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GENERAL PURPOSE STANDING COMMITTEE No. 4

Wednesday 16 September 2009

Examination of proposed expenditure for the portfolio areas

FAIR TRADING, CITIZENSHIP

The Committee met at 9.15 a.m.

MEMBERS

The Hon. J. A. Gardiner (Chair)

The Hon. M. A. Ficarra
The Hon. K. F. Griffin
Ms S. P. Hale

The Hon. E. M. Obeid
The Hon. R. A. Smith
The Hon. L. J. Voltz

PRESENT

The Hon. D. V. Judge, *Minister for Fair Trading, Minister for Citizenship, and Minister Assisting the Premier on the Arts*

Department of Commerce

Mr G. Head, *Director General*

Office of Fair Trading

Mr A. Gavrielatos, *Deputy Commissioner, Operations*

Mr R. Stowe, *Deputy Commissioner, National Reform*

Mr S. Griffin, *Assistant Commissioner, Home Building Service*

Mr M. Silk, *Executive Director, Fair Trading Services*

Consumer, Trader and Tenancy Tribunal

Mr G. Wilson, *Deputy Chairperson, Registry and Administration*

Communities NSW

Ms C. Mills, *Director General*

Community Relations Commission

Mr S. Kerkyasharian, *Chairperson and Chief Executive Officer*

Mr H. Harman, *Director, Financial and Corporate Services*

CORRECTIONS TO TRANSCRIPT OF COMMITTEE PROCEEDINGS

Corrections should be marked on a photocopy of the proof and forwarded to:

**Budget Estimates secretariat
Room 812
Parliament House
Macquarie Street
SYDNEY NSW 2000**

CHAIR: I declare this hearing for the inquiry into budget estimates 2009-10 open to the public. I welcome Minister Judge and accompanying officers to this hearing. Today the Committee will examine the proposed expenditure for the portfolio areas of Fair Trading and Citizenship. Before we commence I will make some comments about procedural matters. In accordance with the Legislative Council's guidelines for the broadcast of proceedings, only Committee members and witnesses may be filmed or recorded. People in the public gallery should not be the primary focus of any filming or photographs. In reporting the proceedings of this Committee, media must take responsibility for what they publish or what interpretation they place on anything that is said before the Committee. The guidelines for the broadcast of proceedings are available on the table by the door. Any messages from attendees in the public gallery should be delivered through the Chamber and support staff or Committee clerks. Minister, I remind you and the officers accompanying you that you are free to pass notes and refer directly to your advisers while at the table. I remind everyone to turn off mobile phones.

The Committee has agreed to the following format for the hearing. We will examine the Citizenship portfolio first and then the Fair Trading portfolio. The Committee has agreed that answers to questions on notice must be provided within 21 days of the hearing. Transcripts of the hearing will be available on the parliamentary website from tomorrow morning. All witnesses from departments, statutory bodies or corporations will be sworn prior to giving evidence. Minister, I remind you that you do not need to be sworn as you have already sworn an oath to your office as a member of Parliament.

CAROL MILLS, Director General, Communities NSW, and

HAKAN HARMAN, Director, Financial and Corporate Services, Community Relations Commission, affirmed and examined:

STEPAN KERKYASHARIAN, Chairperson and Chief Executive Officer, Community Relations Commission, sworn and examined:

CHAIR: We will commence with questions from the Opposition.

The Hon. MARIE FICARRA: Good morning, Minister. I heard you were at the mango auction this morning at the Sydney Markets. That would have been exciting.

Ms VIRGINIA JUDGE: It was. It was a bit of a buzz out there.

The Hon. MARIE FICARRA: Is the Community Relations Commission budget for 2009-10 \$17.8 million?

Ms VIRGINIA JUDGE: Thank you for your question. The budget is around \$17.8 million. The total budget for the New South Wales Community Relations Commission in the 2009-10 financial year is \$17.8 million, up 4 per cent on the previous financial year. The commission raises 29 per cent of this through language services and other initiatives. The total revenue for 2009-10 is \$5.2 million, which is up 10.8 per cent from last year, which everyone is very pleased about. That represents an increase, Stepan has advised me, in the area of language services, which is a good thing.

The language services group covers the provision of efficient, reliable and professional interpreting and translation services of community languages—and so it should be—in a form relevant to our clients' needs by appropriately trained interpreters and translators. There is something like 72 full-time positions in the department and last year they did about 49,000 assignments, which is a huge amount. We provide services in 86 different languages. In New South Wales we have people from about 200 different birthplaces and about 50 per cent to 55 per cent speak a language other than English at home. I am not sure about that percentage, but I can clarify it. We have to make sure that the services we deliver will fulfil the needs particularly of people who arrive here and are struggling trying to make a living, to find a school to send their kids, and to find a local doctor. So it is very important that we have this service. The net cost of services for 2009-10 was \$12.6 million, which was up 2 per cent on the previous year. I do not know whether my commissioner or Mr Harman would like to add anything to those comments.

The Hon. MARIE FICARRA: Is there any monitoring of the actual usage of your translation services in terms of comparisons across, say, a five-year term? How do people know how to access them? Have we improved communication of that over time?

Ms VIRGINIA JUDGE: That is a very good question.

Mr KERKYASHARIAN: We keep statistics and, in fact, we publish very comprehensive statistics in our annual report in terms of usage of our interpreting services. We publish statistics language by language and the number of words that have been translated. There has been a constant increase, although there has been a shift in terms of the actual languages, and that reflects the linguistic demography of the immigration intake. We basically publicise our interpreter services through normal processes. Occasionally, when there are requests for sponsorship from community organisations when they are having a major event, we take out a very small advertisement in the publication for that occasion—usually a few hundred dollars. But that clearly gets the message out.

Of course, our major publicity medium is our online facility. Also we do a lot of work for the Roads and Traffic Authority [RTA]. It is through an agreement with the RTA, which we won through a public tender process, and, of course, the RTA will only accept translated documents from either us or the immigration department because of the stringent processes we have to ensure that documents we translate are genuine documents.

Ms VIRGINIA JUDGE: Could I just add something to that? Some of our major clients, of course, are the courts, the Department of Education and Training, the Roads and Traffic Authority and Housing NSW, and we have about 650 active interpreters. I have visited the commission and spoken to many of the interpreters down there personally and I am convinced that it is working really well. But, of course, we are always looking at it and monitoring it to make sure that we can deliver the best possible outcomes for our citizens.

The Hon. MARIE FICARRA: Hence, does that produce the increased revenue base that you were talking about before in terms of offering this service to government departments and to other private corporations?

Mr KERKYASHARIAN: Yes. The service we provide to the courts in New South Wales on matters which come within the New South Wales jurisdiction are free of charge. In other words, the Government wears the cost of that—it is part of our community service obligation—and that amounts to a few million dollars. The rest of it is on a cost-recovery basis. I do not know if Mr Harman wants to add to that.

Mr HARMAN: I would just like to say that there are a number of factors that contribute to that. The commission has invested quite an amount of resources to improve its information technology for the systems that operate our interpreting and translation services, and this has obviously provided us with increased capacity to provide additional services. So there is a natural additional service capacity that has enabled us to increase the volume of transactions. The budget for the financial year just gone was 47,000 assignments. So to actually achieve just under 49,000, and the corresponding increase in revenue, reflects the additional work that has been undertaken.

Ms VIRGINIA JUDGE: You might be concerned about the fee increase to do with translation services. Is that something you are interested in?

The Hon. MARIE FICARRA: If you could touch on that just briefly. I was not so aware of that. That is of interest, yes.

Mr KERKYASHARIAN: Of course, the translators and interpreters are casual contractors. They are paid award fees. We are probably the only organisation in Australia, other than maybe the Department of Health, which has an award. So as the award increases and the CPI increases we increase our fees to basically catch up with that, and that also has an impact on the increased revenue. That would also impact naturally on the increased expenditure under the salaries vote.

Ms VIRGINIA JUDGE: So if you were looking at the budget and you were a bit concerned about that that is why.

