARVEY: Certainly not, Mr Deputy President, and we have made this very clear to the employers as well in discussions and what we are saying is that - and it goes back to the difference between required and acquired, I suppose in a question of philosophy rather than the position we are putting to you. The question of philosophy, I think, unions in general would like skills acquired and everyone would end up - - -

DEPUTY PRESIDENT ROBINSON: Yes, I have heard it before time and time again.

MS HARVEY: And employers would like exactly what is in here which is required. We will tell you when we want you to go to that level. The compromise in between is in fact skills utilised. Now, if you go to classification structures that have not even been restructured - - -

DEPUTY PRESIDENT ROBINSON: Skills required.

MS HARVEY: Sorry, skills - no, skills utilised is what we are saying.

DEPUTY PRESIDENT ROBINSON: Well, whether they are required or not.

MS HARVEY: No, the critical issue that goes to this is the way that position descriptions and the way the classification structures are set up. Now I said to you before that in any well managed organisation you do not have employees running around determining what they are going to do. They should indeed have position descriptions. They should have functions and tasks. Now if it becomes over a period of time that there is an expectation that a higher level of skill be utilised, then that should be discussed and reclassification should occur. But if we were to accept the application in the terms in the TCCI, what it would mean is that you could require an employee to utilise skills at a higher level than they are classified and say, "Sorry, can't promote you because a position is not available".

Now that is what we are seeking to guard against, and that is the intent whether it is the - whether it is intentional or not, that is the implication of it and we have always said in these discussions that obviously it is not a matter of people just reclassifying themselves, but it should be open if, through their work, they are utilising skills at a higher level because of the nature of service and because of what is expected or because of what they have to do, that they should be able to argue skills utilised for a reclassification. Now the issue becomes one of management.

If you look at any award, even the public sector awards that were previously not restructured, it does say what a definition is and it has been open to the parties to come to the commission and say this person is wrongly classified. So even now that exists. What is proposed in the TCCI application is in fact a retrograde step to give complete and utter discretion to the employer, and that would be contrary to the whole concept of a skill-based career path and indeed the whole operation of the commission.

DEPUTY PRESIDENT ROBINSON: What you are saying in effect, as I understand it, is that the employer would be able to limit the amount of payment made to a person because they were allegedly under-classified?

MS HARVEY: Yes, they would, because they can actually say, "Sorry, a position is not available". Let us take a very concrete example, it might make this easier. Say for example in the accommodation service, right, there is no supervision - if HSUAs application was successful - just assuming that - if the application gets up, level 3 says that you have got to have direct supervision and you have to do these particular tasks. Now if an employer was to structure their organisation in such a way that they had direct supervision and that the tasks were according to what was set out in the classification structure there would be no debate.

But say, for example, an employer said, "Well, I want a service where everyone is level 3, but I am not going to provide that direct supervision and I am not going to provide - - -

DEPUTY PRESIDENT ROBINSON: And get on as best you can so - - -

MS HARVEY: And get on as best you can. But you are still a level 3.

DEPUTY PRESIDENT ROBINSON: And so in your argument if somebody says that "Somebody has to take the initiative here and certain tasks have to be done, I must do it".

MS HARVEY: Well, more than that if it is required in their service for whatever way. We are not taking away the right of employers to structure their work organisation, although indeed we would like the opportunity to discuss that with employers, and I think that is the intention of enterprise bargaining, that you have a skills-based structure, you translate people over and then you go into the next phase, talking about work organisation to do it in a more effective way. And indeed when we get to the issue of translation we are saying that people should be translated on the basis of their current position descriptions.

So it is quite clear that that is what they are doing. Now if they are working over and beyond that, or they feel the need, then there should be discussion between the employee and the employer at the site about, "Well, okay, we are doing this extra work. Do you think really what we need is a high level of skill?" Okay, yes, no. Either we will not do it or yes we will do it and we will have to have a different level of classified staff.

DEPUTY PRESIDENT ROBINSON: Or the employer says, "Look, I don't want you to do any more than just do the dusting and make the beds, and that's it."

MS HARVEY: "And that's in your PD, and that's it," and you are not utilising your skill because of the way the work is organised. Indeed, when we will be calling witnesses, I will be calling witnesses who have got skills over and above the level that they are operating, and we quite unashamedly say to you that we do not expect them to go any higher than the level that is said in the classification definition.

DEPUTY PRESIDENT ROBINSON: Are you saying that if a person is over qualified for a job that they should - their qualifications should be recognised if they are not exercising them in that position?

MS HARVEY: No.

DEPUTY PRESIDENT ROBINSON: No.

MS HARVEY: In fact I will be calling at least two witnesses who have qualifications over and above what is required in their job. And what it is determined by is what is in the classification standards and the level of responsibility, the level of supervision and what they do.

DEPUTY PRESIDENT ROBINSON: Right.

MS HARVEY: I sometimes think that this issue is one of misunderstandings; that certainly in the history of the negotiation of this I think there has been grave concern about this particular issue.

DEPUTY PRESIDENT ROBINSON: I am sure it is a fundamental issue.

MS HARVEY: I have had great difficulty communicating - well, I have tried in many different manners - on what we actually mean, and I think that there is concern amongst employers that we mean more than we do.

DEPUTY PRESIDENT ROBINSON: Well, let us hope that we have clarified it to everybody's satisfaction.

MS HARVEY: Okay. So I think I have dealt with the issue on page 1 of the difference, and it is a very very critical difference and one that we will obviously be putting more argument to you about but I think we have already covered some of the argument when we talked about the wage fixing principles and skill based career structures. On the next page it deals with relativities. Obviously this is an issue that is of some significance in relation to the differences between us.

DEPUTY PRESIDENT ROBINSON: Yes, I would have thought so.

MS HARVEY: You were correct in the observation you made earlier, Mr Deputy President, in these hearings that the difference is not so significant at the lower levels; it starts getting pretty big at the higher levels. So at level 1 really there is no difference in the relativity. Level 2 we have used the metal industry relativities of 82 and 87.4; the employers have used 82, 87, 85 per cent, and I am not sure on what basis that was set but I am sure Mr FitzGerald will let us know in his submissions. In level 3, 92.4 per cent and 100 per cent, and the employers submission is - in the employers application it is 87.4 per cent, so it has picked up that rate from the top of our level 2; 82.4 and 98 per cent. So really the difference at that top level is only a couple of per cent.

DEPUTY PRESIDENT ROBINSON: But longer to get there presumably.

MS HARVEY: It takes longer to get there because they have taken the 87.4 out of our level 2 and put it into level 3. Now, obviously in terms of that relativity exercise I demonstrated earlier we have - in setting that rate have had regard to other awards that have - the skill levels they have at 87.4 per cent. So in fact if you were to accept the TCCIs application in relation to relativity and our definition, people would be going very much backwards in terms of that definition of looking at equivalents across awards.

So, 92 - so, level 3 is pretty clear. Now, I come to the wording differences, because obviously there are differences in what is expected, too, and the critical difference in this 3 is that the HSUAs application talks about direct supervision and the employer's application says "usually has access to a supervisor". So, there is a very big difference in terms of that, but I will come to that in more detail. Level 4, we have got 100, 105, 110. The employers stop at 105. In level 5, 115, 125, 130. Employers stop at 115 per cent. And then we have got these two extra levels that do not exist in the TCCIs application. So, I will put more submissions in relation to the TCCIs application, because the other thing we have to keep our mind on is the issue of relevant skill and the qualification issue.

Now, with the HSUA application, which I have been stressing all the way through we have used the relativities from the metal industry, whereas the TCCIs application has indeed compressed that, but I will come to that in more detail in a minute. Accelerated progression, which is on the next page, on page 3, the TCCIs application replaces accelerated progression with qualifications. So, it becomes a qualification clause rather than an accelerated progression clause. 3.2, the TCCIs application requires an employee to be appointed to a level rather than to utilise the appropriate skills. However, by deleting the HSUA's reference to appropriate level it is unclear how the clause would operate. Now, if I could make this a bit clearer for you - I assume you have got a copy of the Metal Industry Award.

DEPUTY PRESIDENT ROBINSON: Indeed I have. It looks like you have got a better prepared one.

MS HARVEY: Now, I am going to have some trouble with this. We tried to get a formal copy as well so we would be working off the same one, but we had difficulty getting it, because apparently there is a document and then there is a whole lot of amendments which you then have to work back. So, I am actually working off the union's - the Metal Workers Union published document.

DEPUTY PRESIDENT ROBINSON: Yes, I find that - - -

MS HARVEY: It is a less than satisfactory - - -

DEPUTY PRESIDENT ROBINSON: - - - organisations of employers and unions usually do prepare an easier read copy of such documents than getting the official ones.

MS HARVEY: Anyway, if you go to the clause 9B, which is the structural efficiency clause - I hope this is in there. I mean, I can just read it to you and quote it to you, but I suppose it would be easier if you can see it. There is - - -

DEPUTY PRESIDENT ROBINSON: You read it and see if it says the same as what I have got.

MS HARVEY: I hope it does:

Subclause (g) Phasing of wage rates for employees without relevant work experience.

DEPUTY PRESIDENT ROBINSON: Minimum wage, adults. You read it to me.

MS HARVEY: I will read it to you. Okay. In the copy that I have got it says:

9B Structural efficiency - - -

DEPUTY PRESIDENT ROBINSON: 9B?

MS HARVEY: 9B, structural efficiency.

DEPUTY PRESIDENT ROBINSON: I will swap you documents.

MS HARVEY: All right.

DEPUTY PRESIDENT ROBINSON: No, no, I am only joking. I would not do that to anyone, not even you.

MS HARVEY: Not even me?

DEPUTY PRESIDENT ROBINSON: No. If you just make the references and read it - - -

MS HARVEY: Okay. It is in my copy as:

9B Structural Efficiency - subclause (g).

I have checked that this is the correct current award with the union concerned and they confirmed there have been some changes but not that go to the classification structure. And it says, if I can quote:

Phasing in of wage rate of employees without relevant work experience. An employee who possesses the appropriate level of academic qualifications and who otherwise meets the requirements of the relevant classification definition, but who is without prior experience in the metal and engineering industry or other relevant work experience shall be paid in accordance with the following formula -

which is the formula that is replicated in HSUAs application. But the point that is important is that it says "relevant classification". Now, in the HSUAs application we said "appropriate level", so that you had to use the skills of the appropriate level, whereas in the employers application they have deleted that reference altogether, so it is unclear as to which level you are supposed to be operating at to be classified at that rate.

So, if I could take you, for example, to the TCCIs application on page 15 to make this clearer. In the HSUAs application it is very clear - sorry, are

we right? On page 15 of the TCCIs application it deals with the advance certificate and the associate diploma and how one progresses. Now, they have deleted in those paragraphs above, in the incremental progression, the reference to the relevant classification, so therefore you could have somebody who was classified and doing the work of level 5 according to their application, which would actually go backwards into level 4.

o, what we are saying is it is very important when you have got accelerated progression that covers different classification definitions that you need the word "relevant" because otherwise how do you know which classification definitions they are required to meet? Now, I am not sure again whether that is an intentional thing or an oversight thing. It may be something that we can sort out, but it certainly is a very important word that has been left out, that word "appropriate" or "relevant". Is there any questions in relation to that? Have I made it clear?

DEPUTY PRESIDENT ROBINSON: I understand what you are saying, yes. You are just going to leave me some work later on, of course, and that is my job.

MS HARVEY: Okay. So now, the next point is that the TCCIs application does not recognise any existing qualification, so that basically says the line in the sand is until such time as we have agreed to competency standards or we have had interim arrangements, but nothing else exists before this point of time, which begs a question of why one would bother to put in the requirement in the award, but anyway, consequent wording changes - so, this goes to the wording changes. What I have done in the consequent wording changes is replicated the numbering in the conceptual section, if you like, so 3.1 in consequent wording relates to 3.1 in the first half.

So, at 3.1 in dealing with the accelerated progression, they have deleted the heading, "Accelerated Progression" and replaced it with "Qualifications and Incremental Progression." So, an incremental progression. So, they have basically just changed the heading. Now, in 3.2, replacing the words, "engaged in competently utilising the skills" with "is appointed by the employer to competently utilise the skills. And that goes to page - that page number is in relation to HSU4, tab 1. So, if you go - if you look under Accelerated Progression, because this is the clause we are looking at, (e), on page 19, in that paragraph it is replaced on the fourth line down, "is engaged in competently utilising the skills," that has been replaced with, "is appointed by the employer to competently utilise the skills." So, it goes back to the issue of appointment rather than - okay, relativities, 3.3.

I have included the relativities for the final year of experience, are you with me, on page 3 of - the employers, in the document at 4.1, which I am

reading from, I have set out what the relativities you achieve at the end of the appropriate relevant amount of experience that is required in the award. So you can see the trade rate is the same. At 130 per cent is an advanced certificate in the HSUAs application, which is consistent with metals and all those other awards I have led you to. The employers application is 105 per cent. The associate diploma is 145 per cent, the TCCIs application is 115 per cent. The degree 160 per cent does not exist in the TCCIs application.

