

IN THE TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T No. 2652 of 1990

IN THE MATTER OF an application by
the Tasmanian Salaried Medical
Practitioners' Society to vary the
Medical Practitioners (Public
Sector) Award

re structural efficiency principle

COMMISSIONER WATLING

Hobart, 2 October 1990

TRANSCRIPT OF PROCEEDINGS

Unedited

COMMISSIONER WATLING: I'll take appearances please.

MR J. HOUSE: If the Commission pleases, I appear on behalf of the Tasmanian Medical ... Salaried Medical Practitioners' Society with **DOCTOR SENATOR**. My name HOUSE, the initial is J.

COMMISSIONER WATLING: Good, thank you.

MR P. MARTIN: If the Commission pleases, MR P. MARTIN, and with me is **MR SCOTT KERR** appearing for and on behalf of the Minister administering the State Service Act.

COMMISSIONER WATLING: Good, thank you. Mr House?

MR HOUSE: Thanks, Mr Commissioner. This is an application for the second 3% adjustment under the structural efficiency principle for all classifications covered by the Medical Practitioners (Public Sector) Award.

Unfortunately, in the application to vary, filed with the commission, the third paragraph of the statement of principles cites the Hospital Employees (Public Hospital) Award which is of course incorrect. I apologise to the commission for that mistake. With the Commission's indulgence I also seek to amend the application as an interim application to a further one in relation to the special case.

The society's application, or the society has made its application having regard to the decision of the full bench on 6 August 1990 in relation to a number of awards covering public sector employees including the need to establish a clear program of action which will be monitored by the commission and it also has regard to the processes whereby special cases will be dealt with.

I wish to say at the outset that the society has as its objective a comprehensive restructuring of the Medical Practitioners Award especially in regard the provision of a much improved career structure as well as updating of the provisions and scope generally.

The new award will comprehend relevant provisions contained in the Salaried Medical Practitioners Conditions of Employment Agreement 1988 and it will also comprehend relevant administrative circulars and other general prescriptions of conditions in the public sector.

The society first raised the issue of award restructuring during a conference with the department in October last year when it was agreed that the parties would exchange lists of items to be pursued in negotiations under the SEP.

The society wrote to the department with its preliminary schedule of matters on 1 December 1989. The department

reciprocated with its initial list of items on 18 December. Negotiations commenced in February 1990 and in March the parties had agreed on a joint list of matters for further examination.

By late March a schedule of dates had been set for two or three meetings per month over the ensuing three months. We were ... at that time we were looking at June as a sort of target date to try to wrap most of the matters up. Meetings however continued beyond that time mainly due to the range and complexities of issues that were thrown up as we went along.

With progress in terms of specific agreement on matters being slower than perhaps we wished this was probably inevitable because both sides had to put in a great deal of work to develop their positions including the framework of the new award.

If the Commission pleases, I would like to tender an exhibit which summarises the extent of the principal issues being discussed and attempts to show the degree of consensus reached on them.

COMMISSIONER WATLING: Good. We'll mark this Exhibit H.1.

MR HOUSE: Mr Commissioner, I'd like to go through the list very briefly. As you will see we've divided the matters, and these are probably not all the matters but they're the main ones, into three categories. Matters where there is agreement between the parties. Matters that are still under active discussions, but still not agreed, although some of them we're fairly close, I hope. And there's some sort of leave reserved matters that we haven't made a lot of progress on.

Turning to the matters where there is agreement between the parties. As I mentioned earlier, we've agreed that there should be a new comprehensive and up-to-date award. There have been a number of drafts that we've been through in terms of the new award and the framework, and I can say we're a long way down the track in terms of how that award will look.

On the question of improved career structure we're very near finality, except for the contentious area of salaries. The society has put to management what it sees as an appropriate salary structure, not only in terms of dollars, but in the sort of concepts that ought to be behind how that salary structure would ... what the basis of how that ought to be worked up; the mechanics of reaching those figures.

Well, we have very briefly identified some new designations and classifications that would go substantially towards improving the career structure, which the society sees as probably behind ... well, less attractive than medical officer structures in some other places.

As I said before, there's - excuse me - 1.3, there's still some way to go in terms of negotiating salaries. We're having a meeting on 23 October to try to, you know, crystalise our respective positions on salaries. However, it may well be that the matter has to be dealt with - or whatever we do, it will have to be dealt with within the special case. But it may well be that some of these matters will be required to be arbitrated by this Commission.

1.4 - Award definitions, we've substantially reached agreement, with some minor things on the edges there. We have agreed that permanent part-time work provisions will be introduced into the award, primarily a pro rata system, but we haven't finalised the detail of that.

Portability of sick leave entitlements for resident medical officers transferring to other locations within the agency or State Service is an agreed matter.

1.7 - Adoption of anniversary date for recreation leave accrual purposes, is an agreed matter. And the rewording of the duty roster doesn't cause us a great deal of problem and it's a fairly minor change that one.

