

TRANSCRIPT OF PROCEEDINGS



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INDEPENDENT COMMISSIONER AGAINST CORRUPTION

COMMISSIONER LANDER

PUBLIC HEARING - EVALUATION OF SAFEWORK SA

ADELAIDE

10.02 AM, MONDAY, 2 JULY 2018

Continued from 1/6/18

MS H. STANLEY appeared as counsel assisting

COMMISSIONER: Since I commenced this evaluation in May of this year, I have received submissions from SafeWork SA staff and the public. I have found the submissions informative and I am grateful to those who have taken the time to make those submissions. In the last week I have made some of the submissions, as well as some other documentation relevant to the evaluation, available on the ICAC website. I am committed to making available as much information as possible so that the public can understand at least some of the material that I have relied upon to prepare my final report. However, I have not published all of the material that I have received. Material has not been published where it is not considered relevant to the scope of the evaluation, the material contains information concerning particular incidents or events that are not the focus of the evaluation, the material contains information that is defamatory or offensive to an individual or individuals, the material contains information the disclosure of which might compromise the operations of SafeWork SA, or the information relates to issues of national security which it would be inappropriate to disclose. Some material has been redacted to remove references to individuals, particular events, or comments or opinions that might be considered defamatory or critical without any basis for the criticism. Redactions have also been applied to irrelevant material. I am still receiving and reviewing documentation relevant to the evaluation, and I may make some additional material available on the ICAC website in due course.

Over the last four weeks, my team and I have met with approximately 40 staff from SafeWork SA, including executives, managers and team leaders within the regulatory arm and other areas of the business relevant to the evaluation. We have met with staff in metropolitan and regional offices. Those meetings have been informative and I would like to thank the staff of SafeWork SA for their co-operation. It is apparent to me that they are dedicated to ensuring the health and safety both of works and other persons in workplaces in South Australia. My team has also met with representatives from SafeWork SA's Western Australian counterpart and will soon meet with representatives from WorkSafe Victoria. The purpose of these meetings is to understand how like agencies in other jurisdictions operate and how they address risks of corruption, misconduct, and maladministration. I have received a significant volume of material which my team and I are presently reviewing. The purpose of these public hearings is to allow stakeholders to make oral submissions relevant to the evaluation and to do so in a public setting. This will allow me to both hear the submission and to be able to ask questions of the stakeholders.

Mr Campbell, thank you for attending today, and thank you for the submission which you are about to make, and for your co-operation in relation to the evaluation over these last few months. In a moment, I will invite you to make your submission. While you are making your submission, or at the conclusion of your submission, counsel assisting me in this evaluation, Ms Stanley, or

I will ask you some questions about your submission or about other issues that I consider are relevant to this evaluation. It is a matter for you as to how you answer those questions. There is, of course, no obligation upon you to answer. When making your submission, please keep in mind the scope of the
5 evaluation. This is an evaluation of the practices, policies, and procedures of the regulatory arm of SafeWork SA. It is not an investigation into the conduct of any particular person, nor is it an investigation into corruption, misconduct, or maladministration. I therefore would discourage you making any
10 submissions that are directed toward the conduct of any particular person or particular events. You should also be aware that because this is not a court, there is no absolute immunity from liability in relation to anything that you may say in the hearing.

The media and members of the public are permitted to attend today's hearing, and the media will be permitted to film your submission. As this is a public
15 hearing for a public inquiry, I consider that, in general, anything which is said at today's hearing ought to be published. However, I do have power under section 56F of the Independent Commissioner Against Corruption Act to prohibit publication of information disclosed during today's hearing. I may
20 have to exercise that power in respect of information the disclosure of which I consider might be defamatory or offensive to a particular person or persons, or would compromise the operations of SafeWork SA or any other agency of government, or arguably be in contempt of court or relate to issues of national security. For that reason, I ask that this hearing not be streamed live, and that
25 information disclosed during this hearing not be published until the hearing has concluded, so as to allow me time to determine whether it is necessary to prohibit publication of anything said during the hearing.

There is also one other matter that I should address. Section 56D of the ICAC
30 Act prohibits publication of information that might enable a person who has given or may be about to give information or other evidence under the ICAC Act to be identified or located. Section 56E of the Act prohibits publication of the fact that a person has given or may be about to give information or other
35 evidence under the ICAC Act without my authority. Accordingly, I authorise the publication of the identity of Mr Martin Campbell, Executive Director of SafeWork SA, as a person who has made a submission during this evaluation. Mr Campbell.

MR CAMPBELL: Commissioner, thank you for the opportunity to address
40 the evaluation. I commenced at SafeWork SA in late August 2017, having worked in the private sector as a safety consultant and senior safety leader in the mining and construction industries, predominantly in Australia, but also in Indonesia, Malaysia, and latterly Papua New Guinea. Prior to this, I had
45 20 years' police service as a detective in the United Kingdom, serving at the National Specialist Law Enforcement Centre, and at the National Crime

Faculty at Bramshill Police Staff College. I obtained my law degree in the UK and my Masters in law and Masters in OHS Management at Adelaide University.

5 COMMISSIONER: Could you please speak up a bit, Mr Campbell? Could you speak up a bit? Thank you.

MR CAMPBELL: This broad safety and legal experience affords me a very different lens with which to view the work and the state of the safety regulator, and I believe affords an alternative perspective from those that were before me. I think a short explanation of the structure of SafeWork SA at the time I started as the head of the agency is pertinent to give some organisational context. SafeWork SA has three core functions: it has a small corporate services function, responsible for the administrative aspects of the agency; an educator function, which exists to assist people to comply with their Work Health and Safety Act obligations through education, support and onsite advice; and a regulator function, which exists to enforce the Work Health and Safety Act through a suite of compliance tools, including, but not limited to, the issuance of notices to prohibit and/or improve work, expiations and prosecutions.

20 Within the regulator function, there is a small team of investigators. The regulator comprises of the inspectorate and is divided into industry-specific teams, and these teams are: the Construction team; the Manufacturing, Wholesale, Retail, Transport and Utilities team; Chemical Hazards and Explosive Materials team; Community Events and Business Services team, Primary Industries, Resources, Country Compliance and Engineering team, and latterly the Investigations team. At the time I started with SafeWork SA the regulator was led by the Chief Inspector and the educator and corporate services functions were led by the director. Both were senior executives and both part of the South Australian Executive Service classification. They were also part of the SafeWork SA Executive team.

35 My initial priority, as the new executive director at that time, was to improve the investigation and prosecution capability of SafeWork SA. An independent review of SafeWork SA investigation and prosecution capability was undertaken prior to my arrival. This review was undertaken by the Crown Solicitor, led by Special Counsel with significant prosecution background. It commenced at the request of a former Chief Executive of the Attorney-General's Department after the withdrawal of charges in relation to the fatality prosecution of Jorge Castillo-Riffo, who died at the new Royal Adelaide Hospital construction site.

45 Charged with a mandate for change in the investigation and prosecution capability, I quickly defined key areas relating to the capability of that team and immediately implemented a strategy to address what I perceived as

shortcomings and in order to make improvements. Abilities within the team differed greatly for a variety of reasons. There were a breadth of issues which I identified, some of which I have already tackled and completed, some which are progressing towards completion, and some which are moving forward but at a frustratingly slow pace. That said, I am doing my best to ensure that the change management team, the new executive, and I prioritise the higher-risk issues with urgency.

Improvements to the investigation capability included: recruiting a director to lead and oversee the investigation function during this time of reform; recruiting a new investigation manager with a high level skillset; implementing a new structure for investigations; placing skilled investigators into the team; reassessing the skills of the existing staff, and to develop an agency investigation framework and training program. Overall, the investigation function lacked strategic, operational and managerial direction.

My inquiries revealed the issues with the investigation team could not be addressed in isolation as they were inherently connected to the broader operations of the Regulator, specifically the Inspectorate. Therefore, I embarked on a process to dig deeply into the Inspectorate and the broader regulatory function.

The members of the Inspectorate, and other employees for that matter, are employed within SafeWork, an agency within the Attorney-General's Department up until 30 June and, as of 1 July, Department of Treasury and Finance. Inspectors and other employees within SafeWork SA are Public Service employees pursuant to Part 7 of the Public Sector Act 2009.

They are subject to the Code of Ethics for the South Australian Public Service by reason of section 6 of the Public Sector Act, and to the disciplinary provisions of the Public Sector Act. In addition, the provisions of the Public Sector (Honesty and Accountability) Act 1995 concerning the obligations of employees apply to inspectors and other employees within SafeWork.

The entitlements of employees within SafeWork SA are determined by the South Australian Public Sector Salaried Employees Interim Award and the South Australian Modern Public Sector Enterprise Agreement: Salaried 2017, together with various determinations of the Commissioner for Public Sector Employment.

I recognise the majority of good, capable, hardworking people dedicated to SafeWork who are doing a great job and are committed to making workplaces in South Australia safe. The majority have devoted enormous effort and exercised diligence in delivering fantastic safety outcomes for South Australians. Many of our inspectors are subject-matter experts in their field

and are highly qualified. I have seen superb, dedicated and committed work across the teams, with a high level of skill and competency in chemical hazard management, major hazard facility management, engineering, mining, quarrying, as well as general work within specific industry teams. However, I believe there is room for improvement.

