

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T. No. 4146 of 1992
T. No. 2225 of 1989
T. No. 2311 of 1990

IN THE MATTER OF an applications by the
Australian Social Welfare Union to vary the
Community Services Award

re making of a new award

COMMISSIONER GOZZI

HOBART, 10 November 1994
Continued from 12 October 1994

TRANSCRIPT OF PROCEEDINGS

Unedited

COMMISSIONER GOZZI: Any changes in appearances this morning.

MS K. PAMMENTER: If the Commission pleases, **KATE PAMMENTER** appearing for the Minister for Industrial Relations seeking to intervene in this matter under Section 27(1) of the Industrial Relations Act. Thank you.

5 COMMISSIONER GOZZI: You don't have to seek to intervene, Ms Pammenter. The minister has a statutory right to intervene. Thank you for the appearance.

Just before we get going I just want to raise it on record and raise it with you, Mr Paterson, about the federal award proceedings. I noted in the publication that we received, dated 14 October 1994 the Work Force Issue 995, under the heading Social
10 Services Award At Last, it says:

Health and community services workers in Queensland and Victoria could gain federal award coverage within days -

- that's interesting -

15 *- after a protracted 2-year battle. The governments of both states have fought the federal award push all the way through a series of appeals but failed to revoke the dispute finding. Meanwhile there has been no regulation of the employment of 80% of workers, mainly female, in the social and community services in Queensland and Victoria, says ASU Social and Community Services Division Secretary, Noelene Rudland. Social and community workers in other states are covered by state awards. -*

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- not so - not quite -

A full bench hears the case for federal award next week.

Now presumably that would have been the week after the 14 October and of course whilst it doesn't say so here, Tasmania was involved in those particular proceedings,
25 and the point I'm coming to is, I would like to know what the status of the situation is, given that at the end of the day a federal award will override the state award if Tasmania is a respondent to it and I suspect that will be the case, given the ASU's involvement in those federal proceedings, and I just want to know what the situation is as far as you're able to tell me, Mr Paterson, and anybody else, Mr Kleyn.

30 MR PATERSON: Mr Commissioner, the update that I can provide, I suppose firstly in terms of clarification, it's coverage that has been resolved that the Queensland - I believe New South Wales and Victorian governments had sought leave to appeal and have the dispute finding revoked and that leave was not granted and that was the decision that prompted those comments in Work Force. It is my understanding that a
35 report-back has been listed for December and further proceedings are scheduled for next year and that the Employers Federation of New South Wales have foreshadowed their intention to appeal - to lodge a Section 111(1)(g), or whatever its contemporary format is, and I believe those proceedings are set down for some time in February.

COMMISSIONER GOZZI: Where is Tasmania in all of this?

40 MR PATERSON: Basically, it's still there. There's been no move to take it off the list, as it were.

COMMISSIONER GOZZI: But they would be caught up in these references, I would have thought.

MR PATERSON: There are Tasmanian employers that have been logged in those proceedings.

COMMISSIONER GOZZI: Employers that we are dealing with here.

5 MR PATERSON: Employers that would certainly be represented by the CSEOT and the TCCI. It's my understanding that New South Wales are the only employers who have foreshadowed their intention to proceed under 111(1)(g). The only other comment I would make is that in these proceedings we have crossed this bridge at least twice before and decided to progress this matter notwithstanding -

10 COMMISSIONER GOZZI: Well, it's progressed on the basis that Deputy President Hancock had outlined an approach to the award making process which seemed to indicate that what we're doing was substantially a long way down the track and I mean, I expressed some disquiet about the process at that time and decided that notwithstanding that, we would continue but it seems - you know, I didn't make any enquires - deliberately didn't make any enquires because I wanted to put the question
15 to the parties and see what the response was. It just seemed to me that if Tasmania is caught up in this process and if - and I'm not saying that Work Force is right. I mean, they've been known to make statements in these journals which are not right, but if they are correct, it would seem to me that this whole exercise could be a waste of time by about February next year.

20 MR PATERSON: Well I believe it's - in terms of dispute finding, that dispute has been found and now settles as found. The proceedings under section 111(1)(g) will finalise some of those other jurisdictional questions. The issue of then moving to make the award with some 4,500 respondents nationally is by no means riding on any set timetable and by February next year we would be highly optimistic. I can get no date
25 from our national offices as to any anticipated time frame. It is my understanding we will be putting a position to employers early in the new year in terms of the union's position on wages, classifications and conditions but none of that negotiating process has yet begun and in the federal jurisdiction there is no counterpart to the CSEOT that represents all employers. We still run that fundamental obstacle of lack of
30 employer organisation across the country. The major employer federations, as with the TCCI, by no means represent anything like a small minority of the services covered by the claim. I can add no more than that.

COMMISSIONER GOZZI: All right. Thanks, Mr Paterson. Anything you want to add, Mr Kleyn? Anybody else?

35 MR KLEYN: No, Mr Commissioner. I wasn't aware - I'm not up to date with what's happening at a federal - and I actually haven't seen those comments in Work Force either, so I can't add any light to the matter at all.

COMMISSIONER GOZZI: Mr Watson?

40 MR WATSON: I can't really add anything either, commissioner, other than to say that I have had some conversations with our counterparts in other state employer federations in the last week or so and the person I was talking to in Queensland did say to me that he had been to Sydney last week, or the week before, to hearings, but there wasn't any real indication that it was progressing to finality, so I can't really add any more than that.

45 The other point that I would make or guess is that if this award is made and a classification structure is inserted, then I guess it would be a position that we would have to consider, as to whether or not we argue under the Federal Act to put up a fairly substantial argument that we do have a state award which is sufficient.

COMMISSIONER GOZZI: But you've already argued that.

MR WATSON: I beg your pardon?

COMMISSIONER GOZZI: Haven't you already argued that. Hasn't the TCCI taken a position on that?

5 MR PATERSON: If I can clarify that, that was in respect of the claim on crisis accommodation and supported housing services that the TCCI made application under that provision of the act.

COMMISSIONER GOZZI: Right. And got rolled.

10 MR WATSON: In terms of what you've just said, Commissioner, I was unaware of those comments as well and I don't think there is anything further that I can really add. COMMISSIONER GOZZI: Ms Pammenter, anything that you want to say about that.

MS PAMMENTER: I think I'm fairly much in the same position as everybody else, that I have a fairly limited knowledge of that.

15 COMMISSIONER GOZZI: There's an appropriate phrase about all this. I won't put it on the record. Ms Pammenter, would you like to give me your submissions.

20 MS PAMMENTER: Thank you, Mr Commissioner. Perhaps before I go into this submission in detail, I think it would be appropriate to clarify the minister's late intervention in this matter. As you are probably aware, there has been a lot of speculation recently over comments which have been made by the Minister for Community and Health Services in relation to funding matters associated with the introduction of this award.

COMMISSIONER GOZZI: Speculation by whom, Ms Pammenter?

25 MS PAMMENTER: I think there has been general speculation in the sector in general. The minister has had a number of meetings with organisations such as Tascoss where these issues were discussed and the information that we've received is, there are differing expectations within the community services sector particularly in relation to funding issues and what the government's position is going to be on those. So it's considered appropriate that we put some submissions on those issues and
30 clarify what the government's position is.

COMMISSIONER GOZZI: Before you do, those expectations within the community services sector, does that include Mr Kay's organisation? Have they got expectations that are of concern?

MS PAMMENTER: I can't really speak for Mr Kay -

35 COMMISSIONER GOZZI: I'm not asking you to speak for him - for his organisation. You said there were expectations with the community services sector. Obviously Mr Kay's organisation is one of them.

40 MR KAY: Mr Commissioner, if I may - I haven't been involved in any meetings with the minister and neither has our organisation, so that the expectations that might be about I think have come from meetings that have been held with organisations such as Tascoss and other members of the community sector who have then taken back to people out there some of the things that might have been uttered in meetings. As far as CSEOT is concerned, we will be awaiting the decision of the Commission in due course.

MS PAMMENTER: The public interest in this matter arises from the fact that the government provides a significant level of funding to organisations who deliver community services in the non-government sector. The government has a responsibility to ensure that a high quality service is delivered to the people in the community who require this assistance. It also has a responsibility to ensure that the funds it allocates are used effectively by the best possible care. It's inevitable that there will be substantial costs associated with the full introduction of the Community Services Award and the government has an obligation to ensure that the costs are minimised as there is only a limited source of funds available.

The state government allocates funding to the non-government sector through program areas within the Department of Community and Health Services such as child, family and community support, mental health, population health, housing services and the aged and disability support program. A total of 175 organisations which are funded by the state government under 15 departmental grants programs are expected to come within the scope of the Community Services Award. These organisations range from supported accommodation, assistance programs or SAAP programs, neighbourhood houses, personal and family counselling services, mental health grants and national aid strategy and alcohol and drugs grants.

Some organisations are funded solely by the state government and others are jointly funded with the commonwealth government, particularly those in the SAAP area and the home and community care area. Now the total grants for the non-government organisations covered by the award is in the order of \$16.06 million per annum. The major funded areas are the Supported Accommodation Assistance Program which receives approximately \$6.1 million per annum and the HAAC which receives \$4.3 million per annum and the Family Support Program which receives \$1.4 million per annum.

The government is not in a position to write an open cheque to cover the full costs of the introduction of the award. The Minister for Community and Health Services has however made it clear on a number of occasions that no clients of these services will be disadvantaged through the introduction of the award. A significant amount of work has already been done in relation to establishing the potential costs of the award but the full final cost can only be determined when the salary rates and classifications are finalised. The minister has responsibility to ensure that all public funds which come within his portfolio are allocated on the basis of highest demonstrated need and that the money is used effectively in the best interests of client care.

In order for the minister to be satisfied of this, a number of issues will have to be examined. These issues will include a determination of each organisation's capacity to meet the increases within their current allocated budgets and an investigation of all options which may enhance effectiveness and efficiency in service delivery and administration. The structure of non-government organisations will no doubt also have to be carefully considered along with the methods and procedures that they employ to undertake their business.

An integral part of this process will be the translation of employees to the new award salary classifications and each organisation will have to ensure that its employees are assigned appropriate classification levels which accurately represent the type of work they perform. To provide a guarantee of funding would mean that these issues would not have to be examined as exhaustively and organisations would have no incentive to look for efficiencies. I understand that some service providers have already taken steps towards examining their structures and work practices, in light of the award conditions which are already in place.

The Minister for Community Health Services has recently held discussions with the Deputy Prime Minister, Mr Brian Howe, and the issue of commonwealth

supplementation under its movement to award wages policy was raised. This federal government policy allows application to be made for supplementation where commonwealth funded organisations move from an award-free environment to an award and there are a number of criteria which must be met in order to qualify for supplementation and these include things such as demonstrated efficiency measures and adherence to accepted community standards.

While no guarantees have been given at this stage by the commonwealth, the minister will continue to negotiate to try and achieve this outcome. It should also be emphasised that applications can only be made under this policy in relation to services which receive commonwealth funding. If a service is jointly funded by the state and commonwealth governments, the state government will be required to match the commonwealth contribution for its portion of the funding.

As well as the anticipated salary costs, which are to be determined yet, there are also the costs associated with the award provisions which came into effect on 1 July 1994. It is clear that these provisions have had added significance to organisations' operating costs, particularly those organisations which operate on a 24-hour or out-of-hours basis. Now these costs are based on current organisation structures and work practices within the sector. It is hoped that the costs of these current provisions can be reduced through implementing efficiency measures and restructuring and these costs will of course change when the salary rates and classification standards are finalised because people will have to be paid those current award provisions on their correct salary under the award.