Ms MILLS: Could I just add one item to your question earlier about trends in interpreting? Between 2007-08 and 2008-09 there was a 9.2 increase in interpreting usage and a 4.4 increase in translations.

The Hon. MARIE FICARRA: I just want to shift quickly to the Ethnic Communities Council of NSW. I believe they are forced to make a submission for grants every year instead of having triennial funding, for instance. Minister, will you consider providing the Ethnic Communities Council with triennial funding—I believe that in Victoria and South Australia the Ethnic Communities Council get their funding from the Premier's Department, but it is different in New South Wales—to give them some longer-term security than having to apply on an annual basis? I believe that is a concern to them

Ms VIRGINIA JUDGE: That is an interesting issue you have just raised. During 2008-09 the three Ethnic Communities Councils received a total of \$238,000, which was distributed in the following way: the Ethnic Communities Council of NSW received \$83,000 to contribute towards the employment of the Regional Ethnic Community Development Project coordinator; the Ethnic Communities Council of Newcastle and Hunter Region received \$77,500 to contribute towards the Community Capacity Building Engagement and Collaboration Project; and the Multicultural Communities Council of Illawarra—formerly known as the Illawarra Ethnic Communities Council—received \$77,500 to contribute towards employment of an executive officer. We have been considering possible triennial arrangements. We will consider this in relation to the councils and we are happy to keep in touch with them and I can let you know, because I know you have a passionate interest in that area too.

CHAIR: I understand that there has been a major review of the Ethnic Affairs Priorities Statement Standards Framework. Why was it necessary to do that review? What was the cost of the review and what were the outcomes?

Ms VIRGINIA JUDGE: In 2009 the University of New South Wales completed an operational review of the Ethnic Affairs Priorities Statement. It was found that after 26 years the program was unique and resilient. The program was also commended in the Red Tape Review, which was coordinated through the New South Wales Treasury, as an effective management tool that it was felt could be retained. However, there is always room for improvement. The review made a number of important recommendations to ensure that multiculturalism remains an effective and topical policy direction. The Community Relations Commission is currently actioning these recommendations. The most notable of these is the change of program name to "Multicultural Policies and Services Program". The government agencies consulted felt that that was perhaps a better reflection of the intent of these programs.

A multicultural planning framework has also been developed to assist all agencies to structure their business planning to address the needs of our culturally diverse society. The framework emphasises achieving outcomes through incremental progression against criteria. An accompanying practitioners manual will be launched in late 2009 containing practical implementation advice, case studies and models. An online portal has already been established to streamline communication between the Community Relations Commission, New South Wales government agencies and, very importantly, local councils. That will allow the commission to be more efficient in its administration. Of course, the program will also allow trend identification and more targeted and streamlined forms of communication.

Ms SYLVIA HALE: I refer again to the question of interpreters. You indicated that the courts are clearly a significant area in which you provide services. However, other areas include education, housing and the Roads and Traffic Authority. Do you provide services in workplaces? For example, do you assist if there are disputes in workplaces, or is that beyond your brief?

Mr KERKYASHARIAN: The interpreting service we provide is essentially user-pays other than in the courts, but we do have some scope to provide free translation services when people cannot afford to pay. That is done on a case-by-case basis. We also have agreements with some community legal centres to provide free interpreting services if the issue involved relates to a State jurisdiction. However, if workplaces and others, including doctors, want to avail themselves of our services, we would certainly oblige on a user-pays basis.

Ms SYLVIA HALE: I think everyone is aware of the unskilled workers who are coming into the country and who are not necessarily fluent in writing or reading English and the possibility of their being exploited or not being aware of their rights. Do you do anything to address their needs or are you proactive in that area?

Mr KERKYASHARIAN: The Minister referred to the Ethnic Affairs Priorities Statement, or the Multicultural Policies and Services Program, as it is now known. That is the main vehicle that New South Wales government agencies have adopted to deal with such contingencies. If we are talking about a government agency such as the Industrial Relations Commission or any government department, they have obligations under the multicultural program to provide interpreting services if there is a communication issue with an individual. It is clear that the Government's multicultural policy expects the private sector to provide appropriate communication channels for people. Therefore, if we are asked by the private sector to provide interpreters we will, and we do encourage that. With regard to new arrivals, the New South Wales Government has an Immigration and Settlement Planning Committee chaired by the commission. Different government agencies are represented on that committee. One of the issues promoted through that facility is the need for interpreters to be provided to ensure proper communication.

Ms VIRGINIA JUDGE: Last year the Commonwealth Government passed the Migration Legislation Amendment (Worker Protection) Bill, which received assent in December 2008. It was to come into force this month, so it might already be effective. This will support the general aims of the bill to better define sponsorship obligations, to improve information sharing, to extend powers to monitor and investigate non-compliance and to introduce meaningful penalties. At the latest Ministerial Council on Immigration and Multicultural Affairs held on 14 August I indicated that this Government welcomed the introduction of measures to improve the integrity of the subclass 457 visa scheme. We need these workers with their skills, energy and enthusiasm. We should warmly welcome them and ensure that all their rights are protected and that they get the same industrial relations conditions and entitlements as all other Australian workers. I am informed that the Australian Government is considering further changes.

Ms SYLVIA HALE: That is the Australian Government. Is the State Government working in collaboration with the Australian Government to further those objectives?

Ms VIRGINIA JUDGE: Yes, we are.

Mr KERKYASHARIAN: Yes, definitely. A working party comprising officials from the Ministerial Council on Immigration and Multicultural Affairs is working on the protocol. That working party is looking at settlement issues, and that includes interpreting services.

The Hon. EDDIE OBEID: How will the Rees Government's recent changes to the Community Development Grants Program better address the needs of communities across the State?

Ms VIRGINIA JUDGE: This Government provides assistance to organisations across the State under the Community Development Grants Program. It was developed to support the commission's objectives as set out in the Community Relations Commission and Principles of Multiculturalism Act 2000. When I became the Minister I asked the commission to conduct a complete review of the program. That review was completed in June 2009 and has resulted in some important changes to the structure of the program. I wanted the grants program to be much more in touch with, and reflective of, the needs of new and emerging communities. I also wanted the grants to be much more relevant and effective in meeting the challenges these communities face on a daily basis.

I believe that the enhanced program better reflects the shift in demographics referred to earlier. We have given priority to the following: newly arrived and emerging ethnic communities; communities that are geographically or socially isolated, particularly in rural areas; the promotion of community harmony and building social cohesion; mutual understanding between communities with different cultural and religious backgrounds; and the development of community networks, structures and projects addressing critical issues related to cultural diversity, particularly at the local level. The structural improvements mean approximately \$1 million in funding will be available in three categories. There will now be general grants to support projects that enhance community development and promote cultural expression or minor capital purchases. Allocations will also be made to the not-for-profit sector for projects undertaken within 12 months. Sponsorship grants will also now be available three times a year. They are guerrilla-type grants for people who do not want to wait for the next round. That is a new modality and it will provide more funding options for organisations and enable more realistic planning for events. Sometimes these things spring spontaneously from an emerging issue in the community.

Sponsorship grants will provide public support to special events such as annual festivals and major cultural events, because I thought that was a particular need. I am sure the Committee will agree that many of

the Government's new local partnership grants are exciting new initiatives. These grants will be made available to local councils because—I have a bit of a bias here—I often think councils are there, they are in touch, they have been there for many years. As politicians we come and go but councils have a structure there. Councils often have a lot of expertise, wisdom and experience from all those years working in their communities. So, we are hoping to help them to employ part-time or full-time workers to undertake projects that will address the specific needs of newly arrived or emerging communities. I have asked the commission to send out a letter to every council in New South Wales—and I believe that has been done—and I have already received a couple of positive letters back. We only have a small pot but it will be the commission's job to sort out how that works.