Coming to the more substantive or more ... not substantive but more detailed matters, again the salary structure. 2.2 - Penalty rate structure and other allowances, that's a pretty contentious issue. There are dimensions in terms of whether the allowances ought to be expressed as they are at the moment in flat rate amounts or whether they should be percentages related to salary. The society believes the latter in terms of these allowances tend to fall out of date.

2.3 in terms of the wider agenda, the adoption of standard working hours, as the Commission would be aware that most doctors - hospital doctors anyway - work a 38-hour week, but we have doctors in the Public Service itself on 36 and three quarter.

2.4 - Contractual arrangements for junior and senior staff, again the Commission would be aware that junior or resident medical officers have a 12-month period of employment. We believe that in terms of career prospects some extension of that period would be a desirable development and also in terms of some senior staff contractual arrangements but based on the award may be appropriate.

2.5 - they're mainly outside the forum of our discussions. There are also discussions going on about developing a new system of conjoined hospital university appointments in which the society has a major involvement as, of course, in the department. This, while it's separate, we feel is ... will impact upon ... on some aspects of our new award.

2.6 - there's a need, we believe, to revise and standardise or, certainly, revise sick leave arrangements, including those relating to nosocomial infection.

Conditions pertaining to conference, study and sabbatical leave, the society sees that as quite an important issue. However, we haven't been able to persuade management so far in that area. There's some deletions to provisions in clause 20 in the current award which are related to more efficiency.

In some areas, 2.9, the society sees that there needs to be at least availability of the opportunity to introduce shift work provisions which in the past have been discussed, I think, over some time. We see that that would be beneficial to both management and society members, but on a selective basis. And then on a practical basis, I think there are some practical problems in Tasmania in relation to shift work.

I've mentioned permanent part-time work, and it's an agreed provision. While that's a bit of duplication, it's actually the fine print of how that's going to operate. It is still something that needs to be finalised.

Unless you wish, Mr Commissioner, I won't go through the matters not agreed, unless there are any particular ones there that ...

COMMISSIONER WATLING: No, I think I can see which ones are not agreed. Does that mean that they're off the list completely or are you still arguing about them or debating them?

MR HOUSE: Well, I'd rather say they're on the leave reserved. They're not matters that are getting primary focus. They're matters that, however, I don't think either side believes should be abandoned, perhaps, in the short to medium term. I suppose we see award restructuring as something that's going to be an ongoing process in some form or another in relation to the approach to wage fixation these days.

COMMISSIONER WATLING: Say, for example, something like, 3.4 - Special Allowances for working long and unsociable hours.

MR HOUSE: Yes.

COMMISSIONER WATLING: When one does the work-value case, surely all those types of things are comprehended in the final rate that one comes up with aren't they?

MR HOUSE: Yes. Well, that would probably be the logical way to go. Speaking frankly, that came from a recent restructuring decision of the South Australian commission. It's a very restricted allowance. I suppose ...

COMMISSIONER WATLING: I can ...

MR HOUSE: ... we, the society, are concerned about occupational health aspects and that was an attempt to recognise a particular aspect there.

COMMISSIONER WATLING: Yes. But was that related to training though? The number of hours required to put in in a certain period for training?

MR HOUSE: No. As I recall it, yes, it relates to specialist, they have a very heavy on call/recall program.

COMMISSIONER WATLING: Right. Right. But what you're saying is that they're on the reserve list. They may be discussed at some time in the future, but it's not part of the main list.

MR HOUSE: No, we've had to ... because there's so many things we've had to focus down ...

COMMISSIONER WATLING: Yes. Right.

MR HOUSE: ... on what both sides see as the main ones.

COMMISSIONER WATLING: Yes. Right. Right.

MR HOUSE: The society - while Mr Martin will be tendering a document that's more specific - the society expects that these and relevant service-wide issues will be resolved as far as possible by the end of the year. In some cases we've got earlier dates. And particularly in the context of the special case to be pursued before this commission, we hope to have as much as possible, if you like, completed to set the ground work for the special case.

COMMISSIONER WATLING: Right. Could I just make the point then, just say for the record, just to clarify it. You were actually seeking, and you did seek to amend your application, but so that I've got it clear, the application is to proceed on submissions in relation to the special case finding arising out of the Anomalies Conference, but you're seeking an interim 3% on the grounds that the organisation has done sufficient work to gain an interim 3%. Is that what you're amending your application to?

MR HOUSE: Exactly so, Commissioner.

COMMISSIONER WATLING: Right.

MR HOUSE: We believe we've ...

COMMISSIONER WATLING: So I can take it then that we've started on the special case, but we've got a lot more to do,

but you believe you've done enough at this stage to warrant an interim 3%.

MR HOUSE: Exactly.

COMMISSIONER WATLING: Right. Well, we've got an application to amend the application. Are the employers happy with the amended application?

MR MARTIN: Yes, certainly, sir. We're happy with that.

COMMISSIONER WATLING: Right. Right. Now I know what I've got before me.

MR HOUSE: Well, the ... the next ...

