

REPORT OF PROCEEDINGS BEFORE

STANDING COMMITTEE ON SOCIAL ISSUES

INQUIRY INTO THE FUNERAL INDUSTRY

At Sydney on Monday 8 August 2005

The Committee met at 9.30 a.m.

PRESENT

The Hon. J. C. Burnswoods (Chair)

The Hon. Dr A. Chesterfield-Evans

The Hon. K. F. Griffin

The Hon. R. M. Parker

The Hon. I. W. West

PETER GEOFFERY SAINSBURY, Acting Deputy Director General, Population Health and Chief Health Office, NSW Health, Miller Street, North Sydney,

ANTHONY MAITLAND BROWN, Acting Director, Centre for Health Protection, and Deputy Chief Health officer, NSW Health, Miller Street, North Sydney,

MICHAEL PHILLIP STAFF, Director, Environmental Health, NSW Health, Miller Street, North Sydney, affirmed and examined, and

NEIL HAMPTON SHAW, Manager, General Environmental Health Unit, NSW Health, Miller Street, North Sydney, sworn and examined:

CHAIR: Do you want to make an opening statement before we ask questions?

Professor SAINSBURY: First of all, thank you very much to you all for both the invitation to submit a submission and for the opportunity to appear today to make clear the views of the Department of Health. The Department of Health relies on its submission to the inquiry into the funeral industry, which it has already made. The submission concludes that based on information made available to the department, provided by industry, government and non-government organisations and the public there is no evidence that the current regulatory mechanisms do not adequately protect public health, that is, the risk to human health to which members of the general public may be exposed as a result of the disposal of human bodies.

To fulfil its public health protection role, NSW Health administers the Public Health Act 1991 and various regulations made under that Act. The provisions of the Act cover a broad range of matters related to public health, well beyond those related to the funeral industry. In so far as the funeral industry is concerned, a range of regulation-making powers in relation to activities conducted within the industry are contained under section 82 (2)K to R of the Act. Specific provisions to regulate the activities identified in the Act are contained within the Public Health (Disposal of Bodies) Regulation 2002. The objective of the public health legislation is specifically to protect the health of the general public and does not cover other human health aspects related to, for instance, occupational health and safety.

In common with other industries there exists many pieces of legislation administered by several government bodies with which the funeral industry must comply. The Australian custom of disposal of bodies by burial, cremation or embalming and bulk storage, are practises which generally pose little risk to the general public but still need to be performed in a sensitive and respectful manner. The department is in receipt of a submission from the Funeral Industry Council that raises the issue of more extensive and complex regulation, including licensing of the funeral industry. The department is awaiting the outcome of the current inquiry prior to responding to that submission made.

CHAIR: Are there advantages in consolidating the different pieces of legislation that relate to the funeral industry? I take your point about the Public Health Act, but what is the view of the department about the suggestion that there needs to be consolidation of legislation?

Professor SAINSBURY: I will answer questions if the Committee directs them at me as Acting Director but if you wish to direct questions at others please feel free to do so, particularly on issues around the actual operation of the Act and so on Mr Shaw and Dr Staff are particularly knowledgeable. The current health regulations, we believe, are meeting their objectives in terms of public health protection and their ability to do so is not being hindered by there being a number of pieces of legislation. Indeed, many other industries—for example, the building industry—have a similar situation where there are a number of different pieces of legislation affecting them.

Some of the provisions of the Act that affect the funeral industry also affect other industries, for instance, occupational health and safety, universal infection control requirements, and hence it would be inappropriate to transfer and duplicate the specific funeral industry regulations. Under the current arrangement each government agency is able to bring a specialised and focussed interest to the funeral industry consistent with its resources and expertise. In summary, we do not see the funeral industry as being peculiar in this regard from most other industries in New South Wales nor the

legislation as being any different in its general concept of people and organisations being legislated by pieces of Acts. As I said, we believe that the variety of legislation is meeting public health requirements.

CHAIR: If we accept that for a moment, although there are different views on that issue, is it beneficial if one government agency formally took the lead role in relation to the funeral industry?

Professor SAINSBURY: We see no particular additional advantage to be gained by that.

CHAIR: If someone were to disagree with you and say that somebody should formally have a lead role, would you suggest NSW Health would be the most appropriate?

Professor SAINSBURY: I do not think we particularly suggest anything at the moment. I think we would like to see all of the arguments and the findings of perhaps this inquiry before having a clear view on that issue. I invite my colleagues to comment on that as well, if I may.

Dr STAFF: Certainly, as Peter said, as far as the public health legislation goes we think the current arrangements are working fine from a general public health perspective and we would see no advantage in it being moved over to one other agency. Certainly there may be other elements of the industry which could benefit from other approaches but it would not necessarily be anything that Health could add to. At the moment I think Health's expertise is appropriately being applied to the regulation of the industry and, based upon what we know at the moment, it is certainly fulfilling its objectives.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Is NSW Health represented on the Funeral Industry Council?

Dr STAFF: We have an observer on the Funeral Industry Council, yes.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Is that person here?

Dr STAFF: No, they are not.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Can you tell me what happens at the Funeral Industry Council?

Dr STAFF: I have not been to a funeral industry council meeting myself. My understanding is that it aims to be a representative body of the funeral industry. The function that the Health department representative has is to provide information and perhaps some guidance in terms of anything which falls under the auspices of the regulations of NSW Health.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Does the Health department regard funerals as an essential service?

Dr STAFF: Obviously there is a need to dispose of human bodies and that needs to be done in a sensitive manner and in a manner where the general public will not be put at any risk, and that is the objectives of our Public Health Act.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So, is it an essential service?

Professor SAINSBURY: I think we would have to agree that the disposal of dead bodies is an essential service. I do not think we would particularly wish to disagree with that statement.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I hoped that that was the situation. Are you aware of an increased corporatisation of the industry?

Dr STAFF: I am not across the actual corporatisation or economic elements of the industry. My expertise lies in dealing with public health issues.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Is the Health department aware that it has increasingly become corporatised and the prices of funerals have risen considerably?

Dr STAFF: We are certainly aware, just from the lay press, those concerns and superannuants have written to the Health department expressing that view.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Your position on the Funeral Industry Council has not given you an insight into that situation?

Dr STAFF: I do not attend the Funeral Industry Council.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: No, but your department does. One might have thought, to be blunt, that someone who knew that might have been here. To say "Yes, we have a representative on it" but "No, we have not got a clue what he or she does" is not very useful for the Committee.

CHAIR: I am not sure that that statement was made.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: No, not in such terms. Obviously the Health department is the major regulator of the funeral industry in the current regime?

Dr STAFF: Is the main regulator of public health provisions.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: As other provisions were removed by the ACCC, in my understanding, the Health department ends up being the major regulator?

Dr STAFF: It regulates the public health aspects of it. There are still some provisions under the Environmental Protection Act about mortuaries as well. Certainly, local government has changed. Neil may know more specifics about that.

Mr SHAW: Yes, I do. What was repealed was the ability of local councils to approve of mortuaries and undertakers, but the provisions still remain in regard to the standards of mortuaries under the Local Government (Orders) Regulation. So there was one function that was removed but the standards still should remain about the standards of mortuaries.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Late last year the regulation with regard to refrigerators, dead bodies and their ownership was changed?

Mr SHAW: No, I am not aware of any change of that regulation.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Relating to funeral directors having to have refrigerators?

Mr SHAW: There has always been a requirement that funeral directors have had to have a refrigerated storage capacity associated with a holding room. That has been a provision for quite a long time.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I am not sure of the exact nature of the regulation, but was there not a regulation which effectively meant that hospitals had less responsibility for the storage of bodies, and funeral directors had more?

Mr SHAW: No, not really. There has always been a requirement for funeral directors to have storage space for bodies at particular regulated temperatures.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Are you aware of a regulation that was put through towards the end of last year?

Mr SHAW: No, I am not.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I believe there is such a regulation and I wondered about the nature of it. My understanding is that it puts a barrier to entry, increases resource demands on funeral directors, and lessens the amount of storage capacity necessary for the health department. So, effectively, it is a transfer of obligation from the health department to the private sector.

Mr SHAW: No. Since 1987 there has always been a requirement for mortuaries to have refrigerated body storage capacity.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Is the health department aware that more complex regulation would lead to barriers to entry for the funeral industry?

Dr STAFF: Our stance has always been that we need to have appropriate regulation to protect public health and have it no more complex than that, because I can envisage a situation where it may create more difficulty for people to comply with if it was more complex.

The Hon. ROBYN PARKER: Could you explain what facilities or services funeral operators are required to have? Is there a requirement that they have a mortuary on premises?

Mr SHAW: Yes, there is a requirement that they have a mortuary, or at least have access to a mortuary. They do not have to have their own.

The Hon. ROBYN PARKER: The mortuary does not have to be on their premises; they can share a mortuary?

Mr SHAW: Yes, they can.

The Hon. ROBYN PARKER: Could you explain what you mean by "access"?

Mr SHAW: In contrast to needing to have their own mortuary, there may be a number of companies that are set up with the ability to use the facilities of a particular mortuary. That access could be under a legal agreement, or whatever arrangement there happens to be. We have not been specific with that requirement; they just need to have access to a mortuary under whatever requirements they deem necessary.

The Hon. ROBYN PARKER: You do not see any problems with that?

Mr SHAW: No.

CHAIR: Does it need to be a formal contract? Under the local government regulation, does access to a mortuary need to be formalised to meet your requirement?

Mr SHAW: No. It can be as simple as a letter saying, "I give permission for such and such funeral director to have access to my mortuary."

CHAIR: For this year, or for 10 years, or whatever the period may be?

Mr SHAW: Yes, whatever the terms of the arrangement are.

The Hon. ROBYN PARKER: You do not see any need to tighten that up at all?

Mr SHAW: Not at this stage. We have not received any submissions with regard to that issue.

The Hon. ROBYN PARKER: With regard to small operators, in your opinion is the non-requirement for them to have a mortuary on their premises a limiting factor?

Mr SHAW: Not from our point of view. There is even the possibility of an exemption, such as a funeral director in a remote rural area having access to a hospital mortuary if the hospital

mortuary is up to standard. That has been provided for in the past as well, to assist a funeral director who has to drive a long distance to use a mortuary or to collect a body.

The Hon. ROBYN PARKER: Is it specified what a mortuary might be?

Mr SHAW: Yes. A mortuary has to fulfil the standards prescribed in schedule 4 of the Local Government (Orders) Regulation. A standard is specified for what is required and it is administered by local government. Under our Disposal of Bodies Regulation there are some additional clauses about what sort of facilities need to be provided.

The Hon. ROBYN PARKER: We have received submissions and evidence about cardboard coffins. Could you give us your opinion on cardboard coffins?

Dr STAFF: I think the most important thing as far as public health is concerned is more the body bag that is used rather than the coffin, in that the body bag is prescribed under the Act and it is prescribed to a certain standard, and that is to prevent any spread of exudates or any other bodily fluids from the body in a way that it may cause some human health concerns. Once they take a body from a bag and they have done the preparation, we would expect it to be moved into the coffin and not moved again from there. We do not prescribe any standards for the coffin as such, but obviously there will be some implications in terms of occupational health and safety, which are covered under other Acts with regard to moving coffins around. There are some issues about the actual disposal or burning of the coffin in terms of producing air pollution, or whatever, from crematoriums. At this point in time that is regulated under the Local Government Act.

The Hon. KAYEE GRIFFIN: Mr Shaw, you referred to changes to the local government approvals process and said that it is still the responsibility of local government to do a range of things with regard to mortuaries and so on. Could you go over that again please?

Mr SHAW: Yes. Schedule 4 of the Local Government (Orders) Regulation specifies certain standards for mortuaries. It refers to construction standards in the provision of a water supply that is discontinuous from a reticulated water supply. There used to be a provision under the Local Government Act under which each mortuary had to be approved to that particular standard. That provision was removed about two years ago. So now the standard is still there and local government may supervise that standard by doing inspections and, when necessary, ordering a mortuary or the person in charge of that mortuary to upgrade to that particular standard.

The Hon. KAYEE GRIFFIN: Given that local government has control over a number of cemeteries across New South Wales, particularly in rural and regional areas, what sort of control is there in terms of regulation?

Mr SHAW: The only regulation that would impact on that would be the depth of the grave. We specify a minimum cover of 900 millimetres from the level of the coffin to the natural ground level. There is another control about burial in private lands, but that is basically outside public cemeteries.

The Hon. KAYEE GRIFFIN: You state that in 5½ years there have been 101 complaints and that of those about 55 were related to public health legislation. Could you give examples of the types of complaints you have received regarding health regulation and also the complaints you have received outside the health regulation process?

Dr STAFF: Yes. Perhaps we should refer to the legislative-based complaints first. There have been some serious complaints under the legislation and there have been some prosecutions as a result. The common offence has been the preparation of a body outside the registered mortuary. There have also been nine incidences of funeral directors not operating from registered mortuaries. There have been five complaints of poor embalming, coffin repair and removal from a vault. There have been five complaints of bodies not being placed in a body bag by hospitals. There have been four complaints of operating from an unregistered hospital morgue. They are the most prevalent offences under legislative non-compliance, with a total of 35 complaints.

When we look at the other complaints which we feel do not fit under the regulations and are perhaps less serious, there are things like the cremation certificate not being correctly completed, of which there were 15 complaints; family members objecting to cremation; and medical referees not completing forms correctly, which do not impinge directly upon any public health provision or concern that we might have.

The Hon. KAYEE GRIFFIN: With regard to the complaints that have come in over the last 5½ years, what sort of people would have made those complaints to the department? Would they have been family members, funeral directors, or others?

Dr STAFF: I do not have the details on precisely who they were, but I understand that it is a broad range of people, including family members and funeral directors. I think some complaints have come through the Funeral Industry Council as well. With regard to anyone who has some contact with the funeral industry, there is a facility for them to register their complaint and we will look into the complaint, substantiate it, and take appropriate action.

The Hon. KAYEE GRIFFIN: Some of the complaints would have come through the Funeral Industry Council?

Dr STAFF: Yes.

Professor SAINSBURY: There are approximately 45,000 deaths in New South Wales every year, so over 5½ years that is approximately 250,000 deaths. It is a matter of putting the 100 or so complaints in the context of approximately a quarter of a million burials.

The Hon. KAYEE GRIFFIN: What sort of penalties are imposed on people who are found guilty of breaking the regulations?

Dr STAFF: The penalties for breaking the regulations are prescribed under the regulation and the Act itself. A limit is set as part of the Public Health Act.

Mr SHAW: The maximum penalty under the regulations is about \$2,000.

Dr STAFF: But, obviously, each breach of each regulation has a number of penalty units assigned to it.

The Hon. KAYEE GRIFFIN: So the penalty for the most serious breach would be about \$2,000?

Mr SHAW: That is right, and the penalty for the least serious breach is about \$500.

Professor SAINSBURY: As I understand it, only two people have been prosecuted over that 5½ years. There have been four convictions, three against one person and one against another person.

Dr STAFF: That is for the same offence, which is the preparation of bodies outside the registered mortuary.

CHAIR: With regard to a repeat offender, is there any scope in the Act or the regulation to prohibit them from future operation, or is the \$2,000 fine the maximum penalty?

Dr STAFF: We need to clarify that whilst there have been four convictions, three against the one person, those three were primarily done in a very short period of time, within a period of one or two weeks on the same person. To me, that would be a concurrent problem, so there have not being any repeat offenders at the moment. There are no specific provisions under the Act for repeat offenders, but we have not have that situation as yet. However, we have no reason to believe that it would not occur.

CHAIR: I am not sure whether you gave us all the statistics you prepared, but if not perhaps you could table the figures. If you could quickly summarise them, we would have the full list of the complaints that you mentioned. If you have read them all out, there is no need to do that.

Dr STAFF: I did not read them all out; I simply gave you some examples. I would be more than happy to provide you with a more detailed list.

Professor SAINSBURY: And similarly to your question 3 (a) where you asked about the types of offences under the Act, if you are happy we can table that as well.

CHAIR: Yes, that would be helpful. Can you tell us a little bit about the review of the penalties that the department is currently undertaking? We asked for the figures but we also were interested whether you have thoughts of increasing the penalties and what other areas of the Act are to be reviewed.

Dr STAFF: The whole Public Health Act has been reviewed and is in the process of being considered further. Obviously, inherent in that is looking at all the penalties. It would be appropriate from our point of view to look at the penalties across the broad Public Health Act as such, and it has always been a principle of health that if we are looking at protecting public health then the level of fine should be commensurate with the level of risk or risk to public, in which case we would need to therefore look at any changes to penalties around the funeral industry regulations alongside changes in other parts that are related to smoking, skin penetration and cooling towers, all those sorts of issues. So we cannot give you a short answer with that. All we can say is that the guiding principle would be the level of public health risk—the fee or the fine should be commensurate with that level, and that is being considered at this point in time.

CHAIR: Professor Sainsbury, you mentioned before the 101 complaints compared to a quarter of a million deaths is quite small. How does the level of complaints in relation to the funeral industry compare with some of those other industries, for instance, the air-conditioning industry or whatever? Can you give a generalisation?

Professor SAINSBURY: We actually did discuss this the other day and it is very difficult to compare complaints across industries (a) because people are more or less inclined to complain about various things in different areas of life and (b) to have a rate you obviously need a denominator as well, and it is quite difficult often to have a denominator. The number of complaints about the funeral industry in absolute terms, for instance, is lower than complaints about environmental tobacco smoke. But that may be influenced by the fact that visiting public areas such as restaurants, clubs, pubs, that sort of thing, is a common activity; it is something the individual does or perhaps does not do—depending on the individual—quite frequently, whereas most of us do not really have that much contact with the funeral industry. One suspects that many people are happy to sort of have it and then move on with their life, even if they may have a small complaint. So I do not think we are really in a position to make any valid comparisons across industries.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Access to hospital mortuaries. Do mortuaries store bodies for a time after death, and what determines when the funeral director takes the body to their mortuary?

