

CORRUPTION AND CRIME COMMISSION

OF WESTERN AUSTRALIA

COMMISSIONER JOHN MCKECHNIE AO KC

TRANSCRIPT OF PROCEEDINGS

AT PERTH ON TUESDAY, 13 FEBRUARY 2024, AT 9.47 AM

COUNSEL ASSISTING:

MS KIRSTEN NELSON

COUNSEL ASSISTING THE WITNESS:

MR CHRISTIAN PORTER

COUNSEL ASSISTING A PERSON OF INTEREST:

MS CHONG

WITNESS:

CHRISTOPHER JAMES FIELD PSM

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

2
3 **THE ASSOCIATE:** The Commission has conducted a number of
4 private examinations of witnesses for the purposes of an
5 investigation under the Corruption, Crime and Misconduct
6 Act 2003. That investigation has been designated
7 Operation KULLEN.

8
9 The scope and purpose of the Commission investigation is to
10 determine whether Mr Christopher Field PSM, Parliamentary
11 Commissioner for Administrative Investigations, has engaged
12 in serious misconduct by corruptly using his public office
13 and the resources of the Office of the Ombudsman WA to
14 benefit himself, the Acting Principal Assistant Ombudsman
15 Ms Rebecca Poole, and the International Ombudsman Institute
16 and its members.

17
18 The Commissioner has determined that the examination of
19 Mr Field PSM will be open to the public and will publish
20 the reasons for that decision on the Commission's website
21 in due course. The Commission's usual sitting hours are
22 from 9.30 am to 4.30 pm, with a morning break at
23 approximately 11 am to 11.20 am, and a lunch break from
24 1 pm to 2.15 pm. Attendees are required to be present in
25 the hearing room five minutes prior to the examination
26 recommencing. Please note that these sitting times are
27 subject to change based on the requirements of the
28 Commission.

29
30 The Commission Practice Direction exists which prohibits
31 the use of electronic devices in the hearing room while an
32 examination is in session, therefore all mobile phones,
33 tablets, and laptops must be switched off. Bonafide
34 members of the media and members of the legal profession
35 sitting at the bench are exempt but must ensure that those
36 devices are on silent and will not disturb the Commission
37 proceedings. Copies of the Practice Direction are
38 available upon request.

39
40 Those connected with this examination, including any
41 witness, are not to be approached within the precincts of
42 the Commission during any break. For reasons of fairness
43 to witnesses as well as the safety of those in this part of
44 the building, the media will not be permitted to use
45 cameras or to conduct interviews in the precincts of the
46 hearing room. However, the media may record these
47 directions and the opening address of counsel assisting.

48
49 At the conclusion of this phase there will be a short
50 adjournment to allow the media to remove their recording
51 devices. This examination of Christopher Field PSM will be

1 livestreamed on a link through the Commission's website.
2 In the event that the Commission decides to hear a matter
3 in private the transmission via the public stream will be
4 suspended. The Commission appreciates your understanding
5 in these circumstances.

6
7 **THE COMMISSIONER:** For the purposes of this examination, I
8 appoint Ms Nelson as counsel assisting.

9
10 Mr Porter, you continue to represent Mr Field?

11
12 **PORTER, MR:** I do, Commissioner, and continue to be
13 instructed by Ms Espiner from Hugo Law Group.

14
15 **THE COMMISSIONER:** Thank you. And as usual, at the
16 conclusion of the examination which may be some days hence
17 I will give you every opportunity to speak with your client
18 and, if necessary, ask further questions.

19
20 And, Ms Chong, I note your presence representing a person
21 of interest to the Commission.

22
23 **CHONG, MS:** Yes, may it please the Commissioner.

24
25 **THE COMMISSIONER:** Thank you.

26
27 Ms Nelson, would you like to set the scene by some opening
28 remarks?

29
30 **NELSON, MS:** Commissioner, the Corruption and Crime
31 Commission's purpose is to improve the integrity of the
32 public sector and to reduce the incidence of misconduct in
33 the public sector.

34
35 The Commission may fulfil this purpose by investigating
36 matters related to serious misconduct. Serious misconduct
37 is defined in the Corruption, Crime and Misconduct Act 2003
38 in section 4 to include conduct that takes advantage of the
39 public officer's office or employment in order to obtain a
40 benefit for themselves or for another.

41
42 From late August 2023 the Commission received multiple
43 notifications of suspected serious misconduct from various
44 sources. The notifications concerned the conduct of
45 Mr Christopher Field PSM. An investigation was commenced
46 into allegations that Mr Field had corruptly used his
47 position as Parliamentary Commissioner for Administrative
48 Investigations to benefit himself and his chief of staff.

49
50 The Parliamentary Commissioner for Administrative
51 Investigations in this state is more usually known as the

1 Western Australian Ombudsman. Under the powers assigned to
2 that office by the Parliamentary Commissioner Act 1971 the
3 Ombudsman oversees how a public sector administrative
4 decision or process in this state may have affected an
5 individual.

6
7 The Ombudsman has a broad mandate across many public
8 services provided by the government of the day and may
9 receive, investigate, and resolve complaints of
10 maladministration about state government agencies, local
11 governments and universities; review child deaths and
12 family and domestic violence fatalities; improve public
13 administration for the benefit of all Western Australians
14 through education and liaison with public authorities; and
15 undertake some statutory monitoring and inspection
16 functions.

17
18 It has been said that a statutory office holder may do
19 nothing but that which is expressly authorised by law,
20 while an individual may do anything but that which is
21 forbidden by law. The Ombudsman's mandate is dictated by
22 the purpose of the Act that creates his office and limited
23 only by the terms of his appointment by the governor of
24 Western Australia. He has been appointed to serve
25 Parliament and the people of Western Australia.

26
27 The Ombudsman is one of a number of statutory officers that
28 have been referred to as comprising the integrity arm of
29 government. Other similar officers may report directly to
30 Parliament or to a committee of Parliament, and they are
31 the Office of the Auditor General, for example, the
32 Parliamentary Inspector for the Corruption and Crime
33 Commission, the Corruption and Crime Commissioner, the
34 Information Commissioner, and Public Sector Commissioner.

35
36 Each is a creation of Parliament and is given distinct
37 functions by legislation and enjoy some level of
38 independent decision-making from the government of the day.
39 Mr Field's duties as Ombudsman are geographically
40 constrained by his jurisdiction.

41
42 One example, if the Ombudsman is absent from Western
43 Australia the Parliamentary Commissioner Act provides that
44 the Deputy Ombudsman is to perform his powers, duties, and
45 functions. Another example, generally the Ombudsman has no
46 authority under the Act to resolve complaints of
47 maladministration made by a citizen of another state
48 against a decision of a government agency that is not a
49 West Australian agency.

50
51 The function of the Ombudsman is to conduct investigations

1 in accordance with the Parliamentary Commissioner Act to
2 ensure that public authorities in this state make lawful,
3 fair, and accountable decisions using rigorous
4 decision-making processes. And how he performs those
5 functions is a matter for him to determine, but it must be
6 within the confines of the Parliamentary Commissioner Act.
7 He performs those functions independently as an Officer of
8 the Parliament of Western Australia.

9
10 Mr Field is an experienced Ombudsman having held that
11 position in Western Australia since 2006, which is indeed
12 17 years. He was previously a lawyer. The Ombudsman is
13 responsible for seeking an adequate financial allocation
14 from consolidated revenue to perform the functions
15 Parliament has given the office, and like all agency heads
16 he is subject to obligations as to how state money is spent
17 as an accountable authority under the Financial Management
18 Act.

19
20 He is given financial resources to reach all the citizens
21 of Western Australia and manages as Chief Executive
22 Officer, and office with staff to assist him discharge his
23 functions. The Office of the Ombudsman Western Australia -
24 or the OWA - has a comprehensive organisational framework
25 with policies and guidelines covering governance and
26 conduct, communications, finance, and human resources.

27
28 The OWA is staffed by approximately 80 officers who are
29 experienced in what they do as public officers. This is
30 not an inquiry into whether an ombudsman should be
31 independently exercising the powers available to him under
32 the Act. It is accepted that independence in exercising
33 those powers of office is part of his role.

34
35 Rather, this is an inquiry into whether Mr Field's
36 commitment of the financial and other resources of the OWA
37 to advance the international activities in which he was
38 involved was an improper use of the power of the Office of
39 the Ombudsman. It is an inquiry into whether Mr Field
40 corruptly took advantage of his appointment as Ombudsman to
41 obtain a benefit for himself, for a colleague, and for the
42 International Ombudsman Institute and its members.

43
44 The Commission's inquiry will focus on the decision by
45 Mr Field to use public resources to undertake extensive
46 international travel over the last few years. The inquiry
47 will also focus on the decision by Mr Field to spend public
48 resources on activities for the benefit of the IOI.

49
50 Mr Field views the independence of his appointment as
51 essential to the performance of his role as Ombudsman.

1 Ensuring you act independently in performing any
2 undertaking means acting impartially and without bias,
3 being fair and responsible in exercising the
4 decision-making process that is undertaken before acting.

5
6 Usually a claim of independence is accompanied by an
7 expectation that decisions made will be transparent and
8 accountable, reasonable, and proportionate. The Ombudsman
9 independently makes decisions as to how he exercises the
10 statutory functions for which he is responsible. He
11 decides if and how he will investigate, review, inspect, or
12 monitor the matters within his jurisdiction.

13
14 The Office of the Parliamentary Commissioner for
15 Administrative Affairs and the Parliamentary Commissioner
16 Act are gazetted as under the Premier's administration;
17 however, the Ombudsman reports directly to Parliament and
18 therefore to the people of Western Australia. Mr Field
19 must make decisions independently but also responsibly,
20 impartially, and transparently.

21
22 Independence does not mean impunity. Independent decisions
23 are still accountable decisions. Mr Field is accountable
24 for how he uses the resources of this state. And as an
25 employer, Mr Field is still bound by other state and
26 federal legislation such as the Work Health and Safety Act,
27 I've mentioned the Financial Management Act, the
28 Procurement Act to name a few.

29
30 The Ombudsman should apply to his office the same
31 overarching principles of governance and rigorous
32 administrative decision-making that he expects of other
33 Western Australian government agencies. When spending
34 public money it is expected any chief executive of a public
35 sector agency will do so for a purpose aligned with the
36 agency's functions, purpose, and for the benefit of Western
37 Australians.

38
39 Finally, independence does not mean isolation. As would be
40 expected of a senior officer of this state, the Ombudsman
41 and the OWA work collaboratively with other local,
42 national, and international integrity and accountability
43 bodies. However, any collaboration should primarily be for
44 the benefit of Western Australia.

45
46 Mr Field will be examined about a number of matters
47 including his responsibilities within the OWA for prudent
48 spending and managing finances, his approval of expenditure
49 for travel and related matters, the procurement practices
50 within the OWA, recruitment practices, and other matters
51 concerning the governance of the OWA.

1
2 The Ombudsman and other leaders in government departments
3 have an important role to play in providing services for
4 the benefit of the Western Australian community. They help
5 set and maintain the culture of the agencies they lead.
6 They are stewards of public funds. They are ultimately
7 responsible for integrity and governance frameworks in this
8 state.

9
10 Having carefully weighed the benefits of public exposure
11 and public awareness against the potential prejudice and
12 privacy infringements you have determined, Commissioner,
13 that it is in the public interest to open this examination
14 to the public.

15
16 The Corruption, Crime and Misconduct Act recognises that
17 the decision to open an examination to the public is
18 multifaceted. It is based on balancing considerations as
19 to prejudice and public interest but informed by the
20 circumstances. Circumstances may change. The Corruption,
21 Crime and Misconduct Act allows you, Commissioner, to close
22 an examination to the public should you see fit at any
23 time.

24
25 This examination is part of the Commission's ongoing
26 investigation that commenced in early September 2023.
27 Since then, the Commission has received evidence from
28 several witnesses in private examination and has issued
29 many notices to produce records on persons and entities.

30
31 During this public examination the actions of other public
32 officers may form part of the evidence. Some of those
33 officers may not have had an opportunity to respond to
34 allegations concerning their conduct. The Commission is
35 cautious about forming a view on the evidence without
36 giving a person a proper opportunity to respond.
37 Accordingly, any evidence about the action of others should
38 be treated with circumspection until the Commission's
39 investigation is complete.

40
41 Thank you, Commissioner.

42
43 **THE COMMISSIONER:** Thank you, Ms Nelson.

44
45 The Commission will adjourn for a short time and then we
46 will return and continue the proceedings.

47
48 (Short adjournment)

49
50 **THE COMMISSIONER:** Please be seated.

1 **THE ASSOCIATE:** Before your examination begins, it is
2 necessary for you to take an oath. Please take the Bible
3 and card in your right hand and read the oath out loud.

4
5 **CHRISTOPHER JAMES FIELD SWORN AT 10.20 AM:**

6
7 **THE COMMISSIONER:** Now, this is a public examination, so
8 the public may have access to it.

9
10 Mr Field, just a couple of quick questions that are almost
11 embarrassing to ask, but I ask them anyway. The notice to
12 witnesses, I see you've signed it?---I have, Commissioner.

13
14 Did you read it?---I did, Commissioner.

15
16 And did you understand it?---I did, Commissioner.

17
18 Thank you.

19
20 Ms Nelson.

21
22 **NELSON, MS:** Mr Field, your full name is Christopher James
23 Field?---Correct.

24
25 And you are the Parliamentary Commissioner for
26 administrative affairs in this state?---Yes.

27
28 And you've held that position for 16 years now?---First
29 appointed in March 2017, so coming on 17 years, counsel.

30
31 **THE COMMISSIONER:** Not March 2017?---Oh, sorry. March
32 2007. My sincere apologies, Commissioner. March 2007.

33
34 **NELSON, MS:** In fact, that has been three concurrent terms
35 of five years each?---Yes, an initial term and then three
36 concurrent terms, yes, counsel.

37
38 The current term, I understand, will end in 2027?
39 ---Correct.

40
41 Now, you previously gave evidence in a private examination
42 before the Commission on 2 and 3 November last year. Is
43 that correct?---I did.

44
45 During that examination, your letter of appointment was
46 shown to you. I'll just show that to you again. First of
47 all, the letter from the public sector commissioner
48 enclosing your appointment, and that is Document 0026^,
49 thank you, Madam Associate.

50
51 0026^

1
2 **NELSON, MS:** See that letter is dated 10 February 2022.
3
4 **THE COMMISSIONER:** Just one second. Now you've done it.
5 Thank you. I just didn't have the document. I now do.
6 Carry on.
7
8 **NELSON, MS:** Thank you, Commissioner.
9
10 Madam Associate, can we minimise it to see the entire
11 letter, thank you. We can see it has been signed by the
12 public sector commissioner, Ms Sharyn O'Neill?---Yes.
13
14 And it enclosed an Instrument of Appointment consisting of
15 an executive council minute and a schedule of determination
16 relating to leave of absence and travel, is that correct?
17 ---Yes.
18
19 I will show you those two documents. 0026A^, thank you,
20 Madam Associate.
21
22 0026A^
23
24 **NELSON, MS:** You can see the date of the meeting of the
25 executive council right down the bottom of the screen,
26 January 2022, the 25th, and this appoints you - or it's
27 advising the governor to appoint you under the
28 Parliamentary Commissioner Act for a period from March 2022
29 to March 2027, is that correct?---Yes.
30
31 And it also says that you are entitled to such leave of
32 absence and travel as set out in the attached schedule,
33 correct?---Yes.
34
35 If we turn the page we can see there is a determination
36 relating to leave of absence and travel. I'll give you a
37 minute to refresh your memory as to what that says?---Yes,
38 thank you, counsel.
39
40 I'll just show you the last page. An oath of office. You
41 can see this actually - this was attached to the letter
42 from the public sector commissioner, and it has not yet
43 been signed by yourself, but I understand previous you told
44 the Commissioner that you had a recollection that you swore
45 this oath before the Speaker of the Legislative Assembly?
46 ---Correct, counsel.
47
48 Now, if we could go back to the page before, thank you, the
49 determination. On the last occasion, and I am referring
50 to, for counsel's benefit, Transcript 0409^ at page 15 to
51 16. On the last occasion, you told the Commission that you

1 did not recall considering this instrument since you were
2 first appointed 16, or now 17, years ago. Do you recall
3 telling the Commissioner that, Mr Field?---I - I'm sorry,
4 I - counsel, I'm - I - if that was - it - I absolutely have
5 not a single reason to doubt that was what the transcript
6 says. If that is correct, I - I think I've misspoken,
7 somewhat. Um, I was referring to this particular, um, term
8 of appointment, not the previous terms of appointment.

9
10 **THE COMMISSIONER:** Well, no. Your previous evidence, as I
11 understood it, was to all terms of appointment. But you
12 now wish to correct that?---Well, I - I believe I therefore
13 owe a sincere apology to the Commission. Um, what I was
14 attempting to say on that day was that I hadn't seen -
15 hadn't turned my mind to that particular term of
16 appointment, not the previous terms of appointment.

17
18 **NELSON, MS:** Do you have a recollection as to whether the
19 previous terms of appointment were in the same terms as
20 this?---No. My recollection, to the best of my
21 recollection, is they - they were not.

22
23 In what way did they differ?---They may have differed in
24 other ways, material or otherwise, but I certainly don't
25 recollect them having a provision in relation to seeking,
26 ah, approval for leave from the Premier.

27
28 So your evidence today is that this latest appointment
29 might have been the first time that you were subject to the
30 determination that we see on the screen?---And - and,
31 counsel, um, to assist the Commission, as I must, I went
32 back through my records, um, after seeing this particular
33 terms of appointment during those hearings, um, to refresh
34 my memory, ah, back to 2007, um, and to the best of my
35 recollection of the documents, the records that I have, ah,
36 I believe this, ah, may be the first time that, um, that
37 was included. Certainly the immediate previous terms of
38 appointment didn't make reference to, ah, approval from a
39 premier.

40
41 Paragraph 3:

42
43 A period of leave referred to in Clause 2 may be
44 taken with the approval of the minister.

45
46 The minister being the minister to whom the administration
47 of the Act is committed by the governor. Do you agree that
48 the plain reading of those words would appear to suggest
49 that you're not obligated to take a period of leave, but
50 should you wish to do so, you are to seek the approval of
51 the minister?---I - I don't, counsel, for two reasons.

1 One, because it is, to the best of my recollection, in the
2 previous - that is, over the previous 15 years, um, no
3 such, um, clause was contained, ah, in, ah, the executive
4 council minutes, to the best of my recollection - - -

5
6 Well, Mr Field, I don't want to cut you off, but just
7 looking - if you could just answer my question?---Yep.

8
9 Looking at that paragraph 3 on the screen, is it your
10 reading of that today that you may take a period of leave,
11 but should you wish to do so, you should seek the approval
12 of the minister?---I'm very sorry, counsel. The only
13 reason I mention the previous three is it goes to my state
14 of mind about my interpretation of that, um, clause, and I
15 don't believe that clause was actually correctly inserted
16 into - um, and this does happen - um, I don't believe that
17 clause was correctly inserted into, um, a schedule that
18 applies to an independent officer such as the Ombudsman,
19 and in fact it was likely placed there in error.

20
21 So your evidence today is whilst that sentence on the
22 screen today might say that, you don't agree with that. Is
23 that the position? You don't agree with the fact that you
24 should seek the approval of the minister prior to taking
25 leave?---Well, two - two things. Leaving aside, I think,
26 um, my view about the permissive as opposed to the
27 mandated, um, the - it has not been the case in my entire
28 term as Ombudsman, um, that I have ever been required to
29 seek approval to take leave from, um, the minister, um, and
30 at the time of being, ah, renewed, no person in government
31 indicated to me any change to that position whatsoever.

32
33 Well, putting the requirement to get approval to one side,
34 is it the fact that you do not follow a practice of seeking
35 the minister's approval before you take leave?---Correct.
36 It was a - it - it - ah, it is a - it is a practice that
37 has, ah, never been required of me and a practice that I
38 have not followed.

39
40 Well, just putting the requirement to one side?---Oh,
41 sorry. Yes, correct.

42
43 Whether you're legally obligated to - - -?---Correct.

44
45 Different reasonable minds may have a difference of opinion
46 about that. You say you do not follow a practice of
47 seeking approval before you take leave?---Correct.

48
49 And you stated that you approve your staff's leave?
50 ---Correct.

51

1 In the OWA?---Correct.

2

3 But your own leave is approved by yourself, is that
4 correct?---Correct.

5

6 And that is still the case?---Correct.

7

8 I'm summarising what I think the import of your evidence
9 was on the last occasion, so correct me if I'm wrong, but I
10 believe your position is that you do not agree that you
11 should get approval to take leave prior to taking leave,
12 because you cannot seek approval to take leave from a
13 minister to whom you are not responsible to report. Is
14 that the position?---Counsel, I think that's completely
15 correct. There is - from - what I'd intended, and I may
16 have said it incredibly ineloquently - my intention when I
17 gave evidence last time was to say two things. One, that
18 section, ah, I consider to be permissive. Second of all,
19 and in any event, it is not appropriate for an independent
20 officer to take - um, to seek approval from a minister for
21 their leave, but it is also the case that subsequent to the
22 last hearing I went back to the old ExCos to refresh my
23 memory, because I was quite surprised when I saw this at
24 the hearing, and to the best of my recollection this
25 appears for the first time in 2017.