Now, we will be presenting evidence to you in Mr Brown's submissions that shows that the qualifications that we are talking about are consistent with the accredited process nationally for awards, so that they are equivalent. So, we will be seeking to demonstrate that in Mr Brown's submissions. So, that is a fairly fundamental difference between us, the way that those qualifications are valued. And we would certainly argue that any attempt to value them less than what is the industry standard, through metals flowed to a variety of awards, results in a gross undervaluation of the work performed in this industry, and certainly we would argue constitutes a fairly severe case of gender discrimination. In 3.4 - - -

DEPUTY PRESIDENT ROBINSON: Yes, I am with you.

MS HARVEY: Yes. If I can just expand on that comment about gender discrimination, because I saw a few eyebrows around the table being raised.

DEPUTY PRESIDENT ROBINSON: You should only take notice of what I say, not how I look.

MS HARVEY: No, I was not talking about your eyebrows.

DEPUTY PRESIDENT ROBINSON: Oh.

MS HARVEY: I was talking about the eyebrows - - -

DEPUTY PRESIDENT ROBINSON: Oh, I see.

MS HARVEY: The - certainly it is our view that there are three types of skill. There is the social skill, technical skill and operational skill. Technical skill is the one that is easy, very easy to measure. Anybody can measure it. It is how quickly you key, it is how well you machine a piece of metal to a particular requirement. The other two skills being social, and that is the human services skills, the way that you relate to your clients. And the other operational, being the way you organise your work with all these different demands. Those two things are very, very difficult to

measure, and they are the two things that dominate in the areas of women's employment, where women are traditionally segregated into.

Now, we would argue that in this industry, those technical skills are definitely there, and very important. Things like how well you can sign, how well you know how to develop training programs, how well you know how to develop behaviour management programs. Things that can be measured. But there are these other things as well that are very important in this industry, that are common in women's industries, that are often undervalued and not recognised.

DEPUTY PRESIDENT ROBINSON: Are you suggesting that a male nurse is not as well qualified and competent and useful in employment, as a female nurse?

MR FITZGERALD: Certainly not. I am not talking about inherent qualities of the people doing the work, and indeed, the more men we have doing nursing work and the more men we have in the other parts, probably the better we will be in terms of removing these problems. But what I am saying is that there is a structural way that the labour market is structured.

DEPUTY PRESIDENT ROBINSON: Yes.

MS HARVEY: That there is gender segregation and that because of that and the skills that are non-technical, it is often undervalued, whether they be men or women, that their work - - -

DEPUTY PRESIDENT ROBINSON: As I understand it, you are saying that the industry is dominated by female employment are undervalued - - -

MS HARVEY: Yes.

DEPUTY PRESIDENT ROBINSON: - - - whoever works in them.

MS HARVEY: That is correct. And I will be presenting more evidence in relation to that when we come to the issue of public interest. So, on the bottom of page 3, 3.4, it says - the consequent amendment is that it replaces the words "shall advance through the classification structure in the following manner" with "and being selected on merit for a position subject to the position becoming available, the employee shall be classified as follows. End of quote.

Now, again it may be - come to this issue that perhaps I am misunderstanding it, but it seems to me very odd to suddenly include a provision on merit, which is nowhere defined in the award, which is not operating in the industry at the moment, I can assure you, if we take merit

to be what applies in the public sector as the basic principle of merit, to suddenly whack it into the award. Now, I am more than happy to have discussions with employers in this industry about instituting a proper system of merit selection, complete with appeal, complete with everything that is associated with it. And I just really wonder whether that is, indeed, the intention. And if not, I do not see how one can suddenly refer to merit where it is not referred to anywhere else within the award, and it has not been common in the private sector.

So, but I am more than happy to negotiate - to put in a merit provision, selection and requirements, in the award. I think that would be very interesting. But perhaps that is something that the employees wish to consider further. But the point remains that in terms of accelerated progression, what the employees have done is remove the system that we were proposing, of skill based progression with this requirement that you utilise the skills, which we have already discussed, with this idea that a position be available, that you are promoted into.

DEPUTY PRESIDENT ROBINSON: I hear you.

MS HARVEY: Page 14 - page 4, sorry. Adding the following sentence, "existing qualifications will not be recognised until the development of industry competency standards or the development of an interim arrangement by the industrial parties." End of quote. This is the definition that deals with removing recognition of any qualification that currently exists. Again, I will leave that to Mr Brown to address in his submissions in terms of the qualifications that currently do exist, and we will be providing you quite detailed evidence on why this particular provision should not be included in or accepted in relation to these two competing submissions - applications.

MR FITZGERALD: Can I just clarify, is it evidence Ms Harvey seeks to bring or submissions?

MS HARVEY: Submissions. I must learn to use this word correctly.

MR FITZGERALD: No, I am just always a bit sceptical, particularly as Mr Brown has been in these proceedings - through most of the proceedings.

MS HARVEY: Yes. I apologise if I get my wording occasionally wrong. I do not actually write my submissions verbatim so sometimes I slip up. Page 5, compression of management responsibilities: The TCCIs application requires a broader range of "management" functions at lower levels in the classification structure, and this is by virtue of the fact that one would assume it is a subsequent-type amendment required by the fact

that the TCCIs application stops at 115 per cent. So what in fact has happened is that compared to the HSUAs application those management functions have been pushed down into lower levels, so it has been compressed in terms of both relativities and the responsibilities have been pushed down. I have listed on page 5 the consequent wording changes:

Level 5 - that the TCCIs application includes the following indicative tasks work related field.

Now, that is in level 5. In the HSUAs application that is indeed in level 6, and you will recall when we were comparing it with the South Australian award it was indeed in the equivalent of our level 7, so it has been by the TCCIs application been pushed down, in effect, two levels. In level 5 in 4.2 the TCCIs application includes the following indicative tasks under Accommodation Independent Living Training Centre:

Fully responsible and accountable for the operation and administration of a single group home.

The HSUAs application requires to co-ordinate the operation of a single group home; hence, by assuming that there is a relationship with a senior employee or senior manager, so that they would still have co-ordination responsibilities but they would not be fully accountable and responsible at that level. In the TCCIs application, level 5 in terms of relativity tops at 115 per cent. In 4.3 level 5, the TCCIs application includes the following indicative tasks under Accommodation Independent Living Training Centre:

Shall contribute considerable knowledge in establishing procedures in the appropriate work related fields.

Again that is similar to what was in the consequent word changing in 4.1 except it goes a step further and adds the word "considerable". I am not sure whether that is an oversight or an intention that one should have higher skill requirements when they are operating within that independent living skill area. Over the page on page 6, Increments - and I have already touched on this matter before, Mr Deputy President. In 5.1, the TCCI application proposes that the employer have complete control over progression through the increments. This is done by requiring a competent level of performance that is satisfactory to the employer. The provision would remove the right to any hearing before the TIC.

The HSUAs application requires its satisfactory performance for progression. This enables employers to refuse an increment subject to the normal principles of natural justice and industrial law. So we are not proposing that you have automatic progression, it has got to be satisfactory performance, but if the employers wording was accepted it takes away the

right for there to be any discussion about it because it gives them the deeming power. In 5.2, the TCCIs application requires performance to the satisfaction of the employer and the successful completion of the relevant accredited training modules. The HSUAs application used the word "or".

Now, just to expand on this, what we were trying to do was to say, moving towards a system of competency based rather than years of service one would hope eventually that what we have is a system of training that is required - sorry - that is available, and that people could do that training, complete it successfully and be able to move on another increment so that you would have in effect two systems working side by side. But what the employers application has done is in fact put in place a much more stringent test by requiring both, and we would certainly argue that that is inconsistent with the sort of approach of the structural efficiency principle.

In 5.3, the TCCI application requires a new employer to demonstrate to the satisfaction of the employer previous experience. Again this removes natural justice rights and access to the industrial commission. Consequent wording changes at 5.1, the TCCI application adds the following words - sorry, it says works there, it should be words - to the end of DA(i) on page 18 of the HSUAs application. D(a)(i) says:

and at a competent level of performance that is satisfactory to the employer.

The HSUA application includes the word "satisfactory" before the word "completion". In 5.2 the HSUA application changes the "or" between D(a)(i) and (a)(ii) to an "and", and that is actually on page - it is on the same page, page 18. In 5.3 the TCCIs application adds the words "to the satisfaction of the employer" in (b) which is on page 18 - sorry - page 19 that should be, Mr Deputy President.

DEPUTY PRESIDENT ROBINSON: Should it?

MS HARVEY: Page 19, over the page. The next issue goes to the issue of the word "may", and I am looking at page 7 of HSUA4.1. The TCCIs application deletes the word "may" in the introductory sentence under the general description in each level. The impact of this is to make it a requirement that an employee undertakes all the relevant dot points rather than some or a majority of them, and the consequent word change is "may" deleted on the following pages; 7, 8, 10 and 13. That deals with the generic issues across all the different levels and they are disagreed, so by virtue of being in that section they are disagreed. Section B, issues specific to each classification level. Now, these go to the agreed variations

to the HSUAs application, so what we have done is gone through, seeing where we thought it was okay and just agreed.

So if we could look at the 1.1 in definitions, the definition for limited supervision, which is - I apologise there is not a page number there, I can just find it for you - it is on page 2 in definitions, limited definitions adding the words "and conforms" so - the word "and conforms" is added after "with little guidance". So in that definition what would happen on page 2 is you would say with little guidance and conforms with instructions measured. So replacing conformity with - and just reading and conforms with instructions measured in terms of - etcetera.

DEPUTY PRESIDENT ROBINSON: Yes.

MS HARVEY: And, sir, it should also be - in terms of the achievement of stated objections and senior management agreed standards. Now, under the years of experience definition the adding of the word "incremental" after classification number 4 level and, I mean, that is a very sensible change because ours talked about classification level and obviously that is not what is intended. It is intended incremental levels within the classification. So that is certainly one we are happy to make.

In level 1, all the way through we refer to it to be 2.1 and 2 and the employers are suggesting it be changed to 2A throughout and again we agree to that. The rewording of the first four dot points in indicative tasks on page 6 and I will just read out what the rewording would be. It would be - and so this would replace - after the first four dot points it would be domestic tasks including cleaning, laundry/washing and cooking. The second dot point would be general gardening or ground maintenance including mowing, weeding, pruning and planting. The third dot point would be basic maintenance duties including workshop cleaning and cleaning care of residences and, finally, introduction to clients.

So that would replace the four dot points on page 6. In level 2, in the general description adding the word "a" after "shall be" and replacing "may work" with "works". Very minor, I will not take you to it, it is very minor. Level 3, replacing the word "perform" with "undertake" in the third dot point but I have made a note there we do not agree to the word "shall" being added. Adding to the sixth dot point "and activities" on page 8. Adding to the ninth dot point and policies and to the employees level of skill and training on page 8. Under indicative tasks general on page 9 agree to the rewording of dot point 2 which would be - currently it says:

Driving a public passenger vehicle licensed to carry more than 12 passengers.

Oh, no, sorry, I am not in the right place. Oh, here it is. Actually, I think I have made a mistake there, Mr Deputy President, because we - oh, no, sorry, that is correct. What it is is they are seeking to reword it. On page 9, second dot point under general indicative task to:

Licensed to drive a public passenger vehicle carrying more than 12 passengers.

So we agreed to the rewording of that dot point.

DEPUTY PRESIDENT ROBINSON: This is page 9 of the employers application?

MS HARVEY: No, of the HSUAs application. The second dot point says:

Driving a passenger vehicle licensed to carry more than 12 passengers.

And we have agreed to their rewording which would make it:

Licensed to drive a passenger vehicle carrying more than 12 passengers.

Mr Deputy President, I just wonder whether this is the best way of doing this now I am half-way through. I wonder whether we should just give you a new application given that it is agreed and whether you really need to be taken to each of these points?

DEPUTY PRESIDENT ROBINSON: Well, a new piece of paper on the agreed changes would - - -

MR FITZGERALD: It would be useful, certainly, from our perspective.

DEPUTY PRESIDENT ROBINSON: - - - be useful. I mean - - -

MS HARVEY: I mean, this is what we agree to.

DEPUTY PRESIDENT ROBINSON: Yes, yes.

MS HARVEY: I am just not sure whether - I think I might be wasting time doing it like this.

DEPUTY PRESIDENT ROBINSON: Well, I mean, it is self-explanatory in a way.

MS HARVEY: Yes, it is self-explanatory.

DEPUTY PRESIDENT ROBINSON: You are just reading those changes which are agreed should occur.

MS HARVEY: Well, what about if I just skip that section and we are agreeing to it, so assuming that the employers - by putting it up - wanted it then I would say it is actually an agreed position. I do not know whether Mr FitzGerald wants to say anything in relation to that.

MR FITZGERALD: No, I do not think so. I think it would be useful, I suppose, if the application were amended to reflect those agreed changes. That would be useful for all of us.

