

Copyright in this document is reserved to the Crown in right of the State of Western Australia. Reproduction of this document (or part thereof, in any format) except with the prior written consent of the Commissioner of the Corruption and Crime Commission Act is prohibited.

CORRUPTION AND CRIME COMMISSION
OF WESTERN AUSTRALIA

COMMISSIONER JOHN MCKECHNIE QC

TRANSCRIPT OF PROCEEDINGS

AT PERTH ON WEDNESDAY, 22 JUNE 2022, AT 9.21 AM

COUNSEL:

MR A. WILLINGE

WITNESS: GRAHAME JOHN SEARLE

1 **THE ASSOCIATE:** The Commission is about to conduct an
2 examination for the purposes of an investigation under the
3 Corruption, Crime and Misconduct Act 2003. That
4 investigation has been designated the name Operation Taurus.
5 The scope and purpose of the Commission investigation is to
6 determine whether any current and/or former public officers
7 from the Department of Communities and/or its former entities
8 engaged in serious misconduct by corruptly obtaining a
9 benefit for themselves or for any other person or by
10 corruptly acting or failing to act in performance of their
11 functions as a public officer.

12
13 Witnesses may be called for an examination before the
14 Commission for all sorts of reasons. Many witnesses are
15 called whose own conduct is not in question. They may be
16 called because they can assist the Commission by giving
17 information about events, circumstances, systems, procedures
18 or the activities of other persons. The examination of a
19 person before the Commission is but one part of an
20 investigative process, the purpose of which is to get to the
21 truth of the matter.

22
23 The Commission is not bound by the rules of evidence and can
24 exercise its functions with as little formality and
25 technicality as possible. It will conduct its examinations
26 as an investigative inquiry and not as an adversarial
27 conquest such as applies in a court and may inform itself of
28 any matter in such a manner as it thinks fit.

29
30 An examination in the context of an investigative inquiry is
31 an open-ended and very often unpredictable process and is
32 essentially one that is intended to be instrumental in
33 discovering facts which, once assessed by the Commission, in
34 conjunction with other material available to it, forms a
35 basis for its subsequent opinions concerning misconduct and
36 any recommendations it might make.

37
38 A Commission practice direction which prohibits the use of
39 electronic devices in the hearing room while an examination
40 is in session is in place. Therefore, all mobile phones and
41 tablets must be switched off. Bona fide members of the media
42 and members of the legal profession sitting at the Bench are
43 exempt. Copies of the practice direction are available upon
44 request.

45
46 **THE COMMISSIONER:** It is appropriate to start by
47 acknowledging the traditional owners of the land on which we
48 are today conducting these examinations. It may not be
49 known, but the swamps and streams between here and Hyde Park
50 and the named Lake Street were fruitful sources for food and
51 a meeting place in times gone by. So on behalf of the

1 Commission, I acknowledge the traditional owners of the land,
2 the Whadjuk of the Noongar people. And I pay my respects to
3 their elders past, present and emerging.

4
5 I should explain why we are undertaking public examinations.
6 Normally there's good reason for the Commission to go about
7 its work covertly, which it does. It protects the integrity
8 of the investigation and of equal importance, it protects
9 the reputation of a person who is or may be the subject to
10 investigations.

11
12 Many investigations in fact conclude with no opinion of
13 misconduct being formed. If no one knows that there has
14 been an investigation, the person affected is not injured.
15 Under the Act indeed, the default position is that an
16 examination will be conducted in private.

17
18 However, the Act gives the Commissioner a discretion to open
19 the examination to the public if, having weighed the benefits
20 of public exposure and public awareness against the potential
21 for prejudice or privacy infringements, I consider it is in
22 the interests of the public to do so.

23
24 This investigation has been ongoing for quite some time.
25 And I should mention aspect of it, which will continue in
26 private, are still ongoing. There has been considerable
27 publicity on the actions of the former deputy director
28 general, Paul Whyte, who pleaded guilty last year to
29 significant offences of corruption involving many millions
30 of dollars.

31
32 I consider it is therefore in the public interest to open
33 some of the examinations to public and we have done so
34 already in relation to the chief financial officer. We will
35 continue the examination today of Mr Searle, who was director
36 general in public so that we can further understand what
37 happened and why.

38
39 I have appointed Mr Anthony Willinge and Ms Cassandra Bray
40 as counsel to assist me. The normal course of an
41 investigation examination is that the Commissioner presides
42 over the examination but is kept generally aloof from some
43 of the detail so that the Commissioner can form their own
44 impressions at the examination.

45
46 It is counsel assisting's task to prepare and then to conduct
47 the examination with rigour but with fairness and courtesy.
48 It will assist, I think, in the public interest, if I invite
49 counsel to make an opening address.

50
51 Mr Willinge?

1
2 **WILLINGE, MR:** Thank you, Commissioner.

3
4 These examinations continue the Commission's investigation
5 into serious misconduct, including misuse and
6 misappropriation of funds, at what was then the Housing
7 Authority or the Department of Housing.

8
9 The Department of Housing provided important services to the
10 community, including in relation to affordable housing. The
11 availability of affordable housing was an important issue a
12 decade ago and remains so today. The Department of Housing
13 is now part of the Department of Communities.

14
15 One of the Corruption and Crime Commission's purposes under
16 legislation is to improve the integrity of the public sector
17 and reduce the incidence of misconduct in the public sector.
18 The Commission can fulfil this purpose by investigating
19 matters related to serious misconduct in the public sector.

20
21 On 16 November 2021, the Commission released a report
22 entitled "Exposing Corruption in the Department of
23 Communities". That report outlined the Commission's
24 investigation into Paul Ronald Whyte, who in 2017 was acting
25 chief executive officer of the Housing Authority when it
26 became part of the Department of Communities.

27
28 Mr Whyte was an assistant director general at the Department
29 and a member of its corporate executive. He was also an
30 inveterate gambler who stole a very significant amount of
31 money from the State. For 10 years, from around 2009 until
32 2019, Mr Whyte used his corporate credit card and electronic
33 funds transfers to make payments to companies which were not
34 providing any services to the Department.

35
36 In all, Mr Whyte stole more than \$22 million from the State.
37 The Commission has received further information and
38 continues to investigate. Of particular interest to the
39 Commission is how it was that a person in such a senior
40 position was able to systematically defraud the State to
41 such an extent over such an extensive period.

42
43 Also of particular interest to the Commission is whether
44 there were other matters relating to the operation of the
45 Department and its governance that contributed to or enabled
46 Mr Whyte's corrupt conduct.

47
48 These questions are important because the Commission has
49 another additional purpose under its legislation. The
50 Commission strives to increase the capacity of public
51 authorities to prevent serious misconduct from happening in

1 the first place. As a result, it is important not only to
2 identify corruption that has occurred, but also to understand
3 the governance systems in place that may have allowed that
4 corruption to commence and continue.

5
6 These examinations are part of the Commission's ongoing
7 investigation. On 23 May this year, Mr Lorne O'Mara was
8 publically examined. Mr O'Mara was an accountant and former
9 CEO at the Department of Housing. Mr O'Mara - - -

10
11 **THE COMMISSIONER:** CEO or CFO?

12
13 **WILLINGE, MR:** I'm so sorry, Commissioner. You're quite
14 right.

15
16 Mr O'Mara was an accountant and former CFO, chief financial
17 officer, at the Department of Housing. Mr O'Mara gave
18 evidence about the culture in the Department under former
19 director generals and changes made in the Department when
20 Mr Grahame Searle became the director general in around 2009,
21 these changes included the creation of a new corporate
22 executive with four general managers. One of whom as Mr
23 Whyte. Mr Whyte reported directly to Grahame Searle, the
24 director general.

25
26 Mr O'Mara also gave evidence about Paul Whyte's areas of
27 responsibility. Mr O'Mara was critical of the fact that Mr
28 Whyte's responsibilities included oversight of both
29 commercial spending and finance. In Mr O'Mara's view, the
30 same general manager should not have had responsibility both
31 for spending and financial controls on spending. This
32 created an obvious risk.

33
34 Mr O'Mara also gave evidence that general managers including
35 Paul Whyte had a discretionary element in their budget. Mr
36 O'Mara also gave evidence about the use of corporate credit
37 cards in the Department. Mr Whyte used his corporate credit
38 card to defraud the State by repeatedly making payments to
39 a company called Boldline, which was not, in fact, performing
40 any services for the Department.

41
42 One of the people who approved Paul Whyte's credit card
43 expenditure was the director general, Mr Searle. Mr O'Mara
44 gave evidence that he would have been concerned about the
45 payments to Boldline, given the lack of supporting
46 information. Mr O'Mara also gave evidence that Mr Searle
47 should have asked Paul Whyte what the repeated payments to
48 Boldline were for.

49
50 A number of other former employees have since been examined
51 in private about various matters of concern regarding events

1 at the Department at the time and the governance of the
2 Department.

3
4 Today, Mr Grahame Searle will be examined. As you mentioned
5 in your opening remarks, Mr Searle was the director general
6 of the Department of Housing. He was the director general
7 from about 2009 and was director general during the time
8 when Paul Whyte stole more than \$22 million from the State.

9
10 Government departments provide important services for the
11 benefit of the community. The director general and other
12 leaders in government departments have an important role to
13 play. They help set and maintain the culture of the
14 departments they lead. They are stewards of money which is
15 intended to be spent on important public works. They are
16 ultimately responsible for integrity and governance
17 frameworks. And they have obligations to report and act on
18 alleged misconduct.

19
20 Mr Searle will be examined about a number of matters
21 including the creation of the new corporate executive, the
22 recruitment of the corporate executive including Paul Whyte,
23 Mr Whyte's responsibilities including for commercial
24 spending and finance, Mr Searle's approval of Paul Whyte's
25 corporate credit card expenditure.

26
27 Whether a failure to follow or enforce good governance
28 practises created an environment of culture which enabled
29 serious misconduct to occur, whether a failure to follow
30 department policies enabled Mr Whyte to receive a financial
31 benefit from the misuse of his corporate credit card, and
32 other matters concerning the governance of the department.

33
34 It is proposed to examine Mr Searle in public about a number
35 of matters as you have indicated. However, some of the
36 matters to be raised with Mr Searle relate to evidence given
37 in private examinations. And it may be more appropriate and
38 consistent with the Act at this stage to examine Mr Searle
39 in private about those matters.

40
41 Accordingly, after various matters have been made with Mr
42 Searle - I'll start that again. Accordingly, after various
43 matters have been raised with Mr Searle in public
44 examination, leave will be sought to continue the examination
45 of Mr Searle in private.

46
47 Subject to any questions you have Commissioner, that is the
48 opening.

49
50 **THE COMMISSIONER:** Thank you, Mr Willinge.

1 I'll adjourn briefly so that everybody can get sorted.
2
3 (Short adjournment)
4
5 (TIMESTAMP) / 09.38.30 AM
6

1 **THE COMMISSIONER:** Please be seated.

2

3 **SEARLE, GRAHAME JOHN SWORN AT 09.58 AM:**

4

5 **THE COMMISSIONER:** Good morning, Mr Searle. Before we get
6 underway, I understand that on the previous occasion you
7 unfortunately, like most of the world, got COVID?---That's
8 true.

9

10 Are you in a satisfactory condition today?---Thank you. I'm
11 over most all my symptoms except a bit of vertigo. Thank
12 you.

13

14 Very well. Thank you. I've appointed Mr Anthony Willinge
15 as counsel to assist me. And he will, in fact, be asking
16 questions on my behalf.

17

18 **WILLINGE, MR:** Thank you, Commissioner.

19

20 Please state your full name?---Grahame John Searle.

21

22 What is your date of birth?---6 September 1953.

23

24 How old are you now?---I'm 68.

25

26 Do you have a Bachelor of Business from Monash University?--
27 --Yes. I do.

28

29 Do you have any other formal qualifications?---No.

30

31 Are you now retired?---Yes.

32

33 When did you retire?---The end of January 2019.

34

35 Before your retirement, did you work in a number of senior
36 roles in the public sector?---Yes.

37

38 Did they include at Landgate?---Yes.

39

40 The Department of Housing?---Yes.

41

42 The Regional Services Reform Unit?---Yes.

43

44 And the Department of Communities?---Yes.

45

46 Did you join Landgate in around 1998 or 1999?---Yes. I
47 couldn't tell you which one. But, yes, it was certainly at
48 that time.

49

50 Did you become the director of service delivery?---Yes.

51

1 At Landgate. Did you become CEO of Landgate three or four
2 years later?---Yes.

3
4 In late 2008 or early 2009, did you become the director
5 general of the Department of Housing?---Yes. Couldn't tell
6 you the exact date. But yes.

7
8 But late 2008 or early 2009?---Yes.

9
10 And the Department of Housing was also known as the Housing
11 Authority?---Yes.

12
13 Were you the director general of the Department of Housing
14 from late 2008, early 2009 until about 2015?---Yes.

15
16 From 2015 to 2017, did you lead the government's Regional
17 Services Reform Unit?---Yes.

18
19 In your absence, who headed up the Department of Housing?--
20 -I can't remember. But I think it was Paul Whyte.

21
22 Did you then re-join the Department of the Communities -
23 I'll start that again. Did you then re-join the Department
24 of Communities from 2017 until your retirement in January
25 2019?---Yes.

26
27 Would you agree that by the time you were the director
28 general of Housing, you were a very experienced public
29 servant?---Yes. Because I'd spent about 20-odd years in the
30 Victorian public service before I came over here.

31
32 **THE COMMISSIONER:** I'm sorry, Mr Searle. Just having a
33 little trouble hearing you. It's partly due to the shields
34 that we've had put up. I wonder if you could just keep your
35 voice up a little?---Okay. Sorry. I consider myself to be
36 experienced because I'd spent 20 years or so in the Victorian
37 public service before I came over here.

38
39 **WILLINGE, MR:** And could you briefly outline for us your
40 experience in the Victorian public service?---I spent 16-odd
41 years in the Titles Office (indistinct). I started - I
42 worked on an automation project there. I automated Births,
43 Deaths and Marriages in Victoria. Then I went to the museum
44 and ran their IT systems. Then the State Data Centre in
45 Ballarat. Back to the Titles Office and then here.

46
47 Would you agree that in Western Australia you had been
48 entrusted by government with very senior - very senior roles
49 in the public sector?---Yes.

50

1 I want to come back to your role as director general of
2 Department of Housing or the Housing Authority. I'll just
3 call it Housing. If there's any confusion at any time about
4 what I'm talking about, just say. Do you agree that the
5 Department of Housing provide important services for the
6 people of Western Australia, including in relation to
7 affordable housing?---Yes.

8
9 Do you agree that, as the director general, you were the
10 most senior public servant in the Department?---Yes.

11
12 Do you agree that, as director general, you had overall
13 responsibility for the day-to-day operation of the
14 Department?---Yes.

15
16 Do you agree that, as director general, you have an important
17 role to play in relation to the culture of the Department?--
18 --Yes.

19
20 Do you agree that, as director general, you have an important
21 role to play in requiring ethical behaviour in the
22 Department?---Yes.

23
24 That one way you could do that was by setting and enforcing
25 standards of behaviour?---Yes.

26
27 Do you agree that, as director general, you had ultimate
28 responsibility within the Department for integrity and
29 governance at the Department?---Yes.

30
31 Do you agree that, as director general, you were a steward
32 of funds that were intended to be spent on important public
33 works?---Yes.

34
35 There was some self-funding of housing, but also very large
36 sums from the State and Commonwealth governments, weren't
37 there?---There as significant self-funding from Housing.
38 There was some money from the State government, but more
39 from the Commonwealth government.

40
41 May I take you to this document - 85834207. It will come up
42 on the screen, both the small screen in front of you and the
43 large screen behind me, so please use whichever screen is
44 most convenient for you.

45
46 **THE COMMISSIONER:** May I have that number again please?

47
48 **WILLINGE, MR:** Yes, Commissioner. 85834207.

49
50 85834207^

51

1 **THE COMMISSIONER:** Thank you.

2

3 **WILLINGE, MR:** If we scroll into the document, Mr Searle,
4 the first page that often comes up is an internal Commission
5 page. The document usually starts the page after, so to
6 give you some context, this is an email from Tania
7 Loosley-Smith to Price Consulting, copying you in, on May 4
8 2009, and this is in relation to the proposed recruitment of
9 the general managers?---Yes.

10

11 We'll scroll into the document. You'll see that there is a
12 mention of the revitalisation context. You see in the third
13 paragraph there's a reference to the Honourable Troy Buswell,
14 and also to you as director general, a reference to
15 additional Commonwealth and state funding of 1.3 billion to
16 be provided over the next four years. You see that there?--
17 --Yes.

18

19 Then if we go a little further in the document after the
20 schematic, you see in the chart at the bottom of that page,
21 there's reference to revenue, 1.7 billion, then a reference
22 to 37 per cent own source, as in sourced by Housing,
23 35 per cent Commonwealth funding, 28 per cent state funding.
24 Does that accord with your understanding at the time?---I
25 have no recollection. I assume the document is accurate.

26

27 Thank you. I've finished with that document. Do you now
28 understand that during your time as director general of
29 Housing, Paul Whyte stole many millions of dollars from your
30 department and the State?---Yes.

31

32 What went wrong?---I don't think there's a simple answer to
33 that. I think it's a very complex answer. Certainly, as
34 director general, I bear some accountability for that, which
35 I acknowledge absolutely. From my perspective, part of - in
36 hindsight, part of the issue was that the gamekeeper was the
37 poacher. The person who was in charge of our finances was
38 the person who knew the most about it is the person who was
39 doing the damage. Whilst I'm absolutely accountable, and
40 I'll accept that, I'm not necessarily responsible. I didn't
41 do it. And there were a whole range of other checks and
42 balances in place at the time that I thought were
43 appropriate. There were internal auditors, there were
44 external auditors, there was an audit committee. We had all
45 the normal accoutrements of oversight in place. Clearly,
46 they haven't worked in this case.

47

48 Was one of the checks and balances that there was a corporate
49 credit card policy which indicated the amount of expenditure
50 and the kind of expenditure that could be done with a

1 corporate credit card?---It was one of the ways of
2 identifying what people were spending, yes.

3
4 Was another way the corporate credit card acquittal process?--
5 --Yes.

6
7 We'll come back to that. Having reflected on it over the
8 years, if you have - I should go back a step. Have you
9 reflected on what went wrong?---Absolutely.

10
11 Is there anything else you wanted to add at this stage of
12 the examination about what went wrong?---No, I'm happy to
13 answer questions as we go, and if we get to the end - - -

14
15 **THE COMMISSIONER:** I should say at this stage, I'm very
16 keen to ensure this is not in any way a witch-hunt, as
17 counsel's opening address has made clear. One of the
18 Commission's functions is to improve the capability of
19 government departments. This is obviously a very significant
20 matter, so we are keen to learn?---Yeah.

21
22 It will expose things that could have been done differently,
23 I appreciate, but the main purpose is to learn, hopefully,
24 from what went wrong so we can prevent it in the future. It
25 is not intended to be a witch-hunt, particularly in relation
26 to you?---Okay. Thank you for that, Commissioner. If I
27 can, 20/20 hindsight is a wonderful thing, but at the time
28 I thought we had all the appropriate measures in place
29 between internal auditors, external auditors. We changed
30 the auditors every four years, which was the recommended
31 practice at the time. I even invited the Auditor General to
32 send someone onto our audit committee. The Auditor General
33 said that wasn't appropriate, but they were happy to send an
34 adviser to tell us if there was anything we could be doing
35 better. So they actually sent somebody to our audit
36 committee. So from my perspective at the time, I had in
37 place all the checks and balances I thought were appropriate.
38 With the benefit of hindsight, they clearly weren't.

