

**THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON ACCREDITATION OF BUILDING PRACTITIONERS MET IN COMMITTEE ROOM 2, PARLIAMENT HOUSE, HOBART, ON MONDAY 17 NOVEMBER 2008**

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**Mr DAVID JOHN DIPROSE**, REGISTERED CONTRACTORS' GUILD, WAS SWORN, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

**CHAIR** (Mr Harriss) - David, in terms of background for the committee members, you contacted me many months ago now, once the committee was back on deck, so to speak, and requested the opportunity to give further evidence to the committee. I discussed that with Sue McLeod and we agreed that the opportunity would be provided. So we are in your hands to give your evidence however you see appropriate.

**Mr DIPROSE** - Sue Smith's not here?

**CHAIR** - She is no longer on the committee because of her role now as President. Lin will be joining us soon.

**Mr DIPROSE** - Given that I have a very short period of time, I am going to try to limit this to 10 minutes. I doubt if I will succeed but I'll do my best.

First of all, the terms of reference relate to the optimum framework for accreditation of building practitioners, including all appropriate consequent costs imposed on builders. The other one is the agreement entered into between the Tasmanian Compliance Corporation and then minister, the Honourable Bryan Green. The third item that I wish to introduce, which is related to that first term of reference, is the appointment of the agent for John Charles White as the acting director of building control.

I would like that third part, if it may, to be in camera. Since it is a fairly serious matter and it involves some very, very serious matters of moral character and other issues, I'd like it to be in camera and I would like it perhaps to be on another day, if that is all right, in relation to your time.

**CHAIR** - We'll need to deliberate on that as a committee. Let's proceed with the matters that you have in front of you.

**Mr DIPROSE** - Okay, I'll push ahead. I have responded to the Government in relation to the accreditation of builders and it is very important to realise that the issue was first raised by the Australian Building Licensing program in 1992. This was a three-leg program to regulate building work, which was the registration of building practitioners, including designers, builders, certifiers, architects, engineers, designers and so on. The second part was the insurance of building work, including structural defects and non-completion, and the third area was the code of conduct, contract execution and dispute settling.

We've had, to put it fairly simply, a transfer from my company which I funded and founded and had written an accreditation scheme which was approved by the minister, Minister Cox of the day, and that won a tender, if you like, or a process, against an application from Consumer Affairs written by Roy Ormerod and supported significantly

by the Housing Industry Association at the time. That scheme included a number of things, not the least of which was the development aspects of the Building Act to improve the way builders work. Looking back now, after four years, it is fair to say that the Workplace Standards department are no longer doing any of the things required by the Building Act in relation to the building licensing program. The first one is the registration of builders, and it is true, they are doing that. They are also using that registration to limit and reduce competition and to stop freedom of trade. The more important thing, however, is that that registration was for a purpose and that was to ensure that the insurance of building work was to protect consumers and that a code of conduct, contract execution and dispute settling would be achieved.

The situation now applies that the department has asked for more people and removed its work. The act says competence, diligence and integrity. The question of competence has now been blame-shifted entirely to the Department of Education and all competence is done either by the TAFE system, or the incoming trade system, including what is called the recognition of prior life experience. Alternatively, if you are a 60-year-old man coming back from the mainland, you are required to do a one-year course called certificate IV. Again, the Workplace Standards department no longer looks at that man's experience, he simply gets shunted off to the TAFE. There is no longer any measurement of competence by Workplace Standards.

Secondly, in relation to insurance, there is no insurance. As the Chairman of the Registered Contractors' Guild, which I will come to in the second part of this, I have had put to me an insurance scheme called gap insurance, which the committee is welcome to look at at any time, and that covers only the failure to complete contracts.

Since there is no insurance there is nothing for the department to do. In regard to the rest of the matters of structural defects et cetera, that is now covered by the Building Framework which is in the hands of a very good department called Consumer Affairs. So there is no longer any insurance and there is no longer any measurement of competency by Workplace Standards department.

The third area of concern is the code of conduct, contract execution and dispute settling. The dispute settling has also been moved, and I am sorry I do not have the legislation with me, but the dispute settling was, on 23 July this year, moved to Consumer Affairs. Contract execution has been moved to Consumer Affairs, which leaves the area of code of conduct. As I said before, competence has moved to Education, diligence has moved to Consumer Affairs, which leaves the third leg of the act itself, which is integrity.

You will be amused to know that I have had some difficulty with the integrity of this department and you will not be amused to know that my family has been subjected to threats, having builders coached on how to abuse my wife, on a campaign of denigration, a campaign of defamation and a great many other things as part of the Workplace Standards department's carrying out of the revenge of John Charles White after I reported him for stealing my \$95 000.

As to the integrity however, it is more amusing that the definition of integrity under the Building Act is now called moral character. This was introduced on the date of the arrival of Pope Benedict to Australia. At the time of the arrival of the Pope, the change

from professional conduct to moral character was, coincidentally, announced as law in this State.

The difficulty with moral character, apart from the fact that the people who are carrying it out often are seriously lacking in moral character, a matter which I would like to come to in camera, is that it is impossible to administer moral character. It is, as I think Brigitte Bardot said, 'disconcertingly stupid'. The fact that we cannot ping a builder for lack of moral character when he puts in four windows when he is contracted to put in three makes it very difficult to administer.

So overall we are now failing in the area of the three things that I have outlined, the competence diligence and integrity; the insurance; the code of conduct, contract execution and dispute settling. By and large this has all be very cleverly shifted to other departments.

To add insult to injury, the department is now asking for more staff. I just want to make it clear that when I was running this we did this for \$350 000 a year and at the moment the organisation is pulling in about \$1.65 million a year with less work to do.

All of the good work that is being done in Workplace Standards is being done in conjunction with the councils. There is some fabulous work being done. Recently there was a course conducted for 35 statutory officers from the councils at The Grange in Campbell Town and all of those people graduated with a certificate IV in compliance. That has been the role of Workplace Standards and the Department of Labour and Industry since time immemorial and there is no need for a building act to have the councils carry out the supervision of the quality of work.

Second, insofar as there is any requirement for the Building Act to look after this it has now been shifted to Consumer Affairs which has appointed a first class officer, an ex-builder, to look after these matters.

That ends my submission in relation to that. Perhaps I should say it is high time that the acting Director of Building Control, and John White's agent, resigned from his position and that the whole thing was dismantled. In fact, I am not sure that we should not be seriously considering a decision by the Workplace Standards manager to do away with that section of the department completely and finalise the transfer of everything to a very well run organisation, namely Consumer Affairs.

One other thing, the regulation has added an extra 5 per cent to the cost of every house for every man, woman and child in this State and I am sure you will find economic analysis from 2004-05 will bear this out, since the housing price index rose by 13 per cent in this State when the rest of the States rose by 8 per cent.

I will summarise by saying that nobody knows if the Building Act has done any good at all. If you can't measure it, you can't manage it. It has not been measured therefore it is not being managed and the temerity of this organisation to ask for more staff is an absolute joke. The question is, has the reduction in competition and the restriction of trade added a benefit to the consumer? I would suggest not because at the moment we are looking at about 20 per cent of all medium-sized builders going out of work. The small ones will survive and the large ones will survive, but this evidence comes from

Dun & Bradstreet and we are facing a very difficult period. It is highly questionable whether the regulation by the department is increasing the benefit to the consumer other than increasing costs.

I want to refer to a quote - and I do not have the it here so I hope I get it right - but Groucho Marx once said that the art of regulation was to avoid finding trouble, find it and then misapply the wrong solution. I think that is what happened here and I think Groucho Marx's description of regulation in relation to Workplace Standards has never been more accurate. I say again that there is some wonderful work being done through the building regulation and standards section of that department and some by Consumer Affairs, so I do not want you to think that I am opposed to the work of the Government. I think they have been excellent.

May I move on to my second dissertation?

**CHAIR** - Any questions with regard to that for the moment?

**Mr DIPROSE** - You can accept that it is my evidence. I believe it to be true. I have just sworn that it is true and I will, at a later date if you wish, provide firm evidence in relation to it if you want me to.

**CHAIR** - Okay.

**Mr DIPROSE** - The next thing is the accreditation of builders in relation to the deal between Tasmanian Compliance Corporation and the then minister responsible, Bryan Green. The deal between Bryan Green and the TCC was a deal to buy out the company. The evidence given in the trial of Mr Green and Mr White suggests that it was to improve the service of the TCC. No doubt, given the fact that John White was in charge of it, it was probably seriously lacking. However, the minister valued the firm at two years' income, which is \$2.25 million if you take GST into account and there is no reason the total of income for two years from the figures by Barry Hamilton wasn't correct.

John White's retirement was on 2 October 2007 and the deal was, as I understand it, that \$1 million went to John, \$1 million went to Mr Glen Milliner and \$250 000 went to me to shut me up.

**CHAIR** - Was that \$250 000?

**Mr DIPROSE** - It was \$250 000. I received the offer of \$250 000 and after consultation with my son I decided not to accept the money. I have a lawyer's letter here which states quite clearly that I refused the so-called dirty money. I refused the money and although I am \$250 000 poorer I feel that my business and reputation are probably worth more than \$250 000. I have the support of about 200 builders, some of whom have written to the Premier and asked for me to be on the Building Regulation Advisory Committee, specifically to provide a countervailing view to that of the department and, in particular, Peter Rayner the Registrar, which I will do.

I do not believe that the evidence given under oath to you, Sir, by Roy Ormerod that all builders are atrocious communicators is true. In fact, I think it is demonstrably untrue and the department's own statistics produced by Workplace Standards show that 97 per

cent of all building projects do not require the intervention of any third party whatsoever. In other words, 97 per cent of builders are excellent communicators and what we are dealing with is someone who thinks they are all crooks.

**Mr WILKINSON** - I do not think that was his evidence, David.

**Mr DIPROSE** - Well he did say it under oath here. I heard him say it.

**Mr WILKINSON** - I do not think he went as far as what you are saying.

**Mr DIPROSE** - What did he say, Sir? I am sorry I cannot remember it.

**Mr WILKINSON** - I cannot say exactly what he said but it is on the *Hansard*.

**Mr DIPROSE** - Well I think the words 'All builders are atrocious communicators' ought to be looked up if that is the case. In any event, the change to the scheme that he has bought in deals almost solely with the difficulty of communication which is once again almost impossible to regulate. Builders are to be fined \$6 000 for failure of moral character and \$6 000 for failure to communicate and yet it is virtually impossible when the communication responsibility of the builder is entirely to produce the drawings. Builders communicate via drawings not in English. They do not sit and write public service reports.

The point about this agreement between Mr Green and the TCC is that a political appointment arose out of that. As a consequence of that there has been a serious vendetta which one of my friends who is a builder has written about in correspondence to the Ombudsman. I have been asked to produce evidence to the Ombudsman regarding the vendetta which started on 1 December 2006. I am aware that we have seven minutes so I will be brief.

You have in front of you a blue folder which I circulated in good faith and in that I said that it would be a good idea for us to achieve better building practices. It is extraordinary that all the attempts to put me out of business are as a result of this particular document, because I said that the fine should be \$6 000. You will notice, by the way, on the third page, under section 40 of the Building Act impose a fine not exceeding \$5 000 per person or \$25 000 for a body corporate. Roy Ormerod, as Director of Building Control, had a letter written by a person signing it as Director of Building Control but who was not Director of Building Control. The letter itself was probably illegal and it was sent to every builder in Tasmania, including all of my customers saying that my services were inaccurate, misleading, mischievous et cetera. The crime that I was accused of was quoting the wrong amount of money of the fine, that it should have been under section 41 of the Building Act, that it should have been \$6 000 and that the director could not -

**CHAIR** - It should have been \$5 000.

**Mr DIPROSE** - Well, it is \$6 000 now.

**CHAIR** - Yes, but you said it should be \$6 000.

**Mr DIPROSE** - It is \$5 000 in the letter that I received from the Government. I quoted their own document. The point is, I have been defamed for quoting the Director of Building Control's own document. In addition to that, there is a statement to the effect that there is no director's complaint form. You all have in front you the Director of Building Control's complaint form. I don't know why I would receive that, a week before I sent the memo out to builders, saying that they should use the Director for Building complaint form and then have Ormerod write back to me and say that there is no such thing. In fact, what I said was that the complaint must be in writing and may use the director's complaint form. As a consequence of writing what is in this document, I have been threatened with breach of section 240 of the Building Act, which is a fairly substantial section of the act and it says, 'if someone knowingly providing dishonest material.' Ruth, I was not dishonest. But what is dishonest is when the Government of the day writes to a person, trying to help them, whose business is to assist with the bringing in of the development aspects of the Building Act, which is in our mission statement, to then say that this document that you have in front of you does not exist and what is says in it is wrong, when those are in fact the Government's own words.

Also there was a complaint that the director may, under due diligence, recommend completion and execution of the contract, recommend that poor work be made good or recommend the completion of unfinished work. The director cannot order these things but the director is able to caution. I think there are some other things he can do which revolve around the ability to deal with a complaint to ensure that a reasonable standard of competence, diligence or integrity is carried out. If the Director of Building Control is allowed to caution a person, I do not see why that caution should not include an instruction to put the door in that he has not put in or to put in a fourth window, as the case with the wife of a prominent politician in this State where the builder put in only three windows in a renovation of a warehouse when he had said he was going to put in four. That builder had breached the permit that had been put before the council.

That matter in my view is particularly serious and I have written to Lisa Hutton and to the minister to say that I am disappointed that the minister's heart is broken over the loss of confidence, but that there are some damn good reasons because every grievance that I have put forward has been ignored, covered up, devalued, reinterpreted, not investigated, responded to with threats and finally responded to with intimidation.

The last defamation - I think you will be amused by this - was that it was suggested that I had a very close relationship with John White. This last smear suggested that I was sycophant. I refute this. I abhor toadying. However, I have certainly been screwed for my loyalty to this Government in deliberately getting the TCC back under government control.

The matter of the defamatory letter which has effectively reduced my business by two-thirds and put my wife and I into some financial difficulty is being dealt with very poorly by someone who used what I call the craft defence when they came to this Legislative Council, my parliament, and had the cheek to say to another committee at another time that they could not remember a flaming thing. That is called the craft defence and I am advised by a senior prosecutor that there are times when the craft defence becomes perjury. So I find it offensive that, in relation to this defamation, the mediation that has been set up has not proceeded to deal with anything other than my complaints about Mr Ormerod and I have been asked not to make personal statements about him.