COMMISSIONER WATLING: So ... but I just wanted to make it clear ...

MR HOUSE: ... the next sentence in my speech was exactly that, so ...

COMMISSIONER WATLING: Right. Right. Because I just wanted to make that point clear, because I've got to take it that we are embarking on the special case.

MR HOUSE: Yes.

COMMISSIONER WATLING: But you're seeking an interim ...

MR HOUSE: Yes.

COMMISSIONER WATLING: ... because we're really not dealing with another application after this application. We've started into it now.

MR HOUSE: The way we see it going is that we'll have to have a series of further conferences with management. We'll need to, in terms of the commission's wishes of course, report back on how we're going but we'd be looking to try to have most things wrapped up by 24 December and depending on how much agreement and how much work we've got to do, having the special case in late January or in February ...

COMMISSIONER WATLING: Or finalising the special case? Forgive me for pulling you up on this but I'm trying to be subtle and say, well, we've started but ...

MR HOUSE: Finalise.

COMMISSIONER WATLING: ... finalise a special case. We're on it now.

MR HOUSE: Yes.

COMMISSIONER WATLING: Right. So, you think we'd need to embark upon another program to finalise a special case, sometime in February?

MR HOUSE: We want to come back to the commission ...

COMMISSIONER WATLING: Prior to that report, or make any other further award amendments. Is that what you're saying?

MR HOUSE: We're envisaging having to put to the commission some fairly substantive work-value case.

COMMISSIONER WATLING: Yes. In February?

MR HOUSE: Yes.

COMMISSIONER WATLING: Right.

MR HOUSE: Which should involve witnesses.

COMMISSIONER WATLING: Now, given that we've got an interim arrangement, do you see yourself coming back to the Commission between now and December to make some more award variations in terms of, say, structure or other amendments to the award?

MR HOUSE: Well, I must say I haven't reached a decision on that.

COMMISSIONER WATLING: Well, that's fair enough.

MR HOUSE: Mr Martin may have some views.

COMMISSIONER WATLING: Yes. You've put a number of things up to me in relation to agreement, you've reached agreement on things. Just thinking out aloud, you might even reach an agreement on, say, 5, 6 or 10 award matters including a new structure that you may wish to include those in the award prior to embarking on the finalisation of your special case which is a very heavy work-value segment of this application, I would say.

MR HOUSE: That's right. Well, certainly, we'll give considerable thought to that but, again, certainly, we'd be happy to come back and advise the commission as to how much progress we have achieved, sometime before the end of the year. That was the commission's wish.

COMMISSIONER WATLING: I think you've got to weigh up in your mind whether you want to leave yourself clear at the end, just to look at the work-value component or whether you want to put all the other award variations into the pool along with the work value. You may feel more comfortable with sorting out the various award amendments and only leave yourself one final

thing to discuss and debate and that might be a full blown work value and then not have to worry about all these other bits and pieces.

MR HOUSE: That would certainly reduce the complexity ...

COMMISSIONER WATLING: Well, it narrows it down and people aren't confused as to what we're looking at and we haven't got all these other things in the pool at the same time. We've put those to one side, we've fixed them up, they're either in the award or you've agreed to wipe them off your list and then we hone in to one very big thing and that'll be full blown work value.

MR HOUSE: Thank you for that suggestion, Mr Commissioner. Well, if I may, I'll hand over to Mr Martin to advise you on the government's position in respect to our negotiations.

COMMISSIONER WATLING: Okay. Good, thank you. Mr Martin?

MR MARTIN: If the Commission pleases, I refer to application T.2652 of 1990 which seeks, in part ...

COMMISSIONER WATLING: Which is now amended.

MR MARTIN: Yes - as amended, an interim increase in salaries and allowances for the Medical Practitioners (Public Sector) Award of 3% as being in part the second instalment of increases available under the structural efficiency principle pending the processing of the society's special case. I'd like to tender two documents in this regard.

COMMISSIONER WATLING: Good.

MR MARTIN: Do you only want the one - I've got us another one if you want it.

COMMISSIONER WATLING: We'd prefer it, it makes it easier for transcript as well. We'll mark the document with 3/9 on the top right hand corner as M.1 and the document with DOH 3/9/90 as M.2.

MR MARTIN: Thank you, Mr Commissioner.

COMMISSIONER WATLING: I think I've seen these before somewhere haven't I?

MR MARTIN: Slightly amended this time round I can assure you, sir. The first document sets out the agreed principles under which the structural efficiency principle will be processed for medical practitioners and details those conditions of service which are to be implemented across the Tasmanian public sector as a whole.

COMMISSIONER WATLING: Now, you could make a real name for yourself today by explaining to me precisely what the document means.

MR MARTIN: I don't intend doing that, sir, but I'll touch on it.

COMMISSIONER WATLING: You'd be the first person in captivity that could do this.

MR MARTIN: The agreement also recognises the need to continue negotiation with respect to agency specific agenda items and award restructuring per se.