39
40 **WILLINGE, MR:** And no doubt you trusted Mr Whyte?---From my
41 perspective, he was a very respected public servant,
42 experienced, long-serving. He was in fact asked to act as
43 DG of other departments, so he was held in high esteem, to
44 my knowledge, by everybody.

45
46 And, clearly, you weren't the only person who trusted
47 Mr Whyte, it would appear?---No.

48
49 Was Mr Whyte initially one of your four general managers at
50 Housing?---No.

51

1 So he was hired and became one of the four general managers?
2 Did he also become one of your deputy director generals?---
3 Yes.
4
5 Did you have two deputy director generals, Mr Whyte and
6 Ms Loosley-Smith?---Correct.
7
8 And so was Mr Whyte one of your most senior people?---Yes.
9
10 So in the structure, and we'll come back to the structure,
11 you had four general managers?---Yes.
12
13 They formed the corporate executive?---Yes.
14
15 Did they form the corporate executive with you, so the
16 corporate executive as director general and the four general
17 managers?---That's true.
18
19 And they were the four most senior people in the Department
20 after you?---Yes, I believe so.
21
22 Did Mr Whyte and the other three general managers report to
23 you?---Yes.
24
25 Were you involved in hiring each of the four general
26 managers?---Yes.
27
28 Were you involved in hiring Mr Whyte?---Yes.
29
30 And as you've indicated, you had confidence in Mr Whyte and,
31 as it turned out, your confidence in him was misplaced?---
32 With hindsight, yes.
33
34 Were you approached to take over as the Director general of
35 Housing?---I believe so, yes.
36
37 Do you put it in that way because you got a sense that's
38 what you were being asked, but it wasn't made entirely
39 clear?---I put it that way because it wasn't the job I
40 originally applied for when I decided it was time to move on
41 from Landgate, and I can't remember the exact process that
42 saw me end up where I did.
43
44 Can you remember who approached you in relation to you
45 becoming the DG at Housing?---No, not initially, but I did
46 have quite a discussion with the head of Treasury at the
47 time.
48
49 Who was that?---Tim Martin.
50

1 What were you told about the Department before you joined?--
2 --I was told that it was relatively moribund. It didn't
3 want to listen to government policies, and they would be
4 happy if I could bring it into the 20th century, although we
5 were in the 21st.
6
7 Apart from that, what did you understand the government
8 wanted you to do as director general of Housing?---Basically,
9 revitalise it and make it more responsive to government
10 policy direction.
11
12 So revitalise it and make it more responsive to government
13 direction? When you say government policy direction, what
14 are you referring to?---A whole range of things. So, for
15 instance, government sets a lot of targets for government
16 departments. Housing wasn't renowned for meeting those
17 targets or even aiming for them in a whole lot of ways, so
18 I took that part of the role very seriously.
19
20 What kind of targets are you referring to?---Employment
21 targets around people with abilities, employment targets
22 around Aboriginal people, employment targets around women,
23 those sorts of things.
24
25 Did you consider that you had been given mandate to reform
26 the Department?---Absolutely.
27
28 And to the extent you don't feel you have had the opportunity
29 so far, how would you describe that mandate?---I need to be
30 clear here about - government, to me, has two bits. There's
31 the parliamentary government, ministers and the like, but
32 there's also central government agencies, Premier and
33 Cabinet being - and Treasury. They don't necessarily have
34 exactly the same view about what needs to be done, but
35 everybody knew something had to be done. So from my view,
36 my role was to determine the best path forward for this
37 agency to deliver the things they needed to deliver, and to
38 become relevant for where we were in history, and to then
39 provide the policy framework that both central agencies and
40 the government could buy into in order to drive those changes
41 forward.
42
43 What were you wanting to deliver, and how were you going to
44 deliver it?---Okay. Going back in time, about this time the
45 Housing Authority, or whatever you want to - Homeswest,
46 whatever you want to call it, was in the press regularly
47 around poor maintenance, lack of maintenance, badly behaving
48 tenants in particular, difficulty of waiting lists - so what
49 we tried to do was to put in place our policy framework that
50 made it clear what government's role in housing was, and

1 then put in place processes that let us deliver on those
2 outcomes.

3

4 What was government's role in housing?---Okay. One of the
5 first major documents that came out of Housing while I was
6 there was a document called The Affordable Housing Strategy.
7 It was probably the pivotal housing policy document in this
8 country. It very clearly outlined the role of public
9 housing, social housing, shared-equity deals - that are still
10 current today, with various state governments announcing
11 things in the last week - and Keystart. Between them, they
12 provided a role - three or four separate roles in addressing
13 what was clearly market failure, even then.

14

15 And when you say market failure, are you referring to the
16 ability, particularly in the area of affordable housing, for
17 the demand of people needing that housing to be met by
18 available supply?---Absolutely.

19

20 When you first arrived at the Department, what did you think
21 of it?---Whilst my memory of lots of things is fading, I
22 still have this vivid recollection of sitting at the first
23 corporate executive meeting, which had the existing
24 corporate executive members around the table, and not one of
25 them giving me eye contact, not one, and I thought, "This is
26 going to be fun". The organisation was clearly an
27 organisation that was governed by rules, as distinct from
28 policies or outcomes, and they were rules that this person
29 taught the next person, who taught the next person. There
30 was very little changeover of staff. Most of the staff had
31 been there for long periods of time, there had been no influx
32 of new blood for a very long time. So it was an organisation
33 that, in some ways, was almost regressing.

34

35 So it was part of your reaction to that that the Department
36 needed a shake-up, both in terms of its thinking, its policy
37 settings, and even its people?---Yes.

38

39 Was part of your role to move the Department to a GTE, or
40 government trading enterprise?---It wasn't a specific task
41 that I was given, but one of the objectives we set internally
42 was to try to get us effectively to be an off-budget agency,
43 so we weren't dependent on government handouts each year to
44 fund the agency.

45

46 When you say to be an off-budget agency, do you mean fully
47 self-funded?---Yes.

48

49 How would you describe the culture of the Department under
50 your leadership?

51

1 **THE COMMISSIONER:** It's probably too wide a question,
2 bearing in mind we're talking about nearly 10 years.

3
4 **WILLINGE, MR:** Yes. Thank you, Commissioner.

5
6 **THE WITNESS:** Hopefully, it changed dramatically.

7
8 **WILLINGE, MR:** Why don't we take it in stages?---Yeah.

9
10 Why don't you give us your view of the culture of the
11 Department when you joined, let's say early 2009, and then
12 your perception of any change in culture over your time as
13 DG. And if you feel the need to take various point between
14 2009 and 2015, please do?---Look, my memory is not good
15 enough to pick exact dates and where things changed. Look,
16 when I arrived, it was clear that the agency felt relatively
17 defeated. There was no sense that we can actually do or
18 achieve anything, so they were very reluctant to do anything
19 outside of a very narrow band, and very reluctant to look at
20 different ways and alternate ways of doing things. So we
21 made a very conscious effort to introduce a whole range of
22 things that we hoped would change that - a big internal
23 training program, looking at things like creative thinking
24 and creative problem solving. We reintroduced a graduate
25 recruitment program, because they hadn't had one for years.
26 So it was all about how do we actually change the way people
27 here think, how they address problems. How do they actually
28 get more proactive about finding solutions, rather than just
29 saying, "The government won't give us the money, we can't do
30 it," which was almost the default position within the agency.

31
32 Is that what you meant when you referred to a defeatist
33 attitude?---Absolutely.

34
35 So that was your initial take on the culture?---Yes.

36
37 So you made various changes, including the ones you've
38 described?---Mm hmm.

39
40 And what was your perception of the culture of Housing from
41 then on during your time as DG?---I think they got more used
42 to winning. They got more used to being successful and, and
43 a bit used to being relevant at all sorts of levels. A
44 really good example of that early on was the global financial
45 crisis. We went to government at the time and said - the
46 housing industry stopped in Western Australia. I would think
47 we cut in half the number of houses we were building. We
48 went to government - the treasurer - and said, "If you give
49 us the money, we'll build a whole lot of houses, which will
50 create employment and keep builders going and get them out
51 the other side, but not only that, we'll sell the vast

1 majority of the houses, so you'll actually get your money
2 back," whereas most financial stimulus packages are just
3 money gone. The government did that. We built the houses.
4 We kept builders in work, and we got the government most of
5 its money - I don't know the exact numbers anymore - back at
6 the end of the program, so they actually had a stimulus
7 package that cost the government almost nothing, but helped
8 build the confidence of the agency that they could do things,
9 probably something they had never done before.

10

11 How would you describe your leadership style as DG?---I think
12 it was my job - one of my jobs - to sell to the organisation
13 what was possible, to sell to the organisation what it could
14 do if they got on board and they looked forward about the
15 way to travel. And I spent a lot of time out and about
16 talking to staff, particularly in regional and remote areas,
17 about what I thought we were doing, where I thought we were
18 going, so that they understood from me directly the
19 philosophy and direction, rather than trying to read
20 something, that they wouldn't read anyway, second or
21 third-hand. So it was about going from what was a rule-
22 based agency to what - an outcome-based agency. And If I
23 just give you one example which may not be 100 per cent
24 correct cos time had passes? If you're a tenant in one our
25 houses and - one of their houses. And you get convicted of
26 a crime that gets you sent away for more than six months,
27 you lose your tenancy as a condition. Well, we have lots of
28 people who are the sole tenant that were actually married
29 with kids. A strict application of our policy would see us
30 - not only would they lose their breadwinner, but they'd get
31 evicted as well from their house. Well, I don't think that's
32 got anything to do with social justice of what government
33 should be about. So getting our staff to understand that,
34 you know, maybe that rule needs to be creatively interpreted
35 in order to get the right social outcome was an important
36 step to get our people to make, rather than just a blind
37 application of rules. So I was bout how can we get the right
38 social outcome by sensibly applying our rules and taking
39 into account the outcomes we're trying to achieve in terms
40 of social justice.

41

42 And what was your communication style as DG? And there's
43 obviously two parts to that. There's what you put out in
44 writing and there's when you're having discussions with
45 people?---I didn't believe in writing long documents that we
46 put out and publish for the staff. Basically, I didn't
47 believe the would read them. So we were very much towards
48 the infographics end of the world. Tell a story with
49 pictures if you could, graphs if you could. Those sorts of
50 things. I also tried to get around to all of our regional
51 and remote offices every year. Sometimes it took 18 months.

1 And I would start by talking for about half an hour about
2 where we're up to. And then give the staff half an hour or
3 an hour to ask questions of me in terms of anything that was
4 worrying them or issues that were relevant in that area. So
5 that way, I started to get an understanding of remote and
6 regional Western Australia, which is, in fact, very different
7 to Perth.
8
9 You've been described in some other evidence as a "direct
10 communicator"?---Yep.
11
12 Would you agree with that?---I'm not quite sure what it
13 means. But if I thought something, I'd say it to people.
14
15 You were clear about your position?---I hope so.
16
17 And what you wanted?---Yes.
18
19 And how you thought it should be achieved?---Yes.
20
21 During your time as director general, did the Department
22 take an increasingly corporate approach?---Probably. I hope
23 we took a strategic approach. But, yeah, maybe.
24
25 During your time as director general, did the Department
26 take an increasingly commercial approach?---Probably.
27
28 Was Goldmaster an example of the Department taking an
29 increasingly commercial approach?---Yes.
30
31 Did the Department have an overall budget?---Yes.
32
33 Did the GMs have responsibility for different parts of the
34 budget?---Yes.
35
36 Did GMs have a discretionary component - - -?---Yes.
37
38 - - - in their budget. Can you give us an idea of the size
39 of that discretionary component?---To be honest, I can't
40 remember. It's - it's a long time ago. But the - the - the
41 reason behind the discretionary budget is that if you go
42 through a government budgetary process, it can take you 18
43 months to get funding. Then by the time you actually start
44 to implement something, it could easily be two, three years
45 down the track before you can actually get something started.
46 So the idea was to give GMs a discretionary budget so they
47 could actually start something and get a little but down the
48 road to work out whether they wanted to proceed or not,
49 rather than have to go through that whole 18 months to two
50 years wait, which may, in fact, end in nothing.
51

1 Easier to have a bucket of money available than to have to
2 seek it at the time because of various process and so on?--
3 -Because of the delays in - the delays were inherent in that
4 process.
5
6 I appreciate it's a long time ago, but just to give us a
7 feel for the size of the discretionary budget, is it - is it
8 some millions as a discretionary portion of each GM's
9 budget?---No. I wouldn't have thought it was that big of
10 each GM's budget.
11
12 A million?---I'd have thought there was a couple of million
13 in total.
14
15 A couple of million in total across the four GMs?---Yeah.
16
17 In the discretionary part of their budget?---From
18 recollection.
19
20 I understand. Did GMs have the ability to decide what money
21 would be spent on?---Only as part of the budgeting process.
22
23 Yes. So within the confines of the budget. Did GMs have
24 any ability to influence how much money would be spent or
25 what the money would be spent on?---Again, within the
26 budgetary process.
27
28 Could I come to the corporate structure of the Department,
29 and particularly, the corporate executive?---Yes.
30
31 We put up on the screen a chart showing the corporate
32 executive structure in 2008, 2009. Appreciating you only
33 joined in late 2008 or early 2009. Can you see that corporate
34 structure?---Yes.
35
36 Does it consist of you as director general?---Yep.
37
38 Then a position off to the side of you:
39
40 Office of the director general strategy and policy.
41
42 Where the acting executive director was:
43
44 Tania Loosley-Smith.
45
46 ?---Yes.
47
48 Then underneath you, were there five roles?---Yes.
49
50 And were those roles:
51

1 Deputy director general Housing, deputy director general
2 works, business services, corporate development service and
3 housing stimulus.
4
5 ?---I believe that to be accurate. Yes.
6
7 **THE COMMISSIONER:** Can I just ask, how many of those people
8 did you inherit and how many had own positions under you?--
9 -The - when I joined the Department of Housing I only brought
10 one person with me and that was Tania Loosley-Smith.
11
12 **WILLINGE, MR:** And you brought her with you from Landgate?--
13 --Yes.
14
15 You knew her from your time at Landgate?---Yes.
16
17 What had her position been at Landgate?---She was probably
18 2IC of the policy area.
19
20 So did she report to you?---No.
21
22 She reported to the - she reported to the head of policy,
23 who reported to you?---Correct. She reported to the
24 (indistinct).
25
26 We come back to this corporate structure. So this is the
27 2008, 2009 structure of the corporate executive?---Yes.
28
29 Under Housing services, did the deputy director general's
30 responsibility include:
31
32 Housing services delivery and Housing construction -
33
34 - the last two dot points?---To be honest, I don't recall.
35 I just can't remember.
36
37 But if this is from the Department's annual report, you'd
38 have - - -?---I assume it's right.
39
40 - - - no reason to doubt the structure?---No. I've got no
41 reason to doubt it's wrong.
42
43 What I wanted to raise with you is that according to this
44 structure from the annual report, under Housing services,
45 the deputy director general Housing had responsibility which
46 included:
47
48 Housing services delivery and Housing construction -
49

1 - you see that in the first rectangle. In the second
2 rectangle, the deputy director general works had
3 responsibilities which included:
4
5 Works and building construction, commercial property,
6 maintenance and minor works and housing construction.
7
8 ?---Yep.
9
10 Is it fair to say the other three positions, business
11 services, corporate development services and housing
12 stimulus were GM, or general manager positons?---Yes.
13
14 Under GM business services, did that GM have responsibility
15 that included financial services and management review and
16 audit?---I'm not sure about management review. But yes I'd
17 take that at face value.
18
19 And - so according to this (indistinct) that was in the
20 financial review, the GM for business services had:
21
22 Responsibility for financial services and management review
23 and audit.
24
25 Is the reason you're pausing on management review and audit
26 because one of the things that occurred in your time was the
27 introduction of internal audit?---No. the reason I was
28 pausing because I couldn't remember the management review
29 bit, to be honest.
30
31 What that means?---Yeah. Well, I don't remember seeing it.
32
33 So that's the 2008, 2009 organisational chart for the
34 corporate executive?---Yep.
35
36 Could I take you to the organisational structure of the
37 corporate executive in 2009, 2010?---Yep.
38
39 Of course, at the top of the structure is the honourable
40 minister, in this case, the honourable Bill Marmion MLA.
41 Within the Department you're at the top as director general.
42 And then there are four general manager positions. You agree
43 with that?---Mm hmm.
44
45 There was general manager strategy and police which was Tania
46 Loosley-Smith. There was the GM commercial and business
47 operations which was Paul Whyte. And if you just indicate
48 yes or no each time?---Yes.
49
50 The general manager service delivery which was Steve Parry?--
51 --Yes.

1
2 And the general manager organisational transformation, which
3 at the time was Helen Harvey and later became Duncan Mackay?--
4 --Yes.

5
6 If we got to GM commercial and business operations, do you
7 agree that under Mr Whyte's function as GM commercial and
8 business operations his responsibility included not only
9 business operations and commercial operations, but also
10 financial operations?---Yes.

11
12 And - so under the previous structure in 2008, 2009 there
13 was a separation between the GM responsible financial
14 services and the positions responsible for spending money.
15 But under this new corporate structure after you became DG,
16 Paul Whyte had responsibility for both financial operations
17 and business and commercial operations. You've made a
18 comment about that already in terms of the "poacher and the
19 gamekeeper". And I'll come back to that. You would agree
20 there are obvious risks in having the same general manager
21 responsible for financial operation as well as commercial
22 and business operations?---Absolutely. But if I can, at the
23 time after works had been taken - split off from the
24 Department, we were told how many SES positions we could
25 have.

26
27 Yes. And I'm going to give you an opportunity to deal with
28 that?---And - and - and my initial organisation chart did
29 not have those positions combined.

30
31 So in your initial organisation chart, who had responsibility
32 for financial operations?---There was, in fact, a fifth
33 planned position. But we were told by central agencies that
34 we were only going to have a certain number of SES offices
35 and we had to operate within that. As I thought strategy
36 and - the other three were important and needed to stand
37 alone to get the focus they needed, it was my decision to
38 actually join those two together. But driven by the fact
39 that I only had that number of positions.

40
41 And when you say - - -

42
43 **THE COMMISSIONER:** Perhaps I could, in due course, Mr Searle
44 made a comment about "losing works" and therefore, his SES
45 position.

46
47 **WILLINGE, MR:** Yes.

48
49 **THE COMMISSIONER:** So you will cover that?

50
51 **WILLINGE, MR:** Yes.