However, these are not personal statements, this is business. The man has set about, consistently and in writing - I have it all here - to damage my business since the appointment of White's agent to the department. It worked out this way; White told Roy Ormerod that I was dishonest and Roy Ormerod believed John White. I think that speaks for itself.

So that is really all I have to say, thank you. You did ask about one other matter and that was the money. There was \$110 set aside for professional development by the TCC.

**CHAIR** - One hundred and ten thousand.

**Mr DIPROSE** - Yes, \$110 000 set aside by the TCC. There was a contract breached with me that I would provide CPD for all builders at no cost and I would be paid \$100 000 a year as a consultant to do that work. That contract was breached. The company was taken to the Industrial Commission about the issue and they were fined \$32 500. The \$110 000 was - instead of being given to me - given to Mr Glenn Milliner. Glenn Milliner then covered up the payment of \$110 000 to himself and it did not appear in the company's audited accounts required under the Corporations Act on two if not three occasions until KPMG went in and found the largest cheque written that year in October 2005 for \$110 000 to Glenn Milliner and asked what it was. He said, 'Oh, that cheque: it is an oversight.'

The largest cheque written that year was an oversight and it was directly money that was intended to pay for the professional development of building practitioners. I am sorry I have no more time but there is enough meat there to last you guys a lifetime. I want finally to make an invitation to you, Mr Harriss. The builders of Tasmania are fed up to the back teeth with the collapse of the judiciary and the collapse of the Department of Justice in relation to integrity. It is possibly a very good idea, prior to the change of government in 2010 that some of the senior people consider their futures. An academic future would be very suitable for at least one person. The builders of this State have invited you, as a committee, to go and speak to them on 15 December at a project in New Norfolk, if you wish, where there will be a lot of builders present, or you may go to Queens Park in Kingston where a number of builders would like to speak to you and have you listen to their concerns.

There is a very big slip between the cup and lip in terms of what evidence is given and I feel, particularly because of the pain that is being suffered by these builders who are being treated, in their view, quite badly, that they would like to put their concerns to you. I would not like to speak for them although I do represent them through the Registered Contractors Guild. Some of them are my members and some are HIA and some are MBA and some of them are not members of anything at all. So that invitation, sir - if I may formally put it on the record - is for you all to visit Queens Park, Kingston or the New Norfolk project on that day or any other day that suits you.

**CHAIR** - When you say that is a direct invitation from the builders of this State, how do you mean that?

**Mr DIPROSE** - I have spoken to the builders, as many as I can, prior to coming here today and I have asked them where it is possible for them to come. I have had one builder in particular from Kingston who would like me to put a view to you and I have said that I

will do my best but I believe he should speak to the committee directly. So in the sense that I meet with and have met with a large number of builders from Circular Head, Burnie, Launceston, Strahan - I have actually been to Strahan - and Bridport. I have not been to St Helens and I apologise for that. I have been to Huonville, I have been to Kingston and I have been to Hobart. All of those builders have concerns but the specific ones that I rang in the last seven days have suggested either meeting in New Norfolk or Kingston because it is convenient.

**CHAIR** - The meeting on the 15th - what specifically is it for? Is it for these concerns, to air these issues?

**Mr DIPROSE** - No, no. It is for builders to deal with the second term, which is the optimum framework for the accreditation of building practitioner and the administration of building, and I think it says 'consequential costs'. I believe they have views on that. I do not want to speak for them. They are salt-of-the-earth men, mostly, and they will be more than happy to speak for themselves, I am sure.

**CHAIR** - Did I hear you right, David, when you suggested that they represent a variety of memberships of organisations? They could be MBA members, HIA members, they could be members of your Builders Registration Guild?

**Mr DIPROSE** - Yes, that is true.

**CHAIR** - How many people?

**Mr DIPROSE** - Ten.

**CHAIR** - Ten at each venue?

**Mr DIPROSE** - Probably about 10 at each venue. Yes, you would also get some brickies and some plasterers and maybe an electrician - people who are working in that particular area on the day who would attend a lunchtime meeting perhaps and tell you what they think.

**Mr DEAN** - Who is the facilitator there?

**Mr DIPROSE** - I would facilitate it.

**CHAIR** - Others will make their own judgments about it, but I am concerned - just as a wrap-up of a presentation today - that you extend an invitation along those lines in that vein, the fact that you have spoken to a few builders and they have some concerns and they want to meet with us. I would have thought that some invitation could have been put together if there was that amount of concern out there. The committee has been concerned about the processes that have unfolded since the department took over the accreditation. We have investigated that with the department and we will continue that investigation so that we can make our proper judgment about the optimum framework, recognising that we have a new framework now that we did not have two years ago.

**Mr DIPROSE** - Sir, let me make a point about that. This shouldn't be treated lightly, from my point of view. I accept your comment and I am more than happy to organise



something formal and write to Sue McLeod on behalf of a group of people - and they can be named if you wish, although naming them may cause them to be frightened about being pilloried by the department - rather than just dropping something on you.

**CHAIR** - Bear in mind, David, when we first started the process more than two years ago public advertisements were run, invitations to make representations to this committee were extended through that process. Some individual builders took up the invitation -

**Mr DIPROSE** - I think Mick Dolan was one.

**CHAIR** - Some came to the committee. Post that process we re-advertised, after the committee was reconstituted in March this year. Again, there was an opportunity for people to come forward and say, 'Okay, there's been a change of process. The department's now doing it rather than a private company and these are our complaints'. Likewise, the MBA, the HIA and any other builder organisation such as yours could have made a formal submission to the committee outlining the deficiencies as they perceive them with the current process. There has been a hiatus there.

**Mr DIPROSE** - Now that the Green matter and the court cases are over I felt it was worth putting this to you. If you want others to respond, by all means do. I think it is very nice of them to have the faith in you to ask you; they are very decent men.

**CHAIR** - Seriously, individual members are entitled to attend anything they wish. Whether the committee should convene at a place such as that so that -

**Mr DIPROSE** - It's an on-site inspection.

**CHAIR** - So whatever we hear won't be recorded or transcribed. It won't be anything that the committee would be able to take into consideration in formulating its report because it wouldn't be something that would be formally before the committee. That is a challenge I see.

**Mr DIPROSE** - That's been overcome in the industrial relations jurisdiction, with the greatest respect, where a judge can even have a bedside hearing with tape recorders and so on.

**CHAIR** - Yes, but industrial commissions and judges don't operate under our Standing Orders. Our Standing Orders constrain what we can do with a select committee.

**Mr DIPROSE** - I beg your pardon. I'm sorry; I accept what you're saying.

**CHAIR** - We could go as a matter of interest and gather information that might help us individually make some contribution to the committee - and I do that regularly, catching up with builders and with my constituency. However, I understand your invitation.

**Mr DIPROSE** - It is put forward in the kindest possible way, Sir.

**CHAIR** - I understand that. We accept that.

**Mr DIPROSE** - If it doesn't meet Standing Orders, I will obviously withdraw it.

**CHAIR** - No need to withdraw it, but I needed to point out to you that whatever might be raised in such a forum isn't something that can officially be taken on by the committee. That might pose more of a problem for you than it would for us, whereas you might prefer us formally to take on those complaints and suggestions for a better process going forward.

**Mr DIPROSE** - One of the obvious ones is that there is a \$50 000 requirement for capital for someone who is doing work equivalent to assembling a lounge suite. I mean, \$5 000, for God's sake, that's a leather lounge from Harvey Norman. To introduce obligatory regulation for such people makes no sense. People with just one \$5 000-project in three years required are required to do a certificate IV to be accredited. These are a little bit awkward. I would like to provide members of the committee with the details of this extraordinary letter to all my customers, is that okay?

**Mr CHAIRMAN** - You mean that you would send a copy of it to us?

**Mr DIPROSE**- To each one you, yes.

**CHAIR** - Send it to Sue, please and Sue will distribute it so that it is formally received.

**Mr DIPROSE**- It is singularly remarkable that a letter like that was sent to all builders saying that somebody who has written a letter trying to help the department to do its work, telling these people they should not do business with me anymore. This letter succeeded in reducing the number of people doing business with me for no good reason whatsoever and, by the way, for no long-term benefit either. My organisation has the capacity to provide some superb CPD assessment, as Sue Smith said.

**Mr CHAIRMAN** - Before we go, are there any questions? Thank you David.

**Mr DIPROSE**- Thank you.

**THE WITNESS WITHDREW.**

**Mr STEVE JEFFES**, TEAM LEADER, BUILT ENVIRONMENT CONSTRUCTION, TAFE TASMANIA, WAS SWORN, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

**CHAIR** (Mr Harriss) - Steve, so that the committee can understand in what capacity you are appearing, please provide that in the introduction to your comments.

**Mr JEFFES** - Mr current role is to manage the Built Environment unit at TAFE Tasmania where we deliver a range of programs from certificate IV to advanced diploma, AQF 4 to 6, in the building design area and building surveying area. At the time of the development of the accreditation system I wore two hats: I was the secretary of the Building Surveyors National Accreditation Panel for Tasmania and I also represented TAFE Tasmania as an educator delivering those programs. I currently sit on the national Construction and Property Services Industry Skills Council and the national executive for the Education Committee of the Australian Institute of Building Surveyors and the National Advanced Building Studies network, all TAFE providers running similar programs across Australia.

**CHAIR** - What was the one for building surveyors that you mentioned?

**Mr JEFFES** - I sit on the national education committee for the building surveyors, their professional body.

**CHAIR** - I understand that Workplace Standards have adopted as their benchmark for building surveyors across the country the course put together by the Australian Building Codes Board or that accreditation process.

**Mr JEFFES** - It was developed by the Australian Institute of Building Surveyors, the ABCB, and I was seconded to that committee.

**CHAIR** - I was concerned when I read in some correspondence from Workplace Standards that the ABCB process may have overtaken the national building surveyors accreditation procedure which was already in place, but you are telling me that is amalgamation.

**Mr JEFFES** - It aligns with it and we developed the new national competencies for the training of building surveyors and also the benchmarks for university courses at the same so they flowed right through from AQF 5 to postgraduates.

**CHAIR** - So there is no inconsistency there?

**Mr JEFFES** - No.

**CHAIR** - Complete harmony?

**Mr JEFFES** - I hope so, yes.

**CHAIR** - Good.

**Mr JEFFES** - So that's how that works. I sat on two committees at the time of the development of the processes and represented the two groups at the same time, which was just because of my background, I suppose. We currently still run all those programs. In the building area we have two other providers in this State, the HIA and MBA, so they run the certificate IV in Building and Building Construction (Building) which currently gives low-rise accreditation and we are the only providers for the diploma and advanced diploma in that area. No other providers exist in the design area or in the building surveying area. TAFE Tasmania also delivers. It is in a different team from the one I am in, but in the engineering team. They are building service design and mechanical for certificate IV and diploma programs and there are no other educational providers for some of the other AQF 4 to AQF 6 programs that are outlined in the accreditation system. That's the current one and the previous one.

**CHAIR** - In your process, what role does recognition of prior learning play in the assessment of an AQF 4, or is there a requirement now to go through the full educational procedure?

**Mr JEFFES** - No, it's a mandatory obligation on us to provide recognition for prior learning up front and to advise all potential students of the availability of that process. Our process is that we do a free desktop assessment on every student before they enrol, so they have a ballpark figure of where they sit before they make their commitment financially. We are the only providers in building survey in Australia, so I do recognition for all building surveyors.

So that's up front. If they wish to activate that process formally, once they've gone through the informal process, they have to enrol and then pay fees. Then there's a formal assessment process put in place against the competencies.

In relation to term of reference 1, I can give you a copy of this documentation if the committee would like that at the end.

**CHAIR** - That would be helpful. Yes, please.

**Mr JEFFES** - It will tell you everything and speed it up a bit. We have no knowledge of any agreement entered into or between the TCC and the responsible minister at the time. We had no involvement with that.

**CHAIR** - Term of reference 1, disregard.

**Mr JEFFES** - In relation to term of reference 2, which is the optimum framework, I'd make some comment. I was asked to go on those committees, the accreditation working group and the education working group, prior to the implementation of the scheme. The two major statements made by the people who chaired the meeting and represented the Government at the time were that the whole idea of providing accreditation was for the upskilling of building practitioners in technical knowledge and skills through formal qualifications and continuing professional development and the protection of consumers through a highly skilled building industry. These, I think, are fairly good parameters to work on.

Every member of the accreditation working group at the time expressed misgivings about a private firm carrying out regulatory duties under the Building Act. That

comment was made up front at the first meeting. The government representative at the time felt that they wished to go in another direction, but every member of the committee at the time said that they were uncomfortable with that process.

**CHAIR** - Do you have the make-up of the committee in that document you have there?

**Mr JEFFES** - No, I don't, but I can tell you the representation. The engineers were represented, the architects were represented, and the building designers were represented. The building industry was represented by the MBA, the HIA, the independent builders, MBA North. The fire people were represented. There were at least 20 people on that committee. Basically every area that was potentially going to be licensed or accredited was represented on that committee.

**CHAIR** - Who was the government representative?

**Mr JEFFES** - He chaired the meeting; Graeme Hunt.

**CHAIR** - Was Graham communicating the Government's intention to that working group or committee?

**Mr JEFFES** - Yes. That was my understanding.

**CHAIR** - To, in fact, outsource - that's my term - to a private organisation?

**Mr JEFFES** - That's my understanding of it.

**CHAIR** - Are there minutes of those meetings?

**Mr JEFFES** - That is a very good question. My understanding is that there are no minutes of those meetings. In fact it was queried a number of times. We had another meeting of that group once the new director, Mark Smith, was appointed and it was raised at that meeting that there were no minutes handed out to anyone during the time.

**CHAIR** - What was Mark's response?

**Mr JEFFES** - Mark referred to Graeme Hunt, who was at the meeting, and Graham felt that that was not the case but everyone at the meeting felt it was.

**CHAIR** - What do you mean Graeme felt that was not the case?

**Mr JEFFES** - Graeme felt that there were minutes presented at the meetings but no-one had any record of it.

**CHAIR** - Well, maybe Graeme has some record of it.

**Mr JEFFES** - He may have.

**CHAIR** - Given that it was the expressed desire of the Government's representative to go in that direction, did Graeme indicate that the Government had an open mind; if the committee were to put together a proposal which was robust and thorough but you

recommended a government department such as Consumer Affairs, or any other, did the committee ever get the impression that that was a possibility?