The second document outlines the award restructuring development and the implementation proposal agreed to for medical practitioners. I'll actually make ... I'll elaborate on what's in M.2 later on in my submission. We actually have more details that we can provide the commission with following our discussions yesterday.

Both documents are derived from documentation submitted by the TTLC, Exhibit TTLC.3 and the government, Exhibit W.2 at the hearing before this commission in respect of public sector staff generally which concluded on 18 July 1990. However, they obviously relate specifically to the employment of medical practitioners per se in the public sector of this state.

Now, if the Commission pleases, I would propose going through each document in some detail, not an awful lot of detail actually, with a view to highlighting any differences that may exist between what has been agreed for medical practitioners as opposed to other public sector staff. However, I can say at the outset, that apart from timing there are no major differences between the two sets of agreements.

With respect to Exhibit M.1 it should be pointed out that the same basic principles apply to both sets of arrangements, that is, as annunciated in the statement of principles, slightly varied in terms of their grammatical ... how they lie grammatically.

Similarly, agreement has been reached to standardise the same conditions of service as detailed in attachment 1, which in fact forms most of the documentation or the rest of the documentation.

Our comments in this regard are summarised below ... are as follows: With respect to item 1.1 - Allowances, the relevant allowances for medical practitioners are higher duty allowance and more responsible duty allowances incorporated that ... them in that part of the agreement.

In item 2 - Employment conditions, an additional paragraph under 2.3 - Permanent Part-time Job ... Permanent Part-time Employment with respect to job sharing has been included. It's under 2.2 ... 2.3. The rest of it is as per the original documentation. That's that final paragraph:

Further that this agreement in no way prejudices the introduction of job sharing where mutually agreed between staff and management.

And we see that as being of some benefit in respect of medical practitioners in the health area.

Item No.3 - Hours of duty:

It is the government's intent that all medical practitioners work 38 hours a week. This represents a community or industry standard for medical practitioners.

With respect to the span of hours, as you would be aware, medical practitioners already operate within the 7.00 am. to 7.00 pm. spread and, in fact, there are some attachments here going to span of hours in terms of standard hours and flexitime arrangements, but they are standard and they apply to medical practitioners already.

Item No.4 - Holidays, this hasn't been amended. It's the same intent as the original documentation.

COMMISSIONER WATLING: Because we don't want to go over all the things that we raised in the full bench matter, but the words ... you have to really look at the words. They don't mean a lot and it says 'the government indicated the need' - well, hurrah.

MR MARTIN: I think we're talking about Easter Tuesday and Hobart Cup Day.

COMMISSIONER WATLING: Yes. But they just say ... it indicated a need. There's no agreement with the union on that. It's the government indicated a need. It doesn't indicate to me that there's any agreement with the union on that. You can go through this document and look at those words fairly carefully. I have to say that the Full Bench, in considering this, did say that if that document by itself was left to gain a 3% second round increase, the case would have failed. And for that very reason, it's no more than a government indicating the need ...

MR MARTIN: Yes.

COMMISSIONER WATLING: ... to have observed. Well, there's certainly, first up, no agreement; but secondly, there's no

understanding of when it will be implemented. And, in fact, I would have to say, under a fair bit of heavy questioning during that case, I think the union movement said that there could be a fight if it was done. So ...

MR MARTIN: I can say, in respect of medical practitioners, sir, that there certainly is some agreement on some of those things being implemented in terms of, for example, standardisation of working hours and sick leave, which I'm getting to ...

COMMISSIONER WATLING: Yes. Right.

MR MARTIN: ... now.

COMMISSIONER WATLING: Yes, that's fair enough.

MR MARTIN: I certainly can't speak on some of those other issues ...

COMMISSIONER WATLING: But I ... yes, but I just ...

MR MARTIN: ... as you quite rightly point out.

COMMISSIONER WATLING: But I only make the point, that some of the document ...

MR MARTIN: Yes.

COMMISSIONER WATLING: ... does rely on a number of things. Even if you look back in appeals, you know, that even relies on amendments to Acts of Parliament.

MR MARTIN: Yes.

COMMISSIONER WATLING: You know, so ...

MR MARTIN: I certainly take your point, Mr Commissioner.

COMMISSIONER WATLING: ... how can parties agree to that. They might philosophically agree, but of course ...

MR MARTIN: Yes.

COMMISSIONER WATLING: ... it might get knocked off in Parliament. It mightn't get through the Upper House. So how can you say that that's agreement, we're going to implement it?

But, you know, the same as span of hours; the span of hours talks of guidelines for the process of implementation will be agreed. One asks, when are they going to get together to agree? And it says, 'the guidelines will address issues such

as' as it goes on. There's a lot of discussions that have to take place. It doesn't mean anything at this stage.

So, I just make the point that I just didn't want to ... want you to think, as you were going through this, that I accept this. I can see it has a few statements in it. But I don't rate it any more or any less than that. And in many cases it doesn't commit organisations to anything. It's fairly open ended.

MR MARTIN: The only other comment I would say is that I think there are some time frames, and we certainly include them in our documentation that ...