I would like to present to you some fundamental issues I have discovered, but also the good work that I have found along the way, and areas of opportunity. From my perspective, the cause of the vast majority of issues does not sit directly within the Operational Inspectorate but with previous organisational structure and decisions. These fundamental issues are my priority areas now. Executive is driving reform through a rigorous and documented change management process.

So, the governance framework, including our strategic plan and the general management of SafeWork SA. So upon commencing with the agency, my examination of the governance processes identified that there was a monthly executive meeting but it did not deal with strategic issues as I would have expected. It was not managing all aspects of strategic management across the agency. I believe that this meeting was held weekly for a long period but then changed to monthly prior to my commencement. There was also a monthly management meeting, but the management of business and operational risk was not present.

There was superficial oversight of governance aspects, including internal controls. I was expecting to find close monitoring of certain things such as business continuity management, workforce planning strategies on key person risks and enterprise business risks, but they were not present.

The management of some industry teams could have been stronger, such as the setting and management of key performance indicators and of underperformance. Examination of some performance review and development portfolios revealed that they were blank and those people said that they had not had a documented appraisal.

SafeWork SA did have a documented strategic plan, but it was a copy of the Attorney-General's Department's strategic plan. Ours was not contextualised to the work SafeWork SA did, therefore it did not mean anything to the business or its workers. It also meant that team strategies and plans could not link to the broader organisational direction and objectives of the business. Essentially, there was no specific documented organisational direction in a SafeWork context.

Industry team business plans were in place but were cumbersome, and in some cases, I believe, impossible to achieve due to aspirational compliance

requirements. This reflected a lack of understanding of strategic and operational management by some leaders. The performance indicators devised in some cases were from the Attorney-General's Department's strategic plan, therefore there was little relevancy to SafeWork SA and consequently people did not follow it.

The result of not having a plan in place was a lack of any clear line of sight of how the day-to-day work of SafeWork SA workers contributed to the objectives of the agency. What I expected to see was a clear strategy for the agency, describing why we work, how we work and how we measure performance.

Each team should have their own plan which describes how they will contribute to achieving the strategic plan, and each person within a team should have an individual plan describing what they do and how they do it to assist in achieving the team plan. Their work would also show how they contribute to achieving the agency plan. This simple process shows a clear line between the direction of the agency and how the work of an individual contributes to achieving success.

Some inspectors had up to 28 separate performance criteria to achieve, some of which were very aspirational and extremely difficult to achieve. Team performance indicators varied enormously between teams and there was no consistency across the Regulator arm of the business. There was also no consistent manner to record compliance work, outcomes or outputs. Each team was working as a silo and not as an integrated regulator.

An example of what I would expect to see is similar to the following scenario. Our proactive work is based on risk. If, for argument's sake, forklift use is determined to be a particular high risk, then we should provide an education program or a series of alerts to the industry on how they comply with the law and their obligations. The educator arm would work with industry to assist them in voluntary compliance. Several weeks or months later the Regulator would follow up with compliance visits and enforce compliance through the use of their statutory powers. This sort of coordinated approach to risk based compliance is absent.

So, as a new executive team, what we have done to resolve this includes: firstly, we have a new executive team. We quickly realised the need to change many aspects of the regulatory arm of the agency, but this was not going to be a quick process. We recruited a dedicated executive change manager to plan, document and manage the reform.

During this time of significant change we could not be locked into a long-term strategic plan, therefore we developed an 18-month road map of key projects

which we needed to make the necessary improvements. The road map was developed with the new executive team. It identified all the key change projects to be achieved and delivered over the next 18 to 24 months. It provided indicative time frames, yet allowed some flexibility for deliverables.

5 The road map was consulted with staff. An internal working group was established to provide comment. The two unions representing staff at SafeWork SA were consulted.

10 The road map was rolled out with the delivery of a keynote speech by SAS trooper Corporal Mark Donaldson, VC, who talked to the agency about the need for change and how to remain resilient, focused and motivated during it, and he explained how he demonstrated those qualities during his time in the SAS, and during the action he took resulting in the awarding of the Victoria Cross.

15 Resilience training was then offered to all staff across the workforce, providing tools to use in times of change. We invested heavily in articulating the vision of change for the next 18 months and consulting and communicating the roadmap to all staff and all stakeholders.

20 The executive team meeting, agenda, and reporting requirements were changed to allow it to monitor organisational performance and the change projects. Governance and enterprise risk management were reinstated at the executive meetings after not being looked at for some time. I have outlined our
25 governance and internal controls to Australian standards on governance principles. This includes the formation of a new and independent team of subject matter experts, reporting directly to me, to set internal standards, work with managers to set performance criteria, and check internal compliance to those standards.

30 The quarterly governance and risk meetings were convened to manage organisational enterprise risk and to ensure the executive has visibility and control of them and is performing at the level expected. Managers are held
35 accountable for delivering their team plans and their key performance indicators. Many, but not all, did this with ease. Financial management was introduced to the executive meetings, and managers were held accountable for their expenditure. Governance and risk processes are being aligned now to the Department of Treasury and Finance. Overall, the strategic oversight of the
40 governance risk, financial management, performance, and capability frameworks are improved and now fully visible to the executive.

SafeWork SA also has a large number of policies and procedures, and a large number of these are documented procedures. I would expect an organisation of
45 the maturity of SafeWork SA to have a more robust system for ensuring document control. I would also expect a rigorous document management

system to be in place to ensure the accuracy of material and version control. There is a great opportunity to make improvements in this area. A major concern I had from reviewing one particular document relates to the Principles of Operation document, which should be the one source of truth document
5 which guides an inspector how to do their job. This document was written in a way that gives greater emphasis on dealing with complaints from the unions, and I believe this is unacceptable and that each complainant should be treated equally and on merit and not because he/she belongs to a particular group.

10 Another grave concern was the removal of a compliance and enforcement manual and an associated training program that went with it. This program was written approximately 12 years ago and aligned to investigative best practice for compliance investigations. It was managed by the Compliance, Advisory, Legal and Investigation team, which was a team to oversee quality
15 and consistency. It provided investigative guidance and training aligned to the same standard as the police. I have firsthand knowledge of this document and training because I wrote it for SafeWork SA in 2007, when I was a Chief Adviser for the Compliance, Advisory, Legal and Investigation team before leaving the organisation. Over time, the Compliance, Advisory, Legal and
20 Investigations Team manual and the training program were removed from the agency. Some SafeWork SA staff still had a hard copy of the manual and still referred to it. New inspectors, however, had not seen or heard of it. My biggest concern on this issue was that nothing replaced the material when it ceased to exist. Staff tell me that an individual manager did not like it and
25 removed it on an ad hoc basis. I cannot find any direct evidence of who or why it was removed, but it seems to be little by little over a period of time.

To address these issues, we have created a team charged with quality assurance and internal control across the agency. The team is focused on providing
30 operational and legal support to the regulator. This includes centralised ownership and coordination of investigation best practice, documented procedures and standards, compliance and investigation training excellence, internal audits, quality control, and assurance of regulator outputs and outcomes. We also have two outposted lawyers from the Crown Solicitor's
35 Office, who are dedicated to this team and the volume of work and the SafeWork SA legal issues.

The team is managed by an experienced manager and reports directly to me. Reporting directly to me aligns with good governance principles and affords
40 autonomy and independence to undertake the work needed for internal controls and review. Compliance and investigation training has been rewritten to incorporate best practice – and I will discuss this concept a little later in my submission. This new team, coupled with new processes to document how we work, and with high-quality training, will provide SafeWork SA inspectors
45 with the tools, training, and guidance they need to be effective in the field and

deliver a high-quality service. Previously, this was either not present or not to a good standard.

5 In relation to the organisational structure, including the structure of the
inspectorate and the manner of interaction between the educational arm and the
regulatory arm, I have described the high-level structure of the agency at the
start of the submission, but in 2016 the agency divided itself into two main
10 functions; the educator and the regulator. The educator focused on helping
workplaces build their capability to manage their WHS obligations and to work
with the industry bodies to drive positive change. Advisers were recruited and
they were not given statutory powers under the Act, with the intention to
encourage workplaces to invite the advisers into their businesses without fear
15 of a compliance sanction such as a notice. The regulator became solely
focused on enforcement through reactive complaints and proactive compliance
audits. The separation process was a success and the feedback from the
community was that the educator was adding value to their work. The
feedback continues to be good and the use of the educator continues to
increase.

20 A disadvantage of the split is that of a silo mentality, with neither the regulator
nor the educator communicating effectively with each other, resulting in both
acting independently. Therefore, the proactive compliance audits of the
regulator were not always considered as part of the broader strategy, as I have
previously mentioned in the example of the forklift scenario. I believe the silo
25 outcome was an implementation issue and a lack of management oversight.
Additionally, I am not able to find any documented process for the change
management of the split, or an implementation plan, a risk plan, or a record of
the decision-making at that time.

30 We have addressed these issues through: an organisational restructure which is
being considered; the roadmap that has developed to identify the path
SafeWork SA will take over the reform period; team business plans are
rewritten with team and individual performance cases; role clarity is better so
our staff now know what is expected from them and how they will achieve it;
35 individuals who are not meeting expectations are being actively managed, held
accountable, and, in some cases, performance-managed; processes are
introduced to bring the regulator and educator functions closer together, and
business plans are rewritten to include linkages and co-operative work
practices; role clarity and expectations are in place and people are now being
40 held accountable to them.