As I said, I think councils are ideally placed to support the successful settlement of new migrants and create harmonious communities, which is what we all want, particularly as elected representatives, in all of our communities. This approach will enable our Government to build much stronger and solid, proactive, cohesive communities and promote access to and understanding of local services and infrastructure. Unlike the general and sponsorship grants, funding under the local partnership grants may be provided for up to three years. So, if they want to do some long-term planning, if they have a long-lasting program, they have that ability as well. We are trying to build a lot more flexibility into what we are doing, which will be a good thing. Expressions of interest for funding in the three categories opened in August 2009. It is anticipated that successful applicants will be notified in the first quarter of 2010. These are the changes to the Community Development Grants Program, and I think they demonstrate the Rees Government's responsiveness to the dynamic nature of our culturally and linguistically diverse communities while also enabling the program to better address the needs of people throughout New South Wales.

As a concrete example, recently I visited Lismore doing a few different things. One of the interesting programs I looked at was being run out of a community neighbourhood centre. I have to clarify the facts but I think about 30 refugees had arrived from Ethiopia. The centre had taken three very practical measures to help those people settle into their community. It was running a homework club. This was amazing because it involved teachers from the local high schools who voluntarily gave up their time twice a week for two hours to sit with these young people—some of them had never been to school before and had been through three or four refugee camps—and help them to get organised and show them what is required to do their homework.

The second thing we have done there is to give them some money to help them to engage in local sporting activities. We are helping them with their outfits and equipment and their fees. That is proving to be hugely successful. I am a pragmatic person and like practical programs and practical outcomes you can measure quite clearly. The third thing was that a lot of them were having trouble getting their hours up to get a driver's licence. So, local Rotary Club members were graciously taking them out to help them to get their hours up. That is an example of a project that is working at Lismore. Anyone is welcome to go and have a look. I think the taxpayers up there would feel their money has been spent wisely. That is one of many such programs.

Mr HARMAN: I do not know if it is inappropriate, but if I could just bring that back to the budget line items. That program is aggregated in the grants and subsidies line item in the budget papers. The Community Relations Commission was allocated \$1,585,000 in 2008-09 in grants and subsidies. This was increased to \$1,664,000, an increase of 5 per cent, in 2009-10 due to indexation. This line item covers an extensive range of grants and subsidies administered successfully by the commission and includes the Community Development Grants Program of \$1,015,000, core funding to the National Accreditation Authority for translators and interpreters of about \$188,000, the Community Partnership Scheme Program and also funding to the Migration Heritage Centre.

CHAIR: Thank you very much for your attendance here this morning. The Committee will now move on to the Fair Trading portfolio.

RODNEY STOWE, Deputy Commissioner, National Reform, New South Wales Fair Trading,

MICHAEL SILK, Executive Director, Fair Trading Services,

STEPHEN GRIFFIN, Assistant Commissioner, Fair Trading, and

GARRY WILSON, Deputy Chairperson (Registry and Administration) Consumer, Trader and Tenancy Tribunal, sworn and examined:

ANDREW GAVRIELATOS, Deputy Commissioner, Fair Trading Operations, and

GRAEME HEAD, Director General, Department of Services, Technology and Administration, affirmed and examined:

CHAIR: Minister, I would like to kick off with some questions about the real estate agents licensing register. Firstly, could you advise how up to date the information on the register is and how accessible it is to consumers?

Ms VIRGINIA JUDGE: Perhaps Mr Stowe would like to answer that.

Mr STOWE: The register is available to consumers on the Fair Trading website. It contains details of the licensees under the Property, Stock and Business Agents Act and information concerning disciplinary action that might be taken by the department, details of what areas of the legislation their licence is granted under, and whether a licence is current—those sorts of details.

CHAIR: How up to date is it?

Mr STOWE: It is maintained as accurately as possible, dependent upon the information provided by licensees and information the department receives in relation to disciplinary action and other matters relevant to the licensee.

CHAIR: Minister, are you familiar with the case of Mr Markus Edward Larcombe, a former real estate agent who used to work with LJ Hooker of Manly, who purchased properties from elderly clients and then onsold them for large profits—in one case, for up to 120 per cent of the purchase price? The Supreme Court found against Mr Larcombe and said that he had a decade-long pattern of predatory behaviour but had managed to evade criminal prosecution because the Property, Stock and Business Agents Act requires action against such activity to be brought within three years of the offence. Are you concerned about that case and have you any proposals to change the legislation to take account of that problem?

Ms VIRGINIA JUDGE: Thank you very much for your question. That has been a particularly troubling matter. Indeed, I met with I think the son of the gentleman about that experience. Fair Trading banned Markus Edward Larcombe from working in the real estate industry for the next 10 years after he cheated an elderly client out of a \$1 million profit. That ban followed a Supreme Court decision in December last year, which found him to have breached his fiduciary duty as director of the real estate company Varinya Pty Ltd. This is an agent who bought a property from an 85-year-old man and then onsold it for more than double the price. Mr Larcombe exploited the trust relationship that he had with his client, Melville Pedersen, who I am advised was also very ill at the time. He did that for his own financial gain. The Property, Stock and Business Agents Act 2002 states very clearly that a real estate agent must not obtain a beneficial interest in the property that they are selling. They are supposed to be acting for their client and in their client's best interests.

I am advised that Mr Larcombe bought the property for \$890,200—I have actually been down to see the property—and then onsold it for \$1.9 million a year later. His conduct was unlawful and improper, and is a very serious breach of the Property, Stock and Business Agents Act. As a result, he has been disqualified by the Office of Fair Trading from holding a licence until 8 July 2019. That is a pretty stiff penalty. He will not be able to work in that profession and gain any source of income from it. The ban also prevents Mr Larcombe from being involved in the direction, management or conduct of a business with a licensee during that time. His 10-year ban will hopefully send a very strong and clear message to other real estate agents who are thinking of behaving in this absolutely disgusting and despicable manner and preying on people's vulnerability, particularly senior citizens.

You might be wondering why he was not prosecuted earlier. Apparently prosecution under the Property, Stock and Business Agents Act must be brought within a three-year period from the time the offending conduct occurred. I thought the same when I heard about the case, but the three-year time limit had expired in April 2009. In view of that limited time frame, I was advised that Fair Trading decided to concentrate its efforts on removing him from the real estate industry so he could not continue that awful behaviour. Removing Mr Lacombe from the industry prevents him from ripping off other unsuspecting consumers. We gained a lot of information from his son-in-law. Andrew, do you have carriage of this one?

Mr GAVRIELATOS: It was the son.

Ms VIRGINIA JUDGE: His son was the one who brought this, and the office began their investigations very carefully and methodically to make sure we had appropriate evidence. I will ask Mr Head, my director general, to comment at this point.

Mr HEAD: I will comment broadly on compliance issues related to the real estate industry to put this example in some context. Targeted enforcement for the real estate industry has been quite a priority for the Office of Fair Trading during the past year. It carried out a range of programs to determine compliance with the Act. As part of these programs just over 400 real estate offices were inspected to ensure compliance with the licensing provisions of the Act. The results of the program showed a fairly high degree of compliance. Around 74 per cent of agents were compliant and 18 per cent were issued with infringement notices and other actions were taken. The specific case that the Minister has outlined is an example of one extreme end of the enforcement activity. That occurs as part of a broader and targeted compliance and enforcement initiative.

Ms VIRGINIA JUDGE: I just add that it is important that consumers, when they are aware of these things, bring the evidence to my department as soon as possible so that we can use the structures and the law that already exist to take action as soon as possible.

CHAIR: Are you saying, though, that you do not have any plans to change the three-year limit in terms of bringing prosecutions against such persons at the extreme, or any other, end of the scale?

Mr HEAD: One of the targeted improvements in the compliance division relates to working within any of the boundaries that are placed on us in terms of how we investigate or the limitations on time periods for bringing prosecutions. There is a wide range of activities in an improvement program in the compliance division. It is not uncommon for investigators in a wide range of regulatory environments to have the discipline of having to work within a time frame such as three years within which to bring prosecutions. Part of the issue there is ensuring that the department performs well within those parameters rather than necessarily changing them.

Ms VIRGINIA JUDGE: So, to answer the question, not at this stage. However, any review of the Act in relation to the time frame for prosecutions would need to take account of the general statute of limitations right across New South Wales.