COMMISSIONER WATLING: Yes, but ...

MR MARTIN: ... you know, where those particular subjects are to be discussed and presumably agreed on, in some form or other. But I take your point, Mr Commissioner.

COMMISSIONER WATLING: Yes.

MR MARTIN: With respect to item 5 - Sick Leave, there are no major changes. However, I point out that if the service-wide no credit scheme does not get off the ground the department's position would be that sick leave provisions applying to hospital employees generally should apply to medical practitioners. I think that is 20 days accumulative per annum. Item No.6 - Salary and Overtime ...

COMMISSIONER WATLING: Can I just say on that particular area, do you see that paragraph looking at the quantum or the system?

MR MARTIN: I think it's really looking at the system. I would hope that it would be anyway, otherwise I don't see that that scheme would be practical. You've got to look at the whole concept of sick leave and what it's all about and you know, if you're not dinky-di I can't see how that sort of scheme would operate. But ...

COMMISSIONER WATLING: I have to say that I'm ... and confess that I'm not au fait with the triennium or the quinquennial systems at all, and I've never had it explained to me. Nor have I, even in the full bench matter, satisfied myself as to what it means, because even the parties had difficulty explaining it.

MR MARTIN: Well, I have got some detailed knowledge on it, but I think it's fair to say that as far, you know, as I'm concerned personally in terms of sick leave, sick leave is only there to be taken if you're sick. And I think this is the concept behind the government's ... you know, the prima facie position of a no credit scheme. That if you're not sick

you should be at work and that you should produce a doctor's certificate. And I think if that is followed to the full extent, you know, that system should operate sufficiently. Now, whether that's possible in the world that we live in or not, I would reserve comment.

COMMISSIONER WATLING: Yes. So you do just see it looking at the system as opposed to the quantum.

MR MARTIN: Well, that's how I see it. But as I say, we would reserve the public hospitals standard, if you like, on that issue, pending the possible implementation of a service-wide scheme.

COMMISSIONER WATLING: Right.

MR MARTIN: Which, as I say, if it was implemented in strict accordance with proper guidelines could probably be a successful scheme. In respect to item 6 - Salary and Overtime, there's been no change in the original documentation. Similarly with respect to item 7.

COMMISSIONER WATLING: What about 5.3 - Standard provisions to be introduced for recreation leave?

MR MARTIN: Sorry, yes. Basically, for medical practitioners it's 4 weeks. Where they are on a roster all year long in terms of on-call and call-back it would be 5 weeks. That's actually part of our negotiating position and that would be put to the commission formally in the special case. That, I believe, is in accordance with what's the general standard nationally for medical practitioners.

Item 6 - Salary and Overtime, there's been no change there and I think that's already the case for medical practitioners in any case, the senior medical practitioners. Item 7 - Redundancy, we've just reworded it to more or less bring it up to date. It's already been introduced, as you'd be aware.

Item 8 - Other Conditions, as they apply to medical practitioners. Once again, there hasn't been any real change there. A lot of them didn't really relate specifically to medical practitioners, the ones that are there.

With respect to 8.3 - Operative Date, the parties have agreed, in view of the progress that has been made to date on this matter, to an operative date on and from the first full pay period commencing on 12 September 1990. This date has regard to the date the society lodged its application, the date the society agreed to the terms included in the documentation already submitted to the commission in this regard and other circumstances relevant to the processing of this claim.

With respect to Exhibit M.2, I'd point out that this document has only been amended to the extent that it specifically relates to medical practitioners.

COMMISSIONER WATLING: Now, the other attachment?

MR MARTIN: To M.1?

COMMISSIONER WATLING: Yes.

MR MARTIN: Yes, we've amended the span of hours document to only refer to standard hours and flexitime arrangements because of the 19-day month and the 9-day fortnight don't apply.

COMMISSIONER WATLING: Is that part of the other document tendered in the other case?

MR MARTIN: Yes. That went on and had an item 2 and 3 that went on to the 9-day fortnight and the 19-day month. They don't apply to medical practitioners.

COMMISSIONER WATLING: But was that attachment in the end ...

MR MARTIN: I thought it may have been included, yes, sir.

COMMISSIONER WATLING: Right.

MR MARTIN: Similarly, the other document, I believe that had been tendered too and we haven't altered that in any way at all. The one on bereavement and special leave hasn't been altered in any way.

COMMISSIONER WATLING: Right. M.2?

MR MARTIN:: M.2. As I've said, this document has only been amended to the extent that it specifically relates to medical practitioners. In essence, the agreement sets out the parameters and time frames for: 1) the establishment of a new consolidated award for medical practitioners; 2) the implementation of agency specific items and the rationalisation and conditions of service generally, as per Exhibit M.1, and, 3) the development of appropriate staff development skills development programs.

With respect to programing the parties have agreed to meet again on ... I haven't gone through that document in any detail, but there's a schedule on page 3 which outlines a program. I can give you more detail in relation to that program and where the parties are going on this matter.