DEPUTY PRESIDENT ROBINSON: I mean, the documentation is already there but it would save a bit of work.

MS HARVEY: It is just the manual thing of going through, yes. Okay, well - - -

MR FITZGERALD: Sorry, can I suggest that may be it might be a bit premature to do that at this stage where there are other matters, I think, contained within this document which might see some other agreement. So I think we should wait until we have the time to be able to do that.

DEPUTY PRESIDENT ROBINSON: Right, but if there is an intention down the track to clear up exhibits that is welcome.

MS HARVEY: Okay. The way I will proceed is if we just take those read as being agreed and then we will confer if there is any other areas of agreement and provide a final agreed variation to the application at the appropriate stage.

DEPUTY PRESIDENT ROBINSON: Maybe you will agree to the whole thing.

MS HARVEY: Here is hoping.

DEPUTY PRESIDENT ROBINSON: I mean - - -

MS HARVEY: Maybe the employers will be bowled over by the quality of our submissions and give in.

DEPUTY PRESIDENT ROBINSON: Yes. I think you have agreed to stuff in HSUA4.1. From small acorns large oaks do grow.

MS HARVEY: It would be nice. Okay, so on page 10 if we deal with the issues of disagreement, because I think that they are obviously of significance.

DEPUTY PRESIDENT ROBINSON: they are.

MS HARVEY: Under the definitions on page 3 of the HSUAs application, the employers are proposing to add a new definition in relation to limited interaction with clients. Now, that new definition reads: means that a non-supervisory disability services worker may work in a team environment with clients but does not train, instruct or supervise clients. Now, it is currently disagreed but we are prepared to agree to those wordings if we could add the words "or assisting". I have informed the employers of that.

MR FITZGERALD: Yes. Yes, thank you.

MS HARVEY: In relation to 2.2, general requirements of all classification levels adding a 4, a dot point 4, roman numeral iv, and that is: that all disability services workers shall adhere to the organisations principles, practices, policies and philosophies in working with people with disabilities; end of quote. We vehemently disagree. Because of the way that that is worded, what it allow an employer to do, if it was incorporated into the award, is to sack somebody for their personal or philosophical beliefs.

For example, if this was allowed to go in a catholic organisation could sack an employee who was not catholic, regardless of what their work was, because they do not share the philosophies. Now, I cannot believe for a minute that that is the intention of the employers but if that is the way that it went in that wording that would be the impact. And philosophy is a very, very difficult thing to measure and there has been much discussion within the training circles and setting standards about what this actually means. But we believe that if the intention is that an employee adhere to the organisations practices, policies and - which is really what a principle is anyway - then that is covered by normal industrial law, and that is, that if an employer makes clear what their practices and polices and procedures are, it makes it clear to the employee they are required to comply with them. That sentence is not - that definition is not required. It is redundant, other than the thing that it adds, which is obnoxious, and that is the issue about philosophy.

2.3, Indicative Tasks. The TCCI proposal adds the word "additional" to tasks and some other minor wording changes. This - our opposition to this is really because it is totally redundant because it already says in the general description in the HSUAs application that they will perform tasks

additional to the levels below. So, it just seems to be not really required. In 2.4, the general descriptions, the TCCI application includes the words "and knowledge" in each general description.

The reason we oppose this is that the entire award says nothing about knowledge, it is all based on skill. And suddenly out of nowhere the words "and knowledge" have crept into the application. We are not sure what the employers mean by it and until we are sure about what they mean by it we are forced into a position to disagree with it. Certainly nowhere in either our application or the TCCIs application is there any reference to the word "knowledge" until it gets to that particular phrase.

In 2.5, adding the indicative task to the dot - adding the indicative task in a dot point in level 1: routine and general production tasks, and that is on page 6 of the HSUAs application that it would be added at that page. We are opposed to that being added because level 1 is a trainee level and we think it inappropriate that at that level people be doing general production tasks. What they should be doing is really being familiarised with clients, maybe doing some incidental work which we have allowed in the indicative tasks there. But we believe that it is inappropriate that they be doing routine production tasks. It implies a level of, sort of, skill and responsibility and work that really should not be contemplated in a trainee rate at 78 per cent.

Level 2 in the general descriptions, the replacement of "works under general supervision" with "working under general supervision". And that is in level 2 on page 7 that one would replace "works under general" - "under direct supervision" with "working under general supervision". So, again Mr Deputy President, our very strong view is that at level 2 where you are talking about a relativity of 82 per cent and 87.4 per cent, and in the case of the TCCIs application, 85 per cent it is inappropriate to have people working under general supervision. That is the, really, the base grade of the award and they should be working under direct supervision.

Also adding to the - to indicative tasks, the final dot point on page 7, routine and general production tasks. This - this level in level 2 we believe that it is not appropriate that people are doing production tasks that that really should occur in level 3. I might add that in relation to this particular point, Mr Deputy President, that if we could resolve the issue of relativities in terms of using 87.4 instead of 85.4 we would agree to it going in. And the reason we would - why we do not agree if it is at 85 per cent and we do at 87.4 is because in the award currently a workshop assistant is on 87.4. So, indeed they would be going backwards. So if the employers were to agree to 87.4 we would agree to that going in to the application

DEPUTY PRESIDENT ROBINSON: Is that agreed? You will pick up 87.4 per cent instead of 85?

MR FITZGERALD: It is a bit difficult for me to respond at this time.

DEPUTY PRESIDENT ROBINSON: I ask silly questions sometimes.

MS HARVEY: With some of these areas of disagreement, you know, it would possibly be possible to resolve some of them, but I mean we just have to proceed. Level 2, the general description, the replacement of "works under direct supervision" with "working under general supervision" - sorry, I have already covered that one.

Level 3, 2.7, under general description in level 3, the deletion of a second dot point "is subject to direct supervision and may work individually or a team environment," and its replacement with "has access to staff at a higher level. Now, this is one of the critical difference between us, Mr Deputy President, is that we are saying that in that level 3, that you should not have with the sort of responsibilities and tasks that people are expected to do at that level 3, which is on page 8, 9 and 10 of HSUA4; that it is totally inappropriate for people to be working at that level of responsibility and skill and tasks without direct supervision. And it comes back to the issue that we talked about before, is that in setting these relativities we cannot compare just responsibility, we have to also - sorry, just the level of supervision, we also have to look at responsibility in the tasks that people are expected to perform - and I previously gave the example of a doctor and a nurse.

There are many things a nurse can do without supervision but some they are required to have direct supervision of a medical practitioner because of the nature of the work and the responsibility. WE would argue that in relation to level 3 and we will present - it really is a key part of our submissions - that direct supervision is critical at this level given the sort of responsibility and tasks tha people have. One would assume that one usually has access to staff at a higher level. It just says "has access" - it does not even say "usually". I mean, it is not even defined what it means. Does that mean ringing up your supervisor who is in Hobart when you live on the North-West Coast? I mean, potentially that is what it could mean - and we think it is not a level of supervision, it is about access, and the critical issue is about the level of supervision and we do not believe that it is appropriate, as I was saying, that people at this level do not have access to direct supervision, given the type of work that they are performing.

Under level 3, under indicative tasks general, the removal of "simple" before the word "training" and the replacement of "under direct supervision within the scope of this level," we believe it totally inappropriate for people

to be required at a level below trade to have responsibility for training in living skills and training in this sort of area that they should be required to do more than simply training. We think that they should be involved in simple training only. Over the page in level 4 in 2.8, in the general description in level 4, the replacement of the words "equivalent thereto" with the words "or deemed by the employer as equivalent".

This is on page 11. It deals with the issue of recognition of trade qualifications and, really, what the HSUAs application seeks to do is to be consistent with the competency based training agenda and that is that the critical issue is skill, it is not the piece of paper that you hold, because a piece of paper is a proxy for a skill, and in the new system of training we are moving towards which Mr Brown will be providing more submissions on, we will be making it very clear that that is the way of the future and that it is appropriate our awards make provision for that by allowing people to have equivalence. Now, to have it deemed by the employer replaces a system that is being developed which is objective, which is independent of the employer and the employee, with the power being given to one side of the employer/employee relationship. It would be equivalent for us to argue that the union should deem what is equivalent, which is equally absurd - although it might be nice; we might get a lot more members doing that.

In the second paragraph in the general description, deleting the first dot point "Supervising employees at lower classification levels" on page 11, we believe in this level it is appropriate for people to be supervising employees at lower classification levels and we are not sure why the employers have deleted it in their application, but we are certainly opposed to it. It may be one of those things of an oversight.

DEPUTY PRESIDENT ROBINSON: We shall see.

MS HARVEY: In the general description, deleting from the third dot point "and be subject to preset objectives for work assignments" on page 11, I think this again a reflection of pushing down responsibility lower into the award. What we are saying is that there should be at this level of 100 to 110 per cent preset objectives to work assignments by deleting it, then you are really saying that that employee has a responsibility to set their own objectives - and that is inappropriate at this sort of level. What should happen is there should be a setting of objectives which then they organise and schedule their work so that they meet those objectives, not that they have to determine their objectives themselves.

In the addition in general description of a final dot point "understands and uses a broad range of non-verbal communication skills" on page 11, our problem with this dot point - and, again, it has been communicated to the employers - is that we do not have a problem with understanding and using

a range of non-verbal communication skills. What we have a problem with is a broad range of non-verbal communication skills; so it was probably - we are happy to amend our application to say that someone at this level should be understanding and use a range of non-verbal communication skills. But "broad" implies a level of expertise and understanding which we believe is over and beyond this level and we will be presenting evidence to you, Mr Deputy President, by form of witness about the complexity involved in these sort of communication systems.

In the next dot point is says in indicative tasks - accommodation/independent living training services, adding to the first dot point "across a number of establishments". Really, what the impact of that is, Mr Deputy President, is that an employer at this level of 104 per cent, if this was to be accepted, would be responsible for training programmes across a whole variety of establishments and we do not believe that that is appropriate to have that level of responsibility pushed down into this level 4. Indicative tasks - accommodation/independent living training services - sorry, the next is restriction on progression for tradespersons is not acceptable.

Now if I could go back to that issue, what the TTCIs application says is that a trades qualified person who has limited interaction would not be able to move beyond that hundred per cent. What we have actually said is not required to interact with clients. The disagreement goes back to that issue of definition I was talking about, about the limited interaction. We are happy to accept the TTCIs proposal provided they agree to the amendments on the definition that says that "not required to assist", otherwise you can have a tradesperson in this level who is doing - not only are they doing their trades tasks at 100 per cent, but being required to assist people with an intellectual disability, which it takes some skill, and not get any recognition for it. So in that sense this issue and that is linked.

In level 5, in the general description adding the first dot point, exercise is broad discretion in undertaking work. And that is on page 13. We do not accept that point being included for the reasons that I have already indicated and that is that it really is undervaluing the work to allow at a level 5 broad discretion. And we have already provided evidence to you from the Metal Industry Award, from the skills analysis, from the other awards from other jurisdictions, that this level of responsibility is not usually expected at that level. So therefore we would oppose that amendment being made. How are we going for time?

DEPUTY PRESIDENT ROBINSON: Getting close.

MS HARVEY: I think perhaps if we stop here at level 5 and I come back and finish off level 5, otherwise I am going to rush through it. If that is accepted?

DEPUTY PRESIDENT ROBINSON: Sure. Right, okay. We will adjourn until a quarter past 2.

LUNCHEON ADJOURNMENT

MS HARVEY: I am just trying to ascertain whether a potential witness is in the room, Mr Deputy President.

DEPUTY PRESIDENT ROBINSON: Oh, I see.

MS HARVEY: Because we have a - so I take that to mean that Mr Gates will be a witness in the employers case?

MR WATSON: He might. He might be. But if he stays, he cannot be.

MR FITZGERALD: That is right.

MS HARVEY: Perhaps we will discuss this later? I think, Mr Deputy President, at the end of this hearing perhaps if we could avail ourselves with the assistance of your associate in setting some more dates because

- - -

DEPUTY PRESIDENT ROBINSON: I try to protect her as much as I can, but with a few volunteers she may assist you.

MS HARVEY: Well, it seems we have some difficulty with the inspections and just this issue of whether the person who just left the room is going to be a witness or not will determine whether I need another witness, and so I suspect we may need some more dates.

DEPUTY PRESIDENT ROBINSON: Right. Well, if that could be worked out at the end of the day.

MS HARVEY: Yes. Mr Deputy President, I got up to page 11 in HSUA4.1 and I was dealing with the differences between the employers and the HSUAs position in relation to level 5. I have already dealt with the first dot point. I have already dealt with the issue of the second point thereunder on page 11. Now, in relation to the third dot point it says:

*In the indicative task that the supported employment services
..... within multiple sections of the organisation.*

Now, level 5 within the HSUAs application, which is actually set out on page 14, is the area that goes to 130 per cent and in this level we have talked about a requirement in only one functional area rather than within multiple sections of the organisation. So within HSUAs application it is indeed level 6 where that responsibility for multiple sections within a work-force comes in. So that is a difference between the two parties in relation to the applications. So the next dot point is in the indicative task supported employment adding a third dot point:

Shall contribute knowledge in establishing procedures in the appropriate work-related field.