1
2 **THE COMMISSIONER:** Thank you.
3
4 **WILLINGE, MR:** In fact, I'd like to cover it now,
5 Commissioner, seems convenient to do it now.
6
7 So you made a reference to "losing works" and that affecting,
8 as I understood your evidence, the number of SES positions?--
9 --Sorry. I think the government made other decisions about
10 SES positions across the board. From recollection, it might
11 not have been this structure, but there was an overall cut
12 in SES positions and we had to cut our cost to fit what we
13 had. And this was my response to that.
14
15 So your evidence is you put forward a corporate executive
16 structure which did not have financial operations under the
17 GM for commercial and business. That involved a fifth
18 position?---It's my recollection at the time.
19
20 And that you didn't get that through?---Well, we were
21 told - - -
22
23 I don't mean that as a criticism?---No, no, we were
24 told - - -
25
26 That was what you put forward?--- - - - this is how many we
27 could have and we could - do with them what you like, this
28 is all you're going to get.
29
30 And you said "central agencies" said you could only have
31 four SES positions. When you say "central agencies" - - -?
32 --Well, I assume it - well, I know it was a government
33 decision. But it's Premier and Cabinet and Treasury that
34 basically run the race with the Public Sector Commission.
35
36 And who at Department of Premier and Cabinet or Treasury
37 said you could only have four SES positions?---I've got no
38 - no idea at the time. But that was - - -
39
40 **THE COMMISSIONER:** Perhaps since this is live streaming, we
41 should explain what SES is. Senior executive service.
42
43 **WILLINGE, MR:** Thank you, Commissioner.
44
45 And SES stands for senior executive service?---Yep.
46
47 And one would expect deputy director generals and GMs to be
48 part of the senior executive service?---Correct.
49
50 Thank you, Commissioner.
51

1 Just coming back to the risks, and I appreciate you
2 acknowledged them. One risk, of course, in combining
3 financial operations with business operations is the person
4 may not have all the necessary skillsets. Do you agree with
5 that?---Yes.
6
7 Another risk is that the person monitoring the expenditure
8 is also the person spending?---Yes. People within his ambit.
9
10 Yes. The person who has overall oversight for commercial
11 operations, and so, expenditure, also has overall oversight
12 for the monitoring of that expenditure?---Yes.
13
14 So it's a bit like giving someone the purse and the purse
15 strings. You agree with that?---Yeah. I agree with that.
16
17 Or, as you've put it, a bit like letting the poacher become
18 a gamekeeper?---Well, I think in this case, the gamekeeper
19 became the poacher, but that's - - -
20
21 Yes. Yes. It depends where one starts from?---Absolutely.
22
23 But the problem is the inherent conflict?---Yes.
24
25 One reason to separate out finance and commerce functions is
26 to add a layer of scrutiny. You'll agree with that?---Yes.
27
28 And to reduce a layer of risk, no matter how much someone is
29 trusted?---Yes.
30
31 Because fraud and misconduct happens?---Yes.
32
33 People can surprise. You agree with that?---Yes.
34
35 Life events can also change a person's approach. Including
36 because of things like gambling addiction and so on?---All
37 sorts of reasons. Yep.
38
39 Those things will not always be known. And indeed, they may
40 often not be disclosed?---Yes.
41
42 And I take it that you agree looking back, indeed, your
43 evidence is that you agreed at the time that combining the
44 commerce and finance functions under one GM was not a good
45 idea?---It wasn't my preferred position.
46
47 So - - -?---And - sorry.
48
49 No, no. I didn't mean to interrupt you?---No, no. that's
50 quite all right.
51

1 So it wasn't your preferred position. Did you want to add
2 something?---Yeah. The problem I had was if I'm going to
3 run a change program and I'm going to do a whole range of
4 other things, I have to make sure that they have the focus
5 they need to - to happen. And that's why the GMs were
6 appointed to those areas. 20/20 hindsight, I might have
7 made a different decision. But at the time, I thought it
8 was the right decision.

9
10 So you indicated that it was your preference not to have the
11 commerce and finance GM role combined?---Yes.

12
13 When that couldn't occur at the time, given what you'd been
14 told, were you concerned about that?---If I - being honest,
15 I was more concerned that it meant I had less senior people
16 available to me to run the organisation. That was my first
17 concern. Was I concerned about that? Yes. Was it front
18 and centre and causing me sleepless nights? No, it wasn't.

19
20 Did you push back at all with either Department of Premier
21 and Cabinet or Treasury?---Yes.

22
23 And who did you push back with and how hard did you push?--
24 -I - again, it's like 12 years ago. I can't remember. But
25 I - but by my nature, I would have pushed back. And I just
26 got told it's a government decision. That's it. You
27 couldn't do it.

28
29 And do I take it from your evidence that when you were
30 pushing back, it would have primarily been about wanting
31 five SES members, rather than particularly pushing back about
32 GM having the combined roles?---Correct.

33
34 Given that the GM commercial did have the combination of
35 roles with the risk you've described, what did you do to try
36 and mitigate the risk?---At the - to be honest, I can't
37 remember at the time. We tried to focus on getting our
38 internal audit function - contracted function up and running.
39 The audit committee up and running appropriately. Being -
40 again, I might as well be honest. There's no point doing
41 anything else. My goal for the person in charge of our
42 financial operations is they do two things. One is make
43 sure that I didn't have go back to Treasury and ask for more
44 money because that's never a good look. And two that we
45 never got a qualified audit. In terms of the rest of my
46 service delivery and what I had to do, that was really what
47 I wanted out of that area. They're the two deliverables.

48
49 And in terms of risks around fraud and misappropriation and
50 so on, who did you consider had responsibility for that? I
51 should be clearer. Responsibility for the oversight of

1 that?---At the end of the day, I did. But I thought all -
2 but all the general managers had responsibility because there
3 was the opportunity for it to happen in every single part of
4 the organisation. We had a couple of instances I wasn't
5 happy with in which we had to respond and change the way we
6 did things. But I just think that was a shared corporate
7 responsibility for which I'm ultimately accountable.
8
9 Given the obvious risks we've discussed in having the same
10 GM responsible for oversight of spending and oversight of
11 monitoring of spending, did you consider potential solutions
12 outside the audit process?---No.
13
14 Was one potential solution to make the CFO a member of the
15 corporate executive, even if they weren't on the same level
16 as the other GMs?---It wasn't an option I actively canvassed.
17
18 No. I understand you didn't actively canvass it. Was it a
19 potential solution?---Not one I'd have been in favour of.
20
21 Why?---Most of the CFOs I've dealt with in government are
22 not interested in change. Are not interested in a change
23 process. Are not interested in finding different ways of
24 doing things.
25
26 Are more CFOs you've worked with in government interested in
27 preventing fraud and misappropriation of funds?---Yes.
28
29 Was another potential solution to invite the CFO to attend
30 corporate executive meetings even as an observer?---I - I'm
31 sorry. Can I just go back half a step?
32
33 Yes?---I do believe that we had the CFO at the audit
34 committee, or they were invited to the audit committee.
35
36 Yes, at the - - -?---So - - -
37
38 - - - audit committee. I should ask my question again to be
39 clear with you. Was another potential solution to have the
40 CFO attend corporate executive meetings even if as an
41 observer?---Potentially. But I don't know what value they
42 would have added to our corporate executive meetings.
43
44 Did you have the opportunity to listen to Mr O'Mara's
45 evidence on 23 May?---I've read the transcript I was sent.
46
47 You have read the transcript. At transcript page 16 on
48 23 May, Mr O'Mara, who was the then CFO, was asked this
49 question:
50
51 And as CFO, did you feel listened to by Mr Searle?

1
2 He said:
3
4 No.
5
6 He was then asked:
7
8 And did you feel that you really had a line of communication
9 in with him -
10
11 - that is you. And he said:
12
13 No.
14
15 Do you have any comment to make on that evidence?---No.
16
17 If you had your time again, would you do anything differently
18 in relation to the corporate structure?---No.
19
20 Is that - - -?---Sorry.
21
22 - - - because of - - -?---Other than separate - - -
23
24 - - - the limitation?---Yeah, because of the limitations.
25 If I can separate those roles as we planned to at the start,
26 I would have done so.
27
28 Yes. So if you had your time again and it was achievable,
29 you would have separated out the GM with responsibility for
30 the oversight of spending from ensuring they didn't have
31 responsibility both for oversight of spending and spending?--
32 --Correct.
33
34 If you had your time again, would you do anything differently
35 in relation to the CFO?---No.
36
37 And the CFO's role?---No.
38
39 Could I come to recruitment of the corporate executive? As
40 apparent from - - -
41
42 **THE COMMISSIONER:** Just before you do - - -
43
44 **WILLINGE, MR:** Yes, certainly, Commissioner.
45
46 **THE COMMISSIONER:** May have skated around it. Did you have
47 confidence in the CFO?---Yes, I did. But I also had
48 confidence in Paul Whyte. So the issue I have with the CFO
49 in this instance - and in the transcript you sent me, the
50 word he used was "It smelled". All right. Which I took
51 particular exception to. To my knowledge, he didn't report

1 it to internal. He didn't report it to the auditor. He
2 didn't report it to the Public Sector Commission. He didn't
3 report it to the CCC. He didn't report it to anybody else
4 on corporate executive. So what makes you think having him
5 on corporate executive would have changed any of that? So
6 from my perspective, it's easy 15 years later to say
7 something was wrong. But at the time, he didn't report it
8 to anybody. So would having him on corporate executive have
9 made any difference to the outcome?

10
11 **WILLINGE, MR:** Given he wasn't no corporate executive,
12 that's a difficult question to answer. But in fairness both
13 to Mr O'Mara and to you, later in this examination, I will
14 take you to Mr O'Mara's evidence to put it in context and
15 give you an opportunity to respond?---Thank you.

16
17 So we come to the recruitment of the corporate executive?--
18 -Yep.

19
20 As apparent from the two organisational charts we've been
21 to, the members of the corporate executive nearly all changed
22 from 2008 to 2009. And I think you've accepted you were
23 involved in appointing the new GMS?---Yes.

24
25 Can we deal first with Tania Loosley-Smith?---Yes.

26
27 As you've indicated, you knew her previously?---Yes.

28
29 You'd worked with her before. That was at Landgate. And we
30 won't need the chart. Thank you. We come to Paul Whyte.
31 You knew Mr Whyte?---Yes.

32
33 You'd worked with him before?---Yes.

34
35 Given what happened, it would be helpful if you can tell us
36 a little bit about when and where you'd worked with
37 Mr Whyte?---I worked with Mr Whyte and Landgate. Once DOLAH
38 had incorporated the valuer general's office, Paul came as
39 part of the valuer general's office, that organisation. He
40 was heavily involved in the development of the commercial
41 structure that became Landgate and he and I worked together
42 on parts of that. And he'd become responsible for the
43 finances of Landgate while he was there.

44
45 When you say "He'd become responsible for the finances at
46 Landgate while I was there", what do you mean?---I assume he
47 ran our corporate services. But it's - you know, we're now
48 talking a long time ago.

1 How long had you worked with Mr Whyte before he came to
2 Housing?---I can't recall. But I'd imagine four or five
3 years but I have no - - -
4
5 And did you work very closely together?---On a couple of
6 pieces of work in particular, yes.
7
8 So more for more acute periods of time on specific jobs.
9 For those periods of time on those jobs, did you work quite
10 closely together?---Yes.
11
12 What did you think of him?---I thought he came with an
13 interesting set of skills. He clearly knew his way around
14 numbers. He knew his way around the central processes of
15 Government and Treasury. And that was very handy.
16
17 What was your relationship with him like?---We were friendly.
18 We weren't personal friends. I mean, we didn't socialise
19 outside of work. But we talked regularly.
20
21 Were you aware from your regular discussions that he owned
22 racehorses?---Yes.
23
24 And that he liked to gamble?---I didn't know so much about
25 the gambling but absolutely I knew he owned racehorses. We
26 talked about horses.
27
28 And if one owns a number of racehorses, it would be unusual
29 for someone not to place a bet or two?---Yes.
30
31 Could I come to the recruitment guidelines?---Yes.
32
33 6053966.
34
35 6053966^
36
37 **WILLINGE, MR:** And I'm taking you to these guidelines in
38 the context of the recruitment of the corporate executive?--
39 --Yep.
40
41 In particular, the GMs. So if we go past the first page,
42 which is an internal Commission page, and we scroll down a
43 little so you can see the date, can you see this is
44 "Department of Housing Recruitment Selection and Appointment
45 Guidelines January 2009"?---Yes.
46
47 Can we go to page 3? It should be "General Guidelines for
48 Selection Panels". Do you see that the outcome, not
49 surprisingly, is that:
50

1 The most suitable and available people are selected and
2 appointed.
3
4 ?---Yes.
5
6 Then under the standard, we go to dot point 2, that:
7
8 The process of selection is to be open, competitive and free
9 of bias, unlawful discrimination, nepotism or patronage.
10
11 And under dot point 3, that:
12
13 The selection process is to be transparent and capable of
14 review.
15
16 In relation to the selection of your GMs, did you consider
17 that those things were important?---Yes.
18
19 If we go to page 4, "Appointing a Selection Panel", and the
20 first paragraph, again, not surprisingly, do you agree the
21 objective was to ensure an appropriate panel of people was
22 formed to select the most suitable candidate for the
23 position?---Yes.
24
25 We then go to paragraph 3, direct your attention to dot
26 points 4 and 5. So dot point 4, in terms of appointing a
27 selection panel, was that typically, the selection panel
28 should comprise between three and four panel members, with
29 it being preferable there's a gender mix. Do you agree that
30 was part of the standard?---Yes.
31
32 And often including a person independent from the position
33 or area?---Yes.
34
35 Again, did you consider those things were important in
36 selecting your GMs?---Yes.
37
38 If we go to the conflicts of interest section on the same
39 page, I'll just give you an opportunity to read that
40 paragraph?---Yep.
41
42 And if convenient, you might want to read over the page, in
43 the three dot points?---Yes.
44
45 Do you agree that the standard in relation to conflicts of
46 interest to ensure that the selection process was fair and
47 equitable was that members of the selection panel were
48 required to disclose prior knowledge of any of the candidates
49 who had submitted applications?---Yep.
50

1 And if the applicant was a friend or close colleague or
2 there'd been a history of conflict or any form of
3 relationship, then a number of different things might occur?--
4 --Yes.
5
6 One of those was that:
7
8 The panel member must disclose the nature of the relationship
9 to other members prior to shortlisting of candidates.
10
11 Do you agree with that?---Yes.
12
13 The panel -
14
15 - that's the selection panel -
16
17 - must then decide whether a conflict of interest would occur
18 as a result of that member continuing on the panel.
19
20 Do you agree with that?---Yes.
21
22 And that:
23
24 The member should remove themselves from the panel if it
25 could be seen that bias could occur for or against an
26 applicant.
27
28 ?---Yes.
29
30 And did you consider those things were important in relation
31 to the appointment of GMS?---Yes.
32
33 If we go to page 5 of the document there's a specific
34 reference to:
35
36 Can a panel member be a referee for an applicant?
37
38 I'll just give you an opportunity to read that section?---
39 Yep.
40
41 Do you agree that under the selection standard:
42
43 A panel member could be a referee for an applicant.
44
45 You agree with that?---Yes.
46
47 But if a panel member has been nominated as a referee by an
48 applicant, there were particular steps to be taken?---Yes.
49

1 And one of those steps is that the panel member would prepare
2 their reference prior to commencing the selection process,
3 you agree with that?---Yes.
4
5 And then that will then be placed on the advertised vacancy
6 file in a sealed envelope and only referred to by other panel
7 members if a referee assessment of that applicant was deemed
8 necessary. You agree with that?---Yes, I do.
9
10 And the idea presumably of this whole section, both in
11 relation to conflicts of interest and the use of panel
12 members as referees was that you got the full benefit of the
13 whole panel's independent views rather than being persuaded
14 by one particular panel member with prior knowledge of the
15 applicant?---Yes.
16
17 You agree with that?---Yes.
18
19 And you'd agree those things were important in relation to
20 recruiting your GMs?---Yes.
21
22 In relation to Ms Loosley-Smith, obviously she became one of
23 your GMs, you agree with that?---(No audible answer).
24
25 And I'm sorry. I know some of these questions seem quite
26 obvious. But because it's transcribed - - -?---Yes.
27
28 - - - if you can speak your answer - - -?---Okay. I'm sorry.
29
30 - - - in addition to just nodding? So one of your GMs was
31 Ms Loosley-Smith?---Yes.
32
33 She was also a deputy director general?---Yes.
34
35 Her time with you at Housing began when she was seconded
36 from Landgate, that's correct, isn't it?---Yes.
37
38 And she was seconded into the role of acting executive
39 director to the office of director general?---Yes.
40
41 Was that at your request?---Yes.
42
43 What did that role involve?---In the short term, it was
44 basically my right hand and somebody I could bounce things
45 off in the organisation who understood where I was coming
46 from philosophically and could support me in what I was
47 trying to achieve in what at the time was a relatively
48 hostile environment.
49

1 So you felt close to Ms Loosley-Smith and you had confidence
2 in her and you wanted her as your right-hand person?---In
3 the short term, absolutely.
4
5 Yes. Was Ms Loosley-Smith later permanently transferred
6 into Housing at your request?---Yes.
7
8 And you agree of course, and you have already, and I'll just
9 get the timing. In the early part of your time as director
10 general, so between about January and May 2009, four new
11 corporate executive positions were created and then - - -?
12 --Yes.
13
14 - - - filled?---Yes.
15
16 I'll take you to this document, 85811302.
17
18 85811302^
19
20 **WILLINGE, MR:** This is a 6 January 2009 document. And we'll
21 go past the first page, which is just an internal Commission
22 page. And then we'll get to what's an email. Can you see
23 this is an email from you, actually, from your Landgate email
24 address, to a person at Price Consulting?---Yes.
25
26 And the person at Price Consulting is being alerted to the
27 need to update your email address to reflect your move to
28 the Department of Housing and Works, which in terms of
29 assisting your memory, strongly suggests that you'd moved
30 either at the very end of 2008 or pretty early in 2009?---
31 Yes.
32
33 If we then go further down in to the email chain, you see
34 there's a message from Price Consulting, who are a
35 recruitment agency?---Yes.
36
37 Assisting the Department with recruitment. To you and Tania
38 Loosley-Smith on 16 December 2008. And the author from Price
39 Consulting says:
40
41 Hello, Grahame, I've booked in Steve (indistinct) and myself
42 to meet with you and Tania on January 9th to get the process
43 underway with your executive positions.
44
45 ?---Yes.
46
47 And you agree that from the start, you and Tania Loosley-
48 Smith were involved in the process of forming what you wanted
49 from GMs and indeed, who the GMs would be?---Correct.
50
51 Can I take you to this document? 85834207.

1
2 85834207^
3

4 **WILLINGE, MR:** So this should be a form A 2009 document, to
5 give you that sense of the timing. So you've started
6 December or January. We're now in May 2009. And you'll see
7 it's an email from Tania Loosley-Smith. It's to someone at
8 Price Consulting. And she copies in you and Ashley Kerfoot.
9 You're obviously the director general at the time. What was
10 Ashley Kerfoot's role?---Ashley was, from memory at the time,
11 a consultant to the organisation who we recruited - who had
12 a very specific commercial skillset that we didn't have in
13 the Department.
14

15 And what was the particular commercial skillset you
16 understood him to have that you didn't have in the
17 Department?---Okay. Ashley, before he left South Africa,
18 worked for a venture capitalist and was responsible for
19 construction activity in multi-story construction and was
20 responsible for negotiating with builders on the venture
21 capitalist's behalf around the buildings and the cost to the
22 buildings. That's a skillset that's very hard to get access
23 to in the public sector. In fact, impossible to get access
24 to. Ashley got sent to us for a different job, for a policy
25 job which he was not suitable for. But when we discovered
26 the skillset he had, we were very interested in recruiting
27 him. Ashley's skill was South African, not Australian. So
28 we needed it - a way to get into the Western Australian
29 market to understand it. It seemed to be to be a mutually
30 beneficial opportunity for us to get access to his skillset
31 and for him to gain knowledge of the West Australian market,
32 to some extent at our expense, but also at a cost that we
33 couldn't have afforded in the private market.
34

35 And at this stage, he's actually being involved together
36 with you and Ms Loosley-Smith in essentially the formation
37 of the general managers who'd become the corporate
38 executive?---That overstates it in my view. My view is that
39 Ashley was asked about a very particular job. Not about the
40 full set. Not about the recruitment process. But did he
41 think, with his background, that this was an appropriate
42 description for the job.
43

44 And Mr Searle, that might be supported by the third paragraph
45 of this email, where the question that Ms Loosley-Smith is
46 asking - we'll go back a step. The person from Price
47 Consulting is obviously receiving everything. You are being
48 asked, if you get 10 minutes, could you have a look to see
49 if anything jars or is missing. But as you've indicated, Mr
50 Kerfoot was being asked about his thoughts on the commercial

1 ops job in particular, given his private sector experience?--
2 --Correct.
3
4 Commissioner, I see it's just gone 11. Would that be a
5 convenient time for the morning break?
6
7 **THE COMMISSIONER:** Will in about 10 seconds. We're trying
8 to do about 20 things. We'll take a 15-minute break.
9 Everybody can stretch their legs.
10
11 (THE WITNESS WITHDREW)
12
13 (Short adjournment)
14
15 (TIMESTAMP) / 11.01.18 AM
16

1 **SEARLE, GRAHAME JOHN RECALLED ON FORMER OATH AT 11.21 AM:**

2
3 **THE COMMISSIONER:** Please be seated.