On 16 August 1994 the minister met with service providers including Tascoss, to discuss concerns regarding the additional award costs that they were incurring and how the government was going to help address the problem. The minister indicated at that meeting that the government would review the funding situation to the community services sector when the award content was finalised. He advised that in the intervening period organisations could make application to the Department of Community and Health Services for additional funds to maintain service delivery at their existing levels. Any additional funds that may be allocated through this interim process will be provided by the state government.

I would like to conclude by reiterating the government's support for the community services programs and organisations which currently exist. The government has a responsibility to ensure that clients using those programs have access to the appropriate support. The state government also has a responsibility to ensure that taxpayers' funds allocated to organisations who provide services to the community are used efficiently and effectively.

I think it is clear from the submissions I've made that there are no easy answers to the funding issues. The final costs have not yet been determined and obviously no cast iron guarantees can be given that additional funds will be made available. As I've already stated, organisations will be assessed in relation to their ability to meet the award cost from within their existing budgets prior to any decisions being made on funding. Options will also be examined to assist organisations in improving efficiency in all aspects of service provision, management and administration. It is hoped that the introduction of the full award and the associated processes will provide the sector with a valuable opportunity to review its operation for the best client outcomes. Thank you. If the Commission pleases.

COMMISSIONER GOZZI: Thank you, Ms Pammenter. It would have been, not inappropriate, for there to have been recognition that the negotiating process in respect to this award has been under way for a long, long period of time, that the minister has been apprised of those discussions quite some time ago, that there has been full discussion with commonwealth and state representatives on the funding

issues and that there is an acknowledgment in the application that the union has made and in their submissions, that any increase that may be awarded will indeed be phased and so there is a cognisance in respect of the participants in this exercise that funding is a key issue. So that would have been, I feel, not inappropriate to recognise that the exercise is being undertaken, I believe, in a very responsible manner.

In the context of the statement that you've read, I think it is fair to say that a lot of those issues you have covered are, I think, fairly logical commonsense type issues that I would have an expectation would be observed by the parties in implementing the award and certainly in the context of translations, efficiencies and job design and those issues. I think they are important aspects and need to be taken on board by the parties in an enthusiastic and manner. I would have hoped that up to this point in time that some of that work would have already been prepared, as you've indicated, to the point that when the award is handed down, given that the disparity in the context of structure is fairly minimal. It's the dollars and cents that go with the structure that are the issues. I would have thought that a lot of preparatory work right across the board would have been able to be undertaken at this stage already.

Thank you for those comments. Mr Watson.

MR WATSON: Mr Commissioner, just before I start my submission I would like to hand up an exhibit which is effectively a summary of the submission that we intend to put to the Commission.

COMMISSIONER GOZZI: The case has been going so long, Mr Watson, that we're still using TCI exhibit numbers, so we won't change now to TCCI. We will stick with TCI and this will be Exhibit TCI.7.

MR WATSON: Just briefly running through the points that we intend to cover, Commissioner. First of all we will put brief comments in relation to an introduction. We will then go to the issue of consultation that has occurred through CSEOT and also with the employers and the unions. We will then go to the major part of our submission, which is the classification structure itself, which incorporates the merits of our position, also comments on the union position, the progression and also the South Australian Social and Community Services Award. We will then talk about hours of work, the impact of 1 July 1994 conditions of award variation, costings, funding aspects, phasing, translation, capacity to pay and I don't think we should get too hung up about the capacity to pay at this stage as you will see when I come to that particular position, the wage fixing principles, public interest, supplementary matters and then our conclusion.

COMMISSIONER GOZZI: That's very good, Mr Watson.

MR WATSON: Commissioner, the community services industry in Tasmania has not, as you are well aware, been regulated by award rates of pay. Because of this, organisations have determined pay rates for employees in a number of ways. Some are paid what they can afford, some are paid amounts based on how much funding they receive, some are paid based on commonwealth public service standards, some are paid based on state awards and others are in fact paid market rates, or above, to attract the right personnel and I refer in particular to the comments made by Miss De Vries in her evidence.

In a comprehensive survey which was undertaken for SAAP services in January this year, it was determined that the average weekly rate paid within those services was in fact a relativity of 71%. Now this is an industry that has had to enjoy the penalty rate decision of 1 July 1994, which resulted in average increased in some areas, particularly in SAAP, of anything up to 600% and that is perhaps inflated to a certain extent because some organisations weren't paying anything at all. So a lot of services

are in fact coming to grips, or in some cases not even aware of the 1 July 1994 award variation despite the efforts of the employer organisations to inform.

5 The CSEOT was formed on 26 June 1991, effectively to deal with the matter of the Community Services Award. There had been negotiations prior to the forming of CSEOT involving input from some of the larger agencies based in Hobart, going back to as early as 1981. CSEOT in fact became parties to this award in September 1993 as an employer organisation and CSEOT have put an enormous amount of time and effort into the process in attempting to bring together as many organisations as possible to discuss the award and its ramifications.

10 In January of this year, as I mentioned a minute ago, the CSEOT executive arranged for an extensive questionnaire to be distributed, also with some help from the department to 24-hour SAAP organisations to ascertain the impact of the award on the organisations and one of the reasons it was sent to the 24-hour SAAP organisations was because of the impact of the conditions matters as well. Now it is apparent that
15 many organisations in the state are not aware of the ramifications of the award, nor have they availed themselves of either CSEOT or TCCI membership, despite the work and effort that has been put in, particularly by CSEOT.

In an attempt to catch and inform as many organisations as possible, CSEOT executive arranged information meetings throughout the state in April of this year.
20 Now it is hoped that there are now a lot more informed organisations, however we are still concerned that there are still a lot of organisations out there who are unaware of this process. So, Commissioner, that is just a bit of background introduction, so that's effectively where we're starting from in terms of this process.

Commissioner, in developing our proposal for the classification structure for this
25 award, we've had regard to the following: the nature of the industry, the history and methods of pay fixation by organisations within the sector, a career path for employees within the industry, other awards of the Commission with reference to percentage relativities, descriptors and work-value considerations, the structural efficiency first award principles. The effect on organisations of the cost of implementation of a
30 classification structure for the award, also bearing in mind the impact of the conditions matters, which have been effective from 1 July 1994 and also the public interest. At this point I would just like to table an exhibit.

COMMISSIONER GOZZI: That's Exhibit TCI.8.

MR WATSON: This document, Commissioner, is the employers' position regarding
35 the new classification structure for the award. The document is slightly different to the 'without prejudice' position we put to Mr Paterson prior to him making his final submissions. However, there are not dramatic changes in the document and in fact an advanced copy was made available to Mr Paterson last night. Just going to the document itself and our position, Commissioner. The first level, which is Community
40 Services Worker Level 1 we have assigned, in our view, appropriate relativities of 90% and 95% entry level. This is the entry level for the industry where the employer may require a certain level of education, for example, School Certificate or High School Certificate. Obviously, we are not looking for diplomas or degrees at this bottom level. This in effect is the level that would cover the new people on the block, the new
45 employees and the new employees would also participate in on-the-job training.

There would be direct supervision and specific direction given. In most cases positions at this level would assist positions at Level 2 and above. A working knowledge of work practices and procedures in the organisation would be developed during the early stages of employment. All employees would commence on the 90% relativity, with
50 progression to 95% after 12 months, subject to satisfactory performance.

Now the descriptors within our document, Commissioner, match up fairly well with the position put forward in ASU.11. Following through on our document, under Supervision, you will see there in the left-hand side of the document - we've said that supervision is direct with specific direction received. The ASU and the HSUA position in support is that supervision is immediate and direction is close and specific. With regard to the responsibility we've said that employers at this level would perform a range of activities requiring the application of established work procedures and the employee would exercise limited initiative and/or judgement within established guidelines. Again, you will find that that particular provision is contained within ASU.11.

If one then examines the general characteristics and tasks, you will see that the two positions are virtually the same.

COMMISSIONER GOZZI: Just a moment, Mr Watson. I will just get ASU.11 out. Right.

MR WATSON: On our document, Commissioner, on the right-hand side under, Features characteristic to the level, you will see there in the first point, assist higher classified employees. That is contained in ASU.11. In fact all these things I am about to run through are contained in ASU.11. Good communication skills - you will find at point 2 of our document. Participation in on the job training in the third point. Performing clearly prescribed tasks is in point 4. Developing knowledge of organisation's statutory requirements in the 7th point, which is the second one from the bottom and also developing a working knowledge of established work practices and procedures relevant to the organisation in the last point of our document. All of those descriptors are in fact contained within ASU.11.

I guess, to a certain extent, one could say that the parties are in agreement for the first level of the structure, save for the 100% rate. The descriptors are virtually identical. The entry point and second salary point are agreed at 90% and 95% respectively. However, the one difference between the two positions is that ASU.11 has Level 1 moving through to 100%. However, the employer position stops at 95% and in fact has the 100% relativity at Level 2.

It is here where the parties have disagreement on what is the 100% trades rate relativity. The employers are of the view that it is inappropriate to have the 100% trades rate relativity within the entry level of the structure. Now, when you have a look at the descriptors in the Level 1 standard, such as direct, immediate supervision, specific direction and instruction, these are in fact a long way from the sorts of standards that one would find, for example, within the metals relativities where the 100% trades rate has employers performing work under limited supervision and they are also exercising some discretion.

If one also looks at the 100% relativity description within the full bench public sector decision of November 1991, which I haven't tabled, Commissioner, but I think in general terms we are pretty much aware of the contents, you will also find employers working under general supervision and also under limited supervision. They may in fact, in turn, supervise other staff or work teams, also exercising independent judgement.

So it is our position that it is totally inappropriate for the 100% relativity to be within the entry level for the classification structure.

Moving to Level 2, Commissioner, of our document, is effectively the first practitioner level within the structure, if you like.

COMMISSIONER GOZZI: Just before you go to Level 2, do you think it's appropriate to have under qualifications and experience, level of education deemed appropriate by the employer. That could mean anything. I hear what you say about that.

5 MR WATSON: Well effectively what we have, commissioner, is a situation where this is the lowest level in the structure. You have people who may come in with no experience at all and what we're effectively saying is that depending on the type of position, the employer may require different standards of education.

10 Now I'm not sure that we can put it any other way than what we've said there - entry level - education deemed appropriate by the employer. I think that the employer needs to have some - some scope to manoeuvre with their appointments at this level.

COMMISSIONER GOZZI: Yes, I've got no problem about that -

MR WATSON: Mm.

15 COMMISSIONER GOZZI: - except that it also works the other way - that you could put a qualification level or requirement in that would be beyond what would normally be required for a 1995 per cent relativity classified job. See in the ASU.11 proposal about that you've got appropriate certificate relevant to the work.

MR WATSON: Mm. Yes.

COMMISSIONER GOZZI: Now a certificate - you know, you get - you get your certificates at a particular place in the education chain, if you like. I mean -

20 MR WATSON: Mm. Well -

COMMISSIONER GOZZI: I agree it's difficult to tighten it up and be specific -

MR WATSON: Yes. I - it's - I guess - you know, I suppose if - we're not - how am I going to put this - we're not totally opposed to some other wording, I suppose, in relation to their entry level, but -

25 COMMISSIONER GOZZI: Mm.

MR WATSON: - I mean the general gist of where we're coming from is that the positions would vary depending on service -

COMMISSIONER GOZZI: Yes.

30 MR WATSON: - and the employer needs to have some sort of flexibility to decide on the entry level - that's all.

COMMISSIONER GOZZI: Yes, and you know, the award will apply to a wide variety of organisations and not all of them are going to be members of **CSCOT** or **TCCI**.

MR WATSON: Mm. Mm.

COMMISSIONER GOZZI: And -

35 MR WATSON: Yes, that's true.

COMMISSIONER GOZZI: All right, well fair enough.

MR WATSON: Yes - oh, I take on board what you're saying, commissioner, but I'm not sure that there's anything else that I can add to that.