Mr SHAW: That is determined really by the flow of events. Firstly, there needs to be a life extinct certificate issued by an attending medical practitioner and then a funeral director appointed. Normally, after that period of time the hospital, the nursing home, or whatever it is, is normally quite keen to see the body removed to a mortuary to which that funeral director has access.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Why is that?

Mr SHAW: In case they need the storage themselves.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Is there a shortage of storage in New South Wales' hospitals in general?

Mr SHAW: We have not done a survey to determine that. There are some hospitals, for example, Westmead and Royal North Shore, that have a fairly large capacity, and there would be other hospitals that would not necessarily have a large capacity. That is one of the things we have to look at in regard to our disaster preparedness.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Was that changed by the regulator last year? You do not know that?

Mr SHAW: No, I do not know that.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Is it possible that a funeral director could pick up the body from the hospital mortuary and take it straight to the funeral?

Mr SHAW: That would be very difficult. They would probably be committing a breach because one of the things that is necessary to occur is to place the body into a coffin and that needs to be done in a proper mortuary to achieve that. So at this stage, unless the hospital mortuary is of a standard required under the local government orders provision, that should not occur. But if the mortuary is of a standard in accordance with the local government orders regulation standard then it could occur.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So what is wrong with hospital mortuaries that you could not put a body into a coffin in them?

Mr SHAW: They just have not been assessed in accordance with ordinance 4.

CHAIR: What about in those rural areas you mentioned before where it is accepted that a funeral director might use a hospital mortuary?

Mr SHAW: Not accepted. There is scope there to approve of a hospital mortuary for that particular purpose, and that can be done on a case-by-case basis. Even though the mortuary may not be properly equipped, the circumstances might be such that it is absolutely necessary that the body be prepared for burial or disposal as soon as possible, but there is a mechanism within the legislation to allow that sort of thing to happen.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Is this a bureaucratic problem? What is the difference in facilities between a hospital morgue, as they are called, are they not, and a mortuary? There has been no request to classify them or is there something actually physically missing from hospital morgues that would stop them acting as mortuaries?

Mr SHAW: I have not had real experience, but in discussing it with my rural colleagues my understanding is that they are not up to the standard of schedule 4 of the local government orders regulation.

Dr BROWN: I think just from my experience in some rural areas, they are too small to actually allow the preparation and the moving of the bodies. They represent really a transient body storage facility with the expectation that the body would be transferred to the funeral director.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Are they short of space? Is that the problem? Do a whole lot of people gather around the body to do the embalming or whatever, or build the coffins? Is there some physical space limitation with regard to hospital mortuaries?

Mr SHAW: I cannot answer that question without doing a survey.

The Hon. IAN WEST: Who audits those hospital mortuaries? Local government?

Mr SHAW: If they were going to be used as a mortuary by a funeral director then it should be audited by a local government environmental health officer.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So there has been no attempt by the health department to make that sort of facility available?

Mr SHAW: No, not directly, but we have been requested to make those facilities available from time to time.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: But this is only in rare exceptions in rural settings?

Mr SHAW: Yes, basically.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: But there is no reason why it could not happen in all settings if there were facilities?

Mr SHAW: I would not know the answer to that question unless we considered it as an issue and looked at the proposals right through. There might be problems of storage space; there might be occupational health and safety issues; there could be a whole range of things that impact on that.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So the health department has not considered this possibility?

Mr SHAW: No, it has not.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: But it could consider this possibility presumably?

Mr SHAW: Yes.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: And if it did it would mean that funeral directors would get the bodies directly from the hospital morgue and take them to the funerals?

Mr SHAW: That could be an outcome.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: And that would stop the need for a double handling of bodies?

Mr SHAW: I do not know.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Well, it would, would it not, because there would be one less step?

Dr STAFF: I think one of the issues obviously around hospitals is that they are purpose built and there would be the issue of the nature of the morgue in terms of whether there would be viewing facilities arranged and whether that would be the most efficient use of a hospital space. Hospitals are difficult places to get to anyway and certainly very busy, so it may be difficult to put those extra facilities in what is very pressing hospital space. I simply just raise that as a consideration.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Hospitals are difficult to get to?

Dr STAFF: What I am saying is that it may be difficult for someone with a hearse or someone from the funeral industry to come there that may not necessarily need to be there. Hospitals are obviously designed for good patient access and for visitors, but in terms of this as seen as another non-medical type treatment or issue perhaps, we need to look at the actual confines that mortuaries and morgues have in hospitals.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So hospitals are difficult to get to for hearses, is that what you are saying?

Dr STAFF: No, what I am saying is that obviously morgues are designed for appropriate transferring and removal of bodies. What it would be a little bit more difficult for would be for somewhere where there are extensive viewing processes and the other things that perhaps could be catered for at a funeral parlour.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So the viewing access might be a problem?

Dr STAFF: That certainly could be the case. As I said, I have not actually gone and looked at all the morgues but the morgues are not designed specifically for all the functions that a funeral parlour and mortuary at a funeral directors is designed for.

CHAIR: Can I just be clear? Are you talking about what we might call physical difficulties or are you talking more about perhaps the effect on people's emotions of hearses coming and going? In other words—Mr West said the word "morale"—is it more a problem of one's view as to whether a hospital should be quite openly having people come and go to view dead bodies? Is that a practical difficulty? Or is it more a concern about people's feelings?

Dr STAFF: I would envisage that we would need to consider the array of that. I would prefer someone who actually runs a hospital care facility to be able to give some more expert input into that sort of issue.

CHAIR: In relation to that, what is the procedure if, say, someone dies in a hospital and there is a decision that an autopsy is required? Does the hospital usually have a contract with a funeral director if it is necessary for the autopsy to be carried out somewhere else? Is there in fact a double step involved? Can you just explain what regulation deals with that sort of situation?

Dr STAFF: Certainly I think it changes from facility to facility depending upon the size. They have different arrangements in the teaching tertiary hospitals in Sydney to rural hospitals but I am not precisely sure of the regulations. Neil, do you know?

Mr SHAW: No, I cannot add anything really further to that. Issues under the Coroner are handled through the Coroner and we have little involvement in that from our side of things.

CHAIR: What about if it is an autopsy not ordered by the Coroner but where, for instance, the relatives might agree to an autopsy that is sought by the doctors concerned?

Mr SHAW: I do not know.

Professor SAINSBURY: Could you just repeat the question? I sort of lost what the question was.

CHAIR: I know of a case, for instance—but this actually happened outside New South Wales—where someone died in a hospital following a procedure and there was a request from the doctors concerned that an autopsy be performed. That meant that the body needed to be moved to a major hospital facility for the autopsy and the arrangement was—and I gather it was a contract—that a funeral director handled those arrangements. So that the funeral director actually went to the hospital, took the body to the place where the autopsy was performed and then collected the body and then carried out the funeral. So getting back to the issues that Dr Chesterfield-Evans was raising, this case that I am aware of happened in another State and I just wondered what sorts of rules applied in New South Wales in circumstances like that?

Professor SAINSBURY: I am clearer now.

Dr BROWN: I think that is actually becoming a most uncommon situation. The number of post-mortems that are being done for non-Coroner cases is dropping considerably and most of them are being done at the request of the Coroner or under specific legislation for the Coroner. Most post-mortems are being done otherwise at a limited number of facilities where there are forensic pathologists available and not many seem to get transferred in that situation. But it could well be that the best equipped facility to move the body from one small rural hospital, for example, to somewhere more central would be the local funeral director.

CHAIR: And that would be something you would expect to be organised by the local hospital?

Dr BROWN: Yes.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: If a funeral director wished to take the body directly from the hospital mortuary to the grave site, would they have access, and if so is there any restriction on that?

Dr BROWN: Is that access to the—

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: To the body from the hospital mortuary?

Dr STAFF: No, they would not have restricted access to the body. The fact still remains though that to inter a body they need to place the body into a coffin.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So they could not do that in a hospital mortuary?

Dr STAFF: Not unless the hospital mortuary was up to standard.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Up to section whatever it is?

Dr STAFF: Yes.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: With the cardboard coffins, what you said about body bags, there was no problem if the body was in the body bag, with the properties of the coffin, with regard to how waterproof it is? I think you used a phrase about body fluids sloshing around, did you not?

Dr STAFF: Yes, I referred to exudates.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So there is not a problem of exudates in the design of coffins at all in a sense that the bodies should all be in body bags anyway?

Dr STAFF: The body is removed from a body bag then placed into the coffin. Obviously, we like to do that only once so there is no further handling and the potential of exposing other people to exudates is far less. The body is in the body bag prior to transfer to the mortuary, and the preparation should reduce the risk of there being any exudates significantly going out and causing any health issues provided the body is put directly into the coffin only once and then taken to the crematorium or grave site.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So the body is put in the coffin not in the body bag?

Dr STAFF: That is correct.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So if there were exudate problems the coffin has to be exudate proof, to put it in lay terms?

Dr STAFF: No, part of the body preparation should reduce that being an issue.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Yes, but there is a theoretical risk that the exudates could come out of the body and go into the coffin and then leak out of the coffin if the coffin were not exudate proof?

Dr STAFF: My understanding is that that would be most unlikely.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Yes, but we are talking about the design of the cardboard coffins being unsuitable. You may know that cardboard coffins were cheap and, due to some administrative machinations, shall we say, cardboard coffins of the design available were rendered unable to be used in New South Wales. The health department was an observer at the Funeral Industry Council during that process, I understand. If exudates were a reason for the end of cardboard coffins the health department would have been able to comment on the situation.

Dr STAFF: The health department does not prescribe any standards for coffins; it is the body bag it prescribes standards for. Most risk is likely to be prior to when the body is prepared.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: But if one were changing from a wooden coffin to an innovative design of cardboard coffins, with the danger that it might be less robust, presumably the health department would have been able to take an active part in that process and have had a worthwhile opinion, would it not?

Dr STAFF: If we are provided with the details of exactly what the design were we could give you a perspective from purely the public health point of view and things such as exudates and body fluids and whether they would be likely to cause a problem. As I said, we do not look at standards of coffins as such and we do not have any regulation or anything over that.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You were there on that committee at the time this was being discussed. Did the health department have an input and did it say anything about this? This is not a hypothetical; this is a piece of history, as I understand. Is that not the case?

Professor SAINSBURY: With respect, we have already stated that, firstly, we were observers on the council meeting; secondly, that the person who attends the meeting is not here today. We were not aware that we were going to be asked these questions. I do not think we are in a position to provide an answer on what was said at the meetings and comments our representative may or may not have made. If you would like us to look at the minutes of the meetings and discover that—

CHAIR: Arthur, would you like the question to be taken on notice?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Yes. The department had an observer on the council and everything you are answering you are answering in hypothetical terms.

CHAIR: We will ask NSW Health to take the questions on notice about their observer. We will also take these issues up with WorkCover later this morning, given that many of the issues in relation to cardboard coffins related to occupational health and safety and therefore are largely in the province of WorkCover.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Some of the occupational health and safety issues related to health and hygiene, which would again relate to the exudates.

CHAIR: The staff will look at the transcript and put specific questions to you on notice.

Professor SAINSBURY: I appreciate that but may I clarify that broadly we are being asked: Did the Department of Health contribute to the discussions at the Funeral Industry Council meeting or meetings where the use of cardboard coffins was discussed? If so, what did we contribute? That is broadly the intent of the question, yes?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Yes, and while you are there I would like you to answer questions about the changes in the regulations on hospital mortuaries and access.

Professor SAINSBURY: That is what you were referring to earlier, a separate issue? We can look at that as well, certainly. May I also ask, just for clarification—I am anxious that we provide the information you want—is Dr Chesterfield-Evans primarily concerned about exudates and dangers before the body is buried or cremated or after, or both?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I do not think that the exudates are a huge problem after?

Professor SAINSBURY: That is what I was asking to just clarify with you. So it is before the burial?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I am not aware of any problems of exudates in groundwater. One might perhaps ask about embalming fluids.

Professor SAINSBURY: That is why I am asking as to what information you would like.

CHAIR: Both, but predominantly before.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: If there are any problems with embalming I would certainly like to know about that. It does bother me that huge amounts of the preserving material go into the groundwater. Obviously, if anyone were trying to reuse water that would be a problem, and it does bother me the trend towards embalming with regard to groundwater. It might be interesting to have your opinion on that.

CHAIR: Some of that may come into our questions about the role of the environmental health officers. The staff will clarify the questions later with the help of the transcript.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: In some areas, particularly around Cessnock, there have been concerns about smell and the materials produced from a crematorium, with some controversy about the temperature of the crematorium and the nature of the gases and materials given off, not to mention the aesthetics of the smell of it all. Is there a position on the temperature that bodies should be cremated at and any data on the difference in the fumes depending on the temperature? Is it a health concern? I note that there were regulations about the distance that houses had to be from chimneystacks and so on. Was that aesthetic or was their real concern about health? If so, what?

Dr STAFF: Those are primarily environmental issues. The impact of the environment upon human health is obviously something that the health department is very interested in. My understanding is that crematoria are not licensed premises under State environmental legislation and managed under local government. I think we need to look just from generic principles. There is a small amount of material that is being processed. There are potentials for contaminants or pollutants from the combustion process. There are voluntary restrictions on what can be placed inside a coffin. If there are individual problems and people have health concerns and issues around that we would certainly look into them but I have not been made aware of anything that would require our investigating at this time.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: What I am asking is whether you have guidelines, standards and so on, not whether you would investigate if someone asked you. What guidelines and standards do you have for temperatures? What are the key contaminants and what is the difference in those contaminants depending on the temperature, and are they hazardous to health?

Dr STAFF: We do not have any regulatory role over crematoria. We do not prescribe temperatures for burning. As I said, they are regulated by local government. I cannot answer the question about—

CHAIR: Does local government have any rules or guidelines? If not, whom would they turn to if, for instance, they had an application for the establishment of a crematorium? Would they turn to New South Wales Health for guidance or do they have access to information themselves?

Dr STAFF: They can certainly ask NSW Health about the health implications. To answer that question we in turn would need to ask the environment department or someone like that to give us an idea of what the chemicals are or what is likely to come out in the emissions.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Are you not the head of the environmental health department? Am I missing something here?

Dr STAFF: Yes, I, but if you could tell me what chemicals people are likely to be exposed to I could certainly give you an estimate of the risk involved and the appropriate action that needs to be taken. However, I need to know what chemicals people are going to be exposed to. That part of the human-environment interface essentially falls under environment legislation and the expertise of the Department of Environment and Conservation.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So it is not your department, is that the answer?

Dr STAFF: The answer is that we would be more than happy to interpret things if you could give me what emissions people are likely to be exposed to.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: The ones from burning bodies, which must be reasonably constant in their composition, surely—or must vary with the temperature at which the body is burnt.

Dr STAFF: My understanding is that the normal operations of a crematorium are unlikely to produce any chemicals of concern at high levels. Certainly, there can be some issues around small amounts of mercury and lead and if there is anything else that is put in the coffins that could potentially cause concerns. I am not aware of the temperature needed for the efficiency of the cremation process. DEC has not decided to regulate crematoria as an industry so I would infer from that that the level of risk is not seen to be particularly high by the department.

The Hon. KAYEE GRIFFIN: If a crematorium were being established presumably there would have to be development consent from local government in relation to the new building and so on. How does that fit in with the mortuary process, with the changes in local government?

Mr SHAW: It is a separate process under the EP and A Act. It is considered by Planning as well as council. Under the scope of that, if council wishes to consult with NSW Health then it is quite free to do so and we would quite welcome it.

The Hon. KAYEE GRIFFIN: Presumably if a new crematorium was being constructed there would have to be development application processes that the relevant council would go through as well as issues about the EP and A Act to start off with from a council point of view. Then in all probability the council would consult with the Department of Health at some stage during that process?

Mr SHAW: Yes, that is correct, and it should also consult with the Department of Environment and Conservation.

CHAIR: We can probably take that up with local government. We are also hearing from the Cemeteries and Crematoria Association. We have a couple of questions with regard to the role of environmental health officers. Do you have anything specific to say about our questions about whatever data may come out of the audit processes that the environmental health officers have and how the system works in terms of reference to funeral directors if problems emerge?

Dr STAFF: Environmental health officers are located in both local government and area health services. There are more in local government than in the area health services. They administer the entirety of the Public Health Act—perhaps not the entirety but a large portion of it. The funeral industry is one part of the regulations that they look into. They look into smoking compliance, Legionella compliance, swimming pool compliance, et cetera, et cetera.

The general approach has been that in some issues, for example, things such as legionella, environmental health officers [EHOs] need to take a more proactive stance in looking at a cooling tower, inspecting it and ensuring that it is appropriately done simply because it is not obvious to everyone else who might be walking past the cooling tower whether or not it is functioning appropriately. It is not easy for that to be a complaints-based regulatory enforcement regime. That perhaps contrasts to the approach that we have taken with the funeral industry, which is more a complaints-based process.

In relation to what they do and how they can help with the funeral industry, we have produced some funeral industry guidelines. They have been produced to help the industry understand and implement our regulations. In the back of the guidelines—I think you have copy—is an audit form that can be used both as a self-assessment tool and as an inspection tool as such. It has been in existence for only a fairly short period. It is not designed to produce a centralised database of inspections; it is something that has been produced for industry to support it with some self-

monitoring. As I said, it can be used if we needed to do an inspection; whether that is done by the council EHO, or by an area health service EHO. There is no centralised database of the contents or the outcomes of that inspection form.

CHAIR: We are not sure whether we have a copy of those guidelines. We will ask you to give us one if we do not.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: What is the origin of those guidelines? Are they from the department?

Mr SHAW: Yes, that is correct.

Dr STAFF: I am informed that it is annexure 4 of our submission. But we are happy to give you some hard copies if you require them.