**Mr JEFFES** - No, clearly that was not a possibility. So we were looking at the best possible alternative. At that time we were not aware of the TCC. But the professional groups, that is the architects, the engineers, the building surveyors and the Australian Institute of Building, who were also represented there - I forgot to mention them before - did meet and put a proposal that potentially the Industry Training Board may manage that process. That was documented and signed off but not accepted by the Government at the time. So that was a proposal. We were uncomfortable with what was being proposed. We felt that it should be managed in some form by the Government.

**CHAIR** - Can you identify any dates of those meetings. Maybe not now.

**Mr JEFFES** - I could possibly get them. There were other representatives there. Steve Vaughan was representing the AIBS as well. Steve may have a copy of them.

**CHAIR** - Steve Vaughan?

**Mr JEFFES** - Vaughan. He may have presented to the board but the AIBS may have them. There were other people I know who were at those meetings and I can talk to them.

**CHAIR** - We might write to you, Steve, to confirm some desire to get that information. We may consider it unnecessary, but it may be important in the context of what eventually unfolded.

**Mr JEFFES** - One of the other issues that I raised at the time was that when there was a general agreement about the AQF levels, which is specifically the area I work in, I did some research and found that the other States that licensed building practitioners designated not only the AQF level but also the actual qualification appropriate for that type of building practitioner. We did attempt to get those documented through that committee, but unfortunately that did not occur either. What happened was that you ended up with a scheme that identified AQF levels and unfortunately that is a little bit open as to what it meant. We found once the scheme was up and running that there were some individuals who were accredited because they happened to have an AQF level, but it may have actually had nothing to do with the building practitioner status they held, which caused us some concern. That is why we tried to nip that in the bud early but unfortunately it did not work.

**Ms FORREST** - Is that still the case, Steve?

**Mr JEFFES** - It is still the case except in the building area. For the building type practitioner, of which there are three categories, I have worked with the Department of Justice to identify the relevant national programs that align. When they developed the new courses for building nationally they came up with six or eight different strands at certificate IV level, about another four at the diploma level and I think just one at advanced diploma. I worked with the Department of Justice to identify which were the appropriate qualifications within each of those bands, to match the requirements for Tasmania. So now, in the building category, it is very clear, but in the other categories it is still the AQF level deemed appropriate.

**Ms FORREST** - Which are the categories?

**Mr JEFFES** - Building designer, building surveyor, fire service designer, those types of categories.

**Ms FORREST** - Does that mean that, in theory, someone could come in with an AQF 4 diploma in some level of hospitality?

**Mr JEFFES** - That is correct.

**Ms FORREST** - Just AQF 4, AQF 5 or whatever and that was it?

**Mr JEFFES** - There are examples where people, for example, might hold a diploma in civil engineering and had been granted building designer status.

**Ms FORREST** - It is probably in the same field but there is still a problem with that as well?

**Mr JEFFES** - They are not in the same field, it is completely different. Building design is completely different to civil design. So, yes, that is exactly what I alluded to. That is the problem. So in the building categories themselves, the three new building categories, that has been clarified but in the other categories it is still very vague. That raised one of the issues. I would say that David - the TCC, at the time, before it was authorised - did request a meeting with me and a few other people and presented the proposed scheme to us and, no doubt, you have seen it. I have no major issues with that. I think, as far as due process goes, there are a lot of checks and balances in those processes. The unfortunate part about it is that the processes were never invoked. That is the dilemma that I have, that there are a number of components there which we would have had a relationship with with the TCC or whoever the provider was and I was not uncomfortable with that because we could get independent advice on it, given our expertise. But that was never discussed and never went on and we were never asked to be involved in anything once the scheme was in.

**CHAIR** - Once the TCC was appointed?

**Mr JEFFES** - That is correct, nor since, which gets to my next point, that what we were concerned about was that the people who were making decisions specifically about who was going to be accredited have no skills in relation to educational capabilities, competence, and they were essentially, for want of a better term, bureaucrats. That continues to this day. Those same people are just being directly employed by the Government and they are still making the same decisions. We have identified at least six people in the building design category who have been accredited in the last 12 months who do not hold the qualifications required by the scheme. We know that because they have been students of ours and they are no longer students of ours.

**Mr WILKINSON** - They suddenly pulled out, did they?

**Mr JEFFES** - Yes.

**Mr WILKINSON** - After they received their accreditation, they pulled out of the course, is that what you are saying?

**Mr JEFFES** - Some pulled out before. One of the issues that did occur was specifically in the building surveying area. My understanding was that the Government met with the National President of the Australian Institute of Building Surveyors at the time in Launceston and in the transitional arrangements which existed for building surveyors, the agreed position was, within the professional body and I sit on the executive, so I was aware of it, that existing practitioners would engage in a contract over a period of time to gain their formal qualifications if they did not already have them. In other words, they would not lose their employment and they would be given an opportunity to gain formal qualifications at the level they wished to be accredited at.

There was a meeting in Launceston with the local president and the then national president and Graeme Hunt and out of that came the fact that all local government building surveying practitioners who were not qualified would be granted additional accreditation at a level which does not exist in the scheme, and we had a number of those people enrolled in our programs who automatically withdrew.

So, if you go back to the upskilling of the industry, that was all thrown out the door pretty quickly. From an educational point of view, that was a bit disappointing. It was not so much that we lost students, as we had more than enough, but to see people who were down a path of continuing improvement disengage was a bit disappointing. Unfortunately they have never re-engaged. I have written to them numerous times in my role as the manager of that unit to encourage them, but none of them have.

**Ms FORREST** - Mr Diprose suggested that the competency of building practitioners has been handed over to the Department of Education or the TAFE, now Tasmanian Polytechnic and Skill Connections -

**Mr JEFFES** - In January.

**Ms FORREST** - Yes, in January. Do you think that is the appropriate place for it to be?

**Mr JEFFES** - We are not in the commercial area of the HIA and the MBA, we are purely building practitioners. We are not in a commercial market. We purely do it under a purchase agreement which is a subsidised framework for the Government so all of our training in those areas is done on that basis, except for interstate students which we charge commercially. So for independent advice I think that would be the way to go. I suppose I have a vested interest, but we do not generate any income out of it. I do probably 500 desktop recognitions a year for free.

**Ms FORREST** - Are they all competency-based assessments?

**Mr JEFFES** - They are all competency-based assessments, yes. The desktop assessment is based on the submission they make which is a fairly low-key one, which is a CV and copies of any qualifications. The CV obviously gives a breadth of experience. We can do a desktop on that, give them an idea of where they are going to sit. Obviously the formal one is quite a different exercise where you actually sit down and match the elements in the performance criteria of the competency unit directly against their



experience and the evidence they can produce and obviously any other studies they may have done along the way, but I suppose independent from the point of view that we are not actually generating income, in this State anyway, from those people.

**Ms FORREST** - Okay, thanks.

**Mr JEFFES** - Which is, I think, to be fair to the TCC, why they actually met with us in the first place to talk about that.

**CHAIR** - Yes, because of the recognition they did not have the in-house expertise.

**Mr JEFFES** - That is right, yes. As I said, the unfortunate part about it is that it just continues along the same path. That is my disappointment in the exercise because I feel that moving under the government banner was probably a more appropriate mechanism. I am not quite sure whether they sit under the right banner at the moment. It is only my personal view that I think we would be better under Consumer Affairs because then you are moving the statutory regulatory role, which sits under BSR at the moment, and making it more a concern too about what the consumer is getting out of it, which is the important issue, I think.

I would make comment - another one that I made at the time and I made at the second meeting when I met Mr Smith - that I was concerned, as a representative on the accreditation working party, that there was no representation from consumers, and I am talking about consumers, not Consumer Affairs. At the second meeting, or the meeting that Mark Smith convened, I raised that issue again. He advised me that they had someone from Consumer Affairs there and I said, 'No, that's not what I'm talking about. I am actually talking about someone like the Australian Consumers Association', which is an independent body that represents consumers generally. I did not get anywhere with that one.

**CHAIR** - Now that you have mentioned Consumer Affairs possibly being the more appropriate government department, it would be true, would it not, though, Steve, that whether it stays where it is or goes somewhere else, there has to be legislative support for rectification of faulty work?

**Mr JEFFES** - Absolutely.

**CHAIR** - It seems to me that there is no legislative support for that at the moment.

**Mr JEFFES** - No, and the other dilemma we have is that I know they have increased the number of auditors but certainly my understanding is that the current auditor, who is a very nice woman - I have met her - has no technical competence. That is one of the other issues that I struggle with. If you are going to audit people - and I have been an auditor myself in other areas - the auditor himself is looking at the paper flow but not the technical competence of an individual. If someone makes a formal complaint against any type of practitioner and you do not match that auditing with a person who has technical competency in that area independently then you are not really going to get to the bottom of the problem.

**CHAIR** - Who is the current auditor?

**Mr JEFFES** - Gail Dew is currently.

**CHAIR** - Gail who?

**Mr JEFFES** - Gail Dew. She is the auditor who works for the Department of Justice.

**CHAIR** - How long has she been involved with that process?

**Mr JEFFES** - Gail has been there for about 18 months, I think - maybe a bit longer. She is ex-Federal Police.

**CHAIR** - She has obviously been an appointment since Workplace Standards took it over.

**Mr JEFFES** - Yes, that is right.

**CHAIR** - So she was a new appointment?

**Mr JEFFES** - Yes, she was a new appointment.

**CHAIR** - She was not operating in the department at that stage?

**Mr JEFFES** - No, she was working for Burnie City Council, I think.

**CHAIR** - Is it your understanding that they are in the a process of appointing more?

**Mr JEFFES** - My understanding is they are appointing I think another two, but again not people with technical competence, people with more of a regulatory background. Which is okay to a point, there's no issue with that, but to just audit on that as a response to a complaint, you're not looking at technical issues and sometimes complaints require technical competence.

**Mr WILKINSON** - Are we saying, Steve, that there may be more auditors looking at the problem and whether the job was done as per the contract, or whatever, but that's as far as it goes?

**Mr JEFFES** - That's right, yes.

**CHAIR** - So there's no ability in the process at present to say to Lin Thorp, the builder, 'You've got to fix this. If you don't fix it then this is going to occur'?

**Mr JEFFES** - That's correct, and I think the other issue is that when you get to the more complex areas such as building design, architecture, engineering, building surveying, a lot of those areas require professional expertise, and to audit that professional expertise you would need that same level of competence or qualifications and experience.

**CHAIR** - Therefore should you have a panel of auditors that you bring in, depending upon the problem involved?

**Mr JEFFES** - I would have thought so; that would have been a better approach. I think, to be honest with you, the original accreditation scheme had a system such as that.

**Ms FORREST** - Potentially you don't need to employ all those specialists, just to contract them in for a particular purpose?

**Mr JEFFES** - That's correct, yes.

**Ms FORREST** - Because there's quite a broad range of skills to be assessed.

**Mr JEFFES** - Absolutely. You wouldn't need to employ them, you could bring them in on an ad hoc basis when needed so you have a pool. You may even bring people in from other States to create that independence.

**Mr WILKINSON** - What really concerns me, though, Steve, and I know that Paul has been dealing with the matter for quite some time now, is where people have said, 'This is the problem', but can't do anything about it. The builder says, 'No, I'm not going to do anything else', and we've got a stalemate where obviously work has to be done if they were rectify the problem, but nobody really can force the builder to do it. You can go to court, the court is going to cost a fortune in relation to it. There's no worse legal matter than a building dispute, as you probably know.

**Mr JEFFES** - That's right, yes. That certainly is an issue. The other issue is what do you do about the person who may need upskilling after you've found a deficiency. I have been involved with one of those. I can't give you the exact date but I had a phone call from John White, when John was party to the accreditation scheme, advising me that he'd done an inspection in relation to a complaint in relation to a builder and that he had some concerns about him and would we have a look at his competence.

I was a little bit nervous about that at the time because it was just a phone call, and I get a little bit nervous about phone calls. I like things in writing. I advised John that way, that we would have to look at the case and we would like it in writing. I didn't hear any more, but the next thing I knew - and I gather it's a fairly contentious case, I'm not quite sure if it's still on the books - from my understanding, the Building Appeals Board dealt with the case, and without any consultation with my organisation made a condition of the outcome that the person be assessed by my team in relation to his competence and identify the areas he was deficient in and presumably upskill him.

I found that interesting. I then attempted to go back to BSR and ask them what areas did they see him deficient in, given that they had investigated him, and they refused to tell me that. I didn't know what to do.

**CHAIR** - How were you supposed to upskill him if you didn't know what area to upskill him in?

**Mr JEFFES** - That's right. To be fair to the chap, he did actually come to me and enrol, but he was at a loss himself about what he needed to do. In the end we had numerous discussions going with BSR and with the student at the time, and he withdrew from the course. I am never quite sure what happened to that one, but I think it was a fairly contentious case up on the north-west coast, if I remember rightly.

**CHAIR** - Steve, is that a recent case since BSR have been conducting accreditation?

**Mr JEFFES** - No. It was when the TCC was operating, but it has carried through.

**CHAIR** - Okay. So how did the Building Appeals Board get involved in some assessment of deficiency?

**Mr JEFFES** - I think the owner of the building made a formal complaint to the Building Appeals Board after not getting anywhere through the TCC process. I don't know how it got there. I'm just telling you the outcome.

**CHAIR** - It puzzles me as to how the Building Appeals Board could accept jurisdiction on that process notwithstanding what happened.

**Mr JEFFES** - I have no idea.

The other issue is to do with the transition provisions, the model I gave you in relation to the building surveying, trying to ensure upskilling by identifying and acknowledging the fact that many of the building practitioners in the State are not professional building practitioners - the AQF 4 to 6 practitioners, for want of a better term, which would include builders, building designers and some building surveyors with the same personnel - and did not hold formal qualifications in any sense. The aim of the group was not to remove them from their workplace but to try to come up with the model that would be manageable so they could upskill.

The general agreement within that accreditation working party was that a process be put in place of a contract system and that over a reasonable period of time they would be given the opportunity to upskill. In the second-last meeting, if I recall correctly, there was general agreement around the table that was the model that would be proposed. At that time the TCC had come to light so certainly I had had some discussions with David about that proposal.

