



TRANSCRIPT OF PROCEEDINGS
Fair Work Act 2009

COMMISSIONER LEE

C2022/8407

s.739 - Application to deal with a dispute

Mr Peter Stannard
and
University of Tasmania
(C2022/8407)

University of Tasmania Staff Agreement 2017 - 2021

Melbourne

9.30 AM, THURSDAY, 14 SEPTEMBER 2023

Continued from 29/05/2023

PN1

THE COMMISSIONER: Morning all. Mr Stannard, you are representing yourself today?

PN2

MR P STANNARD: Yes, and my wife, Ingrid.

PN3

THE COMMISSIONER: She is with you as a support person?

PN4

MR STANNARD: Can it not be both of us?

PN5

THE COMMISSIONER: Well, you are giving witness evidence in the case today?

PN6

MR STANNARD: Yes.

PN7

THE COMMISSIONER: Yes. We are getting some feedback there. You will make submissions on your own behalf?

PN8

MR STANNARD: Yes.

PN9

THE COMMISSIONER: Yes. So what role will your wife be playing?

PN10

MR STANNARD: Well, my wife wasn't planning on asking me any questions as a witness.

PN11

THE COMMISSIONER: Okay. All right.

PN12

MS I STANNARD: But I am going to be questioning the witnesses.

PN13

MR STANNARD: But Ingrid will be questioning the witnesses of the university.

PN14

THE COMMISSIONER: Okay. All right. So, in that sense, she is your representative?

PN15

MR STANNARD: Yes.

PN16

THE COMMISSIONER: I understand. You are not a lawyer or a paid agent, are you, Ms Stannard?

PN17

MS STANNARD: Not at all.

PN18

THE COMMISSIONER: No, very good. Mr Masters, you are representing, or is it Mr Catchpole?

PN19

MR J CATCHPOLE: Yes, thank you, Commissioner.

PN20

THE COMMISSIONER: All right. I have previously granted permission to appear to the lawyers for the university and I indicated I would give reasons for that decision at the commencement of the proceedings, so I will just deal with that. These are my reasons for granting permission to appear.

PN21

The respondent has sought permission pursuant to section 596(2)(a), (b) and (c) to be represented by a lawyer. They have made those submissions in writing. The applicant objects to the respondent being given permission to be represented. I have previously advised the parties that I have determined to grant permission to the respondent to be represented.

PN22

My reasons for doing so are that I am satisfied it will enable the matter to be dealt with more efficiently taking into account the complexity of the matter. There is an extensive amount of material that has been filed in this matter, notwithstanding it's essentially about a classification level, and evidence is to be given by a significant number of witnesses with the bulk of those witnesses being apparently required for cross-examination. In the circumstances, I am satisfied granting permission will enable the matter to proceed more efficiently taking into account the complexity of the matter.

PN23

I am not satisfied on the bases advanced in respect of 596(2)(b) and (c) by the respondent's representative.

PN24

I have considered the submissions of the applicant. The applicant agrees the case should focus on the substantive matters at hand. The fact that the respondent's representative may refer to some legal cases is consistent with my view the matter could be dealt with more efficiently by way of representation rather than being a distraction, as asserted by the applicant.

PN25

I also note there was no agreement reached during the directions hearing that parties will be self-represented, as Mr Stannard asserts. There is no requirement for the applicant to engage legal representation simply because the respondent is

represented and, in terms of fairness, the Commission will continue to assist the applicant, as it has done to date, within the limitations set out in the Fair Work Commission's practice note.

PN26

Having considered the relevant matters, I am satisfied it is appropriate to exercise the discretion. Those are my reasons for granting permission for the respondent to be legally represented. That deals with that matter.

PN27

We will move on to the running of the case, which I am trusting will run efficiently. Mr Stannard, unless there's anything preliminary that anyone wanted to say - presumably there's nothing on your side - Mr Stannard, are you ready to go, do you want to advance your case today? Is there anything you want to say at the outset or will we just move into dealing with your witness evidence?

PN28

MS STANNARD: If I may, we have an opening statement that I will read.

PN29

THE COMMISSIONER: All right, yes.

PN30

MS STANNARD: Should I do that here or - - -

PN31

THE COMMISSIONER: No, do it up there.

PN32

MS STANNARD: Thank you very much, Commissioner.

PN33

THE COMMISSIONER: Stand up while you do it.

PN34

MS STANNARD: Okay, thank you.

PN35

THE COMMISSIONER: Thanks.

PN36

MS STANNARD: Good morning, Commissioner Lee, Ms Rafoo, witnesses in support of our case and parties representing the university. Thank you for the opportunity to speak at the start of the Fair Work Commission hearing.

PN37

I would like to say at the outset, and we were writing this with Peter in mind, but actually both of us find speaking in stressful situations very anxiety-inducing and so if we forget our thoughts or search for words, we are not paid agents, we are not comfortable or experienced in this space, so please allow us the time - - -

PN38

THE COMMISSIONER: It's all right. I'll just say at the start, this is a tribunal, we do have a level of formality, but, as I said, I will be providing every assistance that I can within the limits of what I am able to do for the side that is unrepresented.

PN39

MS STANNARD: Thank you very much, Commissioner.

PN40

THE COMMISSIONER: So if you have any questions as you go forward, either of you, if you're not sure how to go about things - you will get confused, no doubt, about cross-examination - I am likely to give you instruction on that as to what you can and can't do and so on, but if there's anything you don't understand, you just ask. The lawyers for the other side will understand that that's an obligation I have and they won't object to that, unless they think I have gone too far.

PN41

MS STANNARD: Great.

PN42

THE COMMISSIONER: All right.

PN43

MS STANNARD: Thank you very much. It has been nearly four years and three months since Peter began working for the University of Tasmania in the role of the metal workshop technical officer at the School of Creative Arts and Media, or CAM, at a higher education officer classification level that we contend does not accurately reflect what is expected of his role. We estimate that this misclassification has cost Peter nearly \$50,000 in lost wages and superannuation.

PN44

It has been nearly three years and nine months since Peter questioned his line manager, Mr Alex Thomson, about his HEO classification. Mr Thomson told him at the time that his role was classified correctly as management had determined that all technical officers hired at CAM from 2019 onwards would be classified as HEO4. Although this seemed like a questionable rationale at the time, as Peter was doing exactly the same work as his HEO6 colleague in the woodwork shop, Peter was unaware of the EBA and the university's classification descriptors for HEO roles and so, for a time, he let the matter be.

PN45

Now it has been nearly two and a-half years since Peter first learned that a new technical officer was to be hired at CAM at HEO level 5, an officer whose role carries less responsibility than his. When he approached Mr Thomson about this and the fact that Mr Thomson had previously claimed that all new technical officers would have HEO4 classifications, Peter was told at first that nothing could be done, and then, some 10 minutes later, Mr Thomson informed him that he could request, as in Peter could request, a reclassification of his role to HEO level 5, and this was followed with an emailed link to the UTAS reclassification forum. It was there that we learned of the EBA, which perhaps we should have

known about before, and the classification descriptors for HEO roles that are attached to it.

PN46

Now it has been nearly two years since, having carried out a detailed analysis of the UTAS HEO classification descriptors, Peter submitted a well-argued and well-documented request to have his role reclassified from HEO4 to HEO6. Since the submission of his reclassification in November 2021, the university's operations and people and wellbeing sections have continued to misrepresent the nature of his role as justification for their denial of the request, this despite the fact that, besides his line manager, none of the decision-makers in this matter have ever visited the facility he manages, spoken to any of the professional or academic colleagues that Peter has, or met with any of the students who come to the workshop to learn the practical skills needed to become MAC artists. In other words, none of the decision-makers who have denied his request, other than his line managers, have any direct knowledge of what he actually does. This is borne out in the witness statements provided by the university.

PN47

In all of Peter's communications relating to this matter over the past two years, he has extended numerous invitations to all those who would handle his reclassification request to visit him in the workshop so they could learn first-hand about the role, to meet the academic team with whom he collaborates on the delivery of the learning, teaching and research program at CAM, and to speak with the students that Peter teaches or whose research he supports. No one who was responsible for the decision on the reclassification application or on the internal appeal has responded to his invitations to dialogue; in fact, the process that he has undergone to get to this hearing has been very unpleasant and incredibly stressful, designed, we believe, to deter him from pursuing his justful claim.

PN48

Mr Catchpole from Edge Legal has argued that the university's decision to reject Peter's request to have his role reclassified as HEO6 was properly based. We believe this argument has no merit.

PN49

First, we consider that the rationale that Peter received for the initial rejection of his application ignored the findings of the only people and wellbeing officer who had met with him to learn about his role and was full of misrepresentations about what it is that Peter actually does.

PN50

Then there is the fact that Mr Scott Sullivan, who was involved in the initial rejection of his application, was also a member of the internal review panel assembled to review the initial decision and that his voice clearly overshadowed the proceedings, as evidenced in the 29 November 2022 report prepared by Ms Wedlock, which has been submitted in our evidence.

PN51

Then there is the fact that despite Mr Sullivan's vested interest in having Peter's appeal rejected, the majority of the internal review panel supported Peter's appeal, yet Ms Derbyshire decided to not take the panel's majority view into consideration when making her decision. Instead, Ms Derbyshire's decision was informed by the opinions of Mr Alex Thomson, the person who, according to the statement I advanced earlier, knew already within six months of Peter's hire, as in three years and nine months ago, that Peter was not doing the work of an HEO4 officer yet did nothing in response to his appeals. Indeed, when Peter approached Mr Thomson about the unfairness of his employment situation, Mr Thomson refuted his concerns by stating that his role was, and would continue to be, an HEO4 role.

PN52

Today it is HEO5 and, in the interests of natural justice, soon we hope it will be HEO6.

PN53

Thank you for your attention and for the opportunity to make these opening remarks.

PN54

THE COMMISSIONER: Mr Stannard is now paid at the top level of HEO5, isn't he?

PN55

MR STANNARD: That's correct.

PN56

THE COMMISSIONER: Yes, thanks. Okay. Thanks for that. You have got a number of witnesses, so we will proceed to deal with those. Presumably you will be first, Mr Stannard. All right, well, if you want to head to the witness box, please, Mr Stannard.

PN57

MS STANNARD: Sorry - - -

PN58

MR STANNARD: Sorry - - -

PN59

MS STANNARD: Sorry, could we ask, could we not be the ones who cross-examine witnesses first as being the ones who have brought forward the - - -

PN60

THE COMMISSIONER: No, no, you're bringing your witnesses first.

PN61

MS STANNARD: Yes.

PN62

MR STANNARD: Yes.

PN63

THE COMMISSIONER: It's your case, yes, so you go - you're leading - - -

PN64

MS STANNARD: So as in questioning, be questioned from them? Thank you. So I'll go first, if I may, and we would like to first cross-examine Ms Derbyshire, if that's - - -

PN65

THE COMMISSIONER: No, no, no.

PN66

MS STANNARD: No?

PN67

THE COMMISSIONER: Listen carefully to what I'm saying.

PN68

MS STANNARD: Okay.

PN69

THE COMMISSIONER: This is your case.

PN70

MS STANNARD: Yes.

PN71

THE COMMISSIONER: You say, within the meaning of the enterprise agreement, without turning up the exact words, but essentially that the decision to classify - the review panel's decision wasn't properly founded, or whatever the particular words are.

PN72

MS STANNARD: Yes.

PN73

THE COMMISSIONER: We will come back to those. Now that's your case.

PN74

MS STANNARD: Yes.

PN75

THE COMMISSIONER: You have brought evidence to support that case. The way this works is you will bring that evidence forward. That's what happens first.

PN76

MS STANNARD: Okay.

PN77

THE COMMISSIONER: So presumably Mr Stannard, who has put in a witness statement, is going to give sworn evidence today. Are you going to give sworn evidence today, Mr Stannard?

PN78

MR STANNARD: Well, I assumed that the legal team would be asking me questions, yes, but I didn't think that I would be making a standalone statement.

PN79

MS STANNARD: Perhaps we need - - -

PN80

THE COMMISSIONER: All right, perhaps - - -

PN81

MS STANNARD: Is what you are referring to our submissions that we had originally made? Is that what the statement is?

PN82

THE COMMISSIONER: Let's go to the court book. Maybe that's an easier way to deal with this.

PN83

MS STANNARD: Yes.

PN84

THE COMMISSIONER: If you look at - where is the statement from Mr Stannard? It's at page 124. You have put in a witness statement on page 124 of the court book.

PN85

MR STANNARD: Yes.

PN86

THE COMMISSIONER: Yes. There's not much in that statement. There is also, amongst the various materials you have filed, an outline of submissions. Just let me have a look at that. Your outline of submissions, which is on pages 73 through to 89 - - -

PN87

MS STANNARD: So is this what you would like us to present, Commissioner, the outline?

PN88

THE COMMISSIONER: Just follow me.

PN89

MS STANNARD: Yes.

PN90

THE COMMISSIONER: In that - you have called it a submission, but - this is not unusual with unrepresented parties - in that submission, it is clear that there are various statements of what you say are facts in the matter about what happened and what you do and so on. Now, in that context, I am assuming that you will want to rely on what's in that submission, to the extent that it has factual claims, as your evidence.

PN91

MS STANNARD: Yes.

PN92

THE COMMISSIONER: As well as the statement that you have made on page 124. Yes?

PN93

MS STANNARD: Yes.

PN94

MR STANNARD: Yes.

PN95

THE COMMISSIONER: All right. So the way this will work is - I should first explain to you that you don't have to give sworn evidence in these matters, but be clear that I will always prefer evidence that is given under oath to evidence that's not given under oath.

PN96

MR STANNARD: Sure.

PN97

MS STANNARD: Sure.

PN98

THE COMMISSIONER: If you need me to explain that further, I can, but it should be fairly obvious.

PN99

MR STANNARD: Yes.

PN100

THE COMMISSIONER: So, presuming that you want to give evidence under oath, then what will happen next is you will enter the witness box and I will ask you to affirm the statements that you have made. That will be then taken as your evidence in the matter. I will then give you a chance to say anything you want to say in supplementation to that, and then the respondent will get a chance to ask you questions about your evidence.

PN101

MR STANNARD: I understand.

PN102

THE COMMISSIONER: Okay? And then we will do that in turn with each of the witnesses that you are bringing. That will be the first part of the case. Does that all make sense?

PN103

MR STANNARD: Yes, that makes sense.

PN104

THE COMMISSIONER: Again, ask any questions you have as we go.

PN105

MS STANNARD: Could I just ask a question, Commissioner?

PN106

THE COMMISSIONER: Yes.

PN107

MS STANNARD: Just to be clear, Peter doesn't need to repeat everything because we've poured our soul into the submissions with all the - - -

PN108

THE COMMISSIONER: That's right. That's the purpose of the - - -

PN109

MS STANNARD: So as long as he swears to say that that's - - -

PN110

THE COMMISSIONER: That's the purpose of the written material.

PN111

MS STANNARD: Okay.

PN112

THE COMMISSIONER: Otherwise we'd be here all day.

PN113

MS STANNARD: Okay. Yes.

PN114

THE COMMISSIONER: So, Mr Stannard, if you go into the witness box.

PN115

MR CATCHPOLE: Sorry, Commissioner, excuse me. Could I ask that the other witnesses be excused when Mr Stannard is giving his evidence?

PN116

THE COMMISSIONER: Sure, yes. All other witnesses in this matter sit outside, please. You will be called when you are required.

PN117

THE ASSOCIATE: Please state your full name and address.

PN118

MR STANNARD: Peter Augustin David Stannard, (address supplied).

<PETER AUGUSTIN DAVID STANNARD, AFFIRMED [9.56 AM]

EXAMINATION-IN-CHIEF BY THE COMMISSIONER [9.56 AM]

*** PETER AUGUSTIN DAVID STANNARD

XN THE COMMISSIONER

PN119

I will just assist with this part of the proceedings, if that's all right with you, Mr Stannard.

PN120

THE WITNESS: Yes.

PN121

THE COMMISSIONER: You will have a copy of the court book in front of you there, so if you can turn up page 72 first. You can see that that's an outline of your submissions?---That's correct.

PN122

It traverses from page 73 through to page 89?---Yes.

PN123

You have prepared those submissions?---Yes, with the help of my wife Ingrid.

PN124

Sure. It includes various statements of things that you say have occurred factually?---Yes.

PN125

Is there anything in those submissions that you want to change?---No.

PN126

All right. And you say everything that's in those submissions, to the extent that it evidences what you say is the factual position, you say that's true and correct?---I say it's true and correct.

PN127

Yes, all right. We will accept that as your - unless there's any objection, and presumably there's not, then that's your statement, as it were, to the extent that it's dealing with factual matters, from pages 72 to 89 and I will mark that as A1.

EXHIBIT #A1 OUTLINE OF SUBMISSIONS OF APPLICANT

PN128

You have also made a short statement at page 124. Have you got that?---Yes, I do.

PN129

Just a one-page statement. You say everything that is in that statement is true and correct?---Yes.

PN130

You don't want to change anything that's in it?---No.

*** PETER AUGUSTIN DAVID STANNARD

XN THE COMMISSIONER

PN131

All right. Again assuming there's no objections, we will mark that statement at page 124 as A2.

EXHIBIT #A2 WITNESS STATEMENT OF APPLICANT

PN132

To the extent that those materials, Mr Stannard, deal with all the key facts that you want to put before me - bear in mind there's all the other materials that you have included and obviously I will be relying on those to the extent that I need to in making a decision, so you don't need to restate, as I said earlier, what's in those statements - I will take that as your evidence in the matter?---Mm-hm.

PN133

But, at this stage, is there anything else that you wanted to say, which is described technically as your evidence in chief, so, if you had a legal counsel, they might say, 'Look, there's a couple of other things I want to raise with the witness', but there might be things that - don't look at your wife?---Sorry.

PN134

You are just giving your evidence to me now. What else, if anything, do you want to say to me today?---Do you mean in order to add to what's already here?

PN135

Yes, you might say, 'Look, there's a couple of other things I wanted to mention' or you might say, 'Look, I've looked at the employer's witness statements and I want to say a couple of things about those matters'?---Well, we have some questions prepared for - - -

PN136

Yes, you can ask some questions later?---At that time, at that time?

PN137

Yes?---No, I have nothing more to add then.

PN138

All right, very well, that's fine. All right, Mr Catchpole will question you now.

PN139

MR CATCHPOLE: Thank you, Commissioner.

PN140

THE COMMISSIONER: Mr Catchpole is going to ask you some questions and I will just ask you to do your best to answer them. Just be as responsive as you can?---Okay.

CROSS-EXAMINATION BY MR CATCHPOLE

[10.00 AM]

PN141

Thank you, Mr Stannard. Can you please turn to page 86 of the court book?---Okay, 86.

*** PETER AUGUSTIN DAVID STANNARD

XXN MR CATCHPOLE

PN142

About halfway down the page there, you say you do not sell (indistinct) to students, nor do you have to seek approval from a supervisor for transactions over \$400?---That's correct.

PN143

You also say that you are authorised to spend up to \$2000 per month on your university credit card without anyone's approval; correct?---Yes.

PN144

But you can't just go and spend \$2000 in one hit, can you?---No, I can't, no. I have a corporate credit card and each month it's limited to \$2000 for that period.

PN145

In terms of seeking approval for transactions over \$400, you say you don't have to do that?---That's right. I've got a \$500 limit.

PN146

A \$500 limit?---\$500.

PN147

You say it was \$400?---No. I do not seek approval for transactions - I do not have to seek - hang on:

PN148

I do not have to seek approval from my supervisor for transactions over \$400.

PN149

I understand what you're saying.

PN150

THE COMMISSIONER: So the true position is you have to get - - -?---Yes.

PN151

- - - approval for any single item of expenditure if it's over \$500?---If - - -

PN152

MS STANNARD: May I, sorry, just to clarify, Peter was quoting back - - -

PN153

THE COMMISSIONER: No. No, no, no - - -

PN154

THE WITNESS: No, I was - - -

PN155

MS STANNARD: But that was not his statement.

PN156

THE COMMISSIONER: No, no, no.

*** PETER AUGUSTIN DAVID STANNARD

XXN MR CATCHPOLE

PN157

THE WITNESS: Okay.

PN158

THE COMMISSIONER: Again, there will be some latitude, but if you want to say - if you want to object to a question that's being asked, or something like that, but you can't assist Mr Stannard. He is engaging essentially with me now and the person who is asking the questions and he is under oath and he is going to answer those questions. Okay?

PN159

THE WITNESS: Yes.

PN160

THE COMMISSIONER: I don't want any indications or signals or anything from you. If I see it, I will not be happy about that, to say the least.

PN161

MS STANNARD: Okay.

PN162

THE COMMISSIONER: Do you understand?

PN163

MS STANNARD: Yes.

PN164

THE COMMISSIONER: Okay.

PN165

THE WITNESS: This is in reference to evidence number 6, I believe.

PN166

THE COMMISSIONER: Yes?---So I suspect this is a case of a slight misunderstanding in evidence number 6, if we could refer to that?

PN167

Well, what's the position in terms of what you need to get approval for in terms of expenditure?---Okay. I can spend up to \$500 at a time without needing approval. If I want to make a purchase over a thousand dollars, then that gets handed to my line manager.

PN168

Okay.

PN169

MR CATCHPOLE: Thank you. If you turn to page 217 of the court book, please, Mr Stannard. Do you have that in front of you?---Mm-hm.

*** PETER AUGUSTIN DAVID STANNARD

XXN MR CATCHPOLE

PN170

Paragraph 43?---Yes.

PN171

Mr Thomson says that you operate within limits, so your evidence just given then in terms of over a thousand dollars, you have to seek approval, don't you?---That's correct.

PN172

So you do operate within limits?---Yes. I've never discounted that I don't operate within limits.

PN173

Thank you. No further questions, Commissioner.

PN174

THE COMMISSIONER: All right. Thank you.

PN175

Mr Stannard, I think I have a couple for you. Just tell me again about the tools and the machines that are in the workshop that you're involved in?---Mm-hm.

PN176

There is reference to a lathe?---Yes.

PN177

That's a woodworking lathe?---Yes, a metalworking lathe.

PN178

A metalworking lathe. It's manually operated, it's not a numerically-controlled machine?---It's manually operated.

PN179

There's soldering equipment?---Yes, I have open flame torches for soldering and brazing and the like.

PN180

Yes. And you have a MIG welder?---I've got two MIG welders and a TIG.

PN181

And a what, sorry?---And a TIG welder as well. They're different.

PN182

All right. What else is in there by way of equipment?---Okay, where do I start? There's a drill press, two bench grinders.

PN183

A bench drill press?---Like a - yes, a bench drill press. In fact, there are two of them, two bench grinders. There's a hydraulic guillotine for cutting large sheets.

*** PETER AUGUSTIN DAVID STANNARD

XXN MR CATCHPOLE

PN184

Sheet metal?---Sheet metal. There's - I have an electric tube roller, two bandsaws, a horizontal and a vertical bandsaw, an English wheel, which is for forming sheet metal, and - - -

PN185

Is that a machine or is that - - -?---Well, it's a freestanding machine. It's not electrically-operated, it's operated by your, you know - - -

PN186

Your own physical strength?---Your own physical strength.

PN187

As a means of - - -?---But there's potential pinch because it's two rollers that you could - - -

PN188

It's to put flex in sheet metal?---Exactly, reform the part for a car or - like a panel for a car, something like that.

PN189

Anything else?---Yes, I have a plasma cutter, a spot welder, a milling machine, and then a whole variety of hand tools, being angle grinders, jigsaws and other similar kinds of electrical and hand tools.

PN190

Hand tools. Yes. All right. I just want to ask you about - if you turn to page 324 of the court book?---Yes.

PN191

We have dealt with the budget sort of issues. I'm actually looking at the HEO level 6 text there at the bottom of the page?---Yes.

PN192

So:

PN193

Providing training to technical staff and post graduate students in the use of analytical equipment and techniques.

PN194

These are the notes that Mr Thomson has made in his expressions of his view about what level you were at and he says:

PN195

Yes, but we're talking training on the use of hand tools the vast majority of the time and, at the top end, use of lathe, guillotine, welder, et cetera.

PN196

And you have mentioned those types of machines?---Mm-hm.

*** PETER AUGUSTIN DAVID STANNARD

XXN MR CATCHPOLE

PN197

What do you say about what he says there?---I'm sorry, I'm - you're - - -

PN198

Right down the bottom of the page?---Right down the bottom of the page.

PN199

Yes, you see there's two - - -?---

PN200

Maintain, prepare and calibrate equipment and assist in the development of prototyping equipment.

PN201

Is that the one you're talking?

PN202

Provide training to technical staff and post graduate students in the use of analytical equipment and techniques.

PN203

?---I see, yes.

PN204

That's the wording that's in the descriptor?---That's right, yes.

PN205

Then, in brackets, they are his notes as to how he interprets - you know, how is he applying that to your situation, and he says:

PN206

Yes, but we're talking training on the use of hand tools the vast majority of the time and, at the top of end, use of the lathe, guillotine, welder, et cetera.

PN207

Do you see that?---Yes, I can see that, yes.

PN208

What do you say about that?---I disagree with that.

PN209

Why?---Well, just when he says 'at the top end, the use of lathe, guillotine and welders, et cetera', I teach under graduate students how to weld. That's one of the integral tools in metal fabrication, and I instruct them, you know, in the use of other equipment, such as bandsaws, drills, like virtually the whole gamut of the workshop, except the only thing I restrict use in is the lathe.

PN210

What do you mean by that?---I prefer to do all the lathe work myself and I'm not comfortable with teaching a novice how to use the lathe.