A series of business process improvement reviews are being undertaken,
examining all aspects of how a team operates, the efficiencies, applying lean
management principles, resourcing, management and leadership, looking at
45 processes and systems, good and under-performance issues. This has taken

some time due to the limited number of business improvement member staff that we have, but what I aim to achieve from these reviews is to use some Lean Six Sigma methodology that gives rigour and clarity on issues and opportunities for efficiency improvements. The change management team are responsible for facilitating these reviews and, using their business improvement skills, are identifying root causes of issues and the opportunities to develop sustainable efficiencies for the team ensuring consistent practices across the business. So when we also looked at the management of fraud and corruption risks, and including in relation to discretionary decision-making, as a part of the governance process review I have not been able to identify any specific SafeWork SA fraud or corruption control policy or practices. There is a Conflict of Interest Governance Framework document that describes the procedure for identifying, recording and managing conflicts of interest, and also a Conflict of Interest Register. This procedure directs SafeWork SA staff to disclose and document actual, potential and perceived conflicts of interest whilst doing their work.

There is an Attorney-General's Department HR policy on gifts and benefits from 2013, but not a SafeWork SA specific policy or procedure that flows from that. There is a SafeWork SA gifts register that directs staff to record any gift received in the course of their work. There appears to have been a reliance on the broader fraud and corruption control policy and other policies from the Attorney-General's Department. However, the work of SafeWork SA is different to that of the Attorney-General's Department and their policies should not be relied on in its entirety. In fact, it actually directs agency heads to apply the policy, making it relevant to their business, and I cannot see where this was done at SafeWork SA.

I would have expected SafeWork SA should have had specific processes in place to manage the risk of fraud and corruption, but it does not. To my knowledge, I have not been able to discover any historic internal control checks, or audits for fraud, or corruption control, or checks on abuse of inspector powers. Controls appear to be focused around financial management rather than potential, perceived or actual issues of abuse of powers.

So we are resolving this through requesting SafeWork SA introduce software solutions to assist us manage risk, specifically fraud risk. We are working with Department of Treasury and Finance to roll out this software. This will provide us with a rigorous system to manage risk and ensure its visibility of those requiring sight of it. We are working on aligning our fraud control processes to the Department of Treasury and Finance but contextualising to the needs of SafeWork SA. This will include fraud awareness training.

Approximately six months ago we did introduce training from the Independent Commissioner Against Corruption and the Office for Public Integrity on

reporting requirements, and that was delivered to all staff. The governance of SafeWork SA is better today than a year ago, but I acknowledge it is not at the standard I would expect of an agency of this maturity, and we are essentially starting from a basic level. I am more comfortable now that we have some
5 framework and controls around governance and risk, but I acknowledge that we have a long way to go before it is adequate and fully functioning.

In relation to the oversight of inspectors and the audit of inspectors' statutory powers, our business improvement reviews are highlighting how each manager undertakes the management of their team and how each differs to some degree.
10 Generally, oversight of inspectors is undertaken by a team leader. This is done through a fortnightly face-to-face meeting between the inspector and the team leader. I have not seen evidence of managers having regular face-to-face meetings with individual inspectors. It's more ad hoc.

15 A closer checklist has always been in place and used by inspectors before closing a file. However, it is only in the last six months that I have introduced a systematic audit process to verify the quality of the work and decision-making. This is done by a manager from another team. During the
20 face-to-face team leader, manager and inspector meeting there is generally not a discussion on the use of powers, or alternatives, or why an inspector made a particular decision. Whilst this does occur with some managers, it is not systematic or common.

25 Several years ago, when the Compliance, Advisory, Legal and Investigations team were in operation, they controlled a case conference process which provided an oversight capability of what the inspectors were doing. This case conference involved the relevant inspector, their team leader, their team manager, a lawyer, and a member from the Compliance, Advisory, Legal and
30 Investigations team.

Cases were discussed, avenues of inquiry were mooted, and action plans were documented. Inspectors would then go and complete those actions before returning to the case conference process for another review. This was an
35 effective control strategy which provided direction and oversight. That level of scrutiny and control has been removed over time. What replaces it is a similar but much weaker version, without the subject-matter expert input, without the legal input and without the oversight controls.

40 We have purchased and are awaiting implementation of a dedicated investigation management software system that will provide an easy yet transparent method of recording, updating, controlling and managing investigations, and whilst this is currently dedicated to the investigations team, I am keen to expand it into other areas of the business.
45

The creation of our new Operational and Legal Support team will provide a renewed level of oversight similar to that of the Compliance, Advisory, Legal and Investigations team which was provided many years ago. I believe this team is an essential component not only of governance, internal controls and support but also of quality and consistency.

We also looked at the management of relationships and the influence of key stakeholders, including industry and union groups. So at the start of my role, I began early discussions with industry groups and unions. I quickly found a lack of engagement. Industry groups made comments to me that their view of SafeWork SA was that it was irrelevant, it lacked currency, was not up-to-date with current practice.

Stakeholders only dealt with SafeWork SA when they had to, rather than as a first port of call. There was a very wide gap between stakeholders and the regulatory arm. The educator had greater success in engaging others, and the feedback from their stakeholders was very positive. I found a very close relationship between some SafeWork SA workers and some unions. This type of relationship concerns me greatly. Overall, managers and executives were to engage with stakeholders, but inspectors were the face of the agency. I have found to varying degrees comments of how stakeholders view us. Some are good, some are not, but we are actively working to rebuild those relationships, creating new ones, and to re-create those that were lost.

To resolve these issues we are actively engaging in building relationships with stakeholders during this reform process. Part of the stakeholder engagement strategy is to be inclusive, become involved with other agencies, unions, industry groups and employers at an early stage, but be very clear that we do not prefer sides but rather assist with compliance, expectation management and improved outcomes.

We are managing potential influence by stakeholders through training in the code of ethics, the code of conduct, and the development of SafeWork SA organisational values. These values are being followed by mandatory workshops across the agency. We have already invited ICAC and OPI to deliver training on corruption awareness and reporting requirements, and that will continue.

So, overall comments on our organisational culture. Overall, the vast majority of people at SafeWork SA are talented, diligent and committed people who are performing well. That said, there are pockets of negativity and resistance to change. There is very little active and objective performance management at SafeWork SA up until recent times. Some people are now being performance-managed but until recently have never been told that they were under-performing. Some managers and inspectors have not had constructive

performance appraisals and have never been provided with any feedback on their role. Many have never been told that they were doing a fantastic job, many have never been told they were not performing to expectation, and many have never been told they could not or were not doing their job to an acceptable standard. Some managers were not providing constructive feedback to aid personal and organisational development. Essentially, performance management for some was a tick and flick exercise. Consequently, some workers viewed themselves as performing well when they were not. The consequence of this is that we have no performance history upon which to base current performance management and resulting processes for unsatisfactory performance; effectively, we are starting from scratch.

Overall, there is a silo culture, insomuch as teams work independently of each other to a larger degree. When there is some collaboration, it is not the norm. It is, in some small pockets, also an entitled culture, with some people focusing more on their own issues rather than the organisation. The use of government fleet is an example on which I will touch later. Resolution on the issues relating to culture include: performances being managed within the SafeWork SA and broader governance framework; SafeWork SA values have been developed against the public-sector values and are now implemented in all staff performance reviews; managers are being managed to ensure that they can clearly articulate expectations and manage staff against them; behaviour is being addressed as and when it occurs against the code of ethics; a small number of staff are being reminded of the behaviour expected in SafeWork SA; and staff are being managed against the behaviour matrix in the newly developed job and person specification that sets out the expectation for behaviours in the workplace.

In relation to staff induction and training, SafeWork SA had a small training capability but it was quickly identified that there was a lack of focus and direction, resulting in poor outcomes. We found no training needs analysis for the agency. The common practice was to offer training to staff, who were asked if they wanted to attend, rather than providing training to meet our legal requirements, operational, or personal development needs. Training was not targeted but more of a scattergun approach. This resulted in little improvement in corporate knowledge, skill, or capability for the cost expended on it; essentially, the tail was wagging the dog. The team was realigned and provided with focus, direction and expected outcomes, and the leader of that team then left the agency. A new training coordinator was employed to develop a training framework which did not previously exist. We introduced a new and experienced and skilled training professional to develop our training framework, which includes investigation and inspectorial capability development.

What we have included now includes an investigation management course,

written in conjunction with Charles Sturt University and aligned to a graduate Certificate in Investigation. This is a university-level course written at a higher standard than previous training and bespoke to the needs of a regulator. This is now being seen by other regulators around the country as benchmark standard.

5 We identified 12 very talented inspectors, who were then trained by Charles Sturt Uni to deliver their course to their university standards. These 12 trainers are now SafeWork SA internal training capability. A recent review by Charles Sturt University showed that these 12 trainers are delivering a great training program to a university delivery standard and they are doing a fantastic job in

10 upskilling their peers. This course has been widely accepted across the inspectorate, who have embraced it, completed it, and enjoyed it. However, there is a small pocket of resistance, some who consider they already know it and do not want to do it.

15 Root cause analysis training is also provided to all investigators and inspectors. Root cause analysis is an incident investigation methodology that most industries use to investigate root cause safety breaches. It is not a methodology to use to prosecute, although the level and type of thinking can assist in some types of investigations. However, most of our inspectors did not know or

20 understand it, or had not been trained in it. All of the regulator arm of the business now receives this and at least understand what, why, and how their industry presents their findings to incidents. I find it disturbing that SafeWork SA, as a regulator, was not trained in this common methodology used by many businesses across the state, and I consider that we, as a regulator,

25 need to know and understand it. I believe this is a lack of strategic leadership in providing the inspectors with the right and best tools for the job.