4
5 **WILLINGE, MR:** Thank you, Commissioner.

6
7 We'll return to this document in just a moment. One of the
8 things you mentioned in your evidence before the morning
9 break was, as I heard it, one of the reasons you were happy
10 to have Ms Loosley-Smith with you as your right-hand person
11 was that you were trying to change things in a hostile
12 environment. You may feel you've covered this already, but
13 I just wanted to give you an opportunity if you wish to give
14 us a feel for the hostile environment and what you meant by
15 that?---I have over a lot of my career, been put into
16 organisations that have not been subject to change for a
17 long period time. Where people have joined them out of
18 school, stayed for 40 years, sometimes stayed in the same
19 section of the same - when you come in from outside into
20 that sort of environment, you are rarely welcomed with open
21 arms. There's some resistance and some resentment. In fact,
22 when I first arrived at my first job in Western Australia,
23 the first words said to me, "So you're the latest wise man
24 from the East". So, you know, it's - - -

25
26 **THE COMMISSIONER:** Sounds about right?---Yeah. It sets the
27 tone for the discussions. So having gone to the first
28 meetings, having no one make eye contact with me, my
29 expectation was that I would need somebody in the
30 organisation who I could talk to about where we were going
31 and who understood what I was trying to achieve.

32
33 **WILLINGE, MR:** As a matter of interest, at that first
34 meeting with the then corporate executive where there was no
35 eye contact between the corporate executive and you, was
36 there any contact between the members of the corporate
37 executive and each other?---I can't say I noticed any. Ms
38 Loosley-Smith was also at the meeting. She also commented
39 on the - on the lack of eye contact. It was a very unusual
40 experience.

41
42 Could we return to this document? You recall on 4 May 2009,
43 Tania Loosley-Smith is giving - price consulting the
44 recruitment firm some potential content. You agree with
45 that?---Yes.

46
47 If we go further down into the document, you'll see there's
48 the intro which I took you to earlier?---Mm hmm.

49
50 And we can go past that, thank you.

1 The structure with the four GM positions which suggests that
2 at this time, those four GM positions were already locked in
3 and there wasn't going to be a fifth?---Yep. Yes.

4
5 If we go further into the document and we come to the blurbs
6 for the different positions. You see the heading there,
7 "Blurb for each role". And that Tania Loosley-Smith has
8 provided a blurb for GM strategy and policy?---Yes.

9
10 That's actually the position she later obtained?---Yes.

11
12 And then as we go through the rest of the document, she set
13 out the blurbs for the other four positions - sorry. The
14 other three positions?---Yes.

15
16 To make up the four GMs. If we go back up to the blurbs, I
17 appreciate there's a few pages in this. I just want to give
18 you an opportunity to look at the blurbs for the four GM
19 positions. And what I'm interested in, in particular, is
20 whether any of these blurbs related to responsibility for
21 financial operations. So the part that was later combined
22 under the GM commercial. So I'll just give you a chance.
23 Just let us know when you've read each of the blurbs. And
24 if - if at any point you think the blurb relates to financial
25 oversight, just let us know?---There's only one that really
26 would. And that's the - can I operate this or - no. Somebody
27 needs to page down for me.

28
29 **THE COMMISSIONER:** Have we got a paper copy?

30
31 **WILLINGE, MR:** We can - we can get one quite easily.

32
33 **THE COMMISSIONER:** I just think it's a bit hard.

34
35 **WILLINGE, MR:** Yes.

36
37 **THE COMMISSIONER:** For that question to be answered on the
38 screen.

39
40 **WILLINGE, MR:** Yes. Certainly. We can certainly make
41 arrangements to get a paper copy.

42
43 **THE COMMISSIONER:** Let's just leave that bit for - - -

44
45 **WILLINGE, MR:** Yes. We can come - - -

46
47 **THE COMMISSIONER:** For later.

48
49 **WILLINGE, MR:** - - - back to that.

50
51 Could I take you to this document? 85817519.

1
2 85817519^
3
4 **WILLINGE, MR:** You see we're now at 2 June 2009. And this
5 is an email from Price Consulting to you and Ms Loosley-
6 Smith. Can you see that?---Mm hmm.
7
8 And the consulting firm is giving a very quick update. And
9 they're indicating to you and Ms Loosley-Smith in the second
10 paragraph that it's looking like they've received between 60
11 to 70 individual applications for the GM positions. You
12 agree with that?---(No audible answer).
13
14 And then in the third paragraph, the consulting firm is
15 saying:
16
17 Overall, I've been impressed with the quality of people I
18 have taken calls from over the last two weeks. But whether
19 they've all put in applications is yet to be seen.
20
21 So at this time, there's a large field of applicants for the
22 four GM positions. 60 to 70. And the initial feedback from
23 the recruitment agency is positive. They've been impressed.
24 Can I take you to this document? 84851635.
25
26 84851635^
27
28 **WILLINGE, MR:** So this is headed:
29
30 Message from the director general Grahame Searle.
31
32 It's to helpdesk@housing. Does that mean, essentially, that
33 it was going to go out to all staff?---Yes.
34
35 And - so it's a message from you. A message from the director
36 general. We lose just a couple of words from the left. But
37 I don't think it will cause any trouble. If it does, let us
38 know. It appears you've commenced by saying:
39
40 Good morning -
41
42 - and then:
43
44 As you know, advertisements were placed in the National Press
45 a few weeks ago for the general manager positions to lead
46 probably each of the four new divisions created by the
47 restructuring of the Department.
48
49 You agree with that?---Yes.
50

1 And you're announcing the recommended candidates for three
2 of the four?---Yes.
3
4 And the GM - pardon me - organisational transformation was
5 to be Helen Harvey. You agree with that?---Yes.
6
7 The GM for service delivery was to be Shane Hamilton(?)?---
8 Yes.
9
10 The GM for commercial and business operations was to be Paul
11 Whyte?---Yes.
12
13 But:
14
15 The position of general manager strategy and policy is not
16 to be filled substantively at present.
17
18 That's what you're saying in your message:
19
20 Instead, expressions of interest will be called shortly for
21 that role on a short-term basis. And Tania Loosley-Smith is
22 going to act as GM strategy and policy until the EOI process
23 is completed.
24
25 When you said:
26
27 Expressions of interest will be called shortly for that role
28 on a short-term basis.
29
30 Can you explain what the thinking was?---To be fair, we're
31 talking about 14 years ago.
32
33 Mm?---No. I can't.
34
35 So you can't recall anything around a GM strategy and policy
36 being around a short-term basis?---No. I mean, I'm not
37 saying it's not right. It's under my heading. And I'm very
38 confident it's the sort of thing I've said. It just would
39 have probably have meant that we didn't have a candidate
40 that I thought was suitable and I was happy for Tania to
41 continue for the short term - - -
42
43 Yeah?--- - - - while we looked at it again.
44
45 So it was your decision for Tania Loosley-Smith to act in
46 the position of GM strategy and policy?---Yes.
47
48 Was a recruitment consultant approached to conduct an
49 executive search for that role?---I have no recollection.
50
51 I take you to 85846045.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51

85846045^

WILLINGE, MR: You'll see this is - if we go to the bottom of the chain. It's an email from Ms Loosley-Smith to a Scott Kessel(?) on 31 August 2009. Do you know who Scott Kessel is?---No.

Ms Loosley-Smith writes to Mr Kessel and says:

Hey there, really liked Kathleen but have hit a snag. Grahame really likes me in the role (AKA low motivation to look elsewhere) and Kathleen's quote was -

- a certain figure -

- probably about double what you were expecting, so makes it tough for me to sell it.

And then she asks a question around the approach to remuneration of recruitment consultants?---Yep.

Was it true that you really liked Tania Loosley-Smith in the GM strategy and policy role?---Yes.

And had low motivation to look elsewhere?---It was my belief that Tania's probably the second best policy person I've met in government. In 40-something years in government.

It's probably not relevant. But it's so tempting when someone says "the second best person I've ever met in government". Who was the best person in policy you've ever met in government?---Heather Brown(?).

And that Dr Heather Brown who was at Landgate?---Yes.

Was she a director of Landgate?---Yes.

What was her role?---I couldn't tell you the exact title. It was probably head of policy and strategy or some such thing.

You would accept, of course, that the DDG GM role was a senior role?---At the time I don't think it was a DDG role. Might - you've got access to the documents.

I know. Let's - in fairness, let's just say the GM role?--
-Yep.

Because we're clearly talking about GM strategy and policy?--
--Yes.

1
2 You would accept at the time that that GM role of strategy
3 and policy as one of your four GMs was a senior role?---
4 Absolutely.
5
6 And an important role?---Almost the most critical role for
7 me, yes.
8
9 Do you consider that Ms Loosley-Smith's appointment to the
10 role was a little unorthodox?---Look, my recollection -
11 again, a long time ago, is that in the end Tania was
12 transferred into the role, rather than promoted into the
13 role.
14
15 So she was seconded to Housing?---Yes.
16
17 At your request?---Yes.
18
19 She was then transferred to Housing at your request?---At
20 level.
21
22 At level?---Which is important in the discussion.
23
24 I understand. And then she was appointed to act in this
25 role, as you've just said - once no one was chosen?---Yes.
26
27 Do you consider it appropriate for an executive search
28 process to be called because of the potential cost and
29 because you liked Ms Loosley-Smith in the role?---I couldn't
30 - I struggled to justify the expense, given I knew I had an
31 appropriate candidate who I could transfer at level, rather
32 than promote into the role.
33
34 And do you consider not having an executive search process
35 for a position of this seniority to be best practise for a
36 GM position?---I struggle to see the benefit of spending
37 \$45,000 for something that would probably end up with the
38 results I was going to have anyway.
39
40 Do you consider it to be a process with integrity?---It's a
41 process that was appropriate under the rules.
42
43 And when you say under the rules, what rules are you
44 referring to?---I'm talking about the ability to transfer
45 staff at all.
46
47 When Ms Loosley-Smith became the GM strategy and policy, was
48 she at the same level as previously, or a higher level?---I
49 thought originally at the same level, but I could be wrong.
50

1 Was there later a selection panel for the DDG GM strategy
2 and policy position?---Okay. I can't remember. It's just
3 too long ago, sorry.
4
5 Were you on the selection panel when Ms Loosley-Smith was
6 appointed DDG GM strategy and policy?---If there was one, I
7 would have been on it.
8
9 And was Dr Heather Brown, who you have mentioned also on
10 that selection panel?---I can't remember. I'm sorry - it's
11 just we are talking a long time ago.
12
13 Were you also on the recruitment panel that recommended
14 Duncan Mackay as GM organisational transformation?---I would
15 imagine so, yes.
16
17 Was Tania Loosley-Smith also on that panel?---I'm sorry, I
18 don't know.
19
20 Was Mr Whyte also a referee for Mr Mackay?---I don't know.
21 They all worked together at Landgate.
22
23 In your experience - and I appreciate we have been to the
24 guidelines which say it's not prohibited?---Yeah.
25
26 In your experience, was it unusual for someone to be on a
27 selection panel and also be a referee for one of the
28 candidates?---We tried to discourage it.
29
30 For obvious reasons. You were also on the panel that
31 recommended Mr Whyte's appointment as GM?---Yes.
32
33 Duncan Mackay was also on that panel. Do you recall that?--
34 --I'm sorry, I can't. I've done lots of interview panels
35 over the journey.
36
37 So the outcome was that Ms Loosley-Smith, Mr Whyte and
38 Mr Mackay were all appointed GMs? You agree with that?---
39 Yes.
40
41 They had all worked together previously?---Yes.
42
43 They had all worked together under you?---Yes.
44
45 On the information available to us, Mr Whyte had been on the
46 recruitment panel for Mr Mackay and a referee for him at the
47 same time?---Yes.
48
49 Another GM, Tania Loosley-Smith, had been on the panel for
50 Mr Mackay. Mr Mackay had been on the selection panel for
51 Mr Whyte. Do you agree that it all seems very cosy?---No.

1
2 Why don't you agree?---Because they weren't the only people
3 on the panel.
4
5 Who else was on the panel?---I can't remember. You've
6 obviously seen the list, but I would imagine that Di Jasus
7 was on all of those panels from Price Consulting, and our
8 view is she was there - and she and I discussed at the time,
9 she was there as a member of the panel.
10
11 Did she have a vote?---Yes, absolutely.
12
13 Did you have concerns about the recruitment process with a
14 new corporate executive team at the time?---The only concern
15 I had was that we didn't have the five positions I wanted.
16 I was happy with the field I got, and the candidates that
17 were appointed.
18
19 Looking back, obviously with the exception of Mr Whyte, who
20 you now know more about, do you have any concerns about the
21 recruitment process, looking back?---I'm very happy with the
22 work the other people achieved during their time at Housing
23 with me.
24
25 I understand that, so that's looking back - it's probably my
26 question, that's looking back on how they performed?---Yes.
27
28 Looking back now, just on the recruitment process before
29 they began, do you have any concerns about the process?---
30 There's a couple of things. One is, I don't know whether
31 there were any other people on those panels, because I don't
32 have the information. I'm sure you do. But you can only
33 effectively use the so many staff you've got to fill the
34 panels. Yes, you can have some external people, and we did,
35 but you can't - you know, trying to get people to be freed
36 up to do a range of interviews over a short period of time
37 - it is very difficult to get senior staff to make
38 arrangements to be freed up. Invariably, we would try and
39 do that. So for instance, we would generally try and get
40 someone from Treasury for the finance job, so - and if there
41 was another agency that there was close interaction with, we
42 would try and get somebody on the panel, but that wasn't
43 always easy, especially if you were doing a full corporate
44 executive set of interviews.
45
46 And in fairness to you, Mr Searle, at a later selection panel
47 for Mr Whyte, there was a senior representative from another
48 department present. I think that's the process you've been
49 describing, that where one can, that's obviously
50 preferable?---Absolutely.
51

1 Can you see, given all the interconnections between all these
2 GMs sitting on each other's panels and being referees for
3 each other and so on, that the recruitment process for the
4 corporate executive could look concerning to someone looking
5 in from the outside?---Yes.

6
7 **THE COMMISSIONER:** I think we have probably explored that
8 enough.

9
10 **WILLINGE, MR:** Yes, we have indeed.

11
12 Could I move to corporate credit cards. Did Mr Whyte have
13 a corporate credit card?---Yes.

14
15 Did each GM have a corporate credit card?---Yes.

16
17 What were the corporate credit cards meant to be used for?--
18 --All of those rules changed over time, so at any time I
19 couldn't tell you what they were. Fundamentally, they were
20 to facilitate them doing things like travel, hospitality,
21 those sorts of things, to ease it - in fact, by the time we
22 had finished, virtually every public servant had one for
23 travel purposes.

24
25 So primarily for travel and accommodation?---Well, at one
26 level, but also if there were things they just needed to buy
27 and they needed it to happen in a hurry, that they weren't
28 dependent on other people running around to do stuff.

29
30 Yes?---And they could get things done.

31
32 Yes, but not to pay suppliers of the Department in the
33 ordinary course?---Not generally, no.

34
35 And not repeatedly?---Not repeatedly, no.

36
37 And did Mr Whyte use his corporate credit card in that way?--
38 --There were occasions on which he did.

39
40 There are, of course, obvious risks that corporate credit
41 cards can be misused?---Correct.

42
43 You would have known that at the time. Do you agree with
44 that?---Yes.

45
46 And there have been problems with corporate credit cards in
47 the past?---Yes.

48
49 Could I take you to this document 5854437?

50
51 **THE ASSOCIATE:** So just to confirm, that's 5854437?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51

5854437^

WILLINGE, MR: I believe so. Can we scroll to the top of the document please?

If we go down a little bit further, just to give you the context, Mr Searle. If we pause when you can see all of Mr Charlton's email. Can you see, that's an email from Alan Charlton at audit - - -?---Yes.

- - - to you on 26 October 2009, and he's writing to you from the Office of the Auditor General, as you can see underneath this sign-off?---Yes.

The subject is Auditor General's Examination - Purchasing Cards, and the Office of the Auditor General, through Mr Charlton, is letting you know that their examination of the management of government purchasing cards is nearing completion and attaching a copy of the summary of findings for comment?---Yes.

And then if you go up the chain, to give you more of a context, you have then sent it to Paul Whyte - - -?---Yes.

- - - asking for any comment, and if we go up, on the same day you received it, and Mr Whyte has provided some comment, again on the same day, 26 October 2009?---Yes.

If we can scroll further down into the document to see the summary that was being provided - it should be on page 5 of this document - can you see there the summary of findings - It's not for publication at this stage - and the heading is Management of Government Purchasing Cards?---Yes.

I'll just give you an opportunity to read the overview section, those three or four paragraphs?---Yes.

So would you agree with me from the first paragraph what was being said was that the West Australian government purchasing cards are an important part of public sector purchasing. You agree with that?---Yeah.

In 2008/2009 more than 14,000 cards had been used to purchase 237 million in goods and services?---Yes.

That was an increase in the number of cards and the amount of money being spent from 2004?---Yes.

And that reflected government policy to increase the use of cards?---Yes.