With respect to programming the parties have agreed to meet again on 23 October 1990 with the objective of: 1) finalising the agreed changes to the award and further considering those

areas where partial or no agreement exists as per H.1. I can say that in respect of the non-agreed items there that it would be up to the society to further those with the department between now and when their case is run if they want any of those matters considered.

DR SENATOR: One of them is yours though.

MR MARTIN: Well if one of them is ours, that one as well, No.3.2 ... but you know, I think at the end of the day the award has to stand alone and the ... whatever's in there that's it, so somewhere between now and then all of those issues will have to be addressed in one way or the other. And ...

COMMISSIONER WATLING: Can I just sort of take you back to the schedule. Now just keep in mind I haven't seen this before so I'm just going through it trying to listen to what you're saying and ...

MR MARTIN: Yes.

COMMISSIONER WATLING: ... at the same time ... so what you're saying, the working group which for medical practitioners ... so you've got a working group?

MR MARTIN: It's already been formed ...

COMMISSIONER WATLING: Right.

MR MARTIN: ... and approved in terms of, you know ... by the PEAK negotiating group ...

COMMISSIONER WATLING: So does it look like something like this? We have the PEAK negotiating group and we have so many streams of it and, 1) it is a professional stream - right?

MR MARTIN: Yes.

COMMISSIONER WATLING: And so that's a subcommittee of the PEAK negotiating group?

MR MARTIN: Well no, the medical practitioners working party reports directly to the PEAK negotiating group.

COMMISSIONER WATLING: So they're not part of the professional ...

MR MARTIN: No. ... they're ...

COMMISSIONER WATLING: ... stream?

MR MARTIN: No, they're probably ... if you could divide that into ... no.

COMMISSIONER WATLING: They're not a subcommittee ...

MR MARTIN: No, no if you could actually divide ...

COMMISSIONER WATLING: ... of that?

MR MARTIN: ... that first box into several ... we're one of those working groups ...

COMMISSIONER WATLING: Right.

MR MARTIN: ... and we stand alone.

COMMISSIONER WATLING: Right, so you're ...

MR MARTIN: Medical practitioners.

COMMISSIONER WATLING: ... a division within the subcommittee?

MR MARTIN: No, we actually form the separate working group to report back to the PEAK negotiating body on ...

COMMISSIONER WATLING: Well, this is the professional ... this is the professional stream isn't it?

MR MARTIN: Yes.

COMMISSIONER WATLING: And this professional stream has been divided I take it ...

MR MARTIN: Yes, into a number of areas.

COMMISSIONER WATLING: ... into so many ... might be engineers, doctors ...

MR MARTIN: Yes.

COMMISSIONER WATLING: ... whatever. So are they not a subcommittee of the professional stream?

MR MARTIN: No. No, they are, in fact ... it's intended that medical practitioners will have their own award and the working party has been set up to consider that matter, and I must say, more or less in isolation to those other matters.

COMMISSIONER WATLING: Right. Where will the doctors fit in relation to health professionals?

MR MARTIN: Well, we don't know, but at the end of the day we'll know. In other words, what I'm really saying is that the doctors' case will proceed independently of those other

matters. And I think that's been accepted by the PEAK negotiating group and the government.

COMMISSIONER WATLING: Right. So they don't ... they don't negotiate or tell anyone else within the professional stream anything about their operation?

MR MARTIN: No. They report directly to the PEAK negotiating group who would be aware of where it all fits in.

COMMISSIONER WATLING: Right. Right. I just want to get that picture clear in my mind because we've had a few variations of this in recent days.

MR MARTIN: That's the latest one.

COMMISSIONER WATLING: One will need to be Einstein to work OUT all these groups, and subgroups and subcommittees out. Right. So you've got your PEAK ... you've got your working group ...

MR MARTIN: Yes, we'll be ...

COMMISSIONER WATLING: ... and that goes straight to the PEAK negotiating group?

MR MARTIN: Yes, and we'll be meeting on 23 October to further consider those items I just referred to and any other items including the introduction of standard conditions of service for medical practitioners as per Exhibit M.1.

COMMISSIONER WATLING: So, could I say then you're going to finalise discussions on H.1?

MR MARTIN: Well, on 23 October we'll be attempting to finalise as far as possible the agreed items and further discuss items under 2 and 3.

COMMISSIONER WATLING: Right.

MR MARTIN: But I would anticipate there would be a number of meetings between then and the end of December when we would be reporting back, and probably should seek before we leave this room a date very late in December I would suggest.

COMMISSIONER WATLING: Christmas eve?

MR MARTIN: No way. Well it doesn't worry me, sir, I won't be here.

COMMISSIONER WATLING: Oh, right. Fair enough. Anyway, so that's what you're going to do on the 23rd. And then ...

MR MARTIN: Yes.

COMMISSIONER WATLING: ... what do you see happening after that?

MR MARTIN: Well, I'd see a number of meetings. Now, whether we're in a position in late December to have reached some agreement structure or some other items to be able to put a submission to you on those items, I would have to take that back to management and discuss it with my superiors. That may be a possibility and something that the parties will be considering probably prior to our meeting on 23 October.