26

27 I see?---And I think it was put there inadvertently, and
28 that does happen.

29

30 **THE COMMISSIONER:** Inadvertent or not, it's there?---Oh,
31 agreed, Commissioner. And it is - well, it is my
32 intention, Commissioner, to write to the Premier at the end
33 of these hearings to ask of it to be removed, and to be
34 consistent with the previous 15 years.

35

36 Sorry, Mr Field, your voice is dropping?---I'm sorry,
37 Commissioner.

38

39 That would be an appropriate volume?---Thank you,
40 Commissioner. Would you - should I repeat what I just
41 said?

42

43 No?---Thank you.

44

45 I got it, but if you could just keep your voice at that
46 volume, that would be helpful?---Apologies, Commissioner.

47

48 **NELSON, MS:** Madam Associate, could we have the
49 Transcript 0409^.

50

51 0409^

1
2 **NELSON, MS:** This is the transcript of your evidence on
3 Friday 3 November 2023. Page 17, thank you. See just
4 above the bold typeface, 'THE COMMISSIONER', you say:

5
6 And in fact, a report to the premier would be an
7 outrageous, um, compromise of the independence of the
8 Office of the - it would be untenable.
9

10 Do you agree with that today, Mr Field? Is that still your
11 position?---It - absolutely.
12

13 Is there any aspect of your role, any part of your
14 activities that you undertake performing your functions as
15 Ombudsman, that you would consider warrant reporting to a
16 minister, whether that's the Premier or another minister?
17 ---No. Um, ah, unless, counsel, um, and as you correctly
18 cited in your, um, opening address, it fell within the
19 Financial Management Act.
20

21 Thank you. If we could have that taken down.
22

23 It was put to you on the last occasion that the
24 Parliamentary Gazette referenced separately your office as
25 Parliamentary Commissioner for Administrative
26 Investigations, and the Parliamentary Commissioner Act, so
27 both, as under the administration of the Premier. Do you
28 recall that evidence?---(No audible response.)
29

30 You're nodding. Just for the transcript, if you could say
31 yes, thank you?---Yes. I'm sorry, counsel. Yes.
32

33 And if we could have the Gazette 0091^, thank you, Madam
34 Associate.
35

36 0091^
37

38 **NELSON, MS:** So the effect of this is recognising that the
39 governor and executive council has approved the
40 administration of departments, authorities, statutes and
41 votes being placed under control of respective ministers,
42 and then under the Premier, if we could just scroll down,
43 thank you, we can see a reference to Parliamentary
44 Commissioner for Administrative Investigations with an
45 asterisk, and then under that, Parliamentary Commissioner
46 Act 1971.
47

48 Do you recall the import of the asterisk was - it says:
49

50 Entity reports directly to Parliament.
51

1 ?---Correct, counsel.

2

3 I understand from reading the transcript of your last
4 examination that you reject the notion that the Premier has
5 any role in administering the Parliamentary Commissioner
6 Act, except for very narrow circumstances, such as if you
7 wanted to seek an amendment of the Act?---Correct.

8

9 And was it also your evidence that therefore the Premier
10 had no role at all in administering the Office of the
11 Ombudsman of Western Australia?---Well, not just no role,
12 but it would be, ah, from my evidence, profoundly
13 inappropriate for a premier to attempt to do so.

14

15 If you were to separate the administration of an Act and of
16 your office from a reporting obligation, so if you were to
17 accept that the Premier had an administrative role - I
18 understand you don't accept that, but if you were to accept
19 that, but was not the minister to whom you reported, do you
20 see any practical distinction from your point of view as to
21 how you would conduct your functions, perform your powers?
22 ---I - I might just get you to - I - I do not - I want to
23 be so precise and make sure I've answered you truthfully.
24 Could I have you just repeat that question, counsel?

25

26 It appears to me that this gazette draws a distinction
27 between the Premier administering your office as
28 Parliamentary Commissioner and administering the Act, the
29 Parliamentary Commissioner Act, from a reporting
30 obligation. Because there is that asterisk, of course,
31 that says that you report directly to Parliament, so you
32 don't report to the Premier. But this document appears to
33 give the Premier some administration over your Act. I'm
34 just wondering if you could see any practical distinction
35 between an administration and a reporting obligation?---My
36 - I see this distinction that, ah, under the Westminster
37 system of accountability, a - every minister is, ah,
38 assigned the administrative responsibility for an Act. So,
39 for example, if a question was asked in Parliament about my
40 office, it would be directed towards the Premier, and if
41 there were requirements for, say, amendment to the
42 Parliamentary Commissioner Act - - -

43

44 Just keep your voice up?---Sorry. If there were
45 requirements for amendment to the Parliamentary
46 Commissioner Act, they would be, ah - the carriage of those
47 would be with the Department of Premier and Cabinet, and
48 the Premier, but in terms of operational, ah, matters, no,
49 the Premier is utterly separable, ah, and cannot be
50 involved in the operations of the Ombudsman. And - and no
51 premier, um - ah, ah, ah - ah, would generally, ah, ever

1 seek to do so.

2

3 I think your evidence on the last occasion was your
4 relationship with the Premier is limited to you giving
5 briefings to his chief of staff?---Exactly.

6

7 And since November the 2nd and 3rd of last year, have you
8 had any - a different relationship with the Premier? Has
9 it changed in any way?---I haven't had a cause to give -
10 ah, I - I would have to check my records, um, counsel, but
11 I think since that time I haven't had cause to undertake
12 one of my normal quarterly briefings with the Premier's
13 Office.

14

15 But those quarterly briefings, as I understood your
16 evidence, were to the chief of staff, not to the Premier
17 himself?---I have met with premiers historically, but my
18 normal practice would be to give a quarterly, ah - roughly
19 quarterly briefing to the Premier's chief of staff.

20

21 And that normal practice that you just described hasn't
22 changed since the beginning of November last year, is that
23 correct?---I haven't given a briefing, as I recollect it.

24

25 Thank you, that can be taken down.

26

27 During your previous evidence you referenced the Venice
28 Principles as being principles that you follow in terms of
29 independence and generally giving your role purpose, is
30 that correct?---It - the Venice Principles and the United
31 Nations General Assembly Resolution, correct.

32

33 **THE COMMISSIONER:** Sorry, your voice keeps dropping?---I'm
34 sorry, um, ah - I'm very sorry, Commissioner.

35

36 That's all right, just keep it up?---The Venice Principles
37 and the United Nations General Assembly Resolution both,
38 counsel.

39

40 **NELSON, MS:** If I could bring the Venice Principles up on
41 the screen, thank you, Madam Associate, 0401^.

42

43 0401^

44

45 **NELSON, MS:** So just looking at the front page, these
46 principles were adopted in 2019 by the European Commission
47 for Democracy through Law, otherwise known as the Venice
48 Commission?---Correct.

49

50 Are you a member of this Commission?---Ah, no, I am not.

51

1 If we could go to the next page, I'll just give you a
2 minute to look at that document. When have you last had
3 occasion to look through the Venice Principles in document
4 form, Mr Field?---Oh, I'd be, ah - well, as part of
5 preparation for this hearing. So I - I was trying to
6 recollect the last time I did it, and it would have been in
7 preparation for this hearing, counsel.

8
9 Thank you. So this page that's on the screen, they appear
10 to me to be the foundational statements or the preamble
11 before we get to the actual principles themselves. Is that
12 your understanding?---That's my understanding, counsel.

13
14 **THE COMMISSIONER:** We might just pause because I think the
15 microphone is not picking you up.

16
17 **NELSON, MS:** Thank you.

18
19 **THE COMMISSIONER:** Do we need to adjust it further or is
20 it - - -

21
22 **NELSON, MS:** It was probably my folder, Commissioner, that
23 was in the way. Thank you. Just looking through that page
24 there, there's a lot of reference to core principles of
25 independence and objectivity and transparency, fairness,
26 impartiality as to how an ombudsman institution should
27 conduct itself. Do you agree with that?---Correct.

28
29 There's reference to taking action independently against
30 maladministration and alleged violations of human rights?
31 ---Correct.

32
33 And I take it that you would agree with all these
34 statements?---Yes, I would.

35
36 And endeavour to fulfil your functions by following these
37 statements?---Yes, I would.

38
39 And if we go to page 3, down the bottom half of page 3, I
40 take it that having that foundation of the preamble, the
41 principles themselves then start to be articulated on page
42 3 and over page 4. Is that your understanding?---That is
43 my understanding, counsel.

44
45 The second principle there:

46
47 The ombudsman institution, including its mandate,
48 shall be based on a firm legal foundation.

49
50 What's your understanding about the reference to a mandate?
51 What does that refer to in your mind, Mr Field?---Well, I

1 would understand that as, ah, all of the roles and
2 functions that the ombudsman would otherwise undertake.

3
4 And it goes on to say that those characteristics and
5 functions are elaborated at the statutory level?---Correct.

6
7 So the ombudsman institution is to be based on the
8 statutory mandate, is that your understanding of that
9 paragraph?---It's to be based on a mandate which is then
10 further elaborated at a statutory level, correct.

11
12 So it's your understanding that the mandate's not only
13 articulated by the statute that creates the ombudsman's
14 institute in whatever jurisdiction?---Well, ah, counsel,
15 certainly not. A statutory mandate is only one part of
16 interpreting the mandate of the ombudsman.

17
18 And the other part being?---Ah, principally the United
19 Nations Resolution on the ombudsman and mediator
20 institutions, good governance, the rule of law and human
21 rights, and the second is the Venice Principles. United
22 Nations Resolution is the more apposite of the documents,
23 ah, of the two.

24
25 So apart from the Parliamentary Commissioner Act you say
26 your mandate is also these Venice Principles and the
27 UN Resolution?---Ah, the way I would describe it now as I
28 have described it historically, counsel, is that the
29 Parliamentary Commissioner Act - as in any ombudsman
30 legislation - must be seen, um, interpreted and understood,
31 ah, with the lens of the United Nations Resolution.

32
33 I will bring that up on the screen in a minute, but I just
34 wanted to draw your attention to the next page, and
35 principally Venice Principle 10. I'll give you a minute to
36 read that. The way I read that principle, Mr Field, is
37 that an ombudsman should be in office for a single term or
38 a single term plus one further renewal of a term, so two
39 terms in total. Is that what that principle says,
40 Mr Field?---Correct.

41
42 And do you have a view on the applicability of that
43 principle to your position?---Um, it's my view - yes, I do,
44 and my view is that, ah, over a period of time all
45 parliaments, ah, across the globe including Western
46 Australian Parliament may wish to give consideration to
47 introducing either a single term or one non-renewable term
48 for (indistinct).

49
50 So you see that principle as an aspirational principle for
51 the West Australian Government to consider?---Ah, I think

1 it's a desirable principle. It would be entirely a matter
2 for the sovereign Parliament at which stage they wish to do
3 it.

4
5 That document can be taken down, thank you. Can we have
6 the UN Resolution, 0407^.

7
8 0407^

9
10 **NELSON, MS:** Is this the resolution that you have been
11 referring to in your evidence, Mr Field?---Correct,
12 counsel.

13
14 We could go to the next page, thank you. Again, there's an
15 emphasis on autonomy and independence from the executive or
16 judicial branch of government for an ombudsman, whatever
17 jurisdiction they practice in. Is that correct?---Yes, the
18 principles, ah, in the UN Resolution might make quite clear
19 that it is, ah, inappropriate for any body of the executive
20 branch, ah, or the judicial branch to interfere in the
21 operations of the Office of the Ombudsman.

22
23 In the middle of the screen starting with the word:

24
25 Welcoming the rapidly growing interest throughout the
26 world in the creation and strengthening of ombudsman
27 and mediator institutions, and recognising the
28 important role that these institutions can play, in
29 accordance with their mandate, in support of national
30 complaint resolution.

31
32 Does that paragraph constrain an ombudsman to their
33 national jurisdiction or the jurisdiction in which they
34 operate under their mandate?---Counsel, that's certainly I
35 don't believe the import of that section, and it's
36 contradistinctive to the other numerous sections in the
37 United - United Nations Resolution that positively
38 encourage ombudsman to be engaged, ah, with both the
39 International Ombudsman Institute and international
40 collaboration, sharing of information, and sharing of
41 knowledge. And in fact, this resolution goes on to speak
42 about that in some detail.

43
44 Can you point the Commissioner to where it does speak about
45 that, Mr Field?---I don't want to break a touch screen, um,
46 so it's not - I won't be able to move that.

47
48 **THE COMMISSIONER:** A bit slower?---I'm sorry, I have to
49 keep going down. I'm so sorry. Um, so the - oh, thank you
50 so much. There is one - there are quite a few:

51

1 Stressing the further - stressing further the
2 importance of international cooperation between
3 Ombudsman offices and mediators, and recalling the
4 role played by regional and international
5 associations of Ombudsman and mediator institutions
6 in promoting cooperation and sharing best practices.
7

8 Of course, of which the IOI was one:
9

10 Encouraging the Ombudsman and mediator institutions
11 to share best practices on their work and
12 functioning, and to continually engage actively with
13 the Office of the United Nations Human Rights
14 Commissioner for Human Rights -
15

16 - which the IOI does -
17

18 - the International Ombudsman Institute, the Global
19 Alliance of National Human Rights Institutions -
20

21 - that is GANHRI for short, which we do -
22

23 - and our regional networks and associations to
24 exchange experiences, lessons learned and best
25 practices.
26

27 And it does then go on further.
28

29 **NELSON, MS:** Thank you. If I could just ask you one
30 question about that paragraph starting 'Encouraging'. So
31 it's, 'To share best practices on their work and
32 functioning.' So it's not to function internationally, is
33 it, Mr Field; it is to share how they practice their
34 functions within their jurisdictions but sharing that
35 internationally. Is that correct?--Well, certainly my
36 interpretation of that section, um, and as best as I can
37 speak from my knowledge gathered from the 205 members of
38 the International Ombudsman Institute, it has always been
39 understood that that includes, ah, engagement including,
40 ah, engagement that would require travel to other
41 countries. And that is exactly what those sections mean.
42

43 **THE COMMISSIONER:** Well, that might well be everybody
44 else's view. I'm just a very simple person so I'm just
45 going on the words. Do the words say that?--I - I think I
46 can, Commissioner, answer it in two ways. I am one of
47 24 directors on the International Ombudsman Institute.
48 There are another 23, ah, all of whom travel on a very
49 regular basis, um, and all of whom do so on the basis in
50 part of these - of these principles with no other enabling
51 concept in their legislation to do so.

1
2 **NELSON, MS:** Do you agree, Mr Field, that the paragraph
3 doesn't say that you have to share best practices on your
4 work and functioning by travelling internationally?---I
5 must say I have always taken that as absolutely implied,
6 ah, as - as do the members of the United Nations Humans
7 Rights, the High Commissioner for Human Rights that travels
8 regularly, as does the Global Alliance of National Human
9 Rights Institutions - GANHRI - that travel regularly, for
10 example, to Ukraine and to other places.

11
12 Do you agree that you can share best practice on your work
13 and functioning within WA by sharing documents, having
14 cooperative agreements, exchanging policies and procedures?
15 It's not only about travelling?---You could not be more
16 right, counsel. You absolutely can, and it is a
17 combination of all of those things. So my office does
18 extensive amounts of networking and sharing in accordance
19 with the United Nations Resolution from Perth, from Western
20 Australia, but it also does so globally as well.

21
22 And how does your office do that extensive engagement by
23 not travelling?---Ah, by teleconference, by video
24 conference, ah, by the exchange of staff, by memorandum of
25 understanding and other such matters. Um, so it's a
26 combination of all of those things. Travel is only one
27 component of, ah, what I would say is realising the mandate
28 that the United Nations Resolution, um, ah - United Nations
29 Resolution on ombudsman, um, was intending. A resolution
30 of course that was, um, ah, supported by the Australian
31 Government, and of which they continue to give strong
32 support.

33
34 That can be taken down, thank you, Madam Associate. In my
35 opening I referenced the fact that the Parliamentary
36 Commissioner Act on my view created your office. You agree
37 with that, Mr Field?---(No audible response.)

38
39 You're nodding your head?---I've got to stop nodding my
40 head, counsel. Yes.

41
42 And that Act sets out the powers and functions of your
43 office?---It does, counsel, and the Royal Commissions Act
44 as well.

45
46 So the Royal Commissions Act instructs you as to how you
47 might conduct particular inquiries?---Correct, correct.

48
49 Could we have 0101^, thank you.

50
51 0101^

1
2 **NELSON, MS:** Page 15. Section 5(1), do you agree that
3 your primary purpose is to conduct investigations in
4 accordance with the Parliamentary Commissioner Act?---Yes,
5 counsel.
6
7 While we're there if we could just go to paragraph - sorry,
8 section 7.
9
10 **THE COMMISSIONER:** Subsection 7?
11
12 **NELSON, MS:** No, section 7, thank you, Commissioner.
13
14 **THE COMMISSIONER:** Section 7.
15
16 **NELSON, MS:** Thank you. Section 7(3). Were you aware of
17 this subsection in relation to an Acting Commissioner,
18 Mr Field?---Seven subsection - ah, yes, sorry, 7(3)?
19
20 Yes?---Yes, counsel.
21
22 It says:
23
24 The Acting Commissioner is entitled - - -
25
26 ?---Oh, sorry, yes, counsel. Yes.
27
28 - - - to such remuneration, leave of absence and such
29 travelling and such other allowances as the Governor
30 may determine.
31
32 Is there an Acting Commissioner at the moment?---Ah, no.
33 Well, I am the Commissioner so there would be no need for
34 an Acting Commissioner.
35
36 Section 7(2) refers to an Acting Commissioner being
37 appointed if you are absent from duty for any reason or
38 absent from the state. Has an Acting Commissioner ever
39 been appointed when you have been physically absent from
40 the state, Mr Field?---Ah, no. No, counsel.
41
42 If we could go to section 6A, refers to the creation of a
43 Deputy Parliamentary Commissioner office. And as I
44 understand it, you do have such a Deputy Commissioner
45 Office holder at the moment, Mr Field?---Ah, yes, I do.
46 Correct.
47
48 And during the 17 years that you have been Commissioner
49 have you had a Deputy Commissioner?---Ah, yes, correct.
50
51 If we could just scroll so we can see the whole of

1 subsection 2 of section 6A, thank you. When you are absent
2 from duty for any reason or absent from the state - and I'm
3 reading section 6A(2) (a) - then the Deputy Commissioner
4 shall act in the office of Commissioner during your
5 absence?---Correct.
6
7 Has that occurred at any time that you have been travelling
8 outside Western Australia, Mr Field?---Ah, it occurred once
9 when I travelled to the Kingdom of Bahrain, otherwise no.
10
11 Once when you travelled, sorry, to the - - -?---Sorry, to
12 the - I'm sorry, Commissioner. Once when I travelled to
13 the Kingdom of Bahrain, but otherwise no.
14
15 **THE COMMISSIONER:** And when was that?---Ah, that was very
16 recently, Commissioner. The immediate dates escape me, but
17 it was late last year.
18
19 Before or after your examination by the Commission?
20 ---After.
21
22 When you find a convenient time, Ms Nelson.
23
24 **NELSON, MS:** Thank you. I just have one more question,
25 thank you, Commissioner.
26
27 So is it the case that other than when you travelled to
28 Bahrain in 2023 when you were outside the state of Western
29 Australia the Deputy Commissioner did not assume your
30 powers and functions - - -?---That is correct,
31 Commissioner.
32
33 - - - under this Act?---That is - that is, um - sincere
34 apologies, Commissioner. That is correct, counsel.
35
36 And why was that, Mr Field? Why only the once?---Oh, in,
37 ah - the absence from the state provision was brought to my
38 attention - and I - this is to the best of my recollection.
39 I cannot remember when it was, it was many years ago. It
40 was well before I was elected President of the IOI. It was
41 brought to my attention by my deputy at that time, ah,
42 Gwenyth Mary White. Ah, and I considered that provision, I
43 turned my mind to it in complete good faith and with very
44 good detail, and I came to the conclusion that legally, ah,
45 it did not stand for the proposition, um, that if I was
46 working and available to work and accessible for work, um,
47 that I was absent from the state for the interpretation of
48 the legislation.
49
50 Did you seek legal advice on your interpretation of that
51 particular subsection?---No. I felt, um, ah - well, there

1 are many, many matters where we don't seek legal advice and
2 that was one where I felt, ah, comfortable that given the
3 year of the passage of that, ah, amendment to the Act in
4 1984, given the state of technology in 1984 that the
5 Parliament could not have intended, um, that an ombudsman
6 who would be available otherwise 24/7 by all forms of
7 technology, um, who could do their job, ah, in every
8 conceivable ways if they were in Perth that that's what the
9 Parliament could have intended by that section.

10
11 **THE COMMISSIONER:** So 'absent from the state' doesn't mean
12 'absent from the state'?---Absent from the state if I -
13 Commissioner, the very - absolutely - and this was many
14 years before the presidency, um, I took the view that
15 'absent from the state' meant that, um, for whatever reason
16 I physically could not do my - I could not do my job with
17 the, um, capacity for, ah, fast internet, mobile phone
18 technology, laptop technology, there is nothing that I
19 would be required to do under the Act that could not be
20 done by me at, um - whether I was in Perth, in Kalgoorlie,
21 in South Australia, because South Australia would also be
22 unlawful under that section if that was the case, um, as it
23 would be in Kiev. And I took that view in that time.
24 Counsel, I - I may be wrong, but it was absolutely my good
25 faith interpretation of the legislation at the time.