COMMISSIONER GOZZI: No.

MR WATSON: With level 2, this effectively the first practitioner level, as I've said, within the structure, where employees would plan and manage their work load with general direction and supervision. The level also includes who would go about their business without a supervisor being present and would also include those that may be on shift work or sleep over.

Established guidelines and procedures would be followed and also advice would be available from more senior employees through on-call services. At this level employees would exercise initiative and limited judgment according to their experience. Employees at level 2 would also provide assistance to and guide a limited number of level 1 employees and/or volunteers. The employees believe that level 2 does not require a formal qualification within this industry and believe that according to the scope and responsibilities the 100% relativity is appropriate for this level.

The employer position, as I've said, differs here from the unions position now that the union has the 100% rate in level 1.

So to sum up, the employers do not believe that it is appropriate to have the tradesmen equivalent relativity in the base entry level where immediate supervision is provided working under close direction receiving specific instructions as per the descriptors in ASU.11.

Now moving to level 3, commissioner, this level is in fact the first level where the - where employers believe that a qualification would most probably be a prerequisite or a determining factor in employment.

COMMISSIONER GOZZI: Just again- I'm sorry to interrupt - the level 1 is - commence at 90 - 12 months 95?

MR WATSON: Yes.

COMMISSIONER GOZZI: And level 2 is a at 100% with no incremental -

MR WATSON: Yes.

COMMISSIONER GOZZI: -range.

MR WATSON: Yes.

COMMISSIONER GOZZI: And level 3 is the 105 - right - and you're going to tell me about that now?

MR WATSON: Yes - yes.

COMMISSIONER GOZZI: Right.

MR WATSON: Sorry, commissioner, I should have referred you to the very last page of our exhibit which is in fact the - the summary of the relativities - I'm sorry about that.

COMMISSIONER GOZZI: Yes - no - fine - I can see that. Okay.

MR WATSON: The level 3 is in fact the first level where employers believe that a qualification would most probably be a prerequisite or a determining factor in employment.

This level could be described, I suppose, as the senior practitioner level within the structure, where employees would be performing a range of activities and may have responsibility for activities within a defined area or areas, including planning and coordination.

5 I'll take you to the specifics of the descriptors in a moment, commissioner, but I'm just talking in general terms at the moment. Supervision would be - would be general, and limited direction would be provided. Positions at this level would assist in guiding employees at levels 1 and 2 and also volunteers. And employee at level 3 would also have a sound knowledge of the organisations procedures and statutory requirements.

10 The employers submission is that level 3 would be an appropriate level for the associate diploma to be a qualification requirement for these positions. It may be an essential requirement for some positions but there would also be the ability for employees to recognise experience or other accredited training courses in lieu of the associate diploma.

15 It is consistent with the unions position that the entry level from associate diploma without experience would be 105% moving to 115% after 12 months experience and satisfactory performance.

It is also consistent with the Surveyors Award when you find an employee with the associate diploma without experience commencing at 105% moving to 115 after 1 year and then so on.

20 The public sector full bench decision of November 1991 also provided for an entry point of 105% for an employee with an associate diploma without experience, moving to 110% after 12 months and then 115% after a further 12 months.

25 Now at this point I'd just say that we are not relying at all on the salaries determined in that full bench decision, but believe that there are - there is a pattern that emerges when one looks at the salaries that were determined in that decision based on relativities and based on the percentage points that were allocated.

30 So in relation to the entry points and associated relativities for the associate diploma, we believe that there is not a lot of difference between the positions of the employer and the union. The entry point of 105 was the same. We then moved to 115% after 12 months satisfactory performance which is also the same. The differences being that our proposal has the 2 percentage relativity points whereas the union position moves on from 105, 115 to 130 with 2 years experience.

35 Now we believe commissioner, that the 115% ceiling on the associate diploma entry level is adequate and that further progression would be by promotion to a position classified at level 4.

The union position is also that a degree holder would cut in at level 3, whereas the employers believe that degrees would not be required for positions below level 4.

40 In relation to the respective positions on the level 3 descriptors, the employers position for the 105% entry point again is virtually identical to that which is proposed in ASU.11, but in fact you'll find the descriptors in level 2 of ASU.11 because of the fact that ASU.11 has the hundred percent in the entry level. So I don't think it's - it's really much of a big deal about the fact that we - that ASU.11 has these descriptors in level 2. The real point that I want to make is that - is that the descriptors and the
45 percentage relativities are virtually the same.

So just taking you through it, commissioner, the entry point, as I said, is 105, and this for an associate diploma without experience. The next step after 12 months is 115. So that's contained in both positions.

5 Going to our document, on the left hand side you'll see that we've put supervision as being general, direction is limited and general, both positions have employers assisting and guiding lower classified employees which is in the second column there in the third paragraph. Initiative and judgment in the first point under characteristics, again is the same between the two positions. In the third point under characteristics on our document, we have employees dealing with more complex service delivery. And again
10 in ASU.11 moderately complex operational work.

In point 6 - oh, sorry - in the fourth point under characteristics on our document you will find employees - employees applying established guidelines and procedures with autonomy to select appropriate methods. And again within ASU.11 you'll find freedom to act within established procedures practices and guidelines.

15 In the - in the sixth point, under characteristics on our document, commissioner, you'll find employees planning and coordinating activities within a defined area of the organisation and within ASU.11 you find planning coordinated activities within a workplace.

And the final reference is the last point on our document under characteristics which
20 has employees with a sound knowledge of the organisations procedure and statistical requirements. And under ASU.11 again, sound knowledge of activities, procedures and statistical requirements of the workplace.

Now these types of indicative functions, qualifications and responsibilities are also consistent to a certain extent with other awards, frameworks and proposals. If you
25 look at the metals relativities, you'll find that general supervision is provided for the 105% entry level moving through to limited supervision the higher you go up the scale - 110, 115%. You'll find employees providing trade guidance and - guidance and assistance to other employees. You'll find employees assisting with providing - with the provision of training and in some cases they actually provide the training. You'll
30 find employees using discretion. And again in relation to the complexity of the work you'll also find descriptors such as install, repair, maintain, fault find on complex machining, work on complex and intricate circuitry, complex electrical circuitry, applying advanced computer numerical controlled technology and also working on complex radio and community - communications - equipment.

35 Also within the public sector full bench decision at the 105% level you also, as I've said, find the associate diploma without experience moving up through 110, 115% with 2 years experience. You'll find general technical direction, general technical supervision, technical work requiring application of conventional practices. You'll find in some case complex technical work, adaptation or modification of technical work and
40 the administration and technical application of regulations.

COMMISSIONER GOZZI: See, one of the problems - one of the problems is that the 105%, I think as you've acknowledged, produces a completely different rate, doesn't it, than the 105 - I'm being -

45 MR WATSON: No, that's exactly right, commissioner, and that's what I said before - that we weren't relying on the rates contained in that decision because of a number of reasons that I think Mr Paterson made reference to, for example, paid rates, minimum rates, public sector, private sector - all those things - but we do believe that it's more than a coincidence that you do find the general pattern and trend which comes through when you examine the salaries and the relativities.

Commissioner, in the- just diverting for a second - in the Welfare and Voluntary Agencies Case which has in fact concluded hearings, the HSUA position in relation to these - same relativity levels would find employees working under general supervision, providing supervision to other employees and their clients, providing supervision, assisting and instructing of trainees and lower classified employees, undertaking non routine work, using discretion and implementing training programs for clients and training and skill assessment of clients.

So it's our position that the indicative tasks and skill requirements and qualification entry points in fact do vary slightly from award to award, but we believe that there is a pattern, as I've said, between the two competing positions and also the other awards that I've mentioned.

Now if I can just move to level 4 within our proposal. It's the employers view that level 4 in fact is the appropriate level for entry for 4-year degree holders. Again all positions would not necessarily require a 4-year degree or even an associate diploma with considerable experience, however it is considered that the 4-year degree entry point should not be any lower than level 4 on our structure.

The relativity level for level 4 has been set in - in - or our proposal is 125% which again is not too far away from that proposed by the union where they have 130% for a 4-year degree and 125% for a 3-year degree. It is consistent again, commissioner, with the Surveyors Award, where you find a 4-year degree being the entry point at 125%. Again, referring back to the public sector decision of November '91, you'll find an entry level of 117.5% for a 4-year degree moving to 125% with 1 year's experience.

Now this level would be for an employee with considerable experience across a wide range of functions, across client management, where a high degree of professional judgment would be required. The level would require employees to be involved in the decision-making process for organisational policy. The level of position would not only - sorry - the level of responsibility would not only have - I'm sorry, commissioner, I'll start again - the positions at this level would have employees providing assistance to level 1, 2 and 3 employees, but they also may coordinate the activities and tasks performed by those employees as well. Limited supervision would apply at this level and broad direction would be provided from service management.

Now an employee at this level may provide specialist advice. Positions would be required to liaise with professional staff and may be required to manage a specialised project.

So once again, commissioner, if one examines the descriptors of the two positions, you will again find a great deal of similarity. Now when I say the two positions, I'm referring to level 4 in our proposal and level 3 in ASU.11.

Now if I can go to our document under the characteristics of the level, in the first point you'll find the employees may have experience in and may perform complex functions, and in ASU.11 you find reference to performing complex operational work. The second - the second point is in the eighth point of our document under characteristics, you'll see employees coordinating or managing single program service and in ASU.11 you'll find employees coordinating a single program service or a small organisation.

If you look at the fifth point within our level of responsibility, which is the middle column, you'll find employees providing supervision and direction to lower classified employees, and again in ASU.11 you find employees supervising and providing assistance to the - to a limited number of lower classified employees.

If you have a look at the third last point under our characteristics on the right hand side, you'll find detailed knowledge of organisations, policies, activities, services and

functions. And again, in ASU.11 you'll find a sound or comprehensive knowledge of activities, policies and procedures of the organisation.

5 In the third point of our characteristics, you'll find employees participating in the evaluation of concepts and approaches to the solution of problems, and again ASU.11 has the employees solving problems of limited difficulty. Again, the 125 entry point as far as we're concerned is for the 4-year degree. ASU has 125 for the 3-year degree and then 130 for a 4-year degree.

COMMISSIONER GOZZI: Except that level 3 goes a lot further than 125.

10 MR WATSON: Yes. No, I understand that, commissioner. Yes. Now on the left hand side under supervision and direction received in our document, you'll find limited supervision and broad direction and ASU.11 goes to minimal general supervision and limited direction.

15 Now if we also have a look at the sorts of descriptives found in other awards, again you'll find the following. In - if you have a look at the metals framework you'll find the 125 being the entry point for a 3-year degree and 130 is the 4-year degree. But at this point it's perhaps relative to make the point that as time rolls on it's our view that the - whether it's a 3 or 4-year degree perhaps becomes a little bit irrelevant in that there is a move or a trend towards degrees as such rather than 3 or 4 years.

20 You'll also find in the metals framework that you have submission being - sorry - supervision - being provided from other professionals regarding the approach. You have employees assisting in the provision of training, you have employees assigning and checking the work for technical staff. Basically they perform normal professional work and they use their individual judgment and initiative in the application of scientific principles, techniques and methods.

25 Again in the public sector decision you find the 117.5% entry point for a 4-year degree and 125 for a 4-year degree with 1 year experience employees performing normal professional work, complex professional work under supervision and using professional judgment.

30 Now again just making brief reference to the WAVA submission, commissioner, about this relativity, you find limited supervision, training of other employees, employees who coordinate the operation of a group home and they're also involved in behaviour modification strategies.

35 So we can see that the descriptors are not too far apart, but of course the big difference here between the two positions is that the employers have provided for a 125% relativity only as a one off salary point, where of course the union position moves through to 145% in four steps.