*** PETER AUGUSTIN DAVID STANNARD

XXN MR CATCHPOLE

PN211

Right. Why is that?---Because something like - when something goes wrong, it can go wrong very quickly and because it's - how do I describe it? In order to manipulate the cutting tip, it's a two-handed, opposite direction manoeuvre, which I find a lot of people, especially the younger students who haven't had a great deal of experience in making stuff, have a very difficult thing with the coordination of doing that, and so it's very easy to jam your cutting tool and your parts are spinning - - -

PN212

Yes?---Billeted steel and - yes.

PN213

So you do all the metal lathe work yourself?---Yes, unless I've got a post graduate student who has proven themselves, essentially, in the other tools and skills, then I'm happy to teach them how to use the lathe.

PN214

All right. Now it says under that:

PN215

Maintain, prepare and calibrate equipment and assist in the development of prototype equipment.

PN216

That's the next blue box down; yes?---Mm-hm.

PN217

He talks there about - bearing in mind, looking to the top of the page, the blue highlighting is where Mr Thomson has indicated that he partially accepts but clearly putting some limitations around his level of acceptance in the notes that he's put there, and he puts after that:

PN218

Basic workshop maintenance, replace blades, build a better welding table -

PN219

et cetera. See all that?---I do.

PN220

Fix broken tool mounts, frames, fabricate simple metal items like cases, shelves, hanging points.

PN221

You agree you do all those things?---Well, yes, I agree that those things happen. I wouldn't say that that's actually a major part of my role.

*** PETER AUGUSTIN DAVID STANNARD

XXN MR CATCHPOLE

PN222

Right. You do other things that fit within the maintain, prepare, calibrate category?---I'm sorry, I was just having an issue with, you know, like building a better welding table, for example.

PN223

Yes. You don't do that?---Well, I mean it's true that I make - it's true that I make, you know, trolleys and other kind of necessary bits of furniture, if you will, for around the school, but I maintain and repair all the equipment bar two in my workshop, as well as assist - - -

PN224

What are the two that you don't maintain?---I don't service the hydraulic guillotine.

PN225

Yes?---And I don't service the gas equipment. Both of those are done externally.

PN226

For the welders?---For the oxyacetylene - for the soldering, I should say.

PN227

All right?---But most times, if you're replacing a blade in the saws - and I also help maintain some of the equipment in the woodshop. You do have to recalibrate, otherwise it's not going to be square.

PN228

He says:

PN229

Anything requiring calibration gets sent off to a commercial supplier or we call a commercial repair agent.

PN230

?---I don't agree with that statement.

PN231

All right. What do you calibrate?---Well, as I just - as I previously mentioned, if I, you know, am replacing a blade, I need to recalibrate that it's going to be square to the table. One of the pieces of equipment I forgot to mention before is a cold saw, which is a slow-moving saw for cutting steel. When I replace the blade on that, it has to be recalibrated so that your angle increments accurately line up when you want to do, say, a 45 or a 90 degree cut, as an example. I just would like to point out that the descriptors here would be more for, in my opinion, engineering technicians or sciences and so on.

PN232

You can tell me about that later. I'm just interested in just what the descriptors say?---All right.

*** PETER AUGUSTIN DAVID STANNARD

XXN MR CATCHPOLE

PN233

That's what I've got, that's what I'm working with?---Mm-hm.

PN234

That's what you're working with as well, Mr Stannard?---Okay. Well, I can tell you that I've never had to send anything out to get recalibrated.

PN235

Yes, right?---I have never had to send anything externally to get recalibrated.

PN236

Design and construct complex and novel equipment.

PN237

Do you see where he's got red there? So that's where he doesn't accept that you do those things. He says, no, you do basic equipment, stands, mounts for hanging AB projectors, et cetera, that you just don't do anything in that space. What do you say about that?---Well, I would dispute that. It depends on how you want to interpret the word 'equipment'.

PN238

Well, we'll work that out, but what do you say you do that fits within it?---Well, I assist students in designing and constructing complex, novel sculptures.

PN239

Well, that's what they do, isn't it? Aren't they the art students, not you?---They are the students, indeed, but if they don't have the skills - - -

PN240

You make them for them, do you?---Not necessarily. I assist in making them with the aim for them to be learning the skills so that they can make them themselves.

PN241

Okay:

PN242

Develop and implement improved method of analysis and testing.

PN243

There's nothing you do in that space, is there?---No.

PN244

No:

PN245

Assist with project planning of trials by preparing specifications and operational requirements.

PN246

There's nothing in that space - - -?---No.

*** PETER AUGUSTIN DAVID STANNARD

XXN MR CATCHPOLE

PN247

- - - that parallels what you do; you agree? And:

PN248

Provisions of quotations and technical advice to printery customers for major jobs.

PN249

What do you understand printery customers to be? If you don't know, just tell me?---I'm unsure.

PN250

You don't know. Yes. So it follows from that you don't do that?---That's right.

PN251

Whatever that is. So you directly report to Mr Thomson?---Correct.

PN252

How is the management between him and you organised? Do you meet once a week, once a month?---Mr Thomson organises fortnightly technical team or technician team meetings, and in the campus where I'm working, there are, I think, seven or eight of us. The meeting lasts usually half an hour.

PN253

Yes?---And it's essentially a round table where we all give him a one or two-minute brief on where we're at or if there's anything important that, you know, we want to mention. Beyond that, there's virtually no communication between us.

PN254

You don't contact him during the week with emails or phone calls about matters that are going on in your workshop?---No.

PN255

No? So you engage with him for half an hour every fortnight?---That's only when the meetings actually occur. Many times they get cancelled.

PN256

Okay?---If I may elaborate, Commissioner?

PN257

Yes?---In preparing some questions for Mr Thomson before today, I did a calculation of the amount that we have communicated just in the first half of this year and, from memory, it would be - I think the number was five emails that we've exchanged about things relating to the metal workshop.

PN258

Yes?---And he's spent no more than three minutes physically in the workshop for the first six months of this year.

*** PETER AUGUSTIN DAVID STANNARD

XXN MR CATCHPOLE

PN259

Okay. Just finally, how often are academic staff in the workshop? So the people who are teaching the art students, the artists, how often do they come into the workshop?---For what purpose? Could you elaborate, please?

PN260

For any purpose. It's just a simple question. How often do they come into the workshop?---Very, very rarely. In fact, I would like to say almost never. It depends on also, like, would you class a PhD candidate as an academic and, if you do, then I have PhD students or PhD candidates coming into the workshop in order to make their work, but they're not there as an instructor or as a teacher to other students.

PN261

Just making their own thing?---Just making their own thing.

PN262

Okay?---Academic staff do not teach or instruct in the metal workshop.

PN263

All right. Okay. Nothing else from me. Anything arising from that?

PN264

MR CATCHPOLE: No, thank you.

PN265

THE COMMISSIONER: No? All right.

PN266

Thank you very much, Mr Stannard?---Thank you.

PN267

You are excused.

<THE WITNESS WITHDREW

[10.22 AM]

PN268

THE COMMISSIONER: So who did you want to bring next as your next witness? That's you two.

PN269

MS STANNARD: So we would like to - sorry, we would like to be able to bring in Ms Derbyshire and I understand she may be available via video link.

PN270

THE COMMISSIONER: No, that's the employer's witness.

PN271

MS STANNARD: Yes.

*** PETER AUGUSTIN DAVID STANNARD

XXN MR CATCHPOLE

PN272

THE COMMISSIONER: Which of your witnesses do you want to bring next? We are going to deal with all of your witnesses first.

PN273

MR STANNARD: We didn't prepare - we didn't realise that - because we - our witnesses have provided witness - I'm sorry.

PN274

MS STANNARD: Stand up.

PN275

MR STANNARD: We were under the assumption that because our witnesses provided witness statements, then their statements would be - - -

PN276

THE COMMISSIONER: I told you about this, Mr Stannard, that the witnesses that are giving evidence, if they need to be cross-examined, will have to be here. Are you telling me they're not here?

PN277

MR STANNARD: No, they're here.

PN278

MS STANNARD: They're all outside.

PN279

THE COMMISSIONER: Well then that's fine. Then they need to come in and give evidence.

PN280

MS STANNARD: Okay. Sorry, we're just asking here; we just don't understand the process.

PN281

THE COMMISSIONER: It's my mistake. I thought you were telling me you hadn't brought them.

PN282

MS STANNARD: Yes.

PN283

THE COMMISSIONER: So we've got - now let me just turn up the chart. Now we don't have to bring in the witnesses that the employers don't want to cross-examine, which are Bylett, Vella, Cesar and Bjorklund. That's still the case?

PN284

MR STANNARD: Correct.

PN285

THE COMMISSIONER: So the witnesses we need to hear from are Houghton, Blacklow, Foley and Horsley, so which one do you want to bring first?

PN286

MS STANNARD: It doesn't matter to us. I mean we just assumed, because they'd been requested to be cross-examined, that perhaps the respondent might have a preferred order. For us, it doesn't really matter, if they just - - -

PN287

THE COMMISSIONER: You can ask them to choose the order, but generally better you do it. It's up to you. It's whatever one you - - -

PN288

MS STANNARD: Which witness would you think, Phil or - - -

PN289

MR STANNARD: Stuart.

PN290

MS STANNARD: Stuart. Okay.

PN291

THE COMMISSIONER: Stuart.

PN292

MS STANNARD: Maybe ask Mr Houghton to come in, please.

PN293

THE COMMISSIONER: Okay, no worries, Mr Houghton it will be.

PN294

THE ASSOCIATE: Please state your full name and address.

PN295

MR HOUGHTON: My full name is Stuart William Houghton, (address supplied).

<STUART WILLIAM HOUGHTON, AFFIRMED [10.26 AM]

EXAMINATION-IN-CHIEF BY THE COMMISSIONER [10.26 AM]

PN296

Thanks, Mr Houghton, you can sit down?---Thank you.

PN297

You will see there in front of you, Mr Houghton, there is a court book. Can you open that up to page 91?---Yes.

PN298

You see there is a witness statement from you?---Yes.

PN299

Do you want to have a quick look at that. It goes from 91 to page 93?---Yes.

*** STUART WILLIAM HOUGHTON

XN THE COMMISSIONER

PN300

Did you write that statement?---I did.

PN301

Is there anything in that you want to change?---No.

PN302

You say everything that's in that statement is true and correct?---Yes.

PN303

All right. No objection to that statement, so that's A3.

EXHIBIT #A3 WITNESS STATEMENT OF STUART WILLIAM HOUGHTON

PN304

Thanks for that. Anything for this witness?

PN305

MR CATCHPOLE: Cross-examination, Commissioner.

PN306

THE COMMISSIONER: Yes.

CROSS-EXAMINATION BY MR CATCHPOLE

[10.27 AM]

PN307

Mr Houghton, can you please just turn over the page to page 92 of the court book?---Yes.

PN308

At the bottom of that page, you claim that the 2017 restructure was flawed; correct?---Yes.

PN309

And your role was made redundant as part of that restructure?---That's correct.

PN310

So is it fair to say that you were unhappy with this decision, weren't you?---I wasn't best pleased, no.

PN311

You are still unhappy with it?---I've moved on.

PN312

But you still believe it to be flawed and that Scott Sullivan got it - quote - 'so wrong'?---Yes, well, he never came around and interviewed anyone. It was all done from afar.

*** STUART WILLIAM HOUGHTON

XXN MR CATCHPOLE

PN313

Staying on page 92 of the court book, halfway down that page, you stated that the role Mr Stannard is performing is no different to the role that you held for some 10 years; that's correct?---That's correct.

PN314

That role is different, though, because it doesn't have additional duties such as building management or vehicle management or (indistinct) matter, does it?---If you read my duty statement, the building management and that kind of thing was never part of my official duties. They were just added on later.

PN315

You did do those duties, didn't you?---Yes, but they weren't what I was employed to do. They were done on a voluntary basis. Everyone did that kind of stuff. The university wouldn't function if people didn't do extra duties.

PN316

But Mr Stannard doesn't do those duties, does he?---Sorry?

PN317

Mr Stannard doesn't do those duties?---No, but neither did I when I first started either.

PN318

But you did do those duties?---Later.

PN319

Later. So you did do those duties?---Yes.

PN320

And Mr Stannard doesn't do them; correct?---I'm not aware that he does any of those kind of duties.

PN321

Okay, thank you. No further questions, thank you, Commissioner.

PN322

THE COMMISSIONER: All right, thanks. Thanks for your evidence. There's nothing arising you wanted to ask Mr Houghton about out of that questioning? No? Thanks, Mr Houghton, you're excused, you can leave the witness box. Thanks for your evidence?---Am I finished with for the day?

PN323

You are?---Thank you very much.

<THE WITNESS WITHDREW

[10.29 AM]

PN324

THE COMMISSIONER: Phillip Blacklow next?

*** STUART WILLIAM HOUGHTON

XXN MR CATCHPOLE

PN325

MS STANNARD: Yes, yes.

PN326

THE COMMISSIONER: Is that okay?

PN327

MS STANNARD: That makes sense?

PN328

THE COMMISSIONER: You're happy with that?

PN329

MS STANNARD: Yes, thank you very much, Commissioner.

PN330

THE COMMISSIONER: All right.

PN331

THE ASSOCIATE: Please state your full name and address.

PN332

DR BLACKLOW: Dr Phillip McChristie Blacklow, (address supplied).

<PHILLIP MCCHRISTIE BLACKLOW, AFFIRMED [10.30 AM]

EXAMINATION-IN-CHIEF BY THE COMMISSIONER [10.30 AM]

PN333

Thank you, Mr Blacklow, you can sit down. Mr Blacklow, if you open up to page 94 of the court book there that's in front of you?---Yes.

PN334

There's a witness statement from you?---Yes.

PN335

Have you had a chance to look at that recently?---Yes.

PN336

Is there anything in that you want to change?---No.

PN337

No? And you say everything that is in that is true and correct?---Yes.

PN338

All right. We will mark that witness statement A4.

**EXHIBIT #A4 WITNESS STATEMENT OF PHILLIP McCHRISTIE
BLACKLOW**

*** PHILLIP MCCHRISTIE BLACKLOW

XN THE COMMISSIONER

PN339

Any questions you want to ask?

PN340

MR CATCHPOLE: Yes, thank you, Commissioner.

CROSS-EXAMINATION BY MR CATCHPOLE

[10.31 AM]

PN341

Is it Dr Blacklow?---Yes.

PN342

Page 94 of the court book, at paragraph 3, you state:

PN343

The 2018 restructure did not use established tools or processes to determine the true nature of staffing.

PN344

And that you refused to accept the duties outlined in the ultimate position description. So, is it fair to say that you were deeply dissatisfied with that restructure?---I thought that the restructure was far from (indistinct) because it didn't represent what we did.

PN345

And you still hold that view today?---Absolutely.

PN346

Staying on page 94 of the court book, in paragraph 5, you state that the duties carried out by Mr Stannard since he took the role of metal workshop technician until you departed on 27 February were the same as the duties done by his predecessor and by you in the woodwork shop?---Absolutely.

PN347

Okay. They were always different, though, because he doesn't have those additional duties such as building management and vehicle management?---That has never, ever been reflected in any position description, so the building manager roles, or any of the other duties that were added to our positions, were never, ever reflected in PDs.

PN348

Can you turn to page 347 of the court book, please. Are you there?---Yes.

PN349

On page 347, in the margin in the top right, these are comments by Alex Thomson on Mr Stannard's appeal, and he says there that:

PN350

The two roles are not comparable. The predecessor had a number of additional duties that justified HEO6 that were removed when the tech role was reviewed.

*** PHILLIP MCCHRISTIE BLACKLOW

XXN MR CATCHPOLE

PN351

So, again, those were the duties that were performed that Mr Stannard does not perform, weren't they?---They were never in the metal workshop role initially.

PN352

Okay. They were duties that the predecessor performed and that you performed?---Yes.

PN353

And that Mr Stannard does not perform?---Yes, but they were never reflected within that role.

PN354

No further questions, thank you, Commissioner.

PN355

THE COMMISSIONER: All right. Thanks. Yes, you wanted to ask another question at this point?

PN356

MS STANNARD: Yes, I would because, obviously, we have an issue with building management. May I ask, just for clarification, if it's all right?

PN357

THE COMMISSIONER: Yes.

RE-EXAMINATION BY MS STANNARD

[10.33 AM]

PN358

MR STANNARD: Dr Blacklow, could you just clarify for us as to exactly what these building management duties mean, the level of - the time that they might have required and how they would compare in terms of their responsibility to what typically you would be expected to do as a woodwork shop technician or a metal workshop technician would do?---They were really, as first point of contact for contractors coming onto site, very minimal. It was - when it was added to my role as duties as directed, it was no different. So, very, very minimal, and it was due to that not being - so previous to when I took up the building manager role, that was done by an academic staff member as a fraction of their workload, but it was deemed that, because I'd been there long enough, I knew the building long enough, that it was simply added, and that was probably - well, it was many years, I don't know exactly how many, after I had actually been lifted to a level 6, so it was just added to my role.

PN359

Just as an estimation, how many years you would have done your role as an HEO6 before the duties were added on?---It would have been over 10.

*** PHILLIP MCCHRISTIE BLACKLOW

RXN MS STANNARD

PN360

Over 10 years?---Yes. I believe it was mid-90s when I went through the reclassification process myself and went from a level 4 up to a level 6 because of

the complexity and the nature of the roles, or the role, and that was then transferred and linked to the metal workshop technician role.

PN361

Thank you. Would you like to add anything, Peter? Could you stand with me.

PN362

MR STANNARD: I just want to - - -

RE-EXAMINATION BY MR STANNARD

[10.35 AM]

PN363

Mr Blacklow, if you read the comment that's written by Mr Thomson, would you agree with that statement where he says that:

PN364

The predecessor had a number of additional duties that justified the HEO6 level role.

PN365

?---Those extra duties weren't when they justified it as level 6. So it was - the justification for level 6 was not based on any of those duties, so the complexity of the workshop and the supervision level necessary to take students through was deemed to be at a level 6. Those duties were then added on later, and that's exactly what happened with my situation as well.

PN366

MS STANNARD: If I may add one more question to that? Would it be, or could you comment to the fact that, in fact, very shortly after Mr Thomson - because in Mr Houghton's departure from the university, someone had to take on these duties - and they were shortly taken on by Mr Thomson and then, very soon after that, they were actually handed over - - -

PN367

THE COMMISSIONER: No, no.

PN368

MS STANNARD: I can't say that?

PN369

THE COMMISSIONER: I have given you a fair amount of latitude. Yes, if - - -

PN370

MS STANNARD: I just would like to - - -

PN371

THE COMMISSIONER: No, no, no, wait.

PN372

MS STANNARD: Yes.

*** PHILLIP MCCHRISTIE BLACKLOW

RXN MR STANNARD

PN373

THE COMMISSIONER: Don't speak over me.

PN374

MS STANNARD: Sorry.

PN375

THE COMMISSIONER: You can ask questions about things that arose out of the cross-examination. The cross-examination was pretty limited. You are now basically putting a whole proposition about what Mr Thomson did or didn't do and you are leading evidence, so I will give you some latitude, but that's - you can't ask that question, whatever question it was you were going to ask, just stop.

PN376

MS STANNARD: May I attempt to rephrase the question more appropriately, or is that not - - -

PN377

THE COMMISSIONER: And it has to have something to do with what he was asked about by - - -

PN378

MS STANNARD: Yes.

FURTHER RE-EXAMINATION BY MS STANNARD

[10.37 AM]

PN379

Could you comment, Dr Blacklow, on who was actually doing these building management duties more recently?---I took on - I was given the assistant building manager duties, which basically was the same as I had been doing.

PN380

Okay.

PN381

THE COMMISSIONER: All right?

PN382

MS STANNARD: All right, thank you very much.

PN383

THE COMMISSIONER: Thanks, Dr Blacklow, for your evidence, you are excused?---Thank you.

<THE WITNESS WITHDREW

[10.38 AM]

PN384

THE COMMISSIONER: So we have just got Foley and Horsley to go, so do you want to do Hannah Foley next?

*** PHILLIP MCCHRISTIE BLACKLOW

FRXN MS STANNARD

PN385

MR STANNARD: Yes.

PN386

THE COMMISSIONER: Yes?

PN387

THE ASSOCIATE: Please state your full name and address.

PN388

MS FOLEY: Hannah Renee Foley, (address supplied).

<HANNAH RENEE FOLEY, AFFIRMED [10.40 AM]

EXAMINATION-IN-CHIEF BY THE COMMISSIONER [10.40 AM]

PN389

Thank you, Ms Foley, you can sit down. In front of you there, you will see there's a book. If you open that up to page 170?---Yes.

PN390

That's a witness statement that you have provided in these proceedings?---Yes.

PN391

It goes from page 170 to page 173?---Yes.

PN392

You prepared that statement?---Yes, I did.

PN393

Is there anything in it that you want to change?---No.

PN394

Okay. You say that everything that is in that statement is true and correct?---Yes.

PN395

All right. I will mark that statement as A5.

EXHIBIT #A5 WITNESS STATEMENT OF HANNAH RENEE FOLEY

PN396

All right, Ms Foley, thanks for that. The lawyers for the university want to ask you some questions.

PN397

*** HANNAH RENEE FOLEY

XN THE COMMISSIONER

*** HANNAH RENEE FOLEY

XXN MR CATCHPOLE

MR CATCHPOLE: Thank you, Commissioner.

CROSS-EXAMINATION BY MR CATCHPOLE

[10.41 AM]

PN398

Ms Foley, staying on page 170 of the court book, so the end of the second paragraph, which is about a third of the way down the page, you state that:

PN399

Mr Stannard is singularly responsible for managing what happens in the workshop.

PN400

Correct?---Yes, that is what I stated.

PN401

But Mr Stannard is not singularly responsible for managing what goes on in the workshop, is he?---As far as I'm aware, that is the truth.

PN402

Mr Stannard works under the parameters set by Mr Thomson, doesn't he?---I don't know. All I know is that in the day-to-day running of the workshop, as I've witnessed, that is the truth.

PN403

Okay. So in the day-to-day running of the workshop, you say he is singularly responsible for managing?---Yes.

PN404

But you're not aware of the broader management of the workshop, including Mr Thomson's input into that, are you?---I have provided a statement as a student, as a past under graduate and a current PhD candidate, so that is my understanding.

PN405

I will ask the question again: you are not aware of the broader management of the workshop and Mr Thomson's input, are you?---I don't know the ins and outs of the working of the university.

PN406

So, a 'Yes' or 'No' question, Ms Foley: do you know the broader management of the workshop, specifically including Mr Thomson's involvement?---No.

PN407

Thank you. No further questions, Commissioner.

PN408

THE COMMISSIONER: All right, thanks. Nothing arising from that, I take it, bearing in mind it has to be arising from that question or that series of questions that was asked?

RE-EXAMINATION BY MR STANNARD

[10.42 AM]

*** HANNAH RENEE FOLEY

RXN MR STANNARD

PN409

Ms Foley, have you ever seen Mr Thomson physically in the metal workshop?---No.

PN410

How long have you been working in - engaging with the workshop?---Five years, since I started as an under graduate, five and a-half years now.

PN411

Would you say that you used the workshop frequently or infrequently?---Very frequently.

PN412

And yet you have not seen Mr Thomson in the workshop?---No, I've never seen Mr Thomson in the workshop.

PN413

THE COMMISSIONER: Thanks. Thanks for your evidence, Ms Foley, you are excused?---Thank you.

<THE WITNESS WITHDREW

[10.43 AM]

PN414

THE COMMISSIONER: And Aaron Horsley.

PN415

THE ASSOCIATE: Please state your full name and address.

PN416

MR HORSLEY: Aaron John Horsley, (address supplied).

<AARON JOHN HORSLEY, AFFIRMED

[10.44 AM]

EXAMINATION-IN-CHIEF BY THE COMMISSIONER

[10.44 AM]

PN417

Thank you. You can sit down, Mr Horsley. If you just open that booklet in front of you there to page 199?---Yes.

PN418

You will see that's a witness statement that you have prepared for these proceedings; is that right?---That's correct.

PN419

It covers two pages?---Yes.

PN420

Have you had a look at that recently?---I have.

*** AARON JOHN HORSLEY

XN THE COMMISSIONER

PN421

Is there anything you want to change?---No.

PN422

Do you say everything that is in that statement is true and correct?---That is correct.

PN423

All right, I will accept that as your evidence. If there's no objections, we will mark that as A6.

EXHIBIT #A6 WITNESS STATEMENT OF AARON JOHN HORSLEY

PN424

Anything for Mr Horsley?

PN425

MR CATCHPOLE: Yes, thank you, Commissioner.

CROSS-EXAMINATION BY MR CATCHPOLE

[10.45 AM]

PN426

Mr Horsley, at the last paragraph on page 199, at the start of that paragraph, you attest to the fact that Mr Stannard was doing the same role with the same responsibilities as was done by the previous HEO level 6 technician; correct?---Yes.

PN427

But, in the next sentence, you say that the previous metalwork technician had building management responsibilities and it was shared bi-yearly with a work technical officer. So, it's conflicting evidence, isn't it, to say that Mr Stannard was doing the same role with the same responsibilities, isn't it?---I don't believe so.

PN428

But you have said that Mr Stannard does the same role as the previous person?---In regards to the metal workshop, yes.

PN429

But then you have said that the previous person had different duties, different responsibilities?---I wouldn't say it was exactly the same, no.