1
2 If you go down to the third paragraph, do you agree that the
3 Office of Auditor General's examination had assessed whether
4 there were adequate controls over the management of
5 purchasing cards in 25 public sector agencies and whether
6 the cards were used appropriately?---Yes.
7
8 If we then go to the conclusion, do you agree that the first
9 conclusion is that controls over the management of purchasing
10 cards were generally adequate in the 25 agencies that we
11 examined?---Yes.
12
13 And that the OAG was reporting:
14
15 Although we found instances of non-compliance with required
16 procedures, we found no evidence of purchasing cards being
17 misused
18
19 ?---Yes.
20
21 The OAG went on to say:
22
23 The most common areas of non-compliance with required
24 procedures were in providing evidence to support
25 transactions and in acquitting and certifying purchase
26
27 ?---Yes.
28
29 So would you agree that in this draft summary of findings,
30 the Office of the Auditor General was drawing particular
31 attention to the need for procedures that ensured evidence
32 was produced to support transactions and in acquitting and
33 certifying purchases?---Yes.
34
35 They are the two matters singled out in the conclusion?---
36 To be frank, reading this as CEO, I would have got to the
37 point that it's saying they were happy that there was no
38 misuse, and sent this to the person in charge of the finances
39 and the cards to deal with the rest, being frank.
40
41 So is your evidence that you would have read the first
42 paragraph under conclusions, but not the three lines in the
43 second paragraph?---I would have read the three lines as
44 well, but once I had got past no evidence of purchasing cards
45 being misused, I would have thought, "Fine. I'll give it to
46 Paul to deal with as part of his day-to-day business".
47
48 Could I take you to 85862372?
49
50 85862372^
51

1 **WILLINGE, MR:** So that document was a 2009 document?---
2 Yeah.
3
4 We are now moving 2010.
5
6 **THE ASSOCIATE:** Sorry, could you confirm the number please?
7
8 **THE COMMISSIONER:** 85862372^
9
10 **WILLINGE, MR:** Is this another message from you as director
11 general?---Yes.
12
13 On 18 August 2010, and again, it's being sent to all Housing,
14 which is, presumably, all staff in the Department. Is that
15 correct?---Yes.
16
17 You then say in paragraph 4 that:
18
19 A forensic investment recently culminated in a former member
20 of staff appearing before the courts to answer five charges
21 relating to stealing as a servant, false accounting and
22 misuse of a corporate credit card.
23
24 Do you see that?---Yes.
25
26 You then said in the following paragraph, paragraph 5:
27
28 I cannot emphasise strongly enough that the deliberate misuse
29 of a corporate credit card is a very serious offence and the
30 Department will always take appropriate action under the
31 Public Sector Management Act to either discipline or dismiss
32 any officer found to have committed such an offence.
33
34 Do you agree that's what you said in this message?---Yes.
35
36 And this is a pretty short, pretty hard-hitting message. Do
37 you agree with that?---Yes.
38
39 You obviously felt a need to be this clear and direct,
40 following what you had learnt about the former member of
41 staff that had stolen, falsely accounted and misused a card?--
42 --Yes.
43
44 And this is in August 2010?---Yes.
45
46 Could I take you to this document, 85903511?
47
48 85903511^
49

1 **WILLINGE, MR:** This is another message from you as director
2 general, this time on November 10 2012. Do you agree with
3 that?---Yes.
4
5 This is a few months after the last message in August 2010.
6 And after your greeting, "Good morning" you begin by saying:
7
8 Whilst I'm sure that the majority of staff conduct themselves
9 appropriately, I take this opportunity to remind all staff
10 of their responsibilities and obligations regarding their
11 conduct whilst at work.
12
13 You then go on in the second paragraph to talk again about
14 the recent conviction of a former staff member on a charge
15 of theft as a servant, don't you?---Yes.
16
17 And you remind your employees in the Department of their
18 obligations as public service officers. Do you agree with
19 that?---Yes.
20
21 You then go on in the next paragraph to refer to a number of
22 matters that will not ever be tolerated, and the first of
23 those is misuse of credit cards?---Yes.
24
25 You then go on to refer to other things, including refusing
26 lawful direction and staff abusing supervisors. You then
27 say:
28
29 I take these matters very seriously and can assure all staff
30 that I will have no hesitation in taking the appropriate
31 action under the disciplinary provisions of the Act.
32
33 Do you agree you said that?---Yes.
34
35 And in the following paragraph, furthermore, you reminded
36 staff that there's a legislative requirement to refer matters
37 of misconduct to the CCC, which is this Commission?---Yes.
38
39 You then conclude by saying:
40
41 As I stated at the outset, the vast majority of our staff do
42 behave appropriately and perform their duties to the highest
43 standard -
44
45 - and you refer to it being unfortunate that there are
46 isolated instances where some staff do not meet these
47 standards. Do you agree with that?---Yes.
48
49 Then you finish by saying that the fact that they are
50 isolated does not diminish the seriousness with which they
51 will be viewed or dealt with?---Pretty direct.

1
2 So this is another short, pretty direct message?---Yes.
3
4 So this is the second message between August 2010 and
5 November 2010 where you are drawing attention to misuse of
6 corporate credit cards?---Yes.
7
8 And making clear that, if there is misuse, it will be taken
9 very seriously?---Yes.
10
11 Are you now aware that Mr Whyte arranged for your department
12 to pay a company called Boldline more than \$10 million for
13 work never done?---Yes.
14
15 Are you now aware that Mr Whyte used his corporate credit
16 card to pay Boldline more than 1.5 million of that
17 10 million?---Yes - sorry, I believe that to be true.
18
19 Yes. After Mr Whyte became GM, are you aware that one of
20 the first things he did was to increase his credit card
21 limit?---Probably.
22
23 On the information available to us, he commenced as GM
24 commercial and business on 5 October 2009, and the following
25 day requested that his corporate credit limit be increased
26 from 20,000 to 50,000 a month, and his limit per transaction
27 from 5,000 to 20,000. I will take you to 6179479.
28
29 6179479^
30
31 **WILLINGE, MR:** And if we start at the foot of the email
32 chain, you can see at the foot of the chain, Mr Darbyshire,
33 who is the acting GM of Business Services, is emailing Paul
34 on 6 October 2009. As we understand it, this is the day
35 after Paul Whyte commenced?---Yes.
36
37 And he's setting out the parameters. He makes clear that
38 Paul's credit card limit is 20,000 per month, and the current
39 internal policy limits credit card transactions to 5,000 -
40 you can take that as 5,000 per transaction. The email then
41 goes on to say:
42
43 Notwithstanding the current internal policy limits, I can
44 change this whenever you're ready, as it was originally set
45 up to match Rochelle's(?).
46
47 The Rochelle was the previous GM?---Yes.
48
49 Why was it that there was an internal policy limit of 5,000
50 per transaction, but the GMs could change it?---I have no
51 idea. I don't know.

1
2 It's an unusual policy, isn't it, that has a differential
3 application to everyone except GMs and then GMs?---Well, I'm
4 expecting that that's because Paul was the GM in charge of
5 finance.
6
7 Bringing us back to the problem we discussed earlier?---
8 Indeed.
9
10 The email goes on to set out the DTF purchasing limits?---
11 Yes.
12
13 0 to 5,000 for a direct purchase. 5,000 to 20,000 with three
14 quotes. Between 20 to 150,000 with three quotes, but BTF to
15 be advised.
16
17 And then:
18
19 Greater than 150,000 must go to tender.
20
21 And DTF, of course, stands for Department of Treasury and
22 Finance?---Yep.
23
24 So that's Mr Whyte getting told his credit card limit is 20
25 per month and there's a transaction limit of 5,000 per
26 transaction. We then go up in the email chain so you can
27 see Mr Whyte's response. It's on the same day. 6 October
28 2009, 24 minutes later:
29
30 I thought my credit card limit was set at 50,000 or more
31 when I signed for it -
32
33 - says Mr Whyte. He goes on to say:
34
35 I would like the upper limit per transaction to be set at
36 \$20,000. I use to often have to pay for stuff up to that
37 amount in the past (esp -
38
39 - standing for especially -
40
41 - for Grahame).
42
43 That's you. Was it true that Mr Whyte had often had to pay
44 for stuff in the past that meant he needed a limit for
45 individual transactions of \$20,000?---I can't recall of any
46 instance.
47
48 He justified this request by this reference to you?---Yes.
49
50 Were you aware of that at the time?---No.
51

1 Could I take you to 591008 - - -
2
3 **THE COMMISSIONER:** I think you should ask the next question.
4
5 Was it true?---Was which bit true, sorry Commissioner?
6
7 "I often have to pay stuff up to that amount in the past,
8 especially for Grahame"?---I can't recall a case where that
9 would have been accurate. There might have been some
10 function we took staff away for or something where he used
11 a credit card to pay for accommodation. But I - it wouldn't
12 be a - a regular thing.
13
14 Thank you.
15
16 **WILLINGE, MR:** Thank you, Commissioner.
17
18 And even on that occasion, it'd be hard pressed to get it to
19 20,000, wouldn't it?---I've got no idea.
20
21 And Mr Whyte wasn't just referring to isolated events. What
22 was saying is:
23
24 I use -
25
26 - presumably "used":
27
28 I use to often have to pay for stuff up to that amount -
29
30 - being 20,000 -
31
32 - in the past.
33
34 Especially for you?---I don't believe that to be correct.
35
36 So your evidence is you weren't aware of this justification
37 by Mr Whyte at the time?---No.
38
39 But that so far as you recall things, it wasn't true?---The
40 - the - that he used it to pay for things for me in the past?
41
42 Yes?---I don't believe that to be true.
43
44 Yes. Up to 20 grand?---Yep.
45
46 Per transaction?---That's not to say I wouldn't have agreed
47 to this change if he wanted it made and had other reasons
48 for it.
49

1 And - so would you have agreed with him having a credit card
2 limit of 50,000 per month and a limit per transaction of
3 20,000?---It would depend on the justification.

4
5 And you - you have done that regardless of the Department's
6 policies or would you have wanted that to be specific with
7 the Department's policies?---It would become the
8 Department's policy.

9
10 So if it wasn't the Department's policy, there would need to
11 be a change - - -?---Yes.

12
13 - - - to allow for it. Because otherwise, your GMs are
14 acting in a way that's directly contrary to the Department's
15 policy?---Yes.

16
17 And that's no appropriate?---Not unless - not unless it in
18 itself is outlined in the policy.

19
20 Yes. Indeed. Unless the police allows or provides for it,
21 it's not appropriate. You can't be having one policy for
22 every member of staff apart from GMs and then an exception
23 unless it's clearly outlined in the policy for your GMs?---
24 Preferably. Yes.

25
26 It's not just preferably, is it?---Well, it's certainly
27 preferable.

28
29 Do you believe in one policy or not?---I don't. I don't
30 believe you can have one rule that applies in every single
31 circumstance.

32
33 We're not talking about rules. We're talking about policies.
34 You've very carefully drawn the distinction between rules
35 and policies?---I have.

36
37 And one understands why. If you have a policy in relation
38 to credit card expenditure, is your evidence that you
39 wouldn't have minded if GMs had a completely different
40 monthly limit and transaction limit to everybody else in
41 your department?---At one - if they did, it should be in the
42 policy document. But my expectation is that GMs are likely
43 to need more money than other people.

44
45 So there's two parts to the answer?---Yes.

46
47 The first is whether you think it was justified?---Yes.

48
49 The second is how it should have been dealt with in the
50 policy?---Correct.

51

1 Is your evidence is that had you been asked at the
2 time - - -?---Yep.

3
4 - - - you would have been fine with Mr Whyte having a monthly
5 limit of \$50,000 and a transaction limit of \$20,000?---Yes.

6
7 But that you would have wanted that to be reflected in the
8 Department's policy?---Yes.

9
10 Could I take you to 5910080?

11
12 5910080^

13
14 **WILLINGE, MR:** So this again is the same day. 6 October
15 2009. So this is one day after Mr Whyte commences?---Mm.

16
17 This is jasonclair@housing(?), not to be confused with any
18 members of parliament, who is sending an email to Paul Whyte
19 with a copy to you. Sorry. He's sending the email to Paul
20 Whyte and you with a copy to others including Lorne O'Mara.
21 And Jason Clair is setting out the position in relation to
22 Paul Whyte's role as GM commercial and business operations?--
23 --Mm.

24
25 And the position is that for general expenses for commercial
26 and business operations, Mr Whyte can presumably authorise
27 expenditure of up to \$1 million. Is that how you read it?--
28 --Yep. It is.

29
30 He can authorise administration expenses up to \$200,000 and
31 his corporate credit card charges up to \$50,000. There's
32 then a link to the current incurring register. Do you
33 understand that to be a register that sets out, for people
34 such as Mr Whyte, the limits of their authority?---Yes.

35
36 And - so the reason that's getting referred to here is that
37 there then should have been a note in the incurring register
38 to make clear that Mr Whyte's credit card limit per month
39 was \$50,000?---Yes.

40
41 An increase from \$20,000 to \$50,000 a month is obviously a
42 significant increase?---Yes.

43
44 Takes one form \$240,000 per annum to \$600,000 per annum?---
45 Yes.

46
47 What justified that change?---I - I cannot recall. I would
48 expect the fact that we were trying to operate in a slightly
49 different way. That there was a trend towards using credit
50 cards. That would be part of that process. But I can't
51 recall.

1
2 And when you say, "Operating in a slightly different way",
3 you mean more commercially?---Yes.
4
5 And more use of credit cards?---Yes.
6
7 How did Mr Whyte's 50,000 a month limit compare to the
8 other - - -?---I can't - - -
9
10 - - - GM roles?---I can't remember. I'd expect it to be
11 higher. But I can't remember.
12
13 Did any of your other GMs seek an increase in their credit
14 card limit?---No. Not that I recall.
15
16 How much money did your other GMs spend on their credit cards
17 each month?---Much less than Paul did. But that's what I'd
18 expect, given their roles.
19
20 And how much did Mr Whyte spend on his corporate credit card
21 each much?---I have no - no recollection.
22
23 Were you aware that between October 2009 and November 2011,
24 Mr Whyte used his corporate credit care to pay invoiced from
25 a company named Boldline that added up to more than \$1.1
26 million?---No. I can't recall.
27
28 There's a difference between those two answers and
29 it's - - -?---There - there is
30
31 - - - potentially the important difference?---There is.
32
33 So do you want me to repeat my question?---And the answer is
34 I can't recall.
35
36 So the question is that were you aware that between October
37 2009 and November 2011, Mr Whyte used his corporate credit
38 care to pay invoiced from a company named Boldline that added
39 up to more than \$1.1 million?---And - and my initial response
40 was "No" because I can't recall it. But that's not to say
41 I haven't seen a document that I've signed or something like
42 that. But I have no recollection of that sum and that
43 company.
44
45 It's be a very concerning number, wouldn't it? To be paid
46 on a corporate credit card?---Yes.
47
48 To an external supplier?---Yes.
49
50 Over repeated transactions?---Yes.
51

1 Not what the corporate credit card was for?---No.

2

3 Over the same period - so this is the period of almost two
4 years between October 2009 and November 2011, according to
5 the information the Commission holds, the GM for service
6 delivery, Steve Parry, spent 19-and-a-half thousand on his
7 credit card over the entire period. The general manager
8 strategy and policy, Ms Loosley-Smith spent 10-and-a-half
9 thousand on her corporate credit card over the entire period.
10 And the GM organisational transformation, Helen Harvey, then
11 Duncan Mackay spent, just over 3,000 on their credit card
12 over the whole period?---Yep.

13

14 Did you know about this level of expenditure by Paul Whyte
15 on his corporate credit card at the time?---I have no
16 recollection of it.

17

18 Should you have known about it?---Yes.

19

20 How should you have known about it?---I - I would have
21 thought at some point, Paul should have pointed out to me
22 that he was using his credit card to that level. I should
23 have been involved in the signing off process. And if I was
24 (indistinct) I didn't notice it. That's my fault. I should
25 have.

26

27 If you had been aware that over this period Mr Whyte was
28 using corporate credit card to pay the same company named
29 Boldline sums of more than 1.1 million, would that have
30 surprised you?---It would have concerned me.

31

32 And that's the next question. Would it have concerned you?--
33 --Yes. It would have concerned me.

34

35 I show you this document. 0213420190944.

36

37 0213420190944^

38

39 **WILLINGE, MR:** So this is a document that's been prepared
40 by the Commission. If we move it a little higher up the
41 screen, so "Corporate card" - sorry. I've read the other
42 direction. So if we can move it so you can see "Corporate
43 card spend" at the top? That's - that's the heading of the
44 document. And then if we move it up so you see the top of
45 the document is, relevantly, "\$60,000". And then at the
46 bottom of the document, the - the bars show the corporate
47 credit card expenditure of Mr Whyte as against the total
48 expenditure by all other three GMs over the period from
49 October 2009 until November 2011. It's extremely concerning.
50 Isn't it?---Yes, it's - well, with the Boldline stuff it is.
51 But it - it is concerning. But, as I said, for all the other

1 GMs it's basically travel, accommodation and hospitality.
2 For Paul's division there's actually procurement that the
3 other divisions don't do because they do procurement for the
4 whole of the agency. So I - - -
5
6 Was the corporate credit card, according to the Department's
7 policy, to be used for procurement?---I believe it could be.
8
9 And was it to be used to repeatedly pay external suppliers?--
10 --Not normally. It's not to say there might not have been
11 good reasons to do it.
12
13 Can you think of a good reason to repeatedly pay an external
14 supplier of the Department using the Department's - using a
15 GMs corporate credit card?---If you were getting discounts
16 for prompt payment and for using a credit card because they
17 were using that as their accounting technique, maybe. I can
18 think of some.
19
20 Go on?---I'm not - I'm not trying to justify this. But, you
21 know, quite often you get discounts for prompt payment
22 and - - -
23
24 And, indeed, as we'll come to see, what Paul Whyte was saying
25 was that he was getting a two per cent discount for paying
26 by corporate credit card. Can you think of any other reasons
27 why it would be appropriate for the Department to repeatedly
28 pay external suppliers using one GM's corporate credit card?--
29 --Not necessarily the GM's corporate credit card. But my -
30 my guess in these - this day and age, most government
31 procurement probably happens with some form of credit card.
32
33 If we start from October 2009, can you see that Mr Whyte's
34 corporate credit card expenditure was fairly close to
35 \$50,000?---Yes.
36
37 And then as you go across the lie from October 2009 to April
38 2010 it is at or close to \$50,000 month in and month out?--
39 -Yes.
40
41 Can you see that it - the corporate credit card expenditure
42 of Mr Whyte then dropped off - if that's the correct term,
43 to between 30 and 40,000 in May 2010?---Yes.
44
45 It dipped slightly under \$30,000 for the month of July -
46 sorry, June 2010?---Yes.
47
48 And generally speaking, from then on to November 2011 with
49 the exception of September and October 2010, Mr Whyte's
50 corporate credit card expenditure was usually at or very
51 close to \$50,000 per month?---Yes.

1
2 Indeed, in October 2011, notwithstanding the month he had,
3 it was \$60,000 for that month?---Yes.

4
5 Assuming his limit remained 50,000. Can you see the other
6 coloured bar - and I'm sorry, Mr Searle, I'm colour blind so
7 I can't tell you what colour it is?---All right.

8
9 But it's the bar that's a lot, lot smaller than Mr Whyte's
10 expenditure?---Yes.

11
12 **THE COMMISSIONER:** Orange.

13
14 **WILLINGE, MR:** Orange. Thank you, your Honour.

15
16 And you'd accept, looking at the period from September 2009
17 to November 2011, the Mr Whyte's corporate credit card
18 expenditure dwarfed the corporate credit card expenditure of
19 the other three GMS?---Yes.

20
21 And I know you said you would expect that to some extent,
22 given his position?---Yes.

23
24 But this really is a very striking difference, isn't it?---
25 Absolutely. When produced like that.

26
27 I'm sorry, absolutely and - - -?---Absolutely when produced
28 like this.

29
30 Yes. Yes. And if one then looks at the Boldline line, which
31 may be red, can you see, looking at the Boldline line across
32 the top of the bars, that throughout the entire period from
33 October 2009 until November 2011, almost every single dollar
34 spent on Mr Whyte's corporate credit card was spent on
35 Boldline?---Yes.

36
37 In fact, the figures indicate that more than 99 per cent of
38 Mr Whyte's corporate credit card expenditure from September
39 2009 to November 2011 was spent on Boldline?---Yes.

40
41 One company. Allegedly one external supplier. And only
42 one?---Yes.

43
44 How did this corporate credit card expenditure by Mr Whyte
45 compare to your own corporate credit card use?---I would
46 expect mine to be more in line with the other general
47 managers.

48
49 We're finished with that chart. Thank you.