CHAIR: Minister, are you aware of the case of Patricia O'Neill, which relates to Mr and Mrs Greg Kings, who have been denied an ex gratia payment after losing \$230,000 in a real estate transaction involving that agent, Patricia O'Neill, who is also known as Patricia Parkinson? Can you explain why Miss O'Neill was still registered as a licensed real estate agent after an agency—namely, Ray Robinson Real Estate Pty Ltd—brought her to the attention of the Office of Fair Trading back in 2001-02 and Mr Robinson from that company urged the Office of Fair Trading to suspend or cancel Ms Parkinson's licence in order to protect consumers? Are you aware of that case?

Ms VIRGINIA JUDGE: Yes.

CHAIR: Was any investigation conducted after that lady became the licensee in charge of Kingston Property Management in Newcastle and grave concerns were expressed to the Office of Fair Trading about her control of the trust account?

Ms VIRGINIA JUDGE: I will ask the director general to answer that question.

Mr HEAD: I will run through the background to that matter. Between March and October 2006 Mr Kings gave approximately \$190,000 to Ms O'Neill and the money was advanced to Ms O'Neill as loans and to invest in a joint business venture. I understand that at the time the money was advanced Ms O'Neill was the holder of a real estate agents licence that expired in November 2008. An application for the renewal of that licence was formally refused by the Office of Fair Trading in February this year.

In July 2008 Mr Kings lodged an application for \$230,000 compensation under the Property, Stock and Business Agents Act, claiming the loss arose from Ms O'Neill's conduct as a licensed agent. That claim was rejected as the alleged loss did not relate to a failure by Ms O'Neill to account to Mr Kings within the meaning of that Act. In December 2008 Mr Kings lodged an application for an ex gratia payment alleging that his loss was incurred as a result of Fair Trading allowing Ms O'Neill to hold a real estate agent's licence. The claim was also rejected after considering the facts and applying those facts to the relevant policies and guidelines from New South Wales Treasury.

It appears to us that Mr Kings advanced money to Ms O'Neill knowing that she was an undischarged bankrupt, suggesting that even if Fair Trading had taken action in regard to her licence at the time, the action would not have prevented Mr Kings making loans to her. Mr Kings has on a number of occasions made representations to have his ex gratia claim reconsidered. However, no information has been provided to the original decision to decline the application. I understand that Mr Kings complained to the police about the conduct of Ms O'Neill and that charges were brought against her, and that the matter was set down for hearing recently. I think that covers the general background to this matter and the actions that were taken and the decisions Fair Trading made and the basis for them.

The Hon. MARIE FICARRA: Minister, I want to ask a question about children's toys. Last budget estimates you were asked a question about preventive measures being taken by the Office of Fair Trading to stop the importation of products, particularly toys, that did not meet Australian standards. Have there been attempts by the Federal Government over the last few years to gain consensus from all States to test the toys' compliance at the point of importation? What has been the progress in the last year by your office to achieve this consensus?

Ms VIRGINIA JUDGE: I remember that. I think I was the Minister for about three weeks duration when that question came up. The Regulation of Consumer Product Safety is currently the joint responsibility of the Commonwealth, States and Territories through the Trade Practices Act 1974 and our fair trading legislation. In July 2008 the Council of Australian Governments [COAG] endorsed a model to reform the Product Safety Regulation in Australia and bring about uniformity in both legislation and administration. I am advised that in July 2009 COAG signed the Intergovernmental Agreement for the Australian Consumer Law, which underpins the new arrangement for product safety.

The National Product Safety Forum has three components. The first component uses a new regulatory framework comprising a single national law which is jointly enforced by the Commonwealth, State and Territory's. State Minister's retain the power to introduce interim bans. We have done that in relation to a couple of products since I have been the Minister—products that we felt posed a potential threat and were not in the interests of public safety. We felt that the supply of these particular products should be prohibited or restricted immediately. I might ask Mr Stowe to elaborate on that in a moment. Indeed, in respect of one of those products, I think we were the first State to introduce the product safety standard on that particular product.

The Commonwealth Minister will also have sole power to introduce mandatory product safety standards and permanent product bans following consultation with all jurisdictions. The second component consists of amendments to enhance product safety law that were recommended also by that Productivity Commission in reports published in 2006 and 2008. The third component involves non-legislative reforms recommended by the Productivity Commission and designed to improve the responsiveness and efficiency of Australia's product safety system. The national law will be introduced as part of the second phase of the Australian Consumer Law, which will be due to commence on 1 January 2011.

Of course, we are always very proactive. We instigate blitzes out there to make sure that products that are introduced, particularly those for young children, are safe. I was at the fair at the Easter Showground recently. I think there was an improvement on the previous year in terms of items that we felt could be a potential threat to young people. It is quite amazing what comes about sometimes with some of these toys that are a potential risk to young children. With regard to adults, we did that interesting blitz when we looked at those treadmills, which could cause really deep, severe friction burns if a young child put their hand on the back

of one of them when their parents are using them. I think we are the first State in Australia, and perhaps internationally, to look at that. I will ask Mr Stowe to add some further comments with regard to this issue, because it is important that we protect the safety of young children.

Mr STOWE: In our new Australian Consumer Law, which will have administration by all States and Territories and the Commonwealth, work is underway with State and Territory agencies to underpin that with new procedures and protocols, which will mean we will work much more effectively together in enforcing the new legislation.

Ms VIRGINIA JUDGE: And I will continue to work very strongly to lobby, on behalf of New South Wales consumers, on these issues, particularly the importation of products—which ultimately lies with the Commonwealth, not with us. Recently we had a look at those Razor Spark Scooters. You might have seen a report in the media on that. We have asked for an investigation into those scooters because of the potential risk. In particular, the fire service was concerned about the sparks that come out of the back of the Razor scooters. If people use the scooters in rural areas and there are tufts of grass, which are quick to start a fire, they could potentially start a bushfire. The fire service was particularly concerned that we would look into that. As a result, we are looking at that issue at the moment. Mr Stowe may be able to throw some light on that.

Mr STOWE: The Minister has referred that matter to the Product Safety Committee for investigation, and I understand the Minister is waiting for a report as to what action it might recommend that the Minister take.

Ms VIRGINIA JUDGE: We can certainly let you know when that comes out.

The Hon. MARIE FICARRA: With this new cohesive national approach, has there been any communication with importers or manufacturers of toys, that you are aware of, to let them know about the new standards? Who is coordinating any communication on this new national approach as a warning to toy importers and manufacturers of the standards now in place? Has any agency done that?

Mr STOWE: There has been some work done on that. A toy summit was held last year, which was sponsored by Queensland, and a number of initiatives came out of that. We would be happy to supply the Committee with details of that at a later time.

Ms VIRGINIA JUDGE: And we are happy to follow up on it, too.

Mr HEAD: If I can add more broadly, there has been quite extensive communication by the Commonwealth as a result of a COAG activity about the new national consumer law and how it will change the way consumer protection frameworks operate across the country. So there has been some early general education about how this initiative will work and how the States and the Commonwealth are working together to finalise the relevant statutory instruments. Once those things are completely final, there will be some extensive education taking place in each jurisdiction.

The Hon. MARIE FICARRA: Does your department have a list of known-to-you importers or manufacturers? I am thinking of practicalities. What list do you have of parties that would be concerned with this national approach so you are able to contact them and warn them? Do you keep those lists?

Mr STOWE: Our Product Safety Branch certainly has details of importers of all forms of goods and other products, and they liaise regularly with industry associations. That sort of data is certainly at hand and certainly would be included in any national strategies to increase the effectiveness of the ability to pick these things up as they come into the country.

Ms VIRGINIA JUDGE: I am sure, too, that once all the arrangements for the national framework are put in place all the agencies will obviously be cooperating to try to get the best possible outcome for everybody.

Mr GAVRIELATOS: Could I also add that inspectors are constantly around the State looking for items that do not meet product safety standards. There is a constant surveillance, if you like, not only of some of the smaller shops but also of the larger shops that sell toys, including various fairs, Easter shows and other agricultural shows. Quite recently, in fact, there was a dummy that failed to meet the standard, which was recalled.