26
27 **NELSON, MS:** I take it when you travelled to Bahrain in
28 2023 you reconsidered your interpretation of that
29 subsection?---Um, I only did that on the basis of the fact
30 that I wanted to avoid - and this is very frank - avoid any
31 further, um, ah, matters that might be detrimental to the
32 institution of the ombudsman being publicised. And that
33 was the sole reason I did it, not because I thought it was
34 the right thing to do or that I had to do it.

35
36 And if you happen to travel internationally again, is it
37 your intention that the Deputy Ombudsman would assume your
38 powers and functions?---No, no.

39
40 It's a convenient time, thank you, Commissioner.

41
42 **THE COMMISSIONER:** Very well. We'll adjourn for
43 20 minutes for the break.

44
45 (Short adjournment)

46
47 **THE COMMISSIONER:** Please be seated.

48
49 **NELSON, MS:** Mr Field, before the break, I was asking you
50 about when the deputy ombudsman assumed your powers and
51 functions when you went to Bahrain - - -?---Yes.

1
2 - - - to travel in 2023, and it was suggested to you that
3 was after you had been examined by the Commission, and you
4 agreed with that, but just as a matter of fairness, I
5 understand that you went to Bahrain October the 17th to the
6 21st last year, does that sound correct?---And counsel, I
7 am indebted to you for correcting my, um, honest and
8 genuine mistake. It was after, um, the publication of the
9 newspaper, but before the hearing. That is exactly
10 correct.

11
12 And to complete a picture of your functions, we looked at
13 the Parliamentary Commissioner Act but you do have some
14 other, smaller functions under other legislation?---Yes.

15
16 Could I have 0024^? This is actually a page from your
17 annual report for the financial year 2022 to 2023.

18
19 0024^

20
21 **NELSON, MS:** Have you seen that page before, Mr Field?
22 ---Yes, I have, thank you, counsel.

23
24 And does that set out some smaller oversight and monitoring
25 functions that had been granted to you by Parliament under
26 'Other legislation'?---Correct.

27
28 And your office also does those particular functions
29 arising from each of those parliamentary Acts?---Correct.

30
31 That can be taken down.

32
33 So apart from the Parliamentary Commissioner Act and those
34 legislative instruments we saw on the screen just then, and
35 your appointment document, do you consider that you are
36 also subject to any internal OWA policies and procedures?
37 ---Oh, yes, counsel. We have a - a range of, ah, policies
38 and procedures. Ah, human resources, ah, the - good
39 governance, financial resources, financial management,
40 those sort of matters. There - there would be many of
41 them.

42
43 My question, to be very clear, is do you and your office,
44 as Parliamentary Commissioner, consider that you are
45 subject to those policies and procedures?---Yes. We would
46 follow those, ah, procedures. They're not otherwise set
47 out in law, um, but we choose to follow them as we consider
48 them to be good practice.

49
50 And by 'we', do you mean you and the officers of the OWA?
51 ---Correct. I shouldn't speak for others. I do.

1
2 And are you also guided by other documents that are not
3 binding as such, such as your strategic direction and your
4 mission statements?---Correct.

5
6 Perhaps if we could look at the strategic plan to 2025,
7 003^, page 2, thank you, Madam Associate.

8
9 **THE ASSOCIATE:** 003^?

10
11 **NELSON, MS:** Correct. Sorry, 0003^.

12
13 0003^

14
15 **NELSON, MS:** Page 2. It clearly states your mission is to
16 serve Parliament and Western Australians?---Yes.

17
18 And the dot points under that mission statement are
19 functions arising from the Parliamentary Commissioner Act
20 and then those other Acts that we looked at on the page
21 from your annual report?---Correct.

22
23 The key stakeholders for the OWA are also listed under four
24 dot points?---Correct.

25
26 By 'non-government organisations', who are you referring
27 to?---They would be organisations such as, ah,
28 Aboriginal-controlled organisations, ah, councillors of
29 social service, ah, women's refuges, other such
30 organisations. There - there would be many, counsel.

31
32 Organisations located in Western Australia?---Oh, no, not
33 necessarily in Western Australia. They could be, ah,
34 Australian, and potentially even international.

35
36 Then if you could go to the next page, page 3, thank you.
37 If we could have the whole of the strategic direction
38 portion of this page on the screen, thank you. Do you
39 recall seeing this page before, Mr Field?---Yes.

40
41 I gather that you would have had some input into
42 formulating these particular strategic direction aims?
43 ---Yes. It is somewhat dated now, counsel. I couldn't
44 speak to when it was. To the best of my recollection it
45 was some time ago now that I - I last settled this
46 document, but when it was settled, it certainly would have
47 been with my input.

48
49 On the front page we saw that it had, 'Strategic Plan'. If
50 we go to the front page, thank you, Madam Associate.
51 Scroll slightly to the bottom.

1
2 Strategic Plan 2022 to 2025

3
4 Do you agree that the purpose of this document is to be in
5 place for those three years?---Correct.

6
7 Is it likely that you settled this document approximately
8 two years ago?---My recollection - it is a vague
9 recollection, counsel - is that this would be very similar
10 to the strategic plan before it, and potentially even the
11 strategic plan before it. Um, I do not in any way wish to
12 be, ah - speak ill of strategic plans, but strategic
13 planning documents have never been a particularly
14 significant focus of the work of the - the office, ah,
15 mission statements, strategic plans and those sorts of
16 matters, so - - -

17
18 **THE COMMISSIONER:** Sorry, your voice is dropping again?
19 ---Oh, I'm sorry. I'm sorry, Commissioner. Um, strategic
20 plans, vision statements, mission statements, which of
21 course are used extensively, um, in - in the public sector,
22 um, I have - and my senior management team, have not, um,
23 ah, spent perhaps as much time as others - other agencies
24 may have spent on them. I think you'll find that that
25 strategic plan might be, ah, quite similar to the previous
26 strategic plans before it. When I last settled it, I could
27 not say for certain. It could be 21, 22, that sort of
28 timing.

29
30 Sorry, I'm a bit confused by your answer. Do you follow
31 the strategic plan or not?---Well, we follow - we follow
32 our Act, ah - - -

33
34 Well, that's obvious, but do you follow the strategic plan
35 or not?---Well, the strategic plan, Commissioner, the way
36 I've always viewed it is it has a series of - - -

37
38 I'm sorry?---Oh.

39
40 It's a very simple question. Do you follow the strategic
41 plan or not?---Yes, we do, Commissioner. Not in the way
42 that we follow the Act.

43
44 Carry on, counsel.

45
46 **NELSON, MS:** Thank you.

47
48 Could I have page 3 of this document on the screen again,
49 thank you, Madam Associate?

50
51 Looking at those headlines in bold, do they reflect the

1 OWA's priorities in your experience?---Correct. Although
2 it, of course, is out of date for, ah, a number of new
3 functions that we've been given.
4
5 What functions are they?---Our function in relation to the
6 reception of allegations of, ah, abuse of children from
7 over 4000 organisations, ah, other functions in relation
8 to, ah, police corruption - ah, if I - if I can say, it
9 does reflect the extent to which this document is
10 considered a particularly important document within the
11 organisation.
12
13 And given what's on the screen and the additional functions
14 you've just articulated, would you say that this direction
15 as set out reflects your work priorities as Ombudsman?
16 ---Well, it certainly reflects some of them, correct.
17
18 Only some of them?---Correct.
19
20 Apart from what's on the screen and the additional
21 functions you articulated, what are some of your other
22 priorities that are not reflected in this document?---Well,
23 it wouldn't reflect the very substantial work that we do in
24 relation to, ah, policy response, policy development which
25 is asked of us of government, ah, ah, um, the commencement
26 of new functions, it certainly doesn't include, ah,
27 engagement with ombudsmen in other states, meeting with
28 ombudsmen in other states, ah, ah, ah, it doesn't include
29 engagement with energy and water ombudsmen, it doesn't
30 include engagement with the International Ombudsman
31 Institute, so it's a - it's - it captures an aspect of the
32 work of the office, and it is intended for, ah, employees
33 of the office, to give them some guidance about the work
34 that they are doing.
35
36 And intended for yourself, as well, as guidance?---No.
37
38 So earlier you said that it did reflect your work
39 priorities in addition to those additional functions that
40 you have recently been given. Do you say, Mr Field, that
41 this document doesn't reflect your personal work
42 priorities?---Well, ah - counsel, I - I haven't reviewed
43 the strategic plan for some years. Um, ah, the strategic
44 planning vision statement and mission statement process,
45 ah, as my staff would know, um, has not always been one
46 which I've considered to be the most important aspect of
47 running an office. Um, so we do have one, um, and it is
48 intended for, as much as anything, for inductees into the
49 organisation to get a sense of the work that we do, um, but
50 I - that - that is not referred to on a daily, monthly, or
51 even intermittent basis in the organisation.

1
2 **THE COMMISSIONER:** Mr Field, about 10 minutes ago you
3 finally answered my question, 'Do you follow it?', and you
4 said 'Yes'. What you're now suggesting is that you don't.
5 What is the position?---We have a strategic plan,
6 Commissioner, and as it sets out our strategic direction,
7 ah, that is, ah, some of the functions we undertake, I
8 certainly follow the functions that we undertake as they're
9 enumerated under the Act and then repeated in the strategic
10 direction.

11
12 **NELSON, MS:** Do you accept that what is on the page
13 broadly reflects the functions that are outlined in the
14 Parliamentary Commissioner Act?---Yes. Yes, and they're
15 intended to.

16
17 A couple of answers ago, you said that staff know that this
18 is not the main or important aspect of your work. What did
19 you mean by that response?---Oh, that - ah, what I meant by
20 that, counsel, is that the staff, ah - my outstanding staff
21 are always told one thing: it is the Act that we follow,
22 and other matters are subordinate to it. So we don't, um -
23 ah, we would not say, 'Here is something in our strategic
24 plan'. We would go to our Act to ensure that we are doing
25 what is lawful and appropriate.

26
27 Thank you. That can be taken down.

28
29 How many FTE is in the OWA at the moment, Mr Field?---I'd
30 have to get you a precise number. It is around 70.

31
32 Around 70, thank you. As the chief executive officer of
33 that agency, have you broadly organised the structure of
34 the office to reflect the functions in the Act and in those
35 additional Acts that we looked at, from the annual report?
36 ---Yes, counsel.

37
38 And I gather you'd also have those support areas like
39 finance and HR?---Yes.

40
41 Do you get support from any other state agencies to perform
42 any aspect of your work or the support services required to
43 run an office?---Yes. There is some support service
44 provided by the Department of the Premier and Cabinet.

45
46 What support services are they?---Ah, and they are in
47 relation to payroll services.

48
49 Is that the only support service to run the office that's
50 outsourced?---Yes, correct.

51

1 Do you have nay governance structures such as executive
2 committees or any other types of governance or oversight
3 committees internally in the OWA?---Yes, we do. We have,
4 ah, a corporate executive, ah, ah, which I created 17 years
5 ago, and then some years after that we created an internal
6 and audit risk management committee.

7
8 Are you part of the corporate executive?---I have been part
9 of the corporate executive for nearly the entire 17 years,
10 um, but very recently I've changed my attendance to make,
11 ah, ah - attend, um, to provide an oversight or an overview
12 of the work of the office, to take any questions, because I
13 was exceptionally keen, um, for the corporate executive,
14 ah, who are full of outstanding, up and coming women in
15 leadership, around 80 per cent, to take further
16 opportunities available to them, um, for leadership in that
17 group.

18
19 **THE COMMISSIONER:** Sorry, I didn't actually understand.
20 What is your present position in relation to the CorpEx?
21 Are you on it or not?---I would say I am on it,
22 Commissioner, but I don't attend every meeting, so, ah, for
23 almost the entire 17 years I attended every meeting. I
24 established it and then attended every meeting. Um, it had
25 occurred to me some time ago, ah, where we had I think at
26 that stage 80 per cent of the corporate executive were
27 women, we have a very passionate commitment to excellence
28 of women in leadership and I wanted to give them the
29 opportunity for rotational chair, um, of the corporate
30 executive, and so instead of attending every meeting I will
31 now attend occasional meetings to both hear from corporate
32 executive members and brief them.

33
34 **NELSON, MS:** When did you stop attending every meeting,
35 Mr Field?---That I couldn't say. I - I'd have to check
36 records for that. Ah, approximately 12 months ago. Yep.

37
38 How often does the CorpEx meet?---It will depend on
39 circumstances and timing, ah, but between four to six times
40 a year.

41
42 And as a general role, do they make recommendations to you
43 as the chief executive of the agency?---Generally not. Um,
44 the corporate executive is, ah, ah - will, ah, hear a range
45 of reports, um, from each, ah, member of the corporate
46 executive for their operationally responsible areas. Um,
47 they will discuss those reports, um, and, ah - but
48 certainly if there was anything of any concern that they
49 felt ought to come to my attention, that would be brought
50 to my attention.

1 Who would bring it to my attention?---It would be, ah, the
2 chair of the corporate executive of that particular
3 meeting, um, would - would do such.

4
5 Is it the case that it's not so much a decision-making
6 corporate executive; it's a reporting function? They
7 report to each other on the performance of particular team
8 functions?---Yes, I think that's the best way to describe
9 it.

10
11 And those meetings that you have attended in the last year,
12 was the purpose of that to report to the CorpEx what work
13 you were doing personally?---Correct, to discuss with the
14 corporate executive, um, my work, ah, my vision, um, for,
15 ah, where we have been, where we - where we are going, ah,
16 new functions that might be commencing in the office,
17 certainly briefings about international work, um, and to
18 answer any questions, um, the corporate executive members
19 might have.

20
21 Apart from attending a corporate executive prior to the
22 last year as a member and then on occasion, do you attend
23 any other regular meetings within the office?---Well, I
24 meet regularly - sorry, counsel. I meet regularly with my
25 - my staff, my senior staff, those who directly report to
26 me, ah, and I have several direct reports and I will meet
27 with them whenever it is required to do so.

28
29 So you don't have a standing meeting? It's on an
30 as-needs-be basis, is that correct?---Yes, correct,
31 counsel. For the vast bulk of the time that I was
32 Ombudsman, ah, I had a standing meeting process, ah, where
33 there would be a time - in a diary, there would be a
34 meeting, ah, and some, ah, one or two years ago we moved
35 away from that model to an as-needs meetings basis, um,
36 and, ah - ah, staff can either bring to my attention a
37 desire to meet about something, ah, or, ah, I will ask to
38 meet with them, and of course in between time, um, there is
39 an - it will - there is and always will be the capacity for
40 - and there is extensively - email and phone interaction as
41 well.

42
43 How would they bring to you a request to meet with you or
44 to talk about a particular issue? How do they communicate
45 that to you?---It would be through my executive assistant.

46
47 Who is your executive assistant?---My acting executive
48 assistant is Vicky Sharp.

49
50 So the senior members of your corporate executive don't
51 contact you directly by email or other means?---No. They

1 go through my executive assistant if they wish to contact
2 me with - with matters, um, but that will depend, of
3 course. If it was a personal matter, a health matter, or
4 any other matter, um, they would come to me directly. But
5 if it was an operational matter, ah, to do with their, ah,
6 ah, the - the matters to which they were operationally
7 managing, that would go through to my executive assistant.

8
9 So you rely on your executive assistant to bring you all
10 emails or communications she might become aware of in
11 relation to the performance of the functions of each team
12 in your office?---Yes, I certainly rely upon her, ah, and
13 her predecessors, to bring, ah, a request for a meeting to
14 me.

15
16 If we could just look at your organisational structure.
17 First of all, if we could have 0025^.

18
19 0025^

20
21 **NELSON, MS:** Sorry, that's the wrong one. I apologise.
22 It's 0004^.

23
24 0004^

25
26 **NELSON, MS:** This is taken from the annual report of the
27 OWA from the financial year 2022-23. You can see at the
28 top it says this is the structure as at June 2023. Is it
29 possible to have it all on the screen, thank you, Madam
30 Associate.

31
32 I'll just give you a moment to look at that, Mr Field?
33 ---Thank you, counsel.

34
35 Given that this is now seven months old, this document,
36 does that still reflect the organisational structure?
37 ---Yes, very - it'd be very similar, counsel.

38
39 So you have six direct reports?---Yes, that is correct.

40
41 And they report to you for operational matters through your
42 executive assistant?---Yes, they - well, they report
43 directly to me. If they - if they wish to meet with me
44 about a matter, or I wish to meet with them, that meeting
45 is facilitated through my executive assistant.

46
47 So any other communication from a direct report to you that
48 is not about a meeting, is that a direct email to you or an
49 email through your executive assistant?---An email through
50 the executive assistant.

51

1 So any communication from one of your six direct reports to
2 yourself would go through your executive assistant?
3 ---Correct, although obviously, counsel, keep in mind, ah,
4 I think Friday of last week was a - a good example. I will
5 walk to a - to - to one of my, ah, ah - late last week was
6 an example where I walked to, ah, one of my assistant
7 ombudsman's room, ask if they're available, chat and sit
8 down - just have a long chat. So it's not a rule. Um,
9 there is a - it's a very pastoral workplace, it's a very
10 flexible workplace, and - and, um, I endeavour to make
11 myself available to every single staff member 24/7,
12 um - - -
13

14 That's not only your direct reports. Every single staff
15 member of the OWA, do you mean?---Oh, any - well, sorry.
16 Any direct reports and then beyond that, any staff member
17 who has any personal issue in their life whatsoever, um,
18 I'm available to them 24/7, ah, and staff have regularly
19 availed themselves of that opportunity over the years.
20

21 Now, you've mentioned in that previous answer that you
22 would meet in an office of one of the direct reports to
23 talk informally about an operational matter. You're
24 nodding your head?---Yes, oh, sorry. Yes, counsel.
25

26 How often would that occur?---It would be from time to
27 time. It wouldn't be frequent, counsel. Um, many of the
28 staff that I have employed have been with me for around 15
29 to 17 years, the whole time - - -
30

31 If I could just keep your focus on the question, Mr Field?
32 ---Oh.
33

34 You said it wouldn't be regular that you would meet - - -?
35 ---No.
36

37 - - - face to face in one of the office?---No, and - and it
38 wouldn't need to be regular. The staff are very familiar
39 with me and I'm very familiar with them.
40

41 Do you keep the normal business hours of a normal business
42 week and attend the office Monday to Friday?---Do I
43 keep - - -
44

45 Do you attend the office Monday to Friday?---Well, I keep,
46 um, ah, about as far as away from normal business hours, I
47 think I could be described, counsel. Um, I generally work
48 around 70 to 80 hours a week.
49

50 Do you attend the office physically Monday to Friday,
51 Mr Field?---Some - and - and some of that time I will be in

1 the office, and some of that time I won't be.

2

3 **THE COMMISSIONER:** Sorry, I haven't yet quite heard the
4 answer to counsel's question?---Yes.

5

6 Which was, I think - - -

7

8 **NELSON, MS:** Do you attend the office regularly Monday to
9 Friday?---If you mean am I physically in the office - - -

10

11 That is what I mean, Mr Field?---Yes, then, ah, I am, ah,
12 both physically in the office and also work from home as
13 well.

14

15 Do I take it from that answer that you work from home after
16 hours, or do you mean you work from home during core
17 business hours?---I work from home, ah, extensively, um,
18 after hours, ah, and I worked from home extensively on the
19 weekends. And I also worked from home during what would be
20 called core business hours.

21

22 So for a normal fortnight period where there are
23 10 business days, Monday to Friday, how many of those days
24 would you generally be physically in the office during core
25 business hours?---Oh, it would vary, um, and certainly vary
26 post COVID-19. The COVID-19 pandemic - - -

27

28 **THE COMMISSIONER:** Well, take the last two weeks?---Ah,
29 look, I couldn't say. It might have been a couple of days
30 I'd been in the office.

31

32 **NELSON, MS:** So speaking about the last two weeks you
33 would have only been physically in the office during core
34 business hours on two out of the 10 days?---I can't say.
35 I'd be actually - I'd have to check. It might be two or
36 three days.

37

38 Do you drive to the office, Mr Field?---Yes, I do.

39

40 And is there a pass system to get into the office?---Yes,
41 there is.

42

43 So if you drive into the garage you'd need to use your pass
44 to open the garage door?---Yes, there is, yeah.

45

46 And then do you need to use your pass to go up in a lift?
47 ---Correct.

48

49 So there would be a record of how many days you were in the
50 office through accessing that pass system?---Absolutely.
51 There'd also be a record through my emails and phone calls

1 of the, ah, tens of thousands of hours of overtime I've
2 worked over the last year as well.

3
4 And the overtime, is that to perform those functions that
5 we see on the screen that your direct reports are giving
6 you operational updates about, or are you talking about
7 other work?---The entirety of my work.

8
9 What do you mean by 'the entirety' of your work?---Oh,
10 sorry, my job as Ombudsman, yeah.

11
12 Under the Parliamentary Commissioner Act - - -?---Correct.

13
14 - - - and the other - - -?---Correct.

15
16 - - - legislation we've looked at?---Correct.

17
18 And that work you say takes tens of thousands of hours of
19 overtime?---Ah, I haven't not worked an evening or a
20 weekend for at least two years.

21
22 Just to answer my question, Mr Field, is it your evidence
23 that for you to perform the functions under the
24 Parliamentary Commissioner Act and those other legislative
25 instruments, are you saying that you need to spend many,
26 many hours of overtime?---Correct, as I would understand
27 every very well paid senior public servant would.

28
29 Could I please have 0347^.

30
31 0347^

32
33 **NELSON, MS:** This is a document that the Commission has
34 compiled taking the organisational structure from each
35 financial year from your annual report. So we can see the
36 first one was as at 30 June 2018. Just interested in the
37 evolution of the structure. You can see that the Deputy
38 Ombudsman has some additional functions that was not
39 present in the previous organisational structure. Would
40 you agree with that?---Correct.