The Hon. ROBYN PARKER: We tend to think about funerals, cremations and burials in the traditional sense. Under the Public Health Act are there considerations for different cultural or religious practices?

Dr STAFF: Certainly. As I said, we produced these guidelines. They include other diverse groups so that they can have some input in interpreting this. There are provisions in the Public Health Act and the regulations that allow the director-general to make provisions for those cultural practices, which may alter. Neil has more experience with that so he might be able to give you an example.

Mr SHAW: For Islamic funerals they have a reusable coffin so that they can take the body to the grave and move the body from the coffin and place the body directly in the grave in contact with the soil, as is their custom. We have tried to accommodate those sorts of things.

The Hon. ROBYN PARKER: When you are reviewing the Act do you think there will be any changes in relation to these practices?

Mr SHAW: We have not had a great demand or anybody come to us in relation to these sorts of changes. But we would be only too happy to consider those sorts of issues.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: What is the department's view of the Funeral Industry Council?

Professor SAINSBURY: We support the council's formation and obviously its activities. It is an issue for the members of the council to determine, not for us. It is not a requirement by the health department that a council exist, but obviously it would seem a commonsense idea to have a council of members of the industry. As we said previously, we are happy to assist with information and be an observer on the council. We have no objection to it whatsoever. We are very happy with it.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Do you believe that it should have a regulatory function?

Professor SAINSBURY: A regulatory function in what regard—not for public health?

CHAIR: It is our question No. 10. If a new regulatory regime were to be implemented we have asked whether it should be the Government or perhaps something like the Funeral Industry Council.

Professor SAINSBURY: I think I would have to go to our starting point that at present we do not see any public health need for that. It seems that we as a group or as a department have been focusing very much on the evidence of any failures, in a public health regard, as far as the disposal of bodies is concerned. We are not aware that there is any evidence to indicate that. That is what we keep defaulting to. So I do not think I have a comment on whether or not the Funeral Industry Council should have a regulatory role.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So in general your position is that there is not a public health risk from current practices within the funeral industry?

Professor SAINSBURY: I am not saying that there is not a risk; there is a risk of anything. We are saying that, based on the evidence, there is no evidence that dangers are being posed as a result of their own practices.

CHAIR: The only thing that we have not touched on specifically is our question No. 9—your comment that a licensing system could have economic consequences. Would you like to expand on that comment in your submission?

Professor SAINSBURY: I do not think there is much to add. It is a fairly commonsense point of view. It has no particular significance coming from us. If any regulatory system costs money someone has to pay for it. It will probably get passed downstream to the consumer. That was simply the gist of our comment; nothing beyond that commonsense observation.

CHAIR: We thank you for coming and for answering a lot of different questions, including ones that were a bit left field. You will get the transcript and we will clarify those things that you agreed to take on notice. Dr Staff, I am not sure whether you have the figures relating to complaints that you referred to. If you want to table that now we will move a motion to accept that document, otherwise you could roll it into the answers you provide on notice.

Dr STAFF: I think it might be more appropriate if we rolled it into the answers, as it is not really in a legible form for members.

CHAIR: We will add that to the questions on notice. Thank you very much.

(The witnesses withdrew)

JOHN STUART WATSON, General Manager, Occupational Health and Safety Division, WorkCover, New South Wales, 92-100 Donnison Street, Gosford, sworn and examined:

CHAIR: Do you wish to make an opening statement or are you happy for us to ask questions?

Mr WATSON: I will make a general opening statement. I thank the Committee for the opportunity of appearing today to speak on behalf of WorkCover New South Wales. In doing so, hopefully we can achieve safer workplaces in the funeral industry. WorkCover is responsible for the administration of occupational health and safety legislation, workers compensation legislation and injury management matters in New South Wales. The Occupational Health and Safety Act 2000 and the Occupational Health and Safety Regulation 2001 essentially are a work safety regime that aims to protect workers from risk in their workplaces.

The legislation adopts a performance-based approach that allows industry the greatest possible flexibility to achieve safe working environments whilst also prescribing specific control measures for high-risk areas and for fundamental safety requirements. The legislation is currently under review. A discussion paper was released on 16 June for consideration by members of the general public and those concerned with occupational health and safety in New South Wales. The closing date for submissions is 19 August 2005. WorkCover's objective is to work in partnership with industry to prevent work-related injury and disease and to assist workplaces to become healthier and safer places for their employees.

WorkCover assists industry to comply with its obligations through a balanced approach of information, assistance, advice and enforcement. WorkCover experts in technical and scientific fields are able to provide high quality information and practical advice. Our inspectorate also performs an important role in verifying compliance levels by visiting workplaces, performing inspections and monitoring hazardous activities. WorkCover has had some involvement with the funeral industry. We have a co-operative relationship with that industry and we provide advice and assistance to them. We have regularly attended meetings of the New South Wales Funeral Industry Council to provide assistance and guidance on the legislative requirements that are appropriate for that industry.

In 2003, through the WorkCover Assist Program, the Funeral Directors Association of New South Wales Ltd received \$100,000 to develop a practical risk management program to assist members with the new occupational health and safety risk management requirements. TestSafe Australia, WorkCover's safety testing and research facility, has undertaken a series of tests on the performance of different coffins, including cardboard coffins, and the various devices for carrying coffins, such as plastic and other type handles. WorkCover has also provided advice through industry specific presentations such as to the Cemeteries and Crematoria Association of New South Wales and through our business assistance unit.

We are also delivering more general seminars, demonstrations and workshops throughout the State. Overall, the results have been positive. The incidence of workplace injury and occupational disease in the funeral industry has fallen over recent years from 0.82 per \$1 million in wages in 1998-99, to 0.48 in 2002-03. The declining incidence rates are encouraging and reflect the efforts of employers, workers and the Government to improve occupational health and safety in the New South Wales funeral industry. Despite significant improvements, still more needs to be done. In partnership with industry, WorkCover aims to continue the process of achieving sustainable improvements to workplace health and safety.

CHAIR: I did not notice when you came into the room, but in talking to NSW Health WorkCover's name came up quite a bit. I wondered whether you were here for some of those questions.

Mr WATSON: I was here for the latter part of their presentation.

CHAIR: The issue of cardboard coffins, for example, came up.

Mr WATSON: I noted that.

CHAIR: That would help a bit if we deal with those issues. There were quite a number of references to occupational health and safety legislation. The Funeral Directors Association suggested in its submission that some funeral operators have no workers compensation insurance and that they do not conform to occupational health and safety legislation. It would be interesting to know what percentage of industry finds out what are the obligations and whether or not they are complied with.

Mr WATSON: In respect of workers compensation legislation, where there is an employer-employee relationship in New South Wales there is required to be a policy covering workers compensation for workers at that place of work. This can be done through a number of avenues, but in this particular industry it is mostly done through the taking of an insurance policy with what has been until very recently a licensed workers compensation insurer that is licensed by WorkCover. Every employer in New South Wales is required to have that coverage. In respect of the compliance with occupational health and safety, the inspectorate undertakes a range of inspections, both complaint-based inspections and inspections based on particular incidents that have occurred. On each of those occasions the inspectors undertake a check of the workers compensation coverage at that place of work to ensure that it is adequate and appropriate to the industry coverage and then also undertake an inspection to the subject of the matter that they have attended the workplace.

CHAIR: Do you have any information or estimates of the extent of the problem of unscrupulous or fly-by-night operators who do not have workers compensation cover?

Mr WATSON: I do not have any estimates of that. However, generally in the workers compensation scheme in New South Wales we believe that non-insurance is extremely limited. Indeed, we take it particularly seriously to the extent that we are in the process of implementing a stop-work order from inspectors. Where they find that a particular insurer has no insurance we will have the capacity now to stop all work at that workplace until such time as insurance details are furnished.

CHAIR: Would it be fair to say that you think the number of such operators would be very small?

Mr WATSON: I think that is correct.

CHAIR: We had a few questions arising from the table you included in your submission. What are the occupational diseases that fall within the funeral industry statistics that you have given us?

Mr WATSON: I will have to take that question on notice. I do not have that information with me.

CHAIR: If you would do that, that is fine. The question about what the table indicates follows on from that to some extent, so you could add that also. Can you give us some indication of how the reduction in injuries and so on compares with other industries? For instance, you commented about the drop from 0.82 to 0.48. Is that occurring across the whole ambit of WorkCover or is this a particularly marked drop in one particular industry?

Mr WATSON: The general trend in New South Wales is a downward trend in both the level of fatality and level of injury and disease in New South Wales. That is a trend line that has been continuing for some years and even in the most recent review of statistical information, which is not yet publicly released, I note that that trend is continuing. So generally in industry there is a downward trend and the funeral industry is in line with a general trend line—it is not to any great extent greater than or less than the trend line.

CHAIR: We note from the figures you have given us that occupational disease is relatively low and fairly stable but there has been a significant drop in workplace injuries.

Mr WATSON: Yes, that is correct.

CHAIR: Is that because of specific programs within the industry or the broader education campaign and so on?

Mr WATSON: I think it is a reflection of the increased awareness of occupational health and safety as an issue that needs to be addressed generally within workplaces. The new framework of legislation which was introduced initially in 1983, with the introduction of the Occupational Health and Safety Act in those years, and following that the revamped legislation—the 2000 Act and the 2001 regulation—has provided a framework where generally employees in New South Wales now understand that they need to address occupational health and safety matters within their workplaces. The general information in the community is greater than it would have been some years beforehand. WorkCover has undertaken a range of initiatives to ensure that there is a general understanding about the application of risk management practices to workplaces. So we believe the general understanding and capacity of industry to implement safe places of work has somewhat grown since the implementation of the 2000 Act.

The Hon. ROBYN PARKER: In the WorkCover submission you say that workers compensation funeral benefits were increased recently to take account of the increases in funeral and related expenses. How was that calculated? What were the increases in funeral expenses and how did WorkCover calculate the increases in the benefit? What data did you use?

Mr WATSON: As we examined the issue of the quantum of the funeral benefits in the context of other inquiries by the Parliament into workplace deaths it became clear to WorkCover that the benefit that was being paid was substantially below the costs that would have been incurred to provide for the funeral of a deceased worker. So WorkCover reviewed that and increased it in November 2004 to \$9,000. In looking at that particular matter we made an estimate by surveying the industry and the costs that are related to the conduct of a funeral and we established that the standard cost of a funeral was around the \$9,000 figure—it varied from some \$6,500 to \$18,000 depending on the nature of the funeral, clearly, but \$9,000 seemed to be an appropriate level at which a benefit could be paid and could provide for a suitable funeral.

The Hon. ROBYN PARKER: Did you say what the benefit was before? If you did, I did not catch it.

Mr WATSON: I did not, but I think—I may need to verify this for you—it was about \$5,000.

The Hon. ROBYN PARKER: We have had some evidence presented to us that family members have been restricted from being pallbearers with occupational health and safety legislation given as the reason. Is that the case?

Mr WATSON: There is no restriction in respect of this within the regulations or the legislation. Employers are required to provide a safe place of work for their employees and those at their place of work. Appropriate instruction could be given to family members to allow them to be involved in pallbearing activities and guidance about how that should be done. WorkCover has never prohibited family members from being involved in pallbearing activities.

CHAIR: Does WorkCover get involved in the detail of whether a coffin is lifted to shoulder height, for instance, hip height or is put on a trolley? What degree of detail do you go into?

Mr WATSON: Traditionally WorkCover would not get involved in every detail of every matter at a workplace but when we are asked for guidance and assistance to deal with particular matters we will provide that. One should note that the handling of a coffin is a manual-handling issue and manual handling counts for a large number of claims within the workers compensation system generally. Injuries to backs, strains, sprains and those sorts of things are still a substantial part of workers compensation payments in New South Wales. One could say that what is required of an employer in this situation is to manage that risk and to put in place appropriate controls for that risk. So to the extent that WorkCover would be involved, we would be advising that an employer needs to work at maybe modifying systems of work to minimise the risk of injury. It may be that ceasing to carry the coffin at shoulder height may be an appropriate response to managing that risk. It really is

about assessing what levels of control are available and what is an appropriate control for the circumstances.

CHAIR: If manual-handling procedures ensured a much lower risk then presumably they would also make it more reasonable for family members to be pallbearers.

Mr WATSON: Indeed, that could be the case.

The Hon. ROBYN PARKER: I was wondering about monumental masons. Does WorkCover cover that group? What sorts of issues are there in relation to monumental masons with regard to insurance?

Mr WATSON: In respect of insurance?

The Hon. ROBYN PARKER: Yes.

Mr WATSON: If it is workers compensation insurance there are no issues really—that is, they are required to have workers compensation insurance and the system provides for them. There are specific occupational issues related to monumental masons or masonry generally and they are to do with silicosis and the like and the control of dust as well as the manual-handling issues that we have just spoken about.

The Hon. ROBYN PARKER: What is WorkCover's role in dealing with that?

Mr WATSON: Again, WorkCover is responsible for legislation to do with occupational health and safety in New South Wales. Therefore, every workplace falls within our jurisdiction. So their activities fall under the Occupational Health and Safety Act and regulations, and specific regulations to do with the control of dust, construction and so on would apply to their activities, depending on what stage they are at. But that certainly would apply to their activities.

The Hon. IAN WEST: Is there any proactive auditing of the industry or is advice merely given through the business assistance unit to those who might ask for it?

Mr WATSON: Like all industries, we look at the sorts of incident rates of injuries that are occurring and the sorts of spikes we might have. We look particularly for hot spots. Where that occurs in a particular industry we develop a preventative program for that industry that has three legs to it: one is the provision of information and advice, the next is auditing of the activity or the industry to see what the levels of compliance are, and our third aspect is enforcement. In respect of the funeral industry, we have not undertaken a program like that because examination of the information that is available has not led us to consider it to be a high priority compared to the other issues that we have to deal with in other industries.

The Hon. IAN WEST: So in regard to the last two planks you talked about—auditing and enforcement—you say that you have done an audit of the industry. Can we get access to that?

Mr WATSON: It is not an audit of the industry. We do an assessment of the workers compensation data to establish the levels of claims, the costs of claims and so on within that particular sector. One arm we have not dealt with is dealing with complaints and so on and activities in respect of complaints received from anybody. We receive complaints from all sources and we investigate any complaint made to us, whether it is anonymous or not. We carry out a full investigation of any complaint. We have done a deal of that activity and I have some figures before me that I can give you.

For example, WorkCover has issued some 13 improvement notices since 2001, which is quite a low level—just to give you an indication. An improvement notice is a piece of information from an inspector to deal with a particular issue within a workplace. For example, it may relate to dealing with the issue of manual handling, which we spoke about earlier, and doing a manual-handling risk assessment to deal with the management of manual-handling risks within that workplace. Over the same period, there were 18 complaints. Since 2001 there have been 18 complaints relating to the funeral industry which WorkCover has investigated. Again, that is a very low level compared to other industries.

The Hon. IAN WEST: How are you assessing that it is a low level? Do you have a list of how many workplaces there are in the industry?

Mr WATSON: Yes, that is correct. Just to give you an indication, we would receive some 39,000 complaints annually. We have received 18 complaints since 2001 and that gives you an indication of the level of complaint compared to other industries.

The Hon. IAN WEST: In regard to your planning of auditing the industry, you have had discussions with local government about their role?

Mr WATSON: No, we have not. No, we have not had. Well, they are involved in an interagency committee to the extent of how we actually deal with industries, as we are with other sectors we get involved with. We get involved with other agents, other government agencies, to ensure we have a fairly unified approach to how we deliver our services. Essentially, to us, it is not a very high risk industry compared to other matters that we are dealing with, and that is the reality. It is not a high priority industry. We are not dealing with the high level issues that we need to deal with in other sectors: for example, contact with electrical conductors or falls from heights and those sorts of issues that we are dealing with in other sectors.

CHAIR: Arthur, will you take up the cardboard coffin issue?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I will. Are there any occupational diseases from lists A or B of the Department of Health, or do you wish to take that on notice?

Mr WATSON: I would have to take that on notice.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: WorkCover has had an observer on the Funeral Industry Council?

Mr WATSON: That is correct.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: What role does WorkCover see for that person?

Mr WATSON: To provide assistance, when appropriate. Where the council would like to seek input from WorkCover about a particular issue, we would provide that assistance.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So you see your role otherwise as an observer?

Mr WATSON: Yes, that is correct.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Does WorkCover think the Funeral Industry Council should have a regulatory role?

Mr WATSON: I do not believe that WorkCover has a view on that particular issue.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You are obviously aware of the increased cost of funerals?

Mr WATSON: Yes.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: The Funeral Industry Council considered the issue of cardboard coffins and I gather decided over a long period that they were not acceptable and that huge new standards needed to be written. The cost of coffins went up astronomically from what they had been. Is that correct?

Mr WATSON: I am not sure about the cost of the coffins, no. Cost is not a matter that we have dealt with.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: It was coming before the Funeral Industry Council, however, was it not?

Mr WATSON: I have not attended the Funeral Industry Council in person and therefore I cannot comment on whether it came before the Funeral Industry Council or not.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: But you would be aware that there was a WorkCover representative at the Funeral Industry Council?

Mr WATSON: I am aware that there was a WorkCover representative at the Funeral Industry Council. Whether they were present when that issue of cardboard coffins was discussed or dealt with is another issue. What I am aware of is, however, that WorkCover has a commercial activity, which is known as TestSafe Australia at Londonderry, and TestSafe has done some testing of that coffin—cardboard coffins and others—in respect of lifting devices and the appropriateness and so on of the structure of the coffin to be fit for purpose.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Did the original cardboard coffin not meet that standard, or was it not tested?

Mr WATSON: I do not have that information before me. I can look at that information. Bearing in mind this is a commercial activity that WorkCover undertakes, I would have to get some legal advice about what information we can release in respect of that contract.

CHAIR: Perhaps if you take it on notice.

Mr WATSON: I will take it on notice.

