

**THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON ACCREDITATION OF BUILDING PRACTITIONERS MET IN COMMITTEE ROOM 2, PARLIAMENT HOUSE, HOBART ON WEDNESDAY 15 NOVEMBER 2006.**

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**ROBERT PEARCE, GRAEME HUNT AND MARK SMITH, DIRECTOR OF BUILDING CONTROL, WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.**

**CHAIR** (Mr Harriss) - We welcome the three of you. Graeme and Robert are well known to most committee members. I don't know if you know Mark as a recent appointment as the Director of Building Control. For completeness, would you each state your current position.

**Ms THORP** - And previous, if there has been a change.

**CHAIR** - Yes, because that is relevant to the hearing.

**Mr SMITH** - I am currently the Director of Building Control and was previously the Senior Inspector of Mines with Workplace Standards.

**Mr PEARCE** - I am Director of Policy and Planning Services. I have held the statutory position of Director of Building Control however there is a recommendation before the Premier to appoint Mark Smith as the statutory holder for building control and to revoke my statutory position. I am not aware of the current status. It is imminent.

**Mr HUNT** - I am Manager, Building Standards and Regulations, Department of Justice.

**CHAIR** - We have received some documentation from the Workplace Standards Authority. In a conversation between Mrs McLeod and Brendon Bowes it became evident that the committee had not been provided with all of the documentation relative to accreditation of building practitioners from the time it was conceived until the current stage. That conversation further went down this line, as I best recall, that the authority or the people to whom the request had been made had made some judgments as to the completeness of the documentation. Mrs McLeod then responded that is really for the committee to make a determination as to what is relevant and what isn't. We had clearly asked, through the Attorney, for all documentation relevant to matters going to the accreditation of building practitioners.

I seek some clarification from our Secretary, Mrs McLeod. That information has not come to us yet, has it?

**Ms THORP** - It looks as though it might be about to.

**SECRETARY** (Mrs McLeod) - It is being tabled now.

**CHAIR** - Okay. Maybe just to start, can you give us a quick thumb sketch as to what is in those documents as opposed to the documents which the committee was provided with previously?

**Mr PEARCE** - These larger folders are documentation regarding additional information requested by KPMG. We have searched our files and located them.

**CHAIR** - What sort of additional information does that go to, Robert?

**Mr PEARCE** - Basically just probing and drilling down further on specific issues, many different issues.

**CHAIR** - Can you give us maybe two examples?

**Mr PEARCE** - No, I'm sorry I can't. I've been away for several weeks and I do not know during that time what information was requested. Graeme, can you assist?

**Mr HUNT** - The answer is no and I am going to have to defer to Mr Bowes, if I can.

**CHAIR** - Is he here? By all means come to the table, Brendon, and we will get you to read the declaration as well, please.

**BRENDON CLARK BOWES**, ADVISORY OFFICER, WORKPLACE STANDARDS WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

**CHAIR** -What is your current position?

**Mr BOWES** - I am advisory officer at Workplace Standards and before that I was administrative officer at Workplace Standards.

**CHAIR** - You have heard the question so if you can enlighten the committee, please.

**Mr BOWES** - In relation to the additional information in these two large ring binders, KPMG required general information to show the relationship between Workplace Standards Tasmania and the Tasmanian Compliance Corporation between 2002 and 2006 so these folders were provided to KPMG. The other copy of the folder is the complaints processes, which deals with the relationship between the TCC and WST regarding complaints made by consumers about building practitioners. That particular folder was meant to be provided to the committee but it was not passed on by Justice.

**CHAIR** - Yes.

**Mr BOWES** - These two larger folders are not of any particular subject matter but they just exhibit that the relationship between WST and the TCC was ongoing, it was a relationship built on working to resolve problems and those are just examples of the sorts of work that was carried out by Workplace Standards Tasmania in the administration of the accreditation provisions of the Building Act.

**CHAIR** - I thank the departmental officers for their foresight. We specifically asked for other people to come and they have had the foresight to bring Brendon and that has been helpful. We would have only had to revisit this situation and we do appreciate that.

**Mr WILKINSON** - Brendon, you said they were examples of what went on. Is that all that went on? Do we have all the information?

**Mr BOWES** - No. We have also brought along today on disks all the files relating to accreditation of building practitioners. They have been condensed from 20 paper folders onto one disk. They include all the files relating to the Tasmanian Compliance Corporation, the Joint Industry Group application, the Office of Consumer Affairs application, the Building Practitioners Accreditation Corporation, Tasmania, application and one file on general matters to do with authorised bodies such as research that WST carried out about authorised bodies and the roles of licensing bodies.

**Mr WILKINSON** - So therefore everything that took place between government and the TCC or Workplace Standards, everything involving this investigation, is now before us?

**Mr BOWES** - Yes, I am confident that you have all of those matters. There were some matters dealt with between WST and the TCC on very specific issues such as interpretation of the Mutual Recognition Act which are not included but that is just the work the TCC was carrying out for accreditation.

**Mr WILKINSON** - So therefore if we look into those documents and look for a letter - let us say in reference to your letter of such and such - that letter should be on there?

**Mr BOWES** - Yes, that is correct. These files contain all the information to do with authorised body applications; with the TCC because they were appointed as the authorised body; and the ongoing relationship between WST and the TCC up until - well I think they are up-to-date, the very last file.

**Mr HUNT** - Mr Chairman, I would like to also table a disk of e-mails which I have kept on my computer which may not be in the files.

**Ms FORREST** - That is what I was going to ask: does it include e-mail correspondence as well as paper-file letters?

**Mr HUNT** - If the e-mails made it to the paper file, which in many cases obviously they did not because they were in the process of leading up to something, they would be on the paper file but if they did not they are all there.

**CHAIR** - Thank you, we appreciate that. Any further questions on those matters?

**Ms THORP** - I suppose just to clarify they do not go to matters that we have concerns about being sub judice?

**CHAIR** - Lin has reminded me that we do need to remind you that we are staying clearly on the path of the accreditation process. We are not, in any way going to be addressing our minds today or in the immediate future, to the matter of the service level agreement, signed between Bryan Green and John White because of the matter being before the court. So we will be staying away from that and we would ask you, likewise, to be sensitive about that, as I am sure you will.

**Ms THORP** - I just want to clarify, Chairman, that there would not be documentation there that would be inappropriate for us to receive, given that the matter is a sub judice.

**CHAIR** - My judgment is that we are no different position than previously, that we, as a committee, are entitled to receive any documentation, as we did in the past. If there are matters in that documentation which go to the service level agreement, we will treat those matters the same as we did in the past - they will be locked in the safe of the Clerk of the Legislative Council. This committee will not consider them, pending the outcome of the court process.

**Mr WILKINSON** - I note that you have reduced the files down to disks. Are those files still in existence?

**Mr BOWES** - Yes, they are.

**CHAIR** - Does anybody, particularly Rob or Graeme, who were intimately involved in the process of recommending to the minister, at the appropriate time, the appointment of the TCC as the organised body, wish to make any introductory comment on the history of

what happened and how the TCC was ultimately given authorised body status? There will be some questions about due diligence and the like.

**Mr PEARCE** - The Joint Industry Group that you have heard of consists of representatives of all the aspects of the industry. We are working towards developing an application to become the single authorised body. This was in response to correspondence we sent out to a number of stakeholders, seeking expressions of interest. TCC was not one of the bodies written to. However, they became aware that this process was happening and they indicated interest in putting forward an application. The staff of BSR worked together with representatives of the Joint Industry Group who assisted their application. Likewise, we worked with the TCC assisting them to refine their application. The development of the application was very labour-intensive, iterative process. The committee heard earlier from Mr Ormerod, who went through a similar process with the Consumer Affairs application, as did the BPACT application. Eventually the Tasmanian Compliance Corporation's application was at a standard where we believed it was compliant. I was of the view it had become compliant through the work that both parties had done and I put it forward to the minister, recommending that he appoint them as an authorised body.

**CHAIR** - Which one was that?

**Mr PEARCE** - The Tasmanian Compliance Corporation.

**Ms FORREST** - When you determined that the application was compliant, did that application give time frames for achieving the areas it covered, such as the CPD, the auditing, the accreditation initially, and all those other factors that were part of the requirements?

**Mr PEARCE** - There were very few performance indicators such as time lines and the like. With hindsight that was something that would have been prudent to have incorporated into the scheme. There was a percentage nominated on audits that they were undertaking - 10 per cent from memory - but very few performance indicators within the scheme.

**Ms FORREST** - What performance indicators were included?

**Mr PEARCE** - The 10 per cent audit.

**Ms FORREST** - That was just the desk-top audit that you are talking about?

**Mr PEARCE** - No, all audits. There were a range of audits proposed.

**Ms FORREST** - Any other performance indicators? You only mentioned audits.

**Mr PEARCE** - The CPD model was in the scheme. I do not believe the actual time frame for roll out was specified in the scheme.

**Ms FORREST** - So there was no clear performance indicator with the CPD?

**Mr PEARCE** - No, nor was there one for accreditation.

**Mr HUNT** - Other than 1 July 2004.

**Mr PEARCE** - That was a legislative requirement. From 1 July 2004, you had to be an accredited building practitioner to undertake building works.

**Ms FORREST** - What about complaints resolution, investigations and that sort of thing? Were there any performance indicators related to those?

**Mr PEARCE** - No. There was a process laid out in the scheme that they intended to follow but I do not believe there were any time lines in responding to complaints.

**Ms FORREST** - So in hindsight, it would probably be a thing you would have looked at more closely. Would you see it as an important aspect in accepting of a scheme to have performance indicators as part of it? Obviously the accreditation was to be by 1 July, but the other points were still important. Would you believe that would form an important part?

**Mr PEARCE** - With hindsight, they were important; with hindsight, the performance indicators should have been incorporated into the ministerial guidelines so that we could enforce the provision of those in any scheme.

**CHAIR** - I would like to take you further to the TCC's accreditation scheme as submitted to you. I am puzzled by what you have just indicated to the committee, Robert. My reading of the TCC scheme sets out some fairly well-defined performance standards, things which the TCC said it would do unequivocally with regard to an accreditation tribunal, a complaints tribunal, the operation of the scheme, reporting to the Director of Building Control - and I could go on. You are aware of the detail of that document. How is then that you have answered as you just have to Ruth in regard to performance indicators and the lack thereof?

**Mr PEARCE** - With regard to the establishment of committees and the like, the issues that you have just referenced, there was no time line for appointments to the various committees in the scheme. With hindsight, time lines would have been advantageous.

**Ms THORP** - Because if they were not met then you would have some legal basis or statutory basis to take action?

**Mr PEARCE** - Correct.

**Ms FORREST** - I haven't had time to read this information provided about the actual scheme proposed by the TCC, but one of the other matters of concern in the evidence we have received from builders and some people applying for accreditation was the code of conduct. Was the code of conduct clearly identified and articulated in the application, not just a brief summary but the full code?

**Mr PEARCE** - Yes, there was a code of conduct within the scheme, however at the request, I believe, of the Builders Group meetings further codes of conduct were developed at various levels.

**Ms FORREST** - So different codes of conduct were developed for different levels; the one code wasn't amended to meet deficiencies? Is that what you are saying?

**Mr PEARCE** - There was a code of conduct within the scheme and other codes were developed to mirror those requirements, but were refined down to specific practitioners. We had codes of conduct for builders. Sorry, I should have been saying CPD as opposed to code of conduct. Continual professional development, CPD -

**Ms FORREST** - No, I'm talking about a code of conduct. Did the original application include a full code of conduct?

**Mr HUNT** - It did include a full code of conduct which referenced a number of other industry codes of conduct.

**Ms FORREST** - And that was made available to applicants at the time; are you aware of that?

**Mr HUNT** - I don't believe it was made available.

**Mr WILKINSON** - Is there any reason for that?

**Mr HUNT** - I understand there were commercial issues -

**Mr WILKINSON** - Commercial-in-confidence, I suppose?

**Mr HUNT** - Yes, that raised themselves at the time from TCC's point of view.

**Ms FORREST** - If there were issues of commercial-in-confidence on a code of conduct that a person, when applying for accreditation as a builder, has to comply with and sign to sign to say that you have read it and will abide by the code of conduct, if it hasn't been provided because of issues of commercial-in-confidence how does anyone making application feel comfortable signing that.

**Mr HUNT** - We made the same point to the TCC.

**Ms FORREST** - And what was the outcome of that?

**Mr HUNT** - They provided a summarised code of conduct.

**Ms FORREST** - So do you believe that is adequate when a builder has stated that he or she will abide by a code of conduct that directs their practice and their business and their dealings with a customer? Do you accept that as reasonable?

**Mr HUNT** - No, I didn't accept that as reasonable at all.

**Ms FORREST** - So what did you do then?

**Mr HUNT** - We advised them to provide their code of conduct.

**Ms FORREST** - The full code?

**Mr HUNT** - Yes.

**Ms FORREST** - And did they?

**Mr HUNT** - Not for some time. This was on-going, this was one of the issues. You will note that it was an issue that was topical two years after they were appointed.

**Ms FORREST** - So this problem with the code of conduct was going on two years after they were accredited?

**Mr HUNT** - Building practitioners were provided with a summary of the code of conduct.

**Ms FORREST** - Which you believe was inadequate, according to what you just said?

**Mr HUNT** - Yes.

**Ms FORREST** - At any point did you inform the minister that this a big issue to the builders, because they were being asked to sign that they agreed with a code of conduct that they hadn't seen in order to gain their accreditation?