Ms VIRGINIA JUDGE: We try to work with the companies to get them voluntarily to recall them, and most of the time we have success with that. That particular dummy was very, very dangerous because it could be trapped at the back of a child's throat and the child would not be able to breathe, so it was a huge concern to us.

CHAIR: Minister, can I ask you about the Building Insurers Guarantee Corporation, which has implications for HIH clients, among others. As you would be aware, the 2008 Auditors-General's report of that corporation showed a drop in the Government's contribution to the fund from \$30.595 million in 2007 to \$23.82 million in 2008, leading to a deficit for that year of \$6.659 million. Can you explain the rationale for the drop in the Government's contribution?

Ms VIRGINIA JUDGE: I will just talk generally about that issue and I will ask Mr Griffin to add to that, if he would. With the collapse of the HIH industry company in March 2001, with which you would all be very familiar, the New South Wales Government established the HIH-FAI rescue package. We also created the Building Insurers Guarantee Corporation to administer that rescue package. The Office of Fair Trading's Home Building Service oversees that corporation. The corporation had previously engaged the services of Echelon Australia Pty Ltd, formerly Strategic Claims Solutions, to receive and assess insurance claims received under the rescue package. However, after a review of operational needs it was decided that the corporation should manage the assessment of the remaining insurance claims in-house. Therefore, on 1 July 2006 the corporation assumed control over all insurance claims.

Claimants not satisfied with the decisions of the corporation are, of course, able to appeal to the Consumer, Trader and Tenancy Tribunal. Arrangements have been put in place to ensure that claims are settled promptly, and debt recovery against builders is actually proceeding. Since the inception of the rescue package the corporation has received 3,687 claims. There are currently 135 claims being assessed with a further 57 claims that have been approved and are being progressed by way of progress payments. There are 63 claims where a decision has been made or delayed and the claimant is appealing to a court or tribunal. There are also 121 claims currently being assessed for debt recovery action or write-off and five claims where debt recovery litigation is underway. Since its inception in 2001, the Building Insurers Guarantee Corporation has paid more than \$180 million in indemnity payments and more than \$8.6 million has been secured in debt recovery action since the start of the scheme. In addition, the scheme has received \$73.6 million from the liquidator and the reinsurers of HIH. This is a testament to Fair Trading's excellent administration of the scheme.

CHAIR: Can I have an explanation of the Government's rationale for the reduction in its contribution?

Mr GRIFFIN: Certainly. I will defer to Mr Silk, who has an understanding of the reserving.

Mr SILK: I do not have the figures in front of me but the Building Insurers Guarantee Corporation is a sunset agency; it is winding down. As the Minister mentioned, there are a number of claims on foot that we are processing—a number of debt-related matters. As the entity itself processes the number of claims, the level of contribution by Treasury will reduce. However, there is a commitment by Treasury to meet the value of all claims outstanding as we go forward. The expectation is that within three to four years the Building Insurers Guarantee Corporation will have completed its task in assessing all outstanding claims in relation to the HIH collapse.

CHAIR: What was that date again?

Mr SILK: Within three to four years the Building Insurers Guarantee Corporation will have completed its task of assessing all outstanding claims in relation to the HIH collapse.

CHAIR: If you cannot answer this question I will put it on notice. Can you tell us what the outstanding claims liability was as at 30 June 2009?

Mr SILK: The actuarial processors reassess the claims liability to be approximately \$100 million.

Ms SYLVIA HALE: I would like to return to the issue of Markus Larcombe. Mr Head said that he would not suggest increasing the length of time for prosecutions because it was important that the members of the department perform well within those parameters, or words to that effect. Given that the final date of sale of one of the properties obtained by Larcombe was 1 June 2006, and the court judgement relating to that was

issued on 20 December 2008, why was there no criminal prosecution undertaken within the three-year limitation period?

Mr HEAD: I would need to take that on notice, in terms of the view at the time about the extent to which the statute of limitations applied in that setting.

Ms SYLVIA HALE: If you would. Going to the actual judgement of the court, paragraph 129 of that judgement outlines the systemic strategy of fraud that Mr Larcombe used against three elderly clients over a five-year period. But there were victims other than those three elderly people. Mr Larcombe has not been held to account for his fraud against two other elderly clients. In the case of another elderly person who Mr Larcombe defrauded of a six-figure sum, she has made it clear that she will not take action because she is 93 and she does not have any children. Will the Government take up these two other incidents of fraud by Mr Larcombe?

Mr HEAD: As I indicated in my previous response, I am happy to take questions on notice about the regulatory decisions that were made in advancing this and any other related matters.

Ms SYLVIA HALE: Okay. Is there any proposal or move by the Government to change the law to ensure that an agent cannot retain such defrauded funds?

Mr HEAD: Not that I am aware of at the moment, no.

Ms SYLVIA HALE: The Minister has said that Mr Larcombe's 10-year ban should serve as a strong warning. But can I suggest to you that a much more effective warning might have been what was done in Victoria in the case of a real estate agent named John Talia, who was jailed for three years for a very similar fraud to that committed by Mr Larcombe, the only difference being that Mr Larcombe's frauds were for much higher sums of money and he had committed the fraud not against one person but against three. I would suggest that the messages coming out of Victoria are far stronger than those coming out of New South Wales. I assume you will take that on notice, Mr Head.

Ms VIRGINIA JUDGE: Definitely.

Ms SYLVIA HALE: I turn briefly to the question of licensing of electricians. The loss by TAFE of curriculum centres has put in jeopardy centralised services such as statewide tests for licensing of electricians. How will you, as the Minister responsible for licensing, ensure the consistency and standards required for licensing are maintained? How will resources be provided to TAFE to organise the tests that are needed for that licensing?

Ms VIRGINIA JUDGE: Thank you for that excellent question.

Mr GRIFFIN: It is an important question because we are moving to competency-based assessments for licensing. So it is very important that all registered training organisations [RTOs], not only TAFE, are able to deliver those appropriate outcomes. We have a memorandum of understanding or are about to enter one with TAFE and we have frequent meetings with TAFE on these issues. Over and above that, there is the Vocational Education and Training Accreditation Board [VETAB], which also has the role of overseeing all RTOs and their delivery of training, particularly competency-based training, to make sure they are delivering those appropriate outcomes. If we do hear of any issues, even if they are with a TAFE institute, we can refer them to VETAB for investigation.

Ms SYLVIA HALE: You may be aware that legislation has just been passed which means that people who provide building reports will no longer be required to be licensed. However, given how essential reports are to people who are considering purchasing a house, what are you doing to ensure that the people who will continue to provide such reports are competent to do so?

Mr GRIFFIN: There are still protections for people who are engaging the services of pre-purchase inspectors. They still will have access to the tribunal if they have not received an adequate report. Those issues can be resolved in that way. Whilst they will not continue to be licensed, people can still make complaints to Fair Trading and we can deal with them in an investigative context in terms of the Fair Trading Act. Consumers also will have access to the Consumer, Trader and Tenancy Tribunal [CTTT] to resolve any contractual issues.

Ms VIRGINIA JUDGE: Would you like me to talk a little more about licensing?

Ms SYLVIA HALE: No. I turn now to the vexed question of home building warranty insurance, which is an ongoing problem. Is it correct that the Office of Fair Trading has been looking more closely at the system that prevails in Queensland? Is the office considering the introduction of either a hybrid scheme or a return to a government-run scheme?

Ms VIRGINIA JUDGE: Thank you for that question. Home warranty insurance is something we have been giving a lot of time, energy and effort to at all levels. Home warranty insurance is an integral component of the Rees Government's consumer protection package for New South Wales homeowners. It is mandatory under part 6 of the Home Building Act that for any home building work that is valued over \$12,000 we must have this protection for our consumers. In July 2009 two insurers, CGU and Lumley General, announced their intention to leave the market. Currently there are 4,828—20 per cent of all New South Wales builders—eligible for insurance with those companies. These builders will need to obtain eligibility with another insurer. The Office of Fair Trading stands by ready to assist any builder who needs help to do this.