**Mr WILKINSON** - I was going to say come in at first slip, Steve.

**Mr JEFFES** - I might get a job over there today; they weren't going very well.

It was at either the last or the second-last meeting of the accreditation working party that we were advised by the chair of that group, Graeme Hunt, that a discussion had taken place with other members of that party, the HIA and the MBA, and the Government had come to an agreement to transition every builder who could prove that they had built a certain number of buildings over the previous two years.

**Mr WILKINSON** - That concerns me a bit, Steve. I know a couple of people who are accredited and they were accredited under that same scheme. I am no expert and I do not profess to be an expert but I have seen them in another place and I really would question their competence. If I was a person who employed that person as a builder then I would have some real difficulties in being satisfied that a building would be done in accordance with the way it should be done.

**Mr JEFFES** - I think in those three categories specifically that I work with - the builders, the building designers and the building surveyors - I have those same concerns.

**Mr WILKINSON** - How do we fix that?

**Mr JEFFES** - I think we have to go back to that idea. You do not want anyone to lose their potential for employment or their income and that was never the wish of the group. My real view is - and it is a bit of a shake-up - that with every building practitioner who has ever been accredited, the paperwork should be audited. I am taking a fairly strong stance but it is the same stance that I took originally. Anyone who does not have a formal qualification should be supported in gaining a formal qualification at the appropriate level.

If I talk about builders specifically, one of the things that people seem to miss is that a lot of builders are subcontractors. The chap I talked about before in that building appeal, when I looked at all his material he admitted quite openly that he was a subcontractor. He was not a builder. A builder in relation to the training is a project manager. In Victoria, for example, the majority of people who do the diploma of building - because that is the only entrance level they have in Victoria - are people who have just completed year 12. They have never raised a hammer or anything else because it is a project management function. It is not about constructing a building in a physical sense, it is about managing the process. Clearly, what has happened in the building area is a lot of people may have been good carpenters or bricklayers and because they could get a letter saying that they had had two buildings approved in the last so many years, they were automatically given accreditation. I think we have done a disservice to our community because of that.

The same happened with building designers and I will mention that area specifically. I am working on a committee with the building designers at the moment and the Australian Institute of Building Surveyors developing a standard set of plans because we found that the plans that are being submitted for approval are so deficient in what's displayed on them that we're coming up with a model within those two professional bodies as a standard that will be accepted. Once this is approved, building surveyors will work through those two groups and not accept plans that don't meet that standard. At the moment we have a whole range of categories of building designers who design and construct and unfortunately many of their designs are very poor and don't meet the required standards that we teach.

It's interesting - I don't mean to divest too much - we had a call from BSR questioning what we were teaching our building designers this year. Luckily, they didn't get me on the phone because I knew who'd asked the question but I rang Graeme Hunt and questioned why he was asking that and he said that they'd looked at a number of plans and they found them deficient. I then went on to the web site of the BSR and that's where we found all of these people. We found only two of our graduates on that list of accredited people. Both of them had won the Royal Australian Institute of Architects award for design at the end of our course so they are quite competent and both have won national awards. They are the only two of our students who are accredited on that list. That's when we found other students, who had not completed our programs, on the list. I rang them back to advise them that they should perhaps look elsewhere when they want to criticise things.

There are groups working to try to make it better but unfortunately - it's a rather painful exercise and I know from when we went through it in 1980 with Consumer Affairs, if I remember rightly - the only way is to review everyone's accreditation and to go back to square one because I think we made a mess of it. We're continuing to make a mess of it because we are continuing to approve people who shouldn't be given certain categories. I know one person who is a very well-qualified engineer in this State and works for a rather large company. He is a very nice man; it's nothing about the individual. He's accredited as a building designer and he's not a building designer; a building designer, in this State, is a pseudo-architect. They are taught design principles. I know a building surveyor, who rang me up 12 months ago and told me he had just been accredited as a building designer. That was interesting because I know full well he has no building design qualifications because I accredited him nationally when I sat on the national accreditation body for building surveyors.

**Ms FORREST** - Did he apply for that particular accreditation?

**Mr JEFFES** - He applied for it and was granted it under the current scheme.

**Ms FORREST** - It begs the question then, if I had been trained and qualified as a building surveyor, why would I apply for building design accreditation when I clearly don't have the required -

**Mr JEFFES** - To generate more income because 70 per cent of building surveyors in this State work as private practitioners. It's about generation of income.

**Ms FORREST** - Even though they don't have the required skills and competence?

**Mr DEAN** - So that system's allowing that to occur without testing their ability -

**Mr JEFFES** - That's right, and the reality is that the people who are working in that system now are the same people who were working at the end of the TCC because they were just transferred over directly into the Government, which is an interesting concept in itself, and -

**Mr DEAN** - And they didn't have the ability?

**Mr JEFFES** - they have no qualifications in those areas.

**Ms THORP** - This is very similar to things that have happened with quite a few professions over the years. I recall about 10 years ago when there was a requirement that all teachers had to have four years of training, for example.

**Mr JEFFES** - It's a dilemma at the moment, isn't it?

**Ms THORP** - Yes. Also, there was quite a bit of angst for teachers who'd been teaching for quite some time and the whole process of getting everybody onto a baseline qualification. There were people who hadn't been back to school or studying for some years and felt that they had all the practical skills but -

**Mr JEFFES** - Didn't have the paper.

**Ms THORP** - They didn't have the piece of paper.

**Mr JEFFES** - That's exactly what's happening with the Polytechnic at the moment. It's the same issue; when you're melding a TAFE system that hasn't encouraged any new employees to get formal teaching qualifications for over a decade and mixing them with people who are four-year qualified.

**Ms THORP** - What we have is a situation which has obviously become quite complicated over the last three or four years, an attempt to make sure that all the practitioners within the building industry have met an agreed set of competencies, qualifications and prior learning recognition so that people can confidently, when they employ someone to do a job, know what they're getting. What you're saying is that it seems to you from your experience that is not necessarily happening?

**Mr JEFFES** - It is not happening and it is not happening to a point. I will give you an example. When the AQF levels were brought in for builders there was an acceptance by the Government through BSR of a qualification that was put out by the MBA which was a certificate 4 in small business. Now certificate 4 in small business provides no technical knowledge at all, it provides you with knowledge on how to run your business and I have no issue with that, but if we are talking about upskilling the building industry, a certificate 4 in small business is just going to give you business skills. The reality is a certificate 4 in building gives you business skills and develops your technical knowledge beyond certificate 3 and that was an accepted course by BSR to allow people to become the first level category of builders.

We have the same situation now, which is a complete debacle where we have two other providers of certificate 4 in building in this State. The national certificate 4 in building, which we run, is across all States and I sit on that national body so I know what other State providers do, averages out at 800 hours of delivery. The HIA course is 185 hours and the MBA course is 165 hours and they give exactly the same qualification.

**Ms THORP** - Right.

**Mr DEAN** - You are saying the same situation is still occurring?

**Mr JEFFES** - It exists right now.

**Mr DEAN** - And no move has been made the change that to your knowledge?

**Mr JEFFES** - No, I have raised those issues through OPCET, through Skills Tasmania and through BSR because of the obvious inadequacies of delivery but nothing has occurred.

**Mr DEAN** - And the authorities know this is the case?

**Mr JEFFES** - They are aware of it.

**Ms THORP** -What does HIA think?

**Mr JEFFES** - The way they get around it is very simple. The HIA course is accredited in South Australia so that means they are not audited by anybody in this State, they are audited in South Australia. The MBA course is registered in Victoria so they are audited through Victoria. Fortunately the Skills Tasmania auditors are pedantic whereas other States are not so much.

**Ms THORP** - Okay.

**Mr JEFFES** - So we have a scenario where we are aware there are great discrepancies in delivery but no-one is willing to do anything about it because it is fairly contentious.

**Mr WILKINSON** - Excuse my ignorance, Steve, but if you are accredited here you then can go to Western Australia?

**Mr JEFFES** - You can't go to Western Australia. Western Australia requires a diploma but you can go to Victoria, South Australia, New South Wales, Queensland and Northern Territory.

**Mr WILKINSON** - Even though the same process was not involved in Tasmania as it is to those other places?

**Mr JEFFES** - That's correct; if it's under mutual recognition.

**Mr WILKINSON** - So what is happening nationally with that? To me that seems to be a real problem.

**Mr JEFFES** - The Advanced Building Studies Network has developed a set of nationally accepted assessment regimes but they are not mandatory. Unfortunately the vocational education system is a funny structure. It is funded by the Commonwealth, the parameters are set by the Commonwealth, they then default to what they call industry skills councils who develop the courses which are now training packages. There is no determination on how long those courses should be; it then defers to the States and then it can defer to the training providers. So I could sit down and run any course because they are all nominal hours. The nominal hours is 800 and we follow that. I think ours is 780 but your nominal hours mean anything, so to some providers that is what it means. I have difficulty with it, personally.

**Mr DEAN** - Does a similar situation apply in the other States about those people making those decisions without having those credentials and skills and so on to your knowledge?

**Mr JEFFES** - In Victoria the Building Control Commission says you have to present your qualifications, your experience, your portfolio of work and you are interviewed at all levels of building practitioners. They have a board that interviews you, you don't just make a submission.

In New South Wales they have a slightly different system where you present your credentials. They have a different experience quotient in New South Wales so if you have come from a trade, I think it is five years and if you do not have a trade you have to have 10 years' experience and it obviously has to be documented. They can call for interviews in New South Wales.



In Queensland it is a matter of presenting your credentials and having them verified as well as an experience quotient. But they have a very strict inspection regime, and they follow up. They have mandatory auditing by people technically competent in Queensland so there is quite a lot of follow-up. I am uncertain about South Australia's but in Western Australia you are required to have a diploma plus three other units the Government sets, which are quite separate, and you get interviewed as well as your credentials. If you referred back to the original scheme I think that actually had enough catches in it. It was just never followed through.

**Mr WILKINSON** - Steve, would we be doing a disservice if we did not come down with a recommendation that there should be an audit into the present practitioners to ensure that they are properly qualified?

**Mr JEFFES** - I think you are doing a disservice to the community. I take the view that we should support those individuals to upskill. That was the general intent. I am not saying Bill and Mary should stop work tomorrow in any sense but I think there should be a mechanism of support to upskill them.

**Ms FORREST** - Do you agree with grandfathering these people in?

**Mr JEFFES** - But that grandfathering clause was only brought in at the death knell of the accreditation working group. I was astounded, as were all the other people in the room, that it happened because we were unaware of any meetings taking place outside that group.

**Ms FORREST** - So regardless of how someone came to be accredited and under which scheme, as Jim suggested all accredited builders should be audited.

**Mr JEFFES** - Well, the scheme itself is not flawed but the process is. People who had invoked the process did not follow through and so that means that people have been accredited inappropriately. From the consumers' point of view the original process looking at upskilling the people should have had a provision to allow that to occur. What we have happening now is that we are not getting anyone upskilling. We have so many people in those categories; we have I think over 300 building designers in this State, which is just an amazing number. It is not worth young people's while considering that as an occupation because the market is already flooded.

**Ms FORREST** - Are 300 actually practising as building designers?

**Mr JEFFES** - Well, they are paying their professional indemnity insurance. I would not be paying that unless I was practising.

**Ms FORREST** - So they are practising for that?

**Mr WILKINSON** - They should have at first got some type of interim accreditation?

**Mr JEFFES** - Yes, no problem with that.

**Mr WILKINSON** - And that interim accreditation was on the basis that they continued their whatever it might be course until they were properly -

**Mr JEFFES** - Or they gained those skills, and that could have been through recognition because if you have the skills the recognition processes are very clear and open. It is not arduous but it is relying on the individual to provide sufficient evidence.

**CHAIR** - There is an assessment, isn't there, Steve, for recognition?

**Mr JEFFES** - Absolutely. I have worked for TAFE since 1984, full time, and I have done recognitions since I walked in the door. It is not a new thing; it is a model that we have used all the time because we do not want to get people to do things they have already done before.

**Mr WILKINSON** - Do you know of any problems that have been caused as a result of not properly accrediting?

**Mr JEFFES** - I do not think there have been a lot of complaints. Most of it is anecdotal, from what I gather. From my understanding and I can only take it from my role in the Building Surveyors executive, the anecdotal evidence around the table is that not too many people make complaints because it can reflect on themselves anyway. One or two people that I know of who have made complaints as building surveyors have been audited themselves.

**Mr DEAN** - I know of one person building a home who told the tradesmen to get off his property and never come back again. It was incompetence and he gave the other persons on his premises notice as well.

**Mr JEFFES** - It was openly stated in the Accreditation Working Group by Peter Coad that 80 per cent of builders in this State held no trade qualifications at that time. That may be different nowadays.

**Mr DEAN** - Eighty per cent?

**Mr JEFFES** - About 80 per cent. There was no disagreement, and the HIA and the MBA and the AIB and everyone else was there.

**Ms THORP** - If someone builds something and it looks all right from the outside, how would you know if there were not enough of those things between the bricks?

**Mr JEFFES** - That is exactly right.

**Ms THORP** - And the nails were too short, those things that go between the bricks.

**Mr JEFFES** - I was a bit amazed by the comment but it seemed to be accepted. I was not aware of that.

**Ms THORP** - You would not know, would you?

**Mr JEFFES** - No.

**Ms THORP** - Too much sand in the cement or something.

**Mr JEFFES** - Other things occurred. You have probably heard of the conditional accreditation and the private condition accreditation which created some issues. People had conditions placed on them by the TCC which were unknown to anyone so the consumer was unaware of them. The approving authorities were unaware of those conditions, and that still exists as far as I know.