**Mr PEARCE** - I don't recall specific advice being provided to the minister, however the minister's representatives were regular attendees at Builders Group meetings on this issue. It came to the fore at a number of those meetings.

**Ms FORREST** - What was the general feeling at that point? What direction was given to address what I would consider was a fairly urgent matter for the builders as well?

**Mr PEARCE** - It was not believed to be satisfactory. Suggestions had been made to the Compliance Corporation that they should be making the document publicly available, that they should have an adequate web presence and information such as this should be put on their web.

**Ms FORREST** - That still wasn't done?

**Mr PEARCE** - Correct.

**Ms THORP** - Are they the kinds of issues that are covered in these regular meetings? Builders Group meetings.

**Mr HUNT** - They would be in there.

**Ms THORP** - I understand, from my brief reading of it, that at every meeting any issues that people had about how things were progressing were mentioned, progress was reported, and action suggested for a later date. I think other committee members would probably find this really useful.

**Mr DEAN** - Are those issues documented in these files or was this all verbal?



**CHAIR** - Is there anything you wanted to clarify as a result of having perused those documents?

**Ms THORP** - Issues like the ones raised by Ruth in terms of functioning are all detailed there, but what about issues coming from all the representative groups like HIA and Workplace Standards representatives?

**Mrs SMITH** - And TCC and yourselves were represented at these meetings.

**Ms THORP** - Yes.

**Mrs SMITH** - I think that is the issue. We need to know who was there - industry, the department and the accreditation body.

**Mr PEARCE** - And local government.

**CHAIR** - Robert, you mentioned that the minister's advisers were at the meetings, so therefore are we to conclude that the minister ought to have been aware of the concerns of all of those people at those meetings?

**Mr PEARCE** - If the concerns were of a significant nature, reliance would have been placed on the adviser to apprise the minister of the situation.

**CHAIR** - Who were the advisers who attended various meetings? We can get them from looking at the records ourselves.

**Mr PEARCE** - They will be recorded in the meeting. The last one was Guy Nicholson and prior to that John Dowling.

**Ms THORP** - It might be worthwhile having the chance to say which bodies were represented.

**Mr PEARCE** - Members of the Builders Group included senior officers of the following bodies: Director of Building Control; staff of Building Standards and Regulation; the chief adviser and minister responsible for Workplace Standards Tasmania; Tasmanian Compliance Corporation; Local Government Association Tasmania; Housing Industry Association, Master Builders Association of Tasmania; Master Builders Association of Northern Tasmania, and the Tasmanian Builders Association. Members of the Builders Collective also attended meetings in 2004 and 2005.

**Ms THORP** - Would you think that was a fairly good coverage of all the interested stakeholders?

**Mr PEARCE** - Yes; all of the builders and the stakeholders there are represented, by far the major proportion of accredited practitioners in the State.

**Ms THORP** - The basic brief of those meetings was to -

**Mr PEARCE** - Assist, identify problems with implementation, get them on the table and fix them and move on.

**Mr WILKINSON** - I know you say that the advisers were there but - tell me if I am wrong - it is not just for the advisers to convey to the minister who is in control of the act that there are problems. Did you ever advise the minister yourself: 'Look, there is a problem here; here we have builders having to sign something but they don't know what they are signing for'?

**Mr PEARCE** - I don't recall specifically raising that with the minister.

**Mr WILKINSON** - Did you have any meetings with the minister at all in relation to this?

**Mr PEARCE** - I don't believe so. I attended a number of meetings with the minister in an advisory capacity when he met with industry stakeholders such as the HIA and MBA and a wide range of stakeholders, and at times similar concerns were raised, but not specifically, as I recall.

**Mr WILKINSON** - It seems to me - and I am only on the outside looking in - for want of another word, fairly sloppy. I say that because there were these obvious problems, but the minister does not appear to be advised of those problems in order that he or she be able to rectify the problems. Hindsight is terrific. If we had hindsight we probably wouldn't be here. What other things, in hindsight, were not done that should have been done? I know we can go through those, but just in summary, or are you saying the only thing that should have been done that was not done was the code of conduct?

**Mr HUNT** - Can I just add one other thing that I should have said in relation to commercial issues. David Diprose also claimed copyright on the code of conduct and therefore the TCC were not in a position to publish it.

**Mr WILKINSON** - That is easily fixed. You can say that it is not copyright; this is under the TCC headline, so it is not under his name -

**Mr HUNT** - That is still in dispute.

**Mr WILKINSON** - Yes, but it is a matter that could be fixed up fairly swiftly, one would have thought.

**Ms THORP** - You just said it was still in dispute.

**Mr HUNT** - Yes.

**Mrs SMITH** - Was it in dispute, though, back when you started sitting around the table with all these groups?

**Mr HUNT** - Yes, because he was not there by that point.

**Mrs SMITH** - Okay.

**Ms FORREST** - These meetings occurred after David Diprose had left, is that what you are saying?

**Mr HUNT** - They started when he was there but the issues arose about the code of conduct.

**Mr PEARCE** - That gives a little bit of a snapshot of the environment at the time. There was also the environment of the BPACT Supreme Court challenge and the like. The TCC indicated that they were very reluctant to release the scheme until that had been resolved, so all these external factors were creating problems.

**Mrs SMITH** - I need to understand what the expectation was. You called for expressions of interest and on 23 July 2003 Minister Cox gave the TCC approval for accreditation. They were to start on 1 July 2004. Is it a normal expectation that when they started to work on 1 July 2004 everything they put in their scheme would be ready to go?

**Mr PEARCE** - A totally unrealistic expectation.

**Mrs SMITH** - Unrealistic?

**Mr PEARCE** - Yes.

**Mrs SMITH** - After the minister's approval they had 12 months to get things in place, and that was unachievable for anybody; is that what you are saying?

**Mr PEARCE** - Correct, and the Builders Group recognised that. The primary focus of the corporation was firstly getting the accreditation sorted out, getting all the practitioners on the books. Then when that was under control the thrust moved to issues like complaints-handling processes, then getting CPD rolled out and then on the auditing of practitioners. They were seen as the progressive priorities of the Compliance Corporation, which I believe were implicitly, if not explicitly, endorsed by the Builders Group.

**Ms THORP** - And the minutes of those meetings of the Builders Group reflect that change in emphasis over time?

**Mr PEARCE** - Yes.

**Mr WILKINSON** - That was the atmosphere you were dealing in at the time, but was that the atmosphere you were dealing with prior to giving them the tick as the accrediting body?

**Mr PEARCE** - No, it wasn't.

**Mr WILKINSON** - Right. Do I take it, then, that straight after you advised the minister that they were the most appropriate applicant for the position, in relation to your codes of conduct that we have been speaking about the issues arose straight after they were accredited? Builders said, 'Look, we want the code of conduct. We have to sign that we're going to abide by them but we don't know what they are, therefore how can we really sign? If we don't sign we're not going to be accredited'. Do you know what I mean?

**Mr PEARCE** - Yes. It is pretty hard to put a specific date on when the external environment changed. It happened over a period of time. Probably the start of it was when the Joint Industry Group appeared to implode, and they gave up on their application. That was

probably as a result of a disagreement over the transitional provisions for building practitioners - specifically builders.

**Mr WILKINSON** - Do I take it then that your relationship with the TCC started to sour after they became accredited?

**Mr PEARCE** - I don't know that it ever soured, there were various phases of the TCC's accreditation, starting from the greenfield approach. Assistance was given to get the accreditation moving and then we moved on to those other phases. There was in the latter part a frustration that they could have been delivering some of the elements of the scheme more rapidly, however there was, as mentioned, a very volatile environment that they had to operate within.

**Mr WILKINSON** - What was that volatility?

**Mr PEARCE** - It was the BPACT, the transitional provisions caused a lot of angst - there was a whole plethora of issues. We have documentation on a number of the problems. BPACT I have mentioned; claims by the HIA of secret accreditation deals; architects support of their own authorised body in BPACT. There was a whole range - lobbying from the Builders Collective. I can make this summary available to you.

**Ms THORP** - It's going around the table.

**Mr PEARCE** - Okay. It does help to explain the environment through the various phases where things weren't as straightforward as they may now appear to be.

**Mr WILKINSON** - I heard you say at the outset that you advised the minister that it was an appropriate accrediting body. Did you ever say to the TCC, 'These things aren't happening as quickly as we think. You are an accrediting body, not the only accrediting body. If you don't pull your socks up, we're going to have a word to HIA, MBA or whoever it might be, as another accrediting body'?

**Mr PEARCE** - I don't believe I raised it in that context. It was certainly an option open to them.

**Mr DEAN** - I want to go right back to the document that was raised by Ruth about builders being expected to sign off on documents they were unable to sight and so on. That was obviously a very important issue and you have indicated to Mr Wilkinson that you did not bring that to the direct attention of the minister. That was a very critical issue for the builders. Did you put that in writing to the minister's office?

**Mr PEARCE** - No, I did not.

**Mr DEAN** - Did not the significance of that issue dawn on you, that it is one that ought to have been put in writing to a minister?

**The committee suspended from 12 p.m. to 12.15 p.m.**

**Mr DEAN** - You have the question that I asked. Are you able to provide an answer?

**Mr PEARCE** - Yes, I am. The Builders Group meeting was established for those practitioners to air their concerns about any aspect of the implementation of the Building Act. No concerns with respect to provision of a code of conduct were raised in the early days of those meetings. So we did not have it as a headline issue. I am aware that the TCC put out a summary of their Code of Conduct with one of their newsletters, further on in the implementation of the act. The one area that may have ameliorated the issue is that unsatisfactory professional conduct and professional misconduct are both defined in the act, so it is quite clear what the parameters were.

In summary, the Builders Group did not have it as an issue and therefore we did not have it as an issue. We did raise internally that we were concerned about the lack of transparency and practitioners not having either the scheme or the Code of Conduct and we raised this with the TCC on a number of occasions. But from the industry perspective, I can only repeat it was not perceived to be an issue.

**Mr DEAN** - So it was not raised in any of these meetings that you referred to where all of these bodies were present?

**Mr PEARCE** - Certainly not earlier on.

**Mr DEAN** - So it was raised then in another area with the TCC, and you just indicated that. Did you ever report those concerns in writing? I think you originally said that you also had concerns with that?

**Mr PEARCE** - Correct.

**Mr DEAN** - Did you raise that in writing to any organisation or to the minister or to the minister's office?

**Mr PEARCE** - I do not recall formally advising the minister in writing. I believe that it had been verbally raised with the minister's adviser. We have had regular dialogue with the advisers on issues to do with the implementation of the act. By far the major issue confronting the Builders Group, which we will probably touch on later, was the owner-builder issue.

**Mr DEAN** - I don't want to misquote you. Are you saying you did advise the advisers of this or you believe you might have?

**Mr PEARCE** - I would be very surprised if I did not. I'm sorry, I'm not trying to avoid the question. I do not recall specifically raising it. It is the sort of issue that would have been routinely raised. There may be an e-mail on the files to indicate I raised it. As I say, I would be very surprised if I did not raise those sorts of issues with the adviser but I do not recall specifically doing so.

**Mr DEAN** - I have not read the documentation. Is there anything in the documentation in relation to your concerns and issues with this? Have you documented that?

**Mr PEARCE** - There would be documentation in the files indicating our concerns with the lack of progress with the TCC in a number of areas - web site, Code of Conduct and in the earlier days, before they were rolling out CPD, those types of issues. There would be documentation.

**Mr DEAN** - Regarding the meetings that you have had with the bodies that you have referred to, I take it that full minutes of those meetings were completed?

**Mr PEARCE** - There were notes for all meetings.

**Mr DEAN** - What sort of notes were taken? If there was a meeting, I would have thought there would have been good minutes kept on the issues of those meetings. Is that not so?

**Mr PEARCE** - There were not formal minutes taken; they were not moved or seconded. At the start of every meeting when I was chairing it, which was the majority of the time, we made sure that people believed that they were an accurate summary of the events of the previous meeting and, if not, they were amended.

**Mr DEAN** - So those minutes that you are talking about were completed obviously and then circulated to all relevant bodies. A copy of those minutes obviously would have gone to the advisers because the advisers were there.

**Mr PEARCE** - That is correct.

**CHAIR** - What was the earliest date of those group meetings being held - the very first one?

**Ms FORREST** - It was 21 January 2004.

**CHAIR** - As Mr Dean has just indicated, it is a reasonable presumption, isn't it, that because all the participants at those meetings were provided with copies of those dot points, the minister could have been aware because he had his advisers there?

**Mr PEARCE** - He had his advisers there. The adviser was there to provide a high level of advice and to keep the minister apprised of significant issues of concern.

**Mr DEAN** - How much direct conversation did you have with the minister in relation to the TCC and the accreditation system itself?

**Mr PEARCE** - At what time?

**Mr DEAN** - Right through the whole stage. Did you have much or any direct conversation with the minister, or either one of the ministers involved in the scheme?

**Mr PEARCE** - Minimal dialogue with the minister prior to recommending that the TCC be appointed. There may have been no communication. There were issues about TCC's perceived performance arrangement with stakeholders and I was asked to attend meetings with those stakeholders. As the act began to be implemented, dialogue on specific issues with the minister increased.

**Mr DEAN** - You said dialogue with the minister increased?

**Mr PEARCE** - Correct.

**Mr DEAN** - Between you and the minister?

**Mr PEARCE** - Yes, between myself and the minister.

**Mr DEAN** - So you did have a number of conversations with the minister regarding the TCC and the accreditation system?