End of quote. That actual dot point obviously is a reflection of the general description change which I have already addressed in the second paragraph down on this page 11 from under level 5. And it is again a bit of an inconsistency that in relation to this supported employment proposal that it just says "contribute knowledge", whereas in the general description it says "considerable knowledge". So, again, I am not sure whether that is an oversight on the part of the employers application or whether they indeed mean that difference to occur between the general and supported employment. If I could just say that certainly we are not happy with - we oppose that part of the application because we believe it more appropriate that that level of responsibility occur at more senior levels.

If I can take you to, it says: an indicative task, accommodation, independent, live-in training services, adding to the fourth dot point at this level, which is on page 14. Basically, we are unclear about what that actually means and of course we are reluctant to agree to things that we do not understand. Perhaps it is something that the employers could enlighten us on. It seems to me somewhat redundant but given that we are not sure what it means we certainly would not be agreeing to it. In indicative task, in the next point down, accommodation, independent, live-in training services, adding to the fifth dot point, to the employees level of skill and training. Again, that is on page 14. Again, as far as we are concerned this is a redundant provision because every general description has in the HSUAs application, a statement about people performing to their level of skill and training, so it seems a fairly meaningless thing to put in.

The next paragraph is in the indicative task, accommodation, independent living training services adding to the fifth dot point "develop" before the word "implement" on page 14. Now, this is a significant difference between the parties and we are strongly opposing the insertion of the word "develop". At the moment the way that the HSUAs application reads is

that level 5, staff would be responsible for implementing behavioural management strategies but they really should not be in a position where they are developing unassisted behavioural modification strategies and, really, that is something that is quite a sophisticated skill if it is to be done properly and we believe it should be at the next level within the award.

The next one down is indicative tasks, accommodation, independent living training services replacing the words "co-ordinate" with "fully responsible and accountable for" and adding the words "and administration" before the words "of a single group home". The import of this proposal, as I have already indicated to you, is to go beyond making someone merely responsible for co-ordination but to make them totally and utterly responsible for every aspect of that service and we believe that that is inappropriate at this level and that at this level what should occur is co-ordination with responsibility and accountability to either a senior employee or management. And, therefore, our word "co-ordination" is a more appropriate reflection of what should occur. The next paragraph is in independent tasks, accommodation, independent living training services, adding a final dot point:

Shall contribute considerable knowledge in establishing procedures in the appropriate work-related fields.

Again, I have already addressed this issue when I dealt with it in relation to the general description and the indicative tasks under supported employment. Now, the next difference is really in relation - in 2.10 is the additional levels. Fundamentally what the TCCI application proposes if one was to see it as an amendment to the HSUAs application is that level 6 and 7 be deleted from the classification structure all together and that there be no provision for those higher levels within the award.

If I could just say there, Mr Deputy President, that it is somewhat ironic in the discussions that have occurred in relation to the classification structure that it should be asserted that management functions should be pushed down into the award. If the argument was one that management's position should not be within the award structure whatsoever then one would expect that they would not be pushed down into the lower levels. They would, indeed, be removed. So really it is very important that this issue of - these functions, we believe, it is very important that we have these higher levels in the award because there is a clear understanding between both the employers and the unions which is witnessed by their applications that there is a requirement for these levels of skill within the classification structure.

So in terms of 2.11, accelerated progression, the word "ordinary" has been inserted to qualify hours on page 19. Now, this is something again that it

may be possible we can reach agreement on because if the intention is merely to exclude overtime hours from the number of hours that is calculated for the purpose of annual increments, then it is our view that we would not have such a problem with that. However, if the intention is something more than that then I think it really needs further clarification.

So we were reluctant to agree before we understand what the intention actually is. So, Mr Deputy President, that concludes the differences document as it is - as we have prepared it - to show the differences between both the employers and the unions application. I believe it would assist the hearings if we could have some indication at some stage as to whether there is an acceptance that this document does provide an accurate reflection of the differences between the two applications. So hopefully that is something that Mr FitzGerald will be able to assist us with in the near future.

If I could conclude by saying that in terms of structuring our submissions, really, we believe that we are addressing - by both the content of our submissions and the emphasis of the submissions - the critical differences between the two applications and we will seek to continue to do that and in the final analysis, obviously, we are going to have to draw very close attention to our evidence and how it supports our position in relation to the differences between the parties. So we will continue to attempt to focus on the differences rather than to use up everyone's time on any superfluous matters.

So in terms of the outline of submissions we have now completed, if I could take you to HSUA1. We have now completed section 1 which was an outline of submissions; section 2, which went to an outline of the industry; section 3, which is a history of award restructuring negotiations; section 4, the outline of the claims; section 5, the wage fixing principles in support of our application and section 5.2. As it goes to just the exhibits we are providing we obviously are still calling our witnesses later in our submissions to substantiate further the submissions that we have made. And now we seek to progress to section 5.3 which deals with the consistency of the HSUA application with the training reform agenda and at this stage my colleague, Mr Brown, shall be taking over and I get a rest. If the commission pleases.

DEPUTY PRESIDENT ROBINSON: Thank you. Mr Brown?

MR BROWN: Mr Deputy President, I am going to be working off one exhibit in this submission, so I think I will hand it up now so that I can get that out of the way.

DEPUTY PRESIDENT ROBINSON: Thank you. I will not attempt to mark it as yet.

MR BROWN: I think, Mr Deputy President, following Ms Harvey's method of numbering perhaps I could suggest HSUA5.3 as being the appropriate - - -

DEPUTY PRESIDENT ROBINSON: HSUA5.3 it shall be.

MR BROWN: Mr Deputy President, in this section of the HSUAs submission I wish to deal with matters concerning career progression and competency or skill development in the disability services industry, and, of course, demonstrate the relevance of this to the HSUA application. As you are aware the HSUA is arguing its case under a structural efficiency principle. In this submission I wish to demonstrate that our application seeks to - and I quote from the wage fixing principles:

Improve the efficiency of industry and provide workers with access to more varied, fulfilling and better paid jobs.

End quote. The wage fixation principles indicate that under the structural efficiency principle one of the measures to be considered is, and I quote again:

Establishing skill related career paths which provide an incentive for workers to continue to participate in skills formation.

In addition to the need to improve the efficiency of the industry there are two issues encompassed in these statements. The first is that there is a need to address skill based career paths within industrial awards. The second is that there is a need to structure industrial awards in such a way that it both facilitates and encourages worker participation in ongoing skills formation, and I wish to address these issues, Mr Deputy President, within the context of what is known as the national training reform agenda.

Mr Deputy President, Australia is currently in the process of implementing what is quite a significant new system of vocational education and training. In essence it is a complete revamping of what we have understood vocational education and training to be. This new system of training is designed to develop both an efficient and responsive and a coherent national approach to vocational training in Australia. By referring to it as a national training reform agenda, that does not necessarily mean that the initiatives for the policy developments have in fact come simply from the national level. It is national in that it involves all state and territory governments and the Commonwealth government.

This national approach to vocational skills formation and the policies which have been developed to date to facilitate this new system of training, as I said, are collectively known as the training reform agenda. In fact not all of the policies or policy frameworks have yet been developed. As you will see from my submission the training reform agenda is in fact an evolving set of extremely complicated policy frameworks, many of which have yet to see the light of day. However, the grand plan or the overall framework is in existence and the policies and policy frameworks have been phased in as appropriate.

It is also important to note, Mr Deputy President, that this national approach to training is tripartite. That is that the policies which support it are generally agreed to, not only by state and territory governments and Commonwealth governments, as I indicated, but also the ACTU and the Australian Chamber of Commerce and Industry. There are a number of forums which provide the decision making mechanisms for the introduction of the national training reform agenda policies, and in fact if I was to outline all of the structures that have been established we would be here for - and describe them, I think we would be here for several weeks.

The most important one and the one that I will be referring to most throughout my submissions is a body called MINCO, which stands for Ministerial Council, which is a forum of state and territory and Commonwealth ministers responsible for vocational education and training and schooling. In a previous life that ministerial council, MINCO, used to be known as MOVEET, which stood for the Ministers of Vocational Employment Education and Training. Mr Deputy President, MOVEET was disbanded, or in fact it was expanded to include not only the ministers that were responsible for the vocational education and training, but also the ministers that were responsible for schooling and for higher education, and so it was expanded quite considerably.

DEPUTY PRESIDENT ROBINSON: And then was there total consensus amongst the ministers from all the states?

MR BROWN: There are a number of frameworks that have been put into place. Those frameworks are formal frameworks of which all ministers are signatories to those frameworks, and I will be running through them. In some ways it has been a very drawn out and fairly frustrating process to get agreement amongst all of those bodies, because it is not only MINCO that essentially needs to agree to it; it is also the industrial partners, mainly through the ACTU and through ACCI.

Mr Deputy President, the level of training and educational reforms have been given a considerable priority by governments in terms of both the range of policy development which has occurred, but also the funding that

has been allocated to these reforms, and it literally runs into hundreds and hundreds of millions of dollars that have been allocated to ensuring that these reforms are put into place. The reasons for the reforms are varied, and although - and central to the rationale for the training reform agenda is the need for all industries to become, and I quote, "more competitive and efficient in their operations". The National Training Board, which I will profile, is another one of these bodies that has been established which is important to the submission, and I will profile that later, states that, and I quote:

No sector of the economy, whether or not directly engaged in international trade, private or government owned, commercial firms or bureaucracies providing services can be sheltered from the need to match world best practice. High productivity and quality in goods and services is dependent in large measure on a nation's ability to produce well-trained workers and organisations which enable employees in all areas and levels of their organisation to contribute to their potential.

Mr Deputy President, these comments are directed as much as to the community services and health industries, including both the government sector and the private sectors and the profit sectors as well as the not-for-profit sectors, as in any other industry, and obviously that includes disability services. In particular the National Training Board has identified the following principal reasons for the level of training reform which has been identified, and if I can just run through three of them. The first is the need to upgrade the skills level of the workforce so that Australian industry will be more competitive.

This, to a large extent, came out of the mid to late 70s where Australian industry was in fact allowed to run down, particularly manufacturing, communication and transport industries, and that there was a need to restructure them, both in terms of new technology and in terms of workplace practice, and the emphasis therefore needed to be on reskilling the Australian workforce. Even though the emphasis initially was on those industry areas, the decision was made right at the outset that the types of reforms that were needed to be introduced should apply to every Australian industry right across the board. Secondly, the inference of award restructuring and the trend to enterprise agreement, and thirdly, workplace reform with anticipated new methods of organising and conducting work.

Mr Deputy President, Australia is not the only country which is undertaking these type of reforms. In fact, most industrial countries are undergoing significant reforms within their vocational education and training systems. However, Australia is the only country which has linked the reforms to industrial relations and it has done this via both the

award restructuring process and through workplace reform, and I will try and make that a bit more clear within the context of the training reform agenda as I go on. The competency based system is made up of a series of linked processes and these processes included - and they will sound familiar - firstly national industry competency standards development; secondly, curriculum development; third, accreditation; fourth, delivery and training; fifth, assessment; and finally, certification.

They are all different to the current system that we have, or elements of the system in terms of vocational education and training. However, all of those areas have gone through or are going through extremely major reforms which have an impact on what is happening in the workplace. The implementation of the national training reform agenda has to date seen a number of frameworks established and some initial activity in the area of competency based training. In particular the following developments to date are worth noting and give an indication as to the sorts of changes that are occurring. Firstly is the establishment of the National Training Board in 1990. The National Training Board's main function is to facilitate the identification and the development of competencies and competency standards for all Australian industries.

Interestingly, Mr Deputy President, the National Training Board is established as a private company - it is based in Canberra - but the shareholders of which are all the MINCO - the Ministers for Vocational Employment, Education and Training, and I will come back to the National Training Board and its role in the development of the competencies and competency standards shortlyinaudible. work or in ASF, which develops the relationship between competency standards and work, and the Australian standards framework is also an extremely important framework within the context of the training reform agenda. An Agreed National framework for the recognition of training, known as ANFROT, by which we, for the first time in Australia's history, have a common form of accreditation and certification which is right across the countryinaudible.

THE MONITOR: Excuse me, Mr Deputy President. I am having trouble changing - - -

Yes, I will go back to where - the Australian standards framework. It does not matter if it comes out twice.

MR : I am sorry about that.

MR BROWN: That is all right. Yes, the Australian standards framework which develops the relationship between competencies and competency standards and work in the workplace, an agreed national framework for the

recognition of training, and as I said, which for the first time enables a common system of both accreditation and certification of training to be introduced in Australia; the identification of competency standards for a number of industry areas; the establishment of the Australian National Training Authority, another one of those bodies, with responsibility for developing strategic training plans for every industry, and for advising ministerial council, or MINCO, on the allocation of funds to each state and territory.