**Mr WILKINSON** - So it is still a dog's breakfast, Steve, is that what you are saying?

**Mr JEFFES** - Yes, it is no different. It is to the point where it is very frustrating. We have some very good students who come through the system, and we had a chap only last week from the Launceston area, who went through his recognition process and completed the units of competency in which he was deficient. We have a process, like any system, and it takes a little while to get your formal bit of paper. So he finished his certificate IV. I had come back from leave and one of my teachers said, 'This chap would like to apply for his accreditation, because it is in the lead-up to Christmas and it is probably going to be six weeks before he gets his certificate IV. Can we issue him a letter?' So I wrote him a letter saying that he had completed his academic requirements for the qualification. I signed it on letterhead. I had done this previously and it had been accepted. He rang me up and said it had been knocked back. It was not accepted until he had his formal qualification. He was a young man of about 35 - younger than me - and keen and had done the right thing, I thought. He had worked hard all year. I am the one who signs for his qualification, his competence, anyway. They would not accept the letter. But they have accepted them previously. So it depends -

**Ms THORP** - There is no consistency, is what you are saying?

**Mr JEFFES** - There is a total lack of consistency.

**Mr WILKINSON** - How do we fix it?

**Mr JEFFES** - Again, I think we need to adhere to the procedures. There is a due process. Follow the due process and have enough checks and balances so when there is a need to get expert advice on various matters, whether they be educational or technical, you can tap into those who can give you that advice without any bias. That is my view. The same thing happened with the transition for building surveyors. The TCC hired a person who could be regarded as a prominent building surveyor in this State to look at all the applications. The unfortunate part about that is that person holds no formal qualifications in building surveying. Yet they were contracted to make a call on the competency of these individuals. I found that absolutely amazing, especially given that building surveyors have a national accreditation system where you are either accredited or you are not. There would have been reasons if you were not accredited. I have some real issues. I have made a bit of a comment about the optimum framework, if you would like me to go through it?

**CHAIR** - Yes, please.

**Mr JEFFES** - From our point of view we felt that we could support whoever does the accreditation when they assess the application initially, that is confirm or deny the qualifications. I will give you an example. We have a person who has been accredited in this State as an unrestricted building surveyor. He has a degree in building surveying from England. That sounds very good. The problem is that there are two types of degrees of building surveying in England. One is a regulatory degree and the other one is a very generic degree which in fact does not do anything about building surveying because building surveyors in England are not building surveyors as we know it in Australia. That person went to work in Western Australia. They knew what the qualification was. They did not acknowledge him as a building surveyor in Western Australia and required him to go through training. After he did that training he gained the first level of building surveying in Australia, which is the lowest level, basically approval of class 1 and 10 in some States, Western Australia being one of those. He then transferred to this State. And he is quite an innocent party, by the way, this is not the individual's issue. He was immediately given unrestricted building surveyor status.

**Mr WILKINSON** - Therefore he can go back to Western Australia and become unrestricted?

**Mr JEFFES** - Unrestricted.

**Ms FORREST** - So in Western Australia -

**Mr JEFFES** - They restricted him.

**CHAIR** - Just for the purpose of our record, you mentioned class 1 and 10.

**Mr JEFFES** - Sorry, class 1 and 10 buildings, which is basically houses and how to build them. Yes, sorry about that. So it's not the individual's fault. That person has also applied for national accreditation with a professional body and has been knocked back at that level because we're aware of what that qualification means.

**Ms FORREST** - From what I hear you saying, the people who are making these assessments either aren't fully considering the implications of those qualifications, such as the English qualification that wasn't particularly relevant to what he was being accredited in Tasmania to do, or they ignore it.

**Mr JEFFES** - Yes, that's correct. Well, they're just unaware of what the qualifications mean and they're unaware of the consequences if they do it.

**Ms FORREST** - I think you mentioned earlier that there's no clear defined requirement; it might be AQF 4 or a diploma or whatever -

**Mr JEFFES** - That's right, or degree.

**Ms FORREST** - but not a diploma in this particular area.

**Mr JEFFES** - That's exactly right.

**Ms FORREST** - That's another area that needs to be sorted out.

**Mr JEFFES** - Absolutely.

**Mr WILKINSON** - Just thinking of what you said earlier, it is like what's occurring now in the TAFE and Polytechnic with the teachers that have been teaching in the TAFE system for a number of years. They aren't qualified; they are probably good teachers but they aren't qualified.

**Ms FORREST** - Industry experts.

**Mr WILKINSON** - Is it?

**Ms FORREST** - That's what they are classified as; industry experts, aren't they?

**Mr WILKINSON** - They are now able to teach, are they not, in the Polytechnic and are given the same standing as those who have gone through the four-year Bachelor of Education course or whatever it might be?

**Mr JEFFES** - I think there's some debate about that at the moment.

**Ms FORREST** - They're still working on it, I think.

**Mr JEFFES** - The problem with that scenario is that when I went to teach at TAFE I obviously had professional experience in certain areas, even though I'd been to university in a separate area. And when I came to TAFE I was supported in getting my teaching qualifications and I was given time to do it. Unfortunately there was an industrial agreement about 10 years ago that threw that out, so that's now put those unfortunate people -

**Mr WILKINSON** - Yes.

**Mr JEFFES** - Prior to that everyone did get their formal qualifications, either through the Diploma of Education or through the Bachelor of Education or Bachelor of Vocational Education. That's the dilemma we face - it's a problem.

**Mr WILKINSON** - Which could be avoided by going back to what it was 10 years ago?

**Mr JEFFES** - Yes, it's supporting people with upskilling. I think that's the positive thing that we could get out of all of this.

**Ms FORREST** - Isn't it enhancing consistency in doing so?

**Mr JEFFES** - Absolutely. It means that at the end of the day the consumer, whether they be consumers buying houses or consumers that are students, is getting a quality product.

**Mr WILKINSON** - A lot of the time people focus on the teachers or the builders but seem to forget the consumers. That far outweighs the teachers or the builders.

**Mr JEFFES** - Absolutely. They're the ones paying the money for it.

**Mr WILKINSON** - Yes.

**Mr JEFFES** - I think that's really what was one of the underlying principles of this whole exercise.

Our issue is with some of the personnel who were still employed there, not the individuals themselves but their skills in making assessments in areas that they're really unaware of. The checks and balances that were in the original system seem to have been removed. There are significant numbers of building practitioners assessed against the transitional provisions which were inherently flawed because they provided no upskilling arrangements. That was directly contrary to the intent of the original scheme, I think. Our suggestion is that the overall administration of the accreditation scheme should possibly be better fitted under Consumer Affairs rather than the Director of Building Control because of the relationship of the regulatory and statutory role that they have rather than protecting the consumer, and that also a list of appropriate qualifications at all levels, including the professional levels, be documented and be part of the scheme.

Also it was interesting to see that the revised scheme which came out in June this year, which has just been signed off, did identify that if you were registered as a professional engineer in certain categories then the accreditation would be a formality. There are other professional areas where that has not applied. It is interesting that they chose the engineering group as one where they accepted national professional accreditation but there are other groups that have national professional accreditation systems in place which weren't accepted.

**Mr DEAN** - Are architects also in that?

**Mr JEFFES** - Yes, and the building surveyors as well. I know the building surveying one pretty closely and it is a fairly strict regime. Another example of not knowing the qualification is that I have come across another person from Victoria who has postgraduate qualifications in building surveying. To gain national accreditation through the professional body he would need to carry out appropriate either undergraduate qualifications in an appropriate area, such as architecture or engineering, and then top it up with the postgraduate qualification in building surveying or complete at least the Advanced Diploma of Building Surveying and then the postgraduate course. This person has not done that. Again, because of their lack of knowledge of how these national frameworks work, how the qualifications function and how professional bodies have looked at those, this has undermined the systems. It is probably done innocently. I am not saying it is done for any purpose; I think it is more a lack of understanding.

**Mr WILKINSON** - For all these accreditations, are there proper subjects that have to be passed or special achievement goals, like for law you have to do four years?

**Mr JEFFES** - For all of those professional body accreditations, yes there are.

**Mr WILKINSON** - Likewise with building design, all other areas within the building trade.

**Mr JEFFES** - As I said, I worked with BSR on the building category, specifically with Graeme. In a building course there are a number of core areas and a number of electives and BSR in this State determines which electives the people must do.

**Mr WILKINSON** - So that is in order. There should not be a recommendation that that should be first identified?

**Mr JEFFES** - No. The building design courses are standard; they are national at the moment. They are looking to develop a new national one through the skills council. That will basically be accepted everywhere. For building surveyors there is a national program. There is a national training package; no-one can run. As an RTO, once a training package comes out you have 12 months to finish your old program. If you do not run the training package the Commonwealth does not fund you.

**Mr WILKINSON** - There is no argument with getting that accreditation there for the courses themselves. It is only whether people have properly completed those prerequisites that is the problem.

**Mr JEFFES** - And the appropriate courses because at this stage all they mention is AQF levels and that is the problem. You can do an AQF, you can do an advanced diploma which is AQF 6 in engineering and it may be that you end up with another category in the scheme because you have an AQF 6. I think that is what happened with the building surveyor who became a building designer. He has a postgraduate qualification in building surveying, which is an AQF 8. They may have accepted that because he had an AQF 8 he is fine for an AQF 4.

**CHAIR** - Thanks very much, Steve. It took two years but we have had your evidence before the committee.

**Mr WILKINSON** - We gave you interest on the time. You got an extra 15 minutes.

**Mr JEFFES** - I know, yes. I am sorry to have taken that much time. Thank you.

**THE WITNESS WITHDREW.**

**Mr ROY ORMEROD**, GENERAL MANAGER, WORKPLACE STANDARDS, WAS CALLED AND EXAMINED.

**CHAIR** - You have written to us in reply to our request for further information since you last appeared before the committee, that being the date of 25 September. Following an assessment of that letter, I have considered the necessity to talk more with you about some components of the letter, so if we go straight into that. Let's work through it systemically from point one, flow charts of current procedures and so on. You have indicated that dispute resolution is not a function undertaken by the Director of Building Control. I have not had time to go back to the ministerial guidelines under which the TCC was appointed. Was dispute resolution one of the matters identified in the ministerial guidelines which the TCC was supposed to comply with or undertake?

**Mr ORMEROD** - I cannot recall exactly, but I know that the TCC received complaints and attempted to mediate those complaints. My advice is that the Building Act does not give authority for the authorised body, in this case the Director of Building Control unit, to mediate on building disputes. We had a look at this as around conduct.

**CHAIR** - I should then, and probably you should as well, revisit the ministerial guidelines. Am I right in understanding that when BSR was given the authority to accredit building practitioners, the expectation was that you would operate under the same ministerial guidelines?

**Mr ORMEROD** - Yes. We took over in November and that would be correct. It wasn't until we developed a new scheme which, came into effect in July, so in effect until July this year we would have been operating under the guidelines that were formed and approved for the TCC.

**CHAIR** - Is it right to conclude also that from November 2006 until July this year you could have and should have undertaken some dispute resolution?

**Mr ORMEROD** - I do not know. I looked at that. I know that the TCC did attempt to mediate a number of cases and you will note we inherited those complaints. When I looked at the legislation and we discussed those complaints, it was our collective view in the building control area that we had no authority to go beyond looking at issues around conduct. We cannot mediate and seek to obtain a resolution on a contract dispute and that was a confusion. We think that that confusion was contributed to by the previous authorised bodies to take these complaints and it took us a while to get people to understand that we could not, as we see it, be involved in attempting to mediate a contract dispute. The authority of the authorised body was to accredit building practitioners and to remove accreditation in the area where there has been a breach of conduct. That is as far as it went. That was my understanding of it at the time.

**CHAIR** - Okay, because the ministerial guidelines would have been produced by the people in your now department for the TCC.

**Mr ORMEROD** - Probably would have been. Yes.

**CHAIR** - On further consideration, the Building Act did not deliver you that jurisdiction.



**Mr ORMEROD** - Yes. I am not sure and so I must look at the ministerial guidelines. From what I recall, I do not remember seeing where it said that it empowered the authorised body to intervene on a contract dispute which is what that is all about.

**CHAIR** - Do you see that as a weakness? I know we have discussed these things previously.

**Mr ORMEROD** - I do not think it is a weakness because I do not think it is really appropriate for the authorised body that issues licences to become involved in dispute resolution. You have to keep it separate. That is why, as you may be aware, we funded Consumer Affairs from the levy to develop a mechanism to seek to conciliate on complaints and also develop some legislation that would give Consumer Affairs authority to arbitrate should conciliation fail. As I see it that is a much neater fit. We would then have accessed the information because it becomes a matter of conduct. If you have a builder caught up in so many contract disputes that it becomes habitual, then clearly that starts to say this person is not an appropriate person to hold accreditation and therefore should be removed.

**CHAIR** - From the reporting-back process, what do you obtain from Consumer Affairs now that they are playing that role?

**Mr ORMEROD** - Nothing formal yet because there's no legislation, as I understand it, being developed. It's just been a case of them having appointed someone to do this work and sort out complaints and I know that the person they've appointed has established a very good network with our Building Standards people, in particular Gail Dew who is out audit officer. They know each other quite well so, no doubt, they make regular informal communications; there's no structure that can formalise that just yet.

**CHAIR** - Okay. I was going to ask you about that a moment ago when you said that you've provided funding for the appointment of a couple of officers within Consumer Affairs supported by legislative measure. But the legislative measure isn't there yet, is it?

**Mr ORMEROD** - No, that's right. We saw a need to do something quickly and recommended that the money be paid so that Consumer Affairs can be given the resources to be able to respond quickly to disputes. My understanding in this area is that dispute resolution is much quickly achieved if you move fast - get out to the workplace, get the guys together and see if you can sort it out and if you do it quickly you usually get a pretty high strike rate of success. The longer you leave it, the more likely you're going to have problems. But you do need the legislation underpinning where you get those belligerent ones where the two parties won't communicate and then you have to sort of legally knock their heads together and make them come up with a resolution.

**CHAIR** - How far aware are we from having the legislation in place, do you know?

**Mr ORMEROD** - No, I don't know. It's outside my area so I can't answer that.

**CHAIR** - You've got good contacts -

**Mr ORMEROD** - I can find out, certainly.

**Ms FORREST** - My memory may not serve me entirely correctly but my memory of the ministerial instructions was that complaints should be investigated, not mediated; the first line of attack, for want of a better word, was investigation. That was one of the complaints about the TCC, that they actually tried to mediate rather than investigate.

**Mr ORMEROD** - That's a good understanding. That's my understanding too; yes, they tried to mediate; they tried to get in the middle of a dispute, which is all very honourable of them to try to do that. It's a trap you can easily fall into because if you're not skilled for that -

**Ms FORREST** - You don't see that as their role? You see that any dispute resolution or complaint handling process should be with Consumer Affairs?

**Mr ORMEROD** - Absolutely, yes. They're the body that should be taking that up, for two reasons. One, they have the regulatory framework; they are actually good at that - I believe they are, still. Two, I think they should be at arm's length from the regulator, from the person who issues the accreditation; they should be separate. The Solicitor-General's advice at one time earlier was that you should keep the two separate.