**Mr PEARCE** - I was asked to attend meetings with the minister and the stakeholders who had suggestions for improvements or concerns. As a matter of course I was asked to provide an issues brief for those meetings and attend and, when requested, respond to either the minister or the stakeholders.

**Mr DEAN** - Is there any record maintained of those meetings with the minister in the correspondence?

**Mr PEARCE** - Normally those meetings would not have been minuted. If there was action then the corresponding action would be on the files - letters. On the files there would be copies of the issues brief prepared for such meetings.

**CHAIR** - Was there ever a time through this process when criticisms were raised in these numerous meetings that your office ever advised the minister to reconsider the appointment of the TCC?

**Mr PEARCE** - Not to my recollection.

**CHAIR** - Were you ever concerned as to the compliance with sections 19 and 20 of the act, which set out the circumstances under which an authorised body is appointed? Under section 19(2)(a)(ii) of the act, the authorised body shall provide a 'code of conduct by which the body proposes to measure the performance of accredited building practitioners'; they never provided that. Then in section 20, of course, the minister can make an assessment as to whether the authorised body has competence and expertise. If there is a judgment made about the lack of such then the minister can withdraw the commission. So there was never a time when your office was concerned to that extent that you advised the minister?

**Mr PEARCE** - The code of conduct was in the scheme.

**CHAIR** - Yes, it was.

**Mr PEARCE** - So the minister had that. The performance of the TCC was regularly monitored. They were advised that they needed to lift their game in numerous areas when it was deemed appropriate that they should do so. At no stage did I get to the level of dissatisfaction with the TCC that I contemplated recommending to the minister that he use his discretionary powers to remove them.

**CHAIR** - Why is it that you didn't get to that stage given by your own evidence today, that the TCC hardly measured up in any of the areas of their own scheme, apart from

accrediting builders. I go to the matter of audits within their scheme. They say that they would regularly audit building practitioners. The purpose of the audit, according to page 33 of their scheme, is to conduct the review or examine compliance with the code of professional conduct, and yet builders didn't have the code of conduct in front of them. How could anybody possibly assess compliance with the code of conduct when those that were being assessed never had the code of conduct? There is one issue that I just raise. How could it be?

Am I right, first of all, in suggesting to you that in large measure the only thing the TCC did was to accredit building practitioners? Is that a fair assessment, that they did not put in place other substantial components of their own scheme?

**Mr PEARCE** - I wouldn't agree with that summary, Chair. The priority was on accreditation; that was the first priority and they got on with that. Then, as I mentioned before, the other priorities relating to CPD, complaints handling and auditing were professionally addressed. Prior to their departure I was quite comfortable with their level of performance in those areas.

**CHAIR** - Were you?

**Mr PEARCE** - There was a high degree of proposed compliance service, core service-function deliverables that they were charged to undertake.

**CHAIR** - I take you to your correspondence of 25 January this year when you wrote to the Honourable John White Director, of Tasmanian Compliance Corporation. You were critical about the lack of a decent annual report, establishment of reporting requirements, inadequate complaints-handling process, inadequate audits; they are just some at 25 January this year.

**Mr PEARCE** - That was as a result of a review of their performance that we undertook. They immediately responded to those issues. My comment about being satisfied before their departure was that they addressed the majority of those issues. They had complaints-handling processes in place. They were undertaking numerous types of audit activity.

**CHAIR** - Could you give us an example of those 'numerous types of audit activity'?

**Mr PEARCE** - They did desk-top audits on whether builders held the required insurance and as a result a number of them lost their accreditation. They were looking to undertake an audit on building surveyors - those types of issues.

**Ms FORREST** - An audit of building surveyors covering what - their practice, their insurance or their qualifications? What was the audit looking at?

**Mr HUNT** - Their practice.

**Ms FORREST** - So they were on-site audits of their practice?

**Mr HUNT** - They were not on-site, they were a written audit.



**Ms FORREST** - A written audit?

**Mr HUNT** - Yes, they did not visit the building site or anything else. They were to be sent out to building practitioners to fill in.

**Ms FORREST** - So how do they audit their practice? I do not understand how they could audit their practice without actually observing -

**Mr HUNT** - For compliance with the Building Act and the building regulations.

**Ms FORREST** - How is it demonstrated by a building surveyor that they were being compliant?

**Mr HUNT** - They would answer the question or not answer the question.

**Mrs SMITH** - It was not an audit of their work practises; it was an audit of them fulfilling their obligations under the act?

**Mr HUNT** - No, it was how many certificates of likely compliance have you issued and have you forwarded all start-work notices from owner-builders to the Director of Building Control, et cetera, with appropriate numbers and so on.

**Ms FORREST** - So you sent out a survey form to surveyors -

**Mr HUNT** - I didn't. This was being developed and it had input from us.

**Ms FORREST** - It was conducted, though, you said.

**Mr HUNT** - No, it was being developed.

**Ms FORREST** - So that audit had not been conducted?

**Mr HUNT** - No.

**CHAIR** - Robert said that builders had been audited and some had had their accreditation withdrawn as a result of that.

**Ms FORREST** - An audit of whether they had insurance or not, but their practice had not been audited; is that what you are saying?

**Ms THORP** - No.

**Ms FORREST** - What was the audit of the builders, then?

**Mr PEARCE** - Initially, whether they held the required insurance.

**Ms FORREST** - Initially, and following that? Were any further audits conducted other than an audit to determine whether builders had the required insurance? Are you saying to me at this point, then, that as far as you know the builders' work was never audited, or their

workplace practises or any other aspect of their business except for their compliance with their insurance? That is the only thing that has been audited?

**Mr PEARCE** - As far as I understand it. Their building work is basically audited by the building surveyors. If they are unsatisfactory they will not get their completion certificate. Down the track a whole range of other audits were proposed.

**CHAIR** - Just on the matter of your satisfaction or otherwise with the performance of the TCC, the Building Regulations Advisory Committee directed you, as the Director of Building Control, in October last year to audit the TCC because of concerns being expressed at the BRAC meetings, I can only presume. When did that audit take place?

**Mr PEARCE** - That audit did not take place. Preliminary work for the audit was undertaken. With the internal assessment of their compliance against their scheme we were in a position to develop tender documents to go out for an audit, but that was all overtaken with the KPMG audit.

**CHAIR** - How do you reconcile that with the newspaper reports of last week or the week before referring to the KPMG audit, that in fact an audit was undertaken by your office in October or November 2005 and that it had found the TCC to be wanting.

**Mr PEARCE** - There was no such audit. There was some ambiguity, as I understand, from the KPMG report and the media decided to analyse the statements one way and, in fact, put the wrong slant on it. On page 14 of the KPMG report it refers to 'BSR undertook an "audit" ' - lower case 'a'. We did an preliminary assessment of their performance across the scheme with the view of determining what areas we needed to engage in order to probe into it. There was no formal audit undertaken by KPMG during November by us. So the *Mercury* or the media reports are erroneous.

**CHAIR** - Are they erroneous or are they merely a reflection of what you have just read out from the KPMG report?

**Mr PEARCE** - It could be capable of being analysed in that way. 'BSR undertook an audit' - to me, that reads as an assessment; to someone else, it could be a full-blown audit.

**CHAIR** - So you are suggesting to the committee that, following the BRAC direction to your office, KPMG have assumed that you followed that direction from BRAC and conducted an audit, but in fact that was not the case.

**Mr PEARCE** - No, I am saying that this is just a table of chronological events. It is a summary by KPMG; they had full access to the files as provided to your committee. It is just the way that they chose to express it - they've put down 'audit' in inverted commas. Why would you put it in inverted commas if a full formal audit had been done. I believe that they thought that putting it in inverted commas indicated that it was something far less than a formal audit.

**CHAIR** - The folder that I am looking at that you provided to the committee - and other members have not seen it, because we have divided the folders up for some rational assessment - relates to documents regarding performance assessments by WST of the Tasmanian Compliance Corporation and the first document I have there is dated 22

November 2005. That is a letter from you, as the Director of Building Control, to TCC regarding the building requirements. Then, chronologically, we go through until 24 May this year and some later dates, and it tells you what correspondence you had with the TCC. Was 22 November last year the first time that you communicated with the TCC about lack of performance?

**Mr PEARCE** - Certainly not. Communication with the TCC was a weekly, if not daily, event with e-mails thrown backwards and forwards, conversations held and meetings held. Issues of performance were raised throughout those meetings.

**CHAIR** - And does the committee now have all of those documents?

**Mr PEARCE** - As far as I am aware. They would be on the files that were copied from go to whoa and I believe there would have been a summary of those documents, in the folders that were originally supplied to the committee. I defer to Brendon.

**Mr BOWES** - Mr Chairman, the documents in that particular folder were predicated on what KPMG had asked us for. They were accepted by this committee with copies so there would have been other matters which WST would have written to the TCC about, either by e-mail or letter, concerns which are not in that folder but they would be on the disks provided today. So mainly that folder is made up as a result of KPMG asking for specific information of which you have received a copy.

**CHAIR** - Yes.

**Mr BOWES** - Mr Chairman, on the issue of the audit the BRAC did not meet in October last year, they met in November. They requested that an external audit be appointed and also requested that briefing documents for that audit or be drawn up by BSR. Those briefing documents were provided to KPMG, therefore they may have assumed that we carried out an audit when in actual fact they were to brief an auditor at a later time.

**CHAIR** - Yes, my apology. Was that meeting with BRAC to which you referred the one held on Thursday 10 November?

**Mr BOWES** - Yes.

**CHAIR** - It was that meeting which identified some concerns of the members there present - ongoing concerns, I would suggest - as to the non-performance of the TCC and hence the direction from BRAC that your office conduct an audit.

**Mr PEARCE** - There were some concerns raised by BRAC, mainly in the area of the governance functions of annual reporting and the like. I recall no concerns from the BRAC with respect to the core service functions, as mentioned before, of accreditation, CPD or auditing.

**CHAIR** - Investigating complaints was one that I picked up in those minutes.

**Mr PEARCE** - Yes, there are some other complaints, Mr Chairman.

**CHAIR** - And from those minutes of 10 November, the BRAC was clearly concerned, as I have written down here, at the lack of investigating complaints by the TCC.

**Mr PEARCE** - Yes, they were concerned at the complaints process and that was duly raised with the TCC.

**CHAIR** - What was the TCC's response?

**Mr PEARCE** - They changed the system and the complaints process was much improved. There was an attempt in the early days to mediate and to seek resolution of the complaint and we had to point out to the Compliance Corporation that that was not an option available to them. If a formal complaint had been raised then it needed to be investigated as a result. They took that on board and changed the way that they managed complaints.

**CHAIR** - Did the TCC understand that they had an obligation and a right to investigate complaints by consumers about substandard workmanship?

**Mr PEARCE** - I cannot comment on the TCC.

**CHAIR** - The BRAC was concerned about inaction by the TCC in investigating complaints. What sort of complaints should they have been investigating that the BRAC was concerned they were not?

**Mr PEARCE** - My colleague indicates that there were written complaints from consumers.

**Mr HUNT** - About unprofessional conduct or professional misconduct, which was all they could investigate.

**Ms THORP** - They are within their powers.

**CHAIR** - Yes, but you understand to be embraced by those two terms.

**Mr HUNT** - They are described in the act.

**CHAIR** - Yes, but does it cover workmanship?

**Mr HUNT** - It may. From my point of view, it can relate to workmanship of a repeatedly poor nature or under certain circumstances. I would not imagine it related all the time to workmanship.

**CHAIR** - But it could and should - is that a fair assumption? The whole accreditation process is predicated on the protection of consumers?

**Mr HUNT** - There are two types of workmanship and one is what we call workmanship in relation to statutory requirements and the other is just good workmanship which more relates to reliance on accreditation. So you would assume that the statutory requirements are met through the building control process and the other workmanship requirements could form the basis of the complaint.

**CHAIR** - It is fair to assume that they ought to reasonably embrace claims by consumers as against defective workmanship because otherwise the consumer does not get any protection out of the process?

**Mr HUNT** - It can be a complaint about defective workmanship but it will never remedy that defective workmanship under the Building Act.

**CHAIR** - Would you like to explain why not?

**Mr HUNT** - It is not in the scope of the Building Act to remedy a building defect. It is to hear complaints about unprofessional conduct or professional misconduct.

**CHAIR** - Which, as we have just established, embrace defective workmanship?

**Mr HUNT** - So the result of any of these is an action against the builder. It does not result in the defective building work being repaired, necessarily.

**CHAIR** - Could it?

**Mr HUNT** - I imagine it could.

**CHAIR** - Take us to the section of the act which goes to the matter of discipline of a builder if a complaint is found to be substantiated. What is the process for sanctions against a builder? I guess it is probably section 40, the decision of an authorised body. I have a note written alongside mine here which says no authority to require rectification.

**Mr HUNT** - That is basically it. I imagine they could suggest it as a way of the builder changing his behaviour.

**CHAIR** - Do you think that is a weakness in the Building Act? If we are talking about an integrated process for dispute resolution -

**Mr HUNT** - We are now. We were not then.

**CHAIR** - Yes, we are now. So this committee is very interested in charting a better path forward and I can indicate to you that the Attorney is keen on listening to what the committee finally decides or recommends. That being the case, what needs to change in the Building Act - and this is a pretty broad stuff, I know - so that the consumer is properly protected once a complaint has been substantiated for full workmanship? This sanction allows a reprimand or a condition that the building practitioner go and do a course or pay a fine or whatever, but we cannot rectify the work. How do we rectify the work?

**Mr HUNT** - It is my view that should take place under a different system, an integrated part of the system, but not as a complaint against the behaviour of a building practitioner. I think it should be discussed as some form of, at least, domestic disputes tribunal that would direct builders to remedy their work. There is also the Building Appeal Board.