PN430

So the roles weren't exactly the same, were they?---In regards to the metal workshop and the duties around that, I would say, yes, they were exactly the same.

PN431

But the role itself was not exactly the same, was it? That's what you have just said?---I'm trying to find exactly what words you're talking about.

*** AARON JOHN HORSLEY

XXN MR CATCHPOLE

PN432

It's the last paragraph on page 199. You say:

PN433

I can attest to the fact that Mr Stannard is doing the same role with the same responsibilities as was done by the previous HEO level 6 technician.

PN434

You then state:

PN435

It is true that the previous metalwork technician had building management responsibilities -

PN436

and you go on to state - - -?---No, not entirely building management because my understanding was it was shared between two people.

PN437

Okay. But the fact remains that the two roles had different duties and responsibilities and, as you said just then, they are not exactly the same?---In regards to the metalwork, they are the same.

PN438

But the roles aren't the same? That's what you said; correct?---I'm not sure what you're trying to ask me exactly.

PN439

What I'm stating is that you've said there the roles were the same and they had the same responsibilities, but then you have identified that they had different responsibilities, and that's inconsistent, isn't it?---I ---

PN440

I put it to you that it is inconsistent, Mr Horsley?---I'm still not clear about exactly what you're trying to say.

PN441

So you state that Mr Stannard was doing the same role with the same responsibilities as was done by the previous HEO level 6 technician; correct?---In regards to the metal workshop, yes.

PN442

Okay. But there were different responsibilities that exist now that doesn't - - - ?---From my understanding, anything to do with building management wasn't anything official, so I don't think that's included in any PDs in relation to those other technical officers.

PN443

But there were responsibilities and duties that the previous person did that Mr Stannard doesn't do; correct?---Unofficially, perhaps.

*** AARON JOHN HORSLEY

XXN MR CATCHPOLE

PN444

Thank you. No further questions.

PN445

THE COMMISSIONER: Anything arising from that?

PN446

MS STANNARD: Yes, I would just - thank you, Commissioner, for the opportunity. I would just like to follow up with Mr Horsley.

RE-EXAMINATION BY MS STANNARD

[10.48 AM]

PN447

Could you please speak to these building management duties that are being presented by the opposing party as being something official and yet it's been discussed that they are unofficial. Who is doing those building management duties and at what level currently?---Currently, my understanding is, officially, it's Alex Thomson on a level 8 position; unofficially, it's shared with Natasha, who is the print-making technician. She does unofficial building duties as well and, in various times, different people have done different things, but it's not Alex Thomson, so it's kind of one of those grey areas.

PN448

Is it true, as you state in your statement, that Natasha, the print-making technician, was in fact delegated unofficially these building management duties whilst a casual HEO4 officer?---That's correct, building management and other duties that were well above a level 4, from my understanding.

PN449

Thank you. Thank you for clarifying.

PN450

THE COMMISSIONER: Thanks for that.

PN451

Thanks for your evidence, Mr Houghton, you are excused.

<THE WITNESS WITHDREW

[10.50 AM]

PN452

THE COMMISSIONER: That concludes your evidence?

PN453

MS STANNARD: Yes, it does.

PN454

THE COMMISSIONER: There's no one else you wanted to cross-examine?

PN455

MR CATCHPOLE: No, Commissioner.

*** AARON JOHN HORSLEY

RXN MS STANNARD

PN456

THE COMMISSIONER: I might just mark the other - - -

PN457

MS STANNARD: Sorry, may I ask, Commissioner - - -

PN458

THE COMMISSIONER: Yes, sure.

PN459

MS STANNARD: Besides the four witnesses that were requested by the university to be cross-examined, we, of course, had other witness statements. Would those also be considered in - - -

PN460

THE COMMISSIONER: I am just going to deal with that now, yes.

PN461

MS STANNARD: Okay, thank you.

PN462

THE COMMISSIONER: You have anticipated me well. All right, so the witnesses we have yet to deal with, so we will start with Mr Bylett. That was page 121. The witness statement of Mr Bylett goes from 121 to 122. I will mark that as A7.

EXHIBIT #A7 WITNESS STATEMENT OF ANDREW BYLETT

PN463

Then Vella is at 174. So John Vella, at page 174 to 175, I will make that A8.

EXHIBIT #A8 WITNESS STATEMENT OF JOHN VELLA

PN464

And Cesar, Jose Cesar, is on page 176. That's a one-pager. I'll mark it A9.

EXHIBIT #A9 WITNESS STATEMENT OF JOSE CESAR

PN465

Then Mr Bjorklund, page 201, one page. The witness statement of Mr Carl Bjorklund is A10.

EXHIBIT #A10 WITNESS STATEMENT OF CARL BJORKLUND

PN466

That's all of your witnesses?

PN467

MS STANNARD: Yes, Commissioner.

PN468

THE COMMISSIONER: All right, very well. So, just to explain, that concludes then your evidentiary case, all your evidence is in, and the next thing we will do is move to the employer, and they will call their witnesses and you will get a chance to ask them questions, and so it's just a reverse of the process that we just went through. Is that all clear enough?

PN469

MS STANNARD: Yes, that's clear. We had asked our other witnesses, even though they weren't required to be cross-examined, to be here, so they are outside. Is it all right if - - -

PN470

THE COMMISSIONER: Yes, they can all come in now, yes, all of your witnesses can come in.

PN471

MS STANNARD: Can come in?

PN472

THE COMMISSIONER: Yes, if they want to observe the proceedings, they can do that.

PN473

MS STANNARD: Otherwise, we could tell them they could - if they're not - because they wouldn't be asked to say anything further?

PN474

THE COMMISSIONER: No, I don't think it's likely they will be recalled.

PN475

MS STANNARD: Okay.

PN476

THE COMMISSIONER: So they can go home or they can watch the proceedings. It's a public proceeding, so it's up to them what they do.

PN477

MS STANNARD: Okay.

PN478

THE COMMISSIONER: We are going to have a short break now and you can explain that to them. We are going to come back at 10-past-12 and we will start - you know, a 15-minute break, a comfort break, and we will start then. Who's going to be - - -

PN479

THE ASSOCIATE: (Indistinct.)

PN480

THE COMMISSIONER: Eleven? Why does that clock say 10?

PN481

THE ASSOCIATE: That clock - - -

PN482

MS STANNARD: Both clocks are wrong.

PN483

THE COMMISSIONER: Both clocks are wrong.

PN484

THE ASSOCIATE: You said 10 past 12 we will come back.

PN485

THE COMMISSIONER: Did I?

PN486

THE ASSOCIATE: Yes.

PN487

THE COMMISSIONER: Ten past 11 we will come back, Tasmanian time. So, we will come back at 10 past 11. Who is going to be the first witness?

PN488

MR CATCHPOLE: Mr Thomson.

PN489

THE COMMISSIONER: Mr Thomson will be the first witness, so you can prepare yourself for your questions that you want to ask Mr Thomson. All right?

SHORT ADJOURNMENT

[10.54 AM]

RESUMED

[11.23 AM]

PN490

THE COMMISSIONER: All right. Mr Catchpole.

PN491

MR CATCHPOLE: Yes, thank you, Commissioner, I would like to call Alex Thomson to give evidence, please.

PN492

THE COMMISSIONER: Thanks.

PN493

THE ASSOCIATE: Please state your full name and address.

PN494

MR THOMSON: Alexander John Thomson, (address supplied).

<ALEXANDER JOHN THOMSON, SWORN

[11.24 AM]

EXAMINATION-IN-CHIEF BY MR CATCHPOLE

[11.24 AM]

PN495

THE COMMISSIONER: Thanks, Mr Thomson, you may sit down. Mr Catchpole.

PN496

MR CATCHPOLE: Thank you, Commissioner.

PN497

Mr Thomson, can I ask you to turn to page 211 of the court book, please?---Yes.

PN498

Can you identify that document for the Commission?---Yes, that's my affidavit, my witness statement.

PN499

Thank you. That's 25 pages, including two annexures?---Yes.

PN500

If you turn to page 217 - - -?---Yes.

PN501

- - - is that your signature?---Yes.

PN502

Are there any changes you wish to make to this statement?---No.

PN503

Thank you. And is this statement true and correct to the best of your knowledge and belief?---Yes.

PN504

Thank you. I seek to tender that statement, Commissioner.

PN505

THE COMMISSIONER: Yes, all right, so the statement of Mr Thomson I will mark as R1, and the attachments.

EXHIBIT #R1 WITNESS STATEMENT OF ALEXANDER JOHN THOMSON

PN506

MR CATCHPOLE: Thank you.

PN507

Mr Thomson, can you please turn to page 182 of the court book?---Yes.

*** ALEXANDER JOHN THOMSON

XN MR CATCHPOLE

PN508

At the bottom of paragraph 8, Mr Stannard states that you have never been present during a teaching or learning session in the metal workshop. What's your

response to that?---That's not accurate. Yes, I'm - more recently, over time, I'm there less and less, but when all the techs come on, I do - step back.

PN509

I try about once a week, and it's typically not that often, that I do what I call my rounds, walk around, and I just drop in and try and be sociable. Generally speaking, I'm nowhere near that. That's my aim, but I don't get to that many. Typically, I will do it more often at the start of semesters and also towards the end of the examination periods, periods of more high stress.

PN510

When a new tech starts, they will get far more of my attention for the first six months or so and I will drop in two or three times a week, et cetera, to get a feel for the individual, but, as time goes on - I've got a staff of 14 spread across five sites - those who have proven themselves, and I am very happy with Peter's performance and all the rest of it, over time, those drop-ins get less and less.

PN511

MR CATCHPOLE: Thank you. Mr Stannard gave evidence this morning that in the past six months, he says that you've exchanged five emails and that you have spent three minutes in the workshop. What's your response to that?---To (indistinct) - I don't have the numbers - that's accurate. I will argue I've been in there a couple of times more than that, but it was a conscious decision, based upon several periods of personal leave he took and statements about stress, after discussions with the head of school and several others, to step back and not engage with Peter, and on the few contacts I had with Peter, they ended up in some confrontational emails and exchanges, so we were trying to get Peter - that was a conscious decision to give him space.

PN512

Thank you. Can I ask you to turn to page 199 of the court book, please?---Yes.

PN513

That's Mr Horsley's witness statement. In the fourth paragraph there, he says that Mr Stannard is doing the same role with the same responsibilities as was done by the previous HEO level 6 technician. What's your response to that?---No, that's not accurate at all. I disagree with that. With the tech review in 2018/2019 and with the position, the previous HEO6, basically the intent was they stripped away all the external, for lack of a better word, tasks. So, the predecessor had done - outside of doing the metalwork tech stuff, he had also been the building manager for maintenance, facilities, liaison with the Infrastructure Service Division, meeting with contractors, that sort of stuff. He was the vehicle fleet manager, which isn't a particularly onerous one, but it's one vehicle, servicing, booking, all that sort of stuff. He was the Chemwatch manager for the site as well.

PN514

THE COMMISSIONER: The what?---The Chemwatch register for chemicals and safe storage of chemicals and stuff like that.

*** ALEXANDER JOHN THOMSON

XN MR CATCHPOLE

PN515

Yes?---He also had the responsibility as the chief warden for safety in the building, and he also supported the Entrepot shop with sales to students and exhibitors for materials in the student-run art gallery that had closed down by then. There's possibly some other small, minor ones, but they were the big core stuff that was stripped off of the HEO6 role to reduce it just to focusing on the stuff within the workshop.

PN516

MR CATCHPOLE: Further down that paragraph, Mr Horsley states that in late 2022, those building management duties which he mentioned were delegated to a technical officer employed casually at HEO4 and this person is still doing those building management duties and is now paid at HEO level 5. What's your response to that?---Yes, accurate, that's correct, but that was done when I was given an additional role at the - to manage the Northern Transformation Project. Input from - there was a removal up in Launceston, a new bid, so, yes, we took on Natasha as a casual, and those building manager roles equated to about - I think it was - by memory, I think it was two days a week that we gave her funding for casually, and that was the bit that would have been part of that old HEO6 bit. So, she was covering the building manager portion of that, I suppose - I can't remember - four months/five months, something like that, and she's very good at it and, yes, she has now been confirmed - she was a casual and she's been confirmed now an HEO5 and, yes, she still does portions of the HAC(?) work stuff that for the - that assists me. She's now got access to logging a job for repairs, reminding people for the WHS stuff and, yes, and at the moment, I'm in arguments with the university trying to get her a loading to address that additional duties that she's doing. I'm not winning it, but I'm trying to get it.

PN517

THE COMMISSIONER: So she's currently being paid as a 5?---She's currently being paid as a 5, but the vast majority of that building manager stuff has come back to me, so I'm doing that stuff, dealing with the infrastructure and all the rest of it. She's logging the jobs for light repairs, stuff like that, if a light bulb's broken, additional cleaning requests and stuff like that, so she and I talk a fair bit. I would like her to get paid a bit more for that, but - - -

PN518

What are you arguing with the university about?---I actually think that she should get a small loading to address the additional bit that she's doing that's not core to her duties.

PN519

The building management role?---Well, she's not the building manager, I'm the building manager, but she's doing some additional labour for me, if that - administrative work. Does that make sense?

PN520

No. Well, administrative work is a very broad term?---Yes.

*** ALEXANDER JOHN THOMSON

XN MR CATCHPOLE

PN521

What exactly are you delegating out of your job to her to do that you say the university should remunerate her more for?---I still reserve and I still do all the meetings, the engagement with contractors, the project work, any involvement in designs, meeting architects, walking through the broader policy type stuff. I still do some of the - we've got a process where we do work requests for a broken door, a broken gas arm, a toilet leaking, stuff like that. If I'm busy - if I'm not busy, I'll do them myself. If I'm busy, if Natasha had that access on the database when she was doing it 18 months ago, I will go to Natasha and say, 'Hey, Natasha, can you do me a favour, can you log a work request for the lights in the H room, they need to be fixed.' She will pick up some of that. And while I was away for the last two months - I was off sick and took some annual leave - she stepped up and did a fantastic job and covered for me while I've been away.

PN522

MR CATCHPOLE: Thank you. No further questions, Commissioner.

PN523

THE COMMISSIONER: Thanks. Are you going to ask some questions of Mr Thomson?

PN524

MR STANNARD: Yes, Commissioner, we have our list of questions that we'd prepared, but, if I may, I would just like to follow up on this questioning that was done. Is that all right?

PN525

THE COMMISSIONER: Yes, you can ask whatever questions you want.

PN526

MR STANNARD: Great.

CROSS-EXAMINATION BY MS STANNARD

[11.33 AM]

PN527

Mr Thomson, you have just outlined the fact that the building management duties that you are responsible at your level can also be delegated to an officer of HEO level 5 and be done accordingly and properly?---Yes.

PN528

So would it be fair to say that, in fact, the building management duties are such - in terms of the level of responsibility that is required, are actually not HEO level 8 duties but, in fact, HEO5 duties?---No.

*** ALEXANDER JOHN THOMSON

XXN MS STANNARD

PN529

Could you elaborate that, please?---Because she's not the building manager. The building manager is a lot broader than the routine administrative, paperwork, computer processing stuff that I get Natasha to do. There is an awful lot going on with potential moves of other schools that come in and consolidation, allocation of rooms, the maintenance, dealing a lot with the contractors and the building

repairs, all of that. The planning - the building manager has intimate input for Grad Show. That takes two months' worth of work and planning for how we're going to coordinate catering, where food is going to be stored, security plans, COVID stuff - all came under me. None of that, Natasha, as an HEO5, has dealt with. That level of strategic thinking and all the rest of it sits with the building manager and that was myself.

PN530

But then could I say that what you have just described that you do appropriately as an HEO8, is that what Stuart Houghton was doing when he was an HEO6, unofficially doing building management duties for about 10 per cent of his time? Is there a direct comparison by what you are calling building management for yourself and what he did?---For me, this is only second hand because I came on - I was taken on because it wasn't working with the HEO6s doing it. When they did the restructure, I was told when I came on that I was the end of stage 1 of the restructure, that the 6s were not fulfilling the intent of the thing and they needed a position between the academics and the techs to take that broader strategic review and input and coordination. Safety was another issue. So, yes, I suspect that the HEO6 had elements of it, but it wasn't working and that's why - and they weren't fully completing the requirements, so that's why they hired my position or created my position and brought me in.

PN531

Are you aware that those so-called building management duties were in fact not at all included in the position descriptions that both the metal workshop officer and the woodwork shop officer, as they toggled between these so-called duties, had for a number of years for about 10 per cent of the time, that none of them were included in their position descriptions?---I'd agree with that. It's not even in my position description. The term 'building manager' actually is an informal one that I think has been created with ISD.

PN532

Okay. So would it be fair to say that, in fact, as far as the management of the metal workshop is concerned, building management has actually nothing to do with it and if there were issues with how that was handled prior to your arrival, it was in fact because those building management duties were being passed on to people who were not being properly resourced to do them, and that's what was the justification for the creation of your role?---The second part of that, I can't comment on that.

*** ALEXANDER JOHN THOMSON

XXN MS STANNARD

PN533

Okay?---That was prior to my time, as I've already said, but absolutely the building manager is involved in all of the workshops. It's the fabric of the building. So, all these discussions that we've had over the years about how the loading rack doesn't work because the ratio's wrong, how the engine lifter that we used to use when I condemned it because we were using it for lifting at weight and it failed that time, and all the rest of it, that is absolutely building manager role. So, yes, the building manager is involved with broken lights, electrical switchboards, rewiring of switchboards, Peter, that we needed to do and all the

rest of it that we needed to do to get the additional GPOs. That is definitely an input part of the building manager portion.

PN534

So, I don't agree with your first short bit of the sentence that the building manager has nothing to do with the workshop. Of course, it takes - where the difference is is I expect the techs to be looking after the maintenance of the individual machinery inside the workshop, the tools, the tables, stuff like that, but the extraction system, if that broke down, that would come to me. If the lighting system, the power switchboard failed, that would come to me as the building manager.

PN535

MS STANNARD: But just to be clear, there was actually, prior to you arriving, no such thing as a building management role that was documented in anyone's job description?---Not that I've - not that I've seen formally.

PN536

Right?---There certainly was regular stuff in emails and email traffic and stuff like that.

PN537

It sounds like you would agree that there's actually a very broad range of duties that can fall under the term building management, duties that are as senior as your role and duties that somebody could do as an HEO4 officer, as Natasha was for a long time while she was doing that role?---A portion within it, yes.

PN538

Okay?---Yes.

PN539

THE COMMISSIONER: Any other questions that you wanted to ask?

CROSS-EXAMINATION BY MR STANNARD

[11.38 AM]

PN540

I might just revisit the list of duties that you said that my predecessor was - the duties that were taken away from my predecessor when his role was changed. You talked about the sales, supporting the Entrepot for sales?---Yes.

PN541

That was sales of metal supplies?---Specifically to the art gallery. I know you - I acknowledge you do it for students and for print making through the building, but in the old PD, it was specifically support for sales to Entrepot gallery, which no longer exists.

PN542

If it no longer exists, how is it relevant to be pointed out as one of the things that was taken away from his role?---The point is it was an additional workload that is now not existent in it.

*** ALEXANDER JOHN THOMSON

XXN MR STANNARD

PN543

But does that not equate to the same as what I'm doing with the sale of the metal from the metal workshop?---Well, he was doing the sales from the metal workshop to print making and metal students and through the Entrepot gallery. So, one third is now not part of the role. I was asked what's the difference between the old role and the new role. Facts have changed, not necessarily the PD and stuff like that - well, sorry, the PD's changed, but it's a situational context change.

PN544

Okay, well, we will move on. If you could go to - I think it's page 215 of your witness statement?---Yes.

PN545

I believe it's paragraph 33?---On page 216, yes.

PN546

Yes. You list five examples of managing to illustrate your contention that I do not manage the metal workshop. At (a), you say:

PN547

Peter does not do any prioritising across the school, enter into any agreements for external contracts on behalf of the school, develop new capabilities, implement wide-ranging improvements, or have responsibility for any staff policy development or career or performance counselling.

PN548

Right?---Yes.

PN549

Would you say that the examples of managing you list in this paragraph are aligned with HEO level 6 technical officer responsibilities as per the university's classification descriptors?---No idea. I'm not an HR expert. I did not - when I mapped up your statement, I mapped against 5 and 6, so I don't know what a 6 - no, I don't know. I'm not an HR person.

PN550

So you're comfortable with using these examples?---Yes.

PN551

Without considering whether it actually matched the nature of a level 6 role?---No, I did that with the original statements and all the rest of it, but whether the exact wording and all this matches across, I'm happy to - I'll go with what I wrote down and wrote at the time when I mapped them across.

*** ALEXANDER JOHN THOMSON

XXN MR STANNARD

PN552

Would you be comfortable in suggesting that the level of managing duties more aligned with a level 7 or 8?---No, I'm not going to commit to any of that. I'll stick with what I did at the time. I went through line by line your applications and your review process and all the rest of it and, at those times, I went through the

HEOs 4, 5 and 6, statements next to me, and whatever - I can't remember what annexure they're actually in, but I'm confident that they are true and correct at the time. I didn't sit down through 6, 7, 8 and map these and I'm not going to talk about them now because I'm not an HR expert, but I am confident and happy to swear that when I did them, I mapped them. Look, I'll be honest, some of them came out at HEO6, some of them - most of them came out at HEO5 and a couple came out at HEO4 when I did it, and I was comfortable that it all matched to HEO - overall it sat comfortably in HEO5.

CROSS-EXAMINATION BY MS STANNARD

[11.42 AM]

PN553

MS STANNARD: If I could just add to that, Mr Thomson. These examples that you list as examples that you list as examples of management that Peter does not do, they actually nowhere feature in any of the HEO4, 5 or 6 descriptors to which you're currently referring as the feedback that you provided. So you are contending that Peter does not manage a teaching facility, and the examples you are giving for why he doesn't manage are these examples. Our question is would you say that that, for example prioritising across school, is something that would be expected of an individual who manages one single teaching or research facility; that's the question?---No, I'm not comfortable with that and I don't agree with that, because this paragraph was certainly written to address our clearly disparate understanding of the term 'management'.

PN554

Right. So that's what we're trying to clarify here. So one more time I'm going to ask. Would you say that somebody who manages a single teaching or research facility at a university would also be expected to do prioritising across the school, and if they don't that that means that they're not managing a single teaching or research facility?---Yes, I agree that - this is one of those piece of string type questions. When it comes to internal within the workshop I expect Peter to be able to do basic prioritisation, and I'm quite clear, I've given direction on this. First comes support the classes. Then come support to research with HEO and teachers, and then comes project stuff. So I've given that type of prioritisation across the school for that thing. So when it comes to, do I schedule my Tuesday morning to support a class or do I assist teacher X on their research project, there's clear prioritisations there. I expect Peter would be able to manage that level of prioritisation. What I'm arguing, to make an example on this, is I know you and I we disagree on what management does, and that I've always contended that there's supervision, there is implementation, and, yes, that is definitely within the realm of metal workshop. But there's a big difference, because management involves, you know, career counselling, annual leave management, you know, all of that sort of stuff that's broadly referred to. Yes, and I agree these are broad phrases, generalised phrases and all the rest of it. But, yes, you've got to argue that there are aspects of, you know, develop new capabilities kind of thing; a new capability you've got a new power tool, only one definition; a new capability with new staff members and the whole research team is another definition of capability.

*** ALEXANDER JOHN THOMSON

XXN MS STANNARD

PN555

Okay. I just thought we would skip because we seem to be on a merry-go-round here of what it means. So perhaps we move to - so just to help you, because you have said you don't actually - you're not from People and Wellbeing, so you're not familiar with these descriptors and their meanings and so forth?---I've not said I'm not familiar, but I have a basic understanding. I'm not an expert in it.

PN556

Yes. On page 6 of my appeal, and I'm afraid we didn't create these court books, so I'm not sure with that, but if I may just quote and it could be cross referenced that it's there if that's okay. On page 351 apparently?---Yes.

PN557

Where in the appeal Peter argued that he feels confident in claiming that he manages the metal workshop, because there is in (d) a descriptor, a university enhanced descriptor for classification for HEO6 level classification, which states, I quote:

PN558

Manager teaching or research laboratory, including allocating space and resources, coordinating purchases of equipment and general supplies, compliance with safety regulations and budget monitoring.

PN559

So could you please comment as to whether in the spirit, think about this being an HEO6 duty, does Peter not do these things?---First off I've always done it in the spirit of 4, 5 and 6 and the rest of it. But that point is valid, again we're arguing about the piece of string bit that I've never denied that Peter will allocate space. But there's a big difference between, you know, allocating students to a workbench versus staff member moves in. Okay, they get a desk, they move in. You know, that's space management in a university management term. Giving somebody a desk for a three hour class or something like that and allocating how students are laid out, all the rest of it, is - supervision is execution of a task. It's not in the spirit of management as such.

PN560

However, I would put forward that those were drafted, the descriptors, and I believe that's part of the EBA review process. All agree that managing, the word 'managing', not just supervising, but managing a teaching or research laboratory equates to what Peter does, allocating space and resources as in the facilities were done in the workshop and the tools - - -

PN561

THE COMMISSIONER: I don't know where this is coming from. Are you putting to the witness that there's evidence about what the drafters of the EBA document or these descriptors meant by the word 'management'? There's no evidence to that effect.

*** ALEXANDER JOHN THOMSON

XXN MS STANNARD

PN562

MS STANNARD: Well, there's a description of the word - or giving examples for that - - -

PN563

THE COMMISSIONER: It's a word on a page in a document, and there's a fight, a live fight about what management is within the meaning of that document. I understand that.