1 Could we come to the corporate credit card acquittal process,
2 which you've mentioned in passing?---Yes.
3
4 Mr Whyte was obviously not the only person in your department
5 with a corporate credit card, was he?---No.
6
7 There were various people within the Department with
8 corporate credit cards. And indeed, Mr O'Mara in his
9 evidence at transcript 34 on 23 May this year said there
10 was:
11
12 Around 100 people with corporate credit cards.
13
14 Does that accord with your recollection around this time?---
15 Vaguely. Yes.
16
17 You obviously knew that Paul Whyte had a corporate credit
18 card?---Yes.
19
20 And you knew that everyone with a corporate credit card had
21 to get approval of their credit card expenditure each month?--
22 --Yes.
23
24 Was the way it worked that each person who had used a
25 corporate credit card had to give their credit card statement
26 and invoices to someone like their supervisor for those
27 expenditures to be approved?---I think there might have been
28 different rules in different parts of the organisation. But
29 there was a process in place.
30
31 And in broad terms, certainly, employees weren't allowed to
32 approve their own credit card expenditure?---Not to my
33 knowledge.
34
35 Because that could obviously lead to a risk of (indistinct)?--
36 --Yes.
37
38 The position was that employees who used corporate credit
39 card had to get the credit card expenses checked and
40 approved?---Yes.
41
42 And that was the same system for everyone in the Department
43 with a corporate credit card?---Yes.
44
45 Part of the system was that someone more senior than them
46 had to check and approve their credit card expenses?---All
47 with the appropriate skillset.
48
49 Yes. All with the appropriate skillset or authority?---Yes.
50 To do so.
51

1 You were the direct supervisor of your four GMS?---Yes.
2
3 They each had credit cards?---Yes.
4
5 And from time to time you approved their corporate credit
6 card expenditure?---Yes.
7
8 I take you to this document. 0213 - I'm sorry. I might
9 take you to this document instead. 0213420190930.
10
11 0213420190930^
12
13 **WILLINGE, MR:** To give you the background to this document,
14 you might recall that I indicated that the Commission's
15 records suggest Mr Whyte started in the Department as GM on
16 5 October 2009. And I've taken you to the emails where he
17 sought significant credit card increases per transaction and
18 month the very next day, 6 October 2009?---Yes.
19
20 You look at this document. It's not your document. If we
21 go past the first page? And rotate the document. You'll
22 see that this is a statement for Paul Whyte from 29 September
23 2009 to 28 October 2009. The first payment to Boldline
24 Nominees Proprietary Limited South Perth was on 7 October
25 2009. Do you see that?---Yes.
26
27 And that payment was \$19,242.30. So two days after Mr Whyte
28 joined your Department and one day after his credit card
29 approvals, he began to fraudulently pay Boldline?---Yes.
30
31 In this example, apart from a City of Perth payment of \$6.90,
32 all the other payments out of Boldline Nominees Proprietary
33 Limited, South Perth?---Yep.
34
35 Leading to a total of \$47,546.70?---Yes.
36
37 From which one deducts \$6.90 for the City of Perth and all
38 the rest is Boldline?---Yes.
39
40 So on his very first credit card statement and his very first
41 credit card acquittal, Mr Whyte sought more than \$47,000,
42 pretty close to the \$50,000 monthly limit, with three
43 separate transactions for Boldline Nominees. If we go a
44 little bit further down the document, you'll see he's
45 declared that the account's correct in respect of the
46 Department of Treasury's instructions. And on this occasion,
47 the general manager of business services, looks like it's Mr
48 Darybshire, has approved it on 25 November 2009. So you
49 might understand why while you and I were both agreeing with
50 the poacher, gamekeeper analogy, there's a bit of a question
51 about which way around it is because if Paul Whyte has joined

1 the Department on 5 October, he's dramatically increased his
2 transaction and monthly credit card limits on the next day.
3 And he's already claiming Boldline fraudulently the day
4 after, that in fact what might have happened is the poacher's
5 been appointed the gamekeeper?---Yes, that's a valid
6 proposition.

7
8 So if we go to this document, please, 0213420190932.

9
10 0213420190932^

11
12 **WILLINGE, MR:** So this document related to October 2009,
13 corporate credit card expenditure. We're now going to
14 Mr Whyte's corporate credit card expenditure acquittal. As
15 you see from the cover page, for the period from November to
16 December 2009?---Yes.

17
18 We go to the following page, rotate it. This is a summary
19 sheet. It is corporate credit card expenditure for that
20 November to December '09 period. And if we go further down
21 the page, you'll see the total is \$49,992.25. You see that?--
22 --Yes.

23
24 It's an amount extremely close to his 50,000 maximum per
25 month?---Yes.

26
27 He signed as the cardholder and you have signed as the
28 cardholder supervisor?---Yes.

29
30 And it's then to be forwarded to a manager, financial
31 operations on 15 February 2010. You agree with that?---Yes.

32
33 If we go to the following page, you'll see there's a
34 reference to the bank statement and there are three
35 transactions, 1 December, 2 December and 14 December 2009.
36 And they're all to a supplier now called Boldline Business
37 Service?---Yes.

38
39 One for around \$10,300, one for around \$18,800 and one for
40 around \$20,750, adding up to this \$49,992.25. Do you agree
41 with that?---Yes.

42
43 If we go to the next page, you'll see there's an invoice
44 from Boldline Business Services. It's dated 14 December
45 2009. It refers to project services, 55 hours, doesn't it?--
46 --Yes.

47
48 It says nothing about what the services are. Do you agree
49 with that?---Yes.

1 Simply says projects services. It gives a contract name in
2 the sense that it refers to contract 2009, 1.3.10, you agree
3 with that?---Yes.
4
5 But it says nothing whatever about what the project actually
6 is?---Yes.
7
8 Or the name of the project?---Yes.
9
10 It refers to services being provided and then less the
11 two per cent discount. And you've signed off on that as the
12 cardholder supervisor on or around 15 February 2010, you
13 agree with that? Would you like to go back up to the earlier
14 page?---I agree I signed off on the credit card usage. I
15 don't necessarily know whether I saw this invoice at that
16 time.
17
18 I see. So you're querying whether at the time you were
19 signing off, there were invoices attached?---Yeah, I don't
20 know. I just - - -
21
22 I understand?---(Indistinct).
23
24 If there were no invoices attached, it would be even more
25 concerning, wouldn't it, because you would have no way of
26 verifying that there was even a claim for the amount that
27 you were signing off?---Yes.
28
29 And the ordinary process - - -
30
31 **THE COMMISSIONER:** Sorry, I think - - -
32
33 **WILLINGE, MR:** I'm sorry, I didn't wish to interrupt you.
34
35 **THE COMMISSIONER:** - - - Mr Searle wanted to say something?--
36 --That's all right. The problem I have is that this is
37 independent of context. So I don't know whether Paul brought
38 it up to me and explained what it was about. I just don't
39 know I'm not - - -
40
41 **WILLINGE, MR:** I understand?---I'm not trying to say that
42 I've done the right thing. I'm just trying to say, seeing
43 these things - - -
44
45 I understand?--- - - - in isolation is difficult.
46
47 I understand. It's a long time ago. We're showing you a
48 document?---Yep.
49
50 And we're asking you questions about it?---Yes.
51

1 The document is in this from in the way it was provided to
2 the Commission?---Yes.
3
4 That suggests the invoices were attached but neither you -
5 you can't remember and I wasn't there at the time?---Exactly.
6
7 In the ordinary course, in approving someone's credit card
8 expenditures, you would expect there to be either an invoice
9 attached or a substitute slip?---Or some form of explanation.
10
11 Yes?---Yes.
12
13 Some form of explanation of the amount - - -?---Yes.
14
15 - - - that had been spent. And the substitute slip, no doubt
16 you recall, was the idea that if you didn't actually have an
17 invoice or a receipt, you could essentially make a document,
18 create a document?---Yes.
19
20 I don't mean that pejoratively. Create a document which
21 explained what your expenditure had been and what it was
22 for, so that there was at least then some supporting
23 information?---Correct.
24
25 So in the way the Office of Auditor General had raised in
26 the summary report I took you to earlier - - -?---Yes.
27
28 - - - there was some evidence in support of the
29 transactions?---Yes.
30
31 Could I take you to this document? 0213420190933.
32
33 0213420190933^
34
35 **WILLINGE, MR:** And you'll see that this time, it relates to
36 Mr Whyte's corporate credit card from December 2009 to 28
37 January 2010. You see the reference to his corporate credit
38 card. The amount is \$47,237.14. We go over to the next
39 page. And we'll go down the page slightly. You'll see the
40 cardholder declaration from Paul Whyte dated 8 March 2010.
41 And your signature approving that expenditure on 10 May -
42 I'm so sorry. Your signature approving that expenditure on
43 10 March 2010. So two days after the date of his declaration
44 on 8 March 2010?---Yes.
45
46 And you agree with me that there's then the account details
47 and that there is a taxi, a Black and White taxi, for \$29,30,
48 a Swan taxi for \$42.74 and what looks like car parking in
49 Fremantle for \$2.60. And you'd agree with me that taxis and
50 car parking expenses are certainly the kind of thing which
51 a corporate credit card was for?---Yes.

1
2 But those three amounts add up to let's say between 70 and
3 \$75?---Yes.
4
5 And the entirety of the rest of the amounts being claimed,
6 so very close to \$47,000, were for Boldline Business Service,
7 South Perth?---Yes.
8
9 There was a 5 January 2010 amount of \$18,865. There was an
10 identical amount of \$18,865 the very next day, 6 January
11 2010. And there was a further amount of more than \$9,000 on
12 15 January 2010?---Yes.
13
14 If we continue on through the document, past your approval
15 signature, in the form the document came to us, it then has
16 this substitute slip, which we've just been discussing?---
17 Yes.
18
19 In this case, it's for a Swan taxi's amount of \$29.30. On
20 this separate page, Mr Whyte has signed it as the corporate
21 card holder and you've signed it as the corporate card
22 supervisor?---Yes.
23
24 If we go to the next page, you'll see there's another
25 substitute slip, this time for \$2.60. (Indistinct) City of
26 Fremantle parking. Mr Whyte has again signed as the
27 corporate cardholder, hasn't he?---Yes.
28
29 And you've again signed as the corporate card supervisor?--
30 -Yes.
31
32 So on this claim by Mr Whyte, you've signed the approval and
33 then you've also gone into the supporting documents and
34 you've signed two substitute slips?---Yes.
35
36 If we go further into the document, you'll see the invoice
37 dated 15 January 2010 from Boldline Business Services, you
38 agree with that?---Yes.
39
40 And you'll agree that in the same way as in the previous
41 invoice, it simply says project services and a number of
42 hours. Gives no description of the service. Gives no
43 description of a contract apart from a reference to 2009
44 1.3.13?---Yes.
45
46 So no way of determining on the face of the invoice what the
47 service was that was allegedly being performed?---Correct.
48
49 Or the contract with the Department that it allegedly related
50 to?---Yes.
51

1 If we then go further in the document, it's another invoice.
2 I won't take you through every single one. This is the one
3 of 6 January 2010 but it's in the same form with the same
4 lack of detail?---Yes.
5
6 We'll go to the next document. That's an invoice from the
7 day before, 5 January 2010. So you have a 5 January 2010
8 document claiming project services of 100 hours. And then
9 we go up one page. You have another invoice the very next
10 day, 6 January 2010, for another 100 hours. So 100 hours
11 more in the course of one day?---One invoice day.
12
13 One invoice. But an invoice on one day and an invoice on
14 another day?---Yes.
15
16 And the invoices are within one day?---Yes, but they don't
17 necessarily relate to work done on that day.
18
19 No, but it's an unusual thing to receive an invoice - - -?-
20 --Absolutely.
21
22 - - - on 5 January for an amount and then a separate invoice,
23 not a correcting or amending invoice but a separate invoice,
24 on 6 January?---Absolutely.
25
26 If we go further in the document, past the invoices, you see
27 there's a document headed "Submission" dated 8 March 2010 to
28 director general from Paul Whyte. Subject:
29
30 Credit card statement - for signing.
31
32 ?---Yes.
33
34 So Mr Whyte's put lines through advising officer, put lines
35 through manager officer of the director general. He's come
36 straight to you as GM on 8 March 2010 and signed it. And if
37 we go further in the document:
38
39 Note to director general FYI.
40
41 You probably have more experience reading Mr Whyte's
42 handwriting than I do. Are you able to help us with what's
43 said there?---Only just. "Payments to Boldline on my credit
44 card are for contract services where preferred payment option
45 and discount as offered for payment".
46
47 Or for CC payment perhaps, for credit card payment?---"Credit
48 card payment. Procurement has been undertaken in accordance
49 with government policy".
50
51 And he's then signed it and dated it 8 March 2010?---Yes.

1
2 I appreciate it's a long time ago. Do you recall seeing
3 this at the time?---No.
4
5 If you had gone through these documents and signed the
6 various substitute slips, do you think you would have kept
7 going to the end to see this statement?---Yes.
8
9 What would you have understood the sentence:
10
11 Procurement has been undertaken in accordance with
12 government policy -
13
14 - to mean?---One of the things I was always consistent about
15 was have we followed government procurement policy? Have
16 you got the right number of tenders? Have you got three
17 quotes? Have you - so that line would be his way of
18 addressing that issue to me, saying, "I've gone through the
19 appropriate government procurement process".
20
21 And do you recall having any discussion with Mr Whyte about
22 this statement to you?---No, I don't. And I'm going to put
23 my hand up here. When I saw the name Boldline in the news
24 reports when this broke, I didn't recognise the name. All
25 right. So I probably saw Boldline on a list of things, I'd
26 scan down. Paul's told me it's been appropriately procured.
27 Fine. Sign the document. Let's move on. But cos here I've
28 got my senior person telling me that the appropriate
29 procurement processes have occurred. I don't believe it's
30 my job to actually go through and make sure that those
31 procurement processes were followed. He's told me they have
32 been.
33
34 In fairness to you, you've also made a statement to the
35 police in a manner that does not directly concern you. It
36 was a statement to the police on 25 February 2020. And in
37 it, you state, among other things:
38
39 I do not know of a company called Boldline Business Services.
40
41 ?---Yeah.
42
43 And that's consistent with your evidence here?---I have no
44 recollection. I mean, I've seen the words but it hasn't
45 registered.
46
47 So you've - - -?---Which is why I haven't noticed the -
48 sorry, which is why I haven't noticed the month to month
49 repeat of the company name. Cos it just hasn't registered
50 with me.
51

1 So your evidence is that when you saw the reference to
2 Boldline in the newspaper, your reaction was "I don't know
3 that company"?---Yes.
4
5 So on what we've gone through so far, on 15 February 2010,
6 you've signed off just under 50,000, all for Boldline. On
7 10 March 2010, you've signed off for 47,000, which is almost
8 all for Boldline. Obviously that's an amount just under
9 100,000 in two months, you agree with that? Take you to
10 this document.
11
12 **THE COMMISSIONER:** Well, I don't want to interrupt unduly.
13 But is there a way of summarising? Because I imagine there
14 are quite a number of these documents and I imagine Mr
15 Searle's evidence will consistently be as it has been.
16
17 **WILLINGE, MR:** Yes.
18
19 **THE COMMISSIONER:** Is there a way you might like to have a
20 short adjournment and think how you might summarise it? It's
21 important that it be put on the record.
22
23 **WILLINGE, MR:** Yes.
24
25 **THE COMMISSIONER:** But I think there's limited utility in
26 each one.
27
28 **WILLINGE, MR:** Yes, I understand, Commissioner. Thank you.
29 So a short break would be convenient.
30
31 **THE COMMISSIONER:** It will save time in the long run.
32
33 (THE WITNESS WITHDREW)
34
35 (Short adjournment)
36
37 (TIMESTAMP) / 12.29.17 PM

1 **SEARLE, GRAHAME JOHN RECALLED ON FORMER OATH AT 12.42 PM:**

2
3 **THE COMMISSIONER:** Please be seated.

4
5 Carry on.

6
7 **WILLINGE, MR:** Thank you, Commissioner.

8
9 We are dealing with the Boldline corporate credit card
10 statements, and in particular Mr Whyte's acquittal of them
11 and your approvals of the acquittals?---Yes.

12
13 We have been through some. I can tell you from the
14 Commission's records that they are all in the same form, so
15 they all have this front sheet, then the portion from the
16 bank account where Mr Whyte signs and you sign to approve,
17 and then these invoices, and that the invoices are all in
18 the same form we've described. So I appreciate you don't
19 have the documents, but in an attempt to save your time, and
20 in the end the documents will speak for themselves?---Yes.

21
22 In fairness to you, I should say to you that, on my read of
23 the documents the Commission has, you have approved around
24 - this is all approvals of Mr Whyte's corporate credit card
25 statements, around \$40,000 for Boldline on 10 March 2010,
26 around \$49,000 for Boldline 12 days later on 22 March 2010,
27 \$49,992.95 on 11 May 2010, \$37,305 on 30 August 2010, \$45,276
28 on 5 October 2010 - and I'm not saying those examples are
29 exhaustive, but they help you get the picture?---Yeah.

30
31 You have indicated, when you saw the name Boldline in the
32 paper, it was news to you. You had no recollection of that
33 name. It's now apparent that you were repeatedly given
34 corporate credit card acquittals by Mr Whyte to approve that
35 had the name Boldline in it and, indeed, often only had
36 Boldline. You agree with that?---Yes.

37
38 Repeatedly had Boldline?---Yes.

39
40 And repeatedly Boldline was the only supplier being paid.
41 You would agree, wouldn't you, from the examples we have
42 already been through, that the payments that were being made
43 on Mr Whyte's corporate credit card to Boldline were quickly
44 adding up to large sums?---Yes.

45
46 So adding up to just under 100,000 over two months, and then
47 very quickly 150,000, more than 150,000, et cetera. And
48 indeed, over the period, more than 1 million. You will
49 recall I took you to a document earlier, and I can take you
50 back to it, which dealt with the procurement, the permitted
51 procurement?---Yes.

1
2 Is one of the problems with this kind of approach of
3 methamphetamine using his corporate credit card to
4 repeatedly pay Boldline over many months, that the total
5 amount is getting outside the procurement guidelines? Do
6 you agree with that?---Yes.
7
8 And that one would have needed, depending on how high the
9 figure went, other quotes, three quotes or, indeed, a
10 tender?---Yes.
11
12 And there was no evidence that any of those things happened?--
13 --If I may?
14
15 Yes?---Paul in his memo attached says he has followed the
16 procurement process.
17
18 Mr Searle, I want to be very fair to you, and that's why I
19 took you to that part?---Yes.
20
21 So on that document, which was a document on 10 March 2010,
22 Mr Whyte had expressly said to you, and signed under
23 "Procurement has been undertaken in accordance with
24 government policy". I'm sorry, that's why I took you to
25 that document?---Thank you.
26
27 I didn't intend to suggest that wasn't the case?---Thank
28 you.
29
30 But that's a 10 March 2010 document. This kept happening
31 into 2011, very regularly?---Yes.
32
33 And so there was a clear question, if someone had turned
34 their mind to it, about whether any procurement in March
35 2010 remained applicable?---Yes.
36
37 Because as the amounts go up, there might have been a
38 requirement - indeed, there was a requirement under the
39 procurement policy to have additional quotes and, indeed, in
40 the end, a tender?---Yes.
41
42 And that's all I was endeavouring to raise with you in
43 relation to that. Given you've agreed there was no reference
44 to what the service was - - -?---Yes.
45
46 - - - and there was no reference to the name of any
47 department project, how could you be satisfied what work had
48 been done, or indeed that any work had been done?---I was
49 satisfied that a senior lieutenant was telling me that he
50 had properly procured services and these invoices were
51 appropriate to pay.

1
2 So in short, you relied on what Mr Whyte was doing by giving
3 you the corporate credit card acquittals - - -?---Yes.
4
5 - - - and saying to you, on the occasions when he said
6 something?---Yes.
7
8 Would you agree with me that that isn't actually providing
9 any check, it is simply taking at face value what you're
10 being told?---Yes.
11
12 And you would agree that you never made any query about
13 Boldline at any stage?---Yes, I would agree with that.
14
15 Would you agree, given the material you have been shown,
16 that there were numerous warning signs in relation to
17 Boldline, had you been looking?---If I had been looking at
18 the body of work, as a body of work as distinct from a
19 document, you know, a continuing stream of documents once a
20 month, yes, it should have been. But I - I probably didn't
21 provide the right amount of oversight, because it was just
22 something I had to do as part of my job, rather than
23 necessarily my prime focus.
24
25 Was it a part of your job that you took seriously?---It's a
26 part of my job I knew I had to do. Did I think it was the
27 most important part of my job, no I didn't.
28
29 Did you see it as just paperwork?---I saw it as a little bit
30 more than that, and the fact that Paul bothered to tell me
31 that he has properly procured it, says there was some process
32 going through - you know, these are getting bigger, have you
33 done something about - you know, have you gone through the
34 proper process? And again, Paul usually brought these things
35 in, so we would have a quick discussion about it. The fact
36 that there's no particular project is a concern, but by the
37 same token, Paul was looking at a whole range of things that
38 he needed to get advice about as part of his job, and so I
39 was not concerned with the fact that he was using consultants
40 a bit, quite a bit, and the fact that he had been through an
41 appropriate process meant - you know, there's other checks
42 and balances.
43
44 Of course, his mention of an appropriate process on the one
45 I've shown you was back in March 2010. This all went on for
46 many months, and a great deal of expenditure after that
47 time?---Yes, but the original process may have - sorry, he
48 doesn't say what the original process was, but the original
49 process may well have been a tender that covered a period
50 for that work to occur over, in which case, it had only been

1 the one process. I mean, I know I'm being defensive, but
2 that's just the reality of how those things worked.