40 Now it's here that we believe that the union position, in our view, begins to, what we would term, inflate the upper levels of their proposal. The employers do not believe that it is appropriate to have four steps within what is in fact the first professional level. One salary point is considered adequate and is not inconsistent with some of the other awards that have been referred to in these proceedings, for example, professional engineers and scientists, surveyors, and also draughting and technical. Now if I can move to level 5, commissioner, in our proposal.

45 COMMISSIONER GOZZI: Just before you do, you've obviously thought about the fact that you don't see any need to have an incremental step at level 4 or level 5 or- you haven't got one at level 3 either, I don't think has got one.

MR WATSON: Yes, level 3 has got the two.

COMMISSIONER GOZZI: Level 3 you've got one - level -

MR WATSON: Yes.

5 COMMISSIONER GOZZI: - 2 you haven't, and level 1 you have. So in the context of your rationale, how do you - how would you differentiate then between somebody at - say at level 4 - this last one we've dealt with - comes in with a degree at that level - what about job experience? I mean -

MR WATSON: What - you mean -

10 COMMISSIONER GOZZI: Traditionally what - what I'm really saying is, traditionally the view has been hasn't it that you come in and you get some experience in the job and then there is the after rate. You don't think - you think somebody that -

MR WATSON: Well I guess that that perhaps has been - has been the trend but I'm not sure that that necessarily needs to continue into the future.

COMMISSIONER GOZZI: The awards you've referred to though - the Surveyors Award and Engineers Award and so on, have got that type of -

15 MR WATSON: They do have - yes, in certain respects - if you have a look at the professional engineers and scientists, it does have - I think it goes 130, 150, 180, 210 for specific descriptors based on different levels.

COMMISSIONER GOZZI: Yes.

20 MR WATSON: And they're single - single points for professional employees. I think - the other point which I'll come to is that we are talking about an industry where you do have employees with qualifications but there are also a lot of employees out there who have none and who rely simply on experience which is not - which is not necessarily of less value to the organisation than someone with a qualification, but it is an industry where you do not have a high level of employees with qualifications. And I think - I think that that's backed up by the fact that both our position and the union's position in fact would allow employees to move through the scale without any qualifications at all and simply recognise the experience.

30 But that's what we believe - the descriptors for level 4 and level 5 are perhaps not all that far apart - there are some differences but I guess we would see that if a degree holder comes in at level 4 and they're required to operate at a higher level then their position may move to level 5 - not necessarily after 12 months but at some stage after they reach that level of responsibility and competency.

COMMISSIONER GOZZI: Yes, but that's only a - in the context of the structure, that's a promotable position isn't it?

35 MR WATSON: Yes, that's right - yes.

COMMISSIONER GOZZI: So they wouldn't move there unless there was a position.

MR WATSON: Well no, but if the employer had required them to operate at a certain level which is described in level 5, then I would see that that's -

40 COMMISSIONER GOZZI: You think they'd reclassify - they'd reclassify them you think?

MR WATSON: Well yes, I mean obviously in this sector we wouldn't - it's not a big a rigmarole as promoting somebody in the public sector. I mean in - you know, in this industry you just do it. But yes, I guess it is reclassification.

COMMISSIONER GOZZI: That's interesting.

5 MR WATSON: So moving to level 5 commissioner -

COMMISSIONER GOZZI: Just do it - I saw it on a bus somewhere I think.

MR WATSON: Oh, that's the -

MR: Quoting on that one.

MR WATSON: That's the Nike - the Nike one.

10 COMMISSIONER GOZZI: That's it - that's the one - yes.

MR WATSON: So as far as we're concerned, commissioner, for level 5 we've assigned the 130% relativity, and in fact this could probably be best described as the first senior management level within the structure. Again -

15 COMMISSIONER GOZZI: I've got to take note of this. So this is the first senior management one, and the other one was a first professional one, wasn't it?

MR WATSON: Yes.

COMMISSIONER GOZZI: And the one before that was the first senior one?

MR WATSON: Senior practitioner.

COMMISSIONER GOZZI: Senior practitioner.

20 MR WATSON: Yes.

COMMISSIONER GOZZI: So we've got the first professional, and the senior practitioner at the level 3?

MR WATSON: Yes.

COMMISSIONER GOZZI: Yes.

25 MR WATSON: And this - of course level 5 could also include a senior professional as well, but predominantly we'd also see first management level within the structure.

COMMISSIONER GOZZI: So this would be the position - what, a director position or a -

MR WATSON: A director's position?

30 COMMISSIONER GOZZI: Yes, is that -

MR WATSON: No, not necessarily a director's position -

COMMISSIONER GOZZI: A senior -

MR WATSON: - but perhaps more coordinating and managing a service rather than actually directing.

COMMISSIONER GOZZI: All right.

MR WATSON: We would see that the director-type positions -

COMMISSIONER GOZZI: By gee, I'll tell you what, Mr Watson, this is really some light relief for us - I'm not sure about you, though.

5 MR WATSON: Ah dear.

MR: I don't mind if you sit down.

MR WATSON: It's all right if I stand still - it's just when I twig something - so, commissioner, again, a degree or an associate diploma may be a prerequisite, or again, employers may only require substantial relevant experience.

10 Now in general terms, positions at this level may control service delivery across a number of functions; positions would operate independently with a significant degree of autonomy in decision making ability; positions would direct and coordinate the activities of a number of employees across functions or programs; positions would also be responsible for establishing organisations, programs and procedures. A limited
15 supervision and broad direction would be provided from service management.

So it is at this point also where the two depart considerably, not necessarily in terms of descriptors, because we would maintain once again that the positions are probably not poles apart, but in fact the relativity levels are.

COMMISSIONER GOZZI: So does that equate to the ASU.11 level 4 - class 4?

20 MR WATSON: In some respects, commissioner, but as we move up the scale the - the departure becomes greater.

COMMISSIONER GOZZI: Yes, right.

MR WATSON: So I don't intend to go to the level 6 and level 7 descriptors in the broad detail that I have for the bottom levels, but if you examine the two positions, as
25 I've said, you do find some similarities. However, because of the increasing gap between the percentage points proposed, the positions are a fair way apart at the top of the scale with your 210 and 140%.

Now level 6 and level 7 are the senior management levels within the structure where positions would assume managerial responsibilities for an organisation including
30 staffing matters, budgets, planning, direction and valuation of operations. You still would find or may find specialist advice being provided. Again a degree may be a requirement but again relevant substantial experience may be considered adequate for positions at level 6 and 7.

35 The structure has been put together with certain reference points tied to qualifications which do match the union's application in some respects and also other awards and decisions.

As I said before the industry is not however built around employees with qualifications, and we've tried to provide a balance between not wanting to directly disadvantage employees who have been working within the industry and working very
40 well but may not have qualifications and may never get them, and also the balance between putting in place a career path which is structured around qualifications to a certain extent in relation to the move with this industry, I guess, as with other industries to qualifications in competencies. But again we, as I said, we put the structure together trying to balance between those two scenarios.

So we believe, commissioner, that in relation to the lower levels and some of the key entry points in associated qualifications, as I've said, that the two positions are perhaps not too far apart in terms of descriptors, but of course the percentage relativities are a mile apart.

5 COMMISSIONER GOZZI: And of course there is one other, I think, important difference, and that is that the ASU proposal allows progression -

MR WATSON: Yes.

COMMISSIONER GOZZI: - through the scale, whereas your proposal doesn't.

MR WATSON: Yes, that's right. Yes.

10 COMMISSIONER GOZZI: Are you going to address that at some stage?

MR WATSON: Well I'll be addressing progression as far as we're concerned - yes.

COMMISSIONER GOZZI: Okay.

MR WATSON: So just in summary, commissioner, the entry level, as I've said, is agreed in terms of descriptors and the 90, 95 percent with the only difference being that we have the hundred percent as a separate level. The 105, 115 level within the associate diploma entry point is effectively agreed, as are the descriptors for this level, and again the difference that the union position goes further in terms of relativity points.

20 So really, as far as we're concerned, I guess it really hangs on whether or not the commission would support our position which has the hundred percent relativity level as separate or whether the commission supports the ASU's position which is in fact having the 100% within the base entry level.

25 The 125 entry level is very close to being agreed for the degree, in that, as I've said, ASU.11 provides 125 entry for 3-year degree and 130 for a 4-year degree. Again the descriptors are virtually the same, however of course as we've said the union position moves on through 145%.

30 In relation to the upper levels of the structure the employers are proposing what effectively are three levels of management ranging from management of a range of functions or a designated area of an organisation through to management of an organisation or designated area of a multi specialist organisation through to managerial control of an organisation in all respects except for of course directing and supervising professional staff regarding professional matters. So in effect the top levels are management levels in the administrative sense to a large degree.

35 Now it is for this reason, commissioner, that the employers believe that the union position of 210% at the top level is in fact far too high. If one does a comparison with other 210% relativities you'll find that, for example, professional engineers and scientists and surveyors have the 210% relativity which is effectively the same as the metals framework performing professional engineers work or surveyors work involving considerable independence in approach/knowledge of more than one field of engineering. For example, they may take detailed technical responsibility for product development and provision of specialised engineering systems; their decisions are not subject to technical review and the professional engineering - the professional engineer would in fact supervise a group or groups of professional engineers and other staff or they would exercise authority or technical control over a group of professional staff engaged in complex engineering applications.

So the distinction that we would draw, commissioner, is that we believe that the 210% relativity in those awards where you have - where you're talking about professionals has professionals - supervising professionals directing professionals, as well as being a professional themselves, and as well as having to have knowledge across different
5 aspects of a profession as opposed to the unit position which has employees in fact being able to reach that top level who may undertake some sort of professional supervision or direction but not necessarily having to. So we would see that that is the critical difference - or our - I guess our argument against the 210% being too high.

Now I do make reference to Mr Duncombe who gave evidence for the ASU on the first
10 day of hearing where he - or it was his view that he would go to a level 7 as being an administrator of a fairly large organisation with professional employees, but we then found out that Mr Duncombe's responsibilities are basically administrative and he wouldn't actually have control or exercise supervision in the professional sense to other professionals who work in the organisation.

15 So we would say that that in fact is the critical difference. So again - again, commissioner, we say that the percentage rates in the upper levels of ASU.11 in fact inflate the scale which in turns inflates the percentage rates for the role levels.

COMMISSIONER GOZZI: Just while - just on that point, is it agreed now what the hundred percent rate is?

20 MR WATSON: I beg your pardon.

COMMISSIONER GOZZI: Is it agreed between you what represents a hundred percent - is it 417 or 425 - there was some discussion about that - I can't recall -

MR WATSON: No.

COMMISSIONER GOZZI: -whether you agreed -

25 MR WATSON: We put our position I think after you raised the matter.

COMMISSIONER GOZZI: Yes - 417 you -

MR WATSON: Yes, plus the \$8. Now we did have discussions with Mr Paterson about that and I'm not sure what - what his position is on it, but that is certainly still our position.

30 COMMISSIONER GOZZI: Four hundred and 17.

MR WATSON: Four seventeen twenty plus \$8. So 417.20 is used for relativity -

COMMISSIONER GOZZI: You're saying the supplementary is the -

MR WATSON: Yes.

COMMISSIONER GOZZI: \$8.

35 MR WATSON: Yes.

COMMISSIONER GOZZI: So in Mr Duncombe's case that would be a substantial - a substantially lower rate than what he's currently on what you're proposing. See you're proposing about 140% aren't you?

MR WATSON: Yes - that's right - yes.

COMMISSIONER GOZZI: He's on \$46,000-odd I think - I think you said.

MR WATSON: Yes, well that's true, commissioner, but how that was set is really I suppose a -

COMMISSIONER GOZZI: Oh, true.

5 MR WATSON: Yes.

COMMISSIONER GOZZI: But he'd be no island.

MR WATSON: I beg your pardon?