PN564

MS STANNARD: Yes.

PN565

THE COMMISSIONER: I apologise if I got it wrong, but you seem to be saying, or trying to put a proposition to the witness that those who wrote the document have some shared understanding which this witness has got wrong as to what management means, and I just don't think there's any - if that's what your putting I don't think there's any basis to put that.

PN566

MS STANNARD: My apologies if I didn't express myself correctly. My suggestion was that there is a descriptor, and then there are examples provided of what that means. And I believe, I could be incorrect, but I believe that Mr Thomson has just confirmed that Peter does everything of those examples. So my question is how is it then that he can say that Peter does not manage the facility if he does everything of those examples described, like allocating space and resources within the facility for example. This is what my question is.

PN567

THE COMMISSIONER: I am not really sure I understand the question, but anyway.

PN568

THE WITNESS: Once again my take on it is six students walk into a class, Peter going, 'You two to that desk, go over to the welding station', all the rest of it, is not managing space. That is supervising, allocating to a task. That is conduct of a task. Management actually implies, you know, 'I'm going to rip out these walls and build a new office and go to the budgeting people and, you know, create an office here for the academics to have a shared workplace.' That is where management comes in versus simple execution, you know. If Peter wanted to redesign the floor plan kind of thing of a building, of the workshop, because he didn't like the site lines and all the rest of it, I'd absolutely take his advice. But the person signing off on that space change is me through the head of school who wears the ultimate responsibility. Yes, by all means a 90 per cent chance I would take Peter's advice, because he's the subject matter expert. But the actual person responsible for signing off and making sure it's legal and all the rest of it would be myself and the head of school, and that's management versus conduct. That's my take on it anyway, sorry.

*** ALEXANDER JOHN THOMSON

XXN MS STANNARD

PN569

MS STANNARD: Okay. So are you aware of any other positions within the university where this particular descriptor would apply, as in there's an HEO Level 6 role that manages the teaching - - -?---Not - not a chance.

PN570

- - - and where that individual is only managing because they actually have the authority to rip out walls without any approval?---I've got no idea what happens in the rest of the university, other than broad conversations and what I've been exposed to in all of this. And my limited conversations with fellow operations manager is this is well on par, there is no great discrepancy with the responsibilities that techs have at these levels.

PN571

Let's just go to the next one then. Because we're stuck on one particular HEO Level 6 descriptor I will then move to - I believe this is still in the same area of comment where you said that - you're referring to techs, not just teachers, so their roles and responsibilities rest firmly within the confines of their workshop, or occasionally the site for their skillset. Okay. Now, the task level in the general SWM descriptors for HEO Level 6 officers makes it clear that that officer's work is restricted to their work area, because specifically, and I'm quoting now again from descriptors, it says:

PN572

Perform work assignments guided by policy precent professional standards and managerial or technical expertise. Employees would have the latitude to develop or redefine procedure and preferred policy so long as other work areas are not affected.

PN573

Would you say that this does not align with what Peter - - -?---I'm sorry, that was a long quote.

PN574

Okay. I can - - -?---Can you draw my attention to a page, please.

PN575

This is actually from the DWM descriptors. I'm not sure - - -?---I don't even know what the DWM is, sorry.

PN576

They are the descriptors, but I can - if I may bring it - - -?---What's the acronym, what does the DWM acronym mean?

PN577

Actually I've looked for it and I'm not sure. It seems to be an established - perhaps the experts from - - -?---Are you talking about the descriptors for the HEO levels, are you?

*** ALEXANDER JOHN THOMSON

XXN MS STANNARD

PN578

That's right, yes?---All right.

PN579

MR CATCHPOLE: It's page 293 of the court book.

PN580

THE WITNESS: Thank you.

PN581

MS STANNARD: Thank you. So at the bottom of page 293 there's a description of the task level that's appropriate for an HEO6 officer that I've just quoted. My apologies that you didn't have a chance to look at that. Would you say that this is not an appropriate description of the level of tasks that Peter is expected to carry out within - that they're limits that are appropriately (indistinct) limited to the workshop space?---I'm not quite sure what you're driving at, but task level - sorry, I'm still trying to get my head wrapped around the - yes, by all means I would expect Peter to have a latitude within the left and right of (indistinct) that I set. Inductions is a good example. We had a working group January, whatever it was, 2020 I think it was, and we came up with a basic format across the school of inductions. And we have to agree that these are the five core messages, this is the format of inductions to be. These are how they're going to nest; site, workshop, equipment. But I'm not going to tell Peter he's got the - he's absolutely got the latitude to fill out the detail within that. But if Peter's making the call to not do inductions, or I'm only going to do - I'm not going to keep records or something like that and change it, then, no, he does not have the latitude to do that. So again it's that limited left, right of (indistinct), of policy that I develop and get signed off by the head of school, or I give feedback and it goes up through college, (indistinct) disclosure forms and stuff like that kind of thing. I represent the school on that and it goes back and policy changes and it comes down and feeds through. So, yes, Peter and the techs have not only a right to make adjustments, probably a better term, and fit and do the detail, but it's absolutely within - you know, I won't say common sense, but it's within reasonable limits of no substantive changes that will affect the law and all the rest of it. Yes.

PN582

All right, thank you. I'd like to just then come back to - this was from - so this was the previous page number that we were referring to, which was your response to page 6 of Peter's appeal document, so that's 351?---Yes.

PN583

Where in your comment to Mr Templar you stated - and I'm sorry, I don't know exactly where that is on that. It's in a side bar, so I'll just quote from there.

PN584

Peter's not a manager in the accurate sense. He has no staff, no policy development, no career or performance counselling, limited forecasting or resource planning, no risk assessments and limited liability, quality assurance, authorities approvals, et cetera. I have stated before and happy to state again the techs supervise, not manage their workshops. It's a big difference.

*** ALEXANDER JOHN THOMSON

XXN MS STANNARD

PN585

Again I will put forward that what you're listing here in examples management at all does not feature in the descriptor for managing a teaching or research facility, but I will also put forward that actually there are a lots of inaccuracies that you've (indistinct). So I'd like you to speak to that. For example - - -

PN586

THE COMMISSIONER: No, just ask one question at a time.

PN587

MS STANNARD: Okay. Yes, sorry. So you state that Peter's not responsible for risk assessments. So who assesses the risk that is present every time a student or a staff member comes to use the workshop?---There's a big difference between risk assessments from the formal sense versus - we don't at the school employ the JSA I think, you know, the immediate process. We have SOPs and safe work procedures, and the safe work procedures are supported by the risk assessments and they're signed off. And so the SOP is the safe operation and it sets a condition for the safe operation of machinery, and it might be that, you know, in a sense a person without checking equipment can be warned, you know, stamps - you know, where the supervision is required, all that sort of portion of it. So, no, there isn't across the site - there is basically, I won't say none, there are a few formal risk assessments done for a workshop, and there's no point - a question it's not fair - there's very little point to having a single risk assessment for a woodwork shop, because a risk assessment needs to - you know, because then it becomes totally and utterly un-wielding. You know, a woodwork shop, photography, whatever example you want to be, could be used by anything from high school students coming in on UCP program to a 20 year researcher who's an expert kind of thing, conditions change so much. So we don't have, and we rarely do a formal risk assessment on a site, on a workshop or the rest of it, because what we do is we do a risk assessment, and again very rarely for workshops, more for the site, for grad show, when we're going to open up to a thousand people and the COVID conditions have changed or something like that. We do a formal risk assessment, process and the planning for that, and that's the risk assessments there that I'm talking about. I'm not talking about Peter exercising judgment when he's got first year students coming in versus honour students who have been around for four years. So I'd expect Peter to go, 'Okay, I've got 12 first year students and I've got to teach them welding. Twelve is probably too much for me to keep an eye on, I'll only take a group of six.' They split them into two. And that sort of quick risk assessment, yes, you can call it risk assessment. Technically it's not, it's an assessment, a workplace assessment for the job. So I hope that answers the question.

*** ALEXANDER JOHN THOMSON

XXN MS STANNARD

PN588

Well, I'll follow onto that then. So you say that there is no need to have a risk assessment for a workshop. Is this what - can you - - -?---No, and again that's an absolute statement that's not true. There is very limited utility in having a fixed risk assessment for any particular one workshop on the site. The value and the way that we reduce risk of (indistinct) is we address those risks by the situation and all the rest of it. So the best way of doing that is the safe work procedures in particular, and I love them, because not only do they address - they're not

operating instructions - they also state things like the PPE to be worn, the lighting that's needed and all that sort of - so they're very good at specific controls versus a risk assessment for a workshop would never get down to the detail. So, yes, has that answered it?

PN589

It does. Are you aware that at the College of Sciences and Engineering where they have very similar workshops risk assessments for the entire workshops are required?---Good for them, but it's not a directed requirement, and I would argue that in particular science and engineering workshops are probably an awful lot more predictable. Peter will be one to say. In the five or six years I've been there I've seen everything from somebody doing a breathing (indistinct) during COVID, painting landscapes out of fruit cake. You know, where can you do a broad risk assessment that's going to address all of that and (indistinct). If we do that you tend to stovepipe. I'm much happier, and again it's on my recommendation and my assessment, and there is no - under the Act, the Work Health Safety Act 2012 there's not a specific requirement for a risk assessment for the workshop. You need to manage the risk through the committees and all the rest of it. And when we looked at it and when Peter did that, offered to do that risk assessment for the workshop, great, it's a healthy thing to do, to step back and have a look at the workshop. I'd already had that done by, I think it was Mel Perry and the other lady from science a few months earlier. Came in and they did a walk through of all the ground floor and were very happy, and again there was an external agency coming in and doing the review and something else where we found it - we found it safe. But it was interesting, when Peter did that risk assessment - I'm actually holding onto it, because again I've been stepping back and not engaging with Peter - but there's a good learning opportunity in that because I wanted to get some feedback on that. But I was interested to note in preparation for this that there wasn't a single control that Peter came up with in that risk assessment that wasn't already covered by the legal requirements or university SWPs and the university work health and safety policy. So it was great he did it. He confirmed it actually, the way we're doing things without specific workshop risk assessments is working.

*** ALEXANDER JOHN THOMSON

XXN MS STANNARD

PN590

Okay, great. So you won't then contest the fact that there are catastrophic levels of risk present in the metal workshop?---This is one of the teaching points I want to have with Peter in discussions and all the rest of it, because one of the things that people - and I've got years, and I'm happy to list - I've got years and years experience with formal risk assessments and investigations on risk prior to coming here to the university. One of the things that people tend to do with the consequence version, portion of the risk assessment, is immediately state the worst outcome of an accident in site. So, yes, I'll acknowledge catastrophic is possible within a workshop. But the actual way you should be doing a risk assessment is what is the worst possible likely outcome, and a good analogy is driving. When people do a risk assessment for a driving task they immediately go there's consequences in car accidents, death, immediately. When actually how many of us have been in a car accident; many, many of us, kind of thing. So the most likely outcome of a car accident is some sort of medical treatment,

hospitalisation kind of thing. So, yes, I'd accept that it's certainly up there amongst significant, and, yes, you can make an argument for catastrophic, but I actually think in many of Peter's ratings that he actually overcooked more conservative, because, you know, the lathe - I think he listed on the lathe that it was immediately catastrophic was - - -

PN591

Not on a lathe?---Yes, on the metal lathe.

PN592

It wasn't on the lathe?---Or the guillotine, one of them anyway. It was - - -

PN593

No?---Okay. In there where you had one of the examples in (indistinct), this is catastrophic and all the rest of it, and again this is not an absolute answer. There is no absolutes on all opinion and it's healthy to have the talks. I would make the point to Peter and we'd have a to and fro backwards and forwards. This is what we do all the time with risk assessments, is actually if somebody gets their arm caught in the lathe is death the most likely outcome. You know, I'd be open to saying yes, but also be open if he said, 'Actually, no problem lost a limb', which also by definition is actually catastrophic. So not the best example. There is those levels of conversation and all the rest of it. So, yes, you could make the case that there are catastrophic things, but I'd also argue that's probably a little bit elevated.

PN594

Thank you. So you've said that risk assessments are not required for workshop, and yet the form that was used to develop the risk assessment that Peter developed, which was actually influenced by information shared by colleagues from the School of Sciences and Engineering, where they used for the same type of equipment the same level of risk categorisation coming up with some risking catastrophic. According to that form university policy is that management and head of school have to sign off on how it has been determined that that risk will be managed so that it could be reduced from catastrophic to something that's acceptable?---Yes. Noting that by the way you use the wrong form. There was a new one that came out in December 2022.

PN595

Be that as it may, yes, so there is - so four months ago Peter submitted this for your review. If you are the manager you claim for everything that you do how come he has not received one feedback from you, despite encouragement to engage on ensuring - - -?---Yes, I get the point of the question.

*** ALEXANDER JOHN THOMSON

XXN MS STANNARD

PN596

Yes?---Two things quite clearly. One, as I stated none of the new, or the controls he came out with were new. So there was nothing in there that we weren't already doing. I did like the fire extinguisher one. I picked up on that one. We were already doing that anyway, but it's nice to catch in the paperwork. So there was nothing new to implement about that, so there was no benefit of going

forwards. And secondly, I wanted to be able to do some feedback with Peter, some constructive criticism actually, do some talk about it, because of the wrong form. I mean we haven't talked about the likelihoods after this, some errors in the way the likelihood definitions have been applied. So it's good for a teaching opportunity. And that really - and the last one is, as Peter's already alluded to every single engagement in my experience that I've had with him, in the last week has ended with Peter basically showing signs that he is highly emotional. I've been back for one week. I've said good morning to Peter three times at work within the week. The first morning I got a grunt. The following two mornings he didn't even exchange a good morning with me. I take that that Peter is - you've raised a concern about your emotional wellbeing, I'm giving you space.

PN597

MR STANNARD: Excuse me, Commissioner - - -

PN598

THE COMMISSIONER: We're sort of morphing in to some kind of workplace counselling session.

PN599

MR STANNARD: Thank you.

PN600

MS STANNARD: Yes. Which is - it's just not - - -

PN601

MR STANNARD: Is just clearly not true - - -

PN602

THE COMMISSIONER: But equally, Mr Thomson, your answers are wide ranging and please just try and narrow down in terms of what the question is. I appreciate though that's difficult because your questions are very long and rambling, and it's difficult to get some assessment about where you're going. I can say from my point of view we're not in the (indistinct) of matters in terms of making a decision in the matter. I think I've heard enough about risk assessments and catastrophic versus other categories of risk in the workshop. Is there any other matters that you wanted to question Mr Thomson about?

PN603

MS STANNARD: Okay. So, Mr Thomson, you've been on leave since the beginning of semester 2 this year. You were on leave for two months. If as you say Peter manages - you manage the metal workshop as well as all the other workshops and students at CAM. Was anyone tasked with backfilling your role as it pertains to workshop management? I'm not speaking other matters, but as it pertains to workshop management for the two months you were away?

*** ALEXANDER JOHN THOMSON

XXN MS STANNARD

PN604

THE COMMISSIONER: Stop there. Answer that question?---Yes. Before I - no one person was. I went through my job roles and all the rest of it with Anna Simpson before I departed, and we broke up the portions of my role and gave a

portion out. Anna Simpson got most of it. Meridy up north got a lot of the financial and the administrative bits, and I can't remember, but there was two or three other people that got portions of my role divvied up to them.

PN605

MS STANNARD: I was speaking about the workshop management aspect, not about a high level management that Anna Simpson would have been doing?---No, that would have - that would have gone to Anna Simpson.

PN606

THE COMMISSIONER: To who, sorry?---Anna Simpson. She's the business manager, the school manager.

PN607

MS STANNARD: So could you comment on what Anna Simpson had done in terms of workshop management in the two months that you were gone?---Clearly I wasn't here.

PN608

Okay. So I will now ask a few questions about your involvement in the workshop - this will go on the amount of time that you actually have in track with Peter, and I'd just like to make the point that this is no different for the last six months, and it was previously even before this process began. But let's say for the period of January to June of this year how much time measured in minutes or hours would you estimate that you were physically present in the metal workshop?---It would be extremely low.

PN609

Yes?---And I've got no - I've got no problem with that, because I quite like Peter and I trust him and he's very good at his job. But I don't - and I spent all that time in the first couple of years - yes, I have on occasion dropped in. Before you read out a total sum I do know that there are occasions when I'm in there and I see you teaching students and I leave before you see me. So I did more than what you've seen.

PN610

MR STANNARD: I'm sorry, could you just - did you just say that I was teaching students?

PN611

THE WITNESS: Fair call. Instructing, yes. It's that mix up of that verb. Don't take that as a blessing that it's teaching.

*** ALEXANDER JOHN THOMSON

XXN MS STANNARD

PN612

MS STANNARD: Thank you. So for the same time period, so during January to June of this year, how time would you estimate that you and Peter spend, not in you being in - but just spend in boardrooms or in your office discussing matters pertaining to the management or operation of the metal workshop or related issues? And this would not - this should not include technical meetings, because those are not discussions?---Again extremely minimal, because this process had

become so adversarial and Peter had taken, and quite clearly taken leave and made it quite clear that he is suffering for this process. So there had been a conscious decision to step back - - -

PN613

Sorry, you've suggested that Peter's taken leave. What kind of leave has he taken over the last six months?---I'm not - I'd have to go to the books. He has definitely taken personal leave on a number of occasions. He took two days prior to this hearing today.

PN614

Yes. We don't dispute two days prior to - - -?---Yes, and there was a couple before the June - I think it was three or four before the June period. There was a few. There's enough for me to be aware that he is carrying an emotional burden with this and it's getting to him.

PN615

You know he had diagnosed COVID and influenza. So that would have accounted for the leave that you're noticing, not because he's - - -?---Remember when a sick certificate comes through I don't know what the medical reason is. I'm going on the statements that he has quite clearly said that he is emotionally suffering and taking quite a burden on this.

PN616

All right. And so lastly for the same period how many emails would you estimate that you exchanged on matters pertaining to the management of the metal workshop or related issues?---I'm not arguing - - -

PN617

THE COMMISSIONER: Just answer the question?---In the period of this since it started in November 2022 there's absolutely been a conscious effort to give Peter his space. And I admit I'm gun shy, because every single time that I've - it feels like - I've engaged with Peter I've tried to organise a backfill when he was on sick leave, things like that. I get immediately complaints from Peter firing on an email, all the rest of it. So I've kept my engagements with Peter deliberately and consciously from November 2020 onwards extremely low - 2022, sorry, whenever that first meeting was with Meg in November.

PN618

That was in 21?---2021, okay, fine.

PN619

So it's two years?---Yes.

PN620

THE COMMISSIONER: All right, keep going.

*** ALEXANDER JOHN THOMSON

XXN MS STANNARD

PN621

MS STANNARD: Thank you. The metal workshop is still functioning without any problems?---Peter is good. I've got no problem with his technical skills and

his ability to do that within limits. He's also been getting the emails in the feedback that's been done through the operations meetings and all the rest of it as well. So there's been guidance issue that's not directed specifically at Peter, that comes out generally to all the techs. He's on the CAM tech all email address, so he will get all of those policy stuff that get sent out.

PN622

So I will just - I realise it's going on for a long time, but I will just ask one last question relating to this. So over the last two years, because you've just said since November 21 there's not been much engagement since he lodged his application, what kind of input, managerial input have you had in relation to the metal workshop as it pertains to - and I'll again list the examples of what manage, teaching or research liability might mean. So allocating space and resources, coordinating purchases of equipment and general supplies, compliance with safety regulation or budget monitoring - over the last two years?---Input is different to monitoring. I'm well aware and across and all the rest of it. I'm not ignoring it and all the rest of it, but I acknowledge I am minimal contact with Peter, and I'm well aware whether - the budgeting issues with inspections with - prepare rates and all the rest of it, and his timetables and things like that. So, no, I'm not - if the implication is that I'm not engaged with it I still engage with it, but, yes, I'm not engaged with direct contact with Peter as much as I can avoid it.

PN623

So it would be fair to say that Peter has done all of these things over the last two years autonomously, without you needing to come in and guide him, direct him or provide any kind of support or - - -?---That's not accurate, because he's not autonomous, because he's operating within the constraints of left, right of (indistinct) and policy and direction and all the rest of it. So any of the techs - it's the old squeaky wheel gets the oil kind of thing. If he's doing a good job between where the policy and the direction and all the rest of it is, and I've got new techs coming on at the (indistinct) that I need to do those drop-ins far more often than I need - where Peter's doing a good job within the arts and what's been set in the guidance have been set. Yes.

PN624

And doesn't everyone have to work within some guidelines, even yourself?---Yes.

PN625

Even the Vice-Chancellor?---I don't - I have got no idea what the Vice-Chancellor does.

PN626

All right, thank you. Yes, we can skip the WHS because you've said you've intentionally not responded to it?---I'll just add one more thing to that bit about it. Be aware also that I'm also engaging quite heavily and regularly with the academics that are down there as well. So, yes, I'm speaking to people around Peter and all the rest of it because I don't have that direct engagement with Peter. So there is other ways and other forms of communication that are open.

*** ALEXANDER JOHN THOMSON

XXN MS STANNARD

PN627

Okay, thank you. So you and the other witnesses for - so I will leave now the management of the workshop issue and move to the other contested part of Peter's role, which is around teaching. So you contest that he doesn't teach. You prefer to use instead verbs such as 'demonstrate, instruct, guide mentor' to describe what it is that he does with undergraduate and postgraduate students who come to the workshop. So clearly we have an issue with semantics. So just a few questions. Would you agree that most if not all students who enrol in a fine arts degree do so to learn both theoretical knowledge as well as practical skills that are required if one wants to be a practicing artist?---Yes.

PN628

Great. Where would you say that students learn the creative making skills and processes they need in order to embark on an arts career?---From the academic stream.

PN629

I'm speaking about the making skills and processes. Not the theoretical knowledge, the making skills and processes?---Look, the practical hand on how to use a hammer, you know, yes, absolutely that's Peter. But when to use a hammer to create an artwork that has the following message and symbolic meaning is the academic.

PN630

What is your evidence for that, please?---The general university structure that is - so academics do the art context, the semiotics of the meaning of art and all that sort of stuff and where it fits in the art theory paradigm, and the symbology of certain materials, and the historical context that, you know, if you use - versus - you know, I would expect a student to be able to go up to any tech and go, 'I want to create a sculpture of this shape', and the tech will go, 'Okay, you need a steel armature welded in these places, these places, these places', and that's what I expect from the techs, that integral advice to achieve that physical outcome. The meaning of the shape of that form will rest, entirely rest with the academic stream.

PN631

So you've just said that you expect that of the techs. Do you think it's the same that the academics and the students expect of the techs?---Yes.

PN632

How do you know that?---How do you know that they don't? I mean it's a piece of - there is - look, I haven't - - -

PN633

THE COMMISSIONER: Don't ask questions back. Just answer the questions.

*** ALEXANDER JOHN THOMSON

XXN MS STANNARD

PN634

THE WITNESS: Sorry. Sorry. Look, I have no doubt that there is discussions and there is benefits to Peter having a Bachelor of Fine Arts and Sculpture, and able to have some of that thing. But from my conversations, particularly with the

head of school and with some of the studio coordinators on this issue they don't want the techs getting too deep into the context and art meaning and all the rest of it, because it does create confusion, and it can contradict what they've been taught or, you know, predate what's going to be coming up later in the course and all the rest of it. So, yes, two-thirds of my techs have an art training background. At least three of them have no - you know, just have trade background, and all of them are just as valuable as all the rest of it.

PN635

MS STANNARD: Yes. Sorry, I wasn't speaking about the background that is required. What I was speaking about is the actual instructional teaching work and how do you know that students and academics when they come into a workshop are not expecting more than just learning how to weld?---I've heard nothing in six years to the contrary from the academic staff that they want the text to be talking about art theory.

PN636

I'm not speaking about - I'm talking about practical skills that are required to go from theory to an image of - you know, to an artistic expression. That's what I'm asking about?---I think we're violently agreeing that - - -

PN637

No, I don't think we are?---The student and the academic, and the teacher comes in, here's the assignment that I want the students to complete, a self-portrait, whatever. The student decides that they want to do this as their project, and they start it, they realise I need to learn how to build a frame, I need to learn how to stretch a canvass. So then - - -

PN638

This is a metal workshop?---I know, but it's - you asked about text, and it goes across, sculpture, welding. Students asking about a technical thing, that I absolutely - it falls within the remit of the tech as well as safety and all the rest of it. What the shape and the form of that sculpture and all the rest of it, no, that clearly and utterly fits within the course design and structure for the academics and the teaching and learning committee's development.

PN639

Okay. So you are aware that in the first year of (indistinct) furniture unit that students undertake there are two of four learning objectives that ask students to create objects?---Yes.

*** ALEXANDER JOHN THOMSON

XXN MS STANNARD

PN640

Great. And how do you think students learn to create those objects?---They come up with the idea. They do some sort of planning, some sort of assessment of materials that they need, and if they can't do it themselves, they don't have the skills to do it, then I expect the four we know that they don't have the skills to do it we sometimes run - I can't remember the phrase - a little - small workshop I think we call it - that's not the correct term - a three hour workshop on glues or something, plaster casting, something like that, to give them the skills. And then

we expect them to go away and carve the forms and the moulds and all the rest of it to the shapes that they want to create that plaster cast, or the wire object or whatever it is.

PN641

Okay. I mean this one here - do you think - can you just set up the - - -

PN642

THE COMMISSIONER: Hang on, hang on. I am not putting up with too much of this. You guys are bouncing up and down like - - -

PN643

MS STANNARD: It's just quite - - -

PN644

THE COMMISSIONER: No, no. Don't speak over me when I'm - - -

PN645

MS STANNARD: Sorry.