**CHAIR** - Any other question on that matter of defective building work or complaints resolution?

**Mr DEAN** - That could have been clearly covered in the Building Act, rather than having a rigmarole of sending the consumer off somewhere else to have these matters resolved.

**Ms THORP** - You should have moved an amendment perhaps?

**Mr DEAN** - I was not here when this bill came into fruition or I might have done it then.

**Ms THORP** - A private member's bill.

**CHAIR** - It does not really matter.

**Mr DEAN** - You are right. So would you see this as a way to give consumers a quicker solution to any difficulties or problems that they might have if it was included in this act, rather than to go to the appeals process which, as you and I know, takes 12 months, two years or three years. I know of one currently under way in the north of the State that has taken years. So, isn't there a better system?

**Mr HUNT** - With respect, that would not be a building appeal. I think you have to understand that when this legislation was written it was not imposing upon consumer legislation and that, at the time, included housing indemnity legislation. It referred to that as a requirement or accreditation.

So the Building Act is very much about the licence and the behaviour of builders. We already had a system in place - whether it was working or not - but we did not try to have that component at that time. You have talked about the need for an integrated system now, and I certainly agree with that.

**Mr DEAN** - So would you agree then that probably a simple amendment within that section could require, as part of the penalty, that you can require builders to rectify the -

**Mr HUNT** - No, I am not sure - I think I explained that before. I thought it was a different, separate system because I do not think it is now up to, for instance, the Director of Building Control to decide on those matters. The director's role is to decide on behaviour.

**Ms THORP** - If I may, just on the Building Regulation Advisory Committee, can you tell me what processes are in place or were in place for BRAC to inform the minister? How does that work?

**Mr PEARCE** - BRAC would normally ask for correspondence to be prepared and sent by the Director of Building Control to the minister.

**Ms THORP** - Right, thank you. I just wondered, has it happened?

**Mr HUNT** - Yes.

**Mr DEAN** - You have indicated your concern with the TCC's performance over a reasonable period of time. You had discussion or correspondence with them, identifying numerous issues. In any of that correspondence or in any of your discussions with

TCC did you put a time frame on any of those issues that were of concern, to get them fixed by a certain date?

**Mr PEARCE** - Probably yes - I am sorry to be a bit vague. We were continually asking them to get a web presence up. I believe that if you ask for a commitment - 'When can this be done by?' - then they nominate a date and say, 'Right, it will be done by such-and-such a date'.

**Mr DEAN** - Was it done in accordance to your requirements?

**Mr PEARCE** - I believe so.

**Mr DEAN** - You believe so. Are there any other examples?

**Mr PEARCE** - To start off, the main focus was on accreditation. We did not say, 'Get all your accreditation processes in place by November'. No date was on it. Before they had accreditation under control, we said, 'Right, you need to start looking at the next elements because these are going to cause concerns if they're not rolled out in a timely manner'. So it was a progressive, iterative process. There would have been some, but I am not aware of many time lines such as, 'You must meet this by such-and-such a date'.

**Mr DEAN** - In hindsight, would you think that that would have been a good position?

**Mr PEARCE** - In hindsight, I think it would be good to have put those key time lines and performance criteria in the ministerial guidelines so that they would be in this scheme, and perhaps we wouldn't be sitting around this table.

**Mr DEAN** - That brings me to the ministerial guidelines; did you draw them up?

**Mr PEARCE** - They were drawn up by the department.

**Mr DEAN** - Your department.

**Mr PEARCE** - Correct, in a fully consultative manner.

**Mr DEAN** - And when those guidelines were done, they were obviously submitted, I take it, to the minister's office for signing off; is that what happened?

**Mr HUNT** - Yes, they were also made public for comment, I understand. They were the result of many, many monthly meetings of the accreditation reference group, which had representatives from the industry.

**Mr DEAN** - But were they finally submitted for signing off by the minister's office?

**Mr HUNT** - Yes.

**Mr DEAN** - And was there any input from the minister's office into those guidelines? Were there any changes made, to your recollection, or new issues put in or taken out?

**Mr HUNT** - It was just accepted.

**Mr PEARCE** - As Graeme points out, it went through a huge consultative process with all industry stakeholders and other departments. It was put out for full public comment and took quite some time to develop. It was then presented to the then minister for his approval.

**Ms THORP** - You mention the absence of time lines from the guidelines, and in retrospect it could have been better if they had been there, but is it fair to say that in the absence of such time lines it also means there is an absence of a sanction to apply if someone hasn't complied? You don't have any given date to say, 'You were supposed to do this by 1 June and you haven't, so therefore you're in trouble'.

**Mr PEARCE** - That is a case for having guidelines.

**Mr HUNT** - There is a final sanction.

**Mrs SMITH** - The minister can shut someone down, regardless of time lines, guidelines or whatever. I think the court instance proved the minister has authority to say yes, no or whatever.

**Ms THORP** - I asked what processes are in place for BRAC to report back to the minister. If I understood you correctly, you said that they would ask for a letter to be drafted to go to the minister stating what their concerns were. Were there many, or any?

**Mr PEARCE** - There weren't many because they would be on file.

**Ms THORP** - So they would be indicative of the advisory council directly saying to the minister, 'These are our concerns'?

**Mr HUNT** - It would be on these files only if it was about this matter. The BRAC considers a whole range of issues.

**Mrs SMITH** - That doesn't discount you at any time from giving the minister a letter of advice? It doesn't remove your ability to have input outside of BRAC, does it?

**Mr PEARCE** - It certainly doesn't. It has happened on a daily basis with the advisers.

**Mr WILKINSON** - In relation to these audits and a question asked by Paul in relation to KPMG, it said:

'However, the BSR conducted its own audit of the TCC in November 2005.'

That is the start of the question. Then I take you to this:

'BSR have indicated that it has been under-resourced.'

But it says: 'The TCC are happy that an audit has been done', or words to that effect.



**Mr PEARCE** - I don't have that in front of me, however there was no such audit undertaken by November. In the summary on page 14 of the KPMG report, as I mentioned, 'audit' was put in in inverted commas.

**Mr WILKINSON** - This is not in inverted commas.

**Mr PEARCE** - I know, but this is all I have in front of me. There seems to be a discrepancy which needs to be rectified. I can tell you that there was no formal audit undertaken.

**Mr WILKINSON** - But if you look at this it says that BSR has conducted its own audit and TCC is happy that an audit has been done.

**Mr PEARCE** - This comes down to the assessment of performance.

**Mr WILKINSON** - Because it would seem that TCC believed, from reading KPMG, that an audit was done.

**CHAIR** - Bearing in mind that we haven't published that report yet, our standing orders require us to be very precise in any reference to that report, either in the House or in the committee. My indication at this stage would be that we ought not be going to the content of that report.

**Ms THORP** - And I think it is probably a question best asked of the authors.

**Mr WILKINSON** - All right, I will not say where a comment has come from, but I just want to put this to you and see what you say to this statement that I make: the TCC agrees that the audit by BSR was timely. You are still saying that no audit was done.

**Mr PEARCE** - There was no audit done. There was an assessment of where they were at. They put forward a position, it wasn't tested - as you would in an audit. From the information we had from the builders groups and whole range of other sources of information we formed our own assessment of where they were at. We sat down with the TCC and discussed our mutual perspectives on the various issues and we came to an agreement on the performance in a number of areas and highlighted issues where their performance had to be raised. The chairman alluded to the letter of January earlier on in the proceedings. This assessment was a result of the direction from the BRAC to undertake a formal audit so that we could scope it out and prepare documentation for the auditor.

**Mr WILKINSON** - Were you broadly satisfied with TCC's workings, believing that they were broadly complying?

**Mr PEARCE** - At that point in time there was certainly significant scope for improvement. When that was drawn to their attention they lifted their game.

**Mr WILKINSON** - Did you tell anybody in recent months that you believed they were broadly complying with their charter?

**Mr PEARCE** - That advice was provided to the BRAC and it relates to the service functions that I was talking about in a previous response relating to the accreditation, the CPD and the audits.

**Mr WILKINSON** - So you believe they were broadly complying with those matters that you have just mentioned?

**Mr PEARCE** - Correct.

**Mr WILKINSON** - Accreditation, one; audits, two, and the CPD, three.

**Mr PEARCE** - And complaints.

**Committee suspended from 1.02 p.m. to 2.03 p.m.**

**CHAIR** - The meeting is reconvened and we will pick up from where we left off. I did indicate, Robert, that I was going to ask a question relative to your first communications with the TCC as to time lines because I went to the act, section 22, a long time ago which suggests that an authorised body is to provide a report to the director as required by the director. My question was going to be a long time ago details of this occurring so when was the first time that you actually communicated with the TCC and set time lines for them to report to you in accordance with that section of the act?

**Mr PEARCE** - Time lines are prescribed somewhere in the reporting requirements. Is that in the guidelines or in the scheme?

**Mrs SMITH** - In the scheme - reporting weekly, monthly, quarterly, yearly. Perhaps that is the answer to Paul's question, whether or not they have been met.

**CHAIR** - Thanks, Sue. The first question would be then did they meet the requirements of their own scheme and, if not, when was the first time you communicated with them as to time lines that they needed to communicate?

**Mr PEARCE** - Initially, they were not meeting the requirements for reporting specifically with complaints. That was one of the issues and that was the reason for that letter of January -

**CHAIR** - This one, 22 November, which set down some time lines?

**Mr PEARCE** - Yes, they just drew it to their attention that that is their obligation so they needed to lift their game.

**Mrs SMITH** - Had they reported on any of those?

**Mr PEARCE** - They had reported but not within the time frames that were required and not in an acceptable format, and we were uncomfortable with that.

**Mr HUNT** - Mr Chairman, if I can add, I think that very early on this process they did require and they did provide the advice on new accreditation certificates, renewals and refusals and on expiry. As we emphasised before, the primary objective was to deal with accreditation.

**Mrs SMITH** - Could you, as an extension to that, tell us who you dealt with virtually on a day-to-day basis, if you had a day-to-day basis, as an individual? You must have conversed with someone from day one through?

**Mr PEARCE** - Most of my communication was with John White, whereas my understanding is most of the communication with BSR staff was with David or Peter Rayner.

**Mrs SMITH** - David and then Peter who took over from David virtually when David moved aside.

**Mr PEARCE** - Yes. I had minimal communication with the registrar of the day regarding routine issues. I was trying to get the governance issues in place.

**Mrs SMITH** - So you were dealing with the director rather than the day-to-day management of the company -

**Mr PEARCE** - Correct.

**Mrs SMITH** - to get all those processes in place?

**Mr PEARCE** - Yes.

**Mrs SMITH** - Is that unusual that you deal with a director rather than a manager or someone who is the day-to-day on the ground operational person from a department's perspective?

**Mr PEARCE** - It is an unusual process - it is the first time I have been in this process. I believed I was communicating where I would have most influence.

**Ms FORREST** - Further to that, was it your impression then that the director was well versed in all the aspects of their operational matters? You have identified a deficiency at times, particularly in reporting time lines and other time lines for achievement. Do you believe that the director was across all those issues adequately to be the person you dealt with?

**Mr PEARCE** - He was certainly across them, maybe not as much as the registrar but he had the influence to make things happen if they needed to happen. I talked to the registrar and said, 'I'm not comfortable with this' and he said, 'I'll take that on board and I'll talk to the director'. I said, 'I'll just go straight to the director and just say fix it'.

**Ms FORREST** - You said that most if not all of your dealings were with the director.

**Mr PEARCE** - Yes.

**Ms FORREST** - Regarding all the issues that the people on the ground had -like builders applying for accreditation, the people wanting to make complaints or who had made

complaints - were you confident that the director, who was not involved at that level, fully understood the extent of the problems that were happening?

**Mr PEARCE** - I believe so. We were all sitting around the table at the Builders Group meetings.

**Ms FORREST** - So the registrar was there as well?

**Mr PEARCE** - Correct. There as a shared common knowledge of the issues.

**Ms FORREST** - So you are saying your follow-up communication and follow-up day-to-day interactions were mainly with the director and not anybody else?

**Mr PEARCE** - Correct.

**Mr WILKINSON** - Did you ever believe that because of the lack of resources you were unable to properly oversee the workings of the TCC?

**Mr PEARCE** - Very much so.

**Mr WILKINSON** - Why was that?

**Mr PEARCE** - I was directed to undertake the role of Director of Building Control whilst I had a full-time substantive position as Director of Policy Planning and Services. That is one issue. The other issue is filling of vacancies, getting the structure in place, a whole range of issues.

**Ms FORREST** - It was human resources rather than financial you are saying? Is that correct?

**Mr PEARCE** - Correct, human resources.

**Mrs SMITH** - But there was no increase in the budget of the department in that area, was there, to actually manage this process?

**Mr PEARCE** - There was an increase in the consolidated funding for the original building staff and there was an income generated when the Building Act commenced through the building levy, which was used for additional staff.

**Mr WILKINSON** - The first year would be the critical period obviously for somebody setting up. Taking into account that the BSA took a couple of years before they were able to get themselves going - they have been going now for 15 years - do I understand that what you are saying is, 'We just did not have the relevant staff to do the job that we would have liked to be able to do'? Is that fair?

**Mr PEARCE** - I think that is a fair comment.

**Mr WILKINSON** - How many staff were you short?

**Mr PEARCE** - One of the major impediments was not having a full-time, dedicated director. But there was a director of building control. I do not know how you want to count that. There are five more than there was.