We also introduced Oranges training. Oranges is a training course that focuses on building resilience through times of change. It is to assist people to develop and maintain resilience and wellbeing at work. I introduced this to staff so that

30 they could manage change from a wellbeing perspective. People generally do not like change and the reform I have planned is significant. I felt it only proper to assist the staff to remain engaged. The inspectorate training program was also reviewed and found wanting in some areas. An updated and more

35 relevant training program has now been developed to give the regulator the skills and knowledge they need to effectively do their job, and that is a 16-week program. This is in addition to the investigation management course and the root cause analysis training previously mentioned. Some of the material is developed and delivered by external experts and others by internal

40 experts. As I said earlier, we have some very talented, skilled and highly-qualified people within our business. That said, this training has been a significant upgrade to meet expectations. The continuous improvement cycle will continue in relation to inspector training.

45 As part of the revised inspectorate training program, we also reviewed and

updated our general induction process. This has also been refreshed to provide new workers with core understanding on the key policies, procedures, values, and mandatory reporting requirements. As we review and update our policies, procedures, and processes, then the updates will be reflected in the induction and the broader inspector training program. This process is being managed by the newly created Operational Legal Support team, which has a dedicated training coordinator in the team who is accountable for this work.

In relation to staff benefits, SafeWork SA staff are not entitled to any specific benefit over and above what every member of the public service is entitled to or has access to. There are, however, some issues relating to benefits which occur at SafeWork that have developed over time and are being changed. The issue around fleet allocation, use, and management of the vehicles is a dividing factor in the agency. In relation to our government fleet, SafeWork SA has a fleet of 65 government-plated vehicles. These are fully-funded lease vehicles. Most are used by the regulator. SafeWork SA has been paying a significant annual fringe benefit tax liability for personal use of government vehicles. This liability is paid by SafeWork SA and has never been passed back to an employee. There has been a culture of workers taking government vehicles home each night. This culture began over 15 years ago and was due, from what I am told, to a lack of available secure parking at the premises previously occupied by the agency at that time. Inspectors were told to attend a worksite on their way home each night and also told to attend a site on their journey to work each morning. If that practice occurred, then no fringe benefit tax would apply. This activity has eroded over time, with recent GPS data showing that this type of site visit is occurring significantly less and not by everybody. Over time, the access to and use of vehicles has been seen by some as an entitlement rather than a business need.

In September 2017 GPS data units were placed in the fleet of 65 vehicles for a five-week period. This was to monitor the effectiveness of the use. The data showed if vehicles were effectively managed SafeWork SA could reduce its fleet, and that reduction would not adversely impact on operational service deliverables. It also identified a range of vehicles that were only used to drive to and from home and work but did not necessarily get used during the day. It also highlighted the differences in the type and range of vehicles in use.

It also showed some vehicles were being used outside of hours for non-work-related activities and a small amount of use at weekends. This is contrary to Fleet SA and government policy. Some inspectors believe that they are contractually entitled to a government-funded vehicle as part of their employment contract. I do not share that view.

To apply good practice and to give the opportunity for the workforce to be involved in the process, I established a Fleet Optimisation Working Group to

determine options for use, allocation and replacement of those vehicles. The direction I gave was for the group to represent the workers and to provide feedback and options on how best to use and manage the fleet. The group did provide feedback, but there was no clear single answer, but rather a list of options that covered individual needs rather than the business need.

In June 2018 I announced my intended decision to pool the fleet of vehicles, that personal use was not acceptable, that cars were not to be taken home at night unless a specific business need required it and it was approved, that vehicles were not allocated to individuals, and that my view was that they were not part of any employment contract.

This decision was then opened for consultation as per the consultation clause in the enterprise agreement for a period of four weeks, which will allow staff the month of June to discuss. As this has been a practice tolerated by previous executives, I had to consult on the change in practice pursuant to the enterprise agreement.

I also discovered that there was little control over the choice of vehicle being selected. It appears that the selection of a vehicle was left to the discretion of the manager of that team, with final approval by an executive. I questioned this when I received applications for a variety of different sedan, wagons and SUV type vehicles. I have stopped this process and I have not replaced older vehicles. I have directed a standard, economical, environmentally friendly vehicle be ordered unless a specific business need requires an alternative. SafeWork SA is currently in consultation with the staff and the unions on this and other fleet-related issues.

Linked to the use of the fleet was also our carparking arrangements. The car parks around the SafeWork SA building are owned by a private landlord, and I discovered that SafeWork SA has been subsidising carparking costs for workers. Previous executives introduced a system whereby workers pay a contribution of their parking space and SafeWork SA pays the remainder. This results in not only an annual bill for the parking but also an annual fringe benefit tax liability. The process of allocating parking is also not effectively managed, as we now have a situation where we have more people with permits than available parking bays. So, to address and resolve this, I have announced my intention to stop it and, as of 1 July 2018, workers are liable for their own parking cost, and again I am currently in consultation with the workforce and the union in regards to this.

Information and records management was also examined. It appears that previous cost-saving exercises reduced the staffing of the freedom of information and records management areas. Previous positions were not filled and/or removed as excess to requirement. There is one person in this role, who

5 does a fantastic job managing these types of records. There is, however, an opportunity to improve other types of record management in the agency, specifically the recording and management of internal procedures. There is no corporate, consistent method of document management, resulting in variations to how we do it.

10 The primary system for recording regulatory compliance work is our electronic database system called InfoNET. This system has been a longstanding system used to record all activity. It has evolved over time and is still in use. The introduction of the investigation management system is another example of improvement in these areas, which will allow us to look more closely going forward at the integration of both.

15 So, key organisational changes completed, underway or planned since I commenced. So we have a new executive team structure which has been completed. We have an investigation team restructure completed, but it took a lot longer than planned due to union involvement and a dispute in the South Australian Employment Tribunal. The investigation training program is introduced and completed, the inspector training program redeveloped and completed.

20 The creation of a centralised quality assurance team to undertake internal audit and compliance checks to ensure best practice and consistency across the business is completed and in the final stages of recruiting for some staff. The Fleet Optimisation Working Group is ongoing and we're in consultation. Workforce mobility is a long-term project but it is underway. Chemical Hazards and Explosive Materials team has been restructured from the Dangerous Substances team and better aligned to our business needs. That is completed.

30 We undertook a range of discovery processes to review why specific decisions have been made. We've developed SafeWork SA values and implemented them. We've reviewed, amended and update a wide range of job and person specifications across the Regulator because we had duplications and irregularities. They are now more consistent. We undertook assessment of SafeWork SA compliance against other policies and procedures.

40 Workforce consolidation. When I commenced at SafeWork SA there was a large number of manager and team leader positions that were vacant, acting or temporary. Over nine months I have restructured the teams and locked down those positions, advertised the vacant positions and put people in there so that they have comfort, knowing their job is confirmed, that they're a consistent and consolidated position for team leadership, rather than what was a system of short-term, temporary, acting arrangements.

45

The business improvement reviews, or deep dives as we refer to them, continue across the functions of the business to maximise efficiency. We have an expiation notice project near completion, which will provide inspectors with an additional compliance tool to deal with nonconforming employers, and we
5 have a review of our standard operating procedures and model operating procedures.

Commissioner, this concludes my submission. The comments I have made result from the situations that I have found, and my solutions are part of the
10 broader reform initiatives that I am trying to drive across the agency.
I acknowledge that SafeWork SA has some significant gaps in our systems, processes, documents and procedures, and that as we discover them we're trying to rectify them. That said, we have a long way to go to remedy all, but as the head of the agency and with the new executive alongside of me, we are
15 resolute and committed to making sure that any recommendations from this evaluation will add value and improve the process that we have. Thank you.

COMMISSIONER: Thank you, Mr Campbell. In considering the operations of SafeWork SA, I've noticed that the agency has policies, model operating
20 procedures, standard operating procedures, operational guidelines, manuals, codes, and fact sheets. There seems to be a diverse form of instruction to the SafeWork SA employees. Is there an overall governance framework for all of these documents and policies?

25 MR CAMPBELL: Not that I've seen, Commissioner, and I would agree that those number of documents would add confusion. The model operating procedures generally come from a national platform, SafeWork Australia. We should then be implementing that information into our standard operating
procedures, which is our organisational guidance, and I think what has
30 happened is that both have been allowed to get into the system so they sit side by side.

COMMISSIONER: Would it not be preferable that the model operating procedures be standard throughout Australia, except so far as it's necessary to
35 amend them for some local reason?

MR CAMPBELL: Yes.

COMMISSIONER: But that's not the case so far?
40

MR CAMPBELL: That's not the case so far, not holistically across the process. In some cases, we've found they have, but not as a consistent process.

COMMISSIONER: How confident can you be at any given time that the
45 employees are familiar with so many different forms of instruction?

MR CAMPBELL: I'm not confident, not a hundred per cent, a long way from that actually. I think the managers that we have and the team leaders that we have have worked in the organisation for so long that they rely on their
5 knowledge and history rather than written guidance.

COMMISSIONER: Is there a plan to reduce then the number of written instructions?

10 MR CAMPBELL: There is, Commissioner, yes.

COMMISSIONER: Is that part of the strategic plan?