PN646

THE COMMISSIONER: You sit down, both of you. I want a bit more order about the way you're asking these questions. You're ping-pong around. I am going to have a break for five minutes. We are going to resume in five minutes. I want you to think about what questions you want to ask. Be more succinct. I have given you an enormous amount of latitude, not being helped by the fact Mr Thomson is not being very concise with his answers and being - it's not funny - too broad ranging or we're going to be here all day between the three of you. So I want a bit of order. So take five minutes to compose yourselves. Think carefully about the questions you want to ask.

PN647

Remember that this case is about - well, on the university's case it's about whether or not the review process was properly conducted, and at large it's really about whether or not Mr Stannard is a 5 or a 6. That's all I am trying to figure out, and asking questions about, to be frank, what this witness, remembering the evidence that he's given about how it is that an arts student goes about creating a work of art, is not really helping me.

PN648

In the end this case has become way more complex than it needs to be. This is a case about the descriptors basically and what Mr Stannard's job is as reflected in his PD, and the other evidence that's been brought to bear in the case, and whether he should be properly classified as a Level 5 or Level 6. I don't really care about anything else. All right. So five minutes and we will resume.

<THE WITNESS WITHDREW

[12.25 PM]

SHORT ADJOURNMENT

[12.25 PM]

*** ALEXANDER JOHN THOMSON

XXN MS STANNARD

RESUMED

[12.31 PM]

<ALEXANDER JOHN THOMSON, RECALLED

[12.31 PM]

CROSS-EXAMINATION BY MS STANNARD, CONTINUING [12.31 PM]

PN649

THE COMMISSIONER: All right, we will continue.

PN650

MS STANNARD: Thank you, Commissioner. So we just I think have just four questions left and we hope they'll be focused, or we're trying our best. You've made a statement I believe in the last session of the questioning that the academic stream does not believe with the idea that the technical officers teach, they don't do any teaching. So I just said there are three witness statements and there's also a letter of support from the former head of discipline that all attest to the fact that technical officers do teach. How do you account for this difference of opinion, please?---I don't, and the simple fact is that my discussions and my guidance has been very clear from college and through the head of school, and discussions with Professor Meg Keating on the role of the techs versus the role of the academics. If other academics have personal opinions that are different from the head of school the university policy is set down through that side and that's where I get the guidance from.

PN651

So you accept there might be a difference between the policies said from high and the reality on the ground?---I accept the difference, that others might have different opinions, yes.

PN652

All right. Next question, please. How much time in percentage terms would you think that Peter allocates as per expectations of the university to supporting the learning, teaching and research program?---I've never done the sums, but that would be the majority of his role.

PN653

Yes, you're correct, about 65 per cent.

PN654

THE COMMISSIONER: He answers the question.

PN655

MS STANNARD: Sorry.

PN656

THE COMMISSIONER: It's not an exam.

PN657

MS STANNARD: My apologies. I'm not practiced in this clearly, so my apologies, I beg your pardon.

*** ALEXANDER JOHN THOMSON

XXN MS STANNARD

PN658

THE COMMISSIONER: That's all right. You question, he answers.

PN659

MS STANNARD: Yes.

PN660

THE COMMISSIONER: If you're not happy with the question you can chase him around the room a bit, that's okay, but then move on.

PN661

MS STANNARD: So the next question. Given that Peter's - the vast majority of his time is dedicated to the teaching and research program, supporting that program, why is this reality not reflected in his job description?---The key word there is he's supporting the teaching learning program. All the other aspects other than delivery of information to students that is defined in the workload calculator that defines teaching, the course design, the assignment searching, the marking, the examinations, the writing of the MILO(?) stuff, the handbook, the (indistinct), all that stuff that the university defines as teaching Peter doesn't do. Yes, he imparts information and instruction to students and staff. No problem with that.

PN662

But would you agree then that the majority of his time on that particular little aspect of teaching that you have agreed is true is the majority of his time?---The support to delivery of the teaching program, yes.

PN663

Yes. So we're in agreement on that. So why is that not reflected in his job description?---It is reflected in his job description.

PN664

I'm afraid it isn't.

PN665

THE COMMISSIONER: So you're putting to him it's not reflected in his job description?

PN666

MS STANNARD: Yes.

PN667

THE COMMISSIONER: The amount of teaching that he does?

PN668

MS STANNARD: Yes.

*** ALEXANDER JOHN THOMSON

XXN MS STANNARD

PN669

THE COMMISSIONER: What's your response?---Yes, sorry, there was no - none of the portions of the role have a proportion allocated, and the position

description decides all the stuff that you can be doing, but in nobody's does it say that the majority of your role will be this, that the schedule will be that, none of it.

PN670

MS STANNARD: Yes. But there is not even one single dot point dedicated to this majority of his time?---Okay. I might be wrong, but I was under the impression that all the PDs had a line in there about supporting the teaching and learning program. I might be wrong. I was under the impression it did, and if it doesn't then it probably should have.

PN671

Okay, let's move on then. So the last question. I'm referring back to comments that you made for Mr Templar's benefit on my reclassification appeal. So this is page 347 of the court book, please. So on page 2 of my reclassification appeal there's a comment that says from you:

PN672

I support the HEO5 upgrade. He is correct at that level. HEO4 was part of a tiered structure of techs that on paper looked good, but in reality after six months all the ground floor techs were doing similar duties, i.e. not a tiered arrangement.

*** ALEXANDER JOHN THOMSON

XXN MS STANNARD

PN673

So if you have known all along, at least you claim six month, but I would argue, or Peter would argue it was actually earlier because things have not been any different, that he has been working above his pay level, why did you dismiss him for more than 18 months whenever he queried you about it? Is it not your responsibility as the employer's management representative to ensure that he is paid according to the work he is expected to deliver?---Sorry, I'll try not to ramble. Early on with that tech review you became apparent - and six months, four months, eight months, six months - yes, I agree that the tiered arrangement with the HEO5 mentoring the 4s and everyone was earning a similar amount. There was agreed when we did the first tech review that in six to 12 months after it was implemented it would be reviewed and if it was working or not. COVID came in and destroyed that. That review, everything went on hold for it at that point. I was in a similar boat with Peter when we had that conversation in January 2022 I think it was with Murray Antil where he and Murray first approached that they wanted to get their reclass and I provided them the link to the paperwork. One, that was act of support. We're in an adult environment, I'm not going to fill out the paperwork and everything for him. I made it clear, and I was genuinely surprised when I didn't hear from him on the 10 months. I thought, you know, it's up to him, but I'm not going to hold his hand. You know, I provided him the link to fill out the forms to start the ball rolling, and I made it clear when he put the form in, in November that I was happy to give feedback on the form before it went higher and all the rest of it, and Peter chose not to do that. So, yes, it was becoming clear, but no formal process kicked off to address the reclassification issue. I thought it was going to be kicking off within months in the middle of that year. Clearly COVID hit and everything went on hold. Basically nothing got done other than COVID and keeping our head

above water for 18 months or so. But the other thing is to remember to note also that when the HEO5 reclass did come back through I was the one to get the backpay recognised too when he lodged the application in November 2022. So the others were reclassified at HEO5, their pay commenced I think in the July. You know, in fairness to him he'd started the ball rolling earlier and made the application. We got it back, we got Peter's backpay to that point.

PN674

Okay. The reclassification process normally goes that if you are found to be in a high or low you start at the bottom of that (indistinct). So would you say that you encouraging that Peter be able to apply (indistinct) confirm that you were aware that he'd been in (indistinct) since the very beginning?---No. No. When it was - the change was made I thought it was only fair for the recognition for him and Murray I think it was, that it should have been from the hiring date.

PN675

Great. And just the last (indistinct) because of the questioning that has taken place earlier suggests that the respondent will put forward the view that Peter doesn't manage a budget because he has a spending limit, and there was some questioning earlier about that. Would you say that everyone has a spending limit no matter the level of HEO classification in their role?

PN676

THE COMMISSIONER: Who's everyone? Everyone where, in the world?

PN677

MS STANNARD: Within the university?---No. Some techs have credit cards, some don't. It depends on the role.

PN678

No, I'm asking broadly. Like yourself, do you have any limits on your spending?---Yes.

PN679

Okay. So it is normal even for a manager to have spending limits on their budget?---Yes.

PN680

Thank you.

PN681

THE COMMISSIONER: What is the annual budget for the metal workshop?---It varies year to year, but anything from - sorry, I'm getting my head wrapped around. The consumables is out of the picture because Peter manages that with his internal account and buying and selling to the students. We occasionally will buy in \$5,000, \$6,000, \$7,000 every three or four years to restock that if it's been trending downwards. There isn't a specific operational figure, nor am I given a specific operational figure for the tech team.

*** ALEXANDER JOHN THOMSON

XXN MS STANNARD

PN682

Sorry, I will reframe the question. It seems to be clear that Mr Stannard manages some level of budget in terms of buying resources, materials and so on, presumably metal and drill bits and what not, saw blades. How much is allocated for that do you know?---There's not - there's no set figure. Nor is there for any of the other specific workshops. There's about 80,000 across the school for all the workshops. Some years it's more - because Peter's been after a laser cutter for about \$20,000. That's a been lower priority, we haven't done that. I would like to be able to do that. But this year we bought - yes, this year we bought \$17,000 for a new digital printer for photography. It's driven by time of life of the larger assets and things like that.

PN683

Okay. Now, could you just turn to page 324?---Yes.

PN684

Down the bottom of the page. So you recognise this document?---Yes.

PN685

You marked this up - - -?---Yes.

PN686

- - - back nearly a year ago. Do you see in bold and underlined there, 'Anything requiring calibration gets sent off to a commercial supplier or we call a commercial repair agent in'?---Yes.

PN687

Mr Stannard has given evidence today that he has never sent anything off for calibration from the workshop. What do you say about that?---That's probably about right. So it's very difficult to actually (indistinct) legal calibration. That's things like the test and tagging meter and stuff like that that they share on the ground floor. We've got very little that actually requires specific legal sign off on calibration equipment.

PN688

Just explain what you mean by legal sign off calibrated equipment?---Some of the testing gear. So the test and tag machine (indistinct) activated within, I think it's 17 milliseconds of a fault and things like that and has to go off to Queensland to a certified agent that will sign off for every 12 months. The machinery in the vast majority of the workshops, including the lasers and stuff like that, don't - none of them have a work health and safety legally directed annual recertification, et cetera. So, yes, there would be calibration in as much as calibrating the bandsaw to make sure the blade doesn't go away, but none of the techs do much compared to say - the reason I put that comment in there was there were some discussions around comparing two sites in engineering, where for instance a gas chromatograph for one of those, laboratory type equipment, actually do require calibration and certifications. We don't do anything - - -

*** ALEXANDER JOHN THOMSON

XXN MS STANNARD

PN689

By a qualified laboratory?---By a qualified individual. We don't certify or anything like that sort of - we don't sign off. We're not structural engineers, that sort of thing.

PN690

All right, yes, I see. All right, thanks for that. Nothing else from me. Nothing arising from that? No. Anything you wanted to ask?

PN691

MR CATCHPOLE: No, thank you.

PN692

THE COMMISSIONER: All right, very good. Thanks for your evidence, Mr Thomson, you are excused.

<THE WITNESS WITHDREW

[12.44 PM]

PN693

THE COMMISSIONER: Who are we getting in next?

PN694

MR CATCHPOLE: Mr Sullivan, Commissioner.

PN695

THE COMMISSIONER: Mr?

PN696

MR CATCHPOLE: Mr Sullivan.

PN697

THE COMMISSIONER: Mr Sullivan. All right. How long do you think you will be with Mr Sullivan in terms of asking questions, just some idea?

PN698

MS STANNARD: Yes. I'd say - I mean it's a bit shorter than with Mr Thomson, but it's still at least half an hour.

PN699

THE COMMISSIONER: Yes, okay. We might take a break now then. We will resume - it's 12.45, we will resume at 1.30. So a 45 minutes break for lunch and we will start then with Mr Sullivan.

LUNCHEON ADJOURNMENT

[12.45 PM]

RESUMED

[1.32 PM]

PN700

THE COMMISSIONER: Please be seated. All right, Mr Sullivan. Yes, you can enter the witness box, please.

*** ALEXANDER JOHN THOMSON

XXN MS STANNARD

PN701

THE ASSOCIATE: Please state your full name and address.

PN702

MR SULLIVAN: Scott Anthony Sullivan, (address supplied).

<SCOTT ANTHONY SULLIVAN, SWORN [1.33 PM]

EXAMINATION-IN-CHIEF BY MR CATCHPOLE [1.33 PM]

PN703

THE COMMISSIONER: Thanks, Mr Sullivan, you can sit down. Mr Catchpole?

PN704

MR CATCHPOLE: Thank you, Commissioner. Mr Sullivan, can you please turn to page 236 of the court book in front of you?---Yes.

PN705

And can you identify that document?---Yes. My witness statement.

PN706

And that's 97 pages, including five annexures?---Yes.

PN707

And turn to page 240, please?---Yes.

PN708

Is that your signature on the document?---It is.

PN709

Thank you. Are there any changes you wish to make to that?---No.

PN710

Is that document true and correct to the best of your knowledge and belief?---Yes.

PN711

I seek to tender that statement, Commissioner.

EXHIBIT #R2 STATEMENT OF SCOTT SULLIVAN

PN712

THE COMMISSIONER: Thank you, Mr Sullivan.

PN713

MR CATCHPOLE: Thank you. No questions.

PN714

THE COMMISSIONER: Nothing else. Yes. Any questions you want to ask Mr Sullivan?

*** SCOTT ANTHONY SULLIVAN

XN MR CATCHPOLE

PN715

MS STANNARD: Yes, we would like, Commissioner.

PN716

THE COMMISSIONER: Off you go.

PN717

MS STANNARD: Thank you.

CROSS-EXAMINATION BY MS STANNARD

[1.34 PM]

PN718

Mr Sullivan, I will refer to page 237 in the court book?---Yes.

PN719

So in paragraphs 7 to 9 of your witness statement on that page you stated that your involvement in the original review of Peter's reclassification was only secondary, that you were, I'm putting, were made aware of it, in paragraph 7, and that you provided comments regarding role expectations in paragraph 8, but nothing more?---Nothing more.

PN720

Okay. So could you explain then why in the official response that Peter received from Mr Paul Keeley on 22 July 2022, which was submitted as our evidence number 1, about the outcome of his reclassification application Mr Keeley stated that, 'I' - Mr Keeley - 'have been working with Scott Sullivan and Scott Partridge to review your request and to determine the outcome'?---Yes. Paul Keeley at that time, if my recollection is right, was both the business partner and director for the business partners in People and Wellbeing. As I understood it at that time Karen Doak had finished her report. I don't know if Karen Doak had left or was leaving or if as part of the process - this is People and Wellbeing - this is university procedure. Some comment was called from me. That was a conversation that I had with Ilze McMullen and mainly Scott Partridge. I communicated with Alex and refreshed my memory from the advice that he had given. My understanding, my very clear understanding is that was passed to Paul Keeley. Paul Keeley then made his decision, and if he's referencing me it's hardly surprising. I don't want to read too much - if he's saying that he did that by working with me I don't know how far to - I don't know what that means in his words when he's writing it, but the way it worked was I communicated with those guys. Paul Keeley made the final decision.

PN721

So although as you say in your view you weren't really involved in making that decision others within the People and Wellbeing team, Mr Keeley for example, seemed to have had that impression because of what he'd written as I just quoted. So in light of their understanding of your involvement in the decision-making was it appropriate in your opinion for you to be involved in then the reclassification review panel that was tasked with reviewing the initial decision; is this not a conflict of interest?---In my opinion, yes, it is appropriate and, no, it's not a conflict.

SCOTT ANTHONY SULLIVAN

XXN MS STANNARD

PN722

Even though you were involved in the initial decision?---To be fair, and if I'm waffling on, I'm involved in multiple activities across all disciplines, all schools within the college. A good many of those processes and activities might turn into an activity where I have another set of involvement. I wouldn't class that as a conflict of interest. I don't know if that helps. No, I don't think it was a conflict.

PN723

Okay. But in the EBA where it states that a reclassification review panel is to be assembled to review a decision you don't see that as a potential conflict of interest to have the same party involved in both processes?---No, I don't. Just bear in mind I wasn't part of the reclassification in terms of documentation, the approval from that to go ahead either with the endorsement or not the endorsement at the school level. I was aware of it. When it goes to People and Wellbeing it doesn't work within the People and Wellbeing team that I work with as such. I didn't work with Karen. A report was communicated. As far as I know Paul Keeley then refreshed himself or asked further information. I gave my commentary on what I thought the information needed was, or rather I commented on the information request. That went to Paul Keeley, a decision was made. I didn't make that decision.

PN724

Related to this question could you comment - I think you were aware of the fact that a significant component of teachers' work is dedicated to supporting the learning and teaching and a research program. In fact Mr Thomson earlier confirmed there was the majority. So why was there no academic involved in the internal review panel? Could you comment on that?---In the internal review panel?

PN725

In the reclassification review panel that was looking at the internal decision?---No.

PN726

You can't comment. Okay, thank you?---I do know the head of school was involved in the original classification request. I do not that Karen Doak, and I think that's recorded in here, spoke to at least two academics and I think a postgraduate. Maybe one of those academics also was a postgraduate. But as for the review I can't answer that.

PN727

Okay, thank you. So this brings me to the question of teaching. You and the other witnesses for the university assert in your witness statement that Peter does not teach because he does not carry the full suite of tasks that teaching could involve. But neither do tutors who are academic staff and who teach as per the university's understanding of teaching and whose pay scale equates to HEO Level 6 officers, yet whose teaching is actually less in that they are working under the direction of - - -

*** SCOTT ANTHONY SULLIVAN

XXN MS STANNARD

PN728

THE COMMISSIONER: Stop. I am already lost.

PN729

MS STANNARD: Okay. Could I then just say could you, bearing in mind - - -

PN730

THE COMMISSIONER: Hang on, wait. I don't want to cut you off unnecessarily. So if there's a question in there, look at your notes again and ask yourself what's the question I want to put to the witness and then just ask that question.

PN731

MS STANNARD: Okay. So bearing in mind that there are tutors who are considered to be academic staff who actually rehearse or review the work that was done previously by lecturers, and Peter's work is teaching new practical skills, how can you say that he does not do teaching, when tutors are considered to be doing teaching work at the university?---Okay. I'll do my best, and if I'm going in areas that aren't needed please stop me. Teaching has multiple ways of being used as a word. I can teach someone to use a stapler. And that's not - I'm not being facetious. I can teach someone to do something, or I can guide them. I can instruct them as per the PD. If I'm - but that doesn't mean I'm not teaching. In the university environment teaching tends to be, and again People and Wellbeing might provide additional advice on this, but my understanding of teaching in our context, at the university context, is we're linking that to curriculum. So we're linking that to designing a curriculum, setting learning outcomes, doing assessment tasks, setting the assessment tasks against the learning outcomes, assessing the results of those tasks and doing that in a structured program that leads to a recognised qualification. In terms of a tutor, so a tutor, the ones that I'm aware of who are counted in the academic FTE, so a tutor is part of the curriculum program. A tutor, not always, but generally a tutor may take a tute group for a semester within a particular unit that leads to a program. That tutor will generally have essays that they then mark and they upload those marks or pass them to someone else to have those marks uploaded into a mark book that then goes against the student's record. They're part of, generally, the development of the curriculum as well. This isn't necessarily what I would describe the duties of a workshop technical officer role. Potentially most laboratory technical officers I wouldn't say that they're into that teaching role. That doesn't - it doesn't undercut, undermine lesson, the responsibilities or I guess the value that a technical officer who's showing students how to use, how to get the best out of, how to plan for the application of equipment by any stretch. But I think that's about the best answer I can give, if that answered your question.

PN732

Well, you just said that tutors mark?---Yes, often.

*** SCOTT ANTHONY SULLIVAN

XXN MS STANNARD

PN733

Are you aware that they - yes - and when they do mark that they do so based on rubrics that the lecturers develop, and that if they're marking to a high level that

they have to check that marking with the lecturer?---They're marking a high level. If they're marking a very low level sometimes they're involved within those rubrics as well. There's a course coordinator and a unit coordinator and that moderation involves the tutor. It generally doesn't involve the technical officer roles though.

PN734

No. I'm trying to compare the type of teaching that a tutor does with the type of teaching that a technical officer within the arts program is doing?---Okay.

PN735

The example you gave would try to make (indistinct). It was about marking, and I said, well actually marking by tutors is always overseen by someone else. It's not independent work, and it's not independently developed?---Yes. Yes, I'd agree with that, as in - as in the rubric for marking, yes.

PN736

Yes, okay. So I would ask - so one more question, or the (indistinct) is that tutors work under the direction of lecturers. They may contribute to course design, although that's not been my personal experience as a tutor at VTAS, but that may happen. And in their work that they are reviewing material that has previously been presented to the students. In Peter's situation he teaches new skills that no one else has previously taught, and he does so independently. How can you compare these two roles and say that the tutoring is valid teaching, and what he does is not?---You'll note at the very beginning I said what is teaching. I will say that it is valid. Is it teaching within the definition that we would apply? I would say no. But you're welcome to think I'm wrong.

PN737

Okay. So it's not that if the teaching is not valid, it just doesn't fit your definition?---Yes. Broadly, yes, it doesn't fit the definition.

PN738

Thank you. So back to page 237 in paragraph 10 of your witness statement?---Yes.

PN739

So you wrote that you were asked by Ms Wedlog to be part of the reclassification review panel because you had, I quote, 'Knowledge of Mr Stannard's role and day to day duties'?---Mm-hm.

*** SCOTT ANTHONY SULLIVAN

XXN MS STANNARD

PN740

I'd like to ask you if you could please explain how as the most senior operations manager for the College of Arts, Law and Education who is based in Launceston you had knowledge of Peter's day to day duties and role where you had never met him, nor visited the workshop, until he had lodged his appeal with the Fair Work Commission?---Yes. I will go back a little bit to your earlier question about conflicts of interest and so forth. The reason I'm there, I guess, rather than his line manager, or a person who does work with him on a day to day basis, or one of his

peers, is because of the distance, to avoid a conflict of interest to some extent. I'm also providing, I guess, the operational voice for the college, and the school is part of the college and the discipline is part of the school. In terms of how do I know what his day to day roles and responsibilities are I inform myself of that the way I would inform myself of new staff members' roles and responsibilities. I've had a fair amount of exposure to the roles and responsibilities. I think there's been some references earlier to the review that was conducted in 2018, and as you know there was another review that was conducted in 2022. I spent a lot of time working with the head of school, various academics, staff members, various staff members themselves as in technical staff officers. Contrary to some of the communications here a significant amount of consultation and communication within that first review, and when I say significant I mean multiple meetings, dozens of emails, feedback processes where we actually define and determine what we needed from the roles. That was when we determined what the 6 was or wasn't doing under the old structure, what we needed the new position, which was classified as HEO5, to do under the new structure, and then referencing Peter's in particular reclassification from a 4 to a 6, and the result was a 5. That involved me again refreshing my knowledge of the actual activities and tasks with the line manager, with the head of school, with the business manager, and then provided the best input I could into the panel.

PN741

So would it be fair to say that your knowledge of Peter's role is all dependent on other people's input, as in you've never had direct experience of contact with him to be able to speak to having a day to day - -?---Well, I have. This is we haven't - we have been in the same room for meetings. Not when the reclassification process started then, I will say that, but certainly as we were doing the review process most recently. But I've also had a good deal of communication with his predecessors, with Phil Blacklow, but, no, I will out and out say I do not spend time with Peter in his workshop, and have not.

PN742

Thank you. Thank you for that. I will now be referring to a statement on page 238 in the book, so just - -?---238, yes.

PN743

Yes, thank you. So there in paragraph 12 you stated that to prepare yourself for your role on the reclassification panel, the RRP, you contacted Peter's line manager, Alex Thomson, and asked him to comment on Peter's role as it compared to the HEO5, HEO6 descriptors?---Yes.

PN744

And then as part of that evidence you pointed to Mr Thomson's email which was the attachment SS5 as evidence of the information that you had sought from him to inform yourself?---Yes.

*** SCOTT ANTHONY SULLIVAN

XXN MS STANNARD

PN745

Great. Thank you. So Mr Thomson's email is dated 3 November 2022. Yet the first session of the RRP when you made your opening remarks for Ms Wedlog's

report that demonstrated your intimate knowledge of Mr Thomson's view of Peter's role was held on 31 October 22. So if you weren't involved in the initial review of Peter's application as you asserted in paragraphs 7 to 9 how did you have such intimate knowledge of Mr Thomson's view that you could speak to it before receiving his email?---Yes. Pretty easy. I think, and we referenced the - I think you mentioned it yourself - paragraph 8. So at that time I sought input from Mr Thomson to assist with my comments. I had conversations with him. I didn't speak with Karen Doak by the way, but I did speak with Alex, and I spoke with Scott Partridge and I spoke with Ilze McMullen. Went through all the details and then refreshed that again before the review panel, and if the email I've sent you is from in between the two meetings I'm happy - happy to agree with you.

PN746

Okay, thank you. So then this I think begins at the bottom of page 238 and continues on the next page. It's your paragraph 16 where you stated that the two meetings of the RRP, the panel saw what you say in your words a significant discussion and disagreement, and that is why the RRP had to meet twice. Would you say that the report prepared by Ms Wedlog accurately reflects this significant discussion and disagreement that took place over the course of the two meetings?---Yes.