I am not referring to, and to very much in my submission, Mr Deputy President. It is probably just worth noting that that really will become the overall umbrella body for these developments that are taking place. It was established on 1 January this year, and all of the training funds from each state and territory government's budget, and the Commonwealth budget, go to and for distribution to the states and territories on the basis of industry training plans that are adopted.

A new national qualifications framework, which changes the nomenclature of a lot of qualifications which we are currently extremely familiar with, and in fact, some of which we are still using in the award that we are looking at, at the moment. An increasing number of award classifications which are linked to the acquisition and the use of skills and competencies. A number of - in a number of industries, Mr Deputy President, the development of career pathways for workers in restructured awards, which seek to provide incentives for training, and hopefully this award can be added to that list.

The recognition of a wider range of training providers, and the means to include them in the articulation and the recognition of qualification arrangements. Mr Deputy President, up until recently, and to some extent it is still the case, most accredited training has only been able to be provided through either TAFE institutions or through universities. So, they have had somewhat of a monopoly or a duopoly, if you like, on accredited training. Under this new system of training, training will be freed up, basically, to be delivered by anybody who is able to meet the requirements. That includes not only public providers like TAFE and universities, but also private providers where the full profit will not - or not for profit.

Enterprises, that is individual companies can set up their accredited training programs and award certification to those workers who undertake successfully that training. And community-based organisations, including government departments will be able to offer fully accredited training under this new system. And finally, a new system of entry level training in the form of the Australian vocational certificate training system, which is due to be introduced on 1 January next year. And I will be referred to the Australian vocational certificate training system a little bit more detailed in

my submission, but the government has set targets for that particular entry level training system, and it is anticipated that by the year 2001, 90 per cent of all under 20-year olds will be in that one training system. So, it is really - it is of considerable significance.

Mr Deputy President, all of these developments and the policy frameworks, the establishment of the National Training Board, the establishment of the Australian National Training Authority, the development of the Australian standards framework, the national framework for the recognition of training, the national qualifications framework, and the Australian vocational certificate training system, all have a direct bearing on the matters currently before the commission. And it is my intention in the time that I have, Mr Deputy President, to go through these and explain the relationship between them, and then bringing back directly to the HSUA application and demonstrate how it supports it.

Mr Deputy President, I have worked in the training reform area associated with the national training reform agenda for a number of years, not in always in a union capacity, and even working in it full-time, and having access to all the information, it is extremely difficult to get your head around all of these developments and actually see all the inter-linkages and what the significance of them are, at times. So, if I could seek your indulgence and by assisting me in feeling free at any stage to ask questions to your satisfaction if you feel that I am not explaining myself as clearly as perhaps what I could.

Moving into it, then, Mr Deputy President, I would like to start with looking at the whole area of competencies and competency standards. Mr Deputy President, the critical feature of the new vocational education and training system is that it is competency-based, that is, that competencies required by workers in the workplace are identified, and the standards to which those competencies should be applied are determined. So, there is two elements. One is the actual identification of the competencies themselves, and secondly, is looking at the standards to which those competencies need to be applied in any given work role.

The national training board defines competencies as follows, and I quote:

A competency comprises the specification of knowledge and skill and the application of that knowledge and skill across industries or within an industry to the standard of performance required in employment.

If I might just repeat that.

DEPUTY PRESIDENT ROBINSON: Required by whom?

MR BROWN: Required by the industry. There is a procedure set up for the identification of the competencies and the competency standards that requires all industry partners to be basically in agreement with what the outcome is. So, it is up to the industry to agree both with what the competencies are, and what the required standards of attainment are within that. And I will - as particularly the Australian standards framework which becomes the measure for that.

DEPUTY PRESIDENT ROBINSON: Yes. I do not like interrupting the flow - - -

MR BROWN: No, please interrupt, that is fine.

DEPUTY PRESIDENT ROBINSON: - - - if it can be avoided, but one question which is hanging in my mind, and I am sure - and I hope you will - I will be forgiven for asking probably what to you seems a very simple question. But, to take away from traditional training institutions such as universities and TAFE colleges, the responsibility for education and training, and to allow, I think you said, any organisation or body to undertake training - - -

MR BROWN: Who meets the requirements.

DEPUTY PRESIDENT ROBINSON: That meets requirements. Is there not a risk that in the thinning of the distribution of the training organisations and the proliferation of them, that standards will not be maintained? I would have - I wonder what the attitude of universities would be, for instance, if other people were starting to take over what used to be some of their function?

MR BROWN: I can assist you, Mr Deputy President. The Vice-Chancellor's committee is on record as being extremely concerned about these developments and what the potential outcomes of the developments are.

DEPUTY PRESIDENT ROBINSON: Yes.

MR BROWN: I mean - - -

DEPUTY PRESIDENT ROBINSON: But how is - what guarantee is there that - that the dissipation of the educational and training role will not weaken it - weaken the system.

MR BROWN: Well, that remains to be seen.

DEPUTY PRESIDENT ROBINSON: Yes.

MR BROWN: I mean, the system is very much on the brink of being introduced so we do not really know the answer to that at the moment.

DEPUTY PRESIDENT ROBINSON: Right.

MR BROWN: Certainly you are not the only one expressing those sorts of concerns and I am not absolutely convinced that at the end of the day it is going to necessarily be a totally better system.

DEPUTY PRESIDENT ROBINSON: Yes. Did - - -

MR BROWN: However, in fairness the magnitude of the types of policy developments that are occurring and the amount of effort that is going into developing those policy frameworks, there is certainly the intent that there will be strict quality controls and checks and balances on that procedure. The government obviously is intent on broadening out who can deliver training - - -

DEPUTY PRESIDENT ROBINSON: Yes.

MR BROWN: - - - simply because it makes it more flexible, it actually makes it cheaper in a sense that it is a form of privatisation of education, in a sense.

DEPUTY PRESIDENT ROBINSON: Yes.

MR BROWN: But they - they are putting in place both legislative frameworks and other policy frameworks which should to some extent alleviate some of those, and I will refer to bits and pieces of those as I go through.

DEPUTY PRESIDENT ROBINSON: Yes. Is not there some sort of anecdotal evidence, and I cannot put it any higher than that of course, that training bodies have been having - my words - Mickey Mouse programs held at exotic locations - - -

MR BROWN: Yes.

DEPUTY PRESIDENT ROBINSON: - - - and - for which people could claim a benefit of the training - - -

MR BROWN: Training guarantee levy.

DEPUTY PRESIDENT ROBINSON: - - - guarantee levy, or something.

MR BROWN: Yes, that is right. Not that I have been to any of those myself, being on the union side of things, but - - -

DEPUTY PRESIDENT ROBINSON: Or seeking - - -

MR FITZGERALD: Do not look at us.

DEPUTY PRESIDENT ROBINSON: Is - sound a note of regret there?

MR BROWN: Yes, that is the case.

DEPUTY PRESIDENT ROBINSON: Yes.

MR BROWN: To be a private training provider, which really means anything other than a public provider, because government departments also are considered to be private training providers under the system, they will need to register with the relevant state training authority as a private training provider. They can only register to deliver a particular accredited curriculum. So really they have no control over the contents of that curriculum, it has already been accredited and part of the provision of getting registration as a private training provider is that they protect the integrity of that curriculum in their delivery.

Also, as you will see as we go through talking about the development of competency standards for workers within an industry, one of the first tasks that the National Training Board in fact was to develop competency standards, competencies and competency standards for trainers and for assessors. And again, part of the requirement of registration of being a private training provider is that you have staff that meet those minimal competency levels for both training and for assessment. And then, additionally, on top of that there is a whole load of practical requirements, if you like, that if it is a fees are charged for the training, the fees must go into a trust account, that that money cannot be touched till after the training has been delivered and there has been a period by which people complain if they do not like, you know, the quality of the training that has been delivered, etcetera.

DEPUTY PRESIDENT ROBINSON: Who is the policing authority to make sure all this works?

MR BROWN: The MINCO has agreed that there will be one authority in each state and territory and governments are currently introducing the relevant legislation to enable that to happen. In Tasmania, like most other states, the State Training Authority or the Tasmanian State Training Authority will perform that role. Now, the Tasmanian State Training Authority's legislation is currently before parliament and is expected to be

passed within - I am not sure, within a matter of weeks, in any case. And within the act all of the mechanisms for accreditation, recognition for training agreements for the registration of private training providers, all of the power is given to that state training authority, to both register and to monitor quality control of the delivery of it.

So, there has been a lot of effort put into it and a lot of thought to consider that particular issue. Whether at the end of the day the courses do end up being Mickey Mouse-ish I think will - you know, remains to be seen.

DEPUTY PRESIDENT ROBINSON: Yes, yes. You realise I act as the devils advocate. I am not - - -

MR BROWN: I would hope so, Mr Deputy President. If I might, just so that it is clear in our minds, Mr Deputy President, restate that definition of the National Training Board of competencies.

DEPUTY PRESIDENT ROBINSON: Yes.

MR BROWN: And that is, that a competency comprises the specification of knowledge and skill and the application of that knowledge and skill across industries or within an industry to the standard of performance required in employment. Mr Deputy President, that is a very broad concept and it is meant intentionally to be a broad concept in that aspects of work performance, not only the narrow task skills are included. In fact, there are four elements that are encompassed in the definition of a competency. And the National Training Board stipulates that all three elements must be present for in fact for it to be defined as competency.

And they are as follows: first of all the requirement to perform individual tasks, and they call those task skills; the requirement to manage a number of different tasks within a job, and they call those task management skills; the requirement to respond to irregularities and breakdown in routine, and they call those contingency management skills; and the requirement to deal with responsibilities and expectations of the work environment including working with others, and they call those job role environment skills.

Now, Mr Deputy President, what the National Training Board basically is saying is that it does not matter what the competency is or what level the competency is expected to be performed at, all four of those elements will need to be present within competencies. Mr Deputy President, if I could give perhaps a practical example of that, and I must acknowledge that my example is coming courtesy of the Australian Chamber of Commerce and Industry. Thank you, gentlemen.

DEPUTY PRESIDENT ROBINSON: Any objection, Mr FitzGerald?

MR BROWN: In a little booklet that they have produced - - -

MR FITZGERALD: They are our sponsors.

MR BROWN: - - - on competency based training. And they have given a couple of examples, which I will read out, of those four different elements of competency. The first example, interestingly, is that of a training officer and training an officer who teaches letter writing skills.

So that the task skill is actually that the training officer teaches the letter writing skills. The task management skills, that is the requirement to manage a number of different tasks within a job, and I use as an example the training officer organises participants, sets up the class room, prepares teaching aids, prepares participant work books and other course material, and arranges morning and afternoon teas - no lunch, obviously.

The contingency management skills which are the requirements to respond to irregularity and breakdown in routine - the example they use is that the training officer finds some of the participants never write letters but compose technical reports. So she changes the exercises by using the group to develop some guidelines and base data for technical reports. The participants are then able to continue supervised practice during the training session. And finally, job or role environment skills: that the training officer participates in organising a prize night for apprentices, spends some time with a number of parents who want to talk about the progress being made by their children, perhaps a different setting as an example, the task skill being a shop assistant sells ladies frocks.

The task management skill: the shop assistant displays frocks and arranges the racks, sets up price cards, checks the price tags on the frocks and tidies up the service desk. The contingency management skill: the summer sale brings a very large number of customers into the frock department competing for bargains, the shop assistant has to serve irate pushing customers in much larger numbers than is usual, protect the stock and settle disputes among customers competing for bargains as well as processing a large number of sales in a very short period of time.

The job or role environment skill: the shop assistant has moved from the department store to a boutique. She has learned to provide advice to customers on style, colour, fit, etcetera, and when the customer asks she makes recommendations to help guide the customer in selection. She is now expected to offer a more personalised customer service. Very basic examples, Mr Deputy President, but they do illustrate the four different types of skills that the National Training Board requires to be encompassed within the definition of competency and competency standards.

The National Training Board also stipulates that competency standards should be related to realistic workplace practices, meaning that standards are concerned with performance that is actually required at work in the workplace; and, secondly, that they are expressed as outcomes. Competency standards should focus on what the worker is able to do and to demonstrate, not how they acquired the competency. In fact one of the central features of competency is that they are outcome based; it is about what the person can do, not about how they got around to being able to do it in any way, and I will concentrate on that a little bit later.

As I said, the important emphasis in that definition of both competencies and competency standards - and I am using both of those terms because there is a distinction between them which I will make in a moment - is that it is outcome based. It is worth noting, Mr Deputy President, that the National Training Board has a very clear policy regarding the avoidance of bias in standards. In fact it has gone to great lengths to ensure that standards that are registered with the board contain no bias. The way in which the standards are developed must ensure that bias is not introduced. The impact of the standards once they are completed must also have no bias component to them.

In particular, given the nature of our industry - and by our industry I am probably referring to the Community Services and Health, because that is the industry area that we are under - the Industry Training Advisory Board, which is the peak training advice body to government has identified particularly the following: cultural bias, geographical bias, bias in types of work organisation, bias in size of organisation and gender bias, as particular areas that need to be considered.