3
4 Is it your evidence that you didn't ever ask Mr Whyte a
5 question about Boldline?---As a company, no. I would have
6 asked him. I would have asked him, you know, what are you
7 getting done, what's happening here. So, for instance - I
8 mean, just as a for instance, there's a very large parcel of
9 land the Department owned south of Perth, and I'll think of
10 the name of it eventually. The Planning Commission
11 eventually sterilised that land for development. So we had
12 hundreds of acres sitting there that we basically couldn't
13 use. So one of the things Paul looked at over a couple of
14 years was, well, what alternate uses can that land be put
15 to? So could we, you know, do a swap with somebody who could
16 use that land for something else, and then we could some
17 residential development somewhere else. So there's a whole
18 lot of consultancy-type advice you need to get to the point
19 where you can actually make that decision. You know, they
20 are the things that I expected Paul to be doing, because it
21 was going to cost us a lot of money to lose access to that
22 land. So they are - those things are not necessarily
23 predictable. They don't necessarily follow a pattern. If
24 I look at the body of work that you've shown me, of course
25 I should have been concerned, should have acted
26 appropriately, but all I ever saw was one month at a time.
27 I'd check that the numbers were within the limits, and that
28 there were receipts, and I signed them.

29
30 In the examples we've been to, which are a subset - - -?---
31 Yes.

32
33 - - - there are two, for example, that you signed off and
34 approved in March 2010, one on 10 March and one on 22 March?--
35 --Yes.

36
37 Almost all for Boldline, adding up together to almost
38 \$100,000?---Yes.

39
40 You don't consider that at that point in time there were
41 reasons to ask questions or have concerns?---I - my only
42 position is that I didn't recall - I hadn't stored the name
43 Boldline. It wasn't something that I had noticed in the
44 documentation. It was just, has the money been spent, is
45 there an invoice, sign the document, let's move on.

46
47 **THE COMMISSIONER:** I wonder if I might ask a question?

48
49 **WILLINGE, MR:** Of course, Commissioner.

50

1 **THE COMMISSIONER:** Merely because we are getting close to
2 the luncheon break. I appreciate that not everybody is like
3 me, and I'm naturally suspicious of everything, and I also
4 appreciate that you must have trust with your - well, all
5 your staff, but your senior people?---Yes.

6
7 But there are also processes which seem to have failed in
8 this case. Have you any advice for other directors-general
9 for the future in relation to acquittals?---I don't know
10 that I'm not going to dig myself a bigger hole here. Whilst
11 there's a million dollars in credit cards, there's
12 \$10 million overall, so there's another nine that have
13 happened through the normal process, and there's nothing
14 from an auditor, there's nothing from an internal auditor,
15 there's - the question I've got to ask is what's missing
16 from our suite of checks and balances that let this happen
17 and go undetected by anybody for a very long period of time,
18 and absolutely, I accept some accountability for that, but
19 it seems me there has got to be something else that's
20 actually missing from the process for - what have we gone
21 through, about seven or eight audits - or more probably, and
22 nobody has identified it. Ongoing internal audits - so it
23 just seems to me that maybe our checks and balances aren't
24 appropriate for where we are now in time, or maybe it's that
25 people in certain positions, given Paul was in a position to
26 influence that stuff. I mean, one of the things we chose to
27 do differently when we set up the Department of Communities,
28 was that internal - having read some documentation - was
29 that Internal Audit reported to me, as director general,
30 rather than to the finance area - as a - sort of try to
31 change that single line of responsibilities for finances and
32 audit. I don't know if that helps, Commissioner.

33
34 Well, internal auditors are the CEO's line of defence?---
35 Absolutely. We also went to a staff internal audit, rather
36 than a contracted internal audit, when we set up the new
37 department.

38
39 Anyway, we will resume at 2.15.

40
41 (THE WITNESS WITHDREW)

42
43 (LUNCHEON ADJOURNMENT)

44
45 (TIMESTAMP) / 12.55.00 PM

46

1 **SEARLE, GRAHAME JOHN RECALLED ON FORMER OATH AT 02.16 PM:**

2
3 **THE COMMISSIONER:** Please be seated.

4
5 When you're ready.

6
7 **WILLINGE, MR:** Thank you, Commissioner.

8
9 Just before the lunch break, the Commissioner had asked you
10 what advice you would have for other director generals in
11 relation to corporate credit card acquittals. What advice
12 would you have for them?---Well, clearly, you need to pay
13 more attention to them than I did. But probably, you're
14 better off having somebody else doing the acquittal rather
15 than you. Because with everything else you have to do, I'd
16 argue you probably don't have the time to give it the
17 appropriate attention, no matter how many reports you have.
18 So maybe that's the appropriate job for the CFO or somebody
19 like that to do that acquittal process.

20
21 You mentioned in an answer before lunch - in fact, I'm going
22 to start this question again because I want to make something
23 very clear to you if it hasn't been made clear already. I
24 perfectly understand that Mr Whyte defrauded the State.
25 Acted criminally. Has been convicted and sentenced and is
26 presently in prison. So please understand, that's the
27 background - - -?---Okay.

28
29 - - - prior to this question. The question is I understood
30 you to say before lunch that you accept some accountability
31 in relation to the corporate credit card acquittals. My
32 question is do you accept any responsibility in relation to
33 the corporate credit card acquittals?---I - I accept
34 accountability for the whole - some accountability for all
35 of Paul's activity. And a significant amount of the credit
36 card activity I am responsible for not detecting.

37
38 I'm going to put to you some evidence. Remember I mentioned
39 to you that in fairness to you and Mr O'Mara I would put to
40 you some of Mr O'Mara's evidence. I appreciate your evidence
41 is you've read the transcript. I will - I'll put to you
42 some particular parts of his evidence and ask you to
43 comment?---Sure.

44
45 At transcript page 44 on 23 May 2022 I asked Mr O'Mara this
46 question:

47
48 If Mr Whyte's acquittals repeatedly referred to payments to
49 a company named Boldline and you weren't aware of that
50 company, would that have caused you concern if you were
51 looking at the acquittal process?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50

And his response was:

It would do cos normally a corporate credit card process is normally a one-off process. It's not consistently to the same person. In reality, it should be under \$5,000 anyway.

Do you have any comment on that evidence?---No.

He then said - same transcript page, same day in response to this question:

If Mr Searle was signing off on Mr Whyte's credit card acquittals and Mr Whyte's acquittals repeatedly referred to a company named Boldline, what do you consider that Mr Searle should have done?

And his answer was:

He should have been asking Paul a question about 'what are the payments for?'

Do you have any comment to make about that evidence?---I - whilst I did not ask about Boldline because I - the name hasn't stuck, I would have asked Paul "what was this for?" And the answer would have been, "Consultancy services to help me with a project" or something along those lines.

If Mr Whyte's acquittals included invoices that referred to hundreds of hours of work to a company called Boldline but did not mention any specific project name, would that have cause you any concern?

And his response was:

Yes, it would because you still should be putting money against projects. Whether they're administrative projects or whether they're building projects, there should still be a project attached to it.

Do you have any comment on that evidence?---I didn't know that that process wasn't happening somewhere else in the process.

If the invoices that referred to hundreds of hours of work by Boldline and didn't mention a specific project also didn't contain any statement about that the statement -

- I think it's "what the service" -

1 - was that had been provided, would that have cause you any
2 concern?
3
4 And he said:
5
6 Yes, it would.
7
8 Do you have any comment about - - -?---No.
9
10 - - - that evidence?---No.
11
12 He then said - and this is the "cos it smells" piece, so I
13 wanted to put it in context for you. So he's just said he:
14
15 Would have been concerned if the invoices referring to
16 hundreds of hours of work didn't refer to a specific project
17 or a specific service.
18
19 That would have caused him concern. And then I said:
20
21 Why?
22
23 And he said:
24
25 Cos it smells. Cos there's no project number attached to
26 it. There's no reason why all those hours are going against
27 a particular company. Normally hours were to get contracted
28 for specific work. For me it was data processing people.
29 I'd pay their money. And it was through Hays or one of those
30 particular groups under CUA stuff. So I wouldn't think
31 Boldline would even be under the CUA process.
32
33 Do you have any comment about that evidence?---20/20
34 hindsight's a wonderful thing.
35
36 And I think when he was giving this evidence, he wasn't
37 saying with 20/20 hindsight. You might say he's affected by
38 20/20 hindsight?---How could you - sorry. But how could you
39 not be after the fella's been convicted.
40
41 **THE COMMISSIONER:** I think that is a fair point.
42
43 **WILLINGE, MR:** Of course, Commissioner.
44
45 And I recognise it's hard not to be when you know that \$20
46 million have gone somewhere that they shouldn't have. But
47 given your remark earlier about his evidence about "cos it
48 smells", I wanted to put it in its - put it in its proper
49 context. In that answer, Mr O'Mara mentioned the CUA
50 process. Can you just help us with your understanding of
51 that process?---Okay. CUA process was a Common User

1 Agreement. Under that agreement, if there were services
2 that everybody used or a large number of departments used,
3 there was a central process to tender for those services.

4
5 And - so if a company was on the CUA list, what did that
6 tell the Department?---That, effectively, it meant you
7 didn't have to go through a tender process. You could just
8 pick them off the list.

9
10 Regardless of the size or scope of the project?---I can't
11 remember. It's too long ago. The rules will have changed
12 five times since then.

13
14 I took Mr O'Mara to an acquittal. One of the ones I took
15 you to. It was the November to December 2009 card. And
16 there were three transactions in December. They were all
17 for the supply of Boldline Business Services. And they added
18 up to just under 50,000. I said:

19
20 Can you see any indication on that page of what Boldline
21 Business Services have been doing for the Department?---No.

22
23 I then took him to one of the invoices which said:
24
25 Project services 55 hours.

26
27 Took him to the reference to a contract number. Said:
28
29 What would you understand that to mean?---There's a contract
30 for it and there's a project for it.

31
32 I then asked him - this is transcript page 48 on 23 May:
33
34 If you had been doing the acquittal in relation to this
35 invoice, would you have been able to tell what service
36 Boldline were said to have been provided to the Department?

37
38 And he said:
39
40 No.

41
42 I think you have accepted the same thing today. That's
43 right, isn't it?---Yes.

44
45 And then I asked him:
46
47 And how would you have been able to tell whether the services
48 had been incurred at all, let alone appropriately incurred?

49
50 And he said:

51

1 You wouldn't be able to. Not from this.
2
3 And I don't think you disagree with that?---No argument with
4 any of that.
5
6 Ms Loosley-Smith has also given evidence. Her evidence is
7 a little harder to summarise. But I'm going to try and put
8 it - - -?---Thank you.
9
10 - - - to you fairly. I asked her about whether she had
11 direct reports. And she said:
12
13 It probably varied over time. But probably settled at around
14 five or six direct reports -
15
16 - this is from the transcript on 26 May at page 16. And I
17 asked her about her process in looking at corporate credit
18 card acquittals. And one of the things she said in response
19 - she said:
20
21 I guess to scan down and see there was - it was just a quick
22 skim.
23
24 One of the other things she said was:
25
26 I'm a bit of a stickler with public money, so I did look.
27
28 Would you describe yourself as a "stickler" in relation to
29 public monies?---I am very concerned that public monies are
30 used for the purposes for which they were intended.
31
32 But in this case it didn't lead to - - -?---Correct.
33
34 Ms Loosley-Smith then gave an example that she'd:
35
36 Never had any misgivings that anyone had done something
37 wrong.
38
39 But there were a few times where she'd say:
40
41 Yeah, pull your head in. You don't need to be having, like,
42 an entree, dessert and main meal that includes crayfish while
43 you're away.
44
45 I think that suggests a fairly close level of scrutiny of
46 the credit card acquittals she was considering. Would you
47 agree with that?---Yes.
48
49 I then asked her about the one million on Mr Whyte's credit
50 card. I said:
51

1 And did you have any sense -
2
3 - this is page 17 of the transcript on 26 May:
4
5 And did you have any sense of how much the other GMs were
6 spending on their corporate credit cards?
7
8 And she said:
9
10 Not until Monday -
11
12 - that was when I had given an opening address.
13
14 And I said:
15
16 And I guess you're smiling because you've heard that Mr Whyte
17 spent more than a million on his corporate credit card from
18 October 2009 to November 2011?---Yep.
19
20 And it looks like you find that upsetting. And I'm really
21 happy for you to take a moment if you want, but should I
22 take it also that you would have been very shocked to hear
23 about that level of expenditure at that time on his corporate
24 credit card?
25
26 She said:
27
28 Look -
29
30 - and I interrupted - shouldn't have. And I said:
31
32 And that would have seemed quite out of the ordinary to you?
33
34 And she said:
35
36 Yeah.
37
38 And I said:
39
40 And you would have been concerned about it?
41
42 And she said:
43
44 Look, I don't know. And I'm not in a position to know what
45 Grahame may have asked, what bullshit Paul may have spun and
46 - excuse me. But on face value, yeah.
47
48 Do you have any comment to make about that evidence?---I
49 think it's a probably fair assessment.
50

1 Then there's not much more of this. It's just in fairness
2 to you because other people have been giving evidence. Page
3 18 I asked her a question and she said:
4
5 So I would have probably expected Paul's expenditure to be
6 higher -
7
8 - she means than other GMs -
9
10 - and it's a bloody shame that in the few times I acted for
11 Grahame I didn't see his credit card statements -
12
13 - she's referring to Mr Whyte's credit card statements. And
14 I asked her:
15
16 Is that because from what you've just said, if you'd seen
17 his credit card statement and seen these various payments go
18 out to a supplier, that would have struck you as unusual?
19
20 She said:
21
22 Yes.
23
24 Do you have any comment to make about that evidence?---No.
25
26 And she - and I asked:
27
28 And you would have been concerned about it?
29
30 She said:
31
32 Yep.
33
34 Do you have any comment to make about that evidence?---No.
35
36 And you would have raised it with him?
37
38 This is me asking whether she would have raised it with Mr
39 Whyte. She said:
40
41 Yeah, I probably would. I trusted him. So I would have
42 raised it with him. Paul was a very good liar. I'm not
43 saying, you know, maybe I would have accepted what he had to
44 say, especially if he convinced me it was just a one-off and
45 I had no reason to doubt that it was one-off.
46
47 Of course, in your position, you were in a position to
48 realise it wasn't a one-off. Do you agree with that?---Mm.
49
50 She then said:
51

1 Yeah, and I - again, you know, I should have been more aware
2 probably what the exact rules were around corporate credit
3 card stuff. But whether I thought it was outside the rules,
4 it just would have struck me as really odd.

5
6 Have you got any comment on that evidence?---No.

7
8 Could I take you to the corporate credit card policy?
9 0213420090925.

10
11 **THE COMMISSIONER:** Are you sure that's 2009, not 2019?

12
13 **WILLINGE, MR:** On the face of the document - we'll will
14 come to the front page first, it's 2009. A 2009 document
15 despite its coding. When I say coding, I just mean the
16 reference number?---Sure.

17
18 0213420090925^

19
20 **WILLINGE, MR:** So you see the cover page:

21
22 Department of Housing Government of Western Australia
23 Corporate Credit Card 2009.

24
25 ?---Yes.

26
27 I take you over the page to page 4. Perhaps, in fairness,
28 you will start with page 2 of the document. And the purpose
29 of the document is:

30
31 To provide clear policies for cardholders on the use of the
32 corporate credit card.

33
34 And then the various references you would expect including
35 the Financial Management Act and various Treasurers'
36 instructions. Then if we go over to page 3, this will help
37 again confirm the date. You'll see there is the document
38 history including February 2009. Some changes to the
39 Department name and substitute slip and that's:

40
41 Lorne O'Mara as managing accounting service February '09.

42
43 If I can take you then to page 4 of the document and section
44 2. And you see it states there:

45
46 Corporate credit card holders and card supervisors must
47 comply with the conditions of use as described in this policy
48 document.

49
50 You see that reference?---Yes.

51

1 And, of course, in terms of the evidence today, Paul Whyte
2 was a corporate credit card holder and you were a card
3 supervisor?---Yes.
4
5 One of the conditions of use, not surprisingly, in number 4
6 is:
7
8 The card must only be used for official purposes.
9
10 You see that there?---Yes.
11
12 Then If we go to page 5 of the document and section 3. See
13 the reference to:
14
15 Corporate credit card holders and card supervisors must
16 comply with the purpose of use as described in this policy
17 document.
18
19 ?---Yes.
20
21 And do you agree that under "Purpose of card", item 1 is:
22
23 The card must be used for official business only.
24
25 ?---Yes.
26
27 And then do you agree that under item 2 the policy stated:
28
29 The card can be used to purchase foods and selected services
30 under \$5,000.
31
32 ?---Yes.
33
34 Approved government contracts must be utilised where
35 applicable.
36
37 ?---Yes.
38
39 Assuming - and I'm asking you to assume rather than take you
40 through the whole policy. Assuming there's nothing else in
41 the policy that contradicts that, would you accept that Mr
42 Whyte's use of his corporate credit card was contrary to the
43 policy?---On face value I will. There was usually an
44 accompanying document that talked about individuals with
45 their individual card limits and my guess is that that would
46 have different limits set for Paul. Though I accept what's
47 said here about purchase of goods and selected services under
48 5,000.
49
50 And you'll also accept, of course, that the purpose of the
51 card in item 3 is:

1
2 The card is to be used for all accommodation bookings for
3 travel.
4
5 ?---Yes.
6
7 And then in items 4 and 5:
8
9 There could be some use for entertainment expenses subject
10 to compliance with the relevant policy. And there could be
11 use for official travel expenses whilst travelling on
12 official duties.
13
14 ?---Yes.
15
16 But there's no reference in here to paying external
17 suppliers?---Well, I - - -
18
19 I'm not saying it's expressly prohibited. But you appreciate
20 the only references in here are to accommodation and travel?--
21 --Well, sorry, there is - there is reference to a - to:
22
23 Purchase goods and selected services.
24
25 Under \$5,000?---Yes. And I've already - sorry. Just to try
26 and save some time, I've already accepted that I haven't had
27 as much oversight of Paul's use of the credit card as I could
28 have and I relied on assurances that appear to have been
29 false.
30
31 Yes. So if we go to your responsibilities as a card
32 supervisor, this might - - -
33
34 **THE COMMISSIONER:** I think - - -
35
36 **WILLINGE, MR:** - - - short cut things?
37
38 **THE COMMISSIONER:** - - - the point has been made.
39
40 **WILLINGE, MR:** You were the director general at the time,
41 which is obviously a very busy role. You would accept that?--
42 --Yes.
43
44 What we're talking about is checking credit card acquittals,
45 and I appreciate that takes one part of a large area of
46 endeavour that you were responsible for. In relation to
47 your checking of corporate credit card acquittals, is it
48 right that your responsibility was to check a maximum of
49 four corporate credit card acquittals per month, in the sense
50 of one from each of your four GMs?---Yes.
51

1 And you accept, and I don't propose to labour this, given
2 the frankness in your evidence, but you would accept it
3 wouldn't have taken you long to look through the invoices
4 attached to Mr Whyte's acquittals?---I accept that
5 absolutely.