41
42 **THE COMMISSIONER:** 'Previous' meaning the 23 one?

43
44 **NELSON, MS:** Sorry, yes, Commissioner.

45
46 The previous one that was on the screen?---Oh, yes.

47
48 Would you agree with that?---Yes, counsel. Thank you, yes.

49
50 And under the 'Principal Assistant Ombudsman Investigations
51 and Legal Services' there is a separate legal services

1 team?---Yes.

2

3 Was their function to provide in-house legal advice to the
4 OWA?---Ah, no, it wasn't my intention that, um, that team
5 provide in-house legal advice, it was my intention, ah -
6 although that may have been from time to time required.
7 Um, generally speaking, legal advice was provided from the
8 State Solicitor's Office if required. Um, that team I'd
9 intended to work on the charitable trusts function, um,
10 that had been given to - that was proposing to be given to
11 the Office of the Ombudsman.

12

13 **THE COMMISSIONER:** When was the charitable trust function
14 given to the Ombudsman?---Some time later, um,
15 Commissioner. In fact, the legal services team in many way
16 was an artefact team. It had been there from when I first
17 commenced 17 years ago. Um, and the view I'd taken -
18 obviously it's an open hearing, and with no disrespect to
19 any person, um - that if the office required legal advice
20 the most appropriate and best way to get that advice, um,
21 if it was complex advice to which we do not - did not -
22 when we were confident about the answer, um, from the State
23 Solicitor's Office. Um, effectively contracting out that
24 function.

25

26 **NELSON, MS:** And who decides whether that is necessary or
27 not, whether it is a complex issue that should be referred
28 to the State Solicitor?---It would - it would come to me
29 because I would - by history, I would speak to the State
30 Solicitor General - State Solicitor personally. So it
31 would come to me.

32

33 So the State Solicitor's Office would not be engaged
34 otherwise through instructions from you?---No, um, the
35 system would be that the - if someone was desirous of
36 advice I would consider whether it actually did require
37 advice. And if I thought it did, it would then go to the
38 State Solicitor for advice or it might come from me
39 directly. I might have thought at looking at something it
40 should have.

41

42 So in effect you were the one that decided whether the
43 State Solicitor be engaged, whether you instructed them or
44 not? It was always your decision, is that correct?
45 ---Correct.

46

47 And so that was the position in 2018?---Certainly to the
48 best of my recollection, yes.

49

50 And has that position continued to date?---Yes, that would
51 be the current position in the office as of today.

1
2 So the direct reports to you in June 2018 were the Deputy
3 Ombudsman, a Principal Assistant Ombudsman for
4 Investigations Legal Services, and Assistant Ombudsman for
5 Administrative Improvement, and an Assistant Ombudsman for
6 Reviews. Correct?---Correct.

7
8 And if we turn the page to as at 30 June 2019, has there
9 been an additional direct report created to you called an
10 Assistant Ombudsman Strategic Policy and Projects National
11 and International Relations?---Yes, correct.

12
13 And what was the purpose of creating that position?---Ah,
14 that position was reflective of the work being undertaken
15 in relation to the International Ombudsman Institute, ah,
16 and it was also reflective of, ah, the ongoing expansion
17 continuation of work from both, ah, Western Australian and
18 national, ah, public policy matters. So would the
19 Ombudsman be interested in undertaking this jurisdiction?
20 Could the Ombudsman do this? What could the Ombudsman's
21 view about that be? And a team of people to work on those
22 sorts of questions.

23
24 And were those sorts of questions those policy matters
25 directly related to what you were exposed at with your
26 relationship with the IOI, the International Ombudsman
27 Institute?---Oh, no, those policy matters were separate.
28 So there would be two matters; one would be the work with
29 the International Ombudsman Institute which in itself might
30 have policy matters, and then separately, ah, it would be,
31 um - I can give you a live and public example to help. At
32 the moment there is consideration of a national student
33 ombudsman, and the department will come and consult with us
34 about that. And then we will be - there will be a
35 significant engagement at the policy level between our
36 office and the relevant people about that.

37
38 So it would be policy matters - - -?---That's an example.

39
40 - - - within Western Australian public sector?---Oh, that's
41 a national proposal.

42
43 National?---So it will be both Western Australian and
44 national, yeah.

45
46 And what occurred between yourself and the IOI in June 2019
47 or by June 2019 that necessitated the creation of this team
48 that you said in part was reflective of IOI work?---That
49 would have been the developing work, um, of the, ah,
50 International Ombudsman Institute, ah, and - and, ah,
51 certainly related to, um, my time as - as President as

1 well.

2

3 Were you President as at 30 June 2019, Mr Field?---I'm
4 trying to recollect when - remember there will also be
5 lags, um, counsel, between when these are formulated and
6 when they're actually published. Um, but, ah, I - the
7 answer is I commenced, um - well, it certainly would have
8 been in anticipation of my commencement if I hadn't
9 commenced at that stage.

10

11 Your commencement as President?---Correct.

12

13 In anticipation of that?---Correct.

14

15 So what work would that team do in anticipation of you
16 becoming President of the IOI?---Um, so there would have
17 been work that was arising out of my time as vice president
18 that was immediately prior to President. Um, ah, and there
19 was substantial policy work being done arising out of that
20 time, ah, and - - -

21

22 Is that policy work for the IOI?---Correct. Um, and - - -

23

24 For their purpose?---(No audible response.)

25

26 For the purpose of the IOI and its members?---Well, for the
27 purpose of our office as a member of the IOI. And,
28 um - - -

29

30 **THE COMMISSIONER:** Well, that's half the answer. But
31 whose purpose? You haven't actually answered counsel's
32 question?---Well, any - any work that we did - any work
33 that we have ever done in relation to the IOI would be for
34 our purposes as a member. But, Commissioner, I would - I
35 would say - others may disagree, Commissioner, um, but that
36 it was also intended to be for the purpose of the IOI as
37 well and its 210 members.

38

39 **NELSON, MS:** If I could go to the next page as at 30 June
40 2020. I'm interested in the fact that by this stage the
41 legal team has disappeared, Mr Field?---Yes.

42

43 Why was that?---Oh, the view was a very simple one, ah,
44 counsel, that the cost of, ah, recruitment/retention of a
45 legal officer in Western Australia is very, very expensive.
46 And given the number of matters which we felt each year
47 required legal advice it simply did not justify, ah, on a
48 cost-benefit basis for the taxpayer recruiting a person
49 dedicated to that function, particularly when we had, um,
50 by reputation an outstanding State Solicitor's Office in
51 this state which could provide legal advice to us if we

1 needed it.

2

3 **THE COMMISSIONER:** I thought one of the purposes that you
4 said earlier in the 2018 legal services was to prepare for
5 the Charitable Collections Act?---Correct, um,
6 Commissioner.

7

8 So what happened here?---Commissioner, ah, should have
9 absolutely been clarified by me. In conversations over a
10 period of time, um, it became clear that the way that we
11 would undertake that Charitable Trust Commission's
12 operation was that, ah, we would contract out a complex
13 trust advice and complex forensic, um, auditing advice, and
14 hence the reason we didn't need either a forensic auditor
15 or a lawyer employed for this on a full-time basis in the
16 office. And I can say as a matter of fact, at the moment
17 without mentioning the particular case, that is exactly
18 what we are doing at the moment; that we have contracted
19 with senior counsel to give us advice about a charitable
20 trust matter, ah, and we will also contract with a forensic
21 accountant as well.

22

23 **NELSON, MS:** On the far right of the screen, the Assistant
24 Ombudsman Strategic Policy and Projects National and
25 International Relations. Is the reference to that title -
26 the international aspect, is that directly referring to the
27 IOI work?---Yes, it would be almost exclusively. There -
28 there could be some international relations work that
29 doesn't relate to that. Um, one example might be that a,
30 um - an ombudsman's office will write to us from another
31 country and say, um, 'Could you explain to us how you do
32 this particular function? Because we've been asked to set
33 this up by our Parliament in our country.' So in that
34 sense it's not strictly an IOI matter. In fact, that
35 member may not even be a member of the IOI. But I think,
36 counsel, it would only be best described that that is
37 principally to do with the IOI. Not exclusively, but
38 principally.

39

40 And if we go to the next organisational structure as at
41 30 June 2021, and that's Assistant Ombudsman Strategic
42 Policy and Projects National and International Relations is
43 still a designated direct report to yourself?---(No audible
44 response.)

45

46 You're nodding your head?---Oh, I'm sorry. Yes, counsel.

47

48 And then to the next page as at 30 June 2022, that
49 particular direct report still at the far-right of the
50 screen appears to have a new team referred to as the Office
51 of the Ombudsman and President. You're nodding your head?

1 ---Oh, yes, counsel, correct.

2

3 And was that in that financial year a totally new created
4 team in the organisational structure?---No, it was - it
5 would have been at the time, as I recollect it, more of a
6 change in nomenclature about the actual name of the team.
7 We had for a period of time had a - when I say there's a
8 team of people, keep in mind this is a very small number of
9 FTEs who are doing this work; um, ah, it may have been at
10 any given time less than one FTE. But it was a team that
11 had been working assisting me during my time as the vice
12 president and now as the President, ah, in terms of my work
13 as the IOI.

14

15 The reference in the team name of 'President' is directly
16 referring to - - -?---Oh, it is.

17

18 - - - you being President of the IOI?---Counsel, correct.

19

20 In the previous organisational structure there was an
21 executive services team under that Senior Assistant
22 Ombudsman. So is it the case that that is the team that
23 changed the name basically?---Correct, counsel. Um, many
24 years ago - and I apologise for not having a recollection -
25 there was an executive services team, ah, that was in the
26 office; ah, only a few FTE staff, and they would assist
27 with all policy matters, new jurisdictions, other matters.
28 Over a period of time they also assisted with international
29 ombudsman matters. And then by the time you see the Office
30 of the President it is about the fact they are focussing on
31 both those Office of the Ombudsman matters, executive
32 matters, policy matters, executive services, and also now
33 the President of the IOI.

34

35 We can go to the last page, thank you. So this is back as
36 at 30 June 2023 where we have the six direct reports. So
37 the Deputy Ombudsman is only responsible for the energy and
38 water function?---Correct.

39

40 And is that still the case?---Ah, this organisational
41 structure will be now reviewed and appropriately so,
42 counsel, with the commencement of the new Deputy Ombudsman
43 that was announced late last week.

44

45 And since the previous years' organisational structure in
46 2022 there appears to be a new position, a Head of the
47 Office of the Ombudsman and President. Or is that a
48 renaming of a previous position?---That is the same
49 position as before.

50

51 So that was the Senior Assistant Ombudsman - - -?

1 ---Correct.

2

3 - - - Strategic Planning?---Correct, or a name similar
4 there too, but that is exactly correct.

5

6 And they have a team of the Office of the Ombudsman and
7 President. Who was the head of the Office of Ombudsman and
8 President as at 30 June 2023?---Ah, Rebecca Poole.

9

10 And how many FTE were in the Office of the Ombudsman and
11 President?---That I can't say with specificity. I would
12 have to check. At the moment it is one. Ah, and at that
13 point there may have been either two or three, I - I can't
14 say with certainty.

15

16 Can you recall in June 2023 who was working in that Office
17 of the Ombudsman and President?---Not specific to 30 June
18 2023. I'd have to check.

19

20 **THE COMMISSIONER:** Well, take a bit of a stab because it
21 was only eight months ago?---Um, I'm worried in taking a
22 stab that I might mislead you unnecessarily, Commissioner.
23 I certainly know - would you like me to name those?

24

25 If you can remember who it was. I take the fact that you
26 need to check, but surely you can have a rough idea who
27 there was?---I - I think it was between two and three staff
28 at that time.

29

30 **NELSON, MS:** And what levels were they, Mr Field?---Ah,
31 one I think level 3. One I think level 7. But I - as I
32 say, this is to my recollection. I'd have to check. And
33 one that we - so one level 7, one's level 3, and I think
34 the seven - one level 7, one level 3. I think there might
35 have been another level 7 or level 8. But, Commissioner, I
36 would check for you.

37

38 **THE COMMISSIONER:** Thank you.

39

40 **NELSON, MS:** So there might have been two level 7s, or you
41 think one of those might have been a level 8?---Correct.

42

43 And a level 3?---Correct.

44

45 I understand you assume the role of President of the IOI in
46 May 2021?---Correct.

47

48 And in the period of time from May 2021 did you notice an
49 increase in the work of that team that on this org chart is
50 called 'The Office of the Ombudsman and President'?---Ah,
51 yes, there would have been an increase in the work of that

1 team, ah, although it perhaps wouldn't have been as
2 noticeable because of course that team was also doing work
3 previously to assist me in my role as vice president.

4
5 Would you say this time last year though that the work of
6 that team had substantially increased as a result of you
7 taking on the presidency role?---No, not substantially.
8 Um, the - the work that was being done for the vice
9 president was significant work. Ah, in fact, um, to some
10 extent my team - this is not intended to be some form of
11 levity, but my team and I actually passed the comment that
12 we felt everything - possibly the workload had gone
13 slightly down. What had increased in that team was
14 significant workload in relation to new functions to the
15 office. So that team was - had a significant
16 responsibility in relation to new functions coming to the
17 office, particularly reportable conduct.

18
19 **THE COMMISSIONER:** Sorry, particularly the - - -?
20 ---Reportable conduct function. Um, so I - I can say that
21 that team was exceptionally busy along with others in the
22 office, including my former Deputy Ombudsman in relation to
23 new functions and particularly the reportable conduct. Um,
24 in absolute good faith and honesty to you, um, I don't
25 recollect their workload going up extensively as the
26 presidency, um - because they were doing work me, the vice
27 presidency. But they clearly would have been doing work
28 for the presidency, that is true.

29
30 **NELSON, MS:** Do you recall this time last year - so in
31 February 2023 - that there was a proposition put to you to
32 create a new level 8 Director Strategic Policy National and
33 International Engagement within that team?---Correct.

34
35 And could it be the situation that the rationale for that
36 creation was that since you'd been elected President in
37 2021 the work of the team had substantially increased?
38 ---Well, I actually don't recollect the position you're
39 referring to.

40
41 I'll show you a document?---Oh, thank you.

42
43 0337^.

44
45 0337^

46
47 **NELSON, MS:** If we could have page 2, thank you, Madam
48 Associate. You can see this is a document dated 1 February
49 2023. We could just scroll through to the end of the next
50 page and then I'll give you minute to read it. Is that
51 your signature, Mr Field?---It is.

1
2 And do I take it that you have approved the proposition in
3 the memorandum?---If I'm allowed - am I allowed to go back,
4 counsel, to the - - -

5
6 Certainly. Take your time?---Just it - it does talk about
7 the background there as being the - the things I've just
8 spoken to you about which are the reportable conduct scheme
9 in accordance with the Parliamentary Commissioner Amendment
10 Act, the new function under the Liquor Control Amendment
11 Act, the Western Australian Charity Commission, and the
12 National Prevention Mechanism under OPCAT. And I certainly
13 recollect a conversation with Ms Poole at that stage, um,
14 about the fact that the OPCAT function was going to be a
15 substantial piece of work for the office, um, as was
16 charitable trusts, as was the PEP - or as it's colloquially
17 known the PEP legislation - um, as well as the reportable
18 conduct scheme. And certainly my recollection with
19 Ms Poole at that time was that the intention of that
20 position was not, um, principally about, um, international
21 work and IOI work, although it would have some role in
22 that; it was principally about the matters that are set out
23 in those bullet points. So I do have a recollection of
24 that, not a perfect recollection. But I certainly do
25 recollect that we were all of the view the reportable
26 conduct legislation would be an enormously significant
27 legislation for the office. Um, staff at that stage of
28 around 50 would add nearly 20 - 20 to 30 staff, um, about
29 the most serious and egregious and vile of allegations.

30
31 Thank you, Mr Field, if I could just stop you there. I
32 accept that the memorandum says that - - -?---Yes.

33
34 - - - it references those new functions?---Yes.

35
36 But you also accept that part of the rationale is in the
37 second paragraph that:

38
39 Since the Ombudsman was elected President of the IOI
40 in 2021 the work of the team has substantially
41 increased.

42
43 ?---Now, that was - that was a reference to substantially
44 increased, as I recollected, in relation to the travel
45 requirements as opposed to the actual work requirements.
46 And so what that in practice meant is that work that, ah,
47 Rebecca Poole - Ms Poole was undertaking in terms of, um,
48 ah, much of the policy work that she previously would have
49 done, um, would then - some of that work would be subsumed
50 into, ah, necessary travel that she was to undertake and we
51 would have to ensure that all matters could be attended to.

1 So that was my understanding of what that substantial
2 increase reference was.

3
4 So because Ms Poole was travelling internationally she
5 would need other team members to subsume the role that she
6 was doing under those four dot points?---So it was a
7 combination of all matters.

8
9 Mr Field, is that a yes or a no?---Oh, sorry, yes.

10
11 You agree with that proposition?---Oh, you'll have to
12 repeat it to me. I'm so sorry.

13
14 Is it the situation that because the international travel
15 had increased and Ms Poole was accompanying you that she
16 needed to get another staff member to take on the work that
17 is articulated in those four dot points?---Well, it's not a
18 yes or a no answer. The answer is, um, ah, that that was
19 part of the reason. And the other reason is all of those
20 other functions included in there.

21
22 Right. So part of the reason is that Ms Poole was going to
23 be overseas with you?---Yes.

24
25 And the other part of the reason is the OWA was getting
26 increased functions - - -?---Yes.

27
28 - - - from government?---Yes, counsel, exactly.

29
30 And those increased functions were to be subsumed into the
31 team known as the Head of the Office of Ombudsman and
32 President?---During their development stage, counsel, and
33 then after that they would go to the various operational
34 areas in the organisation where they would be undertaken.

35
36 If we go to the last page, where we see the recommendation.

37
38 **THE ASSOCIATE:** Page 3?

39
40 **NELSON, MS:** Yes, thank you, page 3. Do you agree that
41 the name of the new position is to be 'Director strategic
42 policy national and international engagement'?---Correct.

43
44 And was this new person, this new position, to have some
45 kind of function to do with your IOI presidency? Work
46 arising from your IOI presidency?---Yes, correct.

47
48 Go to the next page, which is part of a tracked change job
49 description form that accompanied the memorandum. The
50 title has been amended, and there appears to be a comment
51 on the right side from 'RP'. Do you take that to be

1 Rebecca Poole?---Yes.

2

3 She comments that her title is SAO, so senior assistant
4 ombudsman strategic planning projects and international
5 relations?---Yes.

6

7 And then there's someone called Kyle. Kyle's title?---Yes,
8 Kyle was a member of that team.

9

10 **THE COMMISSIONER:** Kyle's second name being?---Heritage.

11

12 Thank you.

13

14 **NELSON, MS:** So in effect, is there a new position to
15 mirror Kyle's position within the team that he already
16 occupied?---That I would have to - I can't answer that
17 to - - -

18

19 That's okay. Do you recall whether a recruitment exercise
20 was undertaken once this new position was created, in
21 accordance with your approval?---I'm so sorry, counsel. I
22 didn't mean to not answer your question. I know that
23 Mr Heritage had indicated an interest in working in the,
24 ah, major investigations area of the organisation, and that
25 may have been why the - the title was effectively a
26 duplicate title, but I - I cannot say that for certain. I
27 apologise.

28

29 Do you recall if there was a recruitment exercise at the
30 beginning of 2023 to recruit someone into the new position?
31 ---I don't recollect that precisely, no.

32

33 We'll go back to page 2, to the top. Do you recall someone
34 working in that team by the name of Natalie Fisher?---Yes,
35 I do.

36

37 Is it possible that she was the person that was recruited
38 under this new duplicate position?---That would be, I
39 think, certain, now you've refreshed my memory, thank you
40 so much.

41

42 Did you meet Ms Fisher?---I - honestly, to the best of my
43 recollection, I'm not sure that I was on that recruitment
44 panel, um, but I certainly know that I met Ms Fisher, um,
45 certainly, yes.

46

47 Did she perform any work for you?---Yes, she would have.

48

49 As President of the IOI?---Yes, she would have.

50

51 Did she perform any other work that the office was

1 responsible for, other than IOI work?---It's certainly my
2 recollection that she would have.

3

4 What type of work did she do for you as President of the
5 IOI?---To the best of my recollection it would have been to
6 assist with speechwriting, ah, liaison with Australian
7 embassies overseas, ah, securing third-party notes, um, ah,
8 liaison around organising functions where I was the guest
9 at an embassy, those sorts of matters.

10

11 And those matters you've described, are they all actions or
12 jobs that had to be undertaken because of your presidency?

13 ---Yes.

14

15 And solely because of your presidency?---Solely.

16

17 Thank you, that can be taken down.

18

19 Moving aware from recruitment, I just wanted to ask you
20 about a document called the financial management manual?

21 ---Yes.

22

23 Are you aware that the OWA has such a manual?---I am.

24

25 Did you assist in drafting it?---The principal
26 responsibility for the drafting would have been my deputy
27 ombudsman and her successors.

28

29 Do you have cause to refer to it perform your roles in the
30 office?---If a matter ever arose that I needed to, yes, I
31 would.

32

33 You agree that you are the accountable authority for the
34 OWA under the Financial Management Act?---Yes.

35

36 On the last occasion you gave evidence, I believe you said
37 that you don't submit financial reports or statements to a
38 minister because you do not report to a minister?