Given the complexity of the task and the industrial relations ramifications, Mr Deputy President, the National Training Board, in an effort, I suspect, to protect itself more than anything else, has developed some very firm guidelines regarding the development of the competency standards; who can develop them and how they are developed - in particular, the following: the National Training Board states that it is up to the industry area to identify what competencies perform to what standards are necessary for a worker at any given level to perform their job competently.

The National Training Board is basically saying that no outside body, including in this instance training institutions, should be the ones to determine what are industry requirements as far as competencies, therefore work performance and the standards to which they need to be performed. Really, it is turning it around and saying instead of training institutions determining what the curriculum should be, therefore what happens within industry - they are really saying that industry should be telling training

institutions what they require, and training institutions should be responding to it.

So, the NTB is quite clear, that when competencies and competency standards are presented to them for endorsement they do not comment on the actual content of the competencies, but rather the process by which the competencies were developed and who developed them. In that regard the National Training Board is determined that the oversight and the primary responsibility for competency standards development within each industry area will be via what is called a competency standards body, or a CSB.

The National Training Board must formally recognise the competency standards body in each industry for it to have any validity. That is, if some body came along and said, "Well, we have actually been through this process and developed up competency standards," which in fact is what is happening, and put those up to the National Training Board, the National Training Board would not recognise them. They will only recognise them if the development of them has been oversighted by one of these competency standards bodies.

DEPUTY PRESIDENT ROBINSON: And they are competent people to assess the competency of these standards put forward.

MR BROWN: One would hope so, Mr Deputy President. In particular, those competency standards bodies are required to demonstrate, to answer your question, that they are both nationally representative of industry - that is that no one state dominates the types of competencies that are developed in any given industry area, which is good for Tasmania - it means we get a fairly good show in the whole exercise. Secondly, that those competency standards bodies have expertise or have access to the expertise recognised by the National Training Board in competency standards development. There is a lot of consultants making an awful lot of money out of this.

DEPUTY PRESIDENT ROBINSON: I was going to ask who assesses the - I have forgotten the question.

MR BROWN: I probably would not be able to answer it Mr Deputy President. Also, the National Training Board requires that competency standards bodies must involve all of the relevant industry players; that is, that the unions, employers and governments must be involved to ensure that at the end of the day the competencies have wide acceptance. In fact, competency standards bodies will not be recognised by the National Training Board unless all of those players are involved; so they are basically tripartite in nature. The national Training Board has also established the format in which competency standards should be written and should be presented. Now, Mr Deputy President, if I could take you to

our exhibit 5.3 to tab number 1 and to the third page which is titled Format of Standards Summary Diagram.

DEPUTY PRESIDENT ROBINSON: Format of Standards Summary Diagram?

MR BROWN: Summary Diagram. Mr Deputy President, this is not critical; this is more by way of providing the commission with an understanding of some of the things that will happen later. But this is the format that the national Training Board require s competencies to be written in and presented to them. And basically a given competency area will have a number of units of competency within it broken down. Each of those units of competency then will have elements associated with it and it is a requirement - and you will see why it is so important later - that each of those elements of competency have associated with it performance criteria.

Because competencies are about what someone can do, they are about outcomes, then there needs to be a way of actually measuring whether someone has a competency. And for all intents and purposes if you cannot measure that someone has a competency then in fact they do not have a competency under the definition that the National Training Board uses. What the National Training Board then says, is that the application or the demonstration of the competency can actually be applied to a whole range of situations. And, in fact, how the competency is applied may vary considerably. So they allow a, what they call, a range of variables of a range variable statement which stipulates the range of variables in which a particular competency may be applied.

For example, Mr Deputy President, a typist in a health setting - health industry setting may work within a number of different contexts, they may work in a large public institution like a public hospital, where in fact they are working in a fairly large office and is dealing with a number of different health professionals and they need to understand the different language that those different health professionals might be using. Or, in fact, they might be just in a local general practitioners practice where there is only the general practitioners and themselves and they perform a number of different roles and tasks but including undertaking the typing and the medical typing that might be involved. So the range of variables would be from large settings within a health industry right through to very small settings within the health industry.

The evidence guide in the other box alongside the range of variables actually refers to how someone actually is assessed to determine whether they have that competency. So it is not only a requirement within the format that the competencies themselves are identified, but it is important

to determine how someone can actually demonstrate that competency. And then, finally, on the far right-hand side it has got ASF Level. ASF stand for the Australian Standards Framework, which I will go through in a little bit more detail in a moment, but it is a requirement that all competencies are aligned against this Australian standards framework, the reason for which will become clear shortly.

If we can work backwards, Mr Deputy President. If I can take you back to the page before that diagram and again by way of example, the National Training Board has suggested a number of ways in which competencies can be packaged. That diagram we looked at just a moment ago represents just one unit of competency. Obviously for someone to be competent in their work they will need to be competent in a whole range of competencies. The National Training Board has outlined how these competencies might be presented and has allowed a degree of flexibility depending on what the occupation is and the nature of the occupation.

And they have given four examples here, but these examples by no means restrict how units of competencies might be packaged. In the first example, Mr Deputy President, there is a set of 12 competencies there which refer to core competencies only, and they would be - represent all of the competencies that a worker requires to be effective in the workplace in a given role or given occupation. And in this instance all of those competencies would be required, the person would need to demonstrate all of them to in fact be deemed to be competent within that particular role.

The next one down suggests that there may be a packaging of units which allows for a core set of competencies or competency units, that is, those that are essential and are required, but then there may be a number of other options that, depending on the setting and depending upon the type of work that worker actually does, not all of the competencies may be required. So the person basically picks and chooses from that. In the next one down, again there is a compulsory or an essential core group of competencies and then there is specialisations. Specialisation A, specialisation B, specialisation C.

For example, we may - even though these are not meant to be training, they are competency - we may on the basis of these competencies set up a training program which requires people undertaking that training to do certain units of competency or training in certain units of competency, for people that are from a whole range of different occupations but they have got some commonality in terms of the competencies that are required. And then, depending on what their job is, they then would go and specialise in a number of other different competency areas.

And, finally - and I have difficulty conceiving an occupation where this would be the case - but in fact there are no compulsory or necessary core competencies, there is only a whole range of options of which someone is able to pick and choose whatever they want to describe to be able to do their job effectively in the workplace.

DEPUTY PRESIDENT ROBINSON: We might know a few of those.

MR BROWN: We might; yes, we may do. Mr Deputy President, once a competency standards body has constructed in the that I just described has identified the competencies for a given industry, or in fact, a given area or occupational group within that industry, in the format required and that there is acceptance amongst all the industry players that they are the appropriate competencies that are required, the competency standards are then presented to the National Training Board for registration. There is one other process involved, but I will not refer to that at the moment, and as before the standards go to the National Training Board or before the competencies go to the National Training Board, they are aligned against the Australian standards framework which stipulates the standard which is expected of that particular competency.

If I could just perhaps divert slightly, take you back to tab number 1 in exhibit 5.3, just to give you, on the first page, just to give you a little bit of an idea as to how these things fit together, and this is very much a summary and does not even begin to encompass the bodies that are involved.

DEPUTY PRESIDENT ROBINSON: All these acronyms?

MR BROWN: Yes, Mr Deputy President, as one of the competencies that is required to do my job is to be able to talk in acronyms. The National Training Board, the NTB, as I said was established in 1990. It is a private company but the shareholders are the ministers of vocational employment and education and training for each state and territory government and the Commonwealth. The actual board itself, however, are in fact, ministerial nominees and included on the board are not only the ministerial nominees from each state and territory but also the ACTU and the ACCI. So, it is - it has all of the players around the table.

The purpose of the National Training Board is essentially to ensure that, and encourage all industries to go through this process of identifying competencies and competency standards. On the left-hand side there, this diagram, Mr Deputy President, I apologise, is a little bit out of date. Where it has got MOVEET, that should now be MINCO, because MOVEET has been abolished - - -

DEPUTY PRESIDENT ROBINSON: Yes, well I thought it looked a bit out of place.

MR BROWN: - - - and has been replace. MOVEET, of course, stood for the ministers of vocational employment, education and training, which was just those ministers. MINCO has been expanded to include not only the composition of MOVEET but also the schooling ministers and other ministers associated with - - -

DEPUTY PRESIDENT ROBINSON: MIN - - -

MR BROWN: MINCO, ministers council - ministerial council. Now - - -

DEPUTY PRESIDENT ROBINSON: Writing on over your exhibit - - -

MR BROWN: Oh, go for your life, Mr Deputy President. If you look at the box under that, and I have left this in intentionally as a way of describing it, there is a body called VEETAC. VEETAC stood for the Vocational Employment and Educational and Training Advisory Committee. Do not worry about that too much, Mr Deputy President, because it has just been disbanded and no longer exists, so you can put a big line through that. All of the activities that VEETAC undertook, and to give it a context, VEETAC was the head bureaucrats for all of the state and territory governments and the Commonwealth to do with vocational education and training, whereas the ministerial council is the ministers, VEETAC was the senior bureaucrats responsible for this area.

One of the developments that have taken place, which I am sure you are aware of, is that as of 1 January, the Australian National Training Authority was established, which is the ANTA (after 1994) down there. ANTA, in fact, will increasingly take over all of the policy development and all of the funding associated with training reform agenda, developments and is an extremely important body, Mr Deputy President, not only because of its role and function, but it also provides the HSUA with the funding to employ my position. Mr Deputy President, the - as I said before, every single industry area in Australia now has an Industry Training Advisory Board. There are National Industry Training Advisory Boards for each industry and in most cases, they are replicated at every state and territory level with state equivalents.

In Tasmania, we do not call them Industry Training Advisory Boards we call them Industry Training Boards, ITBs, rather than ITABs. Relevant to this particular area is that we have a National Community Services and Health Industry Training Board, located in Sydney, which has a reasonably small secretariat, and its function is basically to provide government with

advice on all training matters to do with those industry areas, and to advance the training reform agenda within those industry areas to ensure that competency standards are developed and that the relevant new forms of training are put into place.

You will notice, Mr Deputy President, that there is a dotted line there between the National Community Services and Health Industry Training Board and what is called the CSB, which is the Competency Standards Body. Again to place it in the context, the National Community Services and Health Industry Training Advisory Board also happens to be constituted as the industries competency standards body recognised by the National Training Board as such. So, literally what happens is a national ITAB meeting will finish and then the CSB meeting will start up and nobody will move from round the table because they are all exactly the same members.]

The membership being, therefore, of the National ITAB as well as the CSB, unions, employers and government representatives. In fact, the composition of both the National ITAB and the Competency Standards Body consists of six union representatives nominated by the ACTU, four private employer representatives nominated by the ACCI, two government employer representatives, one being a representative from the Social Welfare ministers council, and one being a representative of the Australian Health Ministers Council. Both those councils, Mr Deputy President, have the same status as MINCO, the ministerial council, but obviously in different portfolio areas.

So, in the end we have six union - six employer - there is also two state Industry Training Boards represented on the National ITAB. Those two state ITBs are meant to represent all state Industry Training Advisory Boards and to indicate how sensitive this is, Mr Deputy President, the restructuring of the National ITAB in that composition has only just taken place, and the two state Industry Training Boards are required to, one be nominated by the employers, and one be nominated by the unions to ensure there is an equal balance between the industry parties.

Mr Deputy President, the CSB is responsible for the development of the national competency standards, which is the line going across to the circle. Once it has effectively done that, it then passes those national competency standards on to the National Training Board for registration. Once registered, these competencies and competency standards then become the benchmark standards for that industry area, and Mr Deputy President, the National Training Board will not look at or entertain any other competency standards in that area once they have recognised the CSB and once the standards have been registered with the National Training Board.

However, because this is a fairly major and fairly new process, the National Training Board requires that competencies and competency standards are reviewed within the first two to three years after initial registration, and then it will be a requirement that they are reviewed every five years to ensure that they are current and that they are appropriate to the industry workplace. Mr Deputy President, that might seem like a very long sort of way of going about it just to get some competency standards that identify what people do in the workplace. However the importance of it is more significant than that.

Under this new national framework for training, no courses, no training courses by state and territory governments by the bodies that they set up - in our case it will be the Tasmanian State Training Authority - will gain accreditation unless they are based on national competency standards. So the competency standards become very critical to the whole process of accreditation. Now, given the magnitude of this whole area and the way in which competency standards have developed etcetera, it is unlikely that we are going to have a full profile of competency standards in place within the next 10 years I would imagine, but maybe a little bit sooner but the way things are going I would imagine it would take that long for it to happen.

So it is recognised, and all the parties recognise, that in the interim it is acceptable for there to be interim competency standards until such time as the national competency standards are registered, and I will go into that in a bit more detail later. Obviously if no course is accredited or can be accredited unless it is based on those competencies and competency standards, then also no training curriculum will be relevant unless it is based on those national competency standards. And, of course, there is the whole process of award restructuring, which I guess in an ideal world should be based on the competency standards once they are developed. But we do not live in an ideal world, and of course the award restructuring process is going ahead, even though very few competency standards in fact have been registered with the National Training Board.