**CHAIR** - Once there is legislative support for that to be progressed, would you intend to have a formal arrangement between your department and Consumer Affairs so that recidivists, I suppose, in terms of their conduct, would be brought to your attention with consideration of deregistration?

**Mr ORMEROD** - Absolutely. The intent behind the framework would be that there'd be a proper and transparent and open communication from the two bodies. Certainly, in my briefings with the project officer a number of times I've said that's important; we need to get the legislation. If you don't put it in there it makes it hard to get the access.

**CHAIR** - Through the building levy you've funded those positions in Consumer Affairs. Do they have a finite life?.

**Mr ORMEROD** - Yes, two years, which means it's probably come onto the Internet now.

**CHAIR** - What then?

**Mr ORMEROD** - Then, it's up to what the legislation says, and I guess it's also up to the determination of government as to how it is funded.

**CHAIR** - Do you understand that it will be funded? It's hardly worthwhile putting legislation in place without -

**Mr ORMEROD** - Exactly.

**CHAIR** - And yet, only a few weeks ago, Mr Bartlett made the pronouncement that there would be no additional public servants appointed within a defined, period given the global financial squeeze.

**Mr ORMEROD** - Yes, well given that there are already people employed to do this work now it's a matter of just keeping what we've got.

**CHAIR** - Extending rather than employing.

**Mr ORMEROD** - Yes.

**CHAIR** - Are you aware that Mr Ford is about to leave the employ to return to his home State?

**Mr ORMEROD** - Yes, I am. I was talking the other night about it.

**CHAIR** - It causes a problem, doesn't it?

**Mr ORMEROD** - Well, it means the position is still there. It just means that they have to try to advertise and fill it with someone else. I think his leaving is a way yet, though, isn't it?

**CHAIR** - I was talking to the office for reasons of a building dispute just last week and the indication was that it's not that far away. It's a real shame -

**Mr ORMEROD** - It would be.

**CHAIR** - given the links that he has built with the industry.

**Mr ORMEROD** - Yes, it is a pity. He's nomadic, though. I think he likes to move around.

**CHAIR** - That is Australia. Okay, anything else on the matter of dispute resolution?

Let's move then to the audits. You have given some details there of the various audits that have been undertaken by your senior auditor and compliance officer who, as you have explained there in the letter, is a trained investigator. Apart from that, what are the qualifications of the people who conduct audits in your office? You say a trained investigator, a former Federal Police officer and so on and will be supported by two additional staff soon.

**Mr ORMEROD** - We have these people and just recently completed an audit training course interstate. We have them trained up with a qualification as an auditor in respect to this field. There are courses available and these people have actually attended this course to get their skill levels up.

**CHAIR** - So when you say they are trained up to be competent in this field you would be aware of some criticisms of the fact that your current senior auditor and compliance officer does not have expertise in the building industry. What do you say to that in terms of what she might be auditing?

**Mr ORMEROD** - That is right. Her background is not in building and I do not think it needs to be. A good investigator would know where their knowledge gaps are and be able to fill them by using other means to access information.

**CHAIR** - What exactly do they audit currently? What has been audited in the past? I see the list you have there. I was going to ask you about the 77 desktop surveys of building

surveyors. For instance my question prevails, what was assessed, what was audited with regard that process?

**Mr ORMEROD** - To be honest I do not have detail on me. I can find out for you, but desktop usually means that they probably do a documentation check to see whether the documentation is in order. One of the complaints we received was that there were cases where building work commenced without the appropriate notices being issued by the building surveyor and the knowledge of the building surveyor. The building surveyor had allowed building work to commence without the formal documentation. We received a number of complaints along those lines so this desktop audit would be all about matching paperwork with what counsel was held and what had been provided by the owner and the surveyor. That was the purpose of that, to let them know that we are watching out for them because we know there have been slip-ups in the past. That is why we have been putting a lot of work into that area.

**CHAIR** - So that was a desktop survey. Following that there were five in-depth audits of building surveyors. I presume from your previous answer, Roy, that you would not have the detail of what those in-depth audits constituted.

**Mr ORMEROD** - No. that is right but from what I gather from discussions I have had in the past about this is that they had identified some building surveyors who were not putting documentation in properly and so it was the case to see whether there was a systemic problem with the way they ran the business. If that was the case they were formally warned and told to get their act together. That is what I expect would have been the idea of having that in-depth audit.

**CHAIR** - That seems to me then to be an audit process of procedure and paperwork that building surveyors might be processing. What about an audit of their technical capacity, having once been accredited to do what they are required to do?

**Mr ORMEROD** - I guess a building surveyor is supposed to check to see whether the plans are in order, that the appropriate approvals are in place, et cetera, et cetera, and I would assume that a building surveyor would need to determine competency before they are accredited. We have talked about the need to employ some external experts to drill down further. We certainly would not have the competence to know whether these people have actually been providing sign-off in areas where there may be gaps. I need to find out more about it, I must admit, because I do not understand the detail at that level.

**Ms FORREST** - You were saying that where there's investigation or auditing of their technical competence in a particular area, whether it be a building surveyor or an engineer or a builder, that your compliance officer or senior auditor as a trained investigator does or can call in expert people who can make a competency-based assessment on that.

**Mr ORMEROD** - I don't know whether they've gone to that detail at this stage. I think that it would probably be the next step because we are all new in this whole area. It's not been done before. One of the reasons I had these people attend audit training is because the whole concept of audits is to understand what the risks are, how to drill down and what you need to look for, like any trained auditor. I would have thought that would have given them the skills to be able to say, 'okay, in this area I can't assess this because I

don't have the knowledge or in-depth qualification; therefore I need to go over and get it. The whole idea of a proper audit is for them to go outside that, as accountants would in relation to auditing the company books.

**Ms FORREST** - But if you are auditing a building surveyor, for example, part of that process would be looking at what qualifications that person has. The person undertaking the audit, when you look at a qualification which might say building surveyor and have some numbers after it, would need to understand what that really means and what skills it has provided for that person. Is that the sort of thing that the auditors are assessing?

**Mr ORMEROD** - Once they're accredited building surveyors, I wouldn't have thought it would be a question of their qualifications.

**Ms FORREST** - What about the original accreditation?

**Mr ORMEROD** - We are not revisiting those that have been accredited to see whether they should still be accredited; we are not going to take it off them. The whole idea of CPD, is to try to get these people to maintain and improve their competency levels and we've, obviously been in consultation with the various peak industry groups to get a CPD scheme that's effective in getting people to skill levels or keeping the skill levels at a high level.

**Ms FORREST** - But we have to realise that in some areas of accredited builders there's not a defined requirement in qualifications. It's more broad, such as an AQF4, but not in this particular area. So, if it went to the nth degree, I could come along with my AQF4 in Hospitality and I could apply for building accreditation whilst I've got an AQF4, and effectively I could be accredited. Or I could come along with an AQF4 in Plumbing, say, and apply for a building accreditation under another category and get it because I have an AQF4. This has been a criticism.

**Mr ORMEROD** - I don't think that's quite right, because there's a national body which we're on - I can't remember the name - which determines the qualification levels of each category of builder and we've adopted the national model. We were one of the earlier States to do that. When we look at AQF4 Building Practitioner, there are modules they need to comply with to get the AQF4 relevant to becoming a builder. They are all set by national standards. One of the consultants we used in developing those competency units was a TAFE person in South Australia. So I don't think it's right to say that a person with AQF4 in the area of clerical public service for instance would be able to walk in and become a builder. The other thing that should be remembered, though, is that a trade skill itself is probably one of the least levels of competency we are looking for in a builder because building is all about the running of the business of building, not about the actual practice of knocking bits of wood together. So their capacity to be able to manage the business and understand the concepts around building is very highly ranked, rather than the practical aspects of building.

**Mr WILKINSON** - I think one of the examples given, Roy, was you could be an engineer, AQF8, and because you're an engineer you're immediately qualified as a building designer, AQF4, but you do not have any competencies in that area.

**Mr ORMEROD** - Okay. I do not know about those two comparisons between engineers and building designers.

**Mr WILKINSON** - Whether that is right or not, can you see any flaws in the system where that is the case, where people get the accreditation for competencies where they are not properly qualified in those areas.

**Mr ORMEROD** - It is an interesting question. It is a hard one to answer. For instance, for lawyers there is a degree to become a lawyer and then after you have been to the bar, you go off and do certain areas of specialisation - family law or conveyancing or whatever. That happens after accreditation.

**Mr WILKINSON** - But you do not immediately become a qualified mediator. That is the difference, you see. Here they are being accredited with a certain expertise because they have reached a certain level. They have not trained in the expertise to become accredited because it is AQF4 as opposed AQF8.

**Mr ORMEROD** - AQF4 is the basic entry level model for a person building class 1 buildings. So it is domestic building work and/or class 10s. It is the first step. I am not aware that there have been any problems in competency, because you have a building code they have to comply with. You enter a contract with a consumer to build something, but there have to be plans and specifications and then it will be code compliant, which is signed off by the building surveyor, and inspected and engineers' drawings will be signed off and all that sort of thing before it goes near -

**Mr WILKINSON** - So you are saying there are other checks in the system?

**Mr ORMEROD** - There are other checks in the system, yes.

**Mr WILKINSON** - But we do not want the heartache leading to the first check in the system, do we?

**Mr ORMEROD** - No, we don't. I am always open to suggestion on how we improve it because this is still relatively new for us. While we have written a new scheme we are already aware of the need to amend that. We are also working on the CPD because we know we need to work on that. So there is always room for improvement. I am certainly not saying that it is right yet.

**CHAIR** - With regard to the other audits that you have listed in your letter, can I conclude that all of those audits of the various areas such as councils, building designers, engineers, builders, owner/builders, along with the building surveyors that we already discussed, are those paperwork type audits rather than an assessment of workmanship? Can I then go to the matters that Jim has just mentioned to you? There are other checks and balances, like the building code and specifications, plans, et cetera, that you have indicated. That is not a guarantee that good workmanship will be delivered on the job though, is it? Just because plans and specifications say that these levels will be achieved, that is not a guarantee that they will in fact be achieved. The real bone of contention for the consumer is workmanship.

**Mr ORMEROD** - I think it goes earlier than that. Workmanship is obviously very important but I think also it is a case of expectation. You can get a builder in to build your house at \$10 000 a square. You can also pay \$18 000 a square. You are going to get what you pay for. I think sometimes there is a higher expectation that people are led into, either through innocent misrepresentation of a builder or the overly high level of expectation that the consumer has. You have to get that sorted. Building standards and tolerances is one way of dealing with that, but it is a difficult area when you try to work out what is acceptable workmanship. I remember a dispute involving two taps over a basin, one hot, one cold, but not lined up - but they complied with the building code. You and I as a consumer would hate it. I think that the taps should be aligned and simple things like that should be done properly. I think that is an obvious error and a silly example, but it is one where there is a conflict between the technical code and -

**CHAIR** - It is a good example, Roy, because it is such a simple example but it highlights the concern of consumers. That is the workmanship issue. A specification for a job would generally start out by saying something like 'of a good and workmanlike standard' or 'a merchantable standard'.

**Mr ORMEROD** - It is defined in the Housing Indemnity Act and that part of the act is still going.

**CHAIR** - I will come to the matter of statutory warranties and the like in a moment. Regarding this auditing that you've undertaken so far, I was concerned to see that you've only conducted five audits of builders, a heavy focus on building surveyors and half as many owner builders -

**Mr ORMEROD** - That's right.

**CHAIR** - The real complaint from consumers and the reason for the legislation was to weed out, in the Government's words, shonky builders. Yet, you have only audited five builders during the time since you took over the accreditation process and when you wrote this letter on 25 September.

**Mr ORMEROD** - That's correct.

**CHAIR** - In almost two years you've only audited five builders.

**Mr ORMEROD** - Yes, that's correct. To put some context around this, we had to employ staff to do this and it takes a while to get people in and once you're employed, you have to skill them up for the work, plan what you're going to do and that takes time too. These issues can't be resolved over night. We have now reached the stage where we have the staff numbers we want and we're about to advertise a new position for CPD to try to get some CPD audits done. These are early days. The reason we've put a lot of effort into building surveyors is that it was the main source of complaint. It wasn't builders, it was building surveyors.

**CHAIR** - Complaints from whom?

**Mr ORMEROD** - From owners of properties, from a variety of sources that demonstrated to us that there were a number of building surveyors who were not getting their paperwork right.

**CHAIR** - But, Roy, my cursory reaction to that comment - and then the question will follow - would be, so what? People have complained that paperwork is not right. You've already indicated that there's a building code, there are specifications and plans with which a builder has to comply. Could I play the Devil's advocate and ask, what is the big deal about not getting the paperwork right if there's a building code to comply with and plans and specifications to comply with?

**Mr ORMEROD** - I think that if people are slack in paperwork then they could well be slack in other areas of conduct as well. I think it is a most important thing to get the paperwork right. The desktop surveys wouldn't have been hard to do. Anecdotally, guys are saying, 'Fred, that's okay, go ahead and pour that today and I'll look at it tomorrow; I'll do the paperwork with council next week' but we find it's not been done properly. This was a constant complaint so they need to be out there checking because if they're not doing that properly there is a risk of the standards in building work dropping because some believe they can get away with it and off they go. If the process is done properly then, hopefully, everything else will line up nicely, too. That's the way I see it. We need to get the process systems in place and then go about the issues around how they apply the process in respect to reality.

The other thing is, I gather from your questioning that you're suggesting that our guys should be checking whether the quality of the plaster work is up to standard or that the bricklaying has been done in line and those sorts of things. I'm not sure whether that's our role. I didn't see our role as being at that level of detail. Maybe I'm wrong but I didn't think it would go that far.

**CHAIR** - My understanding was that it was an expectation of the TCC to do random audits, so that the builders would be on their toes and understand that through a random audit process, an auditor could drop onto the building site at any time without a complaint from a consumer.

**Mr ORMEROD** - That's exactly right and I think proactive work is far more important than reactive work.

**CHAIR** - I see that as part of that process. Do you share that view?

**Mr ORMEROD** - Certainly, we need to have a presence where a builder can expect us to call any time unannounced. I guess I don't have that level of practical knowledge of what they do or what's expected of them to know whether that means that they'll be checking to see whether the brickwork is lining up nicely, or whether the building has been built in accordance with the plans. I expect we would check whether the buildings is being built in accordance with plan specifications, but whether it goes to details of a wall is 3 mm out and needs to be knocked down and rebuilt I am not sure.