CHAIR: It may be that you have notes in relation to the Funeral Industry Council discussion as well as the more narrowly commercial TestSafe activity.

Mr WATSON: I should make it clear that I am not trying to withhold information from the inquiry, but we just need to be sure in respect of our legal position in respect of providing information.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I suppose my position at least would be that if a government body is represented on a body, then the representative on that body should be able to give us some rundown from the position of that body, what the representative saw or did.

Mr WATSON: The honourable member's position may be correct.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: In relation to the question of the relatives not being able to carry the coffin because the funeral director is concerned about the occupational health and safety issues—presumably, mainly because of the manual handling—you said that WorkCover believe that presumably any reasonably healthy person ought to be able to carry a coffin, if they were properly instructed.

Mr WATSON: I do not think I said that. I said that appropriate instruction and training needs to be given to the people who are involved in that activity. WorkCover does not regulate members of the family. We regulate the employer and employee relationship.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Yes, but a funeral director's interest is clearly not quite the same as the relatives. The relatives may want to carry their deceased friend as a mark of respect or indeed as a cost-saving measure whereas the funeral director might want there to be an employee to put the cost up. Does WorkCover make it easier for relatives to view a video as to how they might do such handling, and thus enable relatives to take part to the maximum extent possible?

Mr WATSON: WorkCover has not provided any videos or information which would assist relatives and has not yet been asked to do so. It is not an area that we would normally be involved with. We believe that it is really a matter for—the person who has control of the workplace is the employer. It is for the employer to make judgments about what is appropriate in the workplace, given

the legislative requirements that are placed upon them, upon the workplace, via the Occupational Health and Safety Act. I guess the concern or the difficulty comes when people presume that members of the family somehow or other may indeed be injured and then there is a liability by the employer or the funeral undertaker. That is an insurance matter. It is not really an occupational health and safety matter. It is really a matter about business risk insurance, not so much an occupational health and safety issue.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: WorkCover would be aware, though, that occupational health and safety is used as a barrier to entry, if you want to put it that way, in various industries, and as barriers to participation in this industry.

Mr WATSON: Occupational health and safety is used in a number of industries as barriers or as a tool to get certain activity undertaken. Can I say that I guess in general our point would be that it is probably not a favourable situation to have members of the family involved in the carrying of the coffin, which indeed may result in their being injured. That is not a favourable situation. If members of the family are to be involved in doing that, then they need to be appropriately trained to do the task which is being asked of them.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: WorkCover would see it as part of their role to educate them, or not really?

Mr WATSON: No, not really. It is not within our realm.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So you would not see educating relatives to take part in burying their relatives as good occupational health and safety and as part of your job?

Mr WATSON: No, it is not an occupation for them so therefore it is not occupational health and safety. They are attending a workplace for the conduct of a funeral which is being conducted by the employer, that is, the undertaker. Our jurisdiction does not extend to that.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You would specifically exclude yourself from participation in that aspect of prevention of potential accidents?

Mr WATSON: Exactly. They are not workplace accidents.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Okay.

Mr WATSON: Honourable member, the line needs to be drawn somewhere. We are funded from the intake of workers compensation premiums and that is all about the relationship between the employer and the employees.

The Hon. ROBYN PARKER: I want to ask some questions about your discussion paper process. I did not quite get that clearly. Did you say that was a discussion paper that people could make submissions to?

Mr WATSON: Yes, that is correct. This is to do with the review of the Occupational Health and Safety Act, which is currently under way. There is a public discussion paper available and it is available from WorkCover's web site and has also been distributed to other places. The discussion paper addresses issues that WorkCover believes and the Government believes could be addressed in respect of improving the occupational health and safety environment in New South Wales and, indeed, improving the Occupational Health and Safety Act particularly, and the mechanisms of how that would work.

The Hon. ROBYN PARKER: It is not specifically for the funeral industry?

Mr WATSON: No, it is not specific to the funeral industry, but I guess it is important to note that the framework of the legislation applies to all workplaces and to all industries. Therefore, it does have an impact on this particular industry.

The Hon. ROBYN PARKER: I assume that that has been widely publicised.

Mr WATSON: It has been, and we have had public seminars around the State to attract submissions.

The Hon. ROBYN PARKER: Have you received submissions so far from the funeral industry?

Mr WATSON: I do not believe we have, no. Submissions close later this month.

The Hon. ROBYN PARKER: On 19 August, is that correct?

Mr WATSON: That is correct, yes.

The Hon. ROBYN PARKER: Will they be public submissions?

Mr WATSON: The process is that the submissions be taken into account as the Government considers the revision of the Occupational Health and Safety Act and in turn that revised Act will be presented to the Parliament for its consideration. My understanding of that time frame is that that will occur later this year.

The Hon. ROBYN PARKER: It would be helpful to this inquiry, I would have thought, if some of those submissions in relation to the funeral industry might be provided.

Mr WATSON: Indeed, if we received any submissions from the funeral industry, that may be a matter that the inquiry may wish to take up with the Minister. It is a Government process. It is not a WorkCover process.

CHAIR: We can take steps to ensure that that occurs. Mr Watson, you said before, I think, that WorkCover did not have a view on who might regulate the industry, if legislation and regulations are changed. Do you have a view on whether the industry should be regulated, for instance through a licensing system?

Mr WATSON: From the point of view of the occupational health and safety legislation, as I indicated, I think, when the Hon. Ian West was asking me questions, our activity and the level of priority it has is really in direct relationship to the proportional level of risk that we see in the industry. That is really the way in which we conduct our activities. From an occupational health and safety aspect, we do not believe there needs to be any further regulation of the industry. That is not to say that there are not other aspects that the inquiry might be considering that need to be taken into account.

CHAIR: It may follow on from that, I guess, to ask whether it would be beneficial to the industry and to the public if one of the numerous government agencies that has a role in relation to the funeral industry was designated the lead agency. Do you have a consciousness that perhaps there are some problems in the current multiagency supervision or role or regulation?

Mr WATSON: I think generally most industries have a multigovernment agency aspect to their operation. From our aspect as a regulator, we work hard to understand clearly where our jurisdiction starts and finishes, hence the discussion with the honourable member in respect of issues to do with members of the family. We have a pretty good understanding of where our jurisdiction starts and finishes, and we have relationships with other agencies who are regulators, like the Environment Protection Authority and so on, so we get a clear understanding of where things are at. Where matters are referred to us inappropriately, we transfer them across to those agencies. There is quite a deal of co-operation between government agencies about our operations, so that is quite successful. Whether a lead agency would improve that or indeed would add to the regulation or just add to the confusion, I am not sure, but I think at the moment things seem to be running fairly smoothly.

CHAIR: I will ask a question that we did not raised with you earlier. When we had New South Wales Health here before, the Hon. Robyn Parker asked a question about whether we need to

review any of the regulation in relation to specific cultural or religious groups. You may have a general comment on that, but I wonder specifically if you have a comment about the Islamic view in relation to removing a body from a coffin for burial. Does that raise any issues in relation to occupational health and safety for WorkCover?

Mr WATSON: There may indeed be some additional risks to which people could be exposed in doing that. If that is done by employees within an environment which is regulated by the Occupational Health and Safety Act, those risks need to be assessed and the level of risk to a person's health needs to be taken into account and then an appropriate control put in place. That may mean some personal protective equipment or that may mean something else that needs to be done, but there is nothing really that says that it is not possible to do that in respect of the occupational health and safety environment. It is just that the risks that may or may not be present there need to be managed and controlled.

CHAIR: Are you suggesting, in effect, that there has not been any need for WorkCover to give specific attention to cultural or religious issues?

Mr WATSON: No, that is correct. It is not an issue which has come to us in respect of the funeral industry.

CHAIR: If it did, do you have procedures in place to go about consulting? How would you handle such an issue?

Mr WATSON: Indeed, we would be encouraging consultation with the industry and religious groups to ensure that the issues that needed to be addressed were addressed appropriately. We often use open consultation processes to deal with particular occupational health and safety issues. Clearly it is always good to get the views of others before one proceeds off to regulate something if that is indeed their response that is required or, indeed, provide advice where that advice would be inappropriate if you have not consulted appropriately.

(The witness withdrew)

(Short Adjournment)

PAMELA JEAN LAING, (known as Pieta) Senior Policy Officer, Department of Lands and

JULIE MARIE KING, Manager, Lands Policy, Department of Lands, Sydney, affirmed and examined:

CHAIR: In what capacity do you appear before the Committee?

Ms LAING: As senior policy officer.

Ms KING: As manager, lands policy.

CHAIR: This morning we received your submission that the members of the Committee have not had a chance to read. During our meeting we carried a resolution to receive it and make it public. You received our prepared questions. Do you want to make an opening statement?

Ms LAING: Firstly, I thank you for the opportunity to address this Committee. As a background, the Department of Lands provides land information such as land ownership, descriptions, surveys, valuations, maps, aerial photographs, geographic names and special information as well as land management functions in relation to the Crown Land Estate, excluding the Western Division, and soil conservation services. The department also includes the Office of Rural Affairs, providing support to the Regional Communities' Consultative Council and the Emergency Information Co-ordination Unit. The department has traditionally had a role as administrator of Crown land.

The department's role is changing as community demands for public land use are changing and its role is becoming more pro-active as an asset manager. Crown land may be allocated for a wide range of purposes, including use for cremation and internment purposes. In the context of providing burial space, the department has historically provided land during the planning process by reserving areas for cemetery and crematoria purposes. These cemetery reserves are, in turn, managed by community trusts, local council or administrators appointed by the Minister for Lands. Those reserve managers assume the role as day-to-day managers of the cemetery space. It is at this level that cemetery managers interact directly with the funeral industry. A cemetery's Interdepartmental Committee has considered options available to ensure sustainable burial practices in the medium to longer term.

The cemetery's Interdepartmental Committee has the following representation. The chair is the Director-General of the Department of Lands, Warwick Watkins; John Schmidt from the Cabinet Office; John Scott from Premier's Department; Lachlan Macdonald from Treasury; Robert Humphreys from the Department of Environment and Conservation; Peter Hamilton from the former Department of Infrastructure, Planning and Natural Resources; Neil Shaw from the Health Department; and Henry Musidlak from local government.

The report of the Cemetery's Interdepartmental Committee, together with a draft stakeholder discussion paper was submitted to Cabinet in April 2005. Cabinet approved the distribution of the stakeholder discussion paper to the funeral industry for targeted consultation on the options for increasing burial space raised in the discussion paper. The comments of the funeral industry are currently being collated. It is expected that a further report on the matter will be submitted to Cabinet for consideration of wider consultation and a communication strategy.

The Hon. ROBYN PARKER: What is the view of the department on the availability and affordability of burial spaces?

Ms LAING: The views of the department are part of the Interdepartmental Committee report that was submitted to Cabinet. To summarise, we would say that our role is to provide Crown land for cemeteries and to administer and use that land as the community and government see fit, but there is no doubt that Crown land in general is less and less available. However, with respect to the availability of land for cemeteries, cemeteries are both Crown and private land. We can only talk about Crown land available for cemeteries and, in general, there is sufficient land until at least the next 50 years. The problem is in the distribution of that land in specific locations and for specific groups there are shortages.

The Hon. ROBYN PARKER: What are the options to increase the supply of land?

Ms LAING: Obviously there are a number of options but the best option from our point of view would be to use the land that we have more sustainably. There are a number of ways that that could be done and those ways are outlined in the Green Burial Space in the Sydney Greater Metropolitan Area Stakeholder discussion paper. They include things like, renewable tenure of grave sites, use of family plots but, in general, it is making the land that we have more sustainable. If it were also the Government's and the community's view that more land should be made available for cemeteries then that would also be something that we would be ready to undertake. Realistically when we look at the competing uses for land we would be looking to make burial spaces more sustainable.

CHAIR: Would that make them more expensive?

Ms KING: In the metropolitan area that may well because of the rising value of land and the demands upon it so the market does affect the value of the cemetery space as well.

Ms LAING: This is, I suppose, something on which the department would not have a view at this point but I guess personally it may be that they are not more expensive because you are reusing the land so that the actual cost of the land has already been provided. But that would be something that the funeral industry would have a better view on, I would think.

The Hon. ROBYN PARKER: I assume your submission goes into more detail about what "reuse" constitutes?

Ms LAING: Yes. I think one of the issues, as you know, is the funeral industry is very sensitive so what the department is currently doing is looking at using this stakeholder discussion paper to see what the views of the funeral industry are, and if the funeral industry is supportive of change in more sustainable land practices for burial space, then we would then report back to government.

The Hon. ROBYN PARKER: Does that include vertical burials?

Ms LAING: The stakeholder discussion paper does not include vertical burial as one of the options. But I guess from the point of the view of the department we are looking at the administration of the land and the reserve trusts that manage that land for cemetery purposes. The actual way in which people are buried is not something that our department has a particular view on. We have no particular objection to vertical burial.

The Hon. ROBYN PARKER: Would that take up less space?

Ms LAING: As I said, it is not within the gamut of what we are looking at. If it were an option that the funeral industry and, more importantly, the people of New South Wales supported then we would not have an issue with it.

The Hon. KAYEE GRIFFIN: I refer to attachment 1 of your submission that relates to family graves that I have just glimpsed. I assume the four basic principles are the ones you have up for discussion at the moment. The last principle refers to reopening graves. Does part 4 refer to a grave that has already been used that may already be a dual grave?

Ms LAING: Yes.

The Hon. KAYEE GRIFFIN: For example, about 20 years ago my parents were buried in the same grave at Rookwood. Does this proposal relate to the opportunity to reopen such a grave and have one or more burials in that same plot which would save the land process? If that were adopted down the track how does it fit in with Rookwood or any other cemetery given that the crematorium is privately run but is on Crown land? Is all of Rookwood Crown land?

Ms LAING: Yes, it is indeed.

The Hon. KAYEE GRIFFIN: What sort of negotiations would have to happen at Rookwood, for example, to change that process given the number of groups involved?

Ms LAING: Whilst Rookwood is all Crown land it is divided into various trusts reflecting various denominations. It may be the case that not all denominational religions or cultures, even though it is enabled, would take up the option. That is certainly something that we could not enforce, although we would encourage the more economic use of the space available. If there is an exhumation or an opening of the grave already in use, the negotiation involved would include health and occupational health and safety issues. So there is an interplay of departments, which you have already heard from today, to ensure the safety of both the public as well as the workers on site in that situation, and complying with the health regulations relating to the interment of bodies.

Ms LAING: It is my understanding that this practice already can occur through the approval of the Director-General of the Department of Health. It is possible, but I think if this option were to go further in the future we would have to make it much more easy to occur; it would have to be something that was readily available at all cemeteries for all people.

The Hon. KAYEE GRIFFIN: But if that were one of the recommendations that came out of this inquiry and following the green paper, at very large cemeteries, using Rookwood as an example, it would then be up to the separate trust to make the determination whether it went along with that recommendation?

Ms KING: It may depend on religious aspects, but in most cases I would think that trusts are beginning indicators. Communities indicate that they are amenable to various options.

Ms LAING: Looking at the comments from the funeral industry on the green paper, which are in the final stages of being collated, there seems to be funeral industry acceptance of the options canvassed in the discussion paper. Whether or not that acceptance translates to the general community is another thing altogether. No doubt there would be increased legislation to ensure that it was something that was available for everyone.

CHAIR: The other implication in your answer relates to the power and tenure of trust powers—as to whether, for instance, a number of trusts, for no strong cultural or religious reason, could prevent something that the rest of the community thought was a sensible thing to do.

Ms LAING: I do not believe that that is the case. Crown reserve trusts are managed under the Crown Lands Act and they are bound by that legislation.

CHAIR: So if the Parliament, following this consultation, decided to change the legislation, the trusts at Rookwood, for example, would be bound to follow suit?

Ms LAING: Yes.

The Hon. KAYEE GRIFFIN: In your opening statement you said that there was probably enough sustainable land for 50 years, but not necessarily in the right places for the right trusts or groupings?

Ms KING: That is correct.

The Hon. KAYEE GRIFFIN: Which may relate particularly to the Muslim section of Rookwood, for example?

Ms KING: That is correct. Generally speaking, and broadly in relation to the Muslim community, because of the belief of the community in the burial as soon as possible—that is, within a minimum of perhaps a couple of hours to certainly within 12 to 24 hours—the immediacy of the location is important. So burial space near the community is a prime factor, not only in the sense of the process of interment itself but involving the community in the rights surrounding the burial. Therefore the issue that we are addressing is how we can provide information in an area that is already heavily utilised and there is not a lot of public land available in the immediate locality, and hence how

do we service the immediate need of the community in that locality now. We are beginning to address that through another review that is ongoing, which is the management process at Rookwood.

The Hon. KAYEE GRIFFIN: With regard to local government areas in rural and regional New South Wales, are all the cemeteries that come under the control of local government deemed to be Crown land?

Ms KING: No, they would not all be Crown land. I do not have a numeric response to that. But in some cases councils would have used their own community lands for burial purposes. So it would not be Crown land under our jurisdiction. But in many cases, on Crown land, and particularly in rural and regional areas, councils would be the administrators of the Crown land cemeteries.

CHAIR: With regard to regulating the industry, I guess it falls into two parts. The first is concern about the number of different government agencies that are involved at the moment. Do you think it would be desirable for one government agency to take a lead role formally, and if so which one should it be?

Ms LAING: As I mentioned in my opening statement, historically our prime role at the Department of Lands has been to provide the land for cemeteries, and now to administer that legislation and those Crown cemetery trusts. Unlike, for example, Victoria, where they are all public cemeteries, in New South Wales we have a lot of private burial grounds. So whilst the department does not have a particular view on whether there should be one lead agency, our focus would be on the administration of the Crown reserve trusts. So there may be a conflict of interest if we were to be the lead agency because we would also be managing part of that industry.