COMMISSIONER GOZZI: He'd be no island.

MR WATSON: No.

10 COMMISSIONER GOZZI: He wouldn't be on his own as far as that's concerned.

MR WATSON: No - no - perhaps not, commissioner, but -

COMMISSIONER GOZZI: So what do you propose would happen in those circumstances?

15 MR WATSON: Well I guess quite simply, you know, what would happen is that they would continue to be paid and probably would pay those sorts of rates over and above the minimum rates award.

COMMISSIONER GOZZI: He'd be a hundred years old by the time he caught up - by the time the award rate caught up. Well it's probably good now that we don't have 65 compulsory retiring age then.

20 MR: Yes.

MR WATSON: Just moving on, commissioner, to the issue of progression -

COMMISSIONER GOZZI: Right.

25 MR WATSON: - the employer's position regarding progression is pretty straight forward and pretty simple in that we would have progression in level 1 from the 90 to 95 percent after 12 months satisfactory performance at the 90% level. And again in level 3 we would see employees progressing from 105 to 115%, again after 12 months satisfactory performance at the 105% level.

30 The employees see each of the seven levels as distinct levels with levels 2 to 7 being discrete promotable levels, so effectively there's no automatic progression between levels, and progression within levels 1 and 3 will be by reference to satisfactory performance over the previous 12 months.

COMMISSIONER GOZZI: I'm sorry - levels 1 to 3 -

MR WATSON: No - one and three - sorry.

COMMISSIONER GOZZI: One and three.

35 MR WATSON: The ones with the two percentage points.

COMMISSIONER GOZZI: Yes, right, yes.

MR WATSON: Now the employers would see employees being classified at particular levels based on the job that is required to be done by the employer, so in effect the notion is that it's skills utilised and required by the employer. So I guess that's perhaps the point that we make about the progression that you may see - or that you do see in ASU.11 where employees I think can move right up to 145% by progression through the scale, obviously having to attain that the - either the or assume the responsibilities. What we say, commissioner, is that it's the employees function to - to - to inform employees what their responsibilities are, to set accurate job descriptions and inform and set responsibilities and functions for employees and not to have the situation where - I mean it's - it's all very well for employees to gain extra skills and competencies, however we say that we pay the rates within the award based on what the employer requires.

So we're not running away from the fact that if an employee does have certain responsibilities which are being utilised or are required then they would be remunerated at the appropriate level. But I think what the ASU.11 proposal would do would be to in fact have that type of situation where you may have employees progressing based not necessarily on what the employer wants but the particular skills that they may gain.

COMMISSIONER GOZZI: I suppose looking at the -I suppose, looking at the career path aspects of that, the structure that you are putting before me really would see a level 2 career path and a senior practitioner level being level 3 -

MR WATSON: Yes, 24/11/94

COMMISSIONER GOZZI: - and after that getting into one level, a professional level, and then senior management levels for 5, 6 and 7.

MR WATSON: Yes, that is true, but you would also have level 5 may incorporate what we might call a specialist or a senior professional as well. It is not specifically management only. You could have, if you like, a senior professional fitting the definition for level 5.

So I guess the position, commissioner, is that to a certain extent we believe that the progression which has been proposed, in fact is probably geared more towards a professional type structure, and what we are talking about here is an industry where of course you do have professionals but we do have a significant number of employees who don't have qualifications, and we believe that what we have provided is seven distinct levels where employees would be promoted from level to level based on what's required by the employer.

COMMISSIONER GOZZI: Mr Watson, what sort of a view did you take in respect of future employment as opposed to trying to devise a structure that might best suit existing employees?

MR WATSON: Well, in putting together the structure we have taken account of, as I said in the introduction, that the nature of the industry - well, I suppose, going to the first awards principle we are looking at existing rates - so to a certain extent we had to take a fair bit of account of what happens out there at the moment. But also looking at a career path classification structure which would see employees move on into the future.

So, you know, we took account of both of those aspects, but I am not sure if there is anything else we can add to that.

Now, if I can just move on, commissioner, to the South Australian Social and Community Services Award, which effectively in broad terms we believe that the ASU

position has in fact been, or is nearly a carbon copy of in fact the South Australian Social and Community Services Award. So I would just like to put forward some points regarding that South Australian award and its origins.

5 The classification structure was effective from 18 November 1993. It was in fact developed by what was titled the Community Employers' Association and the union in South Australia.

The award structure is based on salaries in the public sector in South Australia and more particular on the social work and youth work structure and salaries within the South Australian Department of Family and Community Services.

10 Now our advice is that that structure has, in fact no work-value relationship to the August 1989 the wage fixing principles, which are effectively what we are operating under in this case. The matter was processed by consent, and it was done - and maybe this is - I don't have anything to back this up - but our advice is that it was done as a matter of convenience at the time. Now I would just like to provide an exhibit in support of what I have said.

15 COMMISSIONER GOZZI: Exhibit TCI.8.

MR WATSON: This document, commissioner, is in fact a salary comparison between the rates paid within the public sector and South Australia, which is the Department of Family and Community Services, and the rates on the right hand side are in fact the rates contained in the South Australian Social and Community Services Award.

20 Now if you have a look at, for example, in the first classification in the public sector social worker, you will see a salary of 27163 to 34850, and if you go across to the right hand side you will find under the South Australian Private Sector Award 27163 which is the first point at level 3, moving through to 34850 which is the top of level 4.

25 So you can see there that the rates - and I think it is a bit more than a coincidence - that the rates are exactly the same.

30 Also if you have a look at the supervisor level, which is the third classification on the left hand side, you will see the rate 43460, which is in fact the rate for a Community Services Worker level 6, at the top end of the scale on the right-hand side of the page. So, again, it is clear that that rate has been taken from the public sector.

35 Also, commissioner, if you have a look at the middle of the page on the left-hand side the classifications of Senior Youth Worker, Senior Youth Practitioner, and also Senior Financial Counsellor which is down the bottom of the left-hand side, the upper level salary of 34850 all equate to the top end of Community Services Worker level 4 in the private sector award.

40 So, we would say that that is evidence to say that those rates have in fact been based on the public sector rates in South Australia, and having regard for the comments and discussions that have gone on in these proceedings in relation to public sector versus private sector, etc., we believe that the South Australian private sector rates are, in fact, inflated I guess you could say, to whatever percentage we look at in terms of private sector versus public sector.

Now you will also find at different reference points within that scale, both in the private sector and the public sector registered nurse rates, which also have been I guess stolen from the registered nurse scales of the five level career structure.

45 If you have a look at the right-hand side under Community Services Worker level 3 the second salary point of 28290 is a registered nurse salary.

In Community Services Worker level 4, the second point, 33210 is a registered nurse salary. And also if you have a look on the left-hand side under Supervisor the 46125 is in fact also a registered nurse salary

5 So what you have is bit of a mishmash of public sector rates and also registered nursing rates, and we would say that those rates in the South Australian private sector award have simply been adopted from the public sector, and as I said they were processed by consent.

COMMISSIONER GOZZI: That exhibit that I marked 8 should, in fact, be 9.

COMMISSIONER GOZZI: That exhibit that I marked 8 should, in fact, be 9.

10 MR WALKER: Nine?

COMMISSIONER GOZZI: Yes. Would you change it to 9?

MR WATSON: Thank you, commissioner, just moving on to the issue of hours of work, effective from the 1st of July the award has provided for weekly hours of work for full-time employees of 38.

15 Now it is the employer's position, without exception, that the new classification structure and relativities will be for full-time hours of 38 per week.

20 So, in other words, if the employees are working 35 or 36, or whatever they are, which are below 38, which either organisations or employees have in the past believed that that was full-time hours, then it is our position that they would either move to 38 when these rates are implemented or they would have to receive a certain either 35/38th of their rate, or however you wish to do it, but there would not be available, in our view, to employees the rates set for 38 hours when they are only working 35.

COMMISSIONER GOZZI: So if they are below 38 you are proposing that they be pro rata to 38?

25 MR WATSON: Yes. If we have a situation where they either don't increase their hours or, yes, so effectively that is where it sits.

30 As far as costings are concerned, commissioner, as I mentioned earlier in the piece the penalty rates decision which was effective from 1 July 1994 was surveyed for SAAP services back in January of this year, and the return that the employees received was an increase of something like 600% and, as I said before, that has been inflated I guess to the extent where organisations weren't paying anything at all, but it has been fairly hard in the sector and the ASU classification proposal was also costed for those SAAP services during that same survey and the structure alone was estimated that that increased weekly rates by an average of 30% across the board.

35 So when you add the penalty rates decision, or award variation, and also the ASU proposal, which we asked organisations to cost, you in fact see an average increase across the board for the package of 50%, which in this sector is enormous.

40 Now the costing of the employer's proposal will, to a certain extent, change the impact of the penalty rates award variation, but the wages cost will be significantly less and, again, we would estimate that our proposal would be something in the order of half of the ASU proposal. So we would be looking at something around 15% across the board on average.

But it is very difficult to provide exact figures on that because of (a) our limited access to a number of organisations, and also the mishmash and variations in rates that are being paid out there in the sector.

5 Moving to funding, commissioner, we've heard today the submissions of the government regarding funding. As I recall, Mr Patterson stated that in his view the funding wasn't an industrial issue, and that the classification structure was the industrial matter to be dealt with in these proceedings.

10 Well, the employers would in fact agree with Mr Patterson in general terms. However, because of the nature of the industry and the significant part that funding plays across the industry, I don't believe that we cannot consider the funding issue in these proceedings.

It is an issue that is intimately involved with the operation of organisations across the sector, and it is also an issue that is interwoven with the public interest, which I will come to a bit later on.

15 So in summary, commissioner, it is not an industrial matter within the normal definitions of industrial matters. However, it is an issue that none of us here can ignore and, in fact, has an enormous bearing on the industry.

In relation to phasing, commissioner, it is the employer's position that the translation to the new classification scale within the award should not be effective until 1 July '95. We would also propose that any increase be phased in in three instalments within the '95/96 and '96/97 financial years. I would just like to table a document which is our phasing proposal.

COMMISSIONER GOZZI: TCI.10.

25 MR WATSON: So, commissioner, we would propose that the phasing of any increases - and this model has been based on our percentage relativities at the end of the day - that we move through a three-step phasing arrangement commencing on 1 July '95, the second instalment 1.1.'96, and the last instalment 1.7.'96.

30 So this position is in fact a variation from that proposed in ASU.11 where the union have proposed a three-step phasing arrangement which is, in effect, not much different to what we propose but it is just simply 6 months earlier. Now the reasons for our position for phasing are as follows:

The time frame will allow organisations time to properly complete up-to-date and accurate job descriptions, and it will also allow organisations to look at efficiency measures and job redesigns.

35 It will not place pressure on the system by organisations not having to seek funding adjustments mid-year.

It will ensure that organisations will not have the added pressure of having to endure penalty rate increases and wage increases of significant proportions within the same year.

40 It will also allow the government time to assess the cost of the new structure and consult with organisations regarding funding arrangements. And I am not pushing the government's barrow in any form, however, it does have a direct implication on members and organisations out there in the sector.

45 It will also fit in quite well with the next two funding cycles, and it will also provide for, if you like, under another term a minimum rates adjustment process of three

instalments moving from whatever rates are applicable at the present to the appropriate levels determined within the structure when the decision is handed down.

5 So if I can move to the issue of translation commissioner, it is the employer's position that the translation of positions and employees should not occur until position descriptions have been completed for all positions within organisation.

Once up to date, and accurate job description job descriptions have been completed positions can be matched against the classification descriptors in the award and positions can be assigned at the appropriate level.

10 And, of course, the employees would have access to the commission if they believed that they should be classified at a level which is higher than they have been assigned.