Within the context of award restructuring the National Training Board policy document states, and again I quote:

National competency standards where appropriate should relate to and be referred to any industrial awards or agreements determined by industrial tribunals.

Mr Deputy President, there is also a number of different types of competencies, if all of that is not quite complicated enough. For example, there are industry-wide competencies, that is competencies that are common to all workers within an industry, and obviously they are going to

be fairly broad competencies. There are occupational competencies, which are competencies common to all workers within a given occupational area. There are enterprise competencies, which are competencies specific to a particular enterprise, and in most instances the enterprise competencies will be to large enterprises such as Telecom, McDonalds, BHP for example and in fact there is enterprise competencies being developed for all three of those organisations.

There are what is known as across-industry competencies; that is they are common to two or more industries. It may be that there is sort of half a dozen industries that might all require the same type of competency package. And then finally, there is a group called key competencies, which are common to all occupations in all industries in Australia. Eight key competencies have been identified and it is likely that there may be another one or two that will be added to this list, but the eight that have been identified to date are, collecting, analysing and organising information; communicating ideas and information; planning and organising activities; working with others in teams; using mathematical ideas and techniques; solving problems; using technology; and the eighth one, which has only just recently been added, cultural awareness.

DEPUTY PRESIDENT ROBINSON: They are not in any particular order of importance?

MR BROWN: No. The nature of the key competencies, Mr Deputy President, is that they are seen to be really essential basic competencies that every single worker in the Australia workforce should have. In some ways I guess they are suggesting that they are competencies that young people should be leaving school with, but of course there are some doubts as to whether the education system adequately prepares young people, so they have gone through the process of identifying these fairly clearly. And also you will see how they fit in, a little bit later, to the Australian standards framework and the level at which they are expected to be performed.

It is anticipated, Mr Deputy President, that within the near future all occupations in all Australian industries will have national competency standards - the near future being perhaps the next five to 10 years - and that these will be the basis of all vocational education and training. To date the National Training Board has something like 3000 competency units placed on the national register, but of course there is a lot more work to be done in that regard.

Mr Deputy President, to illustrate how the arrangements for the development of competencies and competency standards in this particular industry might work I will just go through a process and show what is

underway at the moment. As I have said before we have a national Community Services and Health Industry Training Board, which was established fairly recently, it is only about three years old, and as I said its function is to provide advice to government on the implementation of the national training reform agenda and training issues within the industry.

The National ITAB in community services and health is made up of all of the tripartite members, which I indicated earlier, and the ITABs are funded also through the Australian National Training Authority to undertake their role and function. The Community Services and Health Industry Training Board, as I said, is constituted as a competency standards body recognised by such as the national - by the National Training Board and therefore is the only body that is recognised within community services and health as being able to identify and develop competency standards for occupations within those industry areas.

The competency standards body has established and funded within our industry area a number of competency standards projects. What they actually set up, Mr Deputy President, are project management committees for competency standards development within a number of areas. And to date we have the following project management committee established for the purposes of identifying National Competency Standards, and they are in the area of aged care, ambulance officers, ancillary support workers, child care, child protection, community management - being community based management committees, usually volunteers who sit on management committees for community non-profit organisations, community work, health technicians and finally, but of course not least, disability services.

There is a National Competency Standards project that has been established for the purposes of identifying National Competency Standards in disability services. It is currently located - the project is located with the Western Australian Industry Training Board for the first half of the project. In the second half of the project it gets transferred to another State Industry Training Board to ensure that all states and players are involved in it to some extent.

In particular, the role of the project management committees laid down by the National ITAB are as follows: that they undertake general project planning, that is that they are responsible for ensuring that the project moves ahead in a way that is acceptable to the National Training Board. Consultation and communication and consultation is obviously a very, very important point of the Project Management Committee's work because, Mr Deputy President, if at the end of the day not all the players are in agreement with what is in the National Competency Standards then the National Training Board basically will not register them. So it is in

everybody's interest that there is consultation all the way through the process and that what comes out at the end is to everyone's agreement. And obviously that is a fairly difficult process, but it is a process that has been achieved.

Human Resource Management, because these committees involve, if not the employment with staff directly, certainly the employment of consultants to undertake the work that is required. Financial Resource Management, and the identification of competency standards is not a cheap exercise. In a previous life I was associated with the development of competency standards for workers within the youth sector, youth workers and other people that worked with young people, and I guess towards the end we would have got close to spending 4 to \$500,000 to develop National Competency Standards just for that one area, and most of these Project Management Committees will be looking at similar sorts of expenditure to come up with the competencies to those areas.

DEPUTY PRESIDENT ROBINSON: Some of those competencies or skills would be difficult to identify, would they not?

MR BROWN: It is not an easy process and it is - certainly the National Training Board recognises that, which is why they have the requirement that the competencies and the competency standards are reviewed very shortly after they are initially established, ie within two to three years. And it is also why they require that they be reviewed every five years to ensure that everything is there and they are up to date. And obviously a competency associated with laying a concrete footpath is a little bit different to a competency associated with - to use an example in my area where I was developing competency standards - to see whether a youth worker could effectively counsel a suicidal young person. And, you know, following them around to see whether they do it effectively and whether the young person jumps off the bridge or not, and whether they fail or not, is obviously not the appropriate way to go. So there are difficulties associated with it.

DEPUTY PRESIDENT ROBINSON: Yes.

MR BROWN: But it has been - most people associated with competencies and the theory of competencies are and how they are established accept that there are not any areas really that cannot be identified in a competency format and therefore be included within competency standards, and that includes some very vague competencies like political analysis or analytical skills which are not as tangible as laying a concrete footpath.

DEPUTY PRESIDENT ROBINSON: Or ability to build up a rapport with certain people.

MR BROWN: Yes.

DEPUTY PRESIDENT ROBINSON: Or not.

MR BROWN: But again the important thing to remember is that competencies are outcome based so it is what someone can do. So it is really what someone can do at the end of the day. The problem then becomes how you measure, or how you actually observe what someone does and, you know, what is it you are actually observing. But we will leave that to the theoreticians in this area. Also involved in the role for Project Management Committees is establishing the parameters for the project and considering the framework for standards development appropriate to that particular area. In our case, of course, it is disability services, so establishing parameters for - the Project Management Committee will need to establish parameters for the project and consider the framework that is appropriate to that particular area.

Now, of course, all of the Project Management Committees that I have been involved with or have anything to do with, one of their first tasks is actually to define who it is they are developing competency standards for. Some of those areas are a little clearer than others. Disability services is reasonably straightforward. Community work Project Managing Committee had a terrible task defining what a community worker was.

Establishing a methodology for competency analysis, validation and review. And again the National Training Board is extremely interested in looking at the methodologies that we used for the development of the competency standards to ensure that it was a fair process and a process that involved everyone along the way. Developing recommendations for endorsement and review which go forward to the CSB and then on to the National Training Board and of course ensuring that the competency standards have a national application.

Just on the national application, Mr Deputy President, part of this - again, the focus of this whole training reform agenda is national consistency. One of the problems that we have had in Australia, and it has been identified time and time again, is that because of our political structures and the way we are set up constitutionally, we have state and territory governments able to legislate and we also have a Commonwealth Government that is able to legislate. The powers are meant to be defined by the Constitutions clearly separate who may legislate in what area.

Vocational employment and education training is a state responsibility not a Commonwealth responsibility. Consequently we have had, effectively, eight different systems of vocational education and training in Australia - eight different sets of curriculum criteria perimeters, eight different sets of

accreditation and causing great difficulties when people perhaps do a course in one state, move to another state and their qualifications are not recognised because that state has different requirements.

DEPUTY PRESIDENT ROBINSON: Yes. Tasmania was the only state which was right.

MR BROWN: Yes, of course, yes, yes. So what are the principles that supply to all of these developments is of course that they are nationally consistent, therefore all states and territories must be involved in the process; they must agree with the outcomes and that the competency standards have application nationally, not just to one particular state especially the bigger states, without mentioning any names.

In addition, Mr Deputy President, these project management committees are expected to redress industrial relations issues associated with the identification of competencies; that does not mean they necessarily resolve them but they certainly are expected to take them into account given that all the industry players are around the table. These include the development of the skills-based career pathways, which is a requirement of the competency standards development process that career pathways are accommodated and taken into account. In fact the competency standards are meant to enhance and further develop career pathway opportunities for workers; mobility within industry and in workplaces, this is the ability to be able to quickly reskill and move into a different type of occupational role than might previously have been the case; and the transfer of skills to new ways of organising work and providing services, essentially workplace reform.

Mr Deputy President, once the project management committee has completed its task and the draft competency standards are completed, this is the disabilities project management committee, they will forward those to the industry training advisory board competency standards body for consideration. The CSB will look at those competency standards to ensure that they are in the format that is acceptable to the National Training Board, that the methodology that has been used has been a fair one and that everyone has been involved and that no-one has been left out of the process and they will align those competency standards with the Australian Standards framework, which I will describe in my next section.

They are then forwarded to the National Training Board who, if they endorse them, they then get placed on the national register of competency standards. So, at the end of the day when all of this process is finished there will be a register of competency standards and every worker in Australia basically will have the standards that they require on this register to be able to perform their work effectively.

Mr Deputy President, could I take you back to tab 1 in exhibit 5.3 and the very last page, sorry, the second last page, you had better make it, Mr Deputy President, the fourth last page. We are looking for a document headed, Competency Standards for Disability Services as at the 2nd of the fifth 1994. Do you have it?

DEPUTY PRESIDENT ROBINSON: Of course.

MR BROWN: Mr Deputy President, this is the first outcome of the project management committee that is responsible for developing the national competency standards for disability services. To that extent it is obviously only a draft, they still have a lot of work to do, there is a whole validation phase that they need to go through but this is the first outcome of it and you will notice that all we have here at the moment are the units and the element titles for the competency standards; what we do not have are the performance criteria or any of the range of variable statements or the evidence guide or in fact anything else.

But they do indicate, if you were to read through them, 13 areas of competency, units of competency that to date this project management committee and the research that it has undertaken has identified for workers within the disability services area. Even though this is at an initial stage, Mr Deputy President, it is not expected that the actual substance of these draft competency standards will alter; there will be some fine tuning to it and there will be a lot of work done on identifying the performance criteria and the range variables and the alignment with the Australian Standards framework, but this is essentially what is expected to come out of it at the end of the day.

As such, Mr Deputy President, these become extremely important because even though these competency standards are not expected to be finalised until at least the middle of next year, and the expectation is that in fact it will be a lot later than that, and that is just in their final draft form. They then have to go through the process of not only being in line with the Australian Standards framework, which of course is some fairly hefty negotiations between the employer and the union representatives, they also then need to be forwarded to the National Training Board and considered by that board and finally endorsed. My guess is that we will be looking at 1996 before we have national competency standards in disability services registered with the National Training Board.

DEPUTY PRESIDENT ROBINSON: And this work in this area, as you told us before, is going on in West Australia mainly?

MR BROWN: Yes. Well, the actual - yes, the project management committee is a national project management committee but the project staff

are located in Western Australia, and the administrative management is by the Western Australian equivalent of the Community Services and Health Industry Training Advisory Board. I think they call them ITECs over there - Industry Training Education Committees or something or other, a bit of national consistency in nomenclature would not go amiss either.

DEPUTY PRESIDENT ROBINSON: Yes, right.

MR BROWN: Yes, and what they will do - or what they have done to get to this stage has in fact involved a number of different states. So even though the whole project is based in Western Australia it does not mean that just workers from Western Australia are contributing to this process, and in fact I think from memory it is South Australia, Northern Territory and Western Australia that are contributing to this first part of the process. The second half, the whole project will move from Western Australia - I think to Queensland, again I am not certain - and the Queensland ITB will take over and they will do the finalisation of it and the final validation in those other states that have not contributed to it, including Tasmania. So every single state and territory, and workers in those states and territories, will be involved in the methodology for the identification of the competency standards.

DEPUTY PRESIDENT ROBINSON: Should you feel you would like to take a breather at any stage, you are entitled to request it.

MR BROWN: I would appreciate that, Mr Deputy President, thank you.

DEPUTY PRESIDENT ROBINSON: We will take a short break.

SHORT ADJOURNMENT

DEPUTY PRESIDENT ROBINSON: Mr Brown, while you are disturbed, during that brief interval I thought of a couple of little further questions. In this particular industry, for instance, just as an example, who would initiate the taking of action which would put in motion the establishment of training competencies, skill identification, so forth? Somebody has to start the process off in a particular industry regardless of what it is. I know that there is the development of common matters throughout every industry, but for a particular industry how would the process be initiated and start off for that particular industry?