6

7 And it wouldn't have taken long to ask him about Boldline?--
8 --(No audible answer).

9

10 I appreciate also - and both the Commissioner and I have
11 tried to make clear, clearly many people trusted Mr Whyte
12 and, clearly, he was clever enough at what he did to convince
13 a lot of people to trust him, despite his fraudulent
14 activity, so this question is against that background. Many
15 employees that have stolen from their employer were probably
16 trusted, weren't they? You agree with that?---Absolutely.

17

18 And even a trusted employee's circumstances can change. In
19 any case, would you agree there's a difference between trust
20 and blind faith?---Yes.

21

22 Would you agree that one reason for a credit card expenditure
23 approval system is so that it's not simply about trust?---
24 Yes.

25

26 Instead, there's a system which includes checking?---Yes.

27

28 Did you expect that other people in the Department - I'll
29 start that question again. Did you expect other people in
30 the Department to act conscientiously when checking credit
31 card expenditure?---Yes.

32

33 Do you consider that you acted conscientiously when checking
34 Paul Whyte's credit card expenditure?---No.

35

36 If someone working under you in the Department - - -

37

38 **THE COMMISSIONER:** I think we've made the point.

39

40 **WILLINGE, MR:** Thank you, Commissioner.

41

42 I just wanted to ask this, would you agree that fraud can
43 flourish when simple checks aren't done?---As a statement of
44 fact, absolutely.

45

46 And as I've said, it's not to suggest you were the only
47 person mistaken about Mr Whyte, but obviously you were the
48 person who did this corporate credit card acquittal?---Yes.

49 The only point I'd make is that the corporate credit card
50 acquittal was not the only - it's not as though that if the

1 corporate credit card loophole was closed, there would have
2 been no fraud.
3
4 Yes, and so you have been keen to mention auditors, and I
5 wanted to come to that now?---Sure.
6
7 One of the first things you mentioned when I asked you about
8 this today was, well there was internal and external
9 auditors?---Yes.
10
11 And I think you have returned to that theme a number of
12 times?---Twice, yeah.
13
14 And one of the things you've said is that you were actually
15 responsible for introducing internal audit to the Department
16 of Housing, as I understand it?---No.
17
18 Have I misunderstood you?---You misunderstood me.
19
20 It already existed?---It already existed - - -
21
22 But you made some changes?---Sorry, I believe it already
23 existed, but when the Department of Communities was created,
24 and we had a chance to start with a blank sheet of paper, we
25 created an internal audit function that was internal, and it
26 reported to the Director general, rather than up through the
27 finance group. We separated the internal audit process
28 away - - -
29
30 I see?--- - - - in order to give more independence, and more
31 strength.
32
33 Yes?---Because it was, "We're from the director general's
34 office, and this is what want".
35
36 Yes, of course, and which is entirely appropriate, because
37 the point of internal audit is really, as the name suggests?--
38 --Well, when we did our research in terms of setting up the
39 new department, it was apparent that that was the best
40 practise at the time.
41
42 I wanted to ask you some questions now about audit. Did the
43 Office of the Auditor General audit the department while you
44 were the DG?---Yes - well, sorry - they usually contracted
45 the audit, but they were responsible for the audit.
46
47 Yes, you're quite right, that's more accurate. So while you
48 were the DG, was the Office of the Auditor General - did the
49 Office of the Auditor General have overall responsibility
50 for the Department's audit?---Yes.
51

1 And did the Office of the Auditor General generally, or
2 always, then engage an external provider to do the
3 Department's external audit?---I can't say always, because
4 I can't remember, but the vast majority of the time they
5 contracted somebody, but they oversaw that contract and
6 participated in the performance.
7
8 Does that mean that someone of the Office of the Auditor
9 General would also physically come to the Department during
10 the audit?---Yes.
11
12 Does it mean that someone from the Office of the Auditor
13 General would be involved at the initial set-up meeting for
14 the audit?---Yes.
15
16 And the close-out meeting at the end of the audit?---My
17 recollection is yes.
18
19 Did the Office of the Auditor General ever comment on the
20 combining of the finance and commercial roles under
21 Mr Whyte?---I have no recollection.
22
23 You have mentioned that the Department had an internal audit
24 committee through your - - -?---An audit committee? Yes.
25
26 - - - which necessarily must be internal. It wouldn't be
27 auditing anyone else?---No. It oversees the results - so
28 when we got audit comments back, they went to that audit
29 committee to see what do we need to do, how do we need to
30 respond, what do we need?
31
32 All right. So I want to make sure I'm understanding this.
33 Sometimes you have the external audit, which we've discussed,
34 and corporations or departments or agencies have a separate
35 internal audit team. Are you saying that, to the extent
36 there was an internal audit committee, it was really only a
37 committee responsible for considering any recommendations
38 from the external audit?---No. No, my recollection is we
39 had a contracted internal audit process, rather than staff,
40 and their recommendations, and the recommendations of the
41 external audit, both went to the audit committee to then
42 take a view of what we would need to change as a result of
43 all the input.
44
45 So the audit committee, the Department's audit committee,
46 had a role that extended beyond simply whatever came out of
47 the external audit?---Yes.
48
49 Who headed up the Department's audit committee during the
50 time you were DG?---I did most of the time.
51

1 You did most of the time? There has been some reference in
2 some documents to a gentleman named Gary Bromley?---Yeah, I
3 know the name.
4
5 Does that name ring a bell?---It rings a bell.
6
7 Was he involved in the internal audit - in the audit
8 committee?---Somewhat, yes.
9
10 Did Mr Whyte have any involvement in the audit committee?--
11 -Yes, because he was head of our finance (indistinct)
12 Which is why we come back to that as one of the themes?---
13 Yes.
14
15 Because I suppose it follows, but I'm asking you, that
16 Mr Whyte could have had input in the setting of the direction
17 of internal audit?---Yes - sorry, up until the creation of
18 the Department of Communities.
19
20 Right. What changed then?---Then internal audit reported to
21 me, and the woman who was appointed to head up that unit
22 approached me and asked me if there was anything I
23 specifically wanted her to look at, and I said she could
24 look wherever she wanted.
25
26 So from that time, the risk we have spoken about in relation
27 to the non-separation of Mr Whyte's roles was removed -
28 because you head of the audit committee within the Department
29 reported directly to you?---(No audible answer).
30
31 And I think on your evidence you were asked, as is often the
32 case, are there any particular areas, and you certainly
33 placed no restrictions. You said, "Look wherever you think
34 you should"?---Yes.
35
36 So far as you are aware, did the Office of the Auditor
37 General pick up the number of payments being made to
38 Boldline?---I have no recollection.
39
40 Or the differences in the credit card expenditure between
41 your four GMs?---I'm sorry, but I just can't - it's too long
42 ago, and I just can't remember.
43
44 I will ask just one more question about that, appreciating
45 your recollection may be the same - or the number of months
46 when Mr Whyte's credit card totals were just under the
47 maximum?---I have no recollection.
48
49 Did the Department's audit committee pick any of those
50 things, as you recall?---Not that I recall.
51

1 There are just a couple of other matters I should put to
2 you, in fairness to you. They come from the evidence of
3 Mr O'Mara?---Yeah.

4
5 Transcript 23 May 2022, page 55. I asked:

6
7 You may think you have answered this, but I want to ask you
8 this question in this way. Do you consider that the change
9 to the corporate executive made after Mr Searle became DG -

10
11 - this is the Paul Whyte co-responsibilities -

12
13 - contributed to Mr Whyte's ability to defraud the Department
14 and the State?---Yes.

15
16 I think you'll agree - I think you have agreed today with
17 that?---Yeah.

18
19 I then said:

20
21 And is that essentially for the reasons you've given?---Yes,
22 but the structure looks that way as well. It's a financial
23 thing being wrapped up and put down the tree a bit compared
24 to other stuff. Like, financial accounting was sort of put
25 down to the side, back office stuff. We don't worry about
26 that sort of stuff.

27
28 Do you have any comment on that evidence?---How long have
29 you got? What we were doing was trying to fundamentally
30 change the operations of the agency, so there were lots of
31 things, lots of balls moving in the air at the one time, and
32 like a range of things. If someone has worked in the one
33 agency for a very long period of time, in the one section
34 for a very long period of time, they have a very specific
35 view of how the world should operate. And if you change
36 that, they get unhappy, and if they see their role as being
37 different and, from their perspective, less important than
38 it was, they get even unhappier. I think that's what's
39 actually happening in that statement. The reality is, the
40 things the agency had to do was reform its tenancies, reform
41 its maintenance, reform the way it got things done and
42 responded to government. Did it need a CFO? Absolutely, it
43 did. Would it find out how it managed its finances is
44 important? Absolutely it they were, but were they the most
45 important and front-of-mind and the most important thing I
46 thought I had to do? The answer is, no they weren't, but
47 there was still a CFO who still had responsibilities, and
48 again I repeat, to my understanding there were no reports
49 from the CFO to anybody that anything inappropriate was going
50 on, so it's very easy for - and I'm not having a go at Lorne
51 in particular here, but it's very easy, with hindsight and

1 people convicted, to come out say this was wrong, this was
2 wrong, this was wrong, but where were they at the time?

3

4 Again, in fairness to you, I asked Mr O'Mara:

5

6 Do you consider that the culture of the Department while
7 Mr Searle was director general contributed to Mr Whyte's
8 ability to defraud the Department and the State?---Yes, it
9 did.

10

11 And why do you say that?---Because the delegation and the
12 process was pushed down to other people and it gave them the
13 ability make decisions on their own and make payments on
14 their own.

15

16 Do you have any comment in relation to?---I disagree with a
17 lot of what's embedded in that statement. Yes, with the
18 benefit of hindsight, there were things I shouldn't have
19 done, and I accept that, absolutely, but I don't accept that
20 the place was - that it was about what I did. I accept - - -

21

22 **THE COMMISSIONER:** Sorry, I just missed the last part of
23 that last sentence?---Sorry. I don't accept that it was
24 about what I did that caused that to happen. I think it
25 would have happened anyway, in my view. There's a lot of
26 things Lorne said in his statement that - that technically
27 aren't accurate and, you know, we're all getting older and
28 our memories aren't what they were, but I mean it started
29 when I took over from Greg Joyce. Well, I didn't, there
30 were three people between Greg and I. So I think there's
31 some memories of a day when there was a long-term DG who
32 knew every block of land they owned, and I was about
33 strategic direction and moving the agency and getting it to
34 think and act appropriately. Did that create the opportunity
35 for Paul? Maybe. Would it have happened anyway? Probably.
36 Because, clearly, Paul was very "good" at what he did. My
37 understanding is, even at the end, it wasn't detected inside
38 the agency what was going on, it was actually an external
39 report that related to other things. Well, you know, it had
40 been going a while.

41

42 **WILLINGE, MR:** I can say this, because it was before my
43 time, I think it was this Commission that - - -

44

45 **THE COMMISSIONER:** It was.

46

47 **WILLINGE, MR:** - - - detected it, with no help from me. It
48 was reported - - -

49

50 **THE WITNESS:** Yeah, it was reported from somebody outside,
51 not somebody from the agency, is my understanding.

1
2 **WILLINGE, MR:** I will just put the last two pieces of his
3 evidence, so you've had a proper opportunity to respond.
4

5 Do you consider that, assuming that Mr Searle approved
6 Mr Whyte's corporate credit card acquittals, including the
7 examples I've shown you, do you consider Mr Searle's approval
8 of Mr Whyte's corporate credit card acquittals contributed
9 to Mr Whyte's ability to defraud the Department and the
10 state?---Yes, I do.
11

12 And why do you say that?---Because Mr Searle should have
13 seen it was constantly happening, time and time again, but
14 in Mr Searle's defence he was doing strategic stuff, so he
15 would have just seen it on his desk and signed it off, I
16 presume.
17

18 Do you have any comment to make on that evidence?---That's
19 pretty to right, yeah.
20

21 Having had time to reflect on it, and nobody wants these
22 things to happen, what would you do differently, and what
23 changes do you think should be made?---A very big question.
24

25 It is?---Look, there's two or three things I think were
26 appropriate. The first is, I should have fought harder for
27 the number SES positions I believed we needed, but I was
28 told there was no - no negotiation. "This is the number
29 you're getting. Go away". The second thing is, I've argued
30 for a long time that the Public Sector Management Act is not
31 used appropriately. The Public Sector Management Act was
32 introduced in 1980-something, and it was very specific about
33 creating a senior executive service, and that that senior
34 executive service would be mobile and move around. It was
35 clearly the intention of the Act, in a similar way to the
36 Commonwealth public service.
37

38 Okay?---We are now 30 years, you know - 20 years later,
39 whatever it is, and the Act hasn't been used that way. So
40 senior staff aren't moved from agency to agency, so that
41 they're not in environments that have changed, where other
42 people are looking and other sets of eyes are at things, and
43 I think that's a real - you know, if we're talking about the
44 administration of the public sector, I think that's a real
45 short-coming. So people can get into an agency, spend their
46 entire careers there, stay there forever, and never see an
47 alternate way to things, never see - and I just don't think
48 that's constructive to good administration. I certainly
49 don't want to see people moved every two years like the
50 Commonwealth do, but I think there is a period of time when
51 people do need to be moved, do need to be exposed to other

1 things and, more particularly, have other sets of eyes
2 looking at them, which is not necessarily the case at the
3 moment. So in terms of the broader administration of the
4 sector thing, I think that's something that should be at
5 least looked at.

6
7 And do I take it from what you're saying that one reason for
8 that is the is the cross-fertilisation of ideas?---Well,
9 there's two things. One is the cross-fertilisation because
10 you've seen how it's done in other places, which has got to
11 be a plus. But the second is the fact that you're mixing
12 with different people and that different eyes are looking at
13 you.

14
15 Yes.

16
17 **THE COMMISSIONER:** It's a corruption prevention measure?--
18 -As well as an efficiency - I'd argue - - -

19
20 That's not its major purpose, but it's the minor purpose, as
21 I understand from you comment, "other eyes are looking at
22 you"?---Yeah, certainly, but - I mean, I don't know the
23 numbers, but over that 30 years, I'd be surprised if there
24 were 15 SES officers who had been moved as part of a rotation
25 process. It just has never happened, despite being the
26 intent of the Act.

27
28 **WILLINGE, MR:** You've mentioned - or we've discussed and
29 you have given evidence about audit?---Yes.

30
31 In terms of things that could be changed going forward, do
32 you have any evidence to give around external audit?---I'm
33 not an auditor, I don't have the experience in which to judge
34 it - but gee, I wish I'd picked this up. You know, I think
35 - absolutely, I'm accountable, and I accept that, but I think
36 there's a whole - our normal checks and balances haven't
37 worked, and so someone needs to ask the question why haven't
38 the normal checks and balances thrown this up, because it's
39 a lot of money over a long period of time, systemically, but
40 nothing in our normal armoury, if you like, of defences have
41 identified it.

42
43 **THE COMMISSIONER:** In relation to audit, I'm looking at
44 Australian Accounting Standard 210, which - this might be a
45 bit flippant, in summary says:

46
47 It's not the auditor's job to find fraud, but it does say an
48 attitude of professional scepticism is necessary throughout
49 the audit process for an audit to reduce the risk of
50 overlooking suspicious circumstances.

1 And it says other things. There's an undeniable fact that
2 it does not appear that the accounts were ever qualified in
3 a way that suggested there may be some fraud. Is there
4 anything that can be done about that from your point of view?
5 Maybe you are not the best person to ask?---I'm probably not
6 the best person to ask, because as I said earlier, my view
7 of the person in charge of finances - there's two things, I
8 don't want to go back to Treasury and ask for money, because
9 that's embarrassing and looks bad I don't want a qualified
10 audit. And I think, you know, from a DG and a day-to-day
11 basis, that's not an unreasonable set of expectations. Cos
12 implied in the qualified order is that there's something
13 wrong.

14
15 Then in relation to audit committee within the Department,
16 you've already indicated some of the changes that were made.
17 Do you have any other suggestions for changes?---To be
18 honest, I haven't - I've been retired for quite a while and
19 I haven't put my mind to it.

20
21 Is there anything else you wish to add in relation to the
22 events concerning Paul Whyte and the matters you've been
23 asked about today?---Only that I'm personally gutted that
24 all of the really good people who've worked in the Department
25 and done remarkable things over the period of time I was
26 there have their reputations tarnished by things that were
27 totally out of their control.

28
29 Commissioner, subject to anything further from you, I didn't
30 have any further examination for Mr Searle in the public
31 part of the examination. What I was going to propose,
32 subject to you, is that we move to a private examination.
33 As you indicated in your remarks this morning of course, the
34 default position under the Act - starting position of the
35 Act in section 139 is that:

36
37 Except as provided in section 140, an examination is not
38 open to the public.

39
40 You indicated in your opening remarks this morning that
41 having considered a range of matters, including what was
42 already known about Mr Whyte and the fact he'd already been
43 imprisoned and so on, that in those circumstances, it was
44 appropriate to open at least this part of the examination to
45 the public, having weighed the benefits of public exposure
46 and public awareness against the potential for prejudice or
47 privacy infringements, it being considered to be in the
48 public interest to do so.

49
50 Given the point we've now reached and given that there are
51 other matters which have been raised by other witnesses in

1 private examinations that it may be appropriate to raise
2 with Mr Searle, my respectful submission would be that it
3 would be appropriate now to continue the examination in
4 private.

5

6 **THE COMMISSIONER:** Very well. Counsel assisting is more
7 across the detail than I but I'm sufficiently informed about
8 the matters that counsel wish to explore with Mr Searle,
9 that I will accede to the application we continue in private.

10

11 But I should say while we are still public that the fact
12 that the fact that the Commission is going into private
13 session should not in any way be seen as a reflection on Mr
14 Searle or any other person. The Commission's default
15 position is private examinations because matters of personal
16 matters and privacy may come up. And it should not be
17 assumed in any way that the move to a private indicates
18 anything whatever. So we will move to private, if you can
19 turn off the livestream now.

20

21 Mr Searle, how are you standing up? If we have a break do
22 you think you can go on for a while?---I'm fine,
23 Commissioner, thank you. I'm fine, thank you.

24

25 Good. Well, we'll have a 10-minute break anyway and then
26 we'll go through to about 4.15.

27

28 (THE WITNESS WITHDREW)

29

30 AT 2.56 PM THE MATTER WAS ADJOURNED ACCORDINGLY

**Certificate Made Under Section 50A of the
Evidence Act 1906**

The transcript of Grahame John Searle heard on Wednesday,
22 June 2022

was made in good faith and, subject to any qualification referred to below, is correct, accurate and complete transcription of the contents of the recording;

was produced from recordings that were suitable for making an accurate and complete transcript except where otherwise stated in the body of the transcript. Any "indistinct" or "inaudible" or other notations indicating difficulty with the transcription contained within the transcript refers to those parts of the proceedings that could not be accurately transcribed due to speech clarity, recording quality or other factors impacting word intelligibility.

Certified on this 22nd day of June 2022 by: Melissa Cain,
Sheila Robbshaw, Joshua Stevenson

Full Name: Melissa Cain
Sheila Robbshaw
Joshua Stevenson

Occupation: Transcriber and officer of the Commission under the Corruption, Crime and Misconduct Act 2003 ss 182, 3 who has taken an oath before the Commissioner.

Signature: (Melissa Cain) (Sheila Robbshaw) (Joshua Stevenson)

Epiq Australia
Level 1, Kings New Office Tower
533 Hay Street
Perth WA 6000