MR CAMPBELL: It's part of the Operational and Legal Support team, but
15 certainly from a strategic perspective we need to make it easier for people to do business with us and we need to develop our staff. So part of our staff capability development at the strategic level is where we're going to do that work to give the workers what they need.

20 COMMISSIONER: And have you implemented, or caused to be implemented, the process of reducing the number of written instructions?

MR CAMPBELL: We've started that process, Commissioner, yes, and the
25 Operational and Legal Support team will drive the rest of that work, but I think it's going to be a longer-term solution to get it finished.

COMMISSIONER: When did you start that, Mr Campbell?

MR CAMPBELL: I can't remember off the top - - -
30

COMMISSIONER: About when?

MR CAMPBELL: I would imagine that would be maybe four to six months
35 ago.

COMMISSIONER: How would you describe, at the present time, the state of SafeWork SA's policies?

MR CAMPBELL: I would describe them as voluminous, confusing, and in
40 need of a good sorting. So, once we've done that, whatever is left that is relevant to how we work we can then update to make sure they're accurate, and then we need to put a controlled mechanism in place to make sure that they're reviewed regularly and, effectively, a part of a proper document management
45 system.

COMMISSIONER: How long do you think it will take to rectify the volume and the diversity of instruction that's given to employees?

5 MR CAMPBELL: I would anticipate that's probably going to be a six to 12-month project for a couple of people to really break the back of it, then it needs to be a business as usual function going forward, which is why it's going to sit in that Operational and Legal Support team.

10 COMMISSIONER: Has the strategic plan to which you referred been completed?

MR CAMPBELL: So we have an 18-month road map - - -

15 COMMISSIONER: Is that the strategic plan, is it?

MR CAMPBELL: That's our strategy, but we haven't called it a strategic plan. That tends to infer we're locked into that direction of a period of time, and we just couldn't do that with so much change happening. So we wanted to give staff some clarity of where they were going, so we put it into a road map. It 20 allows us some flexibility to add and remove some key projects if we need to change, but it gives the staff the direction of where we're going.

COMMISSIONER: And when did you implement the road map?

25 MR CAMPBELL: That was December last year, December 2017.

COMMISSIONER: So those matters addressed in the road map should all be addressed by, what, the middle of next year?

30 MR CAMPBELL: Hopefully.

COMMISSIONER: And that road map has been made available to all employees?

35 MR CAMPBELL: It has, Commissioner. We included the employees as part of the consultation process. We ran workshops, we got them involved in developing it, and once it was written we then uploaded it to our Intranet site and made it interactive, we communicated that to industry groups and stakeholders and the unions and gave them copies and ran a whole-of-agency 40 workshop on it.

COMMISSIONER: And would you say it's been embraced by the employees?

45 MR CAMPBELL: I think it's been embraced by the majority. The majority understand it. There are some people that tell me they don't understand it, and

we're trying to work with those individuals to get them to understand it.

COMMISSIONER: And did you consult with the unions in relation to the road map before it was published?

5

MR CAMPBELL: Yes, Commissioner.

COMMISSIONER: And it was embraced by the unions?

10 MR CAMPBELL: I don't think it was.

COMMISSIONER: At the present time, is it supported by the employees – this is 6 months into it –or the majority of the employees?

15 MR CAMPBELL: The vast majority, yes.

COMMISSIONER: And is it now supported by the unions?

MR CAMPBELL: I haven't had any feedback to say they do support it. I have had questions from a couple of union organisers who don't understand it or say they don't understand it. I'm not sure whether they don't understand it or they're saying their members don't understand it. The feedback I get from walking the floor every day and talking to people and having coffees with them is that they do understand it. So I don't know whether there's a disconnect
25 between the unions and the road map or us and the unions.

COMMISSIONER: What is difficult to understand about the road map, as you understand it?

30 MR CAMPBELL: I'm not sure. Personally, I don't think it's difficult.

COMMISSIONER: Yes, right. There has been some complaint, as I understand it, from employees that there has been a good deal of uncertainty about the direction that SafeWork SA was taking at any given time, and a good
35 deal of uncertainty about the way in which policies were implemented and progressed. Is that your understanding?

MR CAMPBELL: I haven't had any specific feedback from people. The feedback I've had, formally and informally, is that people understand it and are
40 on board.

COMMISSIONER: Could I assume that, at least from your point of view and the executive's point of view, the road map is intended to give certainty to the employees and does give certainty?
45

MR CAMPBELL: Correct, yes.

COMMISSIONER: And is intended to create some sense of stability within the workforce?

5

MR CAMPBELL: I wouldn't say the road map gives stability. I think the executive being visible and committed and talking to the workshop provides some stability, insomuch as people know they've got a voice, and I've tried to make myself very accessible to them. I wouldn't say that the organisation is anywhere near stable at the moment because we're going through so much change, and it's through an organisation that's had change for 15 years in some form.

COMMISSIONER: Well, that appears to be one of the complaints of the employees, that there's change on change on change. That's been the case?

15

MR CAMPBELL: I think the last big change was the educator/regulator split, which was substantial. I haven't seen documentation of any other major change over time.

20

COMMISSIONER: Anyhow, the road map is intended to educate the employees as to what change will occur over the next 18 months, or now 12 months?

MR CAMPBELL: Yes. One thing we have done, Commissioner, is been extremely rigorous and diligent around the change process and the HR/IR processes, so whatever change that we do or the project we initiate we're really cognisant of including the workforce as part of it at an early stage.

25

COMMISSIONER: You said you consulted with the unions in relation to the road map, and you said in your submission that you consulted with the unions in relation to the use of fleet vehicles and the question of employee parking. Is that an obligation imposed upon SafeWork SA by the enterprise agreement?

30

MR CAMPBELL: It is, Commissioner, and it's an obligation on me to consult on any change in the organisation.

35

COMMISSIONER: When you say there's an obligation to consult with the unions on any change, what do you mean by that?

40

MR CAMPBELL: The previous enterprise agreement, I had to consult on significant change. The new enterprise agreement is any change, and the unions hold me accountable to that. So any change in the organisation, I'm forced to write to the unions and have consultation with them.

45

COMMISSIONER: What sort of change would that mean that would give rise to a consultation process? Can you give me some examples, please.

5 MR CAMPBELL: Pretty much everything that we've done in the last few months we've had to write formally to the unions and explain to them. So the fleet, the carparking arrangements are the two most recent ones. The removal of refreshments from - - -

10 COMMISSIONER: The removal of?

MR CAMPBELL: Refreshments from the agency. The change in the job and person specification. We found that the job and person specification for an inspector, there were several different versions because people had been allowed to change them over time because we don't have a document control process, so we've rewritten that to give people clarity in their role, and consulting in that. So it's really any aspect of an inspector's or an employee's work, we have to notify the union.

20 COMMISSIONER: Does it follow from what you say that you would have to consult with the union, as you understand it, on a particular job and person specification with an individual employee?

MR CAMPBELL: Yes. And from my perspective, Commissioner, it delays the change significantly.

25 COMMISSIONER: The powers that are given an investigator are very wide. Investigators are given the power to go onto premises, workplace premises. They have the power, on entry, to copy and retain documents. They can seize matters at the workplace if they need them for evidential purposes. They can give improvement notices. They can give prohibition notices and non-disturbance notices. Would you agree that having regard to the very wide powers that inspectors have, and having regard to the discretionary nature of those powers, that you need a robust fraud and corruption policy?

35 MR CAMPBELL: Most definitely.

COMMISSIONER: But that is not available at the moment? You don't have one at the moment?

40 MR CAMPBELL: Not a SafeWork SA specific one. We were relying on Attorney-General's Department policy.

COMMISSIONER: Has there never been a specific corruption policy directed to inspectors and investigators in relation to the conduct of their powers?

45

MR CAMPBELL: That's correct. As far as I'm aware, Commissioner, that's correct, yes. There never has been.

COMMISSIONER: But you're addressing that at the moment?

5

MR CAMPBELL: We are, yes.

COMMISSIONER: Specifically for inspectors and investigators?

10 MR CAMPBELL: Yes.

COMMISSIONER: You said something about your document policies. How does SafeWork SA audit the exercise by an investigator of his or her powers in relation, for example, to the issue of improvement notice? How does it audit that?

15

MR CAMPBELL: In more recent years?

COMMISSIONER: Yes. Well, now, yes.

20

MR CAMPBELL: Now I can't find any evidence of how we systematically audit the use of powers.

COMMISSIONER: How would you know if a particular inspector was issuing improvement notices appropriately or inappropriately?

25

MR CAMPBELL: The only check and balance that we currently have is the face-to-face fortnightly meeting between an inspector and the team leader.

30 COMMISSIONER: And you relied upon the team leader to learn that from discussion?

MR CAMPBELL: Over time, yes.

35 COMMISSIONER: How would the team leader know, other than being told by the particular inspector, as to how the particular inspector is exercising his or her powers?

40 MR CAMPBELL: I think there's a culture of heuristic learning where it's passed - - -

COMMISSIONER: Sorry?

45 MR CAMPBELL: Heuristic learning, where it's passed down from one person to the next. So we don't at the moment have a supervisory leadership training

program to give team leaders that level of understanding. So it's how they've been taught as an inspector and what they have known over their career, and then the influence of their manager. The risk varies. If it's a manager that's not performing to the standard, the advice they're going to pass down is equally not to the standard.