The process will vary in terms of the time frame required, but the employers believe that this process must be done properly and if this is not done I would suggest that all of us here are going to spend a fair bit of time sorting out disputes regarding classifications.

15 And I hesitate to make reference to it, however, if one examines the recent exercise which the government have gone through in implementing the full bench decision of November 1991 in terms of up-to-date job descriptions, I think that that process was something in the order of 2 years, and is still not completed.

20 In relation to the capacity to pay issue, commissioner, we acknowledge what you have said regarding the capacity to pay matter, and I don't, in fact, intend to go to this issue in any specific terms, however it is the employer's view that if the commission was to accede to our request that the new structure is not operative prior to 1 July '95, then we believe that the capacity to pay matter may be stifled to a large extent, and maybe even totally, as organisations will have time to assess their services against potential costs and make the necessary changes if they think it is appropriate.

25 So, for the purposes of the record, commissioner, we would put to you that the incapacity to pay matter will be for individual organisations to address and to seek relief based on the merits of their own particular circumstances if it becomes an issue.

30 Moving to the wage fixing principles it is our position that we have developed a classification structure for the Community Services Award which is in accordance with the structural efficiency principles in that it creates a skill-related career path with appropriate relativities between the levels proposed.

35 We have built our proposed structure around established benchmarks and work values established by this commission and other recognised frameworks, which also take into account certain entry levels based on qualifications.

So it is our position, commissioner, that our proposal in fact meets the current the wage fixing principles of this commission.

In relation to the public interest, it is our submission that the public interest needs to be considered in two ways.

40 First of all, the public purse and then, secondly, the services to the community.

In relation to point one the commission needs to be cognisant of the cost implications of proposals such as that contained in ASU.11, and I have indicated earlier some implication of what that cost may be.

Secondly, this is related in fact to the first point, that services may be to be reduced or rationalised if the cost of this process puts too much pressure on organisations. This, in turn, will mean a reduced level of services to the community.

5 Now, as I recall, the ASU argument relating to the public interest was that the ASU structure would provide an equitable way of managing public funds and that the structure and rates of pay would assist the process of funding based on established benchmarks.

10 Well what we would say to that, commissioner, is that it doesn't really matter whether you are looking at two 10% relativity or a one 40% relativity that argument would still stand.

The real public interest considerations as far as we are concerned are those contained in section 36 of the act. First of all, the economic position of any industry to be affected by the award and, secondly, the economy of Tasmania and the likely effect of the award on the economy.

15 The community services industry is not in a strong economic position. A limited number of services have the capacity to generate income but, as a general rule, organisations run on shoestring budgets with no capacity to generate income and are almost totally reliant on government funding.

20 We believe that it would not be in the public interest for further pressure to be placed on organisations within this financial year for a new classification structure with potential to increase total weekly salaries, including penalties by 50% on average.

Organisations are still coming to terms with the 1 July '94 conditions decision. Some are still not aware of it and others are deciding whether or not they can afford it.

25 So, in relation to the public interest argument, we would suggest to the commission in the strongest possible terms that the commission accede to the proposal advanced by the employers that the new classification structure not be applicable before 1 July '95.

30 If the commission were to prescribe to this position the employers believe that that would be, in some cases, in fact the difference between services staying alive and closing up shop, and we believe that that would in fact most definitely be in the public interest.

In relation to supplementary matters, commissioner, there is just one matter that I wish to raise in terms of supplementary issues.

35 We would respectfully suggest, or request, that the commission in dealing with this particular matter and also in relation to the WAVA matter which the hearings in fact have been concluded, that the commission would not approach these two matters in total isolation in that we believe that -

COMMISSIONER GOZZI: What, do you reckon I negotiate with the deputy president?

40 MR WATSON: No, not in that sense, commissioner, but we believe that in our view it would be appropriate that the two issues, or two decisions, are not issued in total isolation.

COMMISSIONER GOZZI: What, we sort of checkmate, do you mean?

MR WATSON: Well, whatever it takes behind the doors of the commission. But we would simply make that point.

COMMISSIONER GOZZI: Well, I mean, he heard his case and I am hearing this case.

MR WATSON: Yes, I understand that, I understand that.

So, in conclusion, we believe that the proposal that we have put forward has the integrity of an appropriate structure with a career path.

5 We are talking about a diverse range of organisations with different capacities to generate income, to total reliance on funding, and even organisations who don't get any funding at all and have to rely on goodwill or charity organisations or donations.

We put together a structure which we believe will meet the needs of the industry whilst at the same time allowing for a gradual phased approach to the implementation of the structure. We believe, as I said, that the proposal meets the wage fixing principles, is in the public interest and will have the potential for stability - to put stability into the industry in terms of classifying positions and also in relation to funding arrangements.

That, in fact, concludes our submission on the matter, commissioner, if the commission pleases.

15 COMMISSIONER GOZZI: Yes. Thank you, Mr Watson. Yes, I don't think there is anything I wanted to raise with you. Mr Paterson, are you ready to respond?

MR PATERSON: I'm more than happy to respond today, subject to other people's commitments presumably it would give us the possibility of concluding these proceedings today and not requiring the - a latter date. I have a commitment later in the day - well basically I arranged to pick my son up after his cricket training but he will wait for me. I'd propose and adjournment now if that suits people and then I'll return to conclude things after a break for lunch rather than proceed and take up the next 45 minutes.

COMMISSIONER GOZZI: Would you want to do that, or what - ?

25 MR PATERSON: Well I'm - well I suppose the question becomes one of - I'd prefer to go in a single run rather than break for lunch in the middle of a proceedings. I'm quite happy to proceed now, -

COMMISSIONER GOZZI: No. Well that's all right. I mean, I'm -

MR PATERSON: - but I'd prefer not to sort of take an hour of a half of my delivery around a lunch break.

COMMISSIONER GOZZI: Fair enough. Well, we would resume then at 2.15. How does that - ?

MR PATERSON: That would be fine. That would suit me, Mr Commissioner.

COMMISSIONER GOZZI: That would be all right? Does that meet everybody's convenience?

MR WATSON: That's fine, commissioner, yes.

COMMISSIONER GOZZI: All right. Well we'll resume at 2.15.

LUNCHEON ADJOURNMENT

COMMISSIONER GOZZI: Home straight, Mr Paterson, home straight.

MR PATERSON: Home straight, 15 years on, Mr Commissioner.

MR KLEYN: Yes.

MR WATSON:

MR: There was an echo.

5 COMMISSIONER GOZZI: Pardon?

MR: There was an echo.

COMMISSIONER GOZZI: Is that right? Well there you go. Must be these horsy people.

10 MR PATERSON: There's a number of issues I'd like to respond to that were raised by Mr Watson before I get down to the essential differences between our classification standards. One relates to the survey that was done earlier this year, Supported Accommodation 24-hour Crisis Service Employee Data Collection - I'm not sure whether you have that available to you.

COMMISSIONER GOZZI: This one here?

15 MR PATERSON: Yes.

COMMISSIONER GOZZI: Yes.

MR PATERSON: I don't believe it's actually been presented as evidence.

COMMISSIONER GOZZI: I think at some stage or another it was. I think it was in -

MR: It would have been in conference -

20 COMMISSIONER GOZZI: It might be in the conference or whatever.

MR PATERSON: It may have been provided in conference. I do wish -

COMMISSIONER GOZZI: I know I got it from you anyway.

25 MR PATERSON: Yes. The - just a couple of factors - I mean, given that it basically is background and in the same way as all the other prima facie issues have been raised and dealt with I believe it should be dealt with in the say way, but the 71 per cent
30 relativity that Mr Watson talked about is in fact - if you go to - I think it's the page 5 of that document which talks about - has a table headed, 'the Cost of ASU Proposal Average Weekly Costs - Average Weekly Salary \$297.00 current'. That translates into 71 per cent of \$417.00 but it is on the basis of 25.1/4 hours average working week. So
35 the full-time equivalent relativity is a 107 per cent. If you go to the subsequent table you will see a total number of employees of 154 working 3,891 hours which averages out at 25.1/4 per week per employee.

COMMISSIONER GOZZI: But that doesn't necessarily translate into what you are saying.

35 MR PATERSON: On average, it does. On average -

COMMISSIONER GOZZI: Well - I mean, -

MR PATERSON: - what we have here -

COMMISSIONER GOZZI: - but you can't relate that to this unless -

MR PATERSON: Except that - where that \$297.00 comes from is dividing the current gross weekly total salary of \$45,716 by 154. You have 154 employees earning \$45,716. The average weekly earnings is \$297.00. The average weekly hours is 25.1/4 giving an average weekly hourly rate of \$11.75.

COMMISSIONER GOZZI: So these figures are related to hours, are they?

MR PATERSON: They are derived from this table and the average weekly salary -

COMMISSIONER GOZZI: Right. Well, okay, in that case you can -

MR PATERSON: - relates to the total salary bill divided by the number of employees.

10 COMMISSIONER GOZZI: Right. And so that produces -

MR PATERSON: And relating that to the total hours -

COMMISSIONER GOZZI: - that produces \$297.00.

MR PATERSON: That produces \$297.00 and on my calculations that's on the basis of average weekly hours of 25.1/4.

15 COMMISSIONER GOZZI: So it's \$297.00 divided into \$417.00 as a per cent, which is -

MR PATERSON: Is a 107 per cent.

COMMISSIONER GOZZI: No, 71 per cent.

MR PATERSON: 71 per cent.

20 COMMISSIONER GOZZI: Yes.

MR PATERSON: The \$297.00, yes.

COMMISSIONER GOZZI: Yes.

MR PATERSON: But that's not a full-time salary. Similarly, - the major difficulty -

25 COMMISSIONER GOZZI: I'm sorry to interrupt. To relate that to the 107 what did you do?

MR PATERSON: I took a full-time equivalent of inflating that \$297.00 to 38 hours equivalent. So I divided it by 25.25 and multiplied it by 38, or conversely, I compared the hourly rate equivalent, the hourly rate for \$417.00 divided by 38 being around \$11.00.

30 COMMISSIONER GOZZI: Well why wouldn't you just take the \$11.00 times 38?

MR PATERSON: Same thing -

COMMISSIONER GOZZI: Yes.

MR PATERSON: - effectively and which ever way you approach it you get the same number.

COMMISSIONER GOZZI: Right. Okay. Well that gives you \$391.00.

MR PATERSON: No, it gave me \$446.00.

COMMISSIONER GOZZI: Well 38 by 11 - oh, sorry, it's \$380.00 plus 38 is \$416.00, is it?

5 MR PATERSON: Yes, yes, roughly, yes. And that \$297.00 inflated on my calculations to \$446.00 a week. So that \$297.00 - the full-time equivalent of that \$297.00 was \$446.00 a week full-time equivalent.

10 But just - I'm just not quite following you because if it comes to \$416.00, that's 100 per cent.

MR PATERSON: No, no, no, the -

COMMISSIONER GOZZI: - \$417.00 being a hundred -

MR PATERSON: The \$416.00 is basically saying that the 100 per cent relativity is around \$11.00 an hour, that's what I was saying.

15 COMMISSIONER GOZZI: Yes. I thought you said 107 per cent.

MR PATERSON: 107 per cent is the full-time equivalent of \$297.00 - 107 per cent of \$417.00 being around \$446.00. I mean, just -

COMMISSIONER GOZZI: Well I'm just asking the validity of that calculation. If it's \$11.00 an hour -

20 MR PATERSON: No, it's not \$11.00 an hour. It's \$11.75 an hour.

COMMISSIONER GOZZI: Oh, okay - \$11.75 by 38 produces -

MR PATERSON: \$446.00 roughly.

COMMISSIONER GOZZI: Yes. Fair enough. Okay. Which is -

MR PATERSON: Which is around 107 per cent.