CHAIR: Does the department feel the need for more certainty or more simplicity, in terms of whether the health department or some other body should be the lead agency?

Ms KING: No, I do not believe so. We exist in a multi-agency environment in many areas. I guess I echo the words of the representative from WorkCover, in that where the need exists certainly there is co-operation between the agencies. We have networks that allow us to communicate issues. As we have found, when issues arise where we seek the input of sister agencies such as the interdepartmental committee on burial space, certainly those agencies draw together and participate in that discussion. It is not an easy situation in the current environment to nominate one agency as the lead agency. Because we are more complicated, in comparison with Victoria where all cemeteries are public, it is more difficult for us to nominate one agency and say that is the prime agency for leadership.

CHAIR: Does the department have a view on the industry's proposal to regulate the industry with a licensing system?

Ms KING: Not as such. Although, if the industry itself is proposing regulation for itself, we would respect that insight from the industry.

CHAIR: It would not create any problems?

Ms KING: It is hard to say, without knowing how the regulation would move forward and what the particular issues of concern are. If there are concerns about the nature of the industry and preserving it, we would like to see some innovation in the way things go forward and choice, as a matter of public opportunity, which enables some flexibility for our trusts as well.

CHAIR: Do you think there is a lack of innovation and choice at the moment?

Ms KING: This would be a personal response rather than a departmental response, because our interaction with the funeral industry is at arm's length, so to speak, because our trusts are the front line between the two. But because of discussions with other States and where they have moved to, particularly in relation to land tenure, perhaps we are a little behind in that progress. But that is not necessarily the industry's sole purview; it is a reflection of our community as well.

CHAIR: When you refer to innovation and choice, are you talking more about lands issues rather than about different kinds of funerals and different cost structures of funerals?

Ms KING: It is an interaction of things. I think 10 years ago we started a discussion on the future of burial space, or raised the option of using graves that had not previously been used and had been left unutilised for a period of time. The initial reaction from the community was, "What are you talking about and where is that leading?" So in part the discussion is to involve the community and what is acceptable. In some ways the response is not entirely one that can be led by enabling use of burial space; it must be one where people feel that is an appropriate reaction and they are willing to utilise that service or capability.

CHAIR: If there were to be more regulation or a licensing system, you do not have a view on whether it is done by a body like the Funeral Industry Council or a government agency?

Ms KING: No, not in particular.

Ms LAING: The department certainly does not have a view on that.

The Hon. IAN WEST: Do you have a view as to how it would happen? If there is no facilitating agency, no motivator, how do you propose that any change might happen?

Ms KING: Change is already occurring. It can come from a perspective such as ours, where we see within our own portfolio a need for change and therefore promotional discussion papers. That change might be happening slowly, but it is occurring, and we are quite encouraged by the early responses to ensure that there is a reflection for change. So in that sense we are not being unfeeling towards the community's needs; we are responding to the community's needs and opening the avenue for communication.

Ms LAING: I would also say that when we were looking at an industry council for surveyors we found the public consultation process to be excellent. That is the view we would have if there were to be a Funeral Industry Council; it would be something that there would be a process of public consultation about, to see what the views of others were. It would not be something that we would particularly have a view on ourselves though.

The Hon. IAN WEST: It appears that without that Funeral Industry Council things seem to be happening by osmosis.

Ms KING: It may seem to be by osmosis. I am not familiar with the Funeral Industry Council. We have not been an observer or a member of that council, so we cannot comment on its operation or how well it functions, but it may well be an appropriate body.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Presumably each individual funeral is driven by the family who want the person buried and the market that wants to bury them, and the lack of an administrative body may not be a huge problem.

Ms KING: There is certainly a great deal of variation in the needs of various family communities. In some cases communities or cultural backgrounds have very expensive funeral rites. That is their want. It is a matter of reflecting their respect for the individual deceased and for bringing good fortune to the family itself. So arbitrating a way forward is very difficult in a complex multicultural community. It is possible that the council may well be in a position to deal with that, but, as I mentioned, we have not been a party to that.

CHAIR: With regard to monumental masons, although we have not received a submission as yet I do not think they have any particular problems. Can you tell us whether the department is aware of specific problems they have and how they can be addressed?

Ms KING: We are aware of one aspect. Within the last year we have received a matter from the monumental masons which is by nature an allegation against the operation of one of our trusts. Because it is within the operation of the Crown land and whether the trust is operating appropriately, it is a matter that is currently being investigated. We are awaiting some clarification from the

monumental masons about the breadth of some of the issues raised, to make sure that we are responding comprehensively to the issues raised.

CHAIR: We have been informed, and you could confirm whether it is the same issue, that there are some complaints about the Anglican Trust at Rookwood; that it is insisting, allegedly, on the Monumental Masons working through them and on a commission being payable and that the masons are seeing this as an unfair action by the Anglican Trust.

Ms KING: It is not the nature of the complaint so far. It may well form part of it in that the allegation relates to anticompetitive conduct in a generic way. It could be when the Monumental Masons Association clarifies their issues to it that that is a more specific issue within that broader item, but it has not been raised in those terms with us. I should also say that the Anglican and General Cemetery trusts are an amalgamated sort of administrative body, so it is broadly across the two. And we are still going through that process with them to, as I say, clarify exactly what the issues are so that we can take those matters to the trust administration and management and hear their response back to the issues.

CHAIR: Are Monumental Masons essentially unregulated and outside the system? Do they occupy Crown land, for instance, or do they simply cluster on private land close to cemeteries because that is where they have been for decades?

Ms KING: It is the latter situation.

CHAIR: So that there is no formal relationship between the Department of Lands and Monumental Masons?

Ms KING: No.

CHAIR: Would the same be true of local government and private cemeteries?

Ms KING: I cannot answer that one. There may be situations, for instance, where councils or trusts might come to arrangements with particular Monumental Masons. Certainly the general approach is that we do not monitor trusts to the degree of specifying to them the circumstances in which they might develop relationships with certain other Monumental Masons. The nature of this inquiry is the first of its kind that I am aware of, hence it is the first investigation that we have undertaken in that manner.

CHAIR: Can the Committee be given some more detail, if not now then later, about the allegation of anticompetitive practices more generically that you are referring to?

Ms KING: Certainly I would like to speak to both the parties concerning that.

CHAIR: We can perhaps follow that up with you later or you could take it on notice.

Ms KING: At this stage we have one aspect of the proposition in the sense that if both parties—and I do not particularly anticipate a reason why not—are happy to have the outcomes put to the inquiry, that would certainly be possible.

CHAIR: Does anyone else want to take up some of the issues? We have not dealt with the crematorium issue.

The Hon. ROBYN PARKER: I was just wondering, if a person wanted to establish their own crematorium what steps would they need to go through in order to do that and what legislation would they need to apply to and would the Crown Lands Act apply to that?

Ms LAING: If the land was Crown land they would have to put in a development application, as you would for any other development. If it was Crown land they would need to get the department's consent as owner of the land. But it is apart from that, they would have to meet all the requirements of environmental planning, occupational health and safety—basically all the legislative requirements that you would need to go through almost any development.

CHAIR: We talked about the vertical burial. Do you see issues like that, arising out of the paper, resulting in legislation?

Ms KING: At this point in time the Crown Lands Act itself would not prohibit the ultimate burial right of the nature of vertical interment. However, as we consult with other agencies such as health and occupational health and safety, one of the queries—not that I am aware of as coming through the paper—particularly with vertical interment, is exactly how that might be carried out. The practical issues relating to whether, basically and delicately, an auger hole is created and a body is slipped into it, how that might actually occur; whether there are any savings in relation to burial space and any savings in relation to the cost of the funeral itself because there may be issues relating to the practical aspects of vertical burial that might make it more expensive rather than less expensive.

There are certainly a lot of issues to be investigated with any alternative to the current arrangement in a practical sense which we would investigate with the assistance of our various trust managers—also relating to the fact that in some cases the soil itself might not be terribly amenable; if it is soft soil, crumbling soil, for instance, or rocky soil. So the solutions would be different in different cemetery environments.

CHAIR: As you said, for some 10 years now there have been certain sorts of discussions, and you expressed that personal opinion, I think, of the need for more innovation and choice. We are trying to work out whether there has been some inertia in the industry as a whole and whether or not there needs to be a more mandatory regime that would arise from legislation or whether change—that perhaps a lot of people would agree is desirable—might still be very slow to arrive because perhaps a small number of people can stop change.

Ms KING: Again I find it hard to say that it is actually the industry that is the barrier, so to speak. Many years ago when we started this conversation and the issue with the community and the issue of vertical interment were raised, I think one of the issues that was, for want of a better word, repugnant, was the concept that perhaps a body would slip within its container and that the deceased might be somehow squashed down the bottom of the container. There are many sort of conceptual issues that the community can find a little awkward to deal with, and I guess many of us do. The practicalities again of some of these proposals can be quite awkward and need to be worked through.

The concept involves community change and in some cases where the cultures are becoming the second generation of a culture there is perhaps more openness towards change; taking on the realities of impacts of burial space and what is available, and adaptation to other social norms. It is a rather complex situation for an industry to be singly held as the basis of a bar or impediment to any of those changes.

CHAIR: I do not know that we would be implying that. It is probably as a fairly conservative industry that that probably reflects community conservatism.

Ms LAING: I think from the department's point of view what happens under the ground is not our role, but we would just be supportive of anything which allowed the land to be made more sustainable in its use. Certainly, in terms of some of the comments that have come through the discussion paper with a number of groups in the funeral industry when we were talking about renewable tenure for, say, mausoleums—above the ground—it is the embalming practices that might prevent this happening. So there needs to be a change in thinking, but certainly there seems to be a willingness within the industry to change. My personal belief is that it is the community understanding of these practices which is a big part of the issue.

The Hon. KAYEE GRIFFIN: In what capacity does the Department of Lands work with local government in relation to cemeteries and crematoria? What sort of relationship is between them?

Ms LAING: The Crown reserves are managed by reserve trusts and local government takes on the role of managing cemeteries as reserve trust managers. They also manage, as Julie mentioned, their own private land, freehold land, as cemeteries as well. In the past the legislation has been such that they managed Crown land under the Local Government Act rather than the Crown Lands Act. So we tend to not have a particularly interactive relationship because they have the skills to manage the

cemeteries, but where there is a need we interact with them. We certainly interact with local councils on a whole range of issues with respect to Crown reserves management. So cemeteries are just one part of that.

The Hon. KAYEE GRIFFIN: So presumably a lot of the local government cemeteries that are under the care and control of local government would tend to be operated under the Local Government Act and—apart from local government being the trustee or the particular council—they would not have any other trusts operating within their cemeteries?

Ms LAING: There is certainly a direct management by the council as reserve trust manager.

The Hon. KAYEE GRIFFIN: So it is basically just a direct management by a local government body?

Ms LAING: Yes, that is right. But they manage them in the same way as they manage their freehold cemetery land. I should add that although there have been some changes to the legislation in 1993, they still very much come under the Crown Lands Act.

The Hon. KAYEE GRIFFIN: Given some of the issues that are happening at the moment, if a new cemetery was being set up with a trust, how does the trust get set up and what is the determination of who becomes that trustee body?

Ms LAING: We have just brought in a Crown Lands Legislation Amendment Act 2005, so it is slightly changed from the past. But basically it is pretty much the same as it has always been; so that reserve trust would either be a community trust board or a corporation. It could also be a number of other things, but they are the two that would tend to be used. The community trust board requires three to seven members taken from the community and basically they manage that land as if it is their own title; they are not able to sell the land but have a very high level of jurisdiction over that land. They do manage the land in trust but, as I mentioned previously, they also have to manage that land within all other legislation as well.

The Hon. KAYEE GRIFFIN: It has been mentioned that there are perhaps some issues with trusts. What would it take, for instance, for a cemetery trust to be—dismissed is my word, but I do not know if that is the correct word—for something like that to change—

Ms LAING: To be dismissed?

The Hon. KAYEE GRIFFIN: Yes.

Ms LAING: Over the last quite some time the Department of Lands has had a fairly hands-off role with reserve trusts. This is certainly changing and the department's view now is that we want to be much more proactive in terms of being an asset manager. So we have been looking at the management of reserve trusts in general. We certainly have not been focused in any way, apart from the Rookwood management review, on the management of cemetery trusts, but the new legislation allows the Minister for corporate trusts—which are local councils; they are corporate trusts rather than the community trust boards—if the Minister so desires he can now put a set time on their tenure and also state the performance criteria against which reserve trusts will be managed and can put that information in writing to that trust.

So that we do more positively manage all Crown reserve trusts in the future we are anticipating that we will have things like online reporting for annual reports; this will allow us to be able to more directly see how reserves are managing, how reserve trust managers are coping or managing, and if issues arise then we will be in a much better position to know what those problems are and to assist the trusts to overcome those issues rather than just falling into a hole. Certainly, in the past the department has not been as resourced as we might have liked to have been to assist reserve trust managers, and our hope is that in the future we are in a much better position to assist them.

The Hon. KAYEE GRIFFIN: Has it been the experience of the department in recent years that if an individual has a problem with a trust or a concern about a cemetery that you get the complaints or do they go to local government or individual trusts?

Ms KING: There are a number of answers to that. Sometimes they come directly to us, in which case the Minister—under the current legislation, under the pre-existing legislation—has the ability to investigate or have the department investigate on his behalf. Sometimes the inquiries might go to the Ombudsman or to other areas, in which case they may be referred to us or investigated by those bodies. So there are a number of different options. However, the usual situation would be that the matter would come to us or our Minister and would be referred for investigation either internally or through the employment of an external auditor.

Ms LAING: It might be sounding a little negative about the reserve trust system. It is a very good system that has allowed us to manage Crown land in a very economical way and a very active way, I suppose, over many years. The number of complaints, while often justified, is small in relation to the many hours of voluntary time that reserve trust managers put in. These are voluntary trust boards, unlike local government. Obviously, it has paid staff. Certainly within the community trust boards they put in many hours.

The Hon. KAYEE GRIFFIN: What would you see as the relationship between the three groups: local government, the Department of Lands and the trusts? Is there a relationship between the three groups at the moment or is it possibly a two-way street between the Department of Lands and local government maybe or the Department of Lands and trusts?

Ms KING: Where we interact with local government it is local government as a reserve trust manager. So it is the Department of Lands and the reserve trust manager, whether that is a community trust or local government. We tend not to interact with the local government department on this because it is local government that is the direct manager of Crown land. Does that make much sense?

The Hon. KAYEE GRIFFIN: Yes and no. Who would you deal with if there was an issue with a cemetery that a specific council had within its care and control?

Ms KING: It would be the cemetery manager, the nominated individual.

The Hon. KAYEE GRIFFIN: Rather than someone in that specific council? It would be a direct relationship with the cemetery—

Ms LAING: It might be through the general manager but—

Ms KING: It might depend on the nature of delegation. In some cases it may be such that if it was about the day-to-day management of the site for some issue about that when it would be directly with the manager. If it was about the conduct of the manager, so to speak, as an employee of council then we might take another avenue for that discussion. But generally and primarily it would be with the direct manager of the cemetery.

The Hon. KAYEE GRIFFIN: And what about the other trusts? Would you deal with a specific person with the other trusts?

Ms KING: Generally speaking, it depends on the trusts. Some of our trusts have sufficient funds to employ general managers or management staff, in which case we may interact with them if it is an issue about conduct of day-to-day activities. We would also communicate with the chairperson of the trust as well. So there are the appointed trust members and there may sometimes be an employee. It depends again on the nature of the issue being raised as to whether certain decisions are being made appropriately or whether it is a matter of conduct of day-to-day business.

The Hon. ROBYN PARKER: You mentioned before that you are not concerned with what goes on beneath the ground basically. What happens if there is a change to the land after it has been deemed to be a cemetery, something like mine subsidence or erosion or something like that? How is that managed?

Ms KING: The role in relation to cemeteries when they have ceased to be actively used—one example would be Gore Hill—is that there still remains a trust because it remains Crown land. So it is administered through a community trust. It becomes a rest park in another sense in that it is

actually used for recreation. People use it as a park. However, there is an ongoing issue for many of our trust managers: cemeteries also have the ongoing responsibility of architectural heritage issues, the preservation of the monuments, ensuring public safety so that if there is subsidence related to a grave site that is remedied so that a member of the public is not injured by tripping and falling, that monuments are kept in good repair.

I do not believe it has happened here in Australia but overseas monuments have collapsed on members of the public. So there are a variety of issues in the management of a cemetery space even when it ceases to be used as a cemetery space. In some cases that might mean relocation of bodies. Central railway station and the area around Town Hall railway station were both once cemeteries. However, community use or the demand from the public meant that the nature of the use was changed and certain of the bodies were relocated to new cemetery sites. There is never a single solution. Gore Hill is pretty much in situ as a cemetery but not actively used. Cemeteries might be relocated if there is a more dominant public need.

The Hon. ROBYN PARKER: What if it was currently being used and something like that happened? It has always been used but what if it was—

Ms KING: If it was in active use as a cemetery it would not be an issue because there are health issues relating to the deterioration of bodies—

Ms LAING: The issues would not be issues for the Department of Lands as such; they would be issues for the Department of Health or other issues. If we needed to remediate the land that would be our issue or the issue for our trust managers.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Do you have to deal with any issues of land pollution? I gather from your previous answer that you do not regulate it for pollution but you regulate for fixing it up.

Ms LAING: No, I guess what I am saying is that our trusts manage within other legislation. Trusts manage according to existing legislation and policy regarding the control of pollution. If there was a pollution problem they would have to fix it. It would be within their management responsibility to do so.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: On your lands database can we look at funeral areas and get a list? Is that possible or is that not public information?

Ms LAING: I would be very happy for you to access our database. Unfortunately, the information on reserves within our database is not as exact as I would like it to be. But if there was some particular question that you wanted to get from the database we would be happy to provide you with information. That is one of the reasons we want to go down the path of more electronic reporting from reserve trusts, so that we have better data.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So I could not simply go onto the Web and look up the Department of Lands and put in "funeral plots" or something and press the button and they would all be there?