COMMISSIONER: How would the manager or team leader know whether improvement notices, having been issued, were complied with?

MR CAMPBELL: So the improvement notice and the details of a visit to a site would be entered onto the InfoNET system, which is our database. The team leader and the managers have visibility of that and they can check it and read it.

COMMISSIONER: Is that known to the inspector, that they have checked and read it?

MR CAMPBELL: Yes.

COMMISSIONER: That would be unsatisfactory.

MR CAMPBELL: One of the challenges in that process is there's no real clear guidance for an inspector to tell him or her what needs to be uploaded to the system, so you have a wide variance in the quality of entries. Generally, any improvement or prohibition notice is discussed with the team leader and the manager and it's entered into the InfoNET database, but what I have found or what we've found in the review process is there's not necessarily a discussion to understand why you've issued that particular notice and then look at the correctness of the form and the layout.

COMMISSIONER: Are the inspectors subject to some form of instruction as to when they should issue an improvement notice, for example?

MR CAMPBELL: I believe there is some guidance. I haven't read it myself, Commissioner, but I believe there is guidance on the types of incidents, injuries or events and the notices that would be expected to be issued, but I think there's discretion allowed in that process for an inspector or an investigator to turn up and then apply their powers to the scenario in front of them.

COMMISSIONER: The discretion is unfettered, effectively, and that might be appropriate, but it ought to be exercised, I would have thought, by all inspectors in the same sort of way, otherwise you'd have some stakeholders subject to improvement notices which other stakeholders in the same circumstances would not be receiving.

MR CAMPBELL: Exactly.

COMMISSIONER: Is there that sort of oversight which would allow you to confidently say that wouldn't occur?

5

MR CAMPBELL: No, there's not, and I do believe that that scenario has happened in the past.

COMMISSIONER: You said in 2016 that SafeWork SA was effectively managed with three different parts of the business - the corporate part, which we needn't look at here; the education branch, and the regulatory branch - and since then, the education branch and the regulatory branch have operated independently of each other. Is that right?

10
15 MR CAMPBELL: Yes, that's correct.

COMMISSIONER: And as I understand your submission, the education branch might receive instruction from a business about a workplace site on the understanding that the education branch would not make that information available to the regulatory branch. Is that so?

20

MR CAMPBELL: Yes, and that's the risk, that the left hand doesn't know what the right hand is doing.

25 COMMISSIONER: That is the case though, is it? That's the way the education branch will receive it?

MR CAMPBELL: On occasions that's happened, yes.

30 COMMISSIONER: Well, that is the risk, is it not?

MR CAMPBELL: Yes.

COMMISSIONER: That SafeWork SA will know of an unsafe workplace but do nothing about it?

35

MR CAMPBELL: I wouldn't necessarily go that far. It's more of a lack of coordination. So the educator arm of the business would have advisers. They don't have powers.

40

COMMISSIONER: No.

MR CAMPBELL: But nonetheless, if they saw something that dangerous, they would take action and the Regulator would come in.

45

COMMISSIONER: But how do you manage that, Mr Campbell? If the persons in the education side of it are aware of information that is relevant for the regulatory branch to know of, but the regulatory branch is not informed, how do you manage the risk to the worker?

5

MR CAMPBELL: I'm trying to think if we have a formal process which passes that information through to the Regulator.

COMMISSIONER: It will depend upon what sort of undertaking you give the person who contacts the educator. If the person contacts the educator on the understanding that the information he or she will give to the educator is not to be provided to the Regulator, then I suppose it can't be.

MR CAMPBELL: So if a business asks the educator not to pass that information on?

COMMISSIONER: Yes. But then the problem is, in those circumstances SafeWork SA does know of an unsafe system, an unsafe workplace - - -

MR CAMPBELL: Yes.

COMMISSIONER: - - - but is doing nothing about it.

MR CAMPBELL: So those advisers would still have the onus of the legislation applied to them, so they would still be required to raise that issue. I'm trying to think have I seen or do we have a documented process which that adviser would follow to pass that information through to the Regulator or not, and I can't say with certainty whether we do.

COMMISSIONER: I wonder if you wouldn't make some inquiries about that and let me know in due course how you manage that risk.

MR CAMPBELL: Yes, definitely.

COMMISSIONER: You said that some time ago silos were created for investigation teams which were created to deal with different industries. That's so?

MR CAMPBELL: Yes. So the industry teams sit within the Inspectorate, and then a separate investigation team.

COMMISSIONER: And so there are various teams that have responsibilities for various types of workplace sites?

MR CAMPBELL: Yes.

COMMISSIONER: It would seem from our inquiries that each of those teams have their own policies separate from each other.

5 MR CAMPBELL: I would agree with that, and I think that's a lack of centralised coordination of documents and processes.

COMMISSIONER: And it would seem also, from what we've learnt, that each have a separate budget?

10

MR CAMPBELL: Yes.

COMMISSIONER: And it would seem they all have different cultures.

15 MR CAMPBELL: Definitely.

COMMISSIONER: That also raises risks, I would have thought. Do you agree?

20 MR CAMPBELL: Yes, I do agree.

COMMISSIONER: And how will you address that?

25 MR CAMPBELL: We're trying to address that through our change process and our culture, our values. We're trying to provide some leadership, guidance, training to the managers and team leaders to get consistency at that level as well. I think the training element is providing some consistency in benchmarking across the business, but it is an extremely difficult task to break down cultures within a culture in order to change the organisation. That's
30 going to be our long-term strategy over the next three to five years, to try and break those cultures.

COMMISSIONER: How do you do that?

35 MR CAMPBELL: At the moment it's small wins.

COMMISSIONER: Small steps.

40 MR CAMPBELL: Small steps. Being quite frank, having come from the private sector, I would have expected this sort of change to be further down the path than we are now. I think working within a public sector environment is very different and has different challenges and it's a lot slower.

45 COMMISSIONER: Is it your assessment that you have the workforce with you in relation to this?

MR CAMPBELL: I walk the floors every day and have coffee with guys, and the vast majority of people tell me that we're on the right track and we're doing the right things and we're challenging the right areas, and that people who don't
5 have access to a government fleet resent inspectors who do, because they can take it home at night. So that sort of behaviour, people are patting me on the back saying, "We're right behind you."

But I know that there's an element that aren't with me. There is an element that
10 want to keep cars. There's an element that don't want the accountability, that don't want to be performance managed, and they want the status quo to remain, and I think deep down they know that they can't stay the same, they have to change, but it will be dragged tooth and nail to get them to do it. Those people most definitely aren't behind me, but I think the vast majority are.

15 COMMISSIONER: Mr Campbell, you mentioned about the course that Charles Sturt had offered in which 12 of your inspectors have trained - - -

MR CAMPBELL: Yes.

20 COMMISSIONER: - - - with the intention that those 12 inspectors will educate the rest of the workforce.

MR CAMPBELL: That's correct.

25 COMMISSIONER: And that's proving to be successful?

MR CAMPBELL: Very successful, Commissioner.

30 COMMISSIONER: Has that lifted do you think, in your assessment, the quality of work that's being performed by the inspectors?

MR CAMPBELL: Most definitely. It's early days, but I think with the root
35 cause training and the Charles Sturt University training, people have had the cloth removed and they have now got some clarity and visibility on what they've been doing wrong, and the vast majority of inspectors have never been given this information or training, so you can't criticise them for not doing the right thing. But they've seen it as a real opportunity to make improvements, and that's the vast majority of the feedback I'm getting from people.

40 It is very different to what they've been doing in the past, but it now provides an investigation framework for managing scene attendance, the recovery of exhibits, the integrity of exhibits, and document management of that, the chain of evidence, and then the ability to take statements and records of interview
45 within a framework that's the same as the police force in Australia. So I'm

trying to give them the skill set but also build some consistency across other agencies whereby we can actually do multi-agency investigations at some point because we're all working from the same hymnbook.

5 COMMISSIONER: Is it not possible to have all of the inspectors attend a Charles Sturt course?

MR CAMPBELL: That's my wish. I didn't make it mandatory in the first instance because I was challenged by the union that if I made that mandatory then I'm implying that people can't do their job at the moment, and also that
10 some people didn't feel that they wanted to do it, therefore I couldn't force them to do it, which personally I think is ironic because they're probably the people that really need it the most. It's mandatory for the new people starting with the agency now and - - -

15 COMMISSIONER: To attend the course at Charles Sturt?

MR CAMPBELL: Yes. The whole revamped program, from induction right the way through, is mandatory. What I've seen is, the people who have been in
20 the shadows and just on the edges who had a little bit of doubt, they've gone along with an open mind, embraced it, loved it, and word is spreading throughout the workforce now. We don't have problems filling seats on those courses anymore.

25 COMMISSIONER: How long is the course?

MR CAMPBELL: The investigation management course is five days, and then there are two written assignments at the end of it.

30 COMMISSIONER: And the 12 persons that originally attended were all volunteers, were they?

MR CAMPBELL: They were volunteers, but we actually put them through quite a rigorous selection process; so we had more people apply than training
35 positions.

COMMISSIONER: Do I understand from what you say that you're still in consultation with the unions about the rest of the workforce attending that course, or has that consultation process finished?
40

MR CAMPBELL: The consultation process for that has finished, but what we haven't sort of grounded ourselves on a position yet is whether everyone has to do it. We're still - - -

45 COMMISSIONER: How many of the other inspectors have been trained by

the 12 inspectors who did attend the course?