PN747

Because the inputs of Ms Midgely, Ms Gill and Mr Violet are represented in only a few dot points, which are seeming to intended to cast some doubt as to their opinion, while your view is presented in a full page of detailed statements that are presented as a matter of fact rather than a matter of opinion. So do you believe that this kind of reporting reflects fairly the input of all the members in the RRP?---Yes.

PN748

You do. Okay, thank you?---I can expand, but I think I'm - - -

PN749

Okay. Yes, thank you.

*** SCOTT ANTHONY SULLIVAN

XXN MS STANNARD

PN750

THE COMMISSIONER: You can if you want?---I think you will see from their notes, and indeed from their commentary there was a requirement or a request for me, being the only one who actually was from KL and was able to speak about what the expectations in the role requirements were. Not the case he was making, but the role requirements and what we understood the duties of the technical officer were. Remember technical officer (indistinct) 4, a 5 or a 6, in this case an application for a 4. So having that conversation with people who weren't from the area. In fact two of them weren't from a school or a college at all. One was from a different college. So it's hardly surprising, and given that's why I was asked to be on the panel, that I outlined the state of play and we then had a conversation. The conversation focused as I think - I think we recorded on one or two areas. We didn't get through it all. We had a second meeting, and we did. The input from the others was pretty much as it was laid out. Perhaps a lot

more words, but I think the reality is, or rather the intent and the meaning is pretty fair by my recollection.

PN751

MS STANNARD: Okay, thank you. This will be the last question which refers to pages 239 to 240 in the book, which are your paragraphs 21 and 22 in your statement. So in paragraphs 21 and 22 you stated that you disagreed with Peter's claim that he's responsible for managing the metal workshop and a significant level of WHS risk present within it. As management of the workshop and WHS risk falls, according to you, to Mr Thomson and to Dr Keating, the head of CAM. So I'll focus here on the question of WHS, because we spent quite a bit of time focusing on the management of the workshop side with Mr Thomson. And you - I'm actually going back, this is also part of your statement in paragraph 3, you say you have significant expertise in workplace health and safety. So given this expertise you would no doubt be aware that the metal workshop contains - - - ?---Who does, I do?

PN752

You said that in paragraph 3 of your statement?---Okay. Paragraph 3 - - -

PN753

In enabling excellence in human resources, including work health and safety?---Okay. So that's me stating that I've got perhaps not expertise in it, but work health and safety. Yes.

PN754

So given this expertise that you - - -

PN755

THE COMMISSIONER: Let's just clear this up. He doesn't say he's an expert. What he says is, 'I provide guidance on enabling excellence in research and teaching, budgetary management analysis, including work health and safety.'

PN756

THE WITNESS: Which is pretty much from my role description.

PN757

MS STANNARD: Yes.

PN758

THE COMMISSIONER: Okay. Is that what you're referring to?

PN759

MS STANNARD: Yes.

PN760

THE COMMISSIONER: He doesn't say I'm an expert in work health and safety, which is what I think the proposition was that you put to him. No. Agree?

*** SCOTT ANTHONY SULLIVAN

XXN MS STANNARD

PN761

MS STANNARD: The point taken. Yes, agree.

PN762

THE COMMISSIONER: Yes, okay. So just - - -

PN763

MS STANNARD: But it's implied some level of experience.

PN764

THE COMMISSIONER: So ignore that part of the question. What's the rest of the question?

PN765

MS STANNARD: But we've had conversations during mediation, so you no doubt would be aware that the metal workshop contains equipment that can set a person alight causing permanent injury or death. The level of inherent risk - - -

PN766

THE COMMISSIONER: Is that a question?

PN767

MS STANNARD: Yes. So - - -

PN768

THE COMMISSIONER: So again - - -

PN769

MS STANNARD: Do you believe - - -

PN770

THE COMMISSIONER: Wait. You're making really long statements and it's even losing me. I don't know the witnesses are coping with it. So just - - -

PN771

MS STANNARD: Okay. Yes.

PN772

THE COMMISSIONER: If you want to put that proposition about the level of risk in the workshop just break things up a bit. So you can do that. Just ask that first part about what you want to put to him about the level of risk in the workshop, which is what I think you're trying to do.

PN773

MS STANNARD: Thank you. Thank you, Commissioner. Are you aware that the metal workshop contains equipment that can set a person alight causing permanent injury and death, and that this has been classified as catastrophic risk?---Yes. I didn't know - when you say it's been - when you say catastrophic risk is that the - is that the residual risk or is that the - - -

*** SCOTT ANTHONY SULLIVAN

XXN MS STANNARD

PN774

Inherent destructing risk?---Yes. Yes, quite common.

PN775

You are. Thank you. So do you believe it's possible to manage the catastrophic level of risk that is present in the metal workshop by someone who is never physically present such as Mr Thomson or Dr Keating? That's my question?---If you are saying they were never physically present as opposed to occasionally present, or if you said they weren't managing the compliance responsibility as per their role description, then I would be - I would be anxious and concerned, and I suspect I would agree with you. Given their role responsibilities and what's required of their roles and the reason those roles are there, particularly the team leader role, then I would say I am comfortable with that, that that risk is being adequately managed both with the team leader and the technical officer. That's how the - that's how the role descriptions are meant to work.

PN776

I was specifically asking, because your claim and Mr Thomson's and everyone else's from the university side is that Peter doesn't manage WHS risk. That's managed by Mr Thomson and Dr Keating. What I'm asking you is that when a person comes into work with a piece of equipment that can set a person alight who is actually managing that very risk that's very present and it is catastrophic, who is managing it?---Peter.

PN777

Thank you?---As per the bottom of his position description, and every HEO1, 2, 3, 4, 5, 6, 7, we all have responsibility for managing or - yes, managing WHS risk, but management responsibility for WHS in that area and within all of the workshops within the school lie with the operations team leader, then up to the business manager and the head of school, and that's where the something officer, I've forgotten it, but the actual legal responsibility sits. That's why we've created that position, because it wasn't being managed previously.

PN778

Are you aware of there being other workshops in the College of Arts - sorry, School of Creative Arts and Media, CAM, that present again inherent catastrophic risk that is managed by the technical officer who's on site when someone's using that piece of equipment?---If it's - I'd like to - I'd like to refresh myself and see the risk management plans, but inherent - so the starting risk it's not uncommon to have a catastrophic - you know, if the - I don't want to give examples - if the walls falls on us here that would be catastrophic. What's the inherent risk? What are the residual risks, sorry, what is it that we've done to manage that? Who has responsibility for ensuring that that risk management plan is completed; that it's recorded; that any compliance measure is attached to it; any resourcing attached to that are followed through. Those responsibilities, you know, we have positions that are responsible for those. They work with the technical officers in the school, which is where we're talking about. So, yes, it doesn't surprise me, and that's why we - that's why we have the structure that we have.

*** SCOTT ANTHONY SULLIVAN

XXN MS STANNARD

PN779

So when Mr Thomson was here earlier he advised us that when risk is being assessed it's very important to actually be honest about the likelihood of any event taking place. What is the likelihood of that ceiling falling on any random facility at CAM?---Very likely, yes.

PN780

Right. What is the likelihood of a person who is not being properly supervised by a technical officer when they're using - what is it that sets you alight - a gas torch, that that person will actually get serious injury?---Yes. High, yes.

PN781

Thank you very much. And then my follow on question, is there any other facility within CAM that has a comparable level of inherent catastrophic risk that needs to be managed in the manner I've just described so that that person isn't injured, realistically?---Realistically - well, yes, we have in CAM - okay, so we've got chemicals in the print making and in the photography area. We've got things that spin and burn and bite and cut in the woodworking area. We've got heavy weights that are moved around regularly in the theatre area. In the administrative areas we've got boiling water. We've got lots and lots of electronics and electrical cables. These are - this is the standard sort of workplace. And in this one where we've got areas where we have areas, so of risk, we have risk management plans. And, yes, Peter has responsibilities attached to the management of that risk. The management, the overall management responsibility isn't his though. I've said that about three times I think.

PN782

Yes. I think we can - thank you very much.

PN783

THE WITNESS: Is that all right?

PN784

THE COMMISSIONER: Thank you. Anything arising?

PN785

MR CATCHPOLE: No, thank you.

PN786

THE COMMISSIONER: No. All right. I just have a couple of questions I think. The academic workload principles which you turn to, to provide some context for your understanding of what teaching is, where will I find those? Were they something that you attached to your statement, or is there something that - - - ?---That's a (indistinct) question. They're certainly on the university website, and the college has - - -

PN787

I might just go to the legal people. Is that in the materials, because if it's not - basically the reason I'm asking about it is I want to see them.

*** SCOTT ANTHONY SULLIVAN

XXN MS STANNARD

PN788

THE WITNESS: I've got a feeling they're in there. I think I've - I think I've seen them.

PN789

MR CATCHPOLE: They are in there, Commissioner. I'm just trying to find them.

PN790

THE COMMISSIONER: Are they part of the EBA or are they something else?---They're referenced in the EBA. They're not in - they're not included in the EBA. The EBA makes reference that each college should have an academic workload (indistinct), and each college has its own. They work to the university workload, academic workload principles and the academic workload principles appendices.

PN791

Yes.

PN792

MR CATCHPOLE: So it's on page 225, Commissioner, attachment AT2, so it's an attachment to Mr Thomson's statement.

PN793

THE WITNESS: Is it 225, is it?

PN794

MR CATCHPOLE: Correct.

PN795

THE COMMISSIONER: Okay.

PN796

THE WITNESS: Yes. So that's the university level appendices, and they just give some breakdowns of I guess the definitions attached to the usual teaching terms or academic delivery terms.

PN797

THE COMMISSIONER: All right. So these are referred to in the enterprise agreement. I mean this can wait for submissions probably, but I am just interested in what the relationship is between some of these documents and the actual EBA. That also extends to the descriptors. So we've got the general descriptors which apply to all the universities, and then we've got what seem to be the specific UTAS descriptors. I'm just trying to get a handle on what their force is. Are they given force through the enterprise agreement or some other instrument.

PN798

THE WITNESS: Mm.

*** SCOTT ANTHONY SULLIVAN

XXN MS STANNARD

PN799

THE COMMISSIONER: Sorry, Mr Sullivan, I'm really just having - redirecting this at legal counsel. I will get them to say something about that at the end, but I am just raising it now while it's in my mind. All right. I don't have anything else for you, Mr Sullivan. Nothing arising from that one question?

PN800

MR CATCHPOLE: No, thank you.

PN801

THE COMMISSIONER: All right. Thanks for your evidence. You're good to go.

PN802

THE WITNESS: Will I leave or (indistinct) staying around?

PN803

THE COMMISSIONER: You can stay in the room if you've got nothing else to do, or you can and do something else.

PN804

THE WITNESS: I've got plenty of things to do. All right. Thanks, sir.

PN805

THE COMMISSIONER: Thank you.

<THE WITNESS WITHDREW

[2.08 PM]

PN806

You can leave answers on that. Irrespective of what we do in terms of finalising the matter I just wanted to get a handle on that before we leave today. So we will come back to that in final submissions. You're good to go, Mr Sullivan. Who's next?

PN807

MR CATCHPOLE: Mr Templar.

PN808

THE COMMISSIONER: Hello, Mr Templar, it's Commissioner Lee. My associate is just going to swear you in.

PN809

THE ASSOCIATE: Please state your full name and address.

PN810

MR TEMPLAR: Brett (indistinct) Templar, (address supplied).

<BRETT TEMPLAR, AFFIRMED

[2.10 PM]

EXAMINATION-IN-CHIEF BY MR CATCHPOLE

[2.10 PM]

*** BRETT TEMPLAR

XN MR CATCHPOLE

PN811

THE COMMISSIONER: Thanks for that. Mr Catchpole?

PN812

MR CATCHPOLE: Thank you. Mr Templar, can I ask you to turn to page 333 of the court book, please?---233?

PN813

Yes. If you can just let me know when you're there?---Just a minute, please. I'm there now, yes.

PN814

Thank you. Can you identify that document for the Commission, please?---On page 233?

PN815

333, sorry, Mr Templar?---Sorry, I misheard, I beg your pardon. Yes, sorry, yes, that's my statement.

PN816

Thank you. That statement is 46 pages, including four annexures?---Yes.

PN817

Are there any changes you wish to make to that statement?---Yes, I do. I wish to make a small change, please. In item number 9, sorry, I made a mistake on the dates there. At the time I did the statement I only had a little time to get it done by, so I apologise. On 30 September, Jana Wedlog from the workplace relations team asked me to have a look at and review the review that was done by Karen Doak in relation to this matter, and it wasn't actually until 14 October that I was - Jana Wedlog again asked me would I be part of the reclassification review.

PN818

Okay, thank you. So you had originally said approximately 3 October, but you have indicated that it's now 30 September on reflection?---Yes, 30 September when I was asked to look at the work done by Karen Doak. It wasn't until 14 October that I was asked to go on the panel.

PN819

Thank you. With that adjustment, is this statement true and correct to the best of your knowledge and belief?---Yes, it is.

PN820

I seek to tender that statement, Commissioner.

PN821

THE COMMISSIONER: Yes, all right. So that will be R3.

EXHIBIT #R3 WITNESS STATEMENT OF BRETT TEMPLAR

*** BRETT TEMPLAR

XN MR CATCHPOLE

PN822

Thank you. Nothing further? All right. Any questions you want to ask Mr Templar?

PN823

MS STANNARD: Yes, we would like to, Commissioner. Thank you.

PN824

THE COMMISSIONER: Yes.

CROSS-EXAMINATION BY MS STANNARD

[2.14 PM]

PN825

MS STANNARD: Hello, Mr Templar. You can hear and see me okay?---Yes, I can see you okay. It's a little bit difficult being able to hear you, but, yes, I can see you.

PN826

How about if I speak directly into the microphone?---Yes, that's fine. Thank you.

PN827

Okay. Please do let me know if you can't hear me and I'll slow down or repeat?---Thank you.

PN828

Mr Templar, my name is Ingrid Stannard. I'm Peter's spouse and I'm representing - or we're working as co-representatives, if you will, on this case. That's why I'm asking you these questions?---Okay. Nice to meet you.

PN829

Thank you. Nice to meet you. So, Mr Templar, I will be referring to your witness statement, which is page 334 in the court book. So in paragraph - sorry, my apologies. It's your witness statement?---Yes.

*** BRETT TEMPLAR

XXN MS STANNARD

PN830

So in paragraph 10 of your witness statement you stated that in preparation for your role on the reclassification review panel you reviewed the investigation report prepared by Ms Doak - or Karen Doak - who is the people and wellbeing team leader who was tasked with carrying out an investigation that is required when a reclassification application is not supported by an employee's managers. So as someone who is experienced in the reclassification review process, because you noted significant experience in your background, did you notice that as part of her investigation Ms Doak did not compare Peter's role against other comparable positions as stipulated by the former EBA clause 41.2, looking instead at roles that had absolutely nothing to do with Peter's area of work?---Yes, when I looked at this - now, I need to go back a little bit before this. Originally, you know, when I was asked would I have a look at Karen's work and on a remit was to look to see if I thought she followed proper process, and I felt that she had been fair in her assessment. I asked at that point did they want to me to start fresh and have a fresh look at the whole issue - matter, sorry, and I was told no, not to do that. I only had to look at Karen Doak's report.

PN831

When I looked at Karen Doak's report, I personally - my approach there was to compare one position to a like position, but it has to be a genuine like position (indistinct) HEO positions are quite different. That is something that I would normally do though when I am doing the actual assessment, so to me I would have thought if (indistinct) done that as part of the original assessment. That's basically the time that I would have done it.

PN832

When I looked at Karen's documentation, I thought there was - I could clearly understand Peter Stannard's submission and why he was saying he felt he should be at HEO6 (indistinct) there's a lot documentation there, but if you read through it (indistinct) what I was - the part that I thought was missing to some degree was there was a document in there that had - it was like Peter Stannard's document with some type of insert and I wasn't quite sure where that had come from. I tend to think it might have been Alex Thomson, but I wasn't totally sure to be honest.

PN833

It seemed a bit sort of vague to me in the way that it was set out, so I did actually contact Alex to see if that - if I was reading it right, as well as did it come from him and that I hadn't (indistinct) and I was reading it correctly. I did notice in the review that Karen did that she's saying that she spent some time with Peter in the workshop and that she also sought comment from other people, but in relation to the like positions, my process would be that I would do that at the assessment stage.

PN834

MS STANNARD: So am I correct in understanding that you yourself actually did not review like positions as part of Peter's review or your participation on the review panel?---I did look at some like positions which I took - I did that myself just so I could sort of feel a bit more comfortable how the review was done. I don't know if I've mentioned that in my statement, so I apologise if I haven't. Once again it's always hard to say that is a definite like position. No positions are really a mirror of each other, so to speak, but there are some positions like technical officer positions, some can be similar enough to have some degree of comparison.

PN835

I understand you're saying that you did look at some positions?---Yes.

PN836

Could you tell us what they actually were?---I'm just finding that. I searched around through a range of positions. For me to say that I actually settled on what I would consider a like position would probably be stretching a little bit far. For instance, I've got a technical officer in the workshop at AMC, for instance, but - and I previously worked with AMC and I'm very familiar with the people in there that did that work. I mean, I couldn't remember off the top of my head one that I looked at. I probably looked at about five or six, but I didn't feel that I landed on one that was like enough for myself to be comfortable with.

*** BRETT TEMPLAR

XXN MS STANNARD

PN837

Okay, because in paragraph 13 of your statement, which is on page 335 - I think it's just the next page?---Yes.

PN838

You state that you felt - sorry, I will pause until - yes, you say that you felt that the review of Peter's reclassification request had been conducted correctly and you gave some example of what that correct conduct means, and one of those examples you gave was reviewing Mr Stannard's position description in accordance with the positional band descriptors and assessing it against like positions at UTAS, but now you're saying you didn't actually find like positions?---Well, I did follow that process, that's a hundred per cent correct, but I didn't find a position that I would classify as like-for-like. There were some that were similar. Once again it's each person's own interpretation, I suppose.

PN839

Okay. Do you know that in the College of Sciences and Engineering there are several positions within the workshop management area that are actually very, very alike?---I was aware that - I think there are some that - is it Andrew (indistinct) - - -

PN840

Yes - - -?--- - - - that worked in the area?

PN841

Yes?---Yes, it's - sorry, yes. It has been a while since I've worked in COSE, probably about a year and a half, so - and I've worked in the - so I don't actually have the line of sight with those roles.

PN842

Okay?---So I worked predominantly with (indistinct) and AMC.

PN843

Okay, you wouldn't have seen those roles and the fact that they are all HEO level 6 roles, and they're very comparable. You wouldn't have seen those as part of your review?---No, sorry.

PN844

Okay?---No, I was (indistinct) apologise.

PN845

Thank you. That's okay. I'm going to come back to Ms Doak's report, if you don't mind, because you said that you had reviewed that report as part of your preparation for your participation on the RRP, so I would like to ask you whether you found it at all concerning that the results of Mr Doak's investigation were in fact inconclusive and yet were treated as conclusive by the work area. So here I will be quoting from the summary of Ms Doak's report which for reference is on page 107 of the book, but I'll quote it. It's not a very long quote. It says that:

*** BRETT TEMPLAR

XXN MS STANNARD

PN846

Whether the majority of Peter's role is performed at HEO6 or whether that is the expectation of that role is not conclusive at the end of this review process. This needs to be considered further and a determination reached by CAM leadership.

PN847

So my question to you is (a) did this raise concerns for you, (b) is it common for investigations to be inconclusive and, if so, what happens next normally?---Okay, so to - it's a little bit different from - I haven't been involved in any review after a decision has been made, so to speak. My role has normally been the initial looking through and making a recommendation for a position to be uplifted one or two slots, you know, depending on the submission and the details, so I'm speaking more from that experience. This would only be - with Peter's review, that was the first time I had actually done a review of someone else's review, if that makes sense, and since then I've done one more.

PN848

So going back to when you do an assessment of a level 1 HEO role (indistinct) professional staff, it's very rare that you would have a situation where, yes, that is a hundred per cent HEO4, 5, 6 or 7, because the descriptors are sort of built into each other a little bit in spots, so you're making a judgment and you're making a judgment on the probability that most of the information in there would have landing on this particular slot.

PN849

When I do an assessment, for instance, I personally - I'm not saying that everybody does this. In fact I'm sure they don't. I do like a numerical evaluation with that and that numerical evaluation, for instance, might come out at 5.1 or 5.4 or something like that, so you're sort of landing on - it's not a definite that it should be just a 5, there might be some - there might be a bit more than a 5, but it mightn't be enough to make it actually an HEO6, so you're making that judgment call.

PN850

I'm the first to admit this is not an exact science. It's not something that fits in with a black and white sort of outcome quite often. When I'm doing an assessment - once again I'm just speaking about when I did an assessment - when I have a situation that I feel is quite grey and I've landed sort of like five and a half, for instance, something like that, 5.4, 5.6, then often I like to go back and try and negotiate an outcome level that both parties have gone into, but once again that's just my own approach.

PN851

MS STANNARD: Thank you explaining your approach. It seems in reading that Ms Doak's approach was perhaps different, but the point remains that she did not have a conclusion as to a recommendation as per her report. She said that the investigation was inconclusive?---Yes.

*** BRETT TEMPLAR

XXN MS STANNARD

PN852

She said that Peter's role should be reclassified as HEO5 immediately - she said that in April - to address the unfairness of his pay level, but she also recommended that a consideration be given as to whether his role should be an HEO6 at a technical review that she was told by Mr Thomson would happen in June 2022 and that never happened. Did you not notice this in the report and was this not concerning to you as you were preparing for your RRP member role?---I did notice it in there. Unfortunately, the (indistinct) I had is that I had no opportunity to discuss this at all with Karen Doak because Karen had left the employment of UTAS, so I didn't have a chance to really clarify that point with her. Once again, a lot of people that worked in people and wellbeing through this period are no longer UTAS employees or are employed in different roles at UTAS, so I've come in right at the very end so to speak and it's always that little bit - I don't want to make excuses, but it's a little bit hard when you come in at the end. I did see that in there, but to me I take that as something that is quite common when you're doing an assessment and Karen landed on that when she did the review.

PN853

The one person I did have an opportunity to speak to before they left UTAS was Ilze McMullen, who did the actual assessment with some assistance from Scott Partridge, I believe, and she felt, as well, that the job wasn't - it was close a six in the sense that there was some genuine - what do you call it - there was some genuine grey area whether it would be a five to a six. Once again, I mean, I would have liked to have spent some more time doing the assessments either, but that wasn't part of my remit.

PN854

MS STANNARD: From what you have just said, Mr Templar, am I correct in understanding that you would have read Ms Doak's report? You had read it?---Yes, absolutely. Yes, yes, absolutely.

PN855

Would you recall that in that report Ms Doak reported on having visited the school CAM in Hobart - - -?---Yes.

PN856

- - - been to the workshop, met with three different academics in addition to Mr Thomson. She was also meant to meet with the woodwork shop technician who had the most comparable role, but was told by management not to meet with them. That's a matter aside, but, anyway, from her investigation she conclusively noted in her report that Peter and the other technicians teach and that Peter and the other technicians managed their facilities.

*** BRETT TEMPLAR

XXN MS STANNARD

PN857

In spite of that, in paragraph 15 of your statement you wrote that you did not agree with Peter's claims that he teaches students and manages the metal workshop. Your disagreement, according to your statement in subparagraphs 15(a) and 15(b), was based solely on statements made by Mr Thomson, right? So could you please explain why you assigned credibility to

Mr Thomson's account of Peter's role and completely disregarded the information that was contained in Ms Doak's investigation report?---Yes, I can, because I also had - through this process I had read Peter's statements, as well, and the documentation that he put forward. Once again, you're making an assessment - is the teaching component in a layman's term, in other appointments that I've had, say, in (indistinct) setting, yes, I would classify that as teaching in that sense.

PN858

In the UTAS parameter, so to speak, in the world of the university, based on what is an expectation of teaching in there, not so much, because it could be argued that it's more instruction, it's not actually - for instance, is it setting any real assignments, it's the marking, the results, it's putting together a stream of training materials and so forth. You know, this is the type of elements that you look at when you're trying to determine if someone was actually teaching in the UTAS sense of teaching.

PN859

MS STANNARD: Would you say that teaching that is essential in order for a student to meet their learning objectives is teaching? Are they the activities that are taking place as part of, let's call it, teaching, but it could be - and they are essential to a student meeting their learning objectives. Would that be considered teaching?---Well, once again without being there and seeing it happen, yes, I would think so, yes.

PN860

Okay, because that's exactly what happens when Peter and the other technical officers for the unit called - is it object and furniture? They each undergraduate students who come into the workshop having previously not ever done anything with a piece of metal to create a fork out of that and that's a lot more than simply showing somebody how to use - is it a file that they use - or whatever the machinery be. So their work is critical to those students meeting their learning objectives. Without the teaching work that Peter and his colleague provide, those students would not have met those learning objectives, so would you then say that that is teaching?---Once again in layman's terms yes, in university terms not so much.

PN861

Okay?---Once again, you know, it's one of those assessments that when you're comparing what Peter's doing compared to a lecturer, for instance, to an associate professor who is running streams of courses that's providing ongoing support and mentorship to students, that is marking end of year assignments, giving feedback, sitting down with the students and going through what could take days of feedback and so forth, in that context no. In the context of providing, you know, important assistance to a student when they're going through the workshop and doing, you know, experimentation or the study that they're doing within the workshop, then, yes, I would - you know, I would say in laymen's yes, but in terms of the UTAS context, not so much, no.