Ms LAING: No.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Is that your long-term aim, to have that sort of—

Ms LAING: Yes, we want to embrace any new technology that will allow us to have that sort of capacity.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: And will the public have access to such new technology information?

Ms LAING: I could not say.

(The witnesses withdrew)

MARY ROSE THORNE, President, Cemeteries and Crematoria Association of New South Wales, 313 Sussex Street, Sydney and Cemeteries Officer, Penrith City Council, sworn and examined:

IVAN JOHN WEBBER, Member, Cemeteries and Crematoria Association of New South Wales, 313 Sussex Street, Sydney and General Manager, Woronora General Cemetery and Crematorium, affirmed and examined:

CHAIR: Would you like to make an opening statement? Our first question is about the role of the association and its members base, which is pretty broad.

Mrs THORNE: Ivan might like to do that. Ivan is past president of the association.

Mr WEBBER: First, Madam Chair, I thank the Committee for allowing us to come along and give evidence. We believe the information we give you might be helpful. We have had the questions and we might be able to give a little more.

CHAIR: Would you like to start by telling us a bit more about yourselves, whom you represent and so on?

Mrs THORNE: The Cemeteries and Crematoria Association has a member base of about 73 members. We have something like 49 full members, who are basically cemetery operators and crematoria operators. We have affiliate and associate members as well. They comprise monumental masons, suppliers, funeral directors, IT companies that deal with cemetery systems, and things like that.

Mr WEBBER: Mary mentioned that we have affiliate and associate members. It is only the full members who have a right to vote. They are operators of cemeteries and crematoria within New South Wales.

CHAIR: And you have been operating since 1965?

Mrs THORNE: Yes.

CHAIR: The Funeral Industry Council told us that you pulled out of the council late last year. Can you tell us why your association decided on that action?

Mrs THORNE: There were a number of reasons. Basically, it was probably lack of action results. That was one of the main reasons. It seemed to be going on forever and we were paying quite a considerable amount of money to keep it going. It was also to do with the composition of the Funeral Industry Council. As an association we were not sure that everybody, the public, was being adequately represented, particularly in the consumer area. We as an association support the concept of a funeral industry council, but it was a member decision. We went to a general meeting where it was decided that we would withdraw our membership until such time as it got better. We are not saying that we would not belong to it again if the opportunity arose.

CHAIR: Various members would probably want you to be a little more specific. Lack of action on what?

Mr WEBBER: I might be able to explain a little bit. Initially the FIC was there to represent different members of the industry plus consumer groups and government departments. Talking about inaction, initially it was thought that they would have some say in the regulation of the industry and be a conduit to government departments apart from us and our association only trying to approach departments. We thought maybe with a combined effort there would be more push or pull or whatever to get to the Minister with problems that we had. Over the years it just did not happen. As Mary said, we have supported the FIC financially, as other groups have—I am not saying we were doing it on our own—and it got to appoint where we thought nothing was going ahead.

The Hon. ROBYN PARKER: How much financially?

Ms THORNE: Over \$20,000 since its inception, since we started contributing financially, which has been a number of years.

Mr WEBBER: It has been about eight years.

The Hon. ROBYN PARKER: And other groups have been contributing the same amount?

Mr WEBBER: I would imagine so.

Ms THORNE: Not all the representatives. I think only the Australian Funeral Directors Association [AFDA], the Funeral Directors Association [FDA], InvoCare, and I think perhaps the embalmers association.

Mr WEBBER: No, I do not think it was in existence then, just our association.

Ms THORNE: Just the three or four associations.

The Hon. ROBYN PARKER: Where is that money going?

Mr WEBBER: Into administration, preparing submissions to different departments and things like that.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Submissions?

Mr WEBBER: I guess you would call them submissions. In one of the FIC's submissions an issues paper was developed and sent to the Minister, and things like that.

The Hon. ROBYN PARKER: So were you happy with the amount of money that you were contributing? Was it being used wisely?

Mr WEBBER: I think so. It is just that things did not happen. We thought it was time that we stopped contributing, took a step back and had a look to see what was happening.

The Hon. ROBYN PARKER: How did you determine how much each member organisation would contribute financially?

Ms THORNE: By the FIC, I would say.

Mr WEBBER: Generally, do you mean what divisions? I think it was divided equally between the four groups.

CHAIR: That is, the two groups of funeral directors?

Mr WEBBER: The association, InvoCare and the crematoria association.

The Hon. ROBYN PARKER: Does this body have a constitution?

Ms THORNE: No, that was another issue. It was not incorporated and it did not have a constitution.

Mr WEBBER: It was taking time. Developing a constitution was on the agenda for some time. But, as we said, it was not happening.

CHAIR: Are you broadly in agreement with the issues paper, which I think was released in December last year?

Mr WEBBER: Yes. If you look at the minutes you will see that there was support for that issues paper.

CHAIR: So you did not pull out, out of disagreement with the stance being taken?

Mr WEBBER: No.

CHAIR: Rather it was dissatisfaction with the time that had elapsed and so on?

Mr WEBBER: Yes.

CHAIR: Finally, the third point you mentioned was your concern about its composition in relation to consumer representation. Does that mean you felt it needed more consumer representatives?

Ms THORNE: Yes, I think a more balanced representation. The representation was only from the Combined Pensioners and Superannuants Association [CPASA]. I think it was very much slanted in that way. Another consumer representative, Nora Maguire, originally was the CPASA delegate. I think we broadly felt that there were more people out there. It was not just old people who died, or people who were on pensions or on superannuation; it was across the whole community and there were other consumer organisations.

CHAIR: Did you have any groups particularly in mind?

Ms THORNE: No. We did not raise this issue. Part of the general feeling, not of discontent, was that we should do something about how we felt.

The Hon. ROBYN PARKER: So you pulled out. Did you raise those issues?

Ms THORNE: We did. There was correspondence to the FIC. In that correspondence we were not specific but we did refer to the representation on the FIC. So it was broad thing.

The Hon. IAN WEST: Are you saying that at the time you parted company you advised of the reasons why?

Ms THORNE: We had written to the FIC stating how we felt. We itemised the things that we felt were the reasons why we were pulling out.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You mentioned vertical integration of the industry. Do you think that has meant the FIC is dominated by a single group?

Ms THORNE: I could not say that, no.

Mr WEBBER: I would not think so.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Are you aware that InvoCare owns a number of elements of the industry that might combine to produce delegates that held its view? Is that possible? Do you think that has happened?

Ms THORNE: InvoCare had representation, but I believe InvoCare are also members of the AFDA. They are also a member of our organisation. So they had representation through us, through the AFDA and through their own representative.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: And it owns more than one group within those groups, does it not?

Ms THORNE: Yes, but they have only one representative. There are quite a few funeral directors, cemeteries and crematoria. They send one delegate to represent everyone. They would have a delegate to represent their funeral directors, but another delegate to represent their cemeteries and crematoria.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: That would give it quite a lot of delegates, given its ownership in various segments of the industry?

Ms THORNE: But on the FIC they had only one delegate, so far as I know.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Are you aware of the percentage of the industry that it owns?

Mr WEBBER: I am quite aware. I have been in the industry for some time. I could probably give you the whole story from when it was the Cremation Society of New South Wales and how it changed over the last 25 or 26 years. It was bought out by various companies. There were different parts owned by different private companies and then they gradually all came together under the Service Corporation International.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So InvoCare owns a high percentage of the crematoria, is that correct?

Mr WEBBER: In the metropolitan area but not so much outside the metropolitan area.

CHAIR: Can you give us some figures?

Mr WEBBER: Until just recently in the metropolitan area there were seven crematoriums. They own five of the seven. More recently, Macquarie Park cemetery completed a new crematorium, so they have five of the eight crematoriums in the metropolitan area.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So it has a fair bit of market power?

Mr WEBBER: This is a personal opinion. In my opinion, prior to Macquarie Park crematorium being built, the other crematoriums were spread out around the metropolitan area and your business tended to come from your own catchment area. I do not think it would have done its funeral directing arm any good to try to talk someone out of going from, say, Sutherland shire to its crematorium at Rookwood. I am not saying that that did not happen, but if it did happen it would not be very often.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Most people do not want to drive for a couple of hours to get to a service, do they?

Mr WEBBER: No. Even now at Woronora we do 2,300 cremations a year. Our local funeral director within Sutherland shire is our largest customer and InvoCare is our second largest customer.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: And you are one of the groups that is not owned by InvoCare?

Mr WEBBER: That is right. We are a public trust cemetery.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So it would have a fair bit of influence. If you are its second biggest customer, surely it is the biggest customer?

Mr WEBBER: Of the five crematoriums, possibly, yes. But if you go to Macquarie Park and northern suburbs crematoriums, the northern suburbs crematorium is owned by InvoCare and the new crematorium at Macquarie Park is a public trust cemetery. They are probably not even a kilometre apart. It is the first time there has been direct competition between crematoriums in Sydney. Traditionally, they have gathered their business from their own catchment areas, so to speak.

CHAIR: And the same would be true of all or most of the crematoria outside Sydney?

Mr WEBBER: I cannot really say too much on that. If we go to the Newcastle region we find that InvoCare owns two crematoriums. If we go from the Central Coast up to Newcastle we find that they own two crematoriums.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Out of how many?

Mr WEBBER: There is one at Newcastle and one at Toronto, there are two around Ourimbah and I think there is another one around Gosford somewhere. But the two at Toronto and at Beresfield in Newcastle are owned by InvoCare. A funeral director has opened what is termed in the industry as a hot house. It is a generic term, I suppose. He has built a crematorium at Belmont, just out of Newcastle. All he does is cremate. He has his funeral, which he terminates at his parlour or at the church, he takes the body, cremates it and hands the ashes back to the family.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You mean it is a mechanical thing? It does not have a ceremony attached to it?

Mr WEBBER: They do. They will have it at their funeral parlour, but they do not have it at the crematorium, nor do they provide memorialisation, gardens or anything like that.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: It is a hot house in what sense?

Mr WEBBER: It is a generic term.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You finish the service somewhere else?

Mr WEBBER: The crematorium is in a factory area.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: There is no great ceremony associated with the factory?

Mr WEBBER: No, none at all.

CHAIR: So there is no ceremony and no garden?

Mr WEBBER: No. That has happened previously at the church or at the funeral parlour.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: In your submission you do not mention vertical integration when you talk about the reasons for the rise in funeral costs.

Mr WEBBER: I do not think I can really comment on that. I do not have a lot to do with how people charge and how they cost their operations.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Ms Reid is the signatory of your submission?

Mr WEBBER: She is secretary of our association.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You have given a number of reasons for the rise in prices of funerals, none of which relate to vertical integration?

Mr WEBBER: I guess we do not believe that it has had a great impact on the price of funerals.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So you not think the fact that InvoCare owns five of the seven crematoriums in the Sydney metropolitan areas has anything to do with the rise in prices?

Mr WEBBER: I believe that InvoCare has lodged a submission. I am not privy to how it costs its operations. You would need to look at its submission to see how much its prices may have risen. I do not know whether or not they have.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Its submission does not cover how much its prices have risen. We are trying to establish that matter.

Mr WEBBER: I have no doubt that the prices have risen. I know for a fact that prices have risen at our establishment and no doubt at every establishment. Prices have risen everywhere. Prices do not stay static for any service. It is an unfortunate thing but they do go up.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: But the prices of some industries rise faster than others?

Mr WEBBER: Yes, possibly.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: When they rise more quickly and they ask their parliamentary representatives to conduct inquiries, we might ask why they are rising so quickly?

Mr WEBBER: Yes, you might do. Most of them may relate to my own establishment because that is the only thing I am more familiar with.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I was hoping you would give us an industry-wide view?

Mr WEBBER: If you want my opinion, I do not know whether vertical integration has resulted in high prices, not for the actual funeral. If memorialisation and things like that then become a choice, maybe. But I do not think that vertical integration, from an industry point of view, really has had a great deal to do with increases in burial and cremation prices.

Ms THORNE: Are you asking about the cost of cremation itself?

CHAIR: In our question No. 8 we made the point that a number of submissions have attributed the increase in costs overall largely to an increase in the cost of burials. In your submission, in addressing the issue of cost, you made five or six suggestions about the increase in the cost of cemeteries and crematoria. Given the fact that there is no question that costs have gone up, one of the things we would like to get clear is whether it is more at your end of the industry, whether it is at the funeral directors' end of the industry, or whether it is a mix? You have itemised only some of those that relate to you, but you have not given us a proportional sort of opinion.

Mr WEBBER: The reason why we have not given you a proportionate figure is that we do not know what the proportion is. Our association members do not really bother ourselves with what the funeral director charges because it has nothing to do with our business. If they charge \$100,000 that is up to them—they either get the business or do not get the business for \$100,000.

CHAIR: Can you give us any indication over a period of time of the average increase in cemetery and crematoria fees?

Mr WEBBER: I do not want to sound evasive, but it is difficult if you go on average because of the different types of operations. You must understand that a burial plot is made up of different costs. We have to take into consideration roads, landscaping and sometimes pre-digging—there is whole gamut of things that we have to take into consideration. Then probably the most important and unknown aspect is your future maintenance costs. Talking about Gore Hill cemetery, that cemetery is just sitting there with no money. They have a trust board and a group called the Friends of Gore Hill but no money. For maintenance they have something called "controlled overgrowth"—if you can understand what that means! I would say that different cemetery managers over the last 15 or 20 years have started to realise that there is not enough money to manage these cemeteries when they are closed.

CHAIR: We are trying to get an indication of how much costs have increased.

Mr WEBBER: It varies from site to site.

CHAIR: But we are trying to get an indication. We are aware that there is a huge variation.

Mr WEBBER: Some have probably gone up 300 per cent and some have probably only gone up 2 per cent. Local government in country areas—

CHAIR: But if we could get some statistics we could, for instance, say, "Well, in relation to burials taking place at a certain cemetery"—

Mr WEBBER: We should be able to get you a list.

CHAIR: A number of people could do comparisons if you know how much costs of burial at a particular cemetery have increased over time. It would also then look at how much funeral directors' costs have increased and so on. Presumably in relation to cremation, the issues about the difference in costs at Gore Hill and Waverly or whatever are not so relevant, but we are after some concrete indications of costs and then we can take into account the variation between being buried in outer Woop Woop and being buried at Waverly, for instance.

Mr WEBBER: I have no doubt that we could get a list of that together. We have started but it was incomplete up to today.

CHAIR: Anything you could give us of that nature would be useful. I guess it would be sensible for us to distinguish between burials and cremations.

Mr WEBBER: Yes. But, as I said, when you look at it there is such diversity in where the burial plots are, where the cremations take place and what subsidies there are—how local government is subsidising burials and cremations.

CHAIR: We know all that.

Mr WEBBER: You need to look at the prices.

CHAIR: We can do that. We know, for instance, that WorkCover has increased the funeral benefit recently from \$5,000 maximum to \$9,000 maximum, which is a pretty clear statement that there has been a fairly considerable increase in costs over time. We are interested in trying to establish the components of that cost increase.

Mr WEBBER: As I said, I cannot help you with funeral directors—

CHAIR: No, but you can help us with your own area.

Mr WEBBER: Yes.

CHAIR: Could you take that question on notice and give us some comparative costs perhaps for Woronora and for Penrith so that we have some specific examples?

Mr WEBBER: Fine.

CHAIR: In your submission you suggest a single piece of legislation that covers the industry. Probably most of the governmental people who appeared before us this morning would disagree with that because they focused on public health or occupational health and safety and so on. Can you give us an example of or elaborate on what you see the legislation covering and whether or not it would be based on a licensing system? I guess this goes back a bit to the Funeral Industry Council issues paper.

Mr WEBBER: There are something like 20 pieces of legislation that relate to the funeral industry—probably more particularly the cemeteries and crematoria. Our main concern is probably with the safety of our workers. When they started changing the OH and S regulations in 2000 you were really put on notice about what sort of establishment you have got to have and what you do in your places. What happens with us is that when the coffin arrives at the cemetery that is the end of trail—without being flippant. All things have been done before then. We need to know that that body has been prepared properly and poses no danger to any of our staff when it arrives at the cemetery or the crematoria. The legislation says that but we also believe that it is not policed adequately.

CHAIR: But WorkCover would say that the occupational health and safety legislation applies to every industry, and indeed every employer, in New South Wales. So your situation is no different from anyone else's.

Mr WEBBER: I probably have a different opinion of WorkCover than WorkCover have of themselves.

CHAIR: That may be the case but nevertheless it is true that their legislation applies to everybody in New South Wales.

Mr WEBBER: But nothing is policed. WorkCover tend to say to you, "There is the legislation; you work it out". We have to go back and do what they say. We have to do risk assessments on everything. We do a risk assessment of the coffins coming into our cemetery. We have got to say, "Well, it must be prepared as per the legislation, which says it must be prepared in a registered mortuary".

CHAIR: If there was one piece of legislation who would run it? We asked you whether there would be a licensing system and would it be run, essentially, through the industry—for instance, through compulsory codes of conduct? What do you see as the mechanism for running and policing legislation and regulation?

Mr WEBBER: We have already showed our support for the funeral industry council, as a representative of the industry.

CHAIR: But you have pulled out of it.

Mr WEBBER: We pulled out. We did not say we would not rejoin but nothing is happening. If it gets some sort of powers that will do these things for us, sure, we will gladly rejoin. But nothing was happening; we were going nowhere. We felt when we pulled out that it was possibly a form of protest but nothing was happening.

CHAIR: But you would see them as policing occupational health and safety issues.

Mr WEBBER: Yes. The difficulty I find with the whole thing apart from occupational health and safety is that we have private, local government and public trust cemeteries. That is where the difficulty would lie with the industry doing it itself.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Do you argue that it should be done by some neutral, quasi-government body?