**Mr WILKINSON** - So you have five more people now than you had then?

**Mr PEARCE** - Yes. But with the work involved, pre-commencement of the act, with a couple of hiccup starting dates with the commencement of the act, and then getting into the initial implementation, there was an absolute frenzy.

**Mr WILKINSON** - I was going to say there would have been more work involved then than now, would there not?

**Mr PEARCE** - Yes.

**Mr WILKINSON** - Did you express that concern to the powers that be?

**Mr PEARCE** - Yes.

**Ms FORREST** - What was the response? Was it that you could not get people or that there was no provision made to enable you to engage people?

**Mr PEARCE** - Resources did not become available.

**Ms THORP** - Regarding the questions that we are getting to in regard to work practices, WST, are any of these issues ones that were covered up by the Auditor-General?

**Mr PEARCE** - All of them, basically. He has reviewed our performance. He has access to all the files.

**Ms THORP** - So it would be fair to say that in terms of that issue, a lot of these questions will be answered by the production of the Auditor-General's report?

**Mr PEARCE** - I would hope it appears in his report.

**Ms THORP** - I just wonder if we know when we are going to get that?

**Mrs SMITH** - You're the Government, can you tell us?

*Laughter.*

**Ms FORREST** - Has that been completed, do we know?

**Mr PEARCE** - I don't know for sure.

**Mr ORMEROD** - The Auditor-General has not yet delivered his report.

**CHAIR** - Have you seen a draft report?

**Mr ORMEROD** - I have seen a draft report.

**Mr WILKINSON** - Hopefully it may be in the Auditor-General's Report, I do not know, but I just want to paint a scenario to you and please tell me if it is true, nearly true or way off the mark.

**Mr PEARCE** - Somewhere between one and 10.

*Laughter.*

**Mr WILKINSON** - I just want to paint a scenario and the scenario is this. You were given this job to accredit an appropriate body to oversee building practitioners in the State. That was a process which had a genesis of about 12 years before it came into being. The TCC was the body that you opted for, approximately a year prior to the bill coming into force. They had a year to carry out the preliminaries that they had to carry out in accordance with their application. You would be saying you did the best you could to ensure that everything was in accordance with their application and with the act. You found it difficult to give the attention that you now can see was required because, really, of the work that had to be done and also the lack of staff that you had to carry out that work. That is the start of my scenario. Is that right?

**Mr PEARCE** - That is a pretty reasonable overview.

**Ms THORP** - One point I would like to make though is that it was not Workplace Standards that approved the application from TCC.

**Mr WILKINSON** - The other thing is that you made your concerns known in relation to some problems that you perceived were occurring with the TCC. You made your concerns known that the best way you could monitor that was by more staff, but you did not get more resources and more staff. Is that right?

**Mr PEARCE** - Yes.

**Ms THORP** - In terms of more resources, one of the main ways was communication back. Are you saying that was the person in charge of Workplace Standards?

**Mr PEARCE** - No, it was not the general manager.

**Ms THORP** - It was the then general manager?

**Mr PEARCE** - No, it was not with the then general manager. The problems, as I perceived, were further up in the infrastructure.

**Mr WILKINSON** - In other words, you were saying, 'Send me more troops so I can properly do battle' and those troops were not forthcoming. Is that what you are saying?

**Mr PEARCE** - The person who had line management control of Workplace Standards at that time was David Peters, the deputy secretary of the department.

**CHAIR** - How did you communicate with Mr Peters?

**Mr PEARCE** - Verbally, by e-mail and in regular meetings, having them minuted.

**Ms FORREST** - When did you first - not on the exact date, I appreciate that - start raising the alarm that you felt under-resourced and unable to perform the job adequately?

**Mr PEARCE** - Very early on, I think February 2001, with a minute to the minister requesting an immediate appointment of a permanent Director of Building Control. However this was not acted on due to lack of funding for a new senior position. There is a minute on the files for that.

**Ms FORREST** - I am going to take a step back. Once the TCC was the authorised body to take the accreditation and you realised there were problems that required further oversight, supervision or whatever the term might be, when did you first raise those concerns?

**Mr PEARCE** - There was ongoing concern about lack of resources in the area.

**Ms FORREST** - From the time that the TCC were first accredited, is that what you are saying? Have you got your request in writing anywhere?

**Mr PEARCE** - There is certainly a paper trail.

**Ms FORREST** - Is that included in this information that we have?

**Mr PEARCE** - It should be. There was stuff supplied to the Auditor-General and you have that I believe. This information would be on departmental meetings not necessarily associated with the Building Act, but the information has been provided.

**CHAIR** - Can I go back maybe to square one, what was the rigour of your due diligence as against TCC's application?

**Mr PEARCE** - Graeme did a lot of work trying to find an appropriate document to check due diligence aspects and finally he came up with the document which you have in front of you.

**CHAIR** - Which document, Robert?

**Mr HUNT** - The due diligence report submitted with the application.

**CHAIR** - I do not have it in front of me.

**Mr HUNT** - Sorry, it is in the papers. It was part of the approval process.

**Mr PEARCE** - There was a due diligence checklist which was undertaken and formed part of the process by which the minister authorised the Tasmanian Compliance Corporation. Later, I became aware of a modified version of the due diligence and that was not the one that formed part of the approval process. I do not know which one I am looking at there.

**CHAIR** - This one I am looking at is only a one-pager. That wouldn't constitute -

**Mr PEARCE** - That is the front page. This would have been eight or 10 pages.

**Mr BOWES** - Mr Chairman, the due diligence statement put out by the TCC is in the folder marked 'No. 2', which are the application documents given to the minister. That is the relevant document, not the one Mr Diprose gave you.

**Ms FORREST** - Is the document we have from Mr Diprose the entire Tasmanian Compliance Corporation's due diligence checklist? Did you provide a standard form that they have ticked? This has obviously been filled in. You provided this form to them, in the format this is in, for them to complete and submit with their scheme?

**Mr BOWES** - That is correct. An electronic document was provided so that they could give the necessary details - either by ticking a box or giving information such as the name of their banker et cetera. The document the minister saw would have been in that folder that we provided to the committee.

**Ms FORREST** - The department drew up this form, did they? It is not a form that the TCC produced and then filled in?

**Mr BOWES** - No, it is not.

**Ms FORREST** - It is a form that you provided to them and they completed?

**Mr BOWES** - The due diligence statement checklist was an amalgamation of some other documents based on research we had carried out on what might be appropriate for the appointment of such a body to perform this government role.

**Ms FORREST** - The first point in that is about the structure of the company - 'the company is incorporated as a company limited by shares'. In some of the correspondence from the department and the minister's office it states that the TCC is a not-for-profit public administration company. My understanding is that a company limited by shares would not fit into that category. The latest correspondence that I could find, just quickly flicking through my information, that stated that was in August 2004, which is clearly well after this document was provided to you. Can you explain to me why there is that confusion about a company that is clearly a for-profit organisation and why your department keeps referring to it as a not-for-profit organisation?

**Mr BOWES** - When we met with David Diprose in 2003 at a meeting he stated that the TCC would be a not-for-profit company. That was recorded in the notes of the meeting, and they would be in the documents somewhere here. We were never given any impression that they would not be a not-for-profit company. Although you have documents there saying they were going to be a company incorporated by shares, we still had that impression that they would be not distributing their profits as dividends to members, rather that they would be reinvesting them in the company, therefore our understanding of not-for-profit is not the strict ASIC legal definition of a public company. Our view was that a private company limited by shares could still be not-for-profit if it had the purpose of reinvesting money carrying out a public administration function, and the TCC never gave a contrary view. Even when they submitted those documents, which we asked for in the due diligence statement, that did not necessarily suggest to us



straightaway that they had changed in any way. It was wholly consistent with previous advice.

**Ms FORREST** - So from your comment just then - and correct me if I am wrong - that you believed the company was operating in a not-for-profit manner?

**Mr BOWES** - At the time they were appointed they were not operating.

**Ms FORREST** - In 2004, when the department wrote that letter -

**Mr BOWES** - Was that letter to one of the architects?

**Ms FORREST** - Yes, that was one of them.

**Mr BOWES** - At that time we were still under the impression that they would be operating as a not-for-profit company because we had not, at that time, received any financial statements or annual reports that would have suggested otherwise.

**Ms FORREST** - Does the department still see them as a not-for-profit organisation?

**Mr BOWES** - No, not now. You have to realise that the information they gave us at the time was that it would be not-for-profit in 2003. That was, in our view, consistent with our idea of what not-for-profit meant. It might not be the legal definition but they did not suggest to us in any way that was going to be different in the future.

**Ms FORREST** - So why wouldn't you, being a government organisation, operation under the ASIC definition or a legal definition, if you want to call it that, of a not-for-profit organisation? You say that it is not the ASIC definition and it may not be the legal definition, but you considered it to be a not-for-profit organisation on your understanding?

**Mr BOWES** - Depends what they use their profits for. For example, the directors had a very limited remuneration of only \$20 000 a year, just to cover expenses and things like that. So it is how they used their money. They told us they were going to use it in a particular way. They had told us they were going to be a not-for-profit company. We believed them and therefore that is the way we had been operating up until at least 2004.

**Ms FORREST** - So the directors have never, at any point, told you that they are no longer a not-for-profit organisation in this time? You were never informed that they had changed their view or their approach?

**Mr BOWES** - No.

**Mrs SMITH** - Have you received an annual report from them?

**Mr PEARCE** - Now we have, yes.

**Mrs SMITH** - Was the date of that last July? So that was 12 months they had been operational?

**Mr PEARCE** - Yes.

**Mrs SMITH** - Did that show the issue in July when they presented that?

**Mr PEARCE** - I do not believe it did. I believe that the annual report was substandard and we asked them to revise it.

**Mrs SMITH** - Okay.

**CHAIR** - Sorry, I missed that?

**Mr PEARCE** - We are of a view that the annual report was substandard and we asked them to revise it.

**Mrs SMITH** - Did they revise it?

**Mr PEARCE** - They did.

**Mrs SMITH** - By what time line? By the end of the year?

**Mr PEARCE** - They turned it around pretty quickly, but I am sorry the date alludes me.

**Mrs SMITH** - But it is fair to say that you would have had an annual report you were satisfied with by 30 December 2005? That is six months for them to turn it around?

**Mr PEARCE** - I cannot remember, but it would be on the file.

**Mr HUNT** - The other reason we thought they were not-for-profit was that their financial plan did not show any profit. They had a fully detailed financial plan for three years, which we have, and it did not show profit. It showed that the surplus would go to a special reserve.

**Ms FORREST** - So was that reserve ever set up, as far as you are aware?

**Mr HUNT** - I am not aware whether it was ever set up.

**Mr PEARCE** - There are also the powers of the Director of Building Control under the act. My view is they do not extend into scrutinising the finances of the company.

**CHAIR** - It is true to say, though, that the cash-flow estimates and the profit and loss estimates of the TCC as presented to you, with a very minimal debt position, was predicated on generating annual subscriptions of no more than \$380 000, when they generated much more than that? Clearly, the opportunity for payment of dividends to directors arose. Would I be right in assuming that they took that opportunity and paid substantial directors' fees?

**Mr PEARCE** - That is apparently the case. The financial reports I have seen do not make that clear.

**CHAIR** - Have you seen the KPMG report?

**Mr PEARCE** - No.

**Mr DEAN** - It is fair to say that the position adopted by the TCC, of it being a not-for-profit organisation and your belief that was the case, played a significant part in your decision to put them forward as the accrediting body in this instance?

**Mr PEARCE** - Speaking from my perspective, I do not believe that would be a major driver. We wanted to ensure that they were viable and that they had enough funds to get on and do what they wanted and that their fees were, by comparison nationally, reasonable. I think from those financial considerations they met the criteria. Whether they were going to make a profit or not, I do not know.

**Mr DEAN** - That is my next question. Was it a concern of yours as to whether or not the company that got this position made a profit or not? Was that a criterion?

**Mr HUNT** - No, the concern was whether or not the fees were not over the top, so the fees were justified by the particular income.

**Mr DEAN** - Right, but from their indicating that they would not be making any profit from this and that it would go back into the accreditation processes and all of those things, is it fair to say that that would have influenced your position in recommending that organisation?

**Ms THORP** - If I may, Chair, I think I need some clarification here because my understanding was that the role of Workplace Standards in this process was to ascertain whether or not the scheme presented was actually compliant with the guidelines set down by the minister, not to judge one particular application against another but basically to check whether it was compliant or not, so those issues would not come into it.

**Mr DEAN** - I would have thought the answer would come from here and not from there, but I am certainly asking that question.

**Ms THORP** - That is all right; I have just done my homework.

**CHAIR** - Could either Graeme or Robert clarify that which Lin has suggested?

**Mr PEARCE** - I think it is quite right; the main aspect was that the scheme had to comply with the guidelines and we needed some confidence that the company would be financially viable into the future. Whether they made a profit or not was not paramount in my mind. Their fees had to be reasonable by way of national comparison and they had to be able to fund all the tasks they were charged with.

**Ms THORP** - So that they could afford to do what they -

**Mr PEARCE** - Yes, and I believe from a company perspective that it is not unreasonable to make a profit.

**Ms THORP** - Were these exactly the same considerations that were put to the BPACT application?

**Mr PEARCE** - Yes.

**Ms THORP** - They were exactly the same.

**Mrs SMITH** - And you actually recommended BPACT as well up the chain to the minister>

**Mr PEARCE** - To Minister Cox.

**Ms THORP** - As far as the BPACT application is concerned, did the minister receive any information from the department saying why the BPACT application should not be accepted or should not be approved?