**CHAIR** - You probably do not have the jurisdiction to do that anyway.

**Mr ORMEROD** - Probably not. No.



**CHAIR** - The specifications set out workmanship requirements, doesn't that have the capacity to overcome many consumer complaints because the industry would be on its toes?

**Mr ORMEROD** - Yes, code compliance is important. I would expect that we would be expecting the builders to comply with the code and would have knowledge of the building code. That is an easy thing to do; check whether the expansion joints in brickworks are in its right place. Even I can do that. There are things like that I would expect that they would do, yes. But if you are looking at standards of tolerance and consumer expectations which go beyond the code, I do not think we have powers to be able to do that.

**Ms FORREST** - Doesn't some of that come to the technical expertise to be able to make those assessments?

**Mr ORMEROD** - For 10 years I conciliated consumer complaints on building work. I do not think it is all that necessary to have the technical knowledge because most consumers who complain, do so because they can see it is wrong. If they can see that it is wrong, blind Freddy can see it wrong and therefore those things should be fixed.

**Ms FORREST** - What about the areas such as there not being enough reinforcement in the footings or the uprights and things like that?

**Ms THORP** - A lot of that is checked off by councils' building surveyors.

**Mr ORMEROD** - By the building surveyor. They are supposed to check to see if -

**Ms FORREST** - I am talking about assessing a building surveyor if you do not know what a building surveyor's competency level should be in assessing how much reinforcement should be in the footings and in the foundation, how many joists there should be or whatever. I am sure there are standards for all of this.

**Mr ORMEROD** - The building code spells it out. There are Australian standards as well. I would expect our officers to have knowledge of the building code and Australian standards in respect of things like the type of reinforcement used in trench work, all those things -

**Ms THORP** - Studs and noggins.

*Laughter.*

**Mr ORMEROD** - I would expect that they could do that now, people like John Wilkinson, who was an OHS building inspector and he has gone across to this area so he would be very good at being able to see whether a building is code compliant. An example is steps; after so many steps there is supposed to be a landing.

**Mr DEAN** - But, Roy, how could a builder have confidence in somebody carrying out that inspection if they do not have those skills? How could the consumer have confidence in that process?

**Mr ORMEROD** - It is in the building code. That is the beauty of the code itself. You only have to look it up and see if the work complies with it. It is not as though we do not want to employ qualified people but we advertised for people and applied the merit principle in filling the vacancies but did not get an ex-builder or an engineer say 'I am happy to do that for you'.

**Ms FORREST** - Are you offering enough money?

**Mr ORMEROD** - I suppose if we offered more we might get someone.

**CHAIR** - Probably the same as your dilemma with mining inspectors. There is more money to be made in the private sector than in the public sector.

**Mr ORMEROD** - That is always a balance and you are never going to match the private sector in a climate where the economy is buzzing along. There are other aspects surrounding public service that would mean that you should expect not to be paid the same amount. It is a better environment to work in.

**Mr DEAN** - I have difficulty with your view that those auditors do not need those skills.

**Mr ORMEROD** - Not the full suite, no.

**Mr DEAN** - I just have some concerns with that. If I could just take up your point on where you said that if you employed somebody at \$18 000 a square to build a home as opposed to somebody paying \$8 000 a square, what do you mean by that, Roy? Are you saying that you should accept a lesser outcome?

**Mr ORMEROD** - Absolutely.

**Mr DEAN** - I'd suggest you should still expect to have a building completed in accordance with the building regulations and rules.

**Mr ORMEROD** - Absolutely. In both cases, code-compliant building, most definitely. You're not going to get the same quality of material, you're not going to get the same quality to ensure the finish. You won't get it.

**Mr DEAN** - Maybe.

**Ms THORP** - It's like if you go to one tailor and he offers to make you a pair of pants for \$50 and one offers to make you a pair of pants for \$100. I bet the \$100 ones are nicer pants.

**Mr DEAN** - Yes.

**Ms FORREST** - You won't have gold taps in the cheap building -

**Ms THORP** - But they'd probably still have two legs and a zip.

**Ms FORREST** - or nice light fittings instead of a globe; battens in the ceiling; that would be it.

**Mr ORMEROD** - Yes, you can pick them, can't you, how they're built. They're built for price and you do expect not quite the same -

**CHAIR** - But surely, it's not that simplistic, is it, because the volume builder will be able to build at a less rate per square metre than the mum and dad partnership, one could argue, because of the buying power and all sorts of things; that's why Jennings have been able to do it for years. Isn't it true that with that scenario you'll be able to get and expect every bit as good a quality? Just because you're paying less per square metre doesn't mean you shouldn't expect and get quality.

**Mr ORMEROD** - No, please don't get me wrong. I'm not expecting people to get a lesser, more inferior, product. It's simple; it's like comparing a Holden to a Mercedes. You're going to get a different quality building. There are contract builders around today, good contract builders that do lots of work. You can take up the plans and they will build you this house for \$9 000 or \$10 000 per square metre; you go to the same contract builder and give him your architect design and say I want you to draw that and I want you to build that and they'll say that'll cost you \$15 000 a square metre. So, that's the difference; because they have a system. They have a process running and they can knock these out really quickly if you look at their standard plans, but if you want something fancy you're going to pay more for it.

**Ms THORP** - But they still have to be compliant with the building code.

**Mr ORMEROD** - Absolutely; they have to be code compliant and we won't tolerate less than this. Code compliances and tolerances do vary. A building is a structure built from various pieces of material and it's how well that it's put together that determines the quality of the end product. You could put more time into it if you have more money available to you.

**Mr DEAN** - I had a qualified builder building a house for a friend and this qualified builder, who'd been building for a long time, put the stairs in. Council inspectors picked up that the staircase had been put in and all the steps were, I think, 1 centimetre above the recommended required height of steps. Would auditors within your area have the expertise and ability to pick that up?

**Mr ORMEROD** - Yes, they should be able to. If it goes to that level of detail a building surveyor should fix it up. I've have a real example of that; my son had a house built. The building surveyor forgot to do the final inspection. Even though he got a certificate of occupancy, the final inspection hadn't been done. It was picked up by council and the building surveyor came back and he noticed that the rise in the stairs was 1 centimetre too wide on the outside stairs. The reason that you have stairs reasonably close is to stop children getting their heads stuck between the two levels. So the builder had to come back; this was two years after the house was built. He had to put an extra piece of wood under each step to reduce the gap and he also had to put some insulation on another part of the house that hadn't been done.

That's what you're paying for with a building surveyor. What I expect our guys would do if they go to a house where a certificate of completion has been completed and they

check to and find that the risers are wrong, they won't only be chasing the builder but they'll be chasing the building surveyor as well, because he should have picked it up.

**Mr DEAN** Council inspectors have to have the right qualifications, experience and background to be able to take on this role.

**Mr ORMEROD** - Yes, a knowledge of the code; to be able to read the code and say this is what it says. That's the good thing about the code; obviously, you have to have the industry understanding and knowledge to be able to interpret it but -

**Mr WILKINSON** - Hobart City Council, obviously, didn't do a very good job then, of the Argyle Street car park because as you'd be aware, there, that one or two of the floors when you are going up the stairs have an extra step to all the others?

**Mr ORMEROD** - Have they?

**Ms FORREST** - That's correct.

**Ms THORP** - Do you count things like that, Jim?

**Mr WILKINSON** - I do, it is something silly to do when I go up and down.

**Mr ORMEROD** - Does it make it non-compliant, an extra step?

**Mr WILKINSON** - It gives you an extra couple of breaths when you get to the top.

*Laughter.*

**CHAIR** - Anything else on the auditing process?

**Mr WILKINSON** - Breathtaking, I suppose you could say.

**CHAIR** - Just one final question from me, Roy, on the auditing process. You make the comment here that the ability to work in pairs will greatly increase the efficiency of the audit process. How will that be the case, working in pairs?

**Mr ORMEROD** - The reason it is put in this is that the two people we have there have two separate skill sets and hopefully they would be able to feed off each other. With John's knowledge of the building industry and his background in the practical sense of building and also in the area of OH&S and knowledge of major construction work together with Dale's ability to look at the paperwork side of it they should make them a good match.

**CHAIR** - Okay, thanks.

Before I forget about it, we mentioned earlier the statutory warranties and the fact that the statutory warranty requirement has been retained. How do we retain that because didn't we -

**Mr ORMEROD** - My understanding of the Housing Indemnity Act is that it took away the mandatory requirement to hold warranty insurance but I do not think it took away the requirements of the builder to maintain the statutory warranty.

**CHAIR** - That sounds right because I was concerned that we still needed statutory warranties retained as a requirement of builders -

**Mr ORMEROD** - It's true.

**CHAIR** - because that is a prosecutable offence if the consumer feels aggrieved that the statutory warranties for good workmanship and good workmanlike delivery haven't been achieved yet.

**Mr ORMEROD** - That's right, warranty was the timeliness as well as the materials being used. There are a number of them there, yes. It is very important.

**CHAIR** - As a matter of interest, Mr Smith is no longer your director of building control. Who currently is?

**Mr ORMEROD** - Graeme Hunt is acting director of building control but I have advertised the position and I am conducting interviews next week.

**CHAIR** - If we can then move on to the building practitioner numbers. I do not particularly have any questions there; does anybody else with regard that letter of Roy's? It is just a matter of mathematical exercise and the fact that -

**Ms FORREST** - If I can clarify one point, Mr Chairman? Is the 2 483 individual practitioners or is that encompassing all the - because some are accredited under a number of areas. Do you know whether that is the number of people or the total number of accreditations?

**Mr ORMEROD** - I think if you take that literally, it says 'practitioners' so that must be the number of actual individuals.

**CHAIR** - So your fee structure would generate about \$750 000 based on \$300?

**Mr ORMEROD** - It must do, yes.

**CHAIR** - And you can adequately deliver the service for that?

**Mr ORMEROD** - Yes, that is why we have been able to get staff on board.

**CHAIR** - So you have been able to employ more staff for about half the fees generated compared to what the TCC had with their staffing arrangements for about \$1.5 million return?

**Mr ORMEROD** - I can only speak from our experience of what we are doing. It was a case of fiddling around to see what we could do because from our point of view you have to ensure that you have a good cash flow and enough fat there to be able to pick the highs and lows in your accreditation picture. One thing with downturn in building, you can do

one of two things: increase accreditation numbers or decrease them. You can do one or the other and we have to make sure we have a bit of a buffer there.

**CHAIR** - Total employment now then. You transferred over how many people from TCC?

**Mr ORMEROD** - We transferred 3.8 FTEs - four staff.

**CHAIR** - And you have since employed how many?

**Mr ORMEROD** - Gail, John, we're employing a CPD person -

**CHAIR** - You are appointing a CPD person?

**Mr ORMEROD** - We are going to advertise for a CPD person. It hasn't been advertised yet.

**CHAIR** - So you are employing two auditors?

**Mr ORMEROD** - Two auditors, a CPD person that has not been advertised yet but will be. We have a person in the owner/builder registration area plus a part-time person assisting her; that is 4.5 extra. We have just also employed a project manager for 12 months to get out systems in place. I have heard some of the comments made by the previous person and I share some of his concerns. The reason we have this new project manager in place is to look at our systems to see where we're letting ourselves and our clients down and see what we can do about improving our processes. We did adopt a system and the most important challenge for us at the time was to make sure that the transfer was seamless. So we took it warts and all and now we are in the process of removing the warts.

**Ms FORREST** - Laser surgery?

*Laughter.*

**CHAIR** - Roy, on the process of auditing and making some assessments and dispute resolution and so on, I'm just thinking about what the TCC had proposed in their business model which the Government accepted. Weren't they proposing a number of cells of committees?

**Mr ORMEROD** - They were, yes.

**CHAIR** - Have you gone away from that?

**Mr ORMEROD** - Yes, we have. Given that it was a private sector group, you needed more checks and balances. I would have thought that a public sector group that is used to processes and systems should be able to do it without having independent committees overlooking them. That doesn't alter the fact though that we actively engage our stakeholders in areas that directly affect them. We need to do more of that.

We've just reconvened a reference group that met for the first time a few weeks ago. This involves a person from each of the building accreditation categories. That will be convened as and when required to consider issues of common interest to all. That's the important thing; we don't want to bog down that group with issues around building

surveying. We'll deal with the building surveyors on that and the same with the others. That met to look at the issues around complaints and the general news around the CPD. Also they looked at the insurance issues which have just recently changed, insurance requirements for builders.

**Mr DEAN** - On your complaints, you inherited 13 from TCC and subsequently have taken on another 45 complaints. What are the main complaints?

**Mr ORMEROD** - Look, they were so typical consumer-type complaints. They were things like the builder won't come back and fix the work, he's overcharged me, I'm not happy with the end product; these sorts of complaints. What we're trying to do, and we have almost got there now, is to sort them out and say these are best dealt with over here. The sad thing about it is that we've taken too long. I think I made the comment last time we met that we didn't get on to those complaints as early as we should have. Now that we've got six staff on board we can hopefully tidy up all the backlog and give proper direction to those who complain in the future. We need to say, 'Look, this is what we can do for you, but we can't do this and suggest you go to Consumer Affairs or some other body or the courts to deal with the issues around contracts'.

**Mr DEAN** - What's available in your area to try and ensure that those sorts of complaints don't arise again with that builder?

**Mr ORMEROD** - We hope to have that -

**Mr DEAN** - If they're proven.

**Mr ORMEROD** - Hopefully that will be sorted out when we get that new dispute resolution model formalised with Consumer Affairs. The idea is to get that feedback that way. We have a list of those complaints on our database and there's no common theme yet where one builder's had a habitual problem.

**Mr DEAN** - You can't go through a re-accreditation process or have them re-accredited and so on?

**Mr ORMEROD** - We can fine them and I am fairly certain that we can instruct these people to do further training. Ultimately, we could take away their accreditation if we see them with a hole in their skill set, which is effectively what it is.

**Mr DEAN** - Have you done that; take away any?

**Mr ORMEROD** - No, not removed accreditation. No, I can't remember now. -

**Ms THORP** - That would be more for serial offenders, I would think, rather than a first offender.

**Mr ORMEROD** - More so, or a serious -

**Mr DEAN** - There may well be serial offenders in this, I don't know.

**Ms THORP** - Mr Ormerod just said there was no pattern.

**Mr ORMEROD** - No pattern there, but a good example of a major one would be if a builder took a deposit of \$30 000 and then shot through, or did not quite shoot through but did not go back on the job and do any work. That would be very serious, a bad moment and end very quickly.