As I said, home warranty insurance is just one element of the Government's homeowner protection package. Other measures include information and education, including a homeowners guide, a check list, a cooling-off period, mandatory contract provisions requiring compliance with the Building Code of Australia [BCA], licensing of builders and trade contractors and an online public register of builders and trade contractors so that homeowners can access their background before they sign contracts, compliance and disciplinary programs, and early intervention dispute resolution and on-site mediation through the services of the Office of Fair Trading and the Consumer, Trader and Tenancy Tribunal.

Ms SYLVIA HALE: Thank you, Minister.

Ms VIRGINIA JUDGE: Also, I am examining the current market situation closely, and I will continue to do so.

Ms SYLVIA HALE: My question was whether the department was entertaining a change, to adopt the Queensland scheme or a variation thereof? Is the department considering that?

Ms VIRGINIA JUDGE: We think the last-resort arrangement works adequately.

Ms SYLVIA HALE: You are about the only person in the State who does, other than the insurance companies, of course.

Mr GRIFFIN: The Home Warranty Insurance Scheme Board is a board established under the Home Building Act. That board, which has been in place for some five years now, comprises insurance industry experts. They have been monitoring the marketplace and for some time have been particularly concerned about potential market failure. Being cognisant of that, they have developed a contingency plan should there be market failure. There have been many alternative models looked at and examined. Those things are ready to be advised to Government should there be market failure with the current provision of home warranty.

Ms SYLVIA HALE: Will the departure of CGU and Lumley General put upward pressure on premiums and entrench the dominance of Vero Insurance in the provision of home warranty insurance? Do you anticipate that occurring?

Mr GRIFFIN: Certainly two insurers leaving the market and three remaining is not conducive to competitive pricing. There is a notion that pricing will increase generally and there already have been some price increases by all insurers. There is an expectation that the three remaining insurers will actively and aggressively compete to try to gain that market share. About one-quarter of the market now will be freed up. So there will be some aggressive marketing and campaigning going on, including, I guess, price reductions for some builders in order to get their business. Again, the scheme board will monitor that and report to Government if there are issues. I think the major issue at the moment is to ensure that builders do not leave it to the last minute to move over to one of the three remaining insurers.

Ms SYLVIA HALE: A company such as Vero holds securities against builders. It is almost a form of reinsurance. The risk is transferred from the insurance company to the builder via deeds of indemnity or bank guarantees. Are you concerned that the fact that these securities are not transferable creates rigidity in the so-called market, which is driving out other companies and could have caused CGU and Lumley General to depart?

Mr GRIFFIN: The reasons for withdrawal from the market by Lumley General and CGU were commercially based. Within their own boards they made decisions that within their larger portfolios this was a very small, minor portfolio that was not performing to their expectations. As to the actual developments in the marketplace, I think that those are certainly matters the scheme board is monitoring. What was your original issue?

Ms SYLVIA HALE: My question was about rigidity and the lack of flexibility in the market because these securities cannot be transferred from Vero to other insurance companies.

Mr GRIFFIN: That is right, they cannot be transferred. They lock a builder into one insurer for the six-year duration of the bank guarantee. One thing is certain: they are not largely used—less than 10 per cent of eligibility in the marketplace of over 17,000 builders. This data is on our website and is updated quarterly. Less than 10 per cent have bank guarantees, sureties or securities attached to their eligibility. You are right: it does create inflexibility. The scheme board has always been concerned about that and has been closely monitoring that the use of bank guarantees does not increase. It actually has declined over the last few years, which is pleasing. But you are right: it does add some rigidity.

Ms SYLVIA HALE: The Minister mentioned that 4,828 builders are affected by the withdrawal of CGU and Lumley General. Is the department investigating how many of these builders have been unable to obtain insurance?

Mr GRIFFIN: We are getting weekly updates from insurers about those builders that are having difficulty insuring. As I mentioned earlier, the issue at the moment is inertia. There are not many builders moving over to a new insurer, which is a position we do not want in terms of there being a last-minute rush. We have been actively working with industry associations, insurers and brokers to make sure that they are encouraging builders. Certainly our communications with builders through our *Foundations* newsletter is to move across to other insurers as quickly as possible.

Ms VIRGINIA JUDGE: Could I just add, because this is an important proactive measure, I put through the House recently a piece of legislation whereby in 2008-09 homeowners are now able to lodge a claim under a home warranty insurance policy issued from 19 May 2009 onwards where the licence of a builder is suspended for failing to comply with a monetary order of the court or the Consumer, Trader and Tenancy Tribunal in favour of the homeowner. I think this was an extra measure we put in to help people get quick access if they needed it. That was another step we have taken to help.

Ms SYLVIA HALE: Is the department concerned about the abnormally high ratio of rejection of claims by the home warranty insurers? I gather that the Federal Ombudsman investigated this issue and found that the usual ratio of rejection of claims was 2 per cent but in the area of home warranty insurance it was 45 per cent. Is this a matter of concern and what is the department doing about this issue?

Mr GRIFFIN: If I can just say from the outset, Fair Trading, following the release of the report from the financial ombudsman, wrote to the Financial Ombudsman and he confirmed to us that the data released in that report was a set of data that was an amalgamation of data from the first resort and last resort scheme. So in entirety it was not an accurate picture of their true representation of claims being made, and I would be referring you to, as I said earlier, the data that Fair Trading has collected on claims in New South Wales. It is quite significant, with a much higher ratio of claims having been made and paid.

Ms SYLVIA HALE: Could you indicate what that ratio is?

Mr GRIFFIN: I am trying to find those in my papers. As of 31 March there have been 3,033 claims lodged under the scheme, \$39.5 million has been paid to claimants, with \$4.9 million paid to third parties, and a further \$14.8 million set aside for—

Ms SYLVIA HALE: What I am looking at is the percentage, because if general and other insurance claims are only 2 per cent of claims not settled or at least not satisfactorily settled or rejected by the insurance company—if that is the average throughout the insurance industry—a refusal rate of anything above 2 per cent would be, presumably, somewhat concerning.

Mr GRIFFIN: As I said, there are two factors. One is the Financial Ombudsman agrees that those stats are not a true or accurate position of the situation. Second, home warranty insurance is a different insurance to your home and contents and car.

Ms SYLVIA HALE: I know. It is a last resort.

Mr GRIFFIN: Apart from that fact, it has got a six-year tail. So you can lodge a claim within a six-year period, whereas with other insurance products it is a 12-month cycle. So it is a different product altogether. I can assure you that there has been some actuarial analysis done, and I can take it on notice to provide that to the Committee. But I can assure you that it is certainly more than 2 per cent.

Ms SYLVIA HALE: On 1 June 2009 the *Australian* published an article entitled, "Bullying exposed trade watchdog", and it referred to a report prepared by Wendy Klaassen and David Madden, which was a supposed health check on the compliance division of the Office of Fair Trading that had been completed in September 2008. It quotes staff in the division as complaining of "an unprofessional workplace culture, inappropriate conduct, a failure to deal with poor performers, nepotism, favouritism and a lack of direction". The article also says, "The culture of the division is insular and inward-looking and its progress has been stymied by competing cliques within the division and beyond", and that "staff have said they would be reluctant to report corrupt conduct or other forms of misconduct by staff due to a perception that 'nothing would be done about it'." Does such a report exist?

Ms VIRGINIA JUDGE: I am aware of the media reports on various issues involving the compliance division within Fair Trading. I am informed an organisational health check was carried out in July 2008 to improve the efficiency and accountability in the compliance division. I am advised that the restructure of the compliance division is now entering its final stages, and I am confident that every step is being taken to address the issues that were raised in this report. I would like the director general to respond further.

Mr HEAD: The organisational health check you referred to was commissioned by the former commissioner essentially to inform her about any structural and systemic improvements that were required in the compliance division of Fair Trading, and also to ensure that that division was well placed when the new national consumer law is introduced to support that national regulatory framework. You are quite right: the health check did reveal a number of significant issues about culture and practice in the compliance division, and the examples that you have quoted around staff's views about an unprofessional workplace culture, inappropriate conduct and a failure to deal with poor performers were all issues that were identified in the report.