COMMISSIONER WATLING: Right. Now, if, for example, you have a report back in December ...

MR MARTIN: Yes.

COMMISSIONER WATLING: ... if you haven't worked on a new ... if you have got an agreement on a new structure, do you anticipate including in the award the agreed matters that may relate to several clauses in the award?

MR MARTIN: Well, I hadn't really anticipated that, sir, and this is something that we only touched on yesterday.

COMMISSIONER WATLING: Yes.

MR MARTIN: I haven't had a chance to talk to my superiors about.

COMMISSIONER WATLING: Yes, right.

MR MARTIN: But we would certainly be prepared to look at that.

COMMISSIONER WATLING: Yes, right. Now, given that we're embarking on the special case, we've started the special case, and we're dealing with an interim arrangement at the moment, I would have to say that a personal preference of mine would be to continually update the award as you go.

I would like, at the end of the day, to be in a position whereby I was only ... where I'm only conducting the work-value component of the special case. And I don't really want to get the actual work-value component mixed up with things like sick leave or permanent part-time provisions and things like that. I would like to have those things cleaned up. You get the drift?

MR MARTIN: Yes, sir. No, I certainly appreciate those comments and ...

COMMISSIONER WATLING: So, therefore, when you report back in December sometime there may be 10 items that you wish to put in the award at that time.

MR MARTIN: Yes. Yes.

COMMISSIONER WATLING: So, I would like you to give consideration to that.

MR MARTIN: Yes, I certainly will.

COMMISSIONER WATLING: Because I think ... I'm guiding you a little bit because I want it sorted out. I don't want a real mess ...

MR MARTIN: Yes.

COMMISSIONER WATLING: ... at the end. So ...

MR MARTIN: No, we appreciate those comments, sir. And as I said, we had touched on them yesterday, but hadn't had a chance to really consider them and we certainly will. And, you know, if we can make the big job easier somewhere between now and then, well, that all goes well for ...

COMMISSIONER WATLING: So the report back ...

MR MARTIN: ... both parties.

COMMISSIONER WATLING: ... may include inserting in the award agreed variations.

MR MARTIN: Yes, sir. Yes.

COMMISSIONER WATLING: Yes. Right. Right. Now, then we're saying agency specific items. Well ...

MR MARTIN: The agency specific items are ...

COMMISSIONER WATLING: Yes.

MR MARTIN: ... you know, ones that ...

COMMISSIONER WATLING: Yes.

MR MARTIN: ... some of them ... there's been some agreement on some of them already ...

COMMISSIONER WATLING: Well, they'd be already ...

MR MARTIN: ... and so on and so forth. They basically are incorporated in that document H.1.

COMMISSIONER WATLING: ... In H.1, yes.

MR MARTIN: Yes.

COMMISSIONER WATLING: So you've done that really already.

MR MARTIN: Yes, we really have.

COMMISSIONER WATLING: You've identified them.

MR MARTIN: Yes. It's just a matter of agreeing on, you know, what the final structure of the award will look like, what will be in what will be out at the end of the day.

COMMISSIONER WATLING: Right. Right. Now, at the ... so in December we have the report back which may or may not include the inclusion in awards agreed variations. And then that takes us on to ...

MR MARTIN: Probably the big one.

COMMISSIONER WATLING: Yes.

MR MARTIN: The work-value aspect of it, which would probably include the provision ... the introduction of the remaining issues that we've ... but there's also a lot of preparation and drafting that needs to be done. And it may be that in December we'll only be ... we're already part of the way down the track. And where there's agreement some of those items, I would see, could go ahead pending progress.

Some of the others, they probably involve a lot of drafting and things like ... it just depends which way we go on things like permanent part-time employment - which way we go. And things like that would have to be submitted later, probably at the same time as the work-value matters, but I wouldn't see them being a problem. I wouldn't see them requiring arbitration. It probably would be agreed matters.

COMMISSIONER WATLING: Right. Now, I'd also like you to give consideration to the point that I raised earlier, and that was whether or not it may be appropriate to have the new structure in the award before embarking on the work-value component.

MR MARTIN: Yes, I see some benefits in that, sir, actually. And as I said, I really ...

COMMISSIONER WATLING: I don't want to lock you into it, but you ... I think you should discuss it and think about it.

MR MARTIN: Yes, I see some benefits in that approach, and I would certainly intend taking that back to my superiors and discussing that with them.

COMMISSIONER WATLING: But I ... I am not saying it is a hard and fast thing, but I just want you to consider it.

MR MARTIN: Yes. Well, we've gone a fair way down the track with structures, with restructuring.

COMMISSIONER WATLING: Right. Now, at what stage do we look at the matters that are not agreed?

MR MARTIN: Well, I would suggest that at the end of the day that, generally speaking, there probably won't be an awful lot of them, and, you know, maybe at the end of the day - and I am talking about things other than rates, other than where there is obviously clear disagreement in terms of penalties for juniors, and some other areas - I wouldn't think there would be an awful lot of matters where there isn't ...