**Ms FORREST** - In that case could you instruct them to go and complete the work?

**Mr ORMEROD** - No, we cannot,

**Mr WILKINSON** - That is the flaw isn't it, don't you think? To me that is the real flaw.

**Mr ORMEROD** - That is why we need Consumer Affairs.

**Mr DEAN** - That is the point that I was going to get to. The infamous position at Launceston that is still going on, I understand. A home there -

**CHAIR** - Mrs Bransden.

**Mr ORMEROD** - Yes, that is right.

**Mr DEAN** - Nothing has occurred there and it is still going on. As I understand it, there was no follow-up with the builder to ensure that he did not do it again.

**Mr ORMEROD** - The sad thing about that one is that the arbitrator did not rule in favour of the builder. When you apply an arbitration process, and you have a skilled and qualified arbitrator who is a barrister and a qualified architect, who ruled in that circumstance that the builder was not liable, what else can you do? I am as equally shocked as you that that was the result. It was not an outcome I expected.

**Mr DEAN** - I am not a builder, but you do not have to be a builder to go into that house and see what is wrong with it.

**Mr ORMEROD** - But you had a properly constituted arbitration process which ruled that the builder had not done anything wrong. There were some minor issues but nothing major. And you have to accept that.

**CHAIR** - Roy, Jim is as aware of the circumstance as Ivan and I are, and it is the second arbitrator to whom you are referring. The first arbitrator in fact ruled 80 per cent in favour of the owner.

**Mr ORMEROD** - He did, that is right.

**CHAIR** - Along comes the second arbitrator, and we can debate until the cows come home whether there was a proper process undertaken there, and that is what happened. It highlights -

**Mr WILKINSON** - The real argument there was that the builder still did not go and do what he was supposed to do as a result of the 80 per cent finding in their favour. They had this



other arbitration and it is just a totally sub-standard state of affairs. The consumer has every right to feel aggrieved by the system.

**Mr ORMEROD** - Absolutely, and I agree that I would be devastated if I were in that position.

**CHAIR** - That highlights the deficiency through the building accreditation process for there to be, after a proper assessment, a rectification, jurisdiction or authority through legislative measure. That is what, as you said at the outset of this hearing, Roy, will be fixed up when we get the new legislation. And the quicker the better.

**Mr ORMEROD** - That is right. But I think the measure of having someone like Kim running around at the moment taking up these complaints and moving quickly would sort out most of them. I do not think it would have sorted out Mrs Bransden's case but most are sorted out that way. There are a couple like Mrs Bransden's I have been involved in in the past where it is a very sad state of affairs and you feel sorry for them.

**CHAIR** - On that matter, it does cut across where we are going in terms of an optimum framework, could it be argued that Mrs Bransden was poorly advised to dispense with the first arbitration when she should have been advised to retain the first arbitration and then only adjudicate on the unaddressed issues?

**Mr ORMEROD** - I had a lot of involvement in that case. I met with her and went up to her home when she was complaining about the first arbitrator. She was in a mess and she said to me, 'Can I sack this arbitrator?' That is the first thing she said. I explained to her that I was not sure it was a wise move but that I would - and this was something we had never done before, but because she was using a building surveyor to help her on the case, having already spent \$30 000-odd on legal fees on getting nowhere - provide some legal support for your advisor at arm's length. We are not providing the legal advice, we being Consumer Affairs, but we allowed the taxpayer - and it is very unusual - to fund some legal advice for her through which she could make up her own mind. That legal advice cost us a lot of money in the end; it went on for quite some time because it continued on through the second arbitration. We decided to do this to see that proper process was followed to an outcome. That is all we can expect. I am not sure exactly how much we spent on that, but it was probably the best part of \$30 000. When you see an outcome after all that money and effort, it is distressing all round.

**CHAIR** - Okay. Moving on to the number and nature of complaints, you have indicated that a backlog of 13 complaints was inherited from the TCC. Are you aware of the total number of complaints lodged with the TCC?

**Mr ORMEROD** - I can only tell you about the ones that we inherited. I do not believe that any were actually closed. That is my recollection. I think they were all ongoing, to be quite frank.

**CHAIR** - So it is likely that 13 was total number lodged with them.

**Mr ORMEROD** - Does it say 13?

**CHAIR** - In the two years that you have running you have had 45 extra lodged with you.

**Mr ORMEROD** - Yes. It may be that before us they had in force a system where they received phone calls and tried to sort them out without a written complaint. I do not know. What we do with out complaints is we try to get people to understand what we can and cannot do and then we received the complaint, hopefully after they have had advice from us but we cannot always guarantee that.

**CHAIR** - I do not have any questions on the accreditation of building surveyors, so moving on to the matter which we raised with you, the threat to the architect body and the possible abolition of the Architects Act and the Board of Architects. You have explained there what had gone on.

**Mr ORMEROD** - To be hones, Mr Chairman, I cannot say whether the letter that you quote went out. That was a draft that was sent to the minister but it may never have left the office. You have the right to access this information so you have it, but I do not know whether it went to the party concerned. It may be where they got the information from; I do not know.

**Ms FORREST** - Is that letter dated?

**Mr ORMEROD** - I can give you the date when it left the office, but they leave the office undated. They are dated when they are signed, and we have no record of it.

**Ms FORREST** - They do not always get dated. A lot of letters leave the office undated.

**CHAIR** - Not from the Human Services Minister.

**Ms FORREST** - No, I am sure hers would be perfect.

**CHAIR** - Roy, is that matter still under consideration, the fact that your office might be considering the abolition of the Architects Act and the Board of Architects?

**Mr ORMEROD** - No, definitely not. I mentioned previously that there is a clear role. I was talking to the secretary of the department about this a week ago. There is a need to review the Architects Act because sitting fees are out of date so that is one of the issues we need to sort out. We need to get that act strengthened. some areas of responsibility, such as to name an architect, within the act remain stand-alone and will continue unchanged.

**CHAIR** - On the issue of invoicing of TCC, you have given us the details of what accreditation renewals were outstanding. We can do our own sums as to what money the TCC might have got for jam as a result of that process between 1 July and 30 October. In my words, money for jam, in a couple of months.

**Ms THORP** - Did you all get that? I wanted to make sure the media heard it.

**CHAIR** - Don't worry about whether they heard it or not. They have their own resources.

It was important. The committee asked you that question for a reason because there had been some allegations that there was a heap of accreditation renewals outstanding and

that money may have flowed to your department as opposed to the TCC. You have chronicled that for us and I do not have any further questions about that. Does anybody have any other question relating to the process which Roy has written to us about?

**Mr DEAN** - Mr Chairman, I want to visit the complaints once again. I think we have gone through this but I want to be absolutely certain. Where you, for instance, have a complaint in relation to a contractual issue, what is the process you go through? Do you have that contract examined by an expert?

**Mr ORMEROD** - No, if there is a contract dispute, we advise complainants to get the contract issue sorted by going elsewhere.

**Mr DEAN** - I see, so you do not take that on?

**Mr ORMEROD** - No, we do not touch them.

**Mr DEAN** - With poor workmanship, do you have your auditors look at it and check it out?

**Mr ORMEROD** - No, we do not. I think there is potential for that to be done in the future because it could come down to conduct, particularly if you are using wrong materials. It has not gone that far to date.

**Mr DEAN** - I notice you have a number outstanding still, so I take it that you have proceeded it to try to satisfy them and have not been able to do that. Is that right?

**Mr ORMEROD** - I think what Gail is doing with these is looking and see what we can and cannot do under those circumstances. If we believe the complaint is one which falls within our jurisdiction, a conduct complaint, then we will investigate and if not, then she will advise the owners what options are available to them. We also tell them that if it is a contract dispute, once it is resolved they can come back to us and advise us on the outcome. The outcome may be that the court determines this builder is incompetent and all the rest of it and we would like to hear about that. That could well convince us that we need to investigate further.

**Mr DEAN** - Still on the poor workmanship, if you are not being able to resolve it, do you get somebody else to inspect that?

**Mr ORMEROD** - No, we have not yet.

**Mr DEAN** - If you cannot do that now, do you believe that you need that authority and ability to be able to do all of that?

**Mr ORMEROD** - It is a difficult one. You have to make sure that you do not get caught up in the contract issue. I think it is much better, if possible, to get that work sorted through by people like Consumer Affairs. Having said that, if someone contacted us with a complaint about building practices, we would jump on that. I would have though we would look at those issues because they have conduct issues, where people are being dishonest. This is something our project manager will look at, trying to get some guidelines on what we should and should not touch because I do not think it's that easy.

**Mr DEAN** - I can understand some of the conduct issues, as opposed to poor workmanship.

**Mr ORMEROD** - Conduct is about things like dishonesty, competency, ethics and those things. We need to look at those.

**Mr WILKINSON** - It is only a matter of degree though, isn't it? Poor workmanship as opposed to conduct is a matter of degree to me.

**Mr DEAN** - You are absolutely right and that is the reason I raise it because you are saying you can deal with the conduct but you really cannot deal with the other issue, It seems to me that you either ought to be able to deal with them all or none of them. There might be someone else who can deal with them.

**Mr ORMEROD** - I understand what you are saying and there could well be an outcome that could lead us that way, that we would be more involved in the proactive work, doing the assessments of work being done and leave the complaints to someone else. I think that is quite a valid observation.

**Mr WILKINSON** - Wouldn't it be best for you, within the secretariat, if there was a dispute person, so if there was a dispute erupted that person could immediately go to the job and speak with the people involved and has the ability to put that to arbitration or mediation or whatever might be. To me, that seems to be the cleanest way of doing it rather than running it from one department to another. If it was in the building department, hand it to the dispute resolution person, they immediately act and then they do what they deem appropriate, go to arbitration or go to mediation and tell the person to remedy it and it is obvious that it should have been done or something like that.

**Mr ORMEROD** - That is the model that we hoped would come out of the Consumer Affairs, whether it should sit within the same body that accredits building practitioners.

**Mr WILKINSON** - One of my problems is, you ring one department and they say, 'No, sorry, we can't deal with this, you have to go to another department'. The other department says, 'Oh look, I'm not too sure whether we deal with this. You'd better go to such-and-such' and then you go around in circles and come back to the same spot.

**Mr ORMEROD** - Yes, you are right, and I am not helping with the way I answer. I think you are right, we need to sort this out. The beauty is that Consumer Affairs and Workplace Standards are under the one department and so once we get some legislation for Consumer Affairs, we may be able to pick off the whole lot to start with. I think that makes a lot of sense. We can look at the conduct issues around ongoing proactive work and let them rule on the complaints because I suspect that that would be where most of them go.

**CHAIR** - Yes, I have had a good look at your complaints process on your web site for the consumers and hyperlinks. You set out what the director cannot resolve. A consumer would probably look at that at the moment and say, 'Well, what the hell can we complain about? What can we require rectification of?' Unprofessional conduct or professional misconduct are defined terms in the act, whereas it would seem that the vast array of complaints would be with regard to workmanship. Is that a reasonable observation?

**Mr ORMEROD** - Yes, and I think it all falls in category of contract dispute. It is not looking as it should and someone should be able to get out there quickly and sort those out. You are right, and then we can step in later and if you have the same builder doing the same thing all the time, they're the ones that need the kick up the pants.

**CHAIR** - It has been contended over many years that the jurisdiction of the small claims tribunal or court ought to be expanded because of the amount of money involved in a lot of building disputes, particularly when the economy was racing. What is the current jurisdiction of small claims? Can you recall? Is it still \$5 000 or \$10 000?

**Mr WILKINSON** - Is it up to \$20 000 now?

**Mr ORMEROD** - I think that is the civil court, isn't it?

**Mr WILKINSON** - Civil court, yes, which is small claims.

**Mr ORMEROD** - Yes, that is true.

**CHAIR** - We might have a look at that because it may be a valuable recommendation from this committee to dramatically expand the jurisdiction of the small claims tribunal because that is such a quick process, no lawyers are involved - which is a good damn good thing in terms of resolution.

**Mr ORMEROD** - I guess the question is whether you believe that you would need experts to preside, given that the Small Claims Division of the Magistrates Court does not require magistrates to be specialists. Any magistrate can be involved and I would suggest some are good at it and some aren't as good.

**CHAIR** - Because there was a dedicated person.

**Mr ORMEROD** - In the old days, there was which from my point of view was really good. This would need to be compared with a person employed by Consumer Affairs who has a power of arbitration and is competent to be hearing these issues. That is what we are looking at doing.

**CHAIR** - Okay. We have finished on Roy's letter with those matters.

As an overarching comment, we have spoken a number of times today about CPD, as did other witnesses before the committee at various times. What process do you use to assess the competence or otherwise of firms offering CPD which you then publish on your web site. The obvious issue arose as a result of questions in the House of Assembly in the last couple of weeks so I wanted to raise that with you.

**Mr ORMEROD** - Yes, sure. The original assessment of the CPDs we have listed on there were done before my time, but we had input from the building standards and regulation area of Workplace Standards before they went on there. I have no reason to suggest that anyone on our web site is not providing a bone fide service in CPD. I said that I would prefer that we don't bother putting any effort into that now as it is more important that we review our CPD structure because there has been criticism from stakeholder groups and individuals that it is not as rigorous as it should. Builders are the main category because

building surveyors and the others use their own professional means of getting accreditation. The area of major concern that we see is in the area of builder CPD.

With builder CPD you have 12 points that can be assessed with nine point structured and three points unstructured. The structured part of the CPD under the current scheme is fairly loose, like attending a seminar run at K&D could be seen as being a structured CPD session. We have started negotiation with building stakeholders to change that so that we have a more formal, structured process. CPD is all about getting skill sets up, competence and a builder should be able to do some of that themselves, like reading the building code and other literature checks and they should get acknowledgment for that. Whether that is assessed as six points, three points or whatever that is fine. Those which we call structured should be assessed, the provider should be assessed and the provider should have some sort of accreditation for providing that service and they should be providing us with a set of information that they are offering. I think that is the bit that we want to tidy up.

**CHAIR** - Thanks again, Roy. I do not want to pursue the matter about the desktop surveys you indicated you would get for us. We will discuss that. We might write to you to get some more details about that because you indicated that you did not have it with you but you would be able to get it.

**Mr ORMEROD** - That is an absolute pleasure.

**THE WITNESS WITHDREW.**