There were essentially seven areas that required improvement and some 90 recommendations were put forward in that process to address those issues. They were around the setting of clear direction for the work of the division; recognition and reward for staff doing a good job in the division; the need to have appropriate management structures and systems of support for staff; the need to ensure a high level of integrity and compliance with the code of conduct; personal accountability for people working in a sensitive regulatory environment; improved communication; improved performance assessment management; the need to look at the general management approach in the division; and the extent to which the structure supported the desired culture.

Since the commissioning of that report a number of major initiatives have been underway. There have been structural changes in the division; the identification of core competencies in the implementation of learning and development opportunities for staff; an improved communication framework; new and robust supervision and management guidelines and procedures; corruption prevention and integrity promotion and the implementation of a compliance officer integrity framework; process improvements, including the development of new operational protocols, policies and procedures; the implementation of a proper risk assessment process and procedure associated with assessing matters that are referred to the office for investigation; some ICT initiatives that support those new processes; and a new model of case management and investigation planning.

It has been quite a significant piece of work for the organisation. It is quite a significant change process that is being undertaken in the division. We are a good way through that process and I believe, based on the briefings that I have had and the discussions with people, that the directions that were put in place by the former commissioner will address all of these issues substantively and we will see an improved performance in that division as well as improved morale and a generally happier work environment.

Ms SYLVIA HALE: When do you expect this process to be completed?

Mr HEAD: It is well underway and, without wanting to sound glib, these processes are ongoing, particularly in an area of an organisation that has struggled a little bit and not had a productive workplace culture. I see most of the recommendations being completed over the near future, but I think it is extremely important that the organisation continues to monitor the situation there: to continue to look at what best practice compliance processes look like in government and to work with the staff to make sure that they are well equipped to deal with those things.

We will have a second round of change because not only have we adjusted the structure and processes to support our own regulatory framework in New South Wales but the staff will also need to be supported in implementing a national framework and dealing with issues of consistency and approach that are very significant in what informs the way they work. This process will be ongoing in dealing with cultural issues and also in supporting that division through the introduction of the national consumer law, which commences in 2011.

Ms SYLVIA HALE: Will the report be released to the public?

Mr HEAD: I do not believe that is either appropriate or necessary. There is a range of specific matters—

Ms SYLVIA HALE: In the absence of releasing the report, how will a benchmark be established by which any future performance within the compliance division can be measured?

Mr HEAD: Given the level of problems that we identified in the health check, as the director general I would be wanting to assure myself through a follow-up process at an appropriate point that the substantive issues that the people who carried out the review found have been properly responded to. I will be happy when that work is done to share the findings.

Ms SYLVIA HALE: Staff said that they were reluctant to report corrupt conduct or other forms of misconduct. Has the department been in contact with either the Ombudsman or the Independent Commission Against Corruption to ensure further consideration of these issues?

Mr HEAD: Absolutely. The work that has been done on process improvement has been the subject of close consultation with the relevant parts of watchdog agencies interested in corruption prevention so that our new policies, processes and protocols are best practice in terms of encouraging the right behaviours within the organisation.

Ms VIRGINIA JUDGE: I am very confident with Mr Head's input into this process. He is a person of the highest integrity. He has a huge commitment to ensuring that the New South Wales Office of Fair Trading is the best in the country. We are certainly putting in place processes to ensure that honesty, integrity and trust—which are very important values—are very much part of the office's culture.

The Hon. KAYEE GRIFFIN: How is the Office of Fair Trading supporting small businesses through these difficult economic times?

Ms VIRGINIA JUDGE: Of course we acknowledge and recognise the enormous contribution of New South Wales' 650,000 small businesses to our economic and social wellbeing while creating wealth and jobs in communities across the State. I was at the markets this morning and saw some of the 1,500 small businesses out there that generate about \$3 billion in turnover each year. It is the biggest fresh fruit and veggie market in the country. The proprietors work very long hours, often while the rest of us are sleeping, making a living to support their families. This Government is hugely committed to supporting small businesses. We all know that we live in tough economic times. As Minister I have put in place a number of initiatives through the Office of Fair Trading, with the help of the wonderful work of my officers, to support small business owners and operators to protect jobs and, importantly, consumers. At some point along the continuum we are all consumers.

Cutting red tape is a huge priority. As I said, running a small business is not a nine-to-five job. People simply cannot shut up shop at lunchtime or take a break while laying the foundations for a family's new home. The New South Wales State Plan provides the framework for a key Office of Fair Trading responsibility—that is, to provide for a fair marketplace that appropriately protects consumers with minimal red tape. As Minister I

am focused on ensuring a fair and equitable marketplace for consumers and that all retailers and traders behave fairly and ethically. We must ensure we achieve that balance and keep that target in mind.

My cabinet colleague the Minister for Regulatory Reform has introduced the Occupation Licensing Legislation Amendment (Regulatory Reform) Bill 2009, which removes the requirement to hold a licence issued by the Office of Fair Trading for building consultants who carry out pre-purchase visual inspections, kit home suppliers, and floor finishers and floor sanders. This will cut red tape, reduce compliance costs and save small businesses money, all of which should lead to lower prices for consumers. I make it very clear that there will be no reduction in consumer protection as a result of removing these unnecessary requirements. These licences are not delivering benefits over and above the consumer protections already in place in the relevant legislation. General fair trading laws and the necessary trade licences will continue to apply across these areas. For example, anyone carrying out structural work on floors must be a licensed builder or carpenter. Consumers who are not satisfied with work of a purely decorative nature on their floors, such as sanding and polishing, can still take action under the Consumer Claims Act.

In relation to pre-purchase building inspections that are of a visual nature only, we advise consumers to engage a licensed builder to check a home before purchase. Contract provisions under the Home Building Act will continue to apply to kit homes, including maximum deposit amounts and a cooling-off period for consumers. Anyone erecting a kit home must hold a general builder contractor licence and complaints or disputes can be taken to the Consumer, Trader and Tenancy Tribunal. These reforms ensure tradespeople in New South Wales are not at a disadvantage when compared with their counterparts in other States and Territories, and that people from interstate wanting to work in New South Wales are not unnecessarily delayed in doing so.

The Office of Fair Trading has also improved the customer services it offers to traders, now issuing trade licences as well as company and partnership licences over the counter in the 24 Fair Trading centres. This means people no longer have to wait 30 working days for their application to be processed by the central office in Fair Trading's Home Building Service. In addition, Fair Trading Centre staff can make minor amendments, such as address changes, over the counter. This has improved customer services and reduces red tape for licensees. Any building applications or applications where details may have to be assessed by an experienced officer will still need to be assessed by Fair Trading's Home Building Service. But for those simpler matters contractors can now get an answer on the spot and get working immediately.

Traditionally, all building and trade contractor licences have been required to be renewed on an annual basis. In line with the Government's direction of cutting red tape, as of 1 July 2007 the Office of Fair Trading introduced the option of allowing licensees to renew their licence for three years instead of one year. That is a great step in the right direction. Those who wish to take up the option pay three years of fees in advance but receive a 20 per cent discount on the total price. This will save a further cost to licensees on the usual consumer price index increases in fees. It also helps to save on the incidental costs of posting the form, drawing a cheque, or even travel costs if they decide to lodge the form in person at a Fair Trading Centre. Of course that saves time, and for those who are self-employed, time is money. Figures to date show that about half of licensees have taken up the option of renewing for three years. All authority holders have had the opportunity to renew online since April 2008. Approximately 35 per cent of licence renewals sent out since that time have been renewed online. As an incentive to renew online, a further reduction in the fee of 5 per cent, or \$6, is provided. As more licensees take up this option there will be a very small reduction in overall revenue, but that will be offset by reduced operating costs.