25 COMMISSIONER GOZZI: Right.

MR PATERSON: Clearly, the - looking at the table and clearly as Mr Watson identified, when you have zeros in a column of current penalty rates and then have a figure in the next column of prospective rates, you make a nonsense of your percentages. The calculations I did on that chart or that table, by eliminating those organisations that identified very low current penalty rates, taking only those that currently pay some sort of penalty rate produce a much lower figure, possibly something as low as 75 per cent. That's not what I want to go into, really just to say that those - the percentage increase in penalty rates is a bit or a nonsense when you have a zero based to start with. Similarly, there is such wide disparity in the current rates that there are all sorts of exercises that you could do to say what's the most meaningful figure in terms of prospective increases, but it really - at the end of the day, until we know what we are talking about as an award, it is uncostable. I don't believe it's unmanageable, but it's certainly uncostable. But I think that if - my playing in with numbers produced base salary increases that may be as low as 25 to 30 per cent if you eliminate the anomalies, the high and the very low numbers reported.

30

35

40

Clearly there are any number of ways of playing with that table to produce different results. Really what can be said is that any conclusions drawn from it are as rubbery as the figures themselves.

5 COMMISSIONER GOZZI: Just getting back to this page 5 of that document. How did you derive the number of hours?

MR PATERSON: From the table - dividing that - the paid hours per week by the total employees.

COMMISSIONER GOZZI: But -

MR PATERSON: Dividing the total paid hours per week reported.

10 COMMISSIONER GOZZI: Well the total paid hours a week refer -

MR PATERSON: \$3,891.00.

COMMISSIONER GOZZI: Where's the three thousand come from?

MR PATERSON: On the state-wide total, the third column from the left.

COMMISSIONER GOZZI: Oh, hang on, I'm not -

15 MR PATERSON: On the subsequent table.

COMMISSIONER GOZZI: Yes. Okay. So the total paid hours \$3,891.00, yes.

MR PATERSON: Divided by the total number of employees, 154.

20 COMMISSIONER GOZZI: How does that relate to - the top of page 6 - where permanent employees worked an average of 30 paid hours and casuals 12 paid hours a week?

MR PATERSON: Oh, I suppose when you multiply those out, you're presumably taking the numbers - the number in each class, you get the same sort of average.

COMMISSIONER GOZZI: But I think it's ... on what you are saying, 154 divided into the \$3,891.00 should give you the average hours -

25 MR PATERSON: Average working hours.

COMMISSIONER GOZZI: Yes.

MR PATERSON: - and that would be inclusive of casual and permanent.

COMMISSIONER GOZZI: Which would you say comes to 27?

MR PATERSON: 25.27.

30 COMMISSIONER GOZZI: 25.27 hours. On average?

MR PATERSON: Per week, per employee.

COMMISSIONER GOZZI: Yes. Okay. Yes.

MR PATERSON: And it must be understood - I mean in the total picture that is subset of the industry with some commonality being the 24-hour Crisis Accommodation Services.

5 If I can proceed. Another matter which Mr Watson raised that I believe has already been dealt with is that of whether anything - the translation for people working less than 38 hours, I believe that the last time we were here - or the last couple of occasions we were here that matter was raised by yourself and addressed by virtue of an amendment to our document which deleted a line which said something to the effect of people working more than 45 hours shall be -

10 COMMISSIONER GOZZI: Full-time.

MR PATERSON: Yes. It was in the user guide appendix page 33. The original document on the second last line had -

COMMISSIONER GOZZI: Yes, I remember something like that now.

15 MR PATERSON: - persons working 35 hours shall be deemed to be full-time. We agreed to delete that from our submission. We're not seeking to have anything in the award that would provide for anything other than 38 hours as full-time employment.

COMMISSIONER GOZZI: I'm looking at my associate's exhibit. Did I amend that on the exhibit?

MR PATERSON: I believe so.

20 COMMISSIONER GOZZI: Well I'll just get to mine because I should have two copies of exhibits. Where's the other exhibit?

MR PATERSON: It's the second last line on page 33 to be deleted.

COMMISSIONER GOZZI: Yes, I - yes, it was deleted on the 12th of October 1994. Yes. Thanks.

25 MR PATERSON: So it's non issue, in my submission.

COMMISSIONER GOZZI: Yes. Thank you.

MR PATERSON: In respect to and very briefly the submissions made in TCI.9 I believe it is, the salary comparisons, South Australia -

COMMISSIONER GOZZI: Right.

30 MR PATERSON: - I also am a little bit in the dark as to the precise history of that South Australian award. I'm not in any way resiling from the fact that it was a consent proposal, but it's my understanding from our sources within the union that our position in fact related more to local government in South Australia than to the public sector and to the extent that there are any commonalities in rates, I believe they probably relate to the missing column which is the relativities and for instance the
35 \$27,163 I believe is a 125 per cent relativity.

I submit that all Mr Watson's submission here in TCI.9 does is show the way in which comparable relativities have been applied in South Australia in both the public and private sector.

40 To turn to the core and essential issue that we're dealing with - that of the classification structure - there are a number of overriding submissions that I wish to

make that relate to Mr Watson's evidence and submission earlier this morning. In the first instance the Community Services Worker - Level 1, he is quite correct in identifying that our descriptors of the level and at least the first two levels in our submission to rates of 90 and 95% are common. The issue from here becomes, I think, a broader one that applies through the whole structure and particularly looking at what the ASU has proposed against other restructured awards, I'd submit that what we have in fact done is put fairly broad classification structures in place with the breadth that in other awards such as those that I tabled in evidence, ASU.19, being the Professional Engineers, the Surveyors and Drafting Officers Award, in those awards and other restructured minimum rates private sector awards what we have in one classification will be found in a number of classifications, and that I submit is the - is the principal difference between this approach that the ASU has adopted here and that the comparisons that can be drawn elsewhere, and on that ground I submit that a hundred percent level at community - at the top of Community Services Worker - Level 1, is in fact appropriate; that what we're talking about is somebody with 2 years experience having entered the industry at this level. What is implied in our position is that 2 years experience in the industry doing and performing - doing that job of the job described at Community Services Worker - Level 1, exercising those skills, having those skills and using them, is in effect equivalent to a trade certificate. That is the implication of having a hundred percent at the top of Community Services Worker - Level 1, and I submit that that's not inappropriate in this industry.

The core difference between our two proposals lies however at levels 2, 3, 4 and 5. Level 6 and 7 are broadly comparable in terms of the descriptors, although clearly, apart from level 1, we're not in agreement on the relativities.

The submission that the ASU made puts the benchmarks alongside associate diploma and degrees at levels 2 and 3. The significant difference between our positions is that the employers position aligns degree responsibility, the degree responsibility described in the ASU position to an associate diploma qualification in the employers submission.

It's my submission that contrary to what Mr Watson said, that there is broad agreement through the whole structure on the levels, and particularly turning to, for example, Community Services Worker - Level 4, which Mr Watson submitted should be compared to level 3 in ASU.11. It's my submission that it in fact should be compared to level 4 in the ASU submission; that the characteristics and features in both level 4s are comparable, in particular looking at Mr Watson's submission under features and characteristics of the level for Community Services Worker - Level 4, the undertaking of complex functions, performance of a wide range of complex functions directed towards client management and exercising a high degree of professional judgment, I submit is - finds its counterpart in the ASU.11 Community Services Worker - Class 4.

Similarly the considerable contribution affecting the initiation, continuation and development of organisational policy also aligns to level 4, in our submission. Stepping back a level to the level 3 in the employer's submission, the difference here is that whilst we broadly agree, and I would submit that level 3 in the employer's submission aligns to level 3 in the union's submission - or Class 3 in the union's submission - that those skills, those functions, those responsibilities and those characteristics are, the union submits, appropriately located at a degree entry level and not as the employer's position would have it at an associate diploma.

I suppose the best way to describe this is that we have broad agreement on two hands - on two counts; one a broad agreement on the general descriptors of the classifications; we also have a broad agreement on the relativities between qualifications and rates of pay, but there is slippage between the two standards, and that the ASU positions puts a degree alongside functions and responsibilities at level 3, the employers put those same functions and responsibilities alongside an associate diploma qualification or its equivalent.

To take another broad issue in the structure and the approach; clearly here we are talking about a single generic stream - a single generic classification structure. One of the important differences relates -

COMMISSIONER GOZZI: In whose case?

5 MR PATTERSON: In both cases there is a single classification structure proposed and a single effectively stream from one to seven. Certainly in the ASU's proposal, the seven level structure aims and intends to embrace the range of functions from program support and assistance to higher classified employees in the delivery of social welfare services. At the lower end through generic service delivery at levels 2, 3, and 4, including specialist and professional delivery, through to include at the higher levels, 10 the higher levels of management responsibility.

The ASU's proposal aims to integrate those so that at a single level we will find, and particularly looking at the - the mid range levels in the AS - in ASU.11 of Classes 3, 4, and 5, there is a mixture and an admixture of management and coordination alongside 15 the increasing involvement in specialist and specialised service delivery in a specialist or specialised field.

The ASU's proposal envisages coordination taking place within Class 3 but it does so in a way that imposes some limitation on that coordination and management, as I submitted earlier in previous hearings. The employer's proposed structure, from the 20 union's point of view, does not provide for what I believe is an important aspect of the career path and the career pathway in community services, which focuses at that Class 3 level which provides for an employee engaged at that broad level to find a level of involvement in specialist services to be engaged to provide specialist services and to be held and rewarded at that level without having to graduate to professional discipline or to management position in order to acquire or find a higher level of 25 reward for the services they do. It is an issue in terms of retaining skilled serviced delivery workers within the industry.

COMMISSIONER GOZZI: I'm not quite sure what you mean by professional - before going to professional level. Community Worker Class 3 in the ASU proposal provides 30 for qualifications, a 3-year degree or a 4-year degree, as does Class 4. So, what are you talking about when you talk about Class 4 providing a professional focus.

MR PATERSON: I suppose a higher professional focus.

COMMISSIONER GOZZI: In what way?

MR PATERSON: In the ways described in ASU.11 on page 16.

35 COMMISSIONER GOZZI: In the characteristics of the job, you mean?

MR PATERSON: The characteristics of the job and there are different descriptors that lay alongside those parts of the classification structure that talk about where the primary responsibility lies in a specialised field.

In terms of how I see the proposal working on the ground, at Class 3 there would be 40 people autonomously with a fair degree of responsibility and a relatively high degree of skill delivering services and 4 would be where the significant specialisation in service delivery really takes place. Although, as we can see from the document, it is a gradation process. There are no hard and fast boundaries - brick walls that prevent progression or appointment or the upgrading of jobs in various ways.

45 The other important characteristic of Class 3 that is not addressed in the employer's submission that is addressed in the union's submission, is the provision for those two

higher levels which relate to the coordination and management functions. It is the union's submission that without those higher levels, without the third and fourth step in Class 3, it would be inappropriate to have people performing management functions at the levels for instance that are envisaged by the employer's submissions of Class 3.

5 Again, stepping back one level further, there is a significant difference between the two positions before you at Class 2. Class 2, the employer's position provides that an employee at this level may be required to remain on the premises without an immediate supervisor present, including overnight in either shift work or sleep-over capacity. That is the second paragraph of the features and characteristics of level 2 in
10 the employer's submission.

It is the union's submission that that is inappropriate, that that is a time of day when the nature of that work and the nature of work, particularly when it is in a crisis shelter environment, requires a higher level of initiative and discretion to be exercised by an employee and that it is an anomaly to allow a person who is otherwise
15 supervised to be unsupervised at a time when the work is more demanding and more exacting. I would submit that that is an exception to the standard, which in fact reflects an attempt to reduce the costs of running shelters and engaging people in an overnight capacity.