MR CAMPBELL: I think we've done five courses now, so we're looking at around about 60 people who have gone through it. There are maybe another
5 25 to 30 inspectors to go, but our next course is next month.

COMMISSIONER: Has anyone refused to attend?

MR CAMPBELL: I don't think I've had an outright refusal yet.
10

COMMISSIONER: And so all of your new appointments must undergo the course at Charles Sturt?

MR CAMPBELL: That's correct, Commissioner.
15

COMMISSIONER: And what other training do they receive apart from that?

MR CAMPBELL: So the first three days is our standard induction, which is now covering off on all our policies, procedures, practices, then straight into
20 the 5-day investigation training period, then the inspector training program, which is 16 weeks, and that's a blend of a couple of days in the classroom and a couple of days out in the field, where they also have a new evidence log that they have to complete, which is then signed off by an independent trainer to say that they are competent in that particular area. Once they've gone through
25 the whole 20-week program, that's when we authorise them as competent inspectors and issue their full statutory powers.

COMMISSIONER: And how long will that take them altogether, before they would ordinarily get their statutory powers?
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MR CAMPBELL: So we're working on five to six months, if an inspector passes everything the first time and does a good job.

COMMISSIONER: And during that period, do they accompany qualified
35 inspectors on the workplace sites?

MR CAMPBELL: That's correct, yes.

COMMISSIONER: For the purpose of seeing how they conduct their
40 inspections?

MR CAMPBELL: Yes.

COMMISSIONER: What training program was in place when you started at
45 SafeWork SA in 2007?

MR CAMPBELL: There was an induction and there was an inspector training program. The induction hadn't been updated for quite a while and the inspector training program hadn't been updated either and was a little bit stale and it
5 wasn't centrally coordinated. So what was happening with that program is that internal people would be delivering a module such as engineering or pressure vessels or working at heights, it would be delivered by somebody within the business, but because there was no centralised control of the training material, if I didn't particularly like the slides and material that you developed I would
10 change them and that would be my version and yours would be sent into the history, so that stopped - - -

COMMISSIONER: Are you satisfied now that the training program you've got for newly appointed employees who are to become inspectors is
15 satisfactory?

MR CAMPBELL: I believe it is now, I do, but I think it's probably going to be a couple of years before we really see the improvements in that.

20 COMMISSIONER: And in part addresses the risk of corruption, misconduct, and maladministration?

MR CAMPBELL: In the induction, yes.

25 COMMISSIONER: Yes. I'm not for a moment suggesting that any employees of SafeWork SA are corrupt or have engaged in any form of misconduct or maladministration, but that's, of course, a risk, as you would accept.

30 MR CAMPBELL: Yes.

COMMISSIONER: And it's a risk because of, as we discussed earlier, the wide discretionary powers that they have, and that risk must be addressed by both proper training – you would agree?
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MR CAMPBELL: Yes.

COMMISSIONER: And also by a proper audit of each of those inspectors or the exercise of those inspectors' discretionary powers. Do you agree?
40

MR CAMPBELL: I'd agree with that, yes.

COMMISSIONER: There is another significant risk that arises where people have these wide sort of discretionary powers, and especially where you have
45 specialists, like you have in your silo as exercising those powers, and that's the

risk of capture, being captured by the employers or the unions.

MR CAMPBELL: Yes.

5 COMMISSIONER: How do you address the risk of inspectors becoming captured by industry or by unions?

MR CAMPBELL: I haven't seen any evidence that that was done. Going forward, the Operational and Legal Support team has that agency-wide oversight and internal audit, and because they're reporting directly to me that feedback will come to me, but, you're correct, Commissioner, that if an inspector – and, look, this has happened on some investigations, where familiarity with workers or industry groups has led to inspectors not necessarily doing the best that they should have done. Were we able to find that sort of behaviour in the past? No, most definitely we weren't, I believe. Were we able to find it going forward, then certainly, as part of the tighter governance around the management of the teams, the management with the executive and the Operational and Legal Support, I believe we'd be able to find that.

20

COMMISSIONER: Most people who are captured, in the sense that I mention it, are the subject of grooming for a period of time before the capture eventuates. What sort of education do you give inspectors about the risk of their being groomed by industry or industry organisations or unions in relation to that?

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MR CAMPBELL: So in the induction it's included now. Previously, I don't believe it was. I certainly haven't seen any evidence of that training.

30 COMMISSIONER: But that's now addressed in your induction program?

MR CAMPBELL: In the induction, yes.

COMMISSIONER: What's your assessment of the present state of morale within SafeWork SA in relation to the regulatory arm?

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MR CAMPBELL: In relation to the regulatory arm, I think morale at the moment is pretty low. I think it's low at the moment because of my decision to remove vehicles away from personal use and taking them home.

40

COMMISSIONER: That's affected morale, you think, negatively?

MR CAMPBELL: Most definitely, but, look - - -

45 COMMISSIONER: Did you expect that to be the case?

MR CAMPBELL: Sorry?

COMMISSIONER: Did you expect that result?

5

MR CAMPBELL: I did expect it, because the inspectors in the regulatory arm, 85-90 inspectors, the vast majority of them used those vehicles for 15 years or more. We have a very low attrition rate, so people generally don't leave SafeWork, and I believe access and use of a government car has been a driver for people staying. Many of the regulatory arm know that it's probably something that's happened over time but it's got to stop and that's fine, but there's a small group who believe that they're entitled to it, either entitled through long-term cultural use or part of their criteria of employment, but certainly moving away from that and stopping it has impacted on the inspectors. We've already had one inspector resign because we've taken his car away.

COMMISSIONER: You said that some inspectors claim that their contract of employment allows them the use of the fleet vehicles, I suppose to travel to and from work. Is that right?

20

MR CAMPBELL: That's correct, yes.

COMMISSIONER: Is there anything in the contract that says so.

25

MR CAMPBELL: I don't believe there is, no.

COMMISSIONER: You said you'd made the decision to not allow the use of vehicles by inspectors to travel to and from work and you communicated that to the workforce. Are you still in consultation about that with the union?

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MR CAMPBELL: I am, Commissioner, yes.

COMMISSIONER: Does that mean you might reverse your decision?

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MR CAMPBELL: Only if it's forced upon me.

COMMISSIONER: By who?

MR CAMPBELL: I believe that will end up in the South Australian Employment Tribunal on this decision.

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COMMISSIONER: That's a bit ominous. We're here now.

MR CAMPBELL: Yes. If that's the position, then I'll accept that and I'll work

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with that.

COMMISSIONER: Yes, right. So that's a real possibility, you think - - -

5 MR CAMPBELL: I think so.

COMMISSIONER: - - - that you'll end up in the tribunal? And is that the same in relation to the removal of the carpark benefits?

10 MR CAMPBELL: Yes, I think they're inextricably linked.

COMMISSIONER: But you don't intend to change your decision unless you're obliged to by the tribunal?

15 MR CAMPBELL: That's correct.

COMMISSIONER: Is that what you're saying?

MR CAMPBELL: That's correct, Commissioner, yes.

20

COMMISSIONER: You mentioned also in your submission that there had been a review of the investigations carried out by SafeWork SA by the Crown Solicitor's Office?

25 MR CAMPBELL: That's correct.

COMMISSIONER: And you were provided with that review?

MR CAMPBELL: Yes.

30

COMMISSIONER: That made a number of recommendations, I think. Have all of those recommendations been implemented or are they in the state of being implemented?

35 MR CAMPBELL: I think half of them are finished and the rest are near finished, but the Director of Investigations position that we recruited, that position has carriage of the implementation of those recommendations and we're well on our way to completing them.

40 COMMISSIONER: When do you expect that all of those recommendations will have been implemented?

MR CAMPBELL: I would hope that the vast majority of them will be finished within the next six months. There may be one which goes a bit longer, which relates to the training framework. We've been working on the

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overarching training framework for the agency, which is broader than just investigations, but certainly the Charles Sturt University course was an outcome of that recommendation from that review.

5 COMMISSIONER: I think also the organisation was subject to a review by PricewaterhouseCoopers.

MR CAMPBELL: That's correct.

10 COMMISSIONER: Which also made some recommendations in a recent audit report.

MR CAMPBELL: That's correct.

15 COMMISSIONER: Have those recommendations been accepted?

MR CAMPBELL: Yes, they have.

COMMISSIONER: And have they been implemented yet?

20

MR CAMPBELL: Yes, nearly all of those have been implemented. I think there's only one or two remaining outstanding, but we're still proactively progressing to completion.

25 COMMISSIONER: Do I understand that you would accept that the structures that you inherited, including the policies at that time, were not appropriate to guard against the risk of corruption, misconduct and maladministration in the regulatory arm?

30 MR CAMPBELL: I'd agree with that, Commissioner, yes.

COMMISSIONER: And are still not?

35 MR CAMPBELL: They're better, but still not where I would expect them, and certainly, I would imagine, not where you would expect them to be.

COMMISSIONER: And when is it that you think they will be in all respects robust enough to guard as much as possible against the risk of corruption, misconduct or maladministration?

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MR CAMPBELL: The documentation side will only take us a month or two to write the documentation. We're working with Treasury and Finance to implement the software solution to help us manage that, and I think the training will come very soon, but I think the audit and the internal controls, which are
45 going to be an ongoing thing, will be a critical aspect. It will be interesting to

see in the first six months what those internal audits identify.