39 ---Correct.

40

41 So you go directly to the expenditure and review committee
42 or to the Treasurer?---Correct.

43

44 So your financial reports or anything of a financial nature
45 related to the administration of the Office of the OWA does
46 not get an endorsement from a minister before it goes to
47 the expenditure and review committee?---That is correct.

48

49 And you definitely haven't ever given your
50 financial-related reports to the Premier for any
51 endorsement, is that correct?---To the best of my

1 recollection, no, I cannot imagine why I would have.

2

3 Do you consider that because your independence and the way
4 that the gazette has structured your office and your Act so
5 that you report directly to Parliament, do you consider
6 that that has given you an extra responsibility for
7 financial management of the OWA, given you don't have the
8 intervention of a minister endorsing or approving any
9 financial matters for the agency?---I'm not sure I would
10 characterise it as 'extra'. What I would certainly say is,
11 ah, I have absolutely all of the responsibilities that are
12 required of me under the Parliamentary Commissioner Act,
13 the Financial Management Act 2006, and the - and the
14 Procurement Act.

15

16 Could I have Document 0421^, thank you, Madam Associate,
17 which is the financial management manual, and if Mr Porter
18 and the witness might be given a hard copy of that, and the
19 Commissioner too, thank you.

20

21 0421^

22

23 **THE COMMISSIONER:** While that's being organised,
24 Mr Porter, I have a question for you. Because the
25 Commission is, as it were, over the tracks, I would break
26 early to give you a chance to return to chambers if that's
27 what you want to do, otherwise we'll break at 1 till 2.

28

29 **PORTER, MR:** I have no intention of returning to chambers,
30 Commissioner, so - - -

31

32 **THE COMMISSIONER:** One to 2 will do. Very well.

33

34 **PORTER, MR:** Thank you.

35

36 **THE COMMISSIONER:** One of the problems of living far away
37 from the city.

38

39 **NELSON, MS:** Do you recognise this document, Mr Field?
40 ---Excuse me. Yes, I do.

41

42 So you have familiarity with it?---Yes, correct.

43

44 It is 160 pages, so it's very comprehensive. Is it just an
45 internal document for the OWA?---Yes, that's correct.

46

47 What's the purpose of the document?---Well, the document
48 is, ah, simply there to assist, ah, both in terms of
49 induction of new staff to the organisation and also for
50 staff in terms of them executing out their roles.

51

1 Would every new employee to the OWA get a copy of this
2 manual?---They would certainly - well, I'd - I'd have to
3 check that, ah, counsel. We have an induction program that
4 draws people's attention to relevant documentation. I
5 would have to check that this is one to which their
6 attention is drawn.

7

8 If we could look at page 2, thank you, which appears to be
9 the index to the manual?---Oh, sorry.

10

11 And it lists a very comprehensive lot of policies, is that
12 correct?---Ah, yes.

13

14 Mostly related to financial management?---Yes.

15

16 If we could go first to page 11. Sorry, perhaps page 7.
17 So it refers to those overarching pieces of legislation to
18 do with the financial management of the office in the first
19 paragraph. The third one, the Treasurer's Instructions, do
20 you consider those to be binding on the OWA?---I'm - sorry.
21 I'm just trying to keep up. That - it - it - you - that is
22 in the first paragraph of page 7.

23

24 Yes. It's on the screen in front, too?---Oh, yes. The
25 Treasurer's Instructions, yes.

26

27 In the second - - -

28

29 **THE COMMISSIONER:** Sorry. Yes, you consider the
30 Treasurer's Instructions are binding on your office?
31 ---Correct. The - the Financial Management Act is, and the
32 Treasurer's Instructions insofar as they are made under
33 them, yes.

34

35 **NELSON, MS:** And the Auditor General Act, I take it that
36 you also consider that to be binding on the office?---Yes
37 and no. Ah, I - the financial - the Auditor General's
38 [sic] Act, insofar as the Auditor General can undertake
39 financial audits, yes I consider that binding on our office
40 but not in relation to their capacity to take performance
41 audits.

42

43 The second paragraph, the last sentence of the second
44 paragraph refers to the office's internal audit function
45 being responsible for reviewing compliance with internal
46 controls?---Yes.

47

48 And preparing reports for the office's internal audit
49 committee and risk management committee. Are they two
50 separate committees? An internal audit committee and a
51 risk management committee? Or is that actually one

1 committee?---I think it might be inelegantly stated. I
2 think it's intending to refer to the single committee we
3 have, which is the internal audit and risk management
4 committee.

5
6 Are you a member of that committee?---No. I established
7 that committee many, many years ago, um, but I am not, and
8 deliberately not.

9
10 So who is on that committee?---We have an independent -
11 well, when I say 'independent chair', the chair is
12 obviously still appointed by us, but it's a chair, ah - - -
13

14 **THE COMMISSIONER:** Who is it?---I'll have to get all the
15 details of the names for you, um, Commissioner. Ah - - -
16

17 Sorry, you don't know the names of the audit and risk
18 committee members?---Oh, not off the top of my head,
19 Commissioner. Um, so, ah, and then we have an invitee from
20 the, ah, ah, ah, ah, an observer from the Office of the
21 Auditor General, ah, and, ah, a staff member as well is a -
22 is a member, but, ah, my sincere apologies, I would have to
23 get the exact names for you.

24
25 **NELSON, MS:** So there's only one staff member that's a
26 member of that committee to your knowledge?---I think it is
27 currently only one staff member.

28
29 How does that committee interact with you when you're
30 performing your role as the accountable authority under the
31 Financial Management Act for the OWA?---They do. Ah, they
32 will, ah, propose, ah, a, ah - a rolling series of audits
33 in relation to, ah, various matters, ah, ah, that they
34 believe ought to be audited. Complaint management, ah, ah,
35 err, risk of cybersecurity, ah - well, a very long list.
36 Um, and then I will approve, ah, those, ah, audits to be
37 undertaken, and they are undertaken by the committee,
38 contracting out to, um, an auditor, and then the
39 recommendations of those matters will come to me.

40
41 If we could go over to page 8, thank you. There's a
42 reference there to the obligation on the office to keep
43 records in accordance with the State Records Act 2000, and
44 a state record being:

45
46 Any record of information in any form created,
47 received or maintained by the OWA in the course of
48 conducting its business activities.

49
50 Do you perform some other role under the State Records
51 Act?---I am - correct, counsel, I am a commissioner under

1 the State Records Act, so one of four - one of four
2 commissioners.

3

4 And what does that mean, practically?---We are given those
5 responsibilities otherwise enumerated in the State Records
6 Act, ah, and in practice that is to, ah, ensure that, ah,
7 those requirements under the Act are being met, um, by
8 state government agencies.

9

10 So do you review other agencies' record keeping plans?---We
11 investigate breaches, um, of - of - ah, alleged breaches of
12 state records - ah, of - of record keeping plans, ah, and,
13 ah, record keeping plans are monitored by the Director of
14 State Records, the State Records Office, and brought to the
15 attention of, ah, the State Records Commission through our
16 meetings.

17

18 If we could go to page 11, thank you. Down the bottom of
19 this page there's a reference to a risk management policy,
20 and previously in one of your answers when you were talking
21 about the audit committee, you also mentioned the risk
22 management. Is there a risk management record or register,
23 or how does the office practically assess and manage
24 risks?---Yes, we do have a risk management, ah, policy, and
25 that will - to do with, ah, risks in relation to, for
26 example, um, if, ah, there was to be a - a flood and we
27 would lose all services, how do we manage the risk of those
28 sorts of things, computer, et cetera.

29

30 Then in terms of registers, if we could go to page 15. If
31 we could see the whole of the page, thank you, Madam
32 Associate. Is this a list of all the registers held by the
33 office, to your knowledge?---I - correct, counsel.
34 Correct.

35

36 And the column that refers to the responsible officer for
37 each particular register, does that mean that is the person
38 who is ultimately responsible for maintaining those
39 registers?---Yes, correct.

40

41 Do you ever have occasion to look at the details of what is
42 in each of those registers?---I will certainly be, ah, ah,
43 signing matters that would otherwise go into those
44 registers, and in that sense, the answer to that question
45 is absolutely yes. Um, and - but to - on a day-to-day
46 basis pick up and peruse those registers, no.

47

48 What do you mean by signing matters that would otherwise go
49 into those registers?---Ah, well, for example, the outside
50 employment register, ah, a person will need to make an
51 application for outside employment. That would come to me,

1 I would consider it, I would then sign it if it was
2 approved, and then it would go into that register.
3
4 So you would do that for all OWA employees?---Yes.
5
6 What about up the top of the register list, the contract
7 register? Have you come into contact with that register?
8 ---Yes. I wouldn't necessarily do it for every contract
9 because not every contract would need to come to me for
10 signature.
11
12 So when you mean for signature, do you mean when you
13 actually sign the contractual agreement?---Well, it'd
14 depend on what the purchase is, um, and that would be
15 governed by the, ah, Procurement Act. So not every - not
16 every purchase would need to come to the CEO, um, and not
17 every purchase would - so, for example, if staff bought
18 some photocopy paper, that wouldn't necessarily come to the
19 CEO.
20
21 Well, this appears to be a register for contracts over
22 \$50,000. Is that correct?---I'd have to say - I'd have to
23 check that. It says, 'Including over 50,000.' I'm not
24 sure whether that's intended to be that that register is,
25 um, a register for all including those over 50,000.
26
27 **THE COMMISSIONER:** But it's definitely contracts over
28 50,000?---Well, if a - if a contract's over \$50,000, um,
29 ah, I would have to refresh my memory about the relevant
30 provisions of the Procurement Act and the procurement rules
31 as to the necessity for me to sign those, um, and who was
32 the accountable authority, who has the power as accountable
33 authority under the Act.
34
35 **NELSON, MS:** I'm not actually talking about who's signing
36 them, I'm just talking about the register which I imagine
37 records the existence of a contract - - -?---Oh, yes.
38
39 - - - over \$50,000. Is that your understanding of what
40 this register's for?---I don't have a photo recollection of
41 looking at that register recently, but I am absolutely
42 accepting that, um, it must be a contract register which
43 includes contracts over \$50,000.
44
45 When do you think you might have last seen that register?
46 ---Ah, I can't recollect the last time I saw that register.
47
48 And I see there are two registers that are the
49 responsibility of Ombudsman's Executive Officer down the
50 bottom, the conflict of interest register and the gifts
51 register?---Yes.

1
2 What position is the Ombudsman's Executive Officer?---That
3 is the Executive Officer or Executive Assistant as it might
4 otherwise be named, ah, and they are responsible for the
5 maintenance of those two registers.
6
7 So that's the same executive assistant who was responsible
8 for communicating up to you requests to meet with you about
9 operational matters from your direct reports?---Ah,
10 correct. Counsel, I - I - this is obviously in no form of
11 speech, but just to be properly responsive to your
12 question, contract register including over 50,000 - if it
13 had been a contract that I was required to sign under the
14 Procurement Act I certainly would have signed it.
15
16 The conflict of interest register that's the responsibility
17 of your executive assistant, do you see each entry into
18 that register?---Ah, I would approve - I approved every
19 conflict of - yes, I do in effect, because I approve the
20 conflict of interests, um, and I approve the gifts. So,
21 yes, I do.
22
23 So just looking at the conflict of interest register first,
24 so is it the process that you would receive a declaration
25 of conflict of interest and you would consider how that was
26 to be managed, you personally?---What would generally
27 happen is that a staff member would make - would send me a
28 memorandum to my executive officer. My executive officer
29 would bring that to my attention. The memorandum would set
30 out why they considered a particular matter a conflict of
31 interest, how it ought to be managed, and then I would make
32 a decision on that.
33
34 So you would approve every single declaration for conflict
35 of interest and management plan?---Or disapprove it as the
36 case may be, correct.
37
38 And then how would that find its way into the register once
39 you had approved the management or otherwise of a conflict
40 of interest?---If it is approved then it goes back to the
41 executive officer for them to place in the register.
42
43 And if it's not approved?---Ah, if it's not approved I
44 don't know that we put it in the register. I'd have to
45 check that for you.
46
47 And then the gift register - - -?---Of course there's a
48 record - a TRIM record of it though, yes.
49
50 And TRIM being the document management system?---I'm so
51 sorry. The document management system, correct.

1
2 And then the next line, the gifts register which also
3 appears to be the responsibility of our executive
4 assistant, correct?---Yes.
5
6 Is that a reference to gifts given to OWA officers as well
7 as gifts that they have given?---Exactly.
8
9 Gifts provided or gifts received?---To and from, yes.
10
11 What is the process for a matter ending up on the gifts
12 register? How does that occur?---Um, there is a form. Um,
13 that form is completed as to whether it is a gift given or
14 a gift, ah, received. Ah, there is given a description of,
15 um, to whom the gift went or who received the gift, um, an
16 approximation of the amount of the gift, description of the
17 gift, um, and then an acquittal as to what occurred with
18 the gift prior to it being placed on the register.
19
20 And is that approved by you or someone else or noted or
21 endorsed?---Approved by me.
22
23 So all gifts, gift register forms filled out go through
24 you - - -?---Ah, correct.
25
26 - - - before they are on the register?---Yes. If - if for
27 some reason they hadn't been, that would be inadvertent.
28
29 So if we could go to page 19 which discussed the financial
30 management information system. Is that part of TRIM or is
31 it a standalone system?---Oh, for precision I'd have to,
32 ah, get back to you about that, counsel. I, um - there
33 will certainly be documents within those processes that
34 will be TRIM'd. There are also processes that have there
35 to deal with the Treasury financial management systems as
36 well because we also need to enter information into
37 Treasury systems, um, so that they can do obviously the
38 corpus budgeting for - for the state.
39
40 Do you have any interaction with the financial management
41 information system?---No.
42
43 No. Who in your office or what team or position would have
44 responsibility for entering information into that system?
45 ---That would be, ah, within our finance team, ah, and
46 there will be one or two officers in the finance team -
47 three or four that may be responsible for that, um, at any
48 given time. And then it will be obviously, ah - have an
49 oversight from a chief financial officer and be reporting
50 through to - historically to our Deputy Ombudsman.
51

1 But not to you?---Well, I - I have overall responsibility
2 of course. If anything goes wrong it's, ah - it's my
3 responsibility. But on a day-to-day basis, no.

4
5 Thank you. We could go to page 20. And on this page
6 there's a reference to the procurement policy which you've
7 previously mentioned, and down the bottom half of the page
8 a corporate credit card policy. Perhaps if we could deal
9 with procurement initially.

10
11 If we could go to page 22, and the bottom half of page 22
12 if we could have that, thank you, Madam Associate, it
13 refers to the office having designated procurement
14 officers. Do you know who they are?---Ah, no, I'd have to
15 check who are the designated - they have - they change.
16 Um, I'd have to check who they are.

17
18 And then we can go to page 23. We could have the whole of
19 the page on the screen, thank you. Are you familiar with
20 this page, Mr Field?---Ah, not verbatim, counsel, but,
21 um - - -

22
23 And would you agree that it agrees to give you some
24 prescriptive instructions as to how to deal with potential
25 contracts based on the expected value of the good or
26 service that's been procured?---Correct.

27
28 So, for example, if we look right down the bottom of the
29 page at row 4 there's:

30
31 If no CUA -

32
33 - is that a reference to Common Use Agreement?---Yes.

34
35 - - - and between \$50,001 and \$250,000, a minimum of
36 two written quotations is required in consultation
37 with DOF.

38
39 What's DOF?---Oh, Department of Finance.

40
41 We could go to page 25, thank you. And under the heading
42 'Contracts Register', the first paragraph, it appears to
43 give more context about what that register deals with. So:

44
45 All contracts with a dollar value of more than
46 \$50,000 should be recorded in the contract register
47 with a name of a contract manager.

48
49 Can you see that there, Mr Field?---Yes, I can.

50
51 And then the last two paragraphs it refers to where the

1 register is kept, and that it's reviewed quarterly by
2 senior finance staff?---Correct.

3
4 Does that refresh your memory about whether you've ever
5 seen a contracts register or had a reason to review it?
6 ---Well, it's not been my practice to have a need to look
7 at the contracts register on a regular basis. We - we have
8 very few contracts in - in the office, and those contracts
9 we have, um, perhaps with the exception of IT or telephone
10 are for very small items.

11
12 Would you agree that for a contract to appear on the
13 contracts register it would appear that the details of that
14 contract would need to be communicated to senior finance
15 staff?---Well, the details of the contract would need to be
16 such that they are in compliance with the, ah, Financial
17 Management Act and the - and the Procurement Act, correct?

18
19 **THE COMMISSIONER:** But that doesn't answer the question
20 counsel asked?---Oh, I'm so - - -

21
22 And the answer is the last sentence, isn't it?---Yes. Um,
23 it is expected, and I understand it is the case, um, that
24 my, ah, finance team, ah, and management within that team
25 do review the contracts register. Second of all, it is
26 reviewed from time to time by the internal audit/risk
27 management committee, and third of course from time to time
28 - well, on a yearly basis, I presume, by the Auditor
29 General of Western Australia.

30
31 **NELSON, MS:** We previously saw that the owner of the
32 contracts register is the Director of Corporate Services?
33 ---Yes.

34
35 At the very least do you accept that the Director of
36 Corporate Services would need to have details of a contract
37 to ensure that it appeared in the register and the register
38 was an accurate reflection of the contracts to which the
39 office was exposed at any particular time?---Yes, counsel.
40 Any - any contract that - that otherwise under the
41 Procurement Act or the procurement roles should be recorded
42 in here - should be in the register, I mean, should be.
43 And that access should be available.

44
45 **THE COMMISSIONER:** When you get to a convenient time, let
46 me know.

47
48 **NELSON, MS:** That's convenient, thank you.

49
50 **THE COMMISSIONER:** Very well. We'll break until 2 pm.

1 (THE WITNESS WITHDREW)
2
3 (LUNCHEON ADJOURNMENT)
4

5 **THE COMMISSIONER:** Please be seated.
6

7 **CHRISTOPHER JAMES FIELD RECALLED ON FORMER OATH AT 2.05 PM:**
8

9 **NELSON, MS:** Madam Associate, we had the financial
10 management manual, which is 0421^. And if we could have
11 page 28 on the screen, thank you.
12

13 0421^
14

15 **NELSON, MS:** Thank you. So, we were discussing - we were
16 about to discuss procurement policy. Have you seen this
17 policy before, Mr Field?--I apologise, counsel, I'm just
18 getting to it.
19

20 Page 28?---Yes, thank you, counsel. I'm sorry, I think the
21 answer should be yes.
22

23 You have, yes. And it appears to be last revised - this
24 particular policy - in May 2021?---Yes.
25

26 So, first page on the screen sets out the general
27 principles that apply to procurement within the office, is
28 that correct?---Yes.
29

30 The first dot point, that goods and services meet the
31 requirements of the office and are obtained in a timely
32 manner, achieve value for money and promote competition
33 within the government supply framework, do you understand
34 that principle really to be the value for money principle,
35 in that a good or service that is procured for the office
36 should be to meet the functions and obligations that the
37 office is to perform?---Yes.
38

39 And the second dot point refers to procurement being
40 conducted with integrity and ensuring conflicts of interest
41 are identified and removed. What is the process undertaken
42 at the OWA to ensure conflicts of interest are identified
43 and removed during a procurement process?---If there was a
44 conflict of interest, counsel, that would need to be, ah,
45 indicated. Um, from whomever was suggested to have a
46 conflict of interest. And then a decision would be made on
47 the management of that conflict of interest.
48

49 So, do I understand from your answer that particular
50 officers of the OWA who are involved in a procurement
51 exercise are - there is an obligation on them to identify,

1 or self-identify, that they have a possible of conflict of
2 interest?---Yes, counsel, or of course and in addition,
3 that conflict of interest could otherwise be brought to the
4 attention of someone within the procurement process that a
5 conflict of interest is alleged.

6
7 **THE COMMISSIONER:** I wonder if you could just keep your
8 voice up?---I'm sorry. I'm sorry, Commissioner.

9
10 **NELSON, MS:** Once they are identified, either by the
11 person who self-identified or someone else within the
12 office, what do you understand the process to be to remove
13 them as this principle says should happen?---Ah, it would
14 depend on the nature of the conflict of interest. It would
15 need to be - if there was considered to be validity to the
16 conflict of interest, then it would need to be managed, and
17 that management could be removal entirely from the
18 procurement process. It might be to, to use the jargon,
19 ring fence them from a certain aspect of the procurement,
20 or other appropriate measures.

21
22 During a procurement process, who actually makes those
23 decisions about ring fencing or otherwise dealing with a
24 potential conflict?---It would potentially be dependent on
25 the value, counsel, because obviously some procurements are
26 for very minor amounts of money. Um, but I would take the
27 view - sorry, take the view - it is my recollection that
28 normally, ah, conflicts of interest in relation to
29 procurement would come to me to consider. That may not be
30 always the case, um, and, ah, that's to the best of my
31 recollection. It is possible, um, that conflict -
32 allegations of conflict for very small amounts of money may
33 not proceed to me.

34
35 So, if a procurement process was being undertaken for a
36 potential procurement to the value of over \$50,000 but
37 under \$250,000, would that potential conflict of interest
38 come to you to be managed?---Well, in a large agency, that
39 would be considered exceptionally minor. In our agency, I
40 would consider that a significant expenditure, and I would
41 expect that if there was a conflict of interest of an
42 amount of that magnitude, that it would be. Perhaps can I
43 say certainly that it always has? No, I cannot. What I
44 can say is that would be an expectation.