The Office of Fair Trading administers three industry grants programs for the provision of industry-based education and research initiatives. The Property Services Grants Program provides funding or loans for educational, training and research programs. Priority is given to applications that demonstrate sound planning, a commitment to professionalism in the property services industry and positive outcomes for industry clients. Funding for the program totals \$300,000 for the 2009-10 financial year. To date, I have approved nine applications recommended by a committee, including \$55,000 to the Property and Financial Services Industry Training Advisory Body for the property services industry information support line; \$23,400 to the Australian Institute of Conveyancers New South Wales Division for its continuing education professional development program; \$25,424 to North Coast TAFE for additional continuing professional development options for all practising agents; \$20,000 to the Australian Property Institute Incorporated's continuing professional development program for valuers, agents and other related property professionals; \$30,000 to the Real Estate Institute of New South Wales Ltd for its real estate agency compliance audit and training, regional and

metropolitan road show; and \$41,000 to the Institute of Strata Title Management for governance training for owners corporations, executive committees and property practitioners.

Last night I was at a forum the institute organised at the Grace Hotel with many people who work in the industry. It was hugely interesting and important. They shared lots of issues that affect them, and there are some issues they want us to follow up on. I have given them my undertaking that that will happen. The other applications I have approved are: \$40,000 to the Australian Livestock and Property Agents Association for its New South Wales professional development and education program 2009-10; \$29,400 to the Owners Corporation Network of Australia Inc. for the production of "The Essentials of Strata Living—What Everyone Should Know"; and \$8,800 to Property and Financial Services Industry Training Advisory Body for the development of a strata management licensing implementation guide.

The \$100,000 Motor Vehicle Industry Grants Program funds education, research and other projects that will benefit licence holders under the Motor Dealers Act 1974 and trades under the Motor Vehicle Repair Act 1980, including maintaining a skilled workforce, improving industry standards, raising awareness and providing better protection for consumers in the motor vehicle industry. I have just approved two applicants to receive funding under the program who were recommended by the committee. They are \$60,000 to the Automotive Training Board of New South Wales for Moving the Automotive Industry Forward, a program aimed at retaining those at the beginning of their automotive careers and those who currently work within the industry, encouraging best practice and innovation through training and industry education, and encouraging the training and education of apprentices; and \$1,500 strategic community assistance to refugee families, Getting Wheels: Education for Refugees as First Car Buyers.

The Home Building Grants Program provides funding for educational, research and other programs or projects that enhance outcomes for consumers, raise consumer awareness and industry standards. I have also approved 10 applicants recommended by the Grants Assessment Committee to receive funding under the Home Building Grants Program. This represents a total budget allocation of \$283,500 for the 2009-10 funding year. Most funded projects related to professional development such as business skills and green trade skills, including \$40,000 for the Swimming Pool and Spa Association of New South Wales Ltd; \$21,000 to the Home Building Business Centre; \$15,000 to builders continuing professional development for communication, contracts, and dispute resolution; \$30,000 in two grants to the National Electrical and Communications Association New South Wales Chapter for guides on the phase-out of incandescent lamps and new wiring rules; \$80,000 in two grants to the Housing Industry Association Ltd, Business Skills for Trade Contractors—Everyone Wins, and Monitoring Your Business Cash Flow; \$27,500 to the Institute for Sustainable Futures, University of Technology, Sydney, for the green trade skills DVD for the housing industry; a \$50,000 investment in apprenticeship programs run by the Newcastle Master Builders Association; and \$20,000 to SED Consulting for Building Strength in New South Wales Regional Builders.

Our Government is working hard to help the building industry, but it does not end there. Our Home Building Service building inspectors are actively involved in the promotion of Fair Trading issues within the home building sector through education programs and working with industry associations, and are directly accessible to traders and consumers seeking advice and guidance. They actively participate with the Fair Trading community liaison co-ordinators regarding regional and community access programs, undertaking presentations, and promotional and compliance visits throughout the State. Mr Gavrielatos and I have been out and about on some of those. During 2008-2009, Home Building Service building inspectors conducted 96 presentations and participated in regional access programs and community access programs. In addition, inspectors attended three Sydney home shows and expos, and one show in Newcastle. *Foundations*, an e-newsletter aimed at builders and tradesmen, was sent to more than 22,000 recipients, most of who are licensed contractors. It contains information on issues surrounding the building industry, and Fair Trading has included information from other departments in the newsletter where it relates to the residential building industry.

As part of our proactive stance to protect building industry jobs as well as consumers, Fair Trading facilitated 17 free building business information expos between April and June 2009. In the Sydney metropolitan area, expos were held in Burwood, Parramatta, Campbelltown, Kogarah, South Sydney, Dee Why, Liverpool and Penrith. I attended the one in Burwood. It was fantastic. About 300 builders were there. It was like a trade show: all the different departments were represented there. People were engaged, they were active and talking to each other. They were sharing information. I got tremendous feedback from that expo that I had the privilege of attending. Also, nine expos were held in regional New South Wales at Wollongong, Queanbeyan, Wagga Wagga, Dubbo, Newcastle, Gosford, Port Macquarie, Coffs Harbour and Tweed Heads. So, my officers have been extremely proactive and busy. The expos were a runaway success, with

approximately 4,500 builders and tradespeople attending the 17 events. Given the obvious demand, Fair Trading is planning to run similar expos in the future.

So we are going out to where people are. We know they are busy and cannot all be coming into city-centric places so we are going out to the regions so they can easily access the information they need, particularly at this difficult economic time. The past financial year has been a difficult one for the home building sector. Bearing in mind the downturn in the economy, I convened a roundtable meeting with industry, insurers and Office of Fair Trading representatives on 17 February this year to listen to their concerns firsthand and work through practical proposals for Fair Trading to do what it can to help them in that situation. They were extremely grateful to be consulted and I am still getting feedback from that roundtable. We are trying to work hand in hand to get the best possible outcomes.

One of the proposals arising from that meeting was the establishment of the Building Contractor Advisory Service. This service is designed to assist builders and tradespeople make sound business decisions or deal with a challenging business situation in the most appropriate manner. It is also to provide advice to any licensed builder or tradesperson who is concerned about an impending insolvency. This was something that came to my attention. The service was put out to tender, and won by CRS Warner Kugel for an initial 12-month pilot period. We thought we would give it a trial. The service commenced in May 2009 for the pilot period of 12 months, providing free and confidential—that was something they were all very concerned about—business management and insolvency information and assistance to licensed building contractors operating in the residential building industry in New South Wales. As a telephone-only service, written advice is not provided.

The Building Contractor Advisory Service is providing seven-days-a-week, 24-hours-a-day service. Although funded by Fair Trading, the service operates independently of Fair Trading and all calls to the service are absolutely confidential. I am advised that there are around 240 visits to the advisory service's website as well as an average of 30 telephone calls to the hotline every week, in addition to a small number of email inquiries. Initial data shows the biggest issue relates to tradesmen experiencing difficulties in collecting debts. This, in turn, has resulted in subsequent taxation issues, as tradespeople pay their suppliers at the expense of their tax requirements. The pilot will continue for now, and I will take into consideration, as will my officers, any advice on additional assistance Fair Trading may be able to provide to our hardworking builders and tradespersons.

As one of a range of enhancements to the home building dispute resolution service, a three-month pilot of trader-initiated building disputes commenced on 1 March 2009. This pilot enables licensed builders and tradespeople to access Fair Trading's free dispute resolution service—this is a huge initiative—if a dispute occurs with a consumer or owner-builder over a residential building issue. By increasing the accessibility of Fair Trading's residential building dispute service, both consumers and traders are better served. As with all consumer-initiated complaints, Fair Trading responds to trader-initiated home building complaints where the trader or consumer has indicated possible defective workmanship or materials.

A review of the pilot success and impact on Fair Trading's other work has been completed and the results are absolutely outstanding, with 83 per cent of trader-initiated disputes being successfully resolved. Those cases would otherwise probably have ended up in the Consumer, Trader and Tenancy Tribunal. The pilot has also shown that the impact on Fair Trading's other work was minimal, which is good. All of these are practical, pragmatic approaches that demonstrate the Office of Fair Trading and its hardworking public servants are trying to implement our Government's policies, which really do support small businesses and help them grow, and protect jobs and, importantly, consumers.

CHAIR: I thank you, Minister, and your staff for your assistance with our inquiries and for attending today.

Ms VIRGINIA JUDGE: Thank you. I appreciate the opportunity.

(The witnesses withdrew)

The Committee proceeded to deliberate.