**Mrs SMITH** - They said it should.

**Ms THORP** - This is what I want to get to.

**Mr PEARCE** - Which minister? We had a changeover.

**Ms THORP** - Right, Bryan Green.

**Mr PEARCE** - Bryan Green was given quite an amount of information detailing the areas that should be improved in BPACT's scheme, albeit that it complied with the ministerial guidelines. There were areas that certainly could benefit from improvement.

**Mrs SMITH** - Your chronology here says, on February 2004, 'Recommendation that BPACT be approved as an authorised body'.

**Mr PEARCE** - To Minister Cox.

**Mrs SMITH** - To Minister Green it says here. We are in 2004.

**Mr PEARCE** - Sorry, yes.

**Mrs SMITH** - So you had that back and forth about the issues and then you made a recommendation for approval to the minister. The minister then made a policy decision three months later that he would not approve. Is that correct?

**Mr PEARCE** - The recommendation to Minister Green that the BPACT application be approved was based on his just coming back into a new portfolio area. The work had been done, notwithstanding reservations we had, so we put it forward to him. He considered it. The advisers started to get a handle on all the portfolio issues. We had a number of meetings with BPACT directors and we were able to reconcile our differences with their scheme. Finally, I recommended that with our scheme and finally I recommended that it not be approved.

**CHAIR** - Which adviser or advisers began to get a handle on the issue?

**Mr PEARCE** - John Dowling was heavily involved.

**Ms THORP** - If I am understanding you correctly, very early on in the process with the new minister an application had been received from BPACT. It fulfilled the basic requirements of the guidelines and the scheme was satisfactory based on those guidelines. On the basis of that it could be accepted, however certain reservations were expressed through Workplace Standards to the minister, in briefing notes, I would assume -

**Mr PEARCE** - Yes.

**Ms THORP** - to say what reservations there were with BPACT, and on the basis of that the minister refused the application. Then BPACT asked for an explanation of that refusal -

**Mr PEARCE** - Yes.

**Ms THORP** - and, again, as I understand, had issues with National Competition Policy and all sorts of things.

**Mr PEARCE** - Yes.

**Mr DEAN** - And that briefing note would be in these files that you provided us with?

**Mr PEARCE** - Yes. It will be in the BPACT folder.

**Mrs SMITH** - I have one here. Here is the recommendation to approve the current situation as it went to the minister, as you have outlined. One of the statements is: 'The minister will be approached by the directors of the Tasmanian Compliance Corporation and lobbied to reject the BPACT application. The TCC is the only authorised body at present'. So evidently that was information you provided to the minister to forewarn him - you had found that out?

**Mr PEARCE** - Yes.

**Mrs SMITH** - John White has indicated he will seek a meeting with the minister to present the case for authorising just one authorised body under the Building Act. The TCC will claim that Minister Cox was misadvised regarding the National Competition Policy'. So you have put all the facts on the table to the minister and then the minister's department has made his judgment from there on. Is that a correct interpretation of what went to him?

**Mr PEARCE** - Yes.

**CHAIR** - Lin sought clarification as to your role in assessing the application as being compliant with the guidelines and you have further indicated that having done that, you made recommendations to the minister after those assessments. Am I right in assuming that your jurisdiction went further than just assessing whether an application complied with the ministerial guidelines?

**Mr PEARCE** - My jurisdiction did not go further than that; the minister's jurisdiction did.

**CHAIR** - But you recommended it to the minister?

**Mr PEARCE** - Correct. I pointed out that the application complied with the guidelines and down the track I indicated that I had reservations in certain areas.

**Ms THORP** - Are you referring to BPACT?

**Mr PEARCE** - Yes.

**CHAIR** - What was your recommendation to Jim Cox as to the BPACT application?

**Mr PEARCE** - Pretty straightforward - that it was compliant.

**CHAIR** - What was his position prior to being apprised of it?

**Mr PEARCE** - I think he was in the process of authorising it but that is something you would have to confirm with him.

**CHAIR** - There is no correspondence to confirm that for you?

**Mr PEARCE** - The only correspondence would be an approved minute, and no such thing turned up.

**Ms THORP** - And then along came our new minister who received advice from Workplace Standards that there were serious concerns about the BPACT -

**Mr PEARCE** - Initially. In the new days in the portfolio he was provided with applications -

**Ms THORP** - "These are things you should consider."?

**Mr PEARCE** - Yes.

**Ms THORP** - Which the minister obviously did.

**Mrs SMITH** - If the minister had picked it up the next week, after your formal advice, and decided to follow it through and sign it off, it would have been a different scenario than three months down the track, or if BPACT had got in before TCC with their paperwork, they might have been first lobbying the second time round. Is that a fair assumption?

**Mr PEARCE** - Yes. They would have learnt a lot out of the processing of the TCC application and working with them. We were on a huge learning curve.

**Mr DEAN** - When you say that you were on a huge learning curve, are you saying that you had not previously processed an application like this?

**Mr PEARCE** - It was the first time we had developed the ministerial guidelines and then got applications in that were meant to be compliant with the guidelines and the first applications we got in were not compliant. There was a lot of work done to get them up so that they were, in our view, compliant and we could be a position to recommend to the relevant minister. This all builds our own internal expertise so that is why I made the reference to the learning curve.

**CHAIR** - On that matter of the learning curve that you indicated was fairly steep, isn't it true that you had written to Mr Smythe when he applied to be a member of the building appeal board and you had indicated to him that his application for appointment to that board was unsuccessful, but that you then went on to say something to the effect that with the new builders accreditation system he could be well-assured that there was a robust and well-researched system ready to go and you were confident that it was going to be a good system?

**Mr PEARCE** - You always have to put a positive spin on things.

**CHAIR** - But you just told us that you were on a steep learning curve, Robert.

**Mr PEARCE** - Yes, and -

**CHAIR** - Just if I can conclude, I have just suggested to you that there is a letter which you wrote along those lines, and your response was, 'You've always got to put a positive spin on things'. Did you mean what you said to Mr Smythe or didn't you?

**Mr PEARCE** - Yes.

**CHAIR** - Was that a positive spin?

**Mr PEARCE** - It painted things in a glowing condition. I believe, in time, we would have come to that position, whether we were precisely there - I actually do not recall. I know Mr Smythe but I do not recall the letter. I am not saying I didn't write it but my problem is I do not recall what point in time it was.

**Ms THORP** - But you were expressing optimism.

**Mr PEARCE** - Yes, and I think that it is right and proper that I do.

**CHAIR** - Yes, and yet you indicated that there was a very steep learning curve. My proposition to you is, based upon my best recollection of that letter - and I have seen it under your signature -

**Mr PEARCE** - Right.

**CHAIR** - I could produce it.

**Mr PEARCE** - No.

**CHAIR** - It was not provided to me by Mr Smythe and it has not been provided to me as part of this process.

**Ms THORP** - Another 'off the back of the truck' one.

**CHAIR** - It does not matter where it came from, the fact is that it is in existence, and yet you have indicated this steep learning curve was there in front of you.

**Mr PEARCE** - Yes.

**CHAIR** - But I then have concern that you have communicated to interested industry people that you have a robust and strong process in place - you were convinced of that given your letter.

**Mr PEARCE** - We believe that in any point in time it was robust and strong and that, down the track, we would finetune to make it even more robust. I really cannot see that.

**CHAIR** - In terms of the TCC application and the scheme presented to you, part of their suggestion regarding their competence and expertise that you properly assess under the act was the proposition that they would retain the advice of a skills assessment and training board. Who was that organisation that they were going to retain?

**Mr HUNT** - The Building and Construction Industry Training Board Pty Ltd.

**CHAIR** - Yes, and they subsequently did not retain the services of that organisation.

**Mr HUNT** - They had a falling out.

**CHAIR** - Can you advise why?

**Mr HUNT** - No.

**CHAIR** - That was a provision of their scheme as to their competence and expertise. Were you concerned that with the demise of that organisation from part of their scheme that they no longer had the relevant competence and expertise to so operate?

**Mr HUNT** - We were concerned.

**Mr PEARCE** - This was in the transitional provision time. Later on it was black and white, it was AQF4, as detailed in the guidelines. There was a lack of ability to process applications and the TCC came to us asking our advice. We very quickly said that they were to get a source of expertise and they engaged a building surveyor to assist in that area and had dialogue with industry associations.

**Ms THORP** - With the provision of an expert body for advice under the terms of this scheme did that require the naming of a specific group or was that up to the scheme providers?

**Mr PEARCE** - I think they nominated it in the scheme but it was not a requirement of the guidelines to specify. You had to have the expertise.

**Ms THORP** - So the fact that the Industry Training Board that we have just been referring to was no longer available to work with the TCC did not mean that they had broken the terms of their agreement?

**Mr PEARCE** - It was in their scheme and the scheme was approved by the minister. If you wanted to be pedantic you could draw that conclusion.

**Ms THORP** - We would never do that.



**CHAIR** - No, but we might be robust in our assessment of the process which went forward and in terms of competence and expertise which not only the scheme requires you to sign off on but the act requires the minister, on your recommendation, to satisfy himself that there is relevant competence and expertise within an authorised body to go forward.

**Mr PEARCE** - At the point in time that the minister signed off we believed that the scheme, as written, would be delivered and that had the arrangement with the ITAB. For whatever reason that subsequently changed and there were alternative mechanisms put in place which delivered the same outcome but yes, there was non-compliance with the scheme.

**Mr HUNT** - In the implementation of all this there was an expectation by some people that there would be full competency assessments to get in and that was what the Industry Training Board was lined up to assist with. The industry rejected that. The industry said, 'No way, this is not suitable. We need other transitional provisions', so I developed and the director approved alternative transitional provisions to get people into accreditation because the minister's advice to us was to get things rolling and get people accredited -

**Mr PEARCE** - And not to put bona fide builders out of work.

**Mr HUNT** - and not to put bona fide builders out of work. So once these transitional provisions were developed they were very simple and they did not require anywhere near the level of expertise. They required such things as production of three certificates of occupancy or buildings produced in the last three years and some other verification that the applicants were bona fide. So yes, they dropped off but no, they were not needed to that level anymore.

**Ms THORP** - So the integrity of the scheme was not comprised?

**Mr HUNT** - No.

**CHAIR** - In response to a question earlier regarding the KPMG audit, and I think you both indicated that you have not seen the KPMG audit, we are advised that departmental officers have been provided with that audit. Who would those departmental officers be?

**Mr PEARCE** - The secretary of the department who initiated the review.

**CHAIR** - And that is Peter Hault?

**Mr PEARCE** - Yes. I have a page - page 14.

**CHAIR** - That is the only thing you have received?

**Mr PEARCE** - I was asked to review components of it.

**CHAIR** - What issues were you asked to comment upon which were in that process?

**Mr PEARCE** - Just how they reported.

**CHAIR** - Were there ever different fee levels promoted by the TCC for application by whoever you accredited in a monopoly market versus a competitive market? Did they ever produce for you a schedule of fees in a market where they were the only operative as opposed to a schedule of fees in a competitive fund?

**Mr HUNT** - The scheme had *a* and *b* options in it, but I am not sure if there were certain fees. They did in fact have an assessment fee that they planned to charge, which in turn they did not charge.

**CHAIR** - What was the assessment fee intended to cover?

**Mr HUNT** - That was to cover the competency assessment that the industry training board would have done on a cost recovery basis or on a do-and-charge basis to the TCC.

**CHAIR** - What was the process for appointing people or associations or organisations to the Builders Group that met regularly and identified issues of concern?

**Mr PEARCE** - Basically identifying the stakeholders in the industry. We started off with the larger builders, the MBA, the MBANT and the HIA. Then, as a result of the lobby from the Builders Collective, from Mr Booth, that the small builders were not represented, it was agreed to invite the Builders Collective onto the group.

**Ms THORP** - Then they split too, didn't they?

**Mr PEARCE** - Yes. They were somewhat mischievous whilst on the group and it was indicated to them that if they did not toe the line they would be better off departing and they chose to depart. Then the Builders Group, locally, split into factions. The Tasmanian Independent Builders was established and they were invited onto that group, trying to get as broad a spectrum as we could of builders.

**CHAIR** - Was there ever a time that instructions were given at those meetings to keep the deliberations somewhat under wraps because it was important that Kim Booth not find out about the deliberations?

**Mr PEARCE** - I do not know whether that inference was given. Certainly those words would not have been used. I had to continually remind the Builders Collective people that they were there to deal with implementation issues, not to attempt to rewrite the act. I said, 'If you have a problem with the act or with the provisions of the act, this is not the forum, so please don't continue to raise them. You take your concerns elsewhere.' They did not like that, but that was how I led that group.

**CHAIR** - You said an inference may have been made along those lines and not those exact words. What do you mean by an inference may have been made?

**Mr PEARCE** - There were some sensitive issues raised at those meetings. There was disquiet on a number of fronts, by the builders - housing indemnity insurance and a number of issues that I did not want to be put into the political arena. I wanted to see if we could address them and possibly serve up a solution.

**Ms THORP** - You did not want to see them turning up as questions without notice?

**Mr PEARCE** - Exactly. I wanted to be in control and have a chance to take on board any issues people wanted to raise about implementation of the act and look to see, with our collective minds, how we could best fix it. But the last thing I wanted was to have a red-hot issue dropped on the table and then have it in Parliament the following day.

**CHAIR** - Did you infer that that would be a process?

**Mr PEARCE** - I do not recall. I probably did. I probably made a comment along the lines of how I have just explained it now. I do not believe that is in any way inappropriate.