45
46 And in managing - if that was brought to your attention,
47 how would you manage it? Would you seek advice or a
48 recommendation, or not?---It would be, ah, all of those
49 things, counsel. Ah, there would be - likely be advice
50 given to me about what is perceived to be the nature of the
51 conflict. I would make an assessment about the nature of

1 the conflict, ah, and make a decision, ah, after that
2 matter.

3
4 And would those assessments and considerations be
5 documented by you in any way?---Ah, it would - to the best
6 of my recollection, counsel, my practice would have been
7 to, ah, make some form of notation, and it would either
8 have been in an email or handwritten on any given memo. I
9 must say, counsel, I don't have strong recollection - to
10 the best of my recollection, I don't recollect many
11 occasions where conflicts of interest in procurement have
12 been raised with me.

13
14 What would be the situation if the potential conflict of
15 interest was actually your potential conflict of interest?
16 If you considered you might have some interest in the
17 procurement as far as your role as Ombudsman?---Ah, I can't
18 recollect ever forming the view that I had had a conflict
19 of interest in relation to procurement. I might be
20 incorrect, um, to the best of my recollection I haven't,
21 um, had such a view.

22
23 Have you considered what you might do if in the future you
24 had such a view?---Ah, I haven't turned my mind to a
25 hypothetical situation, I'm not sure what I would do if
26 that was the case.

27
28 And the next dot point that all decisions will be
29 transparent and documentation will be completed, I think
30 we've touched on that. Well, certainly in relation to
31 conflicts of interest, you said you would either make a
32 notation or send an email?---That would be my recollection.

33
34 And generally in a procurement process, would you expect
35 that all decisions during the entire process would be
36 documented and filed appropriately so they could be
37 verified later?---Yes, my, ah, my view would be, ah, that,
38 um, the office ought always comply with the Procurement Act
39 and the procurement rules, and the State Records Act, and
40 insofar as those two Acts and rules require documentation,
41 that we did that documentation.

42
43 If we could go to the next page, which is page 29. The
44 first quarter of the page deals with the principles and
45 obligations in the rules will be complied with, including
46 value for money, integrity and accountability of
47 procurement planning. What is your understanding of the
48 procurement planning reference on this page?---Well, I
49 would - are we talking at the top of page 29, counsel?

50
51 Yes, the top of page 29?---Thank you so much.

1
2 There are six dot points, so I'm talking about the third
3 dot point?---Thank you, I've - and I've read them again.
4 Yes, these are principles, and they may not be an exact
5 repetition, I presume they are paraphrasing the procurement
6 rules as they apply in Western Australian. And - and
7 procurement planning goes tot hose matters that one
8 undertakes prior to undertaking a procurement. What would
9 be an example? Do you have a need for the service?

10
11 So, those decisions that are made during the process.
12 Well, perhaps if I can show you a diagram, it might be
13 easier?---Yes.

14
15 If we could go to page 32. Have you ever had reason to
16 look at this page of the financial management manual?---I
17 haven't looked at this page specifically. Well, for any
18 time that I can recollect.

19
20 **THE COMMISSIONER:** But you are familiar with the manual?
21 ---Ah, I am extremely familiar with the Procurement Act and
22 the procurement rules, and they are my first port of all,
23 because this is simply a subordinate internal instrument.
24 But I am broadly familiar, but I - I - I base my
25 familiarity on the Act and the rules.

26
27 **NELSON, MS:** Well, given your familiarity with the Act and
28 the procurement rules, if I give a minute to look through
29 this diagram, does it represent what you understand the Act
30 and the rules require a person or an entity to do if they
31 are purchasing something between the value of \$50,001 and
32 \$250,000?---Forgive me, counsel, I'm just reading. Yes,
33 although of course this is not a flowchart that is relevant
34 to exempt purchases. So, this is for non-exempt purchases.

35
36 So, if we're talking about non-exempt purchases, does this
37 represent the actions that should be taken in order,
38 starting at the top of the page?---No.

39
40 No. So you don't agree with that for non-exempt purchases?
41 What are you referring to when you say exempt purchases?
42 ---Oh, so, um, here there are purchases which are exempt
43 from the multiple, ah, quotation system. So, if it was a
44 multiple quotation purchase, this would be - I'd have to
45 look at it in more detail, but this would be, ah, on my
46 very quick look, appears to be a paraphrasing, and a
47 satisfactory phrasing, largely of the procurement rules.
48 It certainly is not correct in relation to non-exempt
49 purchasing.
50

1 **THE COMMISSIONER:** Not correct in relation to non-exempt
2 purchasing, is that correct?---Correct. Commissioner,
3 purchasing for example, you wouldn't need to go to multiple
4 suppliers.

5
6 Sorry, I'm a little bit lost now. Counsel has asked you
7 about non-exempt purchases, and you've just told me this
8 does not apply to non-exempt purchases. What does it apply
9 to?---Yeah, I - Commissioner, the inelegance is entirely
10 mine, and I apologise to you. Um, this, ah, is a flowchart
11 that would apply to those purchases where you are seeking
12 quotations. You might seek one, you might seek two, you
13 might seek five. There will also be purchases where no
14 quotation is sought, and that flowchart is not applying to
15 that.

16
17 No, that's a different - - -?---Correct.

18
19 And there would be a different process for that?---Correct.

20
21 Is that what you meant by exempt?---Correct.

22
23 But in exempt process, in your eyes, would still have its
24 own process?---Oh, it does.

25
26 **NELSON, MS:** And as part of that process, for whether it's
27 exempt or non-exempt, would you do the very first step,
28 identify the requirement?---Yes. I - I'm not - I would
29 have to refresh my memory of the procurement rules, but my
30 understanding of the Act and the rules is the very first
31 requirement is to identify a need, a need for a service or
32 good.

33
34 **THE COMMISSIONER:** That's pretty obvious?---Correct.

35
36 **NELSON, MS:** And then would you consider whether you could
37 procure the good or service on a common use arrangement, or
38 by agency contract? Would you move to the next step?
39 ---Yes, you would, and it would depend on whether a common
40 use arrangement was in place for that service or good,
41 correct.

42
43 And if a common use arrangement was not in place, would you
44 then follow the next step under the 'no' arrow?---Correct.

45
46 So, you'd develop a specification using Department of
47 Finance request for quote template?---Correct. Ah, correct
48 or similarly thereof.

49
50 And are you saying that if it is an exempt service or good
51 that you are seeking, you would not to the request for

1 quote temple using the Department of Finance specification?
2 ---Ah, no, you would not be required to.
3
4 Then looking through the steps underneath that, if it was
5 an exempt good or service you were procuring, what would be
6 the next thing that you would do in the actions?---Ah,
7 assuming you have identified, ah, the need, you would also
8 then have to undertake a, ah, value for money assessment.
9 Does it represent value for money? Um, and then you would
10 seek a - a quotation, an indication of price from a
11 procurer who you had determined was a, ah, a procurer to
12 provide the service.
13
14 Having got the price, what would be the next step?---Ah,
15 you would assess the price. You would determine whether
16 the price was satisfactory. If - you may go, ah, to and
17 fro with the supplier of the service in relation to, ah,
18 the quantum, potentially also the scope of the terms of the
19 contract and the quantum of the - of the contract, ah,
20 before you moved to finalising the contract.
21
22 And having finalised the contract, what would you then do,
23 if anything?---Ah, well, at the stage of readiness to
24 undertake the contract, you would, ah, undertake the
25 contract. That is, um, that the contract would be, ah, ah,
26 the parties to the contract would fulfil their obligations
27 under the contract.
28
29 And looking at the bottom of the page, if we could have
30 that on the screen, thank you, Madam Associate, there's a
31 box there with tips, and the first one is getting advice
32 and assistance from the finance staff. And the process
33 you've described for an exempt procurement procuress, would
34 you get advice and assistance from the finance staff if you
35 were the one undertaking the procurement process?---Um,
36 that will depend on - it will depend - it's not possible to
37 give a - an answer across every form of procurement. With
38 some procurement, advice is sought. And with some
39 procurement, advice is not sought. What I can say that may
40 have occurred after this revision, or it may not have, and
41 I don't have that recollection, um, contracts between 50
42 and \$250,000 do not need the advice of the Department of
43 Finance. And the procurement rules are very clear about
44 that.
45
46 So, you would not - for a procurement between 50,000 and
47 250,000, you would not involve Department of Finance in any
48 capacity?---Ah, you can, but you do not need to.
49
50 And is that the same with getting assistance from your
51 finance team within the OWA? You might do so, but it would

1 not be necessary?---Ah, we - we certainly could potentially
2 seek advice from, ah, the finance team within the OWA. Um,
3 but then again, we also may not, it would just depend on
4 the nature of the procurement.

5
6 And those decisions that you have described that you would
7 make, starting with the value for money assessment,
8 followed by obtaining a price from supplier and then
9 assessing the price and negotiating down to finalising the
10 contract, would you expect that an officer of the OWA would
11 document each of those processes as they were occurring?

12 ---There will be, ah, documentation in the form of, ah,
13 emails, ah, file notes. Some of those will be
14 contemporaneous and some of those will be, ah, recorded at
15 a latter stage as a procurement memo is constructed as a
16 compendium of the process of the procurement.

17
18 So, you're saying that a procurement - well, what is the
19 purpose of a procurement memo, as you would call it?---Oh,
20 the procurement memo is to document that all of those
21 activities that were otherwise - all of those matters that
22 were otherwise set out in the Procurement Act and rules
23 have actually been undertaken.

24
25 So, you might do that memo after the contract has been
26 entered into, is that what you're saying?---Well, it would
27 be done at a - it could be done at various stages, it would
28 depend on - on the type of procurement. Um, but it could
29 be done even after that, but it would be reliant upon, um,
30 ah, emails, aide-memoirs, notes that would have predated,
31 for example, the signing of the contract.

32
33 **THE COMMISSIONER:** Why would you do it after?---I would be
34 of - it's a timing issue in some ways, Commissioner,
35 because I would be taking personal responsibility for that,
36 as I always have for a while. Um, procurements in the
37 office, so a part would just be the availability of my time
38 to sit down and make a block of time to go through the
39 entire process all the way through and document it. Um,
40 but I certainly would have expected that during the
41 process, there would have been, um, contemporaneous emails,
42 file notes and others, ah, to document stages of it. But,
43 um, Commissioner, many years ago there was, um, or I will
44 simply say this, there was an issue in the office around
45 procurement well before my time, and I've always taken
46 putting together those memos as my personal responsibility
47 extremely seriously. Um, and it would have just been the
48 allocation of my time to sit down and have the block of
49 time to do so.

50

1 So that all the documentation would be there prior to the
2 actual procurement, even if your final report, so to speak,
3 followed after?---Ah, any documentation that was, ah, to
4 issues of, um, matters that were in the procurement rules,
5 um, would have been, um, in some form of email,
6 contemporaneous note of a conversation that may be recorded
7 in an email of those sorts of matters, to the best of my
8 recollection. It is possible, um, Commissioner, that there
9 may have been conversations which ultimately weren't
10 reduced to writing at the time, but once ultimately I
11 reduce to writing when I put together the procurement memo,
12 that is possible.

13
14 Well, if you put them together later, they're not
15 contemporaneous notes?---No, I wasn't suggesting they were
16 contemporaneous notes.

17
18 Sorry, counsel.

19
20 **NELSON, MS:** Thank you, Commissioner.

21
22 So, the emails that you referred to would be emails in
23 various people's inbox that would have been at some point
24 involved in the procurement exercise?---Correct.

25
26 And these would have to be collated to form a procurement
27 planning record after the contract has been entered into?
28 ---Yes, well as I say, it would differ for procurements in
29 the office, and that will go to the value of the
30 procurement, and a range of other issues. And some of
31 course are very standard form procurements, photocopying
32 paper. But I, um, ah, in putting together a procurement
33 memo myself, would be relying upon my own memory, I would
34 be relying upon, um, ah, the emails and other materials
35 that were in the office that documented out the procurement
36 process.

37
38 Well, if we're talking about a procurement process for a
39 good or service over \$50,000 but under \$250,000, I imagine
40 that's not a usual occurrence in the office if you were the
41 Ombudsman, that would be unusual?---Yes, there would be few
42 telecommunications, a few others. It would not be typical.

43
44 Would it not be a situation where you would want to
45 strategically plan the procurement process prior to
46 commencing on the path to the procurement in that
47 situation?---Yes, correct.

48
49 And would that not involve you setting out in some kind of
50 document ahead of time what the value for money proposition

1 was?---Ah, it would involve elaborate discussions with my
2 direct reports about what I thought - - -
3
4 I'm not talking about discussions, I'm talking about you
5 setting out a strategic planning document at the beginning
6 of a significant procurement, such as one would be for over
7 \$50,000 but under - - -?---There's certainly requirement,
8 counsel, to put together a strategic planning document.
9 Um, what I would do is I would have had significant
10 discussions with staff around, ah, need and value for
11 money, and there would have been reflections of that in
12 emails and other matters, um, which staff had sent to other
13 relevant parties.
14
15 **THE COMMISSIONER:** Sorry, I'm just trying to understand
16 the answer to counsel's question. Is there a procurement -
17 these are unusual transactions, between 50 and 250.
18 Counsel asked you whether there was procurement planning
19 first, and there is, as I understand it?---Yes.
20
21 And how is that recorded?---Ah, well, it's recorded in, ah,
22 an extensive and substantial memo at a point of the
23 process, and, ah, which would far out exceed the Department
24 of Finance's requirements. And, ah, during the process it
25 would be through discussions I would be having with staff,
26 external stakeholders, of which many of those would then be
27 reduced to writing. It would not just be a record, an
28 aide-memoir, but actually progressing the procurement as
29 well.
30
31 Well, progressing it is one thing, counsel is asking you
32 about planning?---And the same would be that - - -
33
34 There would be contemporaneous record of the procurement
35 planning for something in that range?---Ah - - -
36
37 I don't want to put words in your mouth, I'm trying to
38 understand your evidence so I can revert to counsel?---Um,
39 well, Commissioner, it's my understanding that there is no
40 requirement under the procurement for contemporaneous -
41 none.
42
43 Well, you amaze me?---Well I'm - it's just the procurement
44 rules made under the Procurement Act. But, um, that's not
45 to say that there weren't contemporaneous notes, and there
46 would have been. About the planning, there would have
47 been.
48
49 Thank you, counsel, I think I understand the answer.
50

1 **NELSON, MS:** I will come back to that, but at the moment I
2 just want to finish with this manual. If I could go to
3 page 141, I'd like to ask you about the budgeting and
4 internal reporting of engagements on you, as well as
5 external reporting for financial measures.

6
7 Page 138. You're familiar with this particular part of the
8 manual, Mr Field?---I omitted - I should have - if the
9 Commissioner would allow me - I omitted to say that if the
10 procurement memo was put together by me, or any
11 contemporaneous - and all contemporaneous emails would
12 appear as an attachment to that memo as well, and I
13 apologise for omitting that detail. Sorry.

14
15 So, I understand you to say that in that situation, the
16 procurement memo, as you call it, is an all-encompassing
17 document that records what has already occurred?---Yes.
18 Correct. I have understood that the procurement rules,
19 which do not require contemporaneous notes to be taken is
20 actually for a reason, it's not a lack of transparency
21 reason, it's because certain stages, you don't know at the
22 first stage, so what you do over a period of time is you
23 ultimately have the capacity to put together a memo, which
24 then sets out all the stages you've been through. But you
25 would expect there would be a level of contemporaneous
26 material through that process, and it's been my process to
27 appendix that to the procurement memo that is ultimately
28 completed. I apologise, I interrupted.

29
30 Is it not the case that before you start to identify who
31 might provide a good or service to the office, you would
32 always first identify the need to obtain that good or
33 service?---I've - yes, well to the best of my recollection
34 I've never done so other than that. And I would be
35 concerned if someone did do so.

36
37 And at the time - - -

38
39 **THE COMMISSIONER:** Sorry, did what?---Did that.

40
41 I'm lost. It's me, it's the afternoon. Could you just
42 repeat your answer?---No, I think it's me. You would need
43 to identify need first.

44
45 **NELSON, MS:** And that need would be actually identifying
46 how procuring that good or service will assist the office
47 perform its functions?---Yes.

48
49 And then you would document that immediately, would you
50 not? This is why we're actually doing this, that would be
51 documented somewhere, surely?---Well, there would be a

1 document that would be created called a procurement memo.
2 Mindful, counsel, that those procurement memos - not that I
3 have a strong - not that I have a strong understanding, but
4 I think in - that they are generally sort of like, one or
5 two yellow sheet - they're pro forma sheets, they're very,
6 very scanned with tick boxes. Um, my approach has always
7 been to put together a very comprehensive memorandum, um,
8 wherever there is any materiality to the purchase. And,
9 um, ah, ah that would include all of the matters that
10 you're referring to. The need, value, why this, um, why
11 this, ah, provider, if it was to be an exempt provider, why
12 was it exempt? Contract management, et cetera.

13
14 **THE COMMISSIONER:** I don't think that quite answered
15 counsel's question, but I may be wrong, so consider this as
16 a question from me. When you start the process, you
17 identify a need?---Yes.

18
19 Is there a contemporaneous note, memo, email, of that need?
20 Even though you might attach it to a procurement memo after
21 the event, is there a contemporaneous note of the
22 discussion and conclusion in relation to the need?

23 ---Commissioner, all I can say is I cannot answer that
24 question with an absolute certainty to say I know on every
25 single occasion, that was done. What I would generally
26 expect is after I had given instructions to staff about a
27 need, that that would be then reflected in some form of
28 writing, and it more likely would be, um, 'I've just had a
29 meeting with the Ombudsman, he is wanting to do this, or he
30 believes we should,' and then that gets forwarded from
31 there. Eventually all of those emails are made into an
32 appendix for a procurement memo.

33
34 Well, I think I understand the evidence, thank you,
35 counsel.

36
37 **NELSON, MS:** Thank you, Commissioner.

38
39 So, your evidence is that all those emails is evidence of
40 the planning? There doesn't have to be any separate record
41 kept within the office of the initial planning related to
42 the need for the service or good?---Well, the - the
43 procurement memo is that - is that evidence, is that plan.

44
45 I think we'll move on for the minute. So, we'll go to
46 page 141, which is on the screen. And this is a part of
47 the manual that refers to budgeting and reporting. In the
48 first paragraph, it refers to the evidence that you gave
49 earlier that the Financial Management Act requires
50 ministers to approve annual estimates of a department, but
51 that is not the case for the OWA, and that the - you

1 actually prepare - the approval goes straight to treasury,
2 is that the situation? It doesn't go through a responsible
3 minister?---Yes, correct. I think the most precise answer,
4 counsel, would be that - ah, not through a minister but
5 directly, I submit, ah, budgets to the Treasurer as the
6 responsible minister under the Financial Management Act,
7 and then my appropriate is provided through Parliament, um,
8 during an appropriations hearing, during which I sit, ah,
9 in the session of the Speaker of the Legislative Assembly.

10
11 Looking now at internal budgeting processes, so internally
12 within the OWA, how often do you see financial budgets or
13 reporting that is compiled by your finance team for your
14 benefit?---It'd be difficult for me to be precise, I see
15 them as part of reading the corporate executive minutes
16 which come to me, I see them as part of, ah, a reporting
17 through from, ah, the relevant offices as to how budgets
18 are tracking, ah, and, ah, and of course, if I have any
19 commentary upon performance of budgets, I would feed that
20 back to relevant offices.

21
22 The last paragraph that is on the screen refers to there
23 being a requirement for monthly budgets and actual
24 expenditure reports to go to individual teams?---Yes.

25
26 Does that occur?---To the best of my understanding, ah, it
27 would. There may be any given time where perhaps the
28 vicissitudes of workloads may make that difficult, I'm not
29 - I couldn't speak to that precisely.

30
31 If we go over to the next page - - -

32
33 **THE COMMISSIONER:** 143?

34
35 **NELSON, MS:** 142, thank you. It's under the heading of
36 'preparation of internal budget'. It says the office is
37 responsible for developing its internal allocation of
38 budgets, and in July of each year, the office prepares an
39 internal budget allocation based on approved funding in the
40 budget statement. And that's for the coming financial
41 year?---Yes, counsel.

42
43 And the last sentence in that paragraph says:

44
45 This process is coordinated by the chief finance
46 officer.

47
48 And approved by yourself?---Yes.

49
50 And who is the chief finance officer at the moment?---Ah,
51 the chief finance officer is Leyla Nowbakht.