MR BROWN: I actually have a bit of first-hand experience at this, because again, in a previous life, I was a member of the National Community Services and Health Industry Training Advisory Board - in fact, from its inception - and was involved in that very process of establishing the competency standards projects that I have outlined, the aged care, ambulance officers, ancillary support workers, etcetera. Now, the way in which that was done was that - bearing in mind the composition of the national ITB involves all the ACT players and the ACCI players, etcetera, and governments, welfare ministers council, etcetera.

There was a process put in place by which we tried to identify what were the priority areas for competency standards development, and given that if you take both the health industry and the community services industry, they are massive and they are diverse in nature, so you are really talking about dozens and dozens and dozens of quite diverse occupational groupings which need competency standards developed eventually.

DEPUTY PRESIDENT ROBINSON: But who says they need them?

MR BROWN: Well, the intention of the grand plan, if you like, is that every single occupation in every single Australian industry will have competency standards developed.

DEPUTY PRESIDENT ROBINSON: Yes.

MR BROWN: Now, there is no compulsion per se, but given some of the frameworks that have been developed - and I will be talking a bit later about - not today - about the national framework for the recognition of training, ie, accreditation, if the competency standards are not in existence then there will be no accredited training for that particular occupational grouping.

DEPUTY PRESIDENT ROBINSON: Yes.

MR BROWN: So, really, the only way that they will have access to accredited training that is credentialised and portable, etcetera, will be - the first step will always be the development of the competency standards.

DEPUTY PRESIDENT ROBINSON: Yes, but at whose request?

MR BROWN: Well, the industry training board, because of the composition of it, is there to represent the industry, therefore they initiate the - - -

DEPUTY PRESIDENT ROBINSON: Right.

MR BROWN: And they initiated all of these projects and they initiated them by basically going through the process of seeing where the priorities lie, or where there was no training available, and so where the priority areas were for training; then also asking every state and territory industry training board in that area, community services and health, which likewise comprised of unions, employers and government representatives, to contribute to that process, and so there was eventual negotiations. There was general agreement that these were the priority areas for the first round of development.

DEPUTY PRESIDENT ROBINSON: Yes.

MR BROWN: So, the industry itself is the answer.

DEPUTY PRESIDENT ROBINSON: Once the process has started the eventual ramifications which follow might not be realised by - if somebody said, "Oh, yes, well, okay, please identify for, say the disability services industry, the sort of competencies that are being used or ought to be used, and identify it and how we can train and so forth." They end up then in the commission, whereas the individual employer might have thought, "Look, I've got a ready access to plenty of people who are able to carry out all of the duties and functions that I require. I do not need somebody with a diploma or a degree under their arm to perform the sort of work in these institutions. I need somebody who is mature; who has got a sympathy for the sorts of clients that are there; that have reached a reasonable level of schooling, and with some on-the-ground instruction and training they will develop into good carers for my industry. I don't want any more."

MR BROWN: Well, that is the way the system works essentially at the moment. The only problem with that is that this is not about qualifications. I mean, qualifications are a bit of a spin-off from it, and in fact I would go as far as to predict that if this system is ever fully introduced, which I suspect it probably will not be in its totality, and I have still got most of the totality to outline, is that qualifications will become meaningless in any case. It is really about competencies and what people are required to do.

DEPUTY PRESIDENT ROBINSON: Yes.

MR BROWN: Now, the competencies certainly are linked to the training process, but are not necessarily restricted to the training process. For example, if the competencies that a worker requires to be effective in the workplace - to do their job properly - can be identified and everyone agrees with that, then of course employers can use that for recruitment purposes. They can more clearly identify what their requirements are, and if people are undertaking either formal or informal acquisition of competencies and

those competencies are recognised, then the employee or the prospective employee can actually go to the employer and say, "Look, you want someone with these competencies. I have these competencies," and then there is a matching-up process, so it can be used in a whole range of contexts.

Also, it may be that certainly some of the larger organisations within disability services are able to put in-service training or on-the-job training on the ground for their workers, and in fact there is no reason why the formal training process cannot be predominantly on the job. In fact the move is towards accommodation of on and off the job training for just about all industry areas. But what if that worker then leaves that industry or leaves where they are employed and goes somewhere else? How do they demonstrate that they actually have a level of competency?

There is no portability, they cannot - there is no qualification associated with it. The employer might give them a bit of a certificate which says they have done such and such a, you know, training session, but what does that really mean, and how do we know that the quality of that, you know, meets the standards? So, this whole process is about certification rather than qualifications of competencies that people have, so that they have career pathways, so that there is more flexibility, and that the employers can be more clear about both what they need and what they are getting when they employ someone.

DEPUTY PRESIDENT ROBINSON: I suppose the other side of the equation, and I am putting myself in the position of possibly some employers who find that the - to them, the nigger in the woodpile is the - are the tribunals which have laid down structural efficiency principle back in 1990, was it not, that said, okay everybody should see whose equivalent to 100 per cent of the tradesman rate by using these sorts of competencies and skills and so forth, and then setting percentages over and above that. But the first step on the treadmill might be getting caught up in the identification of skills and competencies.

MR BROWN: Yes, I think you will see, Mr Deputy President, as we go on that the identification - - -

DEPUTY PRESIDENT ROBINSON: Mr Fitzgerald is writing furiously. I am not dictating anything.

MR FITZGERALD: No.

MR BROWN: The identification of the competencies is only, in fact, one small part of this whole process unfortunately.

DEPUTY PRESIDENT ROBINSON: Yes.

MR BROWN: And you will see where the competencies fit in, but I am actually going to be demonstrating an alignment of the Australian standards framework with the classifications that we have proposed in our application to show levels of alignment, so it is going to get even more complicated than simply just an alignment with the metals relativities per se.

DEPUTY PRESIDENT ROBINSON: Yes, yes. My other question while I was having a quick cup of coffee was, what is the source of the funding for this - these whole types of exercises? Obviously there is other government funding but is there any other sorts?

MR BROWN: Yes, there is the expectation that industry itself would contribute to the cost of, not only the development of the competency standards but, in fact, the whole development of the training and the implementation of the whole process itself. Governments come up with the up-front dollars; industry is expected to demonstrate a significant contribution towards the overall cost of the development of it. And I think, my understand is that some of the early negotiations amongst all the players, including the employers, was that the current system was really lacking and was not providing industry what it wanted.

There was one TAFE - sorry, research program done into TAFE, and I am sorry, I cannot cite it offhand, but it tried to estimate what employers actually utilised of the skills that TAFE taught, and the answer was, in fact, very, very little. So, they were being taught all these wonderful things, you know, in TAFE off-the-job training, but in fact, employers were not utilising that because it was not appropriate to what the employers actually needed on the job. So, part of the agreement, I think, was that everybody recognised that this was going to be a very expensive process. They also recognised that if we do not go down this then Australia really has, you know, will go down the plug hole, as it were, economically.

DEPUTY PRESIDENT ROBINSON: Yes.

MR BROWN: And so I think there was a commitment by all parties, including the unions and the employers, that there would need to be a contribution made by all parties including employees in terms of their cost of their training at the end of the day. And that is what is being put in place now.

DEPUTY PRESIDENT ROBINSON: Yes. Again, I suppose that employers whether public or private could recognise some end benefit to increased training and competencies within their own industry through the creation of better quality of service or output of product or whatever, but

in industries like the disabilities services, which is not profit driven but provider of a service, and maybe I should be directing this question more to Ms Harvey, the actual benefit to them might not be as apparent if - - -

MR BROWN: When that is obviously, you know, open to debate.

DEPUTY PRESIDENT ROBINSON: Yes.

MR BROWN: But I, I mean, my view would be that if a worker is trained they are better able to perform their role than if they are not trained, and I - my experience in the community services industry more so than the health industry, and it is - which where does disability services fit with community services or with health? But my experience with that whole industry is that there is traditionally in the way it is developed over a long period of time, like decades and decades, is that is was, you know, sort of volunteer type work that people did out of the goodness of their heart. There is not many areas within community services where that mentality still prevails, that it may not be for profit but, in fact, it is a fairly serious industry area, and in fact, the skills that people require to be effective in those roles, disabilities services or youth work or community work or whatever, in fact, are far more significant than a lot of people realised, and that there is a lot of people out there, I mean, I am not commenting so much on disability services in this context, but certainly in my experience in youth work, a lot of people employed as youth workers who are untrained who are working with young people, suicidal young people, homeless young people, etcetera, who do not know what they are doing and in fact, do a considerable amount of damage to these young people by just on the basis that they are, you know, do-gooders.

DEPUTY PRESIDENT ROBINSON: Commitment is not enough.

MR BROWN: No, that is right, that is right. Those days of, you know, that what is about is, you know, having a shoulder to cry on and being a friend to a young person or whoever it might be, I think are long gone. What we need now is people with good skills in the work that they are expected to perform and certainly this whole process is pushing community services, probably more so in some ways than any other industry down that track. Partly because it is so far, you know, it just - not a lot has happened in that particular area.

DEPUTY PRESIDENT ROBINSON: Yes.

MR BROWN: But the day that John Dawkins established the National Community Services and Health Industry Training Board basically spelt the end of this notion that the whole thing is just a - you know, a volunteer thing that people do and that it is not really important.

DEPUTY PRESIDENT ROBINSON: Yes.

MR BROWN: It is an industry, it is recognised as an industry, it is culpable under industry requirements, like every other industry area, and needs to be dealt with as such.

DEPUTY PRESIDENT ROBINSON: Yes. Sorry for the interruption.

MR BROWN: That is all right, Mr Deputy President. I am aware that what we have just been through is perhaps a little bit dry. I do not know - it is a fairly difficult area to present in a way that is thrilling - - -

DEPUTY PRESIDENT ROBINSON: No, I congratulate you, Mr Brown, I think it is, you know, going right to the grass roots and the fundamentals.

MR BROWN: It is critical, however, and particularly when we start looking at alignments against the application then it is important to have this background in the context it is important to understand it.

DEPUTY PRESIDENT ROBINSON: Yes. You do not need to apologise.

MR BROWN: In some ways, however, the next section that I am wanting to go onto, which is the Australian Standards Framework, is possibly even more dryer than this particular section, and - - -

MS HARVEY: There is plenty of water there.

MR BROWN: - - - and perhaps I - - -

DEPUTY PRESIDENT ROBINSON: Well, I will reserve judgment on it.

MR BROWN: - - - perhaps it might be better. I just have a couple more comments to make to finish off this section on competency standards, but that we leave the next section on Australian Standards Framework until we are all a bit fresh in the morning, if that is all right?

DEPUTY PRESIDENT ROBINSON: Yes.

MR BROWN: So I will probably only take a few more minutes of - - -

DEPUTY PRESIDENT ROBINSON: And then you suggest we have an early night.

MR BROWN: Suggest we have an early night, yes.

MS HARVEY: Study up at home. Take home the exhibits.

DEPUTY PRESIDENT ROBINSON: Well, you tell us when.

MR BROWN: In fact, all I - I really was at the end, I did not realise I was so close to the end otherwise I probably would have finished this before the adjournment. But could I just take you back to exhibit 5.3 and tab 1, and the last four pages which was the competency standards for disability services. The point that I would like to stress is that even though these are draft competency standards, when we are - tomorrow when we are going through a number of policy frameworks you will see that part of the policy is that if national competency standards are not in existence - and they recognise that the process is fairly complicated and it will take a long time for there to be those national competency standards - that that should not hold up any of the processes that are under way, including award restructuring, but also the accreditation of training course that are competency based.

What is allowed is that interim competency standards are adopted that fulfil the purpose until such time as the national competency standards are in existence. The - we are in an interesting situation as far as disability services go because both the courses in Tasmania, the advanced certificate and the associate diploma program that are offered by TAFE are required to be re-accredited by the end of this year. So they are right on the cusp of an old system of accreditation and a new system of accreditation. They will be accredited under the new system of accreditation, and as such are required to have interim competency standards in place.

There is a review committee that has been established to undertake that whole process of reviewing the curriculum, redrafting it and getting it ready for re-accreditation by the end of the year. And I will talk about this in a bit more detail. But I want to stress the importance of these competency standards, because the review committee has adopted these and the interim competency standards for the purpose of accreditation of those TAFE course. And the significance of that will become more apparent as I go through some of my other sections.

So, in closing, I just wanted to stress that, that we will actually come back to these probably a couple of times to have a look at them a little bit more closely. But the work that has been done by the National Project Committee to date to get it to this - this point, even though it is not completed, certainly will be used and important in what is happening in Tasmania.

DEPUTY PRESIDENT ROBINSON: Good.

MR BROWN: So, with the - with your permission, Mr Deputy President, I think I will finish there and start again tomorrow morning.

DEPUTY PRESIDENT ROBINSON: Yes. Nothing we can do in the interim Ms Harvey?

MS HARVEY: In what respect, Mr Deputy President?

DEPUTY PRESIDENT ROBINSON: Very well, we will adjourn until 10.30 tomorrow.

THE MATTER WAS ADJOURNED UNTIL
THURSDAY, 7 JUNE 1994