**CHAIR** - Can I go back to the KPMG audit and the fact that you were asked to comment on various components of it in draft form.

**Mr PEARCE** - To scrutinise it for its accuracy, yes.

**CHAIR** - Did you address your mind to the matter where KPMG indicated that an audit by your office had been undertaken?

**Mr PEARCE** - I do not recall. The first draft I looked at was nowhere near complete. I don't recall whether this table on page 14 was in there. Because of the sensitive nature of the situation, KPMG asked me to come into their office and I did not take a copy with me. Under those circumstances it may have been in there but I may have missed it. Certainly, if I had seen it as a clear 'formal audit was undertaken', I would have flagged that as an error. Sorry, I don't recall.

**Ms FORREST** - I'm surprised that the audit is mentioned in other places without the inverted commas but you still didn't pick it up.

**Mr PEARCE** - It might not have been in the draft I was asked to review. It was very early on.

**Mr DEAN** - In fairness to you, you have not had a opportunity to see it?

**Mr PEARCE** - No, and I would imagine that if that type of thing was in there then there would be other little time bombs.

**Ms FORREST** - When you say 'early in the piece', what time are you talking about? How early were you asked to review it? What date?

**Mr PEARCE** - I could check my diary for you. I do not have that detail today. My thought would probably be a month after they commenced, or something like that, when we started doing the first draft. When I was in there they said, 'We have rewritten that' and they pulled that out and gave me a new one, so it was very early in their drafting process. I can't recall it, but I can find out for you.

**Ms FORREST** - Do you have the final draft?

**Mr PEARCE** - No.

**Ms THORP** - So you haven't, to the best of your knowledge, seen anything from the KPMG report that suggests there was a formal audit done by Workplace Standards on the TCC? Had you seen that written in that draft, you would have draw the attention of the KPMG to it and corrected it?

**Mr PEARCE** - Page 14 was given to me. It says, without being highlighted, that 'in November 2005, BSR undertook an "audit" of the performance of the TCC'. That wouldn't jump out at me, a lower case 'audit'. That means they have done something far less than an audit; they have assessed where they reckon they are at. That would not be something I would necessarily flag.

**Ms FORREST** - But doesn't it also go on to say 'commence discussions to establish an SLA to provide'?

**Mr PEARCE** - Yes.

**Ms FORREST** - So surely it must have resulted in some action?

**Mr PEARCE** - Yes - 'and commenced discussions to establish'. The inference could be that Workplace Standards initiated the discussions on the SLA. That is not the situation. Glen Milliner wrote to me as director -

**Ms THORP** - Chair, I am a bit concerned about going near the SLA.

**CHAIR** - It depends on dates because the Solicitor-General's advice to this committee is that the dates relating to the charge are quite compressed and that we do have jurisdiction outside the narrow confines of the charges. Committee members have been circulated with the details of the charges provided by the DPP. If anything you were going to say is outside the dates of the conspiracy charge, then in my judgment you can say it.

**Mr PEARCE** - No, this is well outside. 'Commence' should not be inferred as initiated because that is not a proper slant on it. We participated in discussions.

**Ms THORP** - If there was some audit, whether it is a formal audit or just a quick look to see how things are going, however you want to interpret it, it did lead to an action - commenced discussions or whether you needed to do something about this. If everything was going fine and dandy you wouldn't have thought that they would need to undertake any specific

**Mr PEARCE** - No, that is a wrong sequence of events. When I was approached to consider some form of service level agreement by the TCC my response was, 'Any such agreement will have performance criteria'. So from that we started moving and looking at the current performance of the TCC.

**Ms THORP** - And this is at the same time when you also said you drew things to their attention, which they then took action on?

**Mr PEARCE** - Yes.

**CHAIR** - All through that process it is true to say, isn't it, that you have been continually concerned about the lack of resources in your office to properly monitor TCC?

**Mr PEARCE** - Amongst other things, yes.

**Ms THORP** - Sounds like a classic public service lament to me!

**CHAIR** - That being the case, whether it is a full-blown audit or some assessment of TCC -

**Mr PEARCE** - In fairness, had we been resourced to an appropriate level, a higher level - what way you want to say it - I doubt whether we would have taken on the audit. I think we would have prepared information and got in an external auditor so that there was some third-party scrutiny.

**Ms FORREST** - Taken on which audit?

**Ms THORP** - Into the TCC.

**Mr PEARCE** - Yes.

**Ms FORREST** - The audit that you said didn't occur.

**Ms THORP** - If there was to be one they would have put in a third-party external person to do it.

**Mr PEARCE** - The chair just said that lack of resources was why we didn't audit, so I was responding to that. Even if we were resourced and in a position to audit, I don't believe we would have audited it. We would have engaged an external third-party auditor so that there some distance.

**Ms THORP** - Someone like KPMG perhaps?

**Mr PEARCE** - I did actually discuss it with Paul when he was over there, way back, but I did not follow it through.

**CHAIR** - When is 'way back'?

**Mr PEARCE** - When he was over there doing a review of something in the workers compensation area.

**CHAIR** - And you thought it might have been appropriate to engage KPMG?

**Mr PEARCE** - I said to him, 'I might need to come and talk to you. I need some assistance here'.

**CHAIR** - And you never progressed that? Why not?

**Mr PEARCE** - Other priorities.

**CHAIR** - Is it true to say that the annual report presented to you by the TCC of 2004-05 was deficient in that it had no audited financial information in it?

**Mr PEARCE** - It could well be it was deficient. There was some problem getting the audit financials. I am not sure if the two locked together. It could well be the case. I'm sorry, I can't comment on it.

**CHAIR** - Would you have expected an annual report on such a company operating on behalf of government through statute, to have provided you with its annual report and properly audited financial statements?

**Mr PEARCE** - I would have expected that, yes.

**CHAIR** - Did you challenge them on that?

**Mr PEARCE** - I challenged them on the report, yes.

**CHAIR** - Did you get that subsequently?

**Mr PEARCE** - We have the audited financials now, I think.

**Mr BOWES** - Yes, we have now received some audited financial details for that period.

**CHAIR** - For 2004-05?

**Mr BOWES** - Yes. I think it was Horwath accountants. That came at a different time from the annual report that was provided and said to be deficient. It was drawn to their attention straight away. It was suggested that maybe they could use, as a guideline, some of the bodies such as travel agents, licensing board, or other bodies which have a role to do with licensing and regulation, have a template and provide something along those lines.

**CHAIR** - In respect of assessing applicants for accreditation in the commercial building area, how did you reach a conclusion that it might be possible to obtain interim eligibility, regarding structural defects insurance and communicate that to the TCC as a prerequisite to getting considered as a building practitioner?

**Mr PEARCE** - There was concern that the structural defect insurance was a very expensive product. People wanted to put up a shingle, advertising the fact that they were commercial builders and seeking work. But the concern was that they did not want to pay up-front, the insurance premium when they might never get to use it. So I suggested to the TCC that they assess these applicants and not process them - put them in the bottom drawer and then, if they received a contract or something, they could activate their insurance and get instantaneously accredited.

**Ms THORP** - Rather than be accredited expensively, in the hope that you might get a commercial job?

**Mr PEARCE** - Yes.

**CHAIR** - You would be aware that subsequently such a letter of eligibility was never obtained from insurance companies?

**Mr HUNT** - It was available for domestic insurance and you thought it would available for the other.

**Ms THORP** - If I understand you correctly, it was possible for a builder to get a letter saying that he was eligible for domestic insurance? There was an assumption made, erroneously or not, that the same would be available for commercials? So in the interests of the builders, rather than have them out of pocket for commercial insurance they might never require, it was suggested that rather than process their applications, hold those applications with the information of their eligibility, so that should they get a commercial job the TCC could expeditiously give the accreditation they required? That was very public spirited of you.

**Mr PEARCE** - I get myself in trouble for doing things like that.

**CHAIR** - Can I then go the matter of the most recent deed between the Crown and the TCC in terms of the TCC relinquishing its role, such that now the accreditation of building practitioners resides in the Director of Building Control's office?

**Mr HUNT** - Chairman, the act provides for that, not the deed.

**CHAIR** - Yes, but the deed facilitated the transfer from the TCC to the Director of Building Control. Has the \$143 000 been paid in settlement, as set out in the deed?

**Mr SMITH** - Personally, I have had nothing to do with that deed of arrangement, nor the process involved. They were handled by senior departmental officers and that is all I know about that.

**Mr ORMEROD** - My understanding is that the deputy secretary of the department has been dealing with the TCC in relation to the transfer of that money. If it has not been done, it will be done soon.

**CHAIR** - The latest date for all of this to occur, of course, is 21 November - Tuesday next week. Is there nobody at the table who can inform the committee as to whether that payment has been made yet?

**Mr ORMEROD** - I can find out very quickly for you.

**CHAIR** - Could you do that?

**Mr ORMEROD** - Yes.

**Mr HUNT** - I can confirm that a separate cost account has been structured for building practitioner accreditation.

**CHAIR** - Within the Director of Building Control's office and into that will be contributed the \$143 239.

**Ms THORP** - And there's your answer.

**Ms FORREST** - Can I just clarify a point regarding that. You struck the fee structure for builders accepting accreditation, is that what you are referring to?

**Mr HUNT** - Not at all.

**Ms FORREST** - What did you say?

**Mr HUNT** - I said a cost account - a cost centre.

**Ms FORREST** - Sorry, I misheard. It is hard to hear up here at times.

**Mrs SMITH** - Yes, it is very muffled both ways, I must say.

**Ms THORP** - A cost centre refers to departmental budgeting, doesn't it?

**Mr HUNT** - Within departmental budgeting there is a cost centre for every separate activity and a separate cost centre has been made for this new function.

**Ms FORREST** - For administering the business of building accreditation?

**Mr HUNT** - Yes.

**CHAIR** - Without Roy being here nobody else might be able to answer this but I will ask it in the possibility that it can be answered. Who negotiated the \$143 000 arrangement between the Crown and the TCC?

**Mr PEARCE** - I am not aware.

**Mr HUNT** - Not I - I was overseas.

**CHAIR** - Nobody here is aware.

*Laughter.*

**CHAIR** - Roy, just before you advise the committee about whether the payment has been made, I will just repeat my last question because none of the others were able to answer. Who negotiated the \$143 000 arrangement between the Crown and the TCC?

**Mr ORMEROD** - Negotiations were carried out by the secretary of the department and I also believe the Solicitor-General was present.

**Mrs SMITH** - The secretary of which department?

**Mr ORMEROD** - Justice, Peter Hoult.

**Mrs SMITH** - Okay, thank you.



**CHAIR** - We may need to have him before the committee at some stage. Did you find out whether the money has been paid?

**Mr ORMEROD** - Yes, not only is it in the mail, but the cheque is in the bank!

**CHAIR** - Given the establishment of a cost centre, has there been any money flowing into that account from applicants who wish to be accredited as building practitioners?

**Mr HUNT** - Since 1 November?

**CHAIR** - Yes.

**Mr HUNT** - I am not sure. There have been some payments received since then. So that is with the registrar.

**CHAIR** - There are some payments that have been received since 1 November -

**Mr HUNT** - I have seen cheques go through.

**CHAIR** - Okay. Could you advise the committee as to the quantity of those and the amount cumulative thus far?

**Mr HUNT** - No.

**CHAIR** - No, not now but can you give it to us - take it on notice?

**Mr HUNT** - Yes.

**CHAIR** - How are those moneys disbursed, the moneys which will be sitting in that deposit centre? Will there be, going forward, any payment from those moneys back to the TCC in consideration of the fact that they have already had \$143 000?

**Mr PEARCE** - There are apparently accreditations which were in train before the handover date and accreditations that were processed after the handover date. Those that were in train prior -

**Mr HUNT** - Debts owing to the Tasmanian Compliance Corporation will be paid

**Mr ORMEROD** - So any who have missed the third instalment or have not paid it, it is due to the TCC and should have been paid by now. They should have their accreditation suspended. We are in the process of writing to them at the moment, advising them that if they want to get their accreditation back they need to pay that money.

**CHAIR** - Where would that payment end up?

**Mr HUNT** - It would end up with the TCC.

**CHAIR** - That would end up with the TCC?

**Mr HUNT** - Yes, it would.

**CHAIR** - Is it your assessment that the TCC have done a reasonable amount of work to have justified the transfer of those funds back to it? If I could make an observation maybe the observation could be this, that builders knew from the Government announcement some weeks ago that this process was going to unfold.

**Mr HUNT** - Yes.

**CHAIR** - I suspect that many in the building industry would say, 'We are not giving another cent to the TCC; we will therefore sit on for further consideration, believing that money will not go back to the TCC'.

**Mr ORMEROD** - Yes, they will need to know. They would be advised from us that any payments made to us in relation to the third instalment would be paid to the TCC because that was part of the agreement between the Government and the TCC. When they were accredited, the fee was a fixed fee, payable over three instalments. So when they agreed to be accredited they entered an agreement with the TCC to pay those three instalments.

**Mrs SMITH** - That would be less an administration charge for the department from the time it takes you to complete the process, to send the money back to them - surely, as a minimum?

**Mr ORMEROD** - I do not know if that was in the deed or not because all of this is contained in the deed.

**Ms FORREST** - You said that when a builder is accredited or was accredited to the TCC it was for a period of three years and there is annual fee of \$495 plus. If I was a builder and sought accreditation last year, I have three years of accreditation. I have last year and still have two more to go, so are you saying that these next two that I am due to pay under that three-year accreditation will continue to go to TCC?