1
2 And how long has she been working for the OWA?---I could
3 not say off the top of my head. It'd be somewhere around
4 or less than 12 months, I think, counsel.
5
6 Less than 12 months?---That's a guess, I'd have to confirm
7 that for you. Previously for, ah, my term, it was the
8 deputy ombudsman.
9
10 I'll just show you what I think is an example of that
11 internal budget statement. If we could have 0391^, page 2.
12
13 0391^
14
15 **NELSON, MS:** And this is a memorandum to yourself from the
16 CFO dated 22 September 2023, do you recall receiving this,
17 Mr Field?---I don't have a photo recollection, but I have
18 no reason to doubt that wasn't sent.
19
20 If we could just scroll through the entire document,
21 please, slowly, Madam Associate, so that Mr Field can
22 refresh his memory.
23
24 **THE COMMISSIONER:** Hang on, nobody can read it that
25 quickly. Just do a page, and then Mr Field will indicate
26 when to move on?---Thank you, Commissioner.
27
28 Go back a bit. Right, stop at background. Take your time,
29 Mr Field?---Thank you, Commissioner. Thank you,
30 Commissioner, thank you, counsel. Yes, thank you, I've
31 read that. Thank you. Yes, thank you. And thank you.
32 Thank you so much. Thank you so much. Thank you so much.
33 And thank you. Thank you. And thank you. And thank you.
34 Thank you. Thank you. Thank you. Thank you. Thank you.
35 Thank you. Thank you. Thank you. Thank you. Thank you.
36 Thank you, Commissioner, thank you, counsel.
37
38 **NELSON, MS:** Do you recall receiving this document in
39 September of last year, Mr Field?---I don't have a photo
40 recollection of receiving that document, but I have no
41 reason to believe that I did not receive it.
42
43 If we go just to the very first page, you'll have the whole
44 of the email chain on that page on the screen, thank you.
45 So, the bottom of the page is the first email in the chain.
46 It appears that the memo was sent to you on Friday,
47 22 September last year at 4.23 pm. Sorry, it was sent to
48 Ms Sharp, who was your executive assistant?---Yes, yes.
49
50 And then she forwarded it to you on 26 September 2023 at
51 10.06 am, you can see at the top of the screen?---Yes, yes.

1
2 If we could go back to the second page, so the start of the
3 memorandum. And the purpose there is to seek endorsement
4 from you of the draft 2023-2-24 internal budget. So, this
5 is what was expected that - where the money would be
6 directed in the financial year that had just commenced, and
7 ending 30 June this year?---Yes, yes.
8
9 We'll go to page 3, thank you. You'll see (indistinct)
10 that your FTE is projected to be at 87, and you have an
11 approved FTE at 91 - - -?---Yes.
12
13 I think your evidence before lunch was that it was a little
14 bit lower than that, I think around 70, you said?---Yes,
15 and we haven't - if I misspoke, it certainly wasn't
16 intentional, Commissioner, in any way to suggest that it
17 was less than it should be. Um, the office in the last
18 period of time has been growing in staff, and some of those
19 staff have not yet commenced, and that is because of the
20 reportable conduct function. So, there are those FTEs
21 which are budgeted, and those FTEs which have been
22 recruited. Um, so I understood we were around about 80,
23 going on 80 at the moment, was my recollection. But I
24 mean, obviously I could provide that exact figure to you.
25
26 And the table, the budget full time equivalent, or FTE, for
27 the Ombudsman's office, is 6.1 FTE, so that's 6.1 FTE
28 equivalent positions?---Correct.
29
30 Is budgeted, and that's your office, the Office of the
31 Ombudsman and President?---Correct.
32
33 Then if we go over to the page to the projected
34 expenditure, the Ombudsman's Office expenditure, including
35 salaries, is to be 1.6-odd million for this financial year?
36 ---Yes, yes.
37
38 And that's with the FTE of 6.1?---Ah, in this paper,
39 correct, yes.
40
41 And then if we could go to the bottom of page 5, top of
42 page 6. In the summary, a few lines there, those four
43 lines, the CFO has said that the draft internal budget
44 would ensure the office aligns with the signed resource
45 agreement and the 2023-24 state budget application,
46 including the approved salary limit. It incorporates
47 approved flexibility to accommodate office priorities, and
48 reflects the spending patterns from prior years. Did you
49 have a conversation with your CO about the office
50 priorities for this financial year in terms of salary and
51 expenditure?---Ah, no, but my recollection would be that I

1 would have had a conversation with the persistent Ombudsman
2 about that matter.

3
4 And that's Morgan Marsh?---Correct.

5
6 So, can we assume that the reference to office priorities
7 there would be the priorities that had been communicated to
8 the CFO by Ms Marsh?---I have no reason to believe that
9 Ms Marsh would not have had a faithful conversation with
10 about CFO about any matters that I discussed with her.

11
12 What did you tell Ms Marsh that the office priorities would
13 be in terms of spending on salary and other expenditure in
14 this financial year?---Oh, I - I just - I don't have a
15 recollection of that conversation. Ah, it would have been
16 if I was to - well, I simply don't have a recollection of
17 that conversation, I don't recollect having that
18 conversation.

19
20 Do you recollect - would it have been a conversation by
21 email, or face to face?---Ah, it could have been either or
22 both. It will depend on, ah, it depends - it would depend,
23 for example, if we were both in the office at the one time,
24 or I might have called her, for example. It might be via
25 email, there could be a combination of either.

26
27 If we go over the - well, we are already over the page.
28 So, this is the draft expenditure broken down separately by
29 salary and other expenditure and superannuation by the
30 different teams in the office, is that correct?---Sorry,
31 what page is that now?

32
33 So, we're now on page 6, which is up on the screen?
34 ---Sorry, I've got you. Sorry, I'm so sorry, yes.

35
36 We're looking at this table, and it appears to be a table
37 of the different work areas or teams in the office. You
38 can see the far left column?---Yes, counsel, yes.

39
40 So, the very first row is a reference to your team in the
41 Office of the Ombudsman and President?---Yes.

42
43 And there's a reference there to six full-time equivalent?
44 ---Yes.

45
46 The salary component for that, the superannuation
47 component, and then the general expenditure of \$225,240?
48 ---Yes, yes.

49
50 What does that general expenditure dollar value refer to?
51 ---I have to check that, ah, counsel, as to whether that's

1 referring to further on costs in addition to superannuation
2 and salary. So, for example, um, ah, you know, cost of
3 desks and costs of office equipment, or there is some other
4 reference, I would need to check that for you.

5
6 Does the Office of the Ombudsman and President already have
7 desks for the six FTEs?---Um, well just to clarify in
8 relation to the six FTEs, they aren't staff, that is the
9 establishment number. So, a number that is otherwise
10 apportioned to a part of the organisation. I think at
11 that point those FTEs would have been myself, my executive
12 assistant Ms Rebecca Poole, and possibly Mr Kyle Heritage.
13 There would have been four FTEs, I think. Um, there may
14 have been potentially - I can't recollect what time Natalie
15 Fisher left the organisation, nor Ella Italiano-Schmidt.
16 Um, so whether there were actually six people there, ah, is
17 a separate issue to what the establishment was, and the
18 establishment has since been reduced as well in that area.
19 Um, in relation to the general expenditure, ah, um, ah,
20 they aren't sunk - they aren't one-off costs, they are
21 costs that are ongoing costs that are paid as part of -
22 part of budgeting, but I would have to check that for you,
23 counsel.

24
25 Would the ongoing costs related to desks and IT not be the
26 very last time, very last row, the shared and recurrent
27 costs?---That's not on this table I'm looking at here.

28
29 **THE COMMISSIONER:** The last column?---The total?

30
31 Recurrent costs, 1.873 million?---Oh, yes it - yes it - it
32 could be, I would have to check that. I wouldn't want to
33 guess, um, because to guess could mislead the Commission.
34 There will definitely be an answer, and I'm absolutely
35 happy to give it, but I'm not absolutely certain what the
36 answer is.

37
38 **NELSON, MS:** It appears to me, Mr Field, that your CFO has
39 broken down the general expenditure by teams?---Yes.

40
41 Could that figure of \$225,240 be expected expenditure on
42 travel in this financial year by persons including yourself
43 in the Office of the Ombudsman and President?---Ah, it
44 could be. I think it would be unlikely, because that would
45 be an amount that would be significantly in excess of what
46 would be anticipated.

47
48 Well, if I said to you that in the annual report you
49 reported for the financial year 2023-23, that the
50 Ombudsman's office spent \$223,429 on travel. Can you not
51 see some parity between what is now - your CFO is

1 projecting would be spent in this financial year?---Um, no
2 counsel, and I think there would be a very cogent answer to
3 that, I hope. The amount in the annual report, um, which
4 was subsequently based on the public record, um, was
5 profoundly incorrect. Um, that amount refers to the
6 expenditure of all travel of all staff of the Office of the
7 Ombudsman. Um, the travel expenditure for the Office of
8 the President during that financial year was, I think,
9 approximately \$170,000, of which approximately mine was
10 around \$85,000 as I recollect it. So, it would not seem to
11 be to be likely - because you wouldn't apportion the travel
12 of other staff to the Ombudsman's office.
13

14 **THE COMMISSIONER:** Well look, it's 3 o'clock and I thought
15 I would give you a break, because I'm conscious that this
16 is no easy place to be, so we'll have a break for
17 10 minutes, and in the meantime you can have a look at that
18 and work out where travel is reflected, because the
19 Ombudsman's Office does travel, and it's got to be
20 reflected somewhere, so you can tell us where when we
21 return in 10 minutes?---Thank you, Commissioner.
22

23 (Short adjournment)
24

25 **THE COMMISSIONER:** Please be seated.
26

27 **NELSON, MS:** Mr Field, I'll bring up your financial
28 reports in the annual report 2022-23, 0039^ thank you,
29 Madam Associate. Page 279. If we could just scroll to the
30 bottom of the page, we can see the page number, thank you.
31

32 So, this is page 279 of the financial statements at the
33 back of your last annual report. And under the heading
34 '2: Use of our Funding', there's another heading, 'Expenses
35 incurred in the delivery of services'. And I draw your
36 attention to the last line, other expenditure, under
37 note 2.2. Do you see that, Mr Field?---Yes, counsel, thank
38 you.
39

40 And then if we go to note 2.2, which is at page 283 of the
41 financial statements, in the top portion of the screen we
42 can see that there's a line item, travel?---Ah, yes,
43 counsel.
44

45 And under 2023, so as at 30 June 2023, the Office had
46 expended \$266,670 on travel?---Yes, counsel.
47

48 Do you accept that figure, Mr Field?---Yes, counsel.
49

1 And of course, that would include travel by any OWA staff
2 member whether it was internationally or domestically?
3 ---Yes, counsel.

4
5 And the previous year, as at 30 June 2022, \$84,706. So,
6 given that you had reported expenditure of the amount of
7 266-odd thousand, I now take you back to the document we
8 were looking at before we broke, which is 0391^.

9
10 0391^

11
12 **NELSON, MS:** Page 6. And what I'm suggesting to you,
13 Mr Field, is that reference at the top row under general
14 expenditure for the Ombudsman's Office, 225,240 is the
15 expected travel expenditure for the Office of the President
16 and Ombudsman for '23-'24 financial year?---And counsel,
17 all I can answer in relation to that is that, ah, I will
18 need - if the Commission was to allow me to, obviously
19 without any breach of section 99, to further reflect upon
20 that number. Because in that short break that I've had, I
21 - I haven't been able to recollect what that amount is.
22 Without giving a long answer, Commissioner, what I can say
23 is the expenditure that's referred to in our annual report
24 of 266,000, comfortably around \$100,000 of that was
25 unrelated to the IOI. So, I'm not sure why the 170,000
26 would become 225. Because my staff were clear that I was
27 planning to travel less in '23-'24 than I had in '22-'23.
28 So, I can't understand why that number would reflect
29 travel. But, Commissioner, if you would indulge me, I
30 would like to try to give an exactly accurate answer to the
31 Commission, I would like to reflect upon it further.

32
33 **THE COMMISSIONER:** Well, I take your point, and I accept
34 that you need it, and Ms Nelson can talk to Mr Porter after
35 about how that might be done so that you may clarify and
36 verify the figure in the morning?---Thank you,
37 Commissioner.

38
39 **NELSON, MS:** Could we move onto the next page, thank you,
40 which gives the particular positions in the Office of the
41 Ombudsman and President. So, that's page 7 of this
42 document which is now on the screen. So, at the time that
43 this document was put together, which was in around about
44 26 December 2023, at that time in your office, was there an
45 executive officer to yourself, Nicola Jamieson?---Correct,
46 yes, counsel.

47
48 And Ms Poole was occupying the head of the Office of the
49 Ombudsman and President position?---Yes, counsel.

50

1 Then there was an executive support officer,
2 Ms (Indistinct)?---Yes, counsel.

3
4 A director of strategic policy, national and international
5 engagement, vacant?---Yes. Yes, counsel.

6
7 And that is a level 8 position?---Yes.

8
9 And then Mr Kyle Heritage was - there was another position
10 that, I gather at the time of this memorandum, Mr Heritage
11 had vacated, is that correct?---Had vacated?

12
13 Had vacated. So, he was a level 8.2 director strategic
14 policy, projects and international relations, but he had
15 moved to another position?---Mr Heritage had indeed had,
16 ah, other opportunities. The exact timing, counsel, I
17 can't remember. But the answer to your question I'm sure
18 would be yes, that he had moved within the teams in the
19 organisation.

20
21 There was also a level 3 position within that office?
22 ---Yes.

23
24 And a level 4 research and project officer?---Yes.

25
26 Another level 3 graduate research and project officer
27 position?---Yes.

28
29 And another level 8 principle research and project officer
30 position?---Yes.

31
32 So, altogether in the Office of the Ombudsman and
33 President, there was one class 3 position, three level 8
34 potential full-time equivalent positions, is that correct?
35 ---Did you say in the Office of the Ombudsman and
36 President?

37
38 Yes?---Yes, counsel, correct.

39
40 Two level 3 positions in the Office of the Ombudsman and
41 President. You're nodding?---Sorry, yes, counsel, sorry.

42
43 And one level 4?---Yes, counsel.

44
45 How many of those positions that we've just articulated did
46 work to support your IOI presidency there in 2023?---Of
47 those positions, Jane Byrne did not. Ah, Kyle Heritage,
48 ah, would have during periods of 2023. He was also on
49 secondment to other parts of the agency, and I cannot be
50 precise about those dates. Ah, Nicola Jamieson, ah, did
51 not, ah, apart from some very minor assistance. Um, Vicky

1 Sharp yes, would have and did. Ah, Rebecca Poole and the
2 other two positions - sorry, Ella Italiano-Schmidt would
3 have also provided assistance. Lara Miller, at a
4 reasonably early point in her - I cannot be precise about
5 the date, in a reasonably early point of her work, um, took
6 a secondment opportunity to, ah, the complaint resolution
7 and investigation team of my office.

8
9 The Commission has information that the director strategic
10 policy national and international engagement position that
11 says is currently vacant was the position occupied by
12 Natalie Fisher, do you recall that?---That would have been
13 correct.

14
15 And during the period of time that she worked in that
16 position, which we believe was about six months - - -?
17 ---Yes.

18
19 - - - did she perform IOI-related work?---Yes, she would
20 have. Not exclusively, but she would have performed
21 IOI-related work.

22
23 So, in total it would appear there were four, maybe four
24 and a half full-time equivalents supporting you doing IOI
25 presidency work?---Oh, no, I don't think you could describe
26 it that way, counsel. Sorry, I accept the FTE number 4.2,
27 without doing the calculation myself. But they supported
28 the Office of the Ombudsman and the Office of the
29 President, but the Office of the Ombudsman was a
30 substantial amount of work, and there would have been a
31 significant amount of work done by those officers on
32 non-IOI matters as well.

33
34 Were any of those officers listed - and if we add in
35 Ms Fisher to that list, exclusively working on IOI work?
36 ---No.

37
38 If I was to suggest to you that the executive support
39 officer and one of the directors strategic policy and
40 international relations officers, and the one research and
41 project officer were performing predominantly IOI work
42 during the period of time in that office, would you agree
43 to that?---It would have been a significant amount of work
44 predominant for the support officer, I'm not sure that it
45 would be predominant. For the director of strategic policy
46 on national and international engagement, there was very
47 major projects we were working on from the Office of the
48 Ombudsman. Predominant, I'm not sure. Um, and for Ella
49 Italiano-Schmidt, I think the answer would have been
50 predominant.

1 Predominantly IOI work?---Correct, but I - I would have to
2 say I would really have to go back and look at the work
3 allocated to them and to consider that. They were
4 certainly doing both, there is no question about that. And
5 the ones that I have mentioned, and you have mentioned,
6 were certainly contributing to IOI work.

7
8 **THE COMMISSIONER:** Well, I appreciate that it's difficult
9 to - and one might argue fine points, but would you agree
10 that whether or not it was predominant, leaving that to one
11 side, there was a significant amount of work being done for
12 IOI by people in the Office of the Ombudsman?

13 ---Commissioner, I don't think it should be described any
14 other way. Within that team of course.

15
16 **NELSON, MS:** In October of last year, Mr Field, do you
17 recall asking Morgan Marsh for a breakdown by financial
18 year of the travel expenditure that was non-IOI related?

19 ---I do have a recollection of asking that question.

20
21 I have an email from Ms Marsh to Leyla Nowbakht from
22 25 October last year, in which she says, 'May I please ask
23 a favour? The Ombudsman has asked for a breakdown by
24 financial year for 2021-22, '22-'23 and '23-'24 to date on
25 the travel expenditure that is non-IOI related. Does that
26 accord with your memory?---Yes, I have a recollection of
27 that inquiry.

28
29 And do you recall why you made that inquiry of Ms Marsh?

30 ---Could you remind me of the timing, counsel? Is that a
31 question - - -

32
33 I'll show you the document?---Oh, okay.

34
35 It's 0294^, we'll go to page 2, please. I'll take you
36 through the whole email chain?---Thank you.

37
38 So, starting at the bottom of page 2, I'll give you a
39 moment to read that.

40
41 **THE COMMISSIONER:** And the date is 25 October.

42
43 **NELSON, MS:** Thank you?---Now, I am assuming I asked that
44 question, ah, sorry. My recollection is I asked that
45 question to determine the issue of within our financial
46 reporting that appeared in the annual report, what portion
47 was staff travel, and what portion was IOI travel.

48
49 And when you're referring to IOI travel, do you mean - or
50 the international travel?---Exactly, counsel.

1 So, there wasn't any international travel that you or any
2 OWA member took that was not for the IOI? It was all for
3 the IOI?---Correct.
4
5 Thank you, if we could just finish going through this email
6 chain, we can see that Leyla responds with an attachment,
7 and then if we can continue up, thank you, Madam Associate.
8 She asked for it to be arranged into another form, and then
9 if we go onto page 1, thank you, and continue up. So, this
10 is all on the same day, 25 October?---Correct.
11
12 So, we can see here that Leyla says to Ms Marsh that there
13 are some discrepancies between the totals, the travel
14 returns sorted based on the date and the trial balance. Do
15 you know what she's referring to when she talks about a
16 travel return?---Ah, there is a requirement to undertake -
17 well, two requirements. One would be a travel return that
18 would be done for any travel undertaken by an officer of
19 the Ombudsman, and any travel return - international
20 travel, of which there must be a quarterly return tabled in
21 the Western Australian Parliament.
22
23 So, I take it that the travel returns that she's referring
24 to are the internal OWA staff travel?---I'm not certain,
25 but I suspect from the context that's what that is.
26
27 And then we can see the last email at the top of the page.
28 And then if we go to the attachment, which is at page 4. I
29 know it's a lot of information in a small table, but this
30 appears to me to be the domestic travel, either inter or
31 intra-state travel?---Correct.
32
33 So, at the top, if we go to the far right under July 2020
34 to June 2021, it was a total of just over \$10,000 in intra
35 and interstate travel for the whole office?---Correct.
36
37 And then the next one (indistinct) is 30 June 2022 was a
38 similar amount for interstate and intrastate travel for the
39 whole office?---Correct.
40
41 You're nodding your head?---Oh, correct, yes.
42
43 Thank you. And then the next one ending 30 June last year,
44 the inter and intrastate travel came to \$22,417.29. You're
45 nodding your head?---I'm so sorry counsel, yes.
46
47 And then the IOI travel is on the next page, which is page
48 5. There it has been compared to the intra and interstate
49 travel. So, for '21-'22 financial years, on the left of
50 the screen, we can see that there was \$9,443.38 spent on

1 intrastate travel, and \$74,762.67 spent on international
2 travel?---Yes.

3

4 You agree. And that figure of \$84,706.05 was what then
5 appeared in the financial year '22-'23 financial report
6 that I just told you as a comparison?---Yes.

7

8 Then the next financial year, which ended just 30 June
9 2023, there is an expenditure on international travel of
10 \$223,429?---yes.

11

12 And as I understand your evidence, that would be all
13 IOI-related travel, that figure?---Ah, yes.

14

15 Because that is all the international travel for that
16 financial year?---Yes, yes.

17

18 The domestic travel for that financial year was \$43,241?
19 ---Yes.

20

21 And then at the time that this was put together, so for
22 this current financial year, there had already been
23 expended 2,291 on intra or interstate travel by OWA
24 officers?---Yes.

25

26 And that's the far right of the screen in 59,395 on
27 international travel?---Yes.

28

29 Which is IOI-related travel?---Yes.

30

31 Do you recall receiving this document in October 2023,
32 Mr Field?---This document here?

33

34 Yes?---Ah, I don't actually have a recollection of seeing
35 that particular page, but I certainly have a recollection
36 of having a discussion about, ah, reconciliation of, ah,
37 travel numbers.

38

39 And disputing whether these figures are correct?---Oh,
40 they're most clearly not correct.

41

42 Not correct?---No.

43

44 **THE COMMISSIONER:** They're not correct?---No.

45

46 Why?---Well, the correct numbers for 2022-2023
47 international travel are those which have been tabled and
48 reported to the Parliament of Western Australia. Um, and
49 that number is less than 223,429, and hence the reason I
50 queried that number with my staff. And I understand that
51 is the referencing that is being made in that memo, ah,

1 about, ah, the timing of returns and how they have been
2 calculated by the staff, so on cusps of financial years and
3 otherwise. But there is absolutely no uncertainty about
4 the cost of my international travel. It has been tabled in
5 Parliament, as I lawfully must, and that amount is not
6 223,429, for example.