*** BRETT TEMPLAR

XXN MS STANNARD

PN862

So how can UTAS be claiming or offering to fee-paying students courses in which they commit them to certain learning objectives but say that those learning objectives are not happening in UTAS ways of understanding as part of teaching, because that is the issue with these particular objectives - learning objectives - in the objects and furniture course?---Right. I don't feel I could answer that, but it's a little bit above my sort of standing - - -

PN863

I understand?--- - - - in the organisation.

PN864

I understand?---Sorry.

PN865

Yes. Thank you very much for your time, Mr Templar. That's all from us?---Thank you.

PN866

THE COMMISSIONER: Anything arising?

PN867

Thanks for your evidence, Mr Templar. You are free to go?---Okay. Thank you very much.

<THE WITNESS WITHDREW

[2.34 PM]

PN868

THE COMMISSIONER: All right, one to go. We might just take a break until quarter to 3.

SHORT ADJOURNMENT

[2.34 PM]

RESUMED

[2.47 PM]

PN869

THE COMMISSIONER: All right, who is next?

PN870

MR CATCHPOLE: I ask for Ms Derbyshire to give evidence.

PN871

THE COMMISSIONER: Thank you. Hi, Ms Derbyshire.

PN872

MS DERBYSHIRE: Hello, Commissioner.

PN873

THE COMMISSIONER: My associate will swear you in.

*** BRETT TEMPLAR

XXN MS STANNARD

PN874

THE ASSOCIATE: Please state your full name and address.

PN875

MS DERBYSHIRE: Kristen Lee Derbyshire, (address supplied).

<KRISTEN LEE DERBYSHIRE, AFFIRMED [2.48 PM]

EXAMINATION-IN-CHIEF BY MR CATCHPOLE [2.49 PM]

PN876

MR CATCHPOLE: Ms Derbyshire, can I ask you to turn to page 388 of the court book, please?---Yes, you can. Bear with me, sorry. Yes.

PN877

Can you identify that document for the Commission?---Yes, my witness statement which was submitted to the Commission for this matter.

PN878

Thank you. That is 13 pages, including two annexures?---That is correct.

PN879

Are there any changes you wish to make to that statement?---No, thank you.

PN880

Is the contents of that statement true and correct to the best of your knowledge and belief?---Yes, it is.

PN881

Thank you. I would seek to tender the statement of Ms Derbyshire.

PN882

THE COMMISSIONER: All right. Ms Derbyshire's statement is R4.

EXHIBIT #R4 WITNESS STATEMENT OF KRISTEN DERBYSHIRE PLUS ANNEXURES

PN883

There is nothing else?

PN884

MR CATCHPOLE: Just one question.

PN885

THE COMMISSIONER: Yes.

PN886

MR CATCHPOLE: Can I ask you to turn to page 180 of the court book, please, Ms Derbyshire?---180?

*** KRISTEN LEE DERBYSHIRE

XN MR CATCHPOLE

PN887

Correct?---Yes.

PN888

So these are Mr Stannard reply submissions. Have you read these submissions?---Yes, I have.

PN889

When I received these submissions did you do anything with them?---I reviewed them, yes.

PN890

Yes, and in reviewing them what were your thoughts on them?---They gave me the opportunity to reflect on the decision that I had made and gave me the opportunity, I guess, to have a degree of confidence on each of the various matters that were considered and the decisions that I made; that I felt the decision was still appropriate and that the classification of the role at HEO5 as opposed to 6 was appropriate.

PN891

Thank you. Nothing further, Commissioner.

PN892

THE COMMISSIONER: Thank you. Any questions for Ms Derbyshire?

PN893

MS STANNARD: Yes.

CROSS-EXAMINATION BY MS STANNARD

[2.50 PM]

PN894

MS STANNARD: Hello, Ms Derbyshire. My name is Ingrid Stannard. I am Peter's spouse and co-represent him in these proceedings?---Hi, Ingrid. Nice to meet you.

PN895

Hello. Nice to meet you. I will be asking you some questions that refer to your witness statement and please let me know if you can't hear. Thank you?---That's okay, you're nice and clear.

PN896

Okay, thanks?---I can hear you.

PN897

So I would like to point your attention on page 389?---Yes.

*** KRISTEN LEE DERBYSHIRE

XXN MS STANNARD

PN898

In paragraph 10 of your witness statement you stated that on 2 December 2022 you met with Ms Jana Wedlog and Ms Ilze McMullen to discuss the outcome of the meetings of the reclassification review panel that was assembled to review Peter's internal appeal. As part of their discussion with you did Ms Wedlog and Ms McMullen inform you that Mr Sullivan, who was one of the members of the RRP, was also one of the decision-makers on the original application as per

official notification that Peter received on 22 July 2022 from Mr Keeley, former director of business partnering people and wellbeing? It was evidence number 1 in our submission?---I think - I will say broadly, yes, Ingrid, from my recollection of that meeting I was aware that Mr Sullivan was involved in both the original decision - or contribution to the decision and then - involved as a member of the review panel.

PN899

Okay. Thank you. So the next question then is would you consider it appropriate and in the spirit of clause 41.3 of the former EBA for an individual who was a key decision-maker on the original reclassification application to be included on the internal reclassification review panel? Is this not a conflict of interest?---I wouldn't describe it as a conflict of interest, no. I understand the point that you're attempting to make. From my perspective I think it is appropriate to have contributions to that panel who have a working knowledge or understanding of the decision that is being made, so it does feel appropriate to me in the context of how that panel was convened that somebody like Mr Sullivan be involved in the decision-making process.

PN900

So you would feel comfortable with other review processes that would be happening under your direction within the university that a decision-maker on an original decision always be included in the reclassification review panel and that would be okay?---Well, I think on each individual circumstance I would need to make that decision based on what I determined to be appropriate, but I guess the perspective that I agreed to this is that Mr Sullivan doesn't have a conflict, that he comes to this with a perspective around the appropriateness of Peter's contribution within the creative arts and media discipline and that he is attempting to provide appropriate information that would help us to plan a classification that was equal in various roles across that discipline.

PN901

But were you aware that he was part of the reclassification or the restructure that actually eliminated Peter's predecessor's HEO6 role and therefore had very close connection to the history of this case?---Broadly aware, yes. I don't have a great deal of the history. I have certainly become more aware as this case itself has evolved, so, yes, I would be aware that Mr Sullivan was involved in the organisation design elements, yes.

PN902

So that still presents no conflict of interest from your perspective?---No, it doesn't, because I don't think that Mr Sullivan stands to gain anything personally and that's how I would define a conflict of interest.

PN903

Okay?---There was no benefit for Mr Sullivan in either of the organisation design elements of what he was involved in. I think those are core elements of what I expected of him in his role.

*** KRISTEN LEE DERBYSHIRE

XXN MS STANNARD

PN904

Okay, thank you. I will move on to the next question then. Staying on the same page, in paragraph 11 you stated that in that same meeting held on 2 December '22 you - and I'm quoting here -

PN905

asked Ms Wedlog and Ms McMullen a series of questions associated with the information used to inform the initial reclassification review decision undertaken by Karen Doak, team leader people solutions centre.

PN906

So if we - Peter and I - read your statement correctly, this suggests that you were led to believe or believed that Ms Doak had made the initial decision on Peter's reclassification application. Could you confirm - - -?---That's right, yes.

PN907

Okay?---Yes, or a recommendation at least, anyway.

PN908

Okay?---Which was taken, as I understand it. Her original review was undertaken and a recommendation to HEO level 5 was accepted.

PN909

So would you be aware then that her investigation was inconclusive and that as part of its summary it had these two statements:

PN910

Whether the majority of Peter's role is performed at HEO6 or whether this is the expectation of that role is not conclusive at the end of this review process. This needs to be considered further and a determination reached by CAM leadership.

PN911

You were aware that that - - -?---Yes, I had - at the time I hadn't reviewed that specific comment that you're referring to, Ingrid, but I have subsequently seen that. My interpretation of that comment is that there was a degree of confidence from Karen Doak at that time that the role was certainly an HEO5 level, but there was some contentional question as to whether or not it should be considered HEO6 and that - so various contributors to decision-making from that point until this had looked at them and certainly have confirmed, including through members of the people and wellbeing business partnering team, that level 5 feels to be the appropriate level.

PN912

On what basis did that confirm that, may I ask?---The three additional - - -

*** KRISTEN LEE DERBYSHIRE

XXN MS STANNARD

PN913

Yes, yes, yes?---As I understand it, the review of the decision description and the review of the classification descriptors, and I guess various other elements that was included to assist them in their assessments.

PN914

So are you aware that the actual position description is under contention?---I don't understand the question, Ingrid. Perhaps you can phrase it better.

PN915

Yes, are you aware that Peter - that we contend that the job description is not accurate and, if it is not accurate, then it being used as a basis for a decision seems rather an invalid basis. Would you agree with that?---No, I wouldn't and perhaps if I can explain why. My expectation is that an employer in the circumstance of the university can and should determine what a person is accountable for delivering within their role and on that basis should then determine what the appropriate remuneration is. If there are circumstances where an employee feels that the position description for instance isn't reflective of what they're undertaking, that there is a fair and reasonable process to having that reviewed and a determination made, and I feel that that has been undertaken.

PN916

My view of the current situation is that there are elements of the position that Peter feels he is performing which go over and above what we would describe to be the HEO level 5 classification descriptor and level, but that that is not the expectation of Peter's supervisor, of the head of school or of the university for him to be performing at that level and so the position description should appropriately articulate what we expect of people to perform in that role and the remuneration should therefore be appropriately set at the level expected of a person at that level.

PN917

I completely understand your explanation, Ms Derbyshire. What I would wonder is whether the actual evidence of the experience of the last four-plus years in which Peter has been delivering his role and the expectations that were given to him to teach and to manage a workshop, would that not be perhaps a more accurate description of what is expected of his role than what someone puts on paper?---Well, I think what you're describing is the expectations that are based on him to perform his role which would be the expectations articulated by his supervisor and by the head of school, and my understanding particularly through this process - which has been quite detailed - is that those aren't the expectations. It's certainly not the view of any of those people that he is in a teaching role or that he is wholly accountable for the management of the workshop.

PN918

So I'll just give you a brief example. So Peter has just been teaching 30 students in the first year objects and furniture unit how to learn the skills that are required to become a practice in the practical skills. I'm not talking about theory, the practical skills. The lecturer in that unit does not have the skills to teach the students what is required of them to deliver two deliverables - two of their learning objectives. If Peter refused to do the teaching work that he is expected - in fact he had asked the lecturer just the other day, 'What would you do if I didn't teach, if I said I'm not teaching any more because I'm told by the university I'm not supposed to teach', and the lecturer said, 'Hmm, I don't know. I guess I'd have to go and hire someone- - -'

PN919

THE COMMISSIONER: Hang on a sec.

PN920

MS STANNARD: I just would like you to - - -

PN921

THE COMMISSIONER: Wait. When I say hang on a sec, I mean you just stop speaking.

PN922

MS STANNARD: Sorry.

PN923

THE COMMISSIONER: Okay. Now, I don't think we have had that evidence from that lecturer that you're referring to, have we?

PN924

MS STANNARD: You are correct. We don't have that, yes.

PN925

THE COMMISSIONER: Yes, so do not stand there - - -

PN926

MS STANNARD: Okay.

PN927

THE COMMISSIONER: - - - and tell a witness that someone has said something unless they have been brought here and given evidence.

PN928

MS STANNARD: Okay.

PN929

THE COMMISSIONER: So you just can't do that.

PN930

MS STANNARD: Okay.

PN931

THE COMMISSIONER: In terms of this teaching issue, if you want to ask Ms Derbyshire about that, that's okay, but the problem with the question that you're asking now is you're saying - you put a proposition to her that he is teaching. The question is, well, what? If there is something specific you want to put, that will be of some use to me, from saying that what he's doing is - and you can call it teaching if you like. I understand the premise of your - - -

PN932

MS STANNARD: Yes.

PN933

THE COMMISSIONER: The basis of your proposition, but what is it that you are saying that he is doing in respect of the furniture course?

PN934

MS STANNARD: Thank you for your advice, Commissioner. I will change the question then.

PN935

Ms Derbyshire, you say that for the last four years Peter has not been expected to teach by the university. However, as part of our evidence we provided a unit outline for - could you please find that number - and while we're looking for that in court book, because it's in there, it lists Peter Stannard as one of the teaching team for that unit. Could you comment on that if he has not been expected to teach - sorry - - -?---Sure I can. I can, Ingrid, and don't feel like you need to find that. I think I understand the context of your question. The term 'teaching' and the definition of 'teaching' here is I think a matter for discussion and it's obviously something that is causing some degree of contention around the classifications things here. When we talk about teaching in a broad sort of context in any kind of conversation that we might have and certainly when we're talking about a team of people who are taking people through a learning experience where they are at the completion of that learning experience going to have some form of qualification, then to use a broad term like 'teaching team' is certainly appropriate and Peter obviously contributes to that.

PN936

When we talk about teaching though in the context of a higher education tertiary institution, I think it is really important that we do apply the right level of nuance and definition to what we mean by that because teaching in a higher education facility is highly governed by standards. There is an Act, there is a Tertiary Education Quality and Standards association that is responsible for assessing us against the very stringent elements of what teaching constitutes in that respect.

PN937

So I do think it is very important that we don't simply apply a kind of loose context of the definition of 'teaching' here and that we get very clear with what we're talking about when it comes to Peter's role and accountabilities, because within our university context and every other university across the country teaching is undertaken by an academic staff member. There are expectations around what that constitutes, including the establishment of individual learning outcomes and formal assessments against those learning outcomes. It is established - those learning outcomes are established in the broader context of the discipline, the course and at the college within which that sits and so I do think it is quite important that we be really clear about that. Excuse me, please.

*** KRISTEN LEE DERBYSHIRE

XXN MS STANNARD

PN938

I think just the final point that I'll raise there is I note that in some of the contribution that was made I think by Peter there was a comment around, well, sometimes academic staff don't do all of the things that are referenced in the

requirements for academic teaching staff. That may be true, but in that context those less senior members of staff are still in academic roles and are developing into what we would consider to be senior academic roles where they would be responsible for the full suite of teaching and learning outcomes according to the standards set by the university, and the broader sector.

PN939

I think the final point that I might just make there, if I can, is Peter's role is a professional role. It is not an academic role and so in the context of what we define to be teaching in a tertiary education setting, there is an accountability for that. Certainly there is an accountability though - and as you've described - to provide practical support, guidance, instruction, advice, on how to use things, to demonstrate, et cetera, and most of us in a general context would consider that to be teaching, but in our context in a university environment that is not what we consider to be teaching.

PN940

MS STANNARD: So given what you have just said, Ms Derbyshire, we have witness statements from academics - senior academics at UTAS - who say that given what they understand and the parameters under which they work, that Peter teaches, so are you saying there are many academic staff within the School of Creative Arts and Media who do not understand what teaching means when they have provided witness statements asserting to - or supporting the fact that Peter teaches?---I don't think it's appropriate for me to comment on what the academic staff means - - -

PN941

Okay?--- - - - or how they interpret what teaching means, but I think that if you were to ask them if it was appropriate for professional staff to start to take on formal teaching and maybe accountabilities within academia, that they would not have a degree of comfort around that.

PN942

So, if that's the case, if you could please find the statement from Jan Hogan where she speaks about the number of hours that are allocated to her and the requirements that students have for learning in the workshop, and I could just present that to - then how does the university account for the scenarios in the School of Creative Arts and Media? Postgraduate students are so independent in terms of their practical working experience in the workshops on their contact time with the technical officers.

PN943

Their supervisors are not involved at all in it, so how does the university account for these countless amounts of contact time that the postgraduates have with technical officers in what they would consider, the postgraduate students, to be for them a learning experience, hence delivered by somebody who is doing teaching. How does that university account for that time then if it's not teaching?---I'm not sure I understand the question. I'm sorry, Ingrid.

*** KRISTEN LEE DERBYSHIRE

XXN MS STANNARD

PN944

THE COMMISSIONER: Neither do I.

PN945

THE WITNESS: Do you mean how does the university account for the time or does that - - -

PN946

MS STANNARD: Well, because - - -?---Sorry.

PN947

Yes, you speak about the fact that professional staff can't be teaching because you have to be accountable to the standards, that the university has to follow around academic program delivery which I completely understand. The reality is that within the School of Creative Arts and Media there is a lot of learning that happens where academic staff are not involved. How does the university explain this. If I can use the - how does it explain this?---I think it's probably in some of the language that I've already used which is demonstration, practical skills application, guidance and advice, you know, training on how to use specific pieces of plant and equipment in workshop environments, et cetera. That's the best way I can describe it, I think.

PN948

Okay?---Does that answer your question?

PN949

How would you account for the fact that the students consider what they experience with the technical officers to be that those technical officers are their teachers?---I think I've answered that question but I'll have another go.

PN950

Okay?---The way that students define teaching isn't aligned necessarily - or the way that most people might define teaching isn't necessarily aligned to what a higher education tertiary institution would consider teaching to be and so I think it's really important because we are very much bound by quality standards in this context to ensure that there is clear delineation between what we consider to be tertiary education teaching standards and what we consider to be people in support roles, which I think this is absolutely considered to be a very important support role providing complementary learning in that environment and in that workshop practical environment.

PN951

Okay. Support role, as it may be from your perspective, if it requires a significant level of expertise and facilitation skills and training skills because that work is what students depend on to be able to achieve their learning objectives, should it not be remunerated appropriately? I will specifically point to this fact that at the lowest level academic staff as tutors, that pay scale is equivalent to HEO6 and yet tutors - - -

*** KRISTEN LEE DERBYSHIRE

XXN MS STANNARD

PN952

MR CATCHPOLE: Sorry, Commissioner, I'm loathe to interrupt but I think we have heard Ms Derbyshire's evidence and this bordering on submissions.

PN953

THE COMMISSIONER: Yes.

PN954

MR CATCHPOLE: I'm just concerned that - if there's a question to be put, I would ask that that be put.

PN955

THE COMMISSIONER: Yes, we're back to that same issue.

PN956

MS STANNARD: Okay.

PN957

THE COMMISSIONER: I'm lost, and really most of what you have just said is of no value to me.

PN958

MS STANNARD: Okay, fair enough. I will come back to the process.

PN959

You had noted that you were aware that Mr Sullivan participated in both the initial decision and the review panel, and you felt that that was not a conflict of interest. You noted that you believed that Karen Doak's investigation was conclusive even though we noted that there was an - actually noted as an inconclusive investigation. If you were to come back to Ms Wedlog's report on the reclassification panel that she prepared for you with that knowledge that Mr Sullivan had been involved in both processes and that Ms Doak's investigation was inconclusive in spite of the fact that the report on the RRP says it was conclusive, would it be reasonable that you might find the report as biased?---I'm not clear on why I might find the report is biased. You're talking about the report from Jana Weblog?

PN960

Yes, because it claims that the results that were made on the initial decision were based on a report - they were based on Karen Doak's determination of the role when in fact Ms Doak had noted that her investigation was inclusive, so if you knew that - - -

PN961

THE COMMISSIONER: You're making a series of statements. There is not really a question in there. Let's just go back to the start, where I think you are, so you're back to Karen Doak.

PN962

MS STANNARD: Yes.

*** KRISTEN LEE DERBYSHIRE

XXN MS STANNARD

PN963

THE COMMISSIONER: Right, so is there a proposition you want to put to the witness about Karen Doak's report?

PN964

MS STANNARD: Well, yes, I'll then jump ahead to a question. Thank you for directing.

PN965

In relation to Karen Doak, in paragraph 21 of your statement - which is on page 391 - you stated that your desire for an objective decision was satisfied or further satisfied by the knowledge that Ms Doak, who had investigated Peter's application, had undertaken a proper process and investigated the matter adequately to arrive at the conclusion that Peter's role should be HEO level 5. Are you aware that that was not the conclusion of the process?

PN966

THE COMMISSIONER: Well, that's not right.

PN967

THE WITNESS: My assessment or my - - -

PN968

THE COMMISSIONER: That's just not - - -

PN969

THE WITNESS: Sorry, my - - -

PN970

THE COMMISSIONER: No, don't answer that?---Sorry, Commissioner.

PN971

MS STANNARD: But - - -

PN972

THE COMMISSIONER: No, no, listen. When I start talking you don't start speaking over me. So Ms Doak's finding was he should be immediately moved to a 5 and then said there were elements of it that could potentially have it classified as a 6, and included words to the effect of leadership of the university need to make a decision about what they wanted the position to be. Agreed? We can go to the report - - -

PN973

MS STANNARD: Yes, yes, that - yes.

PN974

THE COMMISSIONER: So that's my summation of what she did.

PN975

MS STANNARD: Yes.

*** KRISTEN LEE DERBYSHIRE

XXN MS STANNARD

PN976

THE COMMISSIONER: Yes.

PN977

MS STANNARD: But - - -

PN978

THE COMMISSIONER: So it's not right to put to the witness that it's not - that she didn't say it was at HEO level 5. That is what she found, should be moved to a 5 straightaway, and that the university had to follow some more processes to figure out whether they thought they wanted it at a 6 or a 5.

PN979

MS STANNARD: Yes.

PN980

THE COMMISSIONER: Agreed?

PN981

MS STANNARD: Agree.

PN982

THE COMMISSIONER: Okay, so that's the factual position in terms we know of Ms Doak, who is not here, but we have her report. Having founded that, what is the proposition you want to put to the witness?

PN983

MS STANNARD: So I will rephrase it. My apologies to you, because I sort of went in front and the logic of questioning was - but you actually - in paragraph 21 there is affirmation of your satisfaction. It was in relation to the question that you were considering as to whether Peter teaches, manages the workshop and whether there is a significant level of WHS risk that he's responsible for. That's when you said, 'I further satisfied my desire for an objective opinion because of that report.' However, Ms Doak in her report clearly states that Peter teaches, that he manages the workshop, so how could - - -

PN984

THE COMMISSIONER: Well, let's go to Ms Doak's report.

PN985

MS STANNARD: Yes.

PN986

THE COMMISSIONER: What page is it?

PN987

MS STANNARD: I think that was - - -

PN988

MR CATCHPOLE: Page 107, Commissioner.

*** KRISTEN LEE DERBYSHIRE

XXN MS STANNARD

PN989

THE WITNESS: It is 107.

PN990

THE COMMISSIONER: Yes, we've got that. Thank you. Where is it that she says that she makes a finding that he teaches?

PN991

MS STANNARD: It's on page 108 under (2) where she lists the meetings, with whom she met, and then she speaks about what she found in her discussion with the applicant himself about teaching and management - - -

PN992

THE COMMISSIONER: Yes, she reflects what Vella, Rubines and Cesar said about him.

PN993

MS STANNARD: Yes.

PN994

THE COMMISSIONER: Yes, but that's not - she has just - and it would seem - faithfully reflected what they've said - - -

PN995

MS STANNARD: Yes.

PN996

THE COMMISSIONER: - - - because they've given the same evidence in these proceedings, but she has not said that he teaches there. She is just saying that's what they've said.

PN997

MS STANNARD: That's what they said, yes.

PN998

THE COMMISSIONER: Yes.

PN999

MS STANNARD: Yes.

PN1000

THE COMMISSIONER: So it's not right to say that she said in her report that he teaches. I can only detect from her report in terms of her findings in the summary where she says the role he performs is at an HEO5 level minimum and then there are elements that could be viewed as HEO6. Then she goes on to talk about the vexed issues in that, leading her to conclude there needs to be further consideration and a determination reached by the leadership.

*** KRISTEN LEE DERBYSHIRE

XXN MS STANNARD

PN1001

MS STANNARD: Well, I guess my question would be are you satisfied that that didn't take place, that there was no further consideration by leadership aside from - I mean, perhaps you considered the reclassification review panel to be that, but there was to have - the recommendation from Ms Doak was that this review obviously does not stop with her report, but it would continue, and are you satisfied that it continued appropriately, you know, as would be expected?---I think the role of people and wellbeing is to review and assess, and provide guidance and advice to what we consider to be our clients. The role of leadership in that context is to make determinations around what the appropriate org design is - organisation design is - for their discipline and to set parameters for roles appropriately.

PN1002

I would suggest that there has been a very thorough review that has been undertaken as part of this entire process, including the consideration, including Karen's report where she makes a couple of statements around understanding of teaching versus coaching, mentoring and what level of accountability is required in terms of a degree. I think the determination that has been established by leadership in that space is that the role is appropriately positioned at HEO level 5. So if the question is am I satisfied that leadership has applied the appropriate degree of scrutiny in the classification of this role, my answer is yes.

PN1003

MS STANNARD: Could I ask what evidence you have that this review has actually taken place?---What review?

PN1004

You said that there has been - by leadership - - -?---Do you mean now? It was probably (indistinct).

PN1005

No, you have just been saying that the leadership has gone through a thorough review. What is the evidence of this thorough review?

PN1006

THE COMMISSIONER: No, sorry, this is the whole case. I mean, the whole - everything that has happened since Doak wrote the report is in front of me, isn't it?

PN1007

MS STANNARD: No, I think Ms Derbyshire in previous communications - there has been ongoing statements by the university that talk has been had with leadership around what should be the proper distribution in terms of - it was only early this year that Anna Simpson began to collect the document that was supposed to be, you know, the roles and responsibilities as far as teaching is concerned by academics versus the teaching staff. That had never gone anywhere.