Mr WEBBER: I would prefer to see it done by the industry but it probably will end up being done by a government body.

CHAIR: So you would like government to get out of the industry as much as possible.

Mr WEBBER: I would like them to police their legislation a bit better—be proactive.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Those statements are opposites.

Mr WEBBER: Okay. I would be quite willing to take the Government doing it, legislating and regulating. But I do not think they have the staff or the resources to do it.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Do you mean that since they will not do it, it defaults to somebody who will? Is that what you are saying?

Mr WEBBER: Possibly. Yes, I guess so.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You can say whatever you like here, you know. You can have an opinion; it is not a crime.

Mr WEBBER: Thank you very much.

CHAIR: Perhaps not totally.

The Hon. KAYEE GRIFFIN: You mentioned local government and private trusts. Before that you said that one of your concerns is whether when a coffin arrives at Woronora everything that has been done to that point in time was done at a registered mortuary. Are you concerned that some things are happening not in registered premises? Is that part of your concern?

Mr WEBBER: You hear it anecdotally. I cannot categorically say, "Yes, it is happening" but you hear around the industry that people are not necessarily using—they say that they have access to—a registered mortuary. I talked about the policing. My belief is that a mortuary must have a registry for everybody who comes into the mortuary. They must all be registered. All procedures that take place and what happens to the body must be registered. But I doubt whether the health department looks at or polices that.

The Hon. ROBYN PARKER: So when a body comes to you it does not come with some sort of certificate, checklist or something from the mortuary wherever it might be to say that the body has come from there.

Mr WEBBER: No. Over the last couple of years when our establishment gets a funeral director we ask them to fill in a form that gives the principals of the company and the mortuary address. Because they are registered by local government we ring the local authority to make sure that there is a mortuary at that address. That is about as far as we can go in checking to make sure that the body has been prepared in a proper mortuary. If it is listed that they have a mortuary or access to a mortuary we must accept that; we cannot go out and check and make sure that the body was prepared there.

The Hon. ROBYN PARKER: But you assume that someone should.

Mr WEBBER: Yes. There should be at least a checking system somewhere along the line.

The Hon. ROBYN PARKER: A form to fill in somewhere.

Mr WEBBER: We get a confirmation the day before every funeral that we have booked with funeral directors and I am toying with the idea of putting on the confirmation sheet a note to say which mortuary the body was prepared at. Then at least I would have a record. It could then go one step further. But I still cannot do anything about checking to see whether the body was prepared in a proper mortuary.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So you are trying to do the right thing but you might upset your customers and it is not your job to do it anyway.

Mr WEBBER: Exactly.

The Hon. KAYEE GRIFFIN: Is this part of the reason why you would like to see a single entity take control of some of these issues?

Mr WEBBER: All the legislation should be together. The mortuaries are registered with the local authority. We have a holding room at the crematorium and we have to register that with the local authority. They say it has changed now but the local council still sends us a bill for \$200 every year and says, "We're coming out to check your holding room".

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: And do they?

Mr WEBBER: They do. They are due to come out this year. Last year they sent out two young girls—I would say they were in their early twenties. They walked into our chapel, looked around and told my crematorium manager what a nice place it was. They did not have a clue what they were looking for. Surely, if they send someone out to check on premises they should at least read

the legislation and know what they are coming to check on. But they were in the wrong part of the building; they were everywhere.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Is your holding room a refrigerator, more or less?

Mr WEBBER: That is all. It is a cool room in our cremating area.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: And you could or could not have a preparation room where you make up the bodies, embalm them or something.

Mr WEBBER: We have no need for that.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Because you are a crematorium.

Mr WEBBER: Yes.

The Hon. ROBYN PARKER: Bodies could go missing without any form of checking. Is that correct?

Mr WEBBER: I do not know.

The Hon. ROBYN PARKER: A body leaves one place, goes to another and no-one signs anything.

Mr WEBBER: There are registers, I believe.

CHAIR: There has to be a doctor's signature for a cremation at some point.

Mr WEBBER: As to checking where the body is, I am afraid I could not tell you what the registers are but I am sure there are registers. When the funeral directors come to talk to you they can probably tell you that the body should be logged, wherever it is taken.

The Hon. ROBYN PARKER: I would have thought so. We will ask them.

CHAIR: Ms Thorne, you gave three options for increasing burial space. Can you run through them and give us an indication of the advantages and disadvantages? You were here earlier when Department of Lands officers spoke about this.

Mrs THORNE: Okay. I am relying on memory. I am trying to remember what my three options were. Using family graves again—is that one of them?

Mr WEBBER: Yes, and the public cemeteries.

Mrs THORNE: Yes, new cemeteries, and the provision of land by the Government.

CHAIR: And renewable tenure is one.

Mrs THORNE: And lift and deepen I think was one of the others as well, which is the practice in South Australia where, after a certain length of time with the permission of the family and after first of all having advertised, they reopen the graves and remove the remains and place them in an ossuary box and put them at the bottom of the grave. It just means that the grave has a fair bit of—if they do not find the family, they can actually sell that plot and it goes to somebody else, and that one is removed.

CHAIR: Does the association have a preference for one of those three options?

Mrs THORNE: No, I do not think so.

CHAIR: Or are you suggesting that all three of them that need to be considered?

Mrs THORNE: I think that all three of them need to be looked at because of the fact that we are running short of burial spaces, which is a major problem. There are various ways of going about it. I still think we are going to need more land. Also, the extension of the unused burial rights legislation, which applies to trust cemeteries, should also be extended to local government cemeteries and perhaps private cemeteries as well because that is limited just to trust cemeteries at the moment. That means that, after 60 years, if someone owns a plot or has purchased a plot and it is being used, they still have to go through a process. I am not sure what that process is and what people are doing about it, but if they are available, they may be used, and that needs to be extended.

CHAIR: Some of these issues, like that one for instance, become more common as mobility of the population increases.

Mrs THORNE: That is right.

CHAIR: I guess that once there was a bit of an assumption that a family would stay in the same area and that a family plot would be used, but as families scatter, there must, I assume, be an increasing number of plots when the family is no longer in that city or the family is no longer as close knit as it once was.

Mrs THORNE: The cemeteries that I am looking after are quite old, and the newer cemetery was 1910. I note that in the first rows, there are quite a few where they have actually buried one and they have set aside three or four plots beside them for the rest of the family, but they have never been used. So they have been sitting there for close to 100 years.

CHAIR: The current legislation would enable them to be used.

Mrs THORNE: Not in the local government cemeteries.

CHAIR: Do you see the likelihood of disagreement or any sort of public concern if the legislative changes that you suggest were to be made?

Mrs THORNE: I do not think so because it has already been enacted for trust cemeteries. It probably should have gone on to local government as well, but it just did not happen that way.

CHAIR: So it is really a matter of an inquiry like ours recommending those kinds of things?

Mrs THORNE: That is right, yes.

CHAIR: And then that happening. You do not see any huge controversy?

Mrs THORNE: That is right.

The Hon. KAYEE GRIFFIN: One of the questions you have mentioned is a policy that exists in South Australia which means that the remains are removed and the headstones or monuments are removed. How has that been managed in terms of what happens to the monuments that are removed? Is approval given by the family, for instance, that they are destroyed, or what happens to them, do you know?

Mrs THORNE: I think that is probably the one thing that they did not really sort out. I am not up to date on it but in 1996 I think I was in South Australia and I actually visited a cemetery there and saw the practice. They had a sample or an exhibition of how they do it, but the monuments were the problem. As far as I know, in New South Wales they remain the property of the owner. If you remove a monument—I know in South Australia they actually had stockpiles of monuments. I think they have resolved the issue now. I do not know how they managed to do that, or I am not aware of how they have done that, but that is an issue.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: In St Stephens Church in Camperdown, they cleared the whole cemetery to one corner of it. Do you know the legal way that was done?

Mrs THORNE: I am not really sure but I think it would have to be with consultation with the National Trust and that sort of thing. I am not sure. It is difficult to say.

CHAIR: A lot of the monuments from St Stephens came from Central railway, the old Devonshire Street cemetery. They were the ones that were moved.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So it was not just that park that now exists?

CHAIR: No.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I thought that the cemetery took up most of that park.

Mrs THORNE: I think there is legislation calling them rest parks or something like that in which they can actually do it, but it is not current practice, though. It used to be. I do not believe that it is current practice now.

The Hon. KAYEE GRIFFIN: In relation to the South Australian example and any removals, what was the status of the cemeteries over there? Were they trusts or on Crown land, or was it a mixture as it is in New South Wales?

Mrs THORNE: I believe that some of them are actually local government and that they operate differently to us, but the fact that they can actually do theirs—they have limited tenure and it is in legislation. It has always been that they were able to do this, so this is just the next step from the limited tenure. You only own the site or have a right of burial for a certain amount of time.

The Hon. KAYEE GRIFFIN: So that legislation has been in place for a long time?

Mrs THORNE: That is right.

The Hon. KAYEE GRIFFIN: As opposed to a change to legislation.

Mrs THORNE: It was set up from the beginning. It is different to here.

Mr WEBBER: With the change of legislation, with limited tenure here, they would only be looking at starting that from now. The family uses the graves that we are looking at. The current graves that we have in our cemetery, if the families want to reuse those, we can then lift out the remains, dig the grave deeper, and put them back and leave that grave there for the family, for two more burials or whatever it might be. That allows for graves that have been there from now back to be reused after a certain amount of time, but for families.

The Hon. ROBYN PARKER: Who pays for that to happen?

Mr WEBBER: Well, there would be a cost of preparing the grave, but it probably would not be as high as your infrastructure for a new grave. It probably would be less.

The Hon. KAYEE GRIFFIN: I cannot comment on recent years, but I would assume that if you, for instance, bought a double grave, or whatever it might be, my understanding is that the reopening costs are certainly reasonably substantial as well. Would you consider that that would be a similar cost applying?

Mr WEBBER: There would be. Once the grave is prepared for new burials, there would be a reopening cost, and when the grave was used, there would be an opening fee.

The Hon. KAYEE GRIFFIN: Presumably there would be a cost to prepare the grave again, and then, if it was not being prepared because someone had just passed away, there would be then another reopening cost for that grave somewhere down the track.

Mr WEBBER: That would be right, but the cost for preparing the grave would be less than preparing a new grave. If the people are buying a new grave, they would pay more.

The Hon. KAYEE GRIFFIN: But that would still be, presumably, a substantial cost for an individual in terms of preparing the grave and then another cost. There would be two costs.

Mr WEBBER: There would be two costs. There is a right of burial you have to purchase to start with, which has all those infrastructure costs in them. The second is that, to use the grave again, there would just be that initial preparation to lift and deepen the remains and that grave would be ready to be used again. It would be, I would think, somewhat cheaper. It would not be much more than a reopen fee or an opening fee to prepare the grave, I would not think. I am taking this off the top of my head. I have not even had a look at how much they might cost.

CHAIR: I am conscious that we are already a little bit over time. Can you tell us in terms of your own association, Ms Thorne, whether you have a complaint handling process?

Mrs THORNE: No, we do not.

CHAIR: Do complaints come in about any of your members? If so, what you do with them?

Mrs THORNE: I cannot really say. But from my knowledge of the association—I have been a member probably about 10 years—there may have been one or two in that time. We do not have any mechanism to deal with it. If there was a complaint which we felt should be dealt with, first of all we would refer it back to the cemetery, or to a government department, such as the Department of Fair Trading or something like that. We do not have any mechanism. It would only be advice that we would give.

CHAIR: Do you have a code of conduct for your members?

Mrs THORNE: We do.

CHAIR: But presumably you are saying that either there are not many breaches of it, or if there are, they are not being reported to you.

Mrs THORNE: They do not complain to us, I would say.

CHAIR: In terms of the Funeral Industry Council's suggested code of conduct, the licensing scheme and so on, funeral directors who do not comply might be denied access to cemeteries and crematoria and so on. Do you have a view about that kind of regime and how it would be implemented?

Mrs THORNE: The difficulty would be how it would actually operate because I think from the cemetery's point of view, we would not want somebody rolling up to the door or even just booking a burial in with only a couple of days to spare for the family and telling them that that is unacceptable, that we would not accept that body, because there are families involved. I think it needs to come before that stage. I do not really have any other viewpoint.

CHAIR: So somebody or some organisation would really have to prepare, or make some decision and then notify the cemeteries and the crematoria?

Mrs THORNE: That is right.

CHAIR: Well enough in advance for you to be able to do something.

Mrs THORNE: Perhaps the public need to be advised as well that those people are not acceptable. I do not know how you do that, either, but if they are operating a business and someone rolls up to them and books a burial in and then they try to get into the cemetery, it is too late for the family because they are grieving and they have to be considered. Perhaps if it is public knowledge that these people are unacceptable, or the families go through some process of finding out who is acceptable before they actually book the burial in, I do not know, or perhaps they just cannot operate

the business. I think we have to think of the family and what they go through. I have experienced this myself in dealing with some funeral directors. Funeral directors who are a bit unsure do not want to deal with us because they owe us some money and they will ask the family to ring up and book it in, and that is not acceptable, either. It is a matter of making sure that there are guidelines.

CHAIR: You have already partly answered this question, but there are funeral directors that obviously you have had concerns about.

Mrs THORNE: There are.

CHAIR: And your association or your members would have concerns about them. You said how few complaints there are about your own members. Would there be a large number of concerns about individual funeral directors, or is it very much a minority? Can you give us any indication?

Mrs THORNE: I would say there is a minority. Mostly, they are professional. We do not get into that side of things. I think the association is concerned about when they present themselves at the cemetery. There are a few that are a little not quite desirable.

CHAIR: So what do you do when they turn up?

Mrs THORNE: There is not very much we can do because they are there for a funeral and things have to go ahead as planned. You have got to almost think of the impact on the family and try to make things run as smoothly as possible. I am talking about things like occupational health and safety concerns. I have had a funeral director turn up with staff who were addressed in open-toed scuffs and I had to speak to them about footwear. I had another incident in which a funeral director was at the cemetery and he opened the coffin because some people turned up and said that they wanted to have a look. They are very unprofessional practices and he was spoken to, but there is no mechanism to deal with that, even going to a government department.

CHAIR: With some of those, though, you would not report people who owe you money to the Department of Fair Trading, and you would not report the occupational health and safety issue to WorkCover?

Mrs THORNE: I work in local government so we have our own financial arrangements for chasing bad debts, so it is not an issue. We do not go down the Department of Fair Trading track. If somebody owes us money and does not pay it, we go through the bad debt process and we take it into consideration the next time they want to book a funeral in. We do not refuse anybody, but we have to say, "You will have to pay up front", or something like that.

CHAIR: What about the open-front scuffs, for instance? Would you go to WorkCover, or would you take the funeral director aside?

Mrs THORNE: I do not know. It would be a Department of Health issue, but because it was just like a five-minute incident in the cemetery, it is very difficult to police that, and what sort of action would the Department of Health take? I do not know.

CHAIR: Essentially, someone like yourself is not really passing complaints on to other bodies?

Mrs THORNE: No.

CHAIR: From your point of view, the industry is fairly self-regulating?

Mrs THORNE: I would say so, yes.

CHAIR: We had a specific question in relation to monument masons, but I am not sure whether you have a comment on the problems facing them.

Mrs THORNE: I do not know what problems they have, to be honest. I have not been made aware of any problems.

CHAIR: I think you have taken on notice particularly the question about some figures in relation to costs.

Mr WEBBER: Yes.

CHAIR: As I said, we are aware that it is very hard, even across the metropolitan area, let alone the whole of New South Wales, but some figures in relation to Woronora or Penrith, for instance, or any specific pattern and you can give us would be very helpful. The secretariat will talk to people about that afterwards. I think that was the only thing you took on notice for us.

Mrs THORNE: I think so.

(The witnesses withdrew)

(Luncheon adjournment)

KENNETH JOHN CHAPMAN, Executive Secretary, Funeral Directors Association of New South Wales, P.O. Box 254, Cherrybrook,

JANET LORRAINE PHILLIPS, President, Funeral Directors Association of New South Wales, P.O. Box 254, Cherrybrook, and

JOHN CHRISTIAN KAUS, funeral director, Mudgee and member of the committee of the Funeral Directors Association of New South Wales, P.O. Box 254, Cherrybrook, and

PHILLIP ANTHONY BROOKS, funeral director and crematorium owner, Tamworth, and member of the committee of the Funeral Directors Association of New South Wales, P.O. Box 254, Cherrybrook, sworn and examined:

CHAIR: The Committee has received your submission. Do you want to make an opening statement?

Mr CHAPMAN: I thank and appreciate your invitation to be here to put forward the views of our industry. I am quite happy to answer general questions on the industry but on the operational issues my three colleagues who are all operating funeral directors will take questions. In fact, Mr Brooks also owns a cemetery and crematorium so we have a wide coverage of the industry present today. The Funeral Directors Association of New South Wales is a pre-eminent funeral organisation in this State. It has a membership of 106 funeral directing companies and 30 companies that provide services to the industry. All member companies are fully Australian owned and family operated and represent small to medium companies in most parts of the State.

Our membership represents well over 50 per cent of funeral directors throughout New South Wales and we would perform in excess of one-third of all funerals in this State. The association well recognises that there have been many instances of unsatisfactory practises in the industry. The association is concerned about the proliferation of unprofessional and untrained people entering the industry. There are no licensing requirements and little legislation to cover the industry. It is not the intention of the association to prevent or make it difficult for new entrants to come into the industry. Competition is welcome, provided the participants offer the public a proper level of service and their practises are professional and ethical.

