

HEARING RECOMMENCED 10.30am

COMMISSIONER: No change in appearances. Mr Paterson?

MR PATERSON: If the commission pleases, I've had no contact, apart from a phone call this morning from Mr O'Neill. I believe it probably
5 appropriate to hear his account of proceedings on his side of the fence since we last met. Following that, it may be appropriate to go off the record and into conference to try and develop an appropriate strategy for moving forward.

COMMISSIONER: All right. Thanks, Mr Paterson. Yes, Mr O'Neill?

10 MR O'NEILL: Thank you, sir. There have been, of late, some concerns raised in respect to the classification structure in the proposed new award as set out in exhibit P.3 and therefore we are not in a position at this stage to proceed. We're awaiting on further
15 particulars in relation to those concerns. However, despite our best endeavours, we've been unable to obtain that information, therefore, we're not in a position to clearly or in detail look at what those concerns are and discuss them with Mr Paterson.

Therefore, I wouldn't at this stage be adverse to adjourning or going off the record into conference to see where we can take the matter. If it
20 pleases.

COMMISSIONER: Thanks, Mr O'Neill.

MR PATERSON: Just one matter I'd briefly like to put on the record before we do go into conference. I understand that the concerns in part
25 relate to the application of the training package relevant to the legal industry. I can inform the parties and the commission that it is my understanding from the relevant ITAB that the legal services training package was endorsed on 22 February this year and whilst it may have taken some time to get to that stage, my understanding is, it has been endorsed.

30 I did a quick search of the ANTA website and I think the timing is just a bit too tight for that information to actually appear on the ANTA website yet but I did confirm with the public administration and finance and business services, ITAB, that the legal services component of the business services training package was endorsed, as I said, on
35 22 February.

COMMISSIONER: Yes. Just a couple of those hieroglyphics, Mr Paterson. ITAB, what does that mean?

MR PATERSON: Industry Training Advisory Board and ANTA is the
40 Australian National Training Authority which has the carriage of the national endorsement of the training packages and as you'll recall, the classification descriptors have relied on the identification of

competencies against a certificate 3, certificate 4 and diploma, I believe, and those are sourced from the earlier drafts of the training package.

5 COMMISSIONER: Right. Just to make it a bit clearer for me, Mr Paterson, does your proposed scale include reference to that?

MR PATERSON: It doesn't include reference to the training package per se but if we go to P.3 and to grade 3 in the classification structure, under qualifications, you'll see a reference to the certificate 3 in business legal administration and that is, to the best of my knowledge,
10 one of the three classifications that I've relied on that come from the training package. Grade 4 has a reference under qualifications. It's a certificate 4 in business legal services and grade 6 has a reference to a diploma in business legal services.

15 COMMISSIONER: Those qualifications are obtained through a course done under the auspices of ITAB which is then under the further auspices of ANTA?

MR PATERSON: I'll just give you a short potted lesson, if you like, or update on how the system works. What is endorsed nationally is a training package. The training package as endorsed essentially
20 contains three components. It has competency standards. It correlates those competency standards to qualifications and has a third endorsed component that relates to assessment of competencies.

The delivery by virtue of a course is not a matter of national accreditation. States may accredit courses but effectively by
25 implementing the training package which is nationally endorsed at the state level - let me say that in a slightly different way. Once a training package with those three components, the competencies, the qualifications and the assessment are endorsed nationally, the state office of Vocational Education and Training and the training authority
30 approve an implementation program in this state for that training package.

Once the implementation and the vocational pathways and the relevant state documentation are provided, then a training
35 organisation may register to deliver a training program which has an outcome based on the training package. Somebody in this state, for instance, who wished to gain a qualification, say a certificate 4 in business legal administration, may enrol in a course, or more appropriately these days called a program, which may be on or off the job or a mixture of both. A registered training organisation would
40 provide that training and assess that person as they acquired the competencies and when they were assessed as fully competent against the competencies in the national training package, the registered training organisation would issue the qualification.

COMMISSIONER: Thanks, for that, Mr Paterson. I'm mesmerised and bemused and I'm sure all that is absolutely clear to Mr O'Neill. We'll just go off the record for a minute, thanks.

OFF RECORD 10.38am

5 **ON RECORD 10.45am**

COMMISSIONER: Yes, Mr Paterson?

MR PATERSON: If the commission pleases, in order to progress this matter and to give some sharpness to the process, I would propose that the employer parties be directed to, with whatever force the
10 commission is able to give to that direction, be directed to present a final position to the union at or prior to the next hearing. That position to identify clearly any points of departure or disagreement in order that those matters can then be progressed with haste.

15 If the employer parties to these proceedings and including de facto parties, I suppose I could call the Law Society, the union, if we haven't received an indication to the effect that that documentation is going to be available or has been provided, it would be my intention at the next hearing to lead evidence as to the nature and application of the relevant training package to this award. As that does seem to be at
20 this point in time the only point of difference, it may be that the matter could proceed to some form of hearing by virtue of the union establishing why it believes that the classification structure proposed in P.3 is an appropriate meld of industry practice, this commission's industry standards and the emerging competency and qualification
25 structure in the national training package.

Again, to recap, I'd like to see the employer parties directed to put their position to us at or prior to the next hearing and if that has not taken place, then I will be prepared at the next hearing to lead our evidence on the classification structure. If the commission pleases.

30 COMMISSIONER: Thanks, Mr Paterson. Before you respond, Mr O'Neill, I'm inclined to accept Mr Paterson's submissions, in my own words, I'll put that. Have you got anything to say?

MR O'NEILL: From apart to say, I'll give an undertaking that I will contact the Law Society with the submissions as outlined by Mr
35 Paterson and give an undertaking that at or prior to the next hearing that the society will put their position.

COMMISSIONER: Final position.

MR O'NEILL: Final position.

40 COMMISSIONER: Thanks, Mr O'Neill. I will take up Mr Paterson's submissions in that I'd formally ask you, Mr O'Neill, to do what you

indicated and also to indicate to the Law Society that the commission is anxious that this matter be brought to a prompt conclusion because we all know it's been on the table for a much longer time than many other matters are resolved. Would you accept that, Mr O'Neill?

5 MR O'NEILL: Yes, I do, sir, thank you.

COMMISSIONER: Well, that being the case, I ask you to do that and indicate now that in any event this hearing will resume on Tuesday, 11 April at 10.30.

Thank you, gentlemen.

10 **HEARING ADJOURNED 10.50am**