COMMISSIONER WATLING: Right. Just say, for example ...

MR MARTIN: What we ... but ...

COMMISSIONER WATLING: I'm just trying to be the devil's advocate here. Say you don't agree on some of these things. I take it that you would be seeking arbitration on them.

MR MARTIN: Well, we would but, generally speaking, where possible we want to have an agreed position.

COMMISSIONER WATLING: Oh, well, I hope you do, too. I'd more than like you to have an agreed position, but I ...

MR MARTIN: But at the end of the day there may be some issues where, you know, arbitration is required.

COMMISSIONER WATLING: Yes.

MR HOUSE: Can I speak frankly and pragmatically?

COMMISSIONER WATLING: Yes.

MR HOUSE: I suppose we are looking, and I know Peter is, at the whole thing as a package. If we achieved a reasonable outcome on the major items we probably, you know, if ...

COMMISSIONER WATLING: The others will just roll home, anyway?

MR HOUSE: Well, they may fall off the table at the end of the day.

COMMISSIONER WATLING: Yes.

MR HOUSE: We are still sort of finding our way.

COMMISSIONER WATLING: Right.

MR HOUSE: There are different groups within the society that have got different aspirations, and so on, so it is a balancing act to achieve the best possible outcome in terms of membership aspirations as well as structural efficiency, so that H.1 is just an attempt to try and put some focus on it for the commission as to what the priority matters were, at this stage anyway, and what other issues may ... well, it may be that horse trading, again, we get one or two in return for what management wants.

COMMISSIONER WATLING: I understand that.

MR MARTIN: I think those comments are, you know, are fair. Really, at the end of the day we do want an agreed position on the document, you know, the award, wherever possible. We are really at this stage hoping that we'll only be requiring arbitration on one or two items.

COMMISSIONER WATLING: Yes. I just didn't know whether ... and the reason for my question was that I didn't know whether you would be wanting those issues arbitrated at the same time as the work-value component, or whether you were seeking to have them done before.

MR MARTIN: I would say probably at the same time. In other words, that it be ...

COMMISSIONER WATLING: Because one might hinge on the other.

MR MARTIN: Yes.

COMMISSIONER WATLING: Right. Good.

MR MARTIN: Really, Mr Commissioner, I think, unless you have got any other issues, I could sum up by saying that as far as the government is concerned it would support the interim increase to medical practitioners under the SEP principle.

COMMISSIONER WATLING: Now, that interim increase, is that as outlined in the document attached to the application?

MR MARTIN: Yes, and there are some allowances that are being varied as well.

COMMISSIONER WATLING: Now, have you looked at those figures, have you checked those figures? The parties agree on the figures?

MR MARTIN: Yes, we've checked them. And, yes, we have, and they are correct.

COMMISSIONER WATLING: Right.

MR MARTIN: We wouldn't have any problems with that being incorporated in the form of an order. It'll save the parties some drafting problems if that's acceptable to the commission.

COMMISSIONER WATLING: All right.

MR MARTIN: And further that these increases be awarded on and from the first full pay period commencing on 12 September 1990 for the reasons indicated earlier. And, as I say, unless there are any further questions, Mr Commissioner, that concludes my submission. If the commission pleases.

COMMISSIONER WATLING: Right. Fair enough. Mr House, have you got any further ...

MR HOUSE: No, Mr Commissioner.

COMMISSIONER WATLING: Right. Well, I'll indicate to you that I'll hand down a written decision in due course, but my decision will be written in terms of a favourable outcome of an interim 3%, operative from the agreed date of operation. As I said, it will be an interim and we will continue to hear these matters.

I will, in my decision, set down a date for resumption for this for report back, at which time I would want to know whether or not you're going to include agreed matters in the award and I would also ask you to give some consideration at the report back time on a program, a complete program, for the finalisation of the special case which in the main will be the work value arrangements, whether or not we're going to have inspections, where they will be, some tentative timetables to see whether it fits in with my program. Also, you might want to give consideration to witnesses, how many, if any. You might also wish to give consideration to the agreed datum point, the start of the work value and the conclusion of it and by that, in the main the public sector did have a work-value case in 1981.

MR MARTIN: Yes.

COMMISSIONER WATLING: Now, if we're saying that that's the agreed starting point, then everything that we have to look at is what has changed since that time. I would also hope that when we get into this latter part of the application, finalisation of the special case, that we could have documentation on agreed changes and non-agreed changes so as we can save some time in disputation and then if we had a list of non-agreed matters, it would be left to me to weigh up whether they were changes, having time to consider the evidence. I think the parties could save themselves a lot of time there.

MR MARTIN: Yes.

COMMISSIONER WATLING: So doing their homework behind the scenes as opposed to arguing in the Commission. So, I'd just like you to address those sorts of things and include them in the report back which will be some time in December. I'll handle that in my decision. This matter now stands adjourned.

HEARING ADJOURNED