5 COMMISSIONER: I mentioned earlier the issue of improvement notices and the other statutory notices that are available. Must the inspectors record their reasons for the issue of those notices?

10 MR CAMPBELL: Not from my knowledge. The compliance and enforcement manual that I wrote for SafeWork 12, 13 years had a chapter on investigative decision-making and it was part of the training course that I wrote for inspectors, which was to help them understand why, or internal and external forces which force you down a particular path, and how to combat that. That was removed and then nothing replaced it, so I don't think there's any training at all now that gives inspectors that level of scrutiny into their own thinking and what influences their decision-making.

15 COMMISSIONER: There are a number of decisions that are subject to review under the Act, are there not?

20 MR CAMPBELL: That's correct.

COMMISSIONER: That's an internal review?

MR CAMPBELL: Yes.

25 COMMISSIONER: And one of those, for example, is the issue of an improvement notice.

MR CAMPBELL: That's correct.

30 COMMISSIONER: Would it not be necessary for any review to understand why the inspector issued the notice?

MR CAMPBELL: So there is quite a rigorous internal process for the reviews of notices.

35 COMMISSIONER: I'm not talking about the review process itself but I'm rather suggesting that in case someone applies for a review, there should be recorded the reasons for the issue of the notice?

40 MR CAMPBELL: Yes, and what I wrote 12 years ago and what we're asking people now is exactly that, but it's also asking them not only why they made a particular decision to issue it but what other alternatives were available that they discounted that led them to this conclusion. That level of scrutiny and discussions isn't being had or wasn't had up until recently.

45

COMMISSIONER: Have you reintroduced that obligation?

5 MR CAMPBELL: Yes. So that level of investigative decision-making and thinking is what we've included back into the training program, and that sort of questioning is what we're trying to get the team leaders and the managers, as well as the independent review process - but to get people thinking in that way and having those conversations with the inspectors.

10 COMMISSIONER: Have the inspectors been given an instruction that in the future they must provide reasons for the issue of a notice, and why a notice was necessary and no other process was available?

15 MR CAMPBELL: I believe it is there. I'll have to take that on notice, Commissioner, and come back to you.

COMMISSIONER: Yes, if you wouldn't mind.

20 MR CAMPBELL: I'm certain that that level of direction is there, but to what extent I'm not certain.

COMMISSIONER: It just seems to me that if in fact there was an obligation to provide reasons, it again minimises the risk of corruption or misconduct or maladministration in relation to the issue of the notice.

25 MR CAMPBELL: Yes.

COMMISSIONER: You accept that?

30 MR CAMPBELL: Yes.

COMMISSIONER: As far as audits, we were told in Western Australia that WorkSafe Western Australia has a person who randomly selects an inspector and reviews that inspector's work which that inspector has undertaken for a month or so. Have you got a program of that kind?

35 MR CAMPBELL: We do in the Operational and Legal Support team, but not before, so previously I haven't seen evidence of that systemic process.

40 COMMISSIONER: What role does the Operational and Legal Support team play in that regard?

45 MR CAMPBELL: So they will have that overarching oversight of quality assurance, best practice, internal control. There's a manager, and there will be two chief advisers in that team, one of which is a specialist for investigations and one is a specialist for inspectorate work. They will be there to do that

internal control, to look at inspectors, to do coaching, mentoring, and work with individuals.

5 COMMISSIONER: Will that be in the form of a random audit?

MR CAMPBELL: Yes.

10 COMMISSIONER: And will they select a particular inspector to randomly audit?

MR CAMPBELL: We're going to try and base it on risk, as any good audit schedule should be. But we'll try and base it on risk, and if the risk numbers reduce over time, then we'll do it on a sort of schedule process so we cover as much as possible.

15 COMMISSIONER: Will that process be known to the inspector who's subject to the audit?

20 MR CAMPBELL: I don't see any reason why the process wouldn't be made public, but certainly somebody knowing that on Monday morning they're going to be the subject of a review is not acceptable from my perspective. So if I go to an inspector to do a check, then that should be unknown to that inspector. They shouldn't know that we're looking at them on a particular day.

25 COMMISSIONER: Quite. The system in Western Australia is that it's carried out in a way that the inspector doesn't know he or she is subject to any audit.

MR CAMPBELL: That's correct.

30 COMMISSIONER: Is that what you propose?

MR CAMPBELL: That's what I'm proposing.

35 COMMISSIONER: Another matter that's been brought to our attention is triaging and the manner in which it is carried out. Are you satisfied with the way in which the various teams triage complaints that are made to them?

40 MR CAMPBELL: I wasn't. I'm more comfortable now. One of the pieces of work that's come out of the investigation and prosecution review is to revamp our triage process, and the Director of Investigations is near completion of that. We're trying to make it easier but consistent and easier to apply. I think there was too much variety and subjectivity involved in it previously.

45 COMMISSIONER: Ms Stanley, do you have any questions of Mr Campbell?

MS STANLEY: Thank you, Commissioner, just a few.

COMMISSIONER: Yes.

5 MS STANLEY: You mentioned there that you were seeking to make your triaging process easier to apply. Can you explain what the vision is for the triaging process?

10 MR CAMPBELL: The vision is that when somebody calls SafeWork SA that we respond quickly and we respond appropriately, depending on the level of the severity of the call. We need to have a process that allows our call takers to very quickly escalate through our systems so that we can respond as soon as we can, and that whatever process we have, or whatever the call coming into the organisation, the process is repeatable and consistent so that the public get the
15 same level of service. I think historically we've had scenarios where people have had different advice on different days by different people, and that's what we're trying to stop.

MS STANLEY: It's become evident, through some of the documents that
20 we've read, that at some stage – and I'm not entirely sure if it's still the case – when inspectors went on site visits, they would complete inspection reports. Is it still the case that they complete inspection reports?

25 MR CAMPBELL: Yes, that's correct.

MS STANLEY: And what's the process for monitoring whether or not inspection reports have been completed?

30 MR CAMPBELL: That goes back to the individual team leader and the team manager to do their quality assurance checks.

MS STANLEY: You've mentioned a couple of training programs. One is the 16-week program for inspectors - - -

35 MR CAMPBELL: Yes.

MS STANLEY: - - - and also the induction program. Given the state of the policies as they presently are, being somewhat confusing, how does the induction process explain the policies and procedures?
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MR CAMPBELL: We've started to review and update the procedures as we've gone along. So what we've taken are the critical procedures and policies that we need to do that work and change those, and in some respects the policies and procedures were good and they were up to date and had been
45 reviewed but there was no formal process to ensure that applied to all of them,

so the policies and procedures that we're using as part of the training process is we're trying to update those as we go along to make sure that what we're teaching people is current practice.

5 MS STANLEY: Is it envisaged that things like what the Commissioner spoke about, providing reasons for why a notice is being issued, is it envisaged that they will become part of policies and procedures?

MR CAMPBELL: I would like to think so, yes, definitely.

10

MS STANLEY: Mr Campbell, would you say that it's a fair assessment that given there have been, I think, five executive directors of SafeWork SA in recent times, that the employees are suffering from perhaps some change fatigue?

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MR CAMPBELL: I would think that, most certainly.

MS STANLEY: You mentioned before that you've offered some resilience training to staff. Is that the Oranges program that you're referring to?

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MR CAMPBELL: It is. It is, yes.

MS STANLEY: What has the uptake of that program been like amongst the inspectorate?

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MR CAMPBELL: I would probably say 99.9 per cent have embraced it. I would say the vast majority have gone in with a bit of doubt because they've never had any training like that and were a little bit unsure about what it was. I think 100 per cent have come out of the two days and said it was the best thing they've ever done. I think it's a superb training course which is exactly what we need. The challenge is the same as with any training, is you don't leave it at the end of the last day at 5 o'clock and never use it, but you actually take it to your workplace. So we've put the managers and team leaders through first so that they could help drive some of the behavioural changes with the workers. There have been one or two people who have dropped out at the very last minute, but we're trying to sort of put those back into the program.

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MS STANLEY: And is it mandatory that staff undertake the Oranges program?

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MR CAMPBELL: I can't remember actually whether that is. If I can get back to you on that because I'm not sure.

MS STANLEY: That's fine. Thank you, Commissioner, I have no further questions.

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COMMISSIONER: Is there anything further you wish to say, Mr Campbell?

5 MR CAMPBELL: The only thing I'd really like to say, apart from thank you
for the opportunity, is that I left the private sector to come back to this job.
It was the only job in government that I would come back to government for.
I firmly believe the majority of people at SafeWork are great people and do
a great job, but I believe there's a small minority that are anchored in the past
and we need to make changes. I'm certain that the majority will ride the wave
10 of change and we'll get to where we need to be. I can't do it alone. I've got
a new executive and a new change team that are doing it for me, which I rely
on hugely, but I think the long-term result is we'll have a regulator that's
relevant, that has the respect of the industry and the public and is highly
capable and highly competent. It's just hard work and slow to get there.

15 COMMISSIONER: Thank you. At the outset I said I might have to make an
order to the effect that some of your submissions here today could not get
published. There's no need for any such order. I authorise the publication of
the whole of Mr Campbell's submission and the questions asked by me and
20 Ms Stanley of Mr Campbell and his answers. Thank you very much,
Mr Campbell.

MR CAMPBELL: Thank you, Commissioner.

25 **MATTER ADJOURNED AT 12.00 PM ACCORDINGLY**