7
8 The figures that were tabled in Parliament, did they come
9 from your office?---Yes.

10
11 And these figures appear to have come from your office?
12 ---Yes.

13
14 And they're different?---Well, um, Commissioner, the
15 figures that have come from my office are the ones where
16 there has been a travel return, the exact reconciliation of
17 the amount that has been spent is then written into a
18 travel return, and it comes for my oversight and approval.
19 Ah, and then they are tabled in Parliament. These figures
20 here are put together by our excellent accounting team, but
21 what may have happened - and I think that's what the memo
22 is referring to - is there may be, for example, a travel
23 return of a previous financial year that's been included in
24 a forward financial year. But it is - there is - it is the
25 case that my travel as international Ombudsman - president
26 of the International Ombudsman Institute for 2022, for
27 2023, is as it appears in the quarterly returns that have
28 been tabled in Parliament, to which I have signed and sworn
29 are true. And it is not that number.

30
31 **NELSON, MS:** When you sent those figures to Parliament, do
32 you include accommodation?---Yes, you're required to
33 include travel - sorry, transport, accommodation, meals
34 allowances. Counsel, if it may further assist, the number
35 that is correct is approximately \$170,000, of which
36 approximately \$85,000 was mine. So, I suspect what has
37 happened is a number that was from '21-'22 has been
38 included in '22-'23 by omission, and that was a
39 conversation I did have with my staff as to how the numbers
40 - why the numbers weren't reconciling. That also may have
41 been a conversation I had in email, I would need to check
42 that.

43
44 Are you required to report to Parliament on charter
45 vehicles that you use to get to the airport?---Yes.

46
47 Other in-country charter vehicles whilst you're overseas?
48 ---Ah, not if they were provided for at the cost of another
49 - of another nation, another Ombudsman's office, no. So,
50 that would - that would be the cost. My practice has been,
51 however, to record zero, and I think this goes beyond the

1 requirements, and to know why, is my recollection of what I
2 have done.

3

4 What about gifts that you purchase to take with you?---Ah,
5 they are separately recorded on a gifts register.

6

7 So, they're not reported to Parliament?---Ah, no, they're
8 recorded on the gifts register. There's no requirement to
9 report those to Parliament.

10

11 So, the gift register stays within the OWA?---Correct.

12

13 Would that account for some of the discrepancy in the
14 figures between what's reported to Parliament and what
15 appears in this document?---I think that's very unlikely.
16 I can say, and I don't have that email at present, counsel,
17 my recollection is I received an email from one of my staff
18 members that actually answered my question, ah, and that
19 answer was we think - to my recollection, it was, 'We think
20 it's a case of the fact that something was from a previous
21 financial year, has been incorrectly accounted for in that
22 financial year.' That is my recollection of what I
23 received, but I would have to check that.

24

25 **THE COMMISSIONER:** Which would mean that the 74,000 should
26 be inflated, and the 223,000 should be reduced, is that
27 correct?---Ah, or it may be - it may be that those expenses
28 relate to interstate expenses of other staff, Commissioner,
29 as well.

30

31 We can only work on what your office has produced. It
32 seems that there is a significant problem in relation to
33 the recording of your international travel?---Well,
34 Commissioner, what I can say is this. That money which has
35 been spent on international travel is exactly - exactly
36 accurately as it appears in the reports that have been
37 tabled in Parliament - in the Western Australian
38 Parliament, to which I have signed. Um, and they are the
39 record of my travel. There is no travel or money beyond
40 that which is otherwise in my - to the very best of my
41 recollection, um, ah, not included in that.

42

43 And those returns would in turn be taken from the accounts
44 of the Office of the Ombudsman?---They're taken from the
45 travel returns. Sorry, the travel business case and the
46 travel return for each one of those - each one of those
47 reports. So, in each case, there is a travel business
48 case, then a travel return, which is a remittal of the
49 costs. They are then put together with the narration of
50 what occurred.

51

1 My question was quite narrow, before I get back to counsel.
2 The figures apply for the quarterly travel returns that are
3 tabled in Parliament?---Yes.

4
5 Come from your office?---Yes, they do.

6
7 **NELSON, MS:** If I could show you 0015^.
8
9 0015^

10
11 **NELSON, MS:** This is a document of approximately 11 pages,
12 if we could just scroll slowly through, please.

13
14 **THE COMMISSIONER:** Tell the associate when you want the
15 page moved?---These ones I have settled personally, so I'm
16 very familiar with them, so you can keep going through,
17 thank you counsel.

18
19 **NELSON, MS:** You can see that it appears to have entries
20 for international and intra-state travel, and presumably
21 interstate travel if it occurred during 2023, the calendar
22 year?---Yes, I have not settled the intra-state sections of
23 this, um, but the international, yes.

24
25 So we can keep scrolling through reasonably fast. We can
26 see where the last entry is. Now, it appears to me that
27 all the blue entries relate to international travel, and
28 inter and intra-state travel is in black?---Yes, this is an
29 internal document; in fact, an internal document I haven't
30 seen, ah, counsel. The document that I see is the document
31 that includes the international travel that is signed by me
32 and returned to parliament - ah, sorry, returned to the
33 Department of Premier and Cabinet that then in turn have it
34 tabled in parliament.

35
36 The evidence available to the Commission is that this
37 document which is for a calendar year - and there has been
38 one since at least 2021 - is prepared by the financial
39 team. You can see at the bottom it's located from the
40 T Drive in corporate services - - -?---Yes.

41
42 - - - in the Financial Management folder. And it takes
43 information from the 'Reason for Travel' section of your
44 business cases - - -?---Yes.

45
46 - - - to populate the 'Purpose of Travel' column. And then
47 the cost - if we could go back to page 1 perhaps - the new
48 cost is also taken from the business cases and/or the
49 credit card statements of OWA staff members?---Ah, I've not
50 seen this document before, counsel. What I can say is
51 those coloured blue - and I'd have to read them to be

1 precise - are the ones I've settled. But those would be -
2 that would be the information that I would otherwise be
3 providing to parliament as part of my quarterly travel
4 returns to parliament on my travel.

5
6 Are you aware of who populates the 'Purpose for Travel'
7 column in this document?---Ah, for international travel?

8
9 For any travel?---For - for the purpose of the travel
10 that's not international travel, no. Um, for international
11 travel, me. Oh, a draft is prepared, I'm sorry, and then I
12 settle - settle the material I should say.

13
14 So you have seen these documents before and you settle the
15 content?---No, not this document. I've seen the document
16 which is the, ah, travel return to parliament.

17
18 And have you made inquiries before you settle such a
19 document - the travel return to parliament I'm talking
20 about - have you made inquiries as to where the information
21 has come from to populate it before you settle it?---Yes,
22 from the - from the business cases, ah, and the - and the
23 travel returns, the reconciliation of those business cases.

24
25 And the Commission's information is that the same source
26 documents provide the information for this staff travel
27 record?---Ah, the, um - - -

28
29 You don't know?---I don't, but I have no reason to doubt
30 that's not true.

31
32 If we could go back to 0421^.

33
34 0421^

35
36 **NELSON, MS:** Page 38, thank you. Are you familiar with
37 this Travel on Official Business policy, Mr Field?---I am.

38
39 It was last revised in May 2021. Was it settled by you?
40 ---Ah, I don't have a recollection of settling it
41 personally, no.

42
43 The first paragraph identifies the business need for the
44 travel as being something that is essential to articulate,
45 would that be right?---I'm so sorry, what - - -

46
47 Sorry, I'll retract that question. So looking at the first
48 paragraph, are there two matters that must be settled
49 before business-related travel is undertaken; firstly,
50 whether it's essential to the efficient performance of the

1 office's function? Is that the first thing that must be
2 determined?---Ah, yes.

3
4 And then secondly, whether the business-related travel is
5 required to meet the outcome of the Office of the
6 Ombudsman?---Yes.

7
8 And then there's a third thing in the next sentence:

9
10 Given that, is there another way that attendance can
11 be achieved without travelling, i.e. through a video
12 attendance or teleconferencing?

13
14 ?---Yes.

15
16 And are those the three requirements that you consider
17 prior to entering any international travel arrangements?
18 ---Ah, yes, the principal documents that I would have
19 reference to would be the Premier's Circular which is of
20 course referenced there in the - in the document, um, as to
21 the need for the travel and the value to the state, and
22 then whether it could be done in a - how is it done in the
23 most cost-effective manner.

24
25 And do you consider those three things for your
26 international travel prior to undertaking the travel?---On
27 every single occasion.

28
29 Do you consider those three things prior to expending any
30 money in preparation for the travel?---On every single
31 occasion.

32
33 So is that in fact the first thing that you would do? You
34 would think, 'Is it essential to performing my functions'?
35 --- (No audible response.)

36
37 You're nodding?---Oh, sorry. Yes, counsel.

38
39 'Is it required to meet the outcomes of my office'?---Yes.

40
41 You do that. And then you consider whether you could
42 actually do it by teleconference or video?---Yes, on each
43 occasion that, ah, I would turn my mind to these things I
44 would think, 'Is there a need for this travel? Is there
45 value to the Western Australian taxpayer? And third, ah,
46 is there a - what is the most cost-efficient mechanism I
47 could achieve that outcome?'

48
49 And do you consider all those three things before you give
50 any person instructions to book flights - - -?---Yes.

51

1 - - - or accommodation - - -?---Yes.

2

3 - - - or in fact to expend any of the office's money on any
4 aspect of the prospective travel?---Ah, I would - it would
5 be a matter where I would be giving, um, consideration to
6 that, counsel, um, as simply an ongoing part of my role.

7

8 **THE COMMISSIONER:** Sorry, could you just repeat that a bit
9 more loudly?---Oh, sorry, Commissioner. The, um - whether
10 the, ah, travel is - is necessary, has a need, has a value,
11 could it be done in a less expensive way is something I
12 have always in my mind when it comes to travel.

13

14 And I understand from a previous answer you gave counsel,
15 you always consider these matters before you expend money?
16 ---Well, I'm never not considering them, um, Commissioner.
17 They're always part of my thinking.

18

19 That's what I just said?---Oh, sorry, I wasn't trying to be
20 - sorry, Commissioner. I should just say yes then.

21

22 **NELSON, MS:** The fourth paragraph which commences:

23

24 The officer's travel arrangements will be consistent
25 with the Premier's Circular 2014/02 Guidelines for
26 Official Air Travel by Government Officers.

27

28 What does the policy mean by 'be consistent'?---Ah, the
29 view that I have, ah, and formed about - and it's not just
30 this, um, policy, counsel, but many policies that are
31 policies of the executive government of the day - is they
32 cannot bind the office of the Western Australian Ombudsman.

33

34 I understand that, Mr Field, that you don't feel bound by
35 it, and in fact, I think this policy says it. I just want
36 to understand what does 'consistent with' mean?---I - - -

37

38 Does it mean you follow all aspects of it or you follow all
39 aspects other than getting the minister's approval?---I
40 should have - I should have been much more concise to
41 simply say, um, insofar as, ah, any aspect of this
42 guidelines represents a good practice, um, then we would
43 expect to consider it in terms of the practice that we
44 adopt.

45

46 So you first make a consideration as to whether a
47 particular obligation in the Circular you consider to be
48 good practice?---Well, there's many aspects of the Circular
49 that don't apply to our office. Um, we will always look at
50 the - at the guidelines in the Circular and consider

1 whether that was an appropriate practice for us to
2 consider.

3
4 And when you're considering in relation to any particular
5 travel that you want to take, the consistency with the
6 Circular and how much you would follow the particular
7 Circular for that travel, is that always subject to those
8 three matters that we talked about at the beginning of the
9 policy; that is whether it's essential to the performance
10 of your functions, required to meet the outcomes, and
11 whether or not you could actually achieve it by doing a
12 teleconference?---Yes.

13
14 So you would consider the Circular after you have
15 considered those three matters?---Well, those matters are
16 also enunciated in the Circular, so in that sense it would
17 itself be - and it is no pun intended - circular. I would
18 - we would be considering - I would be considering, um, is
19 this, ah, something that is appropriate for me to do as
20 Ombudsman, ah, and in advancing the interests of the
21 institution of the ombudsman, um, and is this the most
22 cost-effective way of doing so?

23
24 If we go to the bottom of that page under 'Procedures'
25 there's a reference to administration staff in each branch
26 arranging the travel for the office. Is there any
27 particular administration person that arranges your travel?
28 Any particular position within your office that arranges
29 your travel?---Generally in relation to administrative
30 work, ah, it's across a few people. Excuse me, counsel.
31 One would be my executive officer. Ah, it would also be
32 staff in the Office of the Ombudsman and President, ah,
33 would also have a role as well. So - but it would be
34 principally the executive officer doing administrative
35 work, um, but other staff would have some role, liaison
36 role, for example.

37
38 And currently would that executive officer be Ms Sharp?
39 ---Correct.

40
41 If we could go to the next page, page 39, the Premier's
42 Circular. In fact, this policy refers to liaising with
43 DFAT, and it says:

44
45 Any contact for the purpose of undertaking this
46 consultation will be subject to prior approval by the
47 Ombudsman.

48
49 Is that your general practice that you would give approval
50 to someone to reach out to DFAT for a specific travel
51 activity that is to take place?---Correct, counsel. I

1 would always, ah, delegate to a staff member, ah, to
2 contact DFAT and for a range of reasons that we would
3 contact DFAT.

4

5 And then the next heading 'Approval Prior to Travelling'.
6 This would seem a silly question, but just so I'm clear - I
7 think I'm clear from what you said about the three matters
8 that you consider, but you would give yourself approval to
9 travel internationally prior to travelling?---Yes, counsel.

10

11 And prior to instructing any administration staff to
12 arrange particular travel?---I would have made a decision
13 prior to giving those instructions as to whether this was
14 an international visit which I would undertake, counsel,
15 correct.

16

17 And when you gave consideration would that be in the form
18 of the travel proposal form that this paragraph - - -?
19 ---Correct.

20

21 - - - refers to?---Correct.

22

23 So the approval would be on the basis - if you're approving
24 someone else's travel it would be on the basis of what was
25 in their travel proposal form that they submitted to you?
26 ---Correct.

27

28 And if it is yourself approving your own international
29 travel, is it your practice to still fill out the travel
30 proposal form prior to formally approving it?---I would
31 always approve it beforehand. Ah, the actual - when the
32 form is filled out, um, it will partly depend upon the
33 workload of myself and my executive officer at the time.
34 Um, but certainly I would have made a decision and then a
35 form would be filled out. And is there a form filled out
36 for my travel? Yes, there is.

37

38 So you're saying on some occasions you don't actually
39 follow this policy and fill out a form when seeking
40 approval, i.e. before the travel?---Well, counsel, I have
41 obviously in my mind gone through all of the matters that
42 germane to consider in the policy, in the Premier's
43 Circular insofar as it applies, come to that decision, and
44 then it's reduced to writing in the - in the business
45 return.

46

47 And is the reduction to writing done by you?---Ah, it's a
48 form that is in part a pro forma form. It is in part a
49 form that is completed by my executive officer, and partly
50 a form which I complete myself. Of course the
51 responsibility for the form rests with me.

1
2 Under the heading 'Combining Personal and Business-Related
3 Travel' down the bottom of the page there's another
4 reference to travel on official business being for the sole
5 purpose of meeting the outcomes of the office. And is that
6 a criteria that you apply to yourself when you're approving
7 your own international travel?---Yes, I do.
8
9 Then if we go over the page to page 40, thank you, under
10 the heading 'External Reporting' there's a reference to the
11 tabling in parliament of official air travel that you've
12 referred to earlier, and the third dot point that those
13 reports are to be approved by yourself before they go to
14 the Department of Premier and Cabinet?---(No audible
15 response.)
16
17 You're nodding your head, Mr Field?---Oh, sorry. Yes,
18 counsel. I'm so sorry.
19
20 And the Premier and Cabinet is responsible for submitting
21 them to parliament. So I take it that you don't have
22 ultimate approval of what is tabled in parliament in
23 relation to your international travel?---Ah, my
24 understanding is that it's a procedural matter. I'm not
25 aware of any occasion where a submission, um, has been
26 changed between when I provided it to the Department of
27 Premier and Cabinet and it being submitted to parliament.
28 Um, I'm not being the slightest bit flippant, it is simply
29 a fact that the only time I ever received feedback from the
30 Department of Premier and Cabinet about one of my
31 submissions is that my narrations were far too excessive; I
32 was providing far too much detail and I should make them
33 very short. And that was the only feedback I've ever had.
34
35 And then going back to internal reporting within the OWA,
36 there's a reference to a travel report form being submitted
37 after the travel has concluded as soon as practicable?
38 ---Yes.
39
40 Do you do that for your own international travel?---Yes.
41 So again - and there - there may potentially be some lag of
42 time, it would depend on the workload of my executive
43 officer and team around my executive officer. But it is,
44 ah, always the case that to the best of our ability we
45 would, um, want to have a travel report. And what that is
46 intending to do is to provide a precise reconciliation of
47 costs against the original proposal, and if there'd been
48 any change of plans, for example, during the trip.
49
50 At the time that you consider whether you should take the
51 travel and you consider whether it is related to your

1 functions and required to meet the outcomes of the office,
2 do you take into consideration the cost of that particular
3 travel?---Yes.

4
5 So at the time of approving your own travel you would take
6 into consideration that there'd be a certain amount of
7 expenditure expected?---Yes.

8
9 So that would form part of your decision-making process?
10 ---Ah, it certainly would.

11
12 I note the time, Commissioner. I just have one more
13 document to show the witness.

14
15 **THE COMMISSIONER:** Very well.

16
17 **NELSON, MS:** Unless you wanted to finish a bit later
18 today?

19
20 **THE COMMISSIONER:** No, no. Show the witness the document.

21
22 **NELSON, MS:** One of the first documents I showed this
23 morning was your appointment letter - - -?---Yes.

24
25 - - - from 2022, and you said that you didn't have a
26 recollection of previous appointment instruments having the
27 same requirement to seek approval from the minister from
28 leave.

29
30 **THE COMMISSIONER:** Is that correct? That's what you said
31 this morning?---That was my recollection, yes.

32
33 I think you said that you'd checked the ExCo minutes?---No,
34 I had - the only thing I had, um, Commissioner, was an
35 email from the Public Sector Commission with a draft ExCo
36 of - of the - of my most recent ExCo. The one before the
37 most recent one, I had a draft of that.

38
39 I must have misunderstood you this morning. So the only
40 one you had was a draft of your current appointment?---Ah,
41 so there - I had two. I have had the most recent which
42 includes, um, the Premier, and then I had a previous one.
43 I won't name the officer, but an officer from the Public
44 Sector Commissioner who'd sent me a draft, um, and said,
45 'Chris, this is for your - for your agreement before it
46 goes to ExCo.' And that was the previous appointment, and
47 that didn't have it in that terminology.

48
49 **NELSON, MS:** We have located your previous appointment
50 letter, 0453^.

51

1 0453^

2

3 **NELSON, MS:** So this is from 2017 to 2022 and, similarly
4 to the most recent one, it has a covering letter from the
5 Public Sector Commissioner. We could go to page 2, and in
6 a meeting on 17 January 2017 the Executive Council advised
7 the governor to appoint you, and then we can see on page 3
8 your appointment. Part of your appointment is a schedule
9 which is the last page. You can see at paragraph 3 it
10 says:

11

12 A period of leave referred to in clause 2 may be
13 taken with the approval of the minister.

14

15 ?---I have no reason to doubt that's not correct. Um,
16 Commissioner, overnight, um, and only with your indulgence
17 of course I will find the email that I was referring to so
18 there's no suggestion I was trying to mislead. Um, I will
19 also go back and see if I can find the original two ExCos
20 as well. What I can say is this: um, at no time in
21 17 years has, ah, the Department of the Premier and Cabinet
22 or the Office of the Premier ever sought, ah - sought to
23 approve my leave.

24

25 **THE COMMISSIONER:** Well, wait a minute. Have you ever
26 submitted leave for approval?---No.

27

28 Well then, why would they seek to approve it if you've
29 never submitted it? You've never submitted a leave of
30 absence. Why on Earth would the Premier's Department know?
31 ---It might seem odd to them after 17 years I'd never taken
32 leave.

33

34 Well, it might be that you've never taken leave in
35 17 years. Is that what you say?---No, I'm saying it might
36 seem odd to them that I haven't, um, Commissioner.

37

38 Well, it might or might not seem odd for them, but it
39 doesn't seem at the moment - or it will no doubt be the
40 submissions of Mr Porter in due course - it doesn't to me
41 at the moment that it has anything much to do with the
42 Department of Premier and Cabinet. The responsibility is
43 entirely yours. It's in at least two of your appointments
44 and you've never followed it?---And - - -

45

46 But perhaps you can reflect on that overnight?---Oh, and -
47 and I am going to find that. I'm - I'm aghast at the
48 possibility that I said that to you, Commissioner, this
49 morning because I did look at that email, um, over the
50 weekend. So I will find it for you.

51

1 Time?

2

3 **NELSON, MS:** Thank you, Commissioner.

4

5 **THE COMMISSIONER:** We'll adjourn until 9.45 tomorrow
6 morning.

7

8 (THE WITNESS WITHDREW)

9

10 AT 4.19 PM THE MATTER WAS ADJOURNED UNTIL
11 WEDNESDAY, 14 FEBRUARY 2024

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*Evidence Act 1906***

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13 February 2024

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Millward)

Epiq Australia
Level 9, 16 St Georges Tce
Perth WA 6000