**Mr ORMEROD** - It's a good question, and to be honest, we are not sure because it was a triannual sort of arrangement. That one fee was for a three-year period and the TCC allowed them to make a payment by annual instalments. But for those who have paid, I am not sure.

**Mr HUNT** - No, it's a good question but I think the accreditation may only run to 1 July 2007.

**Ms FORREST** - So for me, as a builder, who applied in July 2006 and paid then and am due to pay again in July 2007, you are saying this money could go to TCC -

**Mr ORMEROD** - No, I didn't say that.

**Ms FORREST** - No, I haven't finished. That may not be the case, but my accreditation will cease at that point. Even though I had applied for three years, it will run out on 30 June 2007 and I will have to reapply through the department, if that is still what is happening at the time, for a period of accreditation for three years or whatever is determined. The money is still not clear here. If I pay for my three-year accreditation I am going to pay

for three years and I don't pay three years' worth up front; I pay a year's at a time. This certainly needs clarifying, I believe.

**Mr ORMEROD** - We would seek clarification. I understand that when the TCC were first authorised the process was a three-yearly licence fee. That was all due to be reviewed and recommenced on 1 July 2007. So we have always had our minds focused upon what the model would be from 1 July 2007 and what the fee would be from 1 July 2007. We need to research what will happen to those who have paid previously.

**Ms FORREST** - It does concern me that money coming in after 1 November will still go to TCC.

**Ms THORP** - Is that possible?

**Mrs SMITH** - No, it is the surrender date, surely. 'The TCC is entitled to receive all book debts and other moneys owing to it in connection with the business until the surrender date'. The surrender date, of course, is 31 October, not what is owing up until the end of the years, I would have thought.

**Mr ORMEROD** - But our understanding was that these builders who are attached with the TCC were accredited with the TCC on the agreement to pay a fee which was \$1 000-odd. Our understanding is that it means that if they have not paid their third instalment to the time we take over, they still owe that payment to the TCC. That is the way that we understood this arrangement would be.

**Mrs SMITH** - So we would call that a book debt? They owe three years' payments but they are allowed to pay them incrementally, one payment per year and thus the three years? The builders of Tasmania will be exceptionally disappointed at that, I can tell you. Many have come to me and said, 'I am not paying until this is sorted out'. Now they have to pay if they are doing some work and they are back at the stage where they consider they receive no service for their fee. From my perspective, that was the issue to most - service for fee, not the cost of the fee. That is interesting.

**CHAIR** - I think we will probably talk in detail with Peter Hoult about that.

**Mrs SMITH** - Yes, I think we should.

**Mr WILKINSON** - I would take it that you are just doing now what you have been advised to do by Justice. Justice say there is a contract, they have told you to do something a certain way and therefore you are doing it that way? Is that fair?

**Mr ORMEROD** - That is correct.

**Mr WILKINSON** - Whether you think it is right or wrong, it does not matter?

**Mr ORMEROD** - Yes.

**CHAIR** - Again, I am referring to my notes and I go back to square one. What were the overriding or compelling reasons to go out on the limb with a scheme such as this, when there is not such a scheme operating anywhere in Australia?

**Mr HUNT** - I have to answer that as Robert obviously has nothing to do with it. Parliament endorsed the coregulatory building practitioner accreditation scheme. That scheme was developed in consultation with industry from 1995 on. The whole Building Act contained much more than accreditation and the Building Act was based on the model building act, developed by the Australian Building Regulations Coordinating Council. But the issue of licensing or accreditation of builders was seen to be part of a holistic implementation of an appropriate building act within various States.

You would be aware that it is done differently in Victoria and it is done differently elsewhere. At some point in the process we were advised by a ministerial adviser for the Rundle Government, as I recall, that there was no way the Liberals would entertain a government-run accreditation scheme. Yet, at the same time the industry and particularly the builders, wanted to have an accreditation system. The Government of the time suggested that they come up with a voluntary accreditation system and they did not. So to progress the other aspects of the Building Act, we became aware of the coregulatory model and we promoted that and that was accepted through two discussions papers and a draft bill and then finally by Parliament.

**CHAIR** - Can anybody advise the committee how many applicants have been accredited or had their accreditation renewed between 1 July this year and 31 October, the period when the TCC was operating? Clearly, I want to try to establish in my mind funds that have been generated by the TCC during that four-month period that they have been operating. Your records show they are required to report to you regularly as to who gets what?

**Mr HUNT** - Yes, we do that. Currently, there are just over 2 000 accredited building practitioners, who must have, therefore, paid their fees.

**CHAIR** - Some of them might have paid the full three years, 18 months ago?

**Mr HUNT** - I do not believe anyone has paid for three years.

**CHAIR** - So are you suggesting to the committee that 2 100 have paid from 1 July to 31 October?

**Mr HUNT** - Yes, they have paid up. Their financial net.

**CHAIR** - Okay, and what is the average value of an accreditation? There is \$495 for a builder and there is \$45 here and there - what is the average?

**Ms THORP** - \$500 is a good, round figure.

**Mr HUNT** - No, it would need to be lower than that.

**Ms THORP** - I'm just being helpful.

**Mr HUNT** - There were corporate discounts for corporations - multiple discounts - so you could become accredited as a building designer when you were already an engineer and only pay \$45. There are 2 100 individuals who hold accreditations.

**CHAIR** - So if we multiplied that by \$500 for a round figure, you would get about \$1 million for the last four months, gathered up by the TCC. Is that a reasonable assessment?

**Mr PEARCE** - It wouldn't be \$500, because of these discounts - oh no, they're individual - no, because corporations can get accredited for \$45.

**Ms THORP** - I would hesitate to ask you to speculate.

**Mr HUNT** - You see, you have the benefit of the KPMG report.

**Mr PEARCE** - Yes, you can work out from the KPMG report, which apparently has the financials in there, the number of accreditations and the total revenue. You could get an average. My guess is that it will be well less than \$500 - it won't be \$500, it won't be \$495; it will be \$470, \$460.

**CHAIR** - What is the maximum number of individuals that have been accredited?

**Mr BOWES** - I cannot exactly recall, it might be -

**Ms THORP** - It is in that Builders Group notes.

**Mr BOWES** - Maybe for the last year, 2 500.

**Mr HUNT** - It would be a maximum.

**Ms FORREST** - All up, we're talking about.

**Ms THORP** - Yes, because it appears that each of those meetings involved a report from TCC on their current accreditation numbers.

**CHAIR** - So it's fair to say that the vast majority have paid their accreditation fee between 1 July and 31 October.

**Mr HUNT** - Absolutely, and there are not currently 2 500 applicants. Some people have retired, drifted away, decided they didn't need it.

**Ms THORP** - Owner-builders.

**CHAIR** - So your office then would not expect too much more revenue to come in from accreditation processes based on those numbers you have just given to the committee?

**Mr HUNT** - No more than 50.

**CHAIR** - So is your assessment then of \$143 000, which has been negotiated by others - we will investigate that - a reasonable figure going forward to run the accreditation office for eight months?

**Mr HUNT** - It won't run the office for eight months. I understand it was based on some calculation for six months.

**CHAIR** - Oh, but the deed makes it quite clear that your department is required to conduct the accreditation of building practitioners for eight months.

**Mr HUNT** - Exactly.

**CHAIR** - So whoever negotiated \$143 239 did not do a very good job.

**Mrs SMITH** - Perhaps they had an EBA.

*Laughter.*

**CHAIR** - That is a question to you - \$143 239. Let me frame the question this way - there is no need to be cross about it all.

**Mr HUNT** - I'm not cross.

**Mr PEARCE** - But we are not a party to that deed. You need to understand that.

**Mr HUNT** - I have done the same sums that the industry has done and I got the same silly figure.

**CHAIR** - Which silly figure is that?

**Mr HUNT** - How much an assessment of that amount of money would translate to an annual fee.

**CHAIR** - Yes.

**Mr HUNT** - That is all I say.

**CHAIR** - And if you extrapolate the \$143 000 out, you get about \$214 000 over a year and you are suggesting to the committee, Graeme, aren't you, that \$143 000 - Mr Pearce is shaking his head for some reason - I haven't even finished the question.

**Mr PEARCE** - I know what the question is, Mr Chairman.

**CHAIR** - You are suggesting to the committee that \$143 000 is inadequate to run the process of accredited building practitioners for the eight months of this financial year unexpired?

**Ms THORP** - Has it been suggested it should?

**Mr ORMEROD** - It would not run that process.

**CHAIR** - What is your assessment of the cost of running such a process for eight months, given that you picked up the staff of the TCC, car expenses and all those other things which are listed in the deed of release?

**Mr PEARCE** - Are you only doing accreditation, or are you doing the auditing, monitoring of CPD or the full range?

**CHAIR** - The full range, I would have thought, because that what your role is. That is what the role of the TCC would have been had they stayed in place.

**Mr ORMEROD** - We do not know exactly the salary of the staff that we have inherited from the TCC, so we are not sure what the salary bill is. That is a key cost component here. That would have been discussed and negotiated at the time that deed was prepared. So we really are plucking figures out of the air because we just do not know.

**Ms THORP** - Is it reasonable to say that the whole of the accreditation, professional development and all the other components of the TCC's functions could be paid for out of their building levy? It has been contended by some people that there is no need to have licensing fees.

**Mr HUNT** - That is not the purpose of the building levy. The purpose of the building levy is to administer the Building Act.

**Mr ORMEROD** - If it was intended to be used to accredit builders, then the levy would be higher because it was always intended that the levy was for one purpose and accreditation fees were paid for another purpose. Therefore it would not be correct to say now that the building levy should be used to cover the cost of accrediting builders.

**Ms THORP** - So those that would support the idea of no accreditation fees by having all of these functions financed by the building levy, would also, at the same time, be therefore suggesting that the building levy would have to be raised?

**Mr ORMEROD** - That is correct.

**Ms THORP** - That would not be very popular, would it?

**Mrs SMITH** - It is all coming from the same place, the person who is having something built.

**CHAIR** - You have established the cost centre in the office. Whether it was Mark or Graeme, somebody, I believe, would have a take on this issue. You have established a cost centre. The \$143 000 will be allocated to that cost centre. You further indicated that is not enough to run the accreditation process. Where will you get the money to run this broad accreditation process and all that it entails, with outstanding complaints resolution, audits, CPD, and the scheme? You picked up the scheme promoted by the TCC, so all that it encompasses. Where are you going to get the money to run all of that, given that the negotiators have given you \$143 000?

**Mr HUNT** - It is my understanding that the minister has authorised the levy to be used to top it up for this year.

**CHAIR** - Oh. The minister being Steve Kons. He has authorised the use of that?

**Mr HUNT** - To administer the act in this instance.

**CHAIR** - Yes. Further to that, are you aware of whether the TCC had a specified account set aside to investigate complaints?

**Mr HUNT** - I'm not sure.

**CHAIR** - Is anybody at the table aware whether they did have a dedicated account? I guess we will go to that issue as well.

**Ms FORREST** - We have identified that the Attorney has said that money can be drawn from the building levy to fund ongoing operations. There is no other foreseeable form of income at this state because the accreditation fees, at this stage until we get clarification on this matter, are still going to the TCC?

**Mr HUNT** - That is right. There will be no other income until 1 July next year.

**CHAIR** - Of a substantial nature?

**Mr HUNT** - Yes.

**Ms FORREST** - I suppose there is the odd new builder who comes onto the scene, who moves to Tasmania and wants to be accredited, at which time they will be charged fees that are currently being charged for builders and were apparently being charged for builders through the TCC?

**Mr HUNT** - No, we are reviewing the fees.

**Ms FORREST** - So have you actually set new fees at this stage?

**Mr HUNT** - No.

**Ms FORREST** - So do you envisage those fees to be higher or lower than those that have been charged to builders?

**Mr ORMEROD** - They have to be set by regulation and they will be set after we have consulted the industry on that.

**Ms FORREST** - If there is a reduction, do you see that could present some problems to people who have already paid their \$495 plus or minus an amount, depending on the number of categories they are accredited in and whether they have any discounts or not? That could be an issue for the builders who are working alongside these same builders and paying very different rates.

**Mr HUNT** - It is annual.

**Ms FORREST** - So that will not come into effect until 1 July next year, is that what you are saying?

**Mr HUNT** - Yes.

**Ms THORP** - And is it more likely that they will be higher than lower?



**Mr HUNT** - It's not more likely.

**Ms THORP** - It's a lot more likely?

**Mr HUNT** - It is not more likely.

**Ms FORREST** - So, clarifying this point, a new builder that comes to Tasmania next week and wants to be accredited, what will they be charged?

**Mr ORMEROD** - The current \$495.

**Ms FORREST** - Until the end of June next year, they will be charged that amount?

**Mr PEARCE** - Until the regulations get made.

**Ms FORREST** - Yes, but if the regulations are not made, and a builder comes next week and wants to be accredited what will they be charged? Will this money go to the working account here or will it go to the TCC?

**Mr HUNT** - It won't go to the TCC at all. It is not a debt owing to the TCC.

**Ms FORREST** - But it will be the TCC-initiated rate that you will be charging at this stage?

**Mr HUNT** - Yes.

**CHAIR** - When do you expect the regulations to be produced?

**Mr ORMEROD** - It will be long before 1 July. I expect it will be very early in the new year when the regulations will be finalised. We hope to start meeting with the stakeholders before the end of this week.

**CHAIR** - So the current fee structure will remain in place until 30 June next year.

**Mr ORMEROD** - That is likely.

**CHAIR** - Thank you very much, and there are those couple of matters that we will correspond with you.

**THE WITNESSES WITHDREW.**