COMMISSIONER GOZZI: Mr Paterson, that would only become - if in fact that's the case, does it only in fact become more demanding in the event that there is a crisis?
20

MR PATERSON: It does, in the event there is a crisis, but when we're talking about shelters, when that crisis is unpredictable, when the demands that may be placed on that employee are not in advance predictable, it is something that they may be required to do at any time on any shift.

COMMISSIONER GOZZI: You think that because of that, it ought to be classified at the level of ASU.11?
25

MR PATERSON: What I submit is, that the classification of the person doing that job should substantively relate to the skills and other requirements of the job and there should not be an exception. If a person is required to perform the general features and characteristics, skill level, responsibility level, then that is where they should fit in the
30 classification. There should not be an exemption from that standard based on an employee remaining on premises overnight.

COMMISSIONER GOZZI: But in your Class 2 -

MR PATERSON: In ASU.11 Class 2, the employee is under the immediate supervision of a senior employee.
35

COMMISSIONER GOZZI: Right. What about the sleep-over.

MR PATERSON: I would submit that in the ASU proposal, that a person engaged at Class 2 would not be sleeping over overnight without immediate supervision.

COMMISSIONER GOZZI: Yes, but does Class 2 provide for sleep-over.

MR PATERSON: Sleep-over, in effect, is not tied to any classification. That the provision of a sleep-over does not relate to the level at which a person is engaged.
40

COMMISSIONER GOZZI: So, if a Class 2 was involved in sleep-over, where would it say that that person needed to have someone else there as well. How would you work that?

MR PATERSON: Within ASU.11, an employee engaged at Class 2 would not be required to work in a situation where they did not have the immediate supervision of a higher classified employed and readily available assistance. The second last asterisk under Responsibility Class 2, I would submit in the ASU's proposal is a determining characteristic of the responsibility at that level, that an employee who was engaged to work in a situation where they were not under the immediate supervision of a higher classified employee, should not be engaged at Community Services Worker Class 2, whereas the employer's submission would allow that to happen and I submit that that is inappropriate given the nature of work in the area that we are predominantly talking about in relation to sleep-over which are, by and large, crisis and emergency services.

If we go to the evidence provided by Ms Friend at an earlier hearing today, I believe that supports the contention of the union that that work is of a highly demanding nature and that the incidence of crises and the demands that that places on an employee support the ASU's submission.

COMMISSIONER GOZZI: I don't think she was here earlier today, was she?

MR PATERSON: No, that was one of our witnesses in earlier proceedings.

As I indicated before, I consider that Class 3 is - to put my indicator classification titles alongside it, I believe that Class 1 is the entry level, essentially a person engaged in program support work. Class 2 is the basic services worker. Class 3 is your general service delivery worker and operating at a fairly skilled an autonyms way. Class 4 is the first consolidated specialist classification and 5, 6 and 7 provide for the integration of either management or specialist and profession work at a higher level.

I don't agree with the submission by Mr Watson, that at the higher levels the positions are essentially administrative. In respect to the evidence given by Mr Duncombe, whilst he did indicate that he does not provide professional supervision to his clinical staff, it is my recollection that he did also indicate that he coordinated and developed the meeting of training needs for the community education side of that service. The exercise of the functions at the two higher levels, in particular, in this industry more often than not still involve a hands-on service delivery function. At the higher levels, as provided for in ASU.11 significant involvement in policy, in evaluation of program and projects and significant responsibility for the quality of service delivery, I believe puts these positions right alongside those higher levels as described in awards such as the Professional Engineers and Scientists Private Sector Award.

I submit that in line with our proposals, that the relativities at the higher three levels of our classification structure are in fact appropriate and the issue is not only one of what is a reasonable rate of remuneration for those people, but there are issues that relate to the ability of the industry to recruit and hold skilled personnel at those higher levels. To put in place an award with the sort of relativities contained at the top end of the employer's submission, I believe is a recipe for significant over-award remuneration at that end of the salary structure and I submit that in terms of creating skill based career paths in this industry, that the classification structure and relativities proposed by the ASU in ASU.11 are appropriate to this industry.

In conclusion, I will just touch on two other matters. Firstly, relating to the point of the skills and qualifications and the requirements at the higher end of the structure, whereas in a professional discipline we find people leading professionalist teams and operating in more than one discipline. That is on one hand provided for within the ASU classification structure and also in this industry, finds its expression in terms of the nature of the organisation that a person is working for and the characteristic that the ASU has developed and used in this classification structure is the divide between single and multi program services. Major single specialist or multi program service or organisation are characteristics that find expression and become identifiers of the

boundaries between some of the classifications, particularly between 5 and 6 and 6 and 7.

5 The other point I wish to make, just in conclusion, in response to Mr Watson's submissions on the capacity to pay. Clearly, that issue has been canvassed fully and properly. The question of whether services may or may not close or how they would react to a significant cost impact resulting from the award, I would submit is purely supposition, that there is nothing advanced there that in any way supports that that would be a necessary outcome. Clearly, it always remains a possible outcome. It is the union's submission that putting in place this structure of classifications and 10 relativities, is an appropriate way to provide for classifications which in their net result in the industry will provide for better service delivery to the clients, better quality of service and in fact be part of achieving the objectives in bringing this industry up to scratch in ways that are identified by Ms Pammenter this morning. Just before I take my seat, there are other matters that are on the table in these proceedings that have 15 not been spoken to at length. The ASU classification structure has, as an integral part, a fairly exhaustive definitions component. This has not been spoken to by the employers but I submit that it is an integral part of our submission and in relation to the component of ASU.11 that relates to -

COMMISSIONER GOZZI: Yes, Mr Watson?

20 MR WATSON: Excuse me. I am sorry to interrupt you. Commissioner, it is probably remiss of me, I did plan to mention the issue about the definitions. I am sorry about that. I am glad Ian has raised it.

The position that we've adopted is, we don't have any real problem with the definitions in ASU.11, specifically the ones going to supervision and types of direction et cetera. 25 There is no real opposition to those definitions that have been proposed but that is perhaps the extent of our acknowledgment of those definitions.

COMMISSIONER GOZZI: Thank you, Mr Watson. Does that help, Mr Paterson?

MR PATERSON: Yes, they remain an integral part of ASU.11.

30 COMMISSIONER GOZZI: Well, let me ask you then, if it is so integral to ASU.11, are you saying that if I move to pick it up, I should have to pick up ASU.11 as a package or not at all?

Mr PATERSON: No, I wouldn't submit that. As a package, clearly the classifications and the relativities are the core of the submission. The definitions, I believe, are important and useful. Those are from page 2 forward, the general definitions to the 35 extent that ASU.11 is endorsed or put into place as the award, those definitions that find expression in the classification structure in ways that are determinative and would be relied on in the event of negotiation or dispute over classification and translation, I believe should be spelled out and defined within the award, in particular those definitions that embody or imply the hierarchy. For instance, the hierarchy of 40 complexity, the hierarchy of supervision, the hierarchy of direction and the hierarchy of experience and judgement and knowledge.

COMMISSIONER GOZZI: Well, you've covered all that in your substantive submission.

45 MR PATERSON: The other one that I am submitting that is not part of the package at this point in time and in effect would be on the reserve because there has been no opportunity for the parties to discuss, is the training and study leave clause, which is again part of this package from page 30 forward and with leave of the Commission I would seek to have that put on the reserve.

In respect of the issue of the 100% relativity, my submission is that the 100% figure should be the \$425.20. That at an earlier stage in our negotiations that was the basis of comparing our respective positions, clearly in a 'without prejudice' way. My primary submission and I may well be at odds with fellow unionists and even the ACTU, my primary submission is that if we believe we've got the relativities right then any flat increases, in fact the disturbance to those relativities, however this matter has to be dealt with in a way that is consistent with the principles as adopted and determined by the Commission. If the Commission pleases.

COMMISSIONER GOZZI: Thank you, Mr Paterson. Mr Kleyn?

MR KLEYN: Mr Commissioner, I don't intend to address the issue of the relativities. I believe that Mr Paterson has canvassed that well enough and I don't intend to keep the Commission very long at all. I think after 15 years, a lot of words have been said, a lot of paper has been used. I don't intend to contribute too much to it.

There are just a couple of issues that I do want to address. One is the operative date and the other is the matter of public interest. With respect to the operative date, the HSUA has the view that the rates and classification standards that we are - debate today and over recent times should be implemented and become operative from 1 January 1995 in accordance with - I think it is page 34 of ASU.11, which sets out the commencement of the process, date of operation being 1.1.95 with two further adjustments on the 1 July 1995 and 1 January 1996.

Mr Watson's argument's that the rates should not become operative until 1 July 1995 are rejected by our organisation. We do not believe that a further 6 months is necessary. In fact we think that given the amount of time that we have been discussing this award, the employers and the government have had ample opportunity to consider the implications of whatever the rates may be in the classification standards and could have been and probably should have been taking some preparatory steps by this time anyway. As the advocate for the government this morning stated, the minister has already met with peak organisations and there is some indication that some preparatory steps are being taken anyway and it is our view that a further 6 months would just simply yet another delay in a process that has taken long enough already. Also, I consider that a further 6 month's delay may well just result in employers waiting for the implementation date, or the date of effect, and then starting the process. So, it would again be further delayed.

My submission is that the operative date by 1 January 1995. Mr Watson also suggested that 6 month's delay would enable the position descriptions to be completed. Again, ASU.11 sets out a process by which the position descriptions can be rewritten and I see no reason why that process cannot start commencing immediately, in effect. As Mr Watson referred, certainly to the work redesign and rewriting of position descriptions in the public sector. Obviously you are aware that I have been closely involved in that process. I certainly - given that Mr Watson's comments about it taking something like 2 years, any further delays in the operative date of this award, we certainly would not want to have the kind of process and the kind of delays that have occurred in the public sector.

In effect, I would just like to say that another delay of 6 months is unacceptable. We believe that the award should be finalised, we believe the rates and classifications should be put into effect from no later than 1 January next year.

With regard to the public interest, I believe that there is absolutely no disagreement from anybody on either side that it is in the public interest to create this award and I don't think a lot needs to be said about that. I do believe, however, that the argument about the impact of the cost on the industry et cetera can be met by an argument that it is in the interest of the community to have a community services industry that is

appropriately skilled and qualified to provide the range and complexity of services that is required. We contend that the appropriate classification standards and the rates of pay outlined in ASU.11 will, if not immediately, certainly over time, lead to an industry that does have the appropriate skills and qualifications to provide ever-increasingly more complex services.

That is all I wish to say at this point - at the completion of proceedings, Mr Commissioner. I hope we now can proceed with an award for all these workers. Thank you.

COMMISSIONER GOZZI: Thank you, Mr Kleyn. Anybody else?

If not, I would just like to say that this has been a most interesting case, over a long period of time and I must commend the parties on the initiative that they've shown in trying to resolve the classification aspects of it. In the end that wasn't possible and hence the proceedings in respect of that subject matter. I commend you in respect to achieving a great deal of consensus in the award, the matters that have gone in, and I would particularly like to say that I appreciate the role of Mr Paterson in this exercise as he has lived with it, apart from myself - he's lived with it longer than myself but in the context of the Commission I think he and I both qualify for the longest serving people in it but I do recognise the efforts and you Mr Paterson and more recent times Mr Kay and more recently of course you, Mr Watson and you, Mr Kleyn.

The decision-making process will hopefully not be too far down the track. I know that the issues need to be considered in the context of operative date and the disparities between the structures put forward. In saying that though, I would not contemplate that the decision would be out this side of Christmas. We will certainly see what can be done about that but it, unfortunately, has to join a queue and I am working on a particular matter that is taking a great deal of time at the present time. I am very cognisant of trying to wrap this matter up as quickly as possible and in conclusion, I would like to thank you all for your submissions and I will hand down my decision in due course.

Thank you very much.

HEARING CONCLUDED