*** KRISTEN LEE DERBYSHIRE

XXN MS STANNARD

PN1008

Initial feedback was considered but that never materialised, so my point is what is the evidence that before we came to this place within the university there had been a thoroughly - - -

PN1009

THE COMMISSIONER: This place here?

PN1010

MS STANNARD: Before it came to the - - -

PN1011

THE COMMISSIONER: Before it came to the Fair Work Commission, before you first lodged your dispute? I don't understand what you mean.

PN1012

MR STANNARD: Commissioner, could we just have five minutes, please. I think Ingrid needs a little bit of a rest.

PN1013

THE COMMISSIONER: Yes, sure. We will come back at 3.30.

<THE WITNESS WITHDREW [3.21 PM]

SHORT ADJOURNMENT [3.21 PM]

RESUMED [3.32 PM]

<KRISTEN LEE DERBYSHIRE, RECALLED [3.32 PM]

CROSS-EXAMINATION BY MS STANNARD, CONTINUING [3.32 PM]

PN1014

THE COMMISSIONER: All right. Resumed. Ready to go.

PN1015

MS STANNARD: All right.

PN1016

THE COMMISSIONER: Yes.

PN1017

MS STANNARD: Thank you.

*** KRISTEN LEE DERBYSHIRE

XXN MS STANNARD

PN1018

So, Ms Derbyshire, I'll return to your reference in your witness statement on page 389 in the court book where in paragraph 12, you acknowledge that the reclassification review panel was split in its decision with no unanimous recommendations made. My question I'd like to ask is whether you were satisfied in reviewing the report that was prepared by Jana Wedlog on the outcome of the RRP but it appeared to present a balanced presentation of the contributions of all

of the RRP members?---I would say on balance, there was a higher number of lawyers allocated (indistinct) to Scott Sullivan than there were to the other contributors in the reclassification review panel which was (indistinct) which was what I then sought to satisfy myself in the decision-making process that I could make an objective decision on the basis of the contributors to that process up to that point. So I then asked a series of questions to - or directed a series of questions to Jana Wedlog and he was in Melbourne on that day so that I could come to a final position. It did feel appropriately balanced. I think a number of people came into that reclassification review panel with (indistinct) biases that don't necessarily help to get to an effective outcome which was why (indistinct) at the end. So the questions that I asked were what led me to make the decision that I made and led to me feeling really satisfied in fact, that an appropriate, fair, unobjective process had been run and specifically the information that I relied upon in that was the original review that was undertaken by Karen, I thought that her approach was very robust and thorough. She spent time in the working environment with Peter. She spoke directly with Peter's supervisor, Alex. She spent - she (indistinct) with other contributors, colleagues, et cetera, and she was objective in her approach. There's no conflict of interest (indistinct) in undertaking a review process like that. All she has to do is come to a fair and appropriate outcome and she did. She reclassified the role up one level from HEO4 to 5 with some questions around reconsiderations that (indistinct). In addition to that, the other elements that satisfied me on that day that Ilze and Jana shared with me were that following on from that and in the process of formulating the reclass review panel, there were three additional people (indistinct) partners who had also reviewed the position statement and the classification descriptors and their corresponding role at level 5 as well. So that was Scott Partridge who I understand you've heard from today as well as Brett Templar and of course Ilze McMullen who was in that meeting the other day. So as a result of the various questions that I asked and were answered that day, I felt very satisfied myself that I had all of the information required to make an informed decision that a fair, objective process had been undertaken and that the right outcome had been established.

PN1019

How does one even respond to that? Thank you. Thank you for that response. You mentioned a number of - or that you noted some cognitive biases on the RRP panel, could you speak some to that, what you mean by that?---So I think the way that the panel itself is designed is that the contributors are sort of objectively selected from - they're each (indistinct) so to speak, which means that each may be coming out with a different outcome (indistinct) mindful of what it is that they're attempting to achieve.

*** KRISTEN LEE DERBYSHIRE

XXN MS STANNARD

PN1020

All right. And so the fact that the person who had been asked to serve on the panel because he had most relevant knowledge and experience as it relates directly to the actual work that Peter carries out, Mr Bylett, that he had a very different opinion in terms of the responsibility as it relates to the management of the workshop, that didn't raise any concerns that someone like he or an academic staff person would be brought into the process. Has everyone that you've

mentioned has been brought into the process have been people from People and Wellbeing or Peter's direct - - -

PN1021

THE COMMISSIONER: What is the question?

PN1022

MS STANNARD: So the question is would it not have been a more satisfying process of reaching an objective decision if it reached out to some of the other people who would actually know about Peter's day-to-day work?---I don't know the answer to that question.

PN1023

All right?---I don't know. I'm not sure how to answer that question, sorry.

PN1024

All right. Is there anything else, do you think? So the 322 vote in favour, it is not something that carries any weight with your decision-making?---Well, I think I've said it already that I felt that there were biases that came into the reclassification review panel and so each of the contributors came in again with a perspective on the outcome that they were hoping to achieve and there was not a unanimous outcome from that panel. My understanding is that the panel itself is not a decision-maker, that it makes a recommendation and the panel couldn't come to a point collectively to make a recommendation to me and so it then fell to me to make a final decision myself on the basis of having what I felt to be the required information to be well-informed to make an objective decision.

PN1025

And I guess just to restate perhaps the obvious, but you feel that the information that you received in addition to the report from the RRP was satisfactory for you to reach an objective decision even though it was based on information from other individuals rather than something that you would have gathered yourself. I think I - let me rephrase it. You note in paragraph 13 of your statement that you sought advice from Ms Wedlog and Ms McMullen on whether Peter teaches, whether he manages the workshop and whether he manages a significant level of risk, yet Ms Wedlog and Ms McMullen have never met Peter, never visited the facility, never spoken to any of his colleagues, so everything was second hand information. That seemed to carry more weight than the information contained in Ms Doak's report that she learned firsthand that he teaches and that he manages a workshop. I mean, how does that compare, those two sources of information?---I disagree with the statement and the context of the statement.

*** KRISTEN LEE DERBYSHIRE

XXN MS STANNARD

PN1026

All right?---So the meeting that I had on the day in question with Ilze McMullen and Jana Wedlog was an information gathering meeting. So I wasn't asking the two of them although Ilze was one of the people who undertook a review of the position, I wasn't asking the two of them for information, I was asking them to provide me with information on the process that had been run up to that point

including (indistinct) report, the outcome of the reclassification review panel, et cetera.

PN1027

So if you didn't ask them for information, you were - you're saying you only asked information on the process, not information - for information about the role, then where did you find information to make that objective decision about Peter's role, about what he actually does or doesn't do? Where did that information come from?---It's from the original submission from Peter, from the report of Karen and then from the high-level information that was contained within the reclassification panel review outcome.

PN1028

But you have just said that the reclassification review outcome was a report that you didn't put a lot of faith in and that's why you needed to go seek additional information, so what was the actual basis for your decision-making then, or was it that report that you felt helped you reach an objective decision?---No. I think I've answered this but I'll go again. The report from Karen Doak was the strongest element in helping me to inform my decision and in addition to that, the confidence that I had in three other People and Wellbeing business partners who had undertaken an independent review of the position, so a fairly robust report from Karen Doak where she undertook quite a significant amount of review including meeting with Peter, reviewing his working environment, being with his supervisor and being with his colleagues and then in addition to that, some information which I found to be helpful in the reclassification review panel outcome, so there was information included in that but I've noted that there was obviously varying levels of bias brought in from all contributors to the reclassification review panel but there was also helpful information in that. So I was able to sift through and allow that to help me and then in addition to that, the contributions from Ilze McMullen, Scott Partridge, Brett Templar, who had also reviewed and established a position (indistinct).

PN1029

But if I may, just to confirm, you said they confirmed that it sat at (indistinct) level 5 based on a position description that we are arguing that does not meet the role, but, yes, just to confirm that point. That's what you felt, yes?---So based on a position description that the university feels appropriate (indistinct) before.

PN1030

Yes, understood?---Yes.

PN1031

Yes. All right. Thank you. Thank you for that. Anything else? There's just a (indistinct). Well, thank you very much. Thank you for answering our questions?---Thank you.

*** KRISTEN LEE DERBYSHIRE

XXN MS STANNARD

PN1032

THE COMMISSIONER: Thanks, Ms Derbyshire. I just wanted to ask you about - if you turn to page 284, I put the legal reps on notice, I was going to ask them

about this but since you're the Head of HR, I think I'll ask you rather than have them make submissions on it. So attachment SST, have you got that there?---Sorry, what am I looking at? I've gone to 284, sorry, Commissioner, and now what am I looking at?

PN1033

Well, at the top of page 284?---It says 2 - yes.

PN1034

Yes?---I'm on that page. Sorry, yes.

PN1035

All right. So it's the:

PN1036

Professional Staff DWM Classification Descriptors -

PN1037

- and you know, they run through a number of pages and then we come to, at 299, SS3, which is the:

PN1038

Professional Staff and Hands Classification Descriptors Typical Duties and Activities.

PN1039

?---That's on 299, is that right, did you say?

PN1040

Yes, that's right. Yes?---Yes. (Indistinct), yes.

PN1041

All right. So I just wanted to understand the - well, it's probably the provenance of these documents. So they're - as I understand it, they're not in the Enterprise Agreement. Let's just start - and I'll deal with them separately:

PN1042

Professional Staff DWM Classification Descriptors, last revised January.

PN1043

I can see in the background that it sets out you know:

PN1044

Except as provided to the contrary by the University of Tasmania Staff Agreement, positions are classified in accordance with those descriptors.

*** KRISTEN LEE DERBYSHIRE

XXN MS STANNARD

PN1045

What is it that - I'm just trying to understand, what is it that binds the university to follow those descriptors and what's their relationship with the Enterprise Agreement? Are they incorporated in some way in the Enterprise

Agreement? What's your understanding about how this works?---I'll give you my best assessment, Commissioner, if I can, bearing in mind that I haven't had a significant amount of time with the university in this context, but my understanding is that they aren't referenced in the staff agreement so they exist, I guess, as a complementary on it, they're provided the support, guidance and advice to People and Wellbeing to undertake reviews and (indistinct) not been updated or adjusted in quite some time, last revised in August 1997 on the page that you're referring to. So I guess what binds us is that these exist as sort of - I guess, in the context of a policy or procedure.

PN1046

All right?---And so we have the sense of accountability to these documents because there's nothing else that provides us here - there's nothing else in writing that provides us with guidance around the way that we want to tackle a reclassification process.

PN1047

All right. And then SS3 - well, sorry, SS2 then reading that background, these operate across the country in all university environments so they're a generic set of classification descriptors, that's how I read that background. Does that sound right to you?---I'm going to say I don't know because (indistinct) to answer whether or not these align with other universities and what they're using to undertake reclassification reviews.

PN1048

All right. But the SS3, this reads as classification descriptions that have been developed specifically for UTAs, correct?---Yes. Probably but I don't know, sorry. I don't know the history of the document.

PN1049

Right?---I'll be finding out from today though (indistinct).

PN1050

And when you approach a task of considering reclassification as is the case here, your understanding is that you are to apply both SS2, if I can call them that, and SS3 to the task, that is, you're assessing the position description of the individual against both SS2 and SS3?---Yes, that's my understanding, Commissioner.

PN1051

All right. And can someone just remind me, where was the academic - the material that I think, Mr Sullivan was referring to where there's a definition of teaching?

PN1052

MR CATCHPOLE: So the model appears on page 225 and that goes to 233 and all the principles are on 234 and 235.

*** KRISTEN LEE DERBYSHIRE

XXN MS STANNARD

PN1053

THE COMMISSIONER: Yes. Yes, if you look at 225, attachment AT2, have you got that?---Yes, I do.

PN1054

Yes. What's the provenance of that document? What - where does this come from and you know, what role does it play in the way you - or I'll probably ask the question in a different way. There's a number of definitions in that document, what - well, I'll go back a step. It has appendices March 2022 - it is an appendices to what, do you know?---Appendices - I really don't. I'm sorry. I would assume it's for resources to support academic workload modelling IP and (indistinct) to the academic workload model potentially, but I don't know the answers. Sorry, Commissioner.

PN1055

Yes. All right?---I - yes, I don't know. Sorry.

PN1056

Yes. All right. Thanks. I don't have anything else.

PN1057

Nothing arising?

PN1058

MR CATCHPOLE: No, thank you, Commissioner.

PN1059

THE COMMISSIONER: No.

PN1060

All right. Thanks for your evidence, you're excused from giving further evidence, Ms Derbyshire?---Thank you, Commissioner, and thank you for allowing me to join by video-link today as well. Much appreciated.

PN1061

Yes. That's all right. I'm just glad that it worked. All right. You can disconnect.

<THE WITNESS WITHDREW

[3.50 PM]

PN1062

THE COMMISSIONER: All right. That concludes the evidence. So to conclude the matter, I'm relaxed about how you want to proceed. So I've got plenty of material in order - which I can make a decision but again, particularly in fairness to you because you're unrepresented, you can choose to - we can have a short break and you could make some final submissions today about what I should find and why.

PN1063

Alternatively, you might want to take time to write something as a final submission and if you want to do that, you can do that. The advantage of doing that is you've got time to potentially look at the transcript and so on, if you want to do that. The downside of that is that it will further elongate what's been a long process but that's your call.

*** KRISTEN LEE DERBYSHIRE

XXN MS STANNARD

PN1064

I'll obviously hear what the employer wants to do but given they're legally represented, you know, they'll be in a better position to be able to stand up and give final submissions today, I expect, or, you know, I don't know, they might say they want to put in final written submissions, I don't know, but I'll go you first. What - do you want to have a think about that, have a chat about it? I'll give you five minutes and the other side can have a think about that as well, about what you want to do. All right.

PN1065

MR STANNARD: Yes.

PN1066

THE COMMISSIONER: All right. We'll be back at 4.

SHORT ADJOURNMENT

[3.52 PM]

RESUMED

[4.03 PM]

PN1067

THE COMMISSIONER: All right. What do we want to do, Mr Stannard?

PN1068

MR STANNARD: Commissioner, could you give us an idea of what kind of a time frame you'd like to have or to submit it - put in a submission on paper?

PN1069

THE COMMISSIONER: Look, at the outside it'd be two weeks but I'd be looking for a, you know, a week and a week sort of thing is sort of what I had in mind.

PN1070

MR STANNARD: And typically how long - what kind of (indistinct).

PN1071

THE COMMISSIONER: You can make it as long as you want but remember you don't need to repeat what's already in there, the material in this case is voluminous but you might want - the main purpose of the final submissions is for you to say, 'Look, this is what fell out of the evidence', that you want to make me - draw my attention to. That's one of the particular things I'll be wanting you to do.

PN1072

So in that sense, it can be as long as you want it to be but, yes, as I say, don't rehash what's already been put in. So it might be a - probably a fairly short document and that just draws attention to those key issues you want me to take account of that - particularly that, yes, as I say, fell out of the evidence today and anything else you want to say.

PN1073

Typically people will put in final submissions, they'll say, 'We rely on our earlier submissions', so don't forget about those and I'm not going to forget about them anyway, but they're sort of supplementary if you like. All right.

PN1074

MR STANNARD: All right. (Indistinct).

PN1075

THE COMMISSIONER: So is that what you want to do or would you rather just say something today and - - -

PN1076

MR STANNARD: That's what we would like - we would like to put it in writing.

PN1077

THE COMMISSIONER: All right. And how long do you want to do it?

PN1078

MR STANNARD: Within two weeks. (Indistinct).

PN1079

THE COMMISSIONER: Two weeks. All right. Well, where's the employer at with this process?

PN1080

MR CATCHPOLE: Commissioner, the employer's preference is to provide oral closing submissions today.

PN1081

THE COMMISSIONER: All right. Yes.

PN1082

MR CATCHPOLE: But obviously, if there's particular points raised in the written submissions then (indistinct) respond to those as well.

PN1083

THE COMMISSIONER: All right. So you want to make your final submissions today, you're happy to proceed on that basis anyway? I'm happy for you to do that if you want to.

PN1084

MR CATCHPOLE: Yes.

PN1085

THE COMMISSIONER: And then I'll provide an opportunity to reply to anything that's raised.

PN1086

MR CATCHPOLE: Yes.

PN1087

THE COMMISSIONER: Yes. All right. No, I'm content with that. And look, in terms of what you're about to deal with, if you can make sure you address that issue that I've come back to a couple of times about, I'm just trying to understand the relationships of the descriptors and how that works and what, you know, I guess - well, to put it as simple as the question is, why does the university need to

follow the - why don't they - you know, what - is a theoretical proposition what stops them just making some other decision about how they want to classify people. That make sense?

PN1088

MR CATCHPOLE: Yes.

PN1089

THE COMMISSIONER: That's if you know the answer, presumably you found that out by now. All right. What do you want to say?

PN1090

MR CATCHPOLE: Thank you, Commissioner. So obviously the respondent relies on its written submissions at page 203 to 210 of the court book and at the outset, what I'd like to point out that you can accept that the motivation for all this is clear from pages 27 to 28 of the court book which is Mr Stannard's appeal and that motivation is his contention that he does the same job as the previous technician. We've heard a lot about that today.

PN1091

At the outset, I would say that that contention is misguided and as to the previous role, we've heard at length from Mr Thomson that this is not the case. Now, previous technicians have given contrary evidence but I would submit that you should approach that evidence with caution, particularly given they were just (indistinct) with the original redundancy decision.

PN1092

Now, the question really before the Commission, as we've pointed out, is that were Ms Derbyshire's reasons properly based. Now, that can be summarised in two way - a twofold question. First, whether or not people were involved and second, were the reasons given correct.

PN1093

Now, as to the right people, the first of those considerations, the respondent submits that there's two aspects. There's the technical input into what the actual job is and that was given by Mr Thomson as the supervisor and as we've outlined in the written submissions, he's the right person for that role given his knowledge, given his day-to-day interactions with the role.

PN1094

Now, the second consideration in terms of the right people is obviously the involvement of very experienced human resources people and they assessed what Mr Thomson in particular, provided and obviously the submissions of Mr Stannard as well, against the descriptors and they are again, the right people to do so, given their experience with those descriptors and I would pause here to point out that the applicant has made assertions that Mr Sullivan had a conflict of interest or that he was a decision-maker on both applications.

PN1095

What I would say to that is that the evidence wasn't there about Mr Kealey's email referenced by the applicant is ambiguous, the respondent accepts that, but

Mr Sullivan's clear evidence was that he was involved, informed, but he didn't make a decision and we also heard from Ms Derbyshire that she was satisfied no conflict of interest arose from that course of events.

PN1096

Turning to the second consideration of whether these reasons were properly based is the question of whether those reasons were correct. So four reasons were advanced. Now, the first one is obviously very contentious and that is whether Mr Stannard teaches and I would ask you to turn to page 343 of the court book, please.

PN1097

THE COMMISSIONER: Yes.

PN1098

MR CATCHPOLE: So this is the position description for HEO5 role and I understand that the applicant contends that this is incorrect but the applicant made a point to say that there was no aspect around teaching in the position description.

PN1099

On page 243, the third dot point down, it describes the roles providing the specialised technical support and assistance for the delivery of learning and teaching activity in the primary area of engagement and the respondent's position can be summarised quite succinctly in that Mr Stannard is a facilitator.

PN1100

She has come to him with ideas and tasks from academics and he facilitates that and he demonstrates technical skills as is written about halfway down that dot point and this is obviously a contentious area but that really is the core of the respondent's submission on this point, is that he doesn't teach as the descriptors - sorry, as the workload principles outline.

PN1101

Now, as to those workload principles, I note your comment from before. So clause 74.2 of the 2017 (indistinct).

PN1102

THE COMMISSIONER: Yes.

PN1103

MR CATCHPOLE: That creates a committee which then creates these principles.

PN1104

THE COMMISSIONER: Right.

PN1105

MR CATCHPOLE: But it says the principles themselves do not form part of the agreement.

PN1106

THE COMMISSIONER: Right.

PN1107

MR CATCHPOLE: So the force is to the committee which then creates these principles and they then inform the processes that UTas undertakes.

PN1108

THE COMMISSIONER: Yes.

PN1109

MR CATCHPOLE: So that's where those principles come from.

PN1110

THE COMMISSIONER: All right.

PN1111

MR CATCHPOLE: And that's what UTas relies on and the descriptions in there in terms of teaching as we've heard, marking, assessing, those sorts of activities and that's where the respondent says Mr Stannard does not teach. He facilitates, he supports in that aspect.

PN1112

The second reason advanced by Ms Derbyshire was that Mr Stannard does not manage the workshop, and again, succinctly the respondent outlines, and this goes for the next contention in terms of managing WHS risks, that Mr Stannard operates within parameters and we heard that extensively from Mr Thomson who stood by that, under fairly heavy questioning in cross-examination.

PN1113

Now, in terms of managing the workshop, it is the role of management to ensure that someone like Mr Stannard is there to supervise, but again, we return to he operates within defined parameters. Now, as far as the actual descriptors are concerned, at page 324 of the court book, we have Mr Thomson's comments on those descriptors.

PN1114

THE COMMISSIONER: Yes.

PN1115

MR CATCHPOLE: And Commissioner, you took Mr Stannard those descriptors and level 6, he confirmed that the last three he doesn't do. He also particularly confirmed - or had stated, I should say, in terms of maintaining, preparing and calibrating equipment, he said in response to your question that that was a low part of his role, that wasn't much of a part of his role.

PN1116

And really this explanation from Mr Thomson is - encapsulates the respondent's position on these issues and again, I return to he operates within parameters and as an example of that, moving to managing the workplace health and safety risk, is the risk assessment that he created during these proceedings.

PN1117

Now, we don't (indistinct) too much of that, I know that was contentious but what I want to point out is that on page 166 of the court book, which is near the end of the risk assessment, it identifies that approval is required to proceed and Mr Thomson himself said that there was feedback he wanted to give and again, this demonstrates that the actual management of the risk and responsibility for that risk falls to Mr Thomson, he outlines the parameters which need to be set.

PN1118

Excuse me. He outlines what control measures - well, he approves what control measures should be put in place and this is why the respondent says that Mr Stannard does not manage the WHS risk consistent with the HEO level 6 officer.

PN1119

Now, the fourth reason advanced by Ms Derbyshire was the qualifications required. Now, these are as set by the university and Mr Thomson stated that he has technicians that have (indistinct) background and he has some such as Mr Stannard who have a high arts degree and as he outlined, that is helpful but it is not a requirement of the role and that higher degree doesn't entitle or mean that Mr Stannard is a level 6 under the descriptors.

PN1120

Now, the applicant says that the process was flawed and biased and therefore that Ms Derbyshire's reasons were not properly based. The applicant relies heavily on them impugning Mr Sullivan which, as I've already addressed, you can accept Mr Sullivan's evidence that there was no conflict of interest and this was clear under cross-examination.

PN1121

The applicant also says that the report was biased and placing emphasis again on the amount given to Mr Sullivan's evidence, the amount of words, but what I would point you to is page 326 of the court book. On this page it shows that Ms Wedlog sent the reclassification review report, which is what follows on the following pages, to the members of the review panel and asked for their feedback and comments. So the respondent submits that the assertion that this was (indistinct) or not an accurate reflection of the panel's views does not hold weight in circumstances where that exact panel was given an opportunity to review and comment on it.

PN1122

And as to the applicant's other suggestion that the process was flawed and biased because the opinion of the majority was not accepted, we heard from Ms Derbyshire in that she had some concerns about people approaching from each side of the fence, I think is how she put it, and the respondent submits this is a reasonable approach to take, particularly where members of that review panel demonstrated a lack of in-depth knowledge about the role and this was particularly the case for Ms Midgewick who if we turn to page 396 of the court book, stated, and I quote:

PN1123

We do not work in the laboratory and don't really understand his role.

PN1124

She also says:

PN1125

I am not experienced in welding or the use of a lathe, but from my perspective they are complex.

PN1126

She also simply states that he teaches. Now, the respondent's position on this, as we heard from Ms Derbyshire, was that this was - it demonstrated a lack of in-depth knowledge and in Ms Derbyshire's view, demonstrated cognitive-wise where she then needed to go and satisfy herself, which she did.

PN1127

So in summation, the respondent submits that the right people were asked and the right reasons were given and the reasons were correct. The applicant's attempted to put in a number of witness statements supporting his case and I would ask, Commissioner, that you weigh these carefully in terms of what they actually say.

PN1128

For example, Mr Vella's statement just copies the position description and says he does those things. Mr Bjorklund is a TAFE teacher and the relevance of TAFE to this question is questionable. Now, the respondent submits that when this is all balanced and when this is considered, that Ms Derbyshire's reasons were properly based for (indistinct).

PN1129

Commissioner, do you have any further questions?

PN1130

THE COMMISSIONER: No. That's it.

PN1131

MR CATCHPOLE: Thank you. That concludes the submissions of the respondent.

PN1132

THE COMMISSIONER: All right. Thanks very much.

PN1133

Well, you've got the advantage you know what their position is so you can deal with that if you wish in your submissions so I'll give you two weeks to do that. A week to reply or two weeks to reply. Do you want two weeks?

PN1134

MR STANNARD: Yes, two weeks, Commissioner.

PN1135

THE COMMISSIONER: All right.

PN1136

MR STANNARD: Yes. Thank you.

PN1137

THE COMMISSIONER: Two weeks and two weeks and once those are in, I'll reserve the decision and issue a written decision subsequently. All right. Thanks for your involvement today. We're adjourned.

ADJOURNED INDEFINITELY

[4.19 PM]

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