We are aware that there have been two previous inquiries in the past 30 years, both of which found that although the price of funerals has risen more than the CPI there was no evidence to indicate that the rise was reflected in profits to funeral directors. The main issues identified as being responsible for the increase above the CPI were increases in the costs of cremations and burials and the internment fees and other costs such as disbursements over which a funeral director has no control. I draw your attention to a survey set out in our paper conducted through our membership that disclosed that the average price of a burial has risen in the past decade by 67 per cent, while cremation costs have increased by 36 per cent. The CPI during that period has increased only 28.6 per cent. The high rise in burial costs in that period is attributed solely to the issues previously mentioned, and also to the introduction of the GST.

The cost of burial is evident in the funeral director's account in most cases given to the client and that gives a false impression that funeral director's charges are excessively high. I have a paper showing the various cemetery costs and increases, which I will distribute to members of the Committee. Perhaps later I will talk to that paper. With no formal licensing or training necessary to become a funeral director, any person with little or no experience can call themselves a funeral director and set up a business, provided they conform to a few regulations under the health Act. In the absence of formal licensing it is considered that in the interests of the public all funeral directors should be obliged to comply with a compulsory code of conduct.

Accordingly, the association fully supports the recommendations made in December 2004 to the Health Minister by the Funeral Industry Council [FIC] for a system of compulsory compliance. Under this scheme, which would be administered at no cost to the Government by the Funeral Industry Council, funeral directors who did not comply would be denied access to cemeteries and

crematoria. In 2004 a previous Health Minister, Craig Knowles, recognised the need for more control in the industry, including negative licensing but nothing was done except to make a few minor changes in the health regulations. This action has had little or no effect on the continuance of mal-practise in the industry.

Our conclusions and recommendations are that there is a need for further legislative changes in the funeral industry. The submission of the FIC to the Health Minister for a compliance scheme should be accepted and the scheme should be administered by the FIC if a government authority will not run the system. We have no problem with a government authority running it, if that is the decision that is made. The increased funeral costs over the past 10 years have been caused mainly by increases in the costs of burial sites and the GST. We believe that the Funeral Industry Council should remain in its existing structure.

CHAIR: You have stressed that all member companies of your association are Australian owned. Are they all family operated?

Mr CHAPMAN: All fully Australian owned and all are family operated.

CHAIR: Therefore, mostly medium to small companies?

Mr CHAPMAN: Mostly, yes.

CHAIR: So you are obviously drawing a deliberate comparison between your members and some of the bigger players in the industry?

Mr CHAPMAN: That is a comparison you could draw, yes.

CHAIR: What is the role of the association?

Mr CHAPMAN: We are an industrial association. We look after the interests of our members in industrial issues, advise them of legal issues, keep them up-to-date with things such as WorkCover. We have been able to implement a procedure to all of our members through, it was mentioned earlier today, a WorkCover grant that we got some couple of years ago which allowed us to get a consultant to provide a program for our members and get some training. Generally speaking, the role of the association is to enhance the reputation and business opportunities for its members.

CHAIR: Is your association predominantly Sydney-based or regional and rural based? Is there a significant difference?

Mr CHAPMAN: There is a big difference. Firstly, I should say that there is less than 200 funeral directing companies in New South Wales. I saw some evidence from the Combined Pensioners and Superannuants Association that suggested that number was 500 or more but I think they have just looked at and counted all the names in the telephone book. A number of funeral companies have a number of different names but in reality there would be less than 200 company operators in New South Wales. We have about 15 operators in Sydney and all the rest are spread right throughout every part of New South Wales. Most areas of New South Wales are covered by one of our members.

CHAIR: Do you have about 15 in Sydney and 90 outside Sydney?

Mr CHAPMAN: Something like that, yes.

CHAIR: You are very much concentrated?

Mr CHAPMAN: Yes.

CHAIR: Is that all around the State? Are you heavily represented in Newcastle and Wollongong?

Mr CHAPMAN: Yes. We have representatives basically in every area, except right down the bottom of the South Coast is the only place we do not have any representation.

CHAIR: Why are there two associations? Why was there a split some years ago between the Australian Funeral Directors Association and your association?

Mr CHAPMAN: About 29 years ago, I think it was, they split up—well before my time in the association—but I do believe it was because of the centre of power in Melbourne, the Australian Funeral Directors Association headquarters has always been in Melbourne. I think the issue of all the funding from fees going to the Melbourne office and then little bits and pieces being distributed back to New South Wales was the main cause of the break-up. So for 29 years we have had two different groups. The Australian Funeral Directors Association is a national group with members all over Australia, and it has quite a few members in New South Wales. From reading its submission, I think it has 49 members, so it is very well represented. It has the big companies, like Invocare and Bledisloe Australia. Our membership, as I mentioned before, is strictly family operated and owned.

CHAIR: Is that because you have an insistence on that?

Mr CHAPMAN: Not at all. Anyone would be welcome to join our association provided they meet our standards. It is just the way it has happened. With a national spread, the big companies particularly are better suited to being in a national organisation.

CHAIR: Is there any overlap?

Mr CHAPMAN: Yes. Seven of our members belong to both organisations.

CHAIR: There is no tension for them in that?

Mr CHAPMAN: Not at all. Both groups co-operate and neither of us have anything to hide. We have open meetings, and anyone is welcome to be there. Both associations are following the same principles, I believe.

CHAIR: Question 3 asks: What issues affect the rural and regional areas of the State in relation to the industry? As I mentioned, the Committee intends to visit a couple of centres to try to get a little more of a picture of issues outside Sydney. But we would like to hear today how different issues impact differently. Ms Phillips, where is your company?

Ms PHILLIPS: In Sydney.

Mr KAUS: My business is in Mudgee, which population of around 8,500 people in the town, but we service an area of 120 kilometres radius in each direction from where we are headquartered. We have agents in outlying towns, and they assist families with what needs to be done there on the ground at the time. The total population base with whom we work is probably around 20,000 or perhaps 25,000 people. Servicing that population base, predominantly, are two funeral directors, ourselves and another firm also headquartered in Mudgee.

I note the question about choice of funeral directors. Yes, certainly, you will find that in most areas of New South Wales, whether it be metropolitan or regional-rural, there is generally a choice for the clients to make, and people are quite rapid to make that choice. In our own market in particular, a family tends to be either a client of my firm or a client of the other firm that operates in the area, and that applies to repeat funerals. If the family has a need for another funeral, they will tend to return to the funeral director that has served their family for some time, unless there has been some overt reason to change.

With regard to costs and specific requests based on ethnicity and religion, I can speak mainly from my own experience in our area. We tend to not be a particularly multiculturally focused area. Given that our population is predominantly second and third generation Anglo Australians, if you like, we tend not to have large ethnic communities within our catchment area. Certainly from time to time we are asked to prepare a service for another faith, or to assist a family with a service from another

faith, and that is the beauty of being part of an association such as the Funeral Directors Association of New South Wales.

We have a wealth of experience from our colleagues in other areas around the State who, perhaps on a day-to-day basis, are serving other faiths and can give us some guidance and support as a fellow member, to make sure that we provide a service with sensitivity to particular cultural or religious needs.

CHAIR: Would you suggest that the two companies are sufficient to provide the competition to keep costs under control, other things being equal?

Mr KAUS: I believe so. I believe that there is a very healthy competition in our market. There are other practitioners within a radius of about 130 kilometres, so if for any reason the market perceived that there was not real and open competition in our area it would not be a big issue for the market to choose an operator outside. In saying that, it is not unusual for a visiting funeral director, as I call them, to conduct a service in our area. Fortunately, the funeral profession, certainly in country areas, is such that we all support each other. If I can do anything to assist a visiting funeral director, of whatever association, or a non-aligned funeral director, we certainly go out of our way to do that. And I have found that to be reciprocated any time my firm has travelled to conduct a service.

CHAIR: Would that involve them being able to use your mortuary, for example?

Mr KAUS: No. My mortuary is not open for other people to use because I have care and control of that mortuary. The only exception to that would be if there was a person deceased, perhaps in a nursing home, in our district and the person was to be repatriated to another area of the State and a funeral director telephoned me and said, "We have a deceased in a nursing home. Nursing homes do not have facilities to hold a deceased person for any length of time. Would you be able to transfer that person to your mortuary and hold the person until we can arrange to take them into our care?" In that circumstance, and that circumstance only, we would certainly assist our colleague.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: And presumably they would pay you a fee for that time?

Mr KAUS: That could happen, but I am not in the habit of charging a fee for that because what goes around comes around: one of these days they may be in a position to assist me.

CHAIR: How does the visiting funeral director, as you call them, get on in terms of things like mortuary facilities?

Mr KAUS: They would perform all of that side of their business at their home mortuary generally, and perhaps bring the casketed deceased to our area to have the burial.

The Hon. KAYEE GRIFFIN: Are we talking about places like Lithgow and Bathurst?

Mr KAUS: Yes, as far away as Sydney. In fact, over the weekend I was contacted by a funeral director in Newcastle who had a possibility of requiring a burial in our district on Thursday of this week. They phoned me back later to say that the family had decided to have the person interred in Newcastle rather than come to our neck of the woods. Interestingly, that overlaps with some evidence the Committee took this morning, that there would be an unused burial plot in Mudjee cemetery that will now never be used because the family in this situation have a reserved plot in Mudjee but have chosen to have the deceased buried in the Newcastle area. So I would confidently say that that plot will probably never be used by that family.

CHAIR: When you talk about the geographical area you cover, roughly how many cemeteries and crematoria does that involved you with?

Mr KAUS: We have no crematoria in the Mudjee district, or in what I would class as our usual service area. Our closest facilities would be in either Orange or Dubbo. Having said that, we have taken funerals to Leura, in the Blue Mountains, and of course we have used Sydney crematoria when the circumstances have decreed it. With regard to cemeteries, each town would have one major

cemetery, with the exception of Mudgee, which has two, a monumental cemetery and a lawn cemetery. Most of the outlying villages also have cemeteries. That can be one or two cemeteries, depending on the size of the village. Then there are private cemeteries and interments on private land. I suppose over any given time we would have operations in perhaps 20 cemeteries.

CHAIR: Do you have any issues, particularly having heard the discussions we had with other witnesses this morning, in terms of management of the cemeteries and so on? I assume you do not have a shortage of burial spaces?

Mr KAUS: The burial space issue is not quite as critical in the rural areas, certainly in our area. I guess it is the nature of being a practitioner in a country area; it is the old local knowledge thing. We tend to work more closely with our council people because possibly they are only dealing with two or three funeral directors, whereas the metropolitan cemetery might have 10, 15 or 20 funeral directors that it deals with on a regular basis. It would tend to be the same council staff who are working in the cemetery on all funerals. Certainly it would tend to be the same people that they would see from my firm, and likewise the other firm that operates in our area. As I say, it is a country town, and everyone tends to know everyone else. I could say that we are blessed that we have very easygoing people to work with.

CHAIR: Mr Chapman provided us with a table setting out the Sydney fees. Are fees in your area more stable?

Mr KAUS: They are certainly substantially different to these, and there are probably more smaller, regular rises in the costs, probably annual rises. Most of the cemeteries are local government cemeteries and the fees tend to rise by around 5 per cent per year, or not much more than that. Having said that, some years ago there was a realisation that the cemetery fees that were charged by one particular local government body were vastly inadequate to cover the needs of that cemetery, and there was a marked spike in one year, a fairly large increase. That has not been repeated over time. I guess it brought the costs more into line, and the councils have not felt the need to raise the fees any more than by a reasonable increase every year.

CHAIR: But you would still say they are beyond the cost of living increase or inflation increase?

Mr KAUS: They would be probably slightly but not markedly.

CHAIR: Mr Brooks, do you want to make comments in relation to any differences between the Mudgee situation and—

Mr BROOKS: I think Tamworth and Mudgee are very much similar situations as far as that goes—cemetery work and the funeral industry itself.

CHAIR: How many funeral directors are there in and close to Tamworth? Are Tamworth and Armidale close enough so that you should count both?

Mr BROOKS: Tamworth and Armidale have their own funeral directors. Tamworth has three different funeral homes; Armidale has one. But we very rarely see the Armidale people in our area. Gunnedah is closer; they come across occasionally. There is a funeral director in Barraba, going the other way, who we see occasionally. But we also have the crematorium in Tamworth. There is a crematorium in Gunnedah but a lot of people come from the Barraba area down to Tamworth. Armidale have their own crematorium. But as far as working-wise, everything is very similar to Mudgee.

The Hon. ROBYN PARKER: I know most of you were here earlier when we were hearing from some of the other witnesses. Just in terms of checks and balances and tracking where a body goes from and to, I just wondered from your perspective how that works. Could someone run me through what checks there are in terms of transportation and refrigeration, those sorts of things?

Ms PHILLIPS: When a funeral director is advised of a death and is therefore responsible for collecting that person from its place of death, we have what we call a mortuary register, which has a

series of columns which allows us to record where that body died, when it was picked up, who picked it up, where it was brought to and when, and where it went to after we had done what we needed to do in order to provide that funeral service. The documentation that is required for either a cemetery or a crematorium is such that we have to sign that we have delivered that person to that cemetery or to the crematorium, and that is fairly standard practice.

The registration form of information of death, which is required by the Registry of Births, Deaths and Marriages, requires that we indicate on the bottom of that form where we have taken that body, whether it has gone to a crematorium. We cannot certify that it has been cremated, but we can certify that we have delivered it to the crematorium or we can certify that it has been buried in a particular cemetery because we have witnessed that burial. So that is all recorded.

The Hon. ROBYN PARKER: But there is no record passed on to the crematorium or to the cemetery in terms of what has happened before you have taken it? Do they get a copy of that register as well?

Ms PHILLIPS: No.

The Hon. ROBYN PARKER: Who gets the register?

Ms PHILLIPS: That is kept on our premises to be inspected by the health department if necessary.

The Hon. ROBYN PARKER: So it does not get processed and sent somewhere?

Ms PHILLIPS: No.

The Hon. ROBYN PARKER: So really somewhere along the track there are opportunities for things to go wrong, are there not, and no-one is really checking that, is that right?

Ms PHILLIPS: It is possible, but we are very strict. We are, our company, and most of the members of our association would be because we supply them with their registers. When a body is collected from a hospital, for example, it has to be signed out of the hospital; there are identification tags on each body and on the body bag. So that we have to maintain that identification process in whatever we do.

The Hon. ROBYN PARKER: How often have you been checked on that?

Ms PHILLIPS: Every time a family views a body. But I would suggest that, no, I have not had a health department representative—

The Hon. ROBYN PARKER: A family is checking it but I mean by some government body?

Ms PHILLIPS: Rarely.

The Hon. ROBYN PARKER: Can you define "rarely" for me?

Ms PHILLIPS: I cannot recall the last time somebody came to our premises and checked our register or checked what bodies we had in our premises at the time.

CHAIR: What about checking your mortuary in terms of the local government inspectors?

Ms PHILLIPS: They are checked annually. That is an annual inspection of a mortuary, but they do not want to see what is in our fridge and so they have never checked the actual register.

The Hon. ROBYN PARKER: Is that a concern to you at all?

Ms PHILLIPS: Well, we do our job properly and we within our own company have our own checks and balances; we have to make sure that we do the job properly.

The Hon. ROBYN PARKER: But it would seem no-one is checking all companies and perhaps some of them may not be as up to scratch as you are?

Ms PHILLIPS: It is possible.

The Hon. ROBYN PARKER: Do you think the general public are aware of that lack of scrutiny?

Ms PHILLIPS: I am not sure whether they would be, no. I do not know that there is an answer to that situation. Unless you have somebody constantly watching every move that we make how can that possibly be absolutely controlled?

The Hon. ROBYN PARKER: When filling in a form though often one wonders what purpose they serve. I would have thought it was a serious purpose that these forms serve and that they would be going to a department somewhere along the way of some description. It is almost a script for a sitcom, is it not?

Ms PHILLIPS: I do not know that I would go that far. I do not know that there is an opportunity for anybody else to do what you are suggesting. Do we need to have somebody from the health department monitor every move that we make?

The Hon. ROBYN PARKER: They monitor every move that other people make, that is for sure.

Ms PHILLIPS: I would welcome it if somebody was prepared to do that—absolutely welcome it.

CHAIR: Can any of you give us an idea of what sort of percentage of people are viewed by relatives when they are in your care?

Ms PHILLIPS: From my own business's point of view I would say probably 80 per cent of the services that we conduct involve a viewing, mainly because we do look after a lot of Orthodox funeral services and the coffin is open in the church. So that is immediately prior to it being buried.

CHAIR: What about Tamworth and Mudgee?

Mr BROOKS: I would say probably about 50 per cent.

Mr KAUS: We would be probably 60 per cent, I would say, of services that had a viewing, yes.

CHAIR: And there is a variation depending on culture or religion?

Mr KAUS: Of course.

CHAIR: But for any of you it would be 50 per cent plus.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Does that involve making up the body in every case?

Ms PHILLIPS: Yes, usually.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So you put some make-up and stuff on?

Ms PHILLIPS: Not necessarily. It depends on what the family requests. Not everybody that is made available for a viewing has make-up. But they are prepared; there is body preparation work done, yes.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You were obviously taking a line fairly similar to the Funeral Industry Council in terms of your submissions?

Mr CHAPMAN: Yes.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Are you happy with the consumer representation on that council?

Mr CHAPMAN: At the moment I am but if the Funeral Industry Council were to become the focal point or the controller of the industry I do think it needs to be broadened.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Your organisation is open to anybody but you think they should have their own hearse and their own mortuary?

Mr CHAPMAN: Yes. That is a consideration that we have for members. We want our members to be very professional and present the best possible facilities to their potential clients. That is not to say that we believe every funeral director should have their own mortuary.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: But if they do not they cannot be a member of your organisation?

Mr CHAPMAN: Under our rules that is true, they cannot be, no.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So there is an entry criterion to get into your organisation?

Mr CHAPMAN: Yes.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: And that is to have those, which presumably are not cheap?

Mr CHAPMAN: No, that is quite expensive. But the mere fact that a funeral director is prepared to spend money to make a good mortuary, provide good vehicles and all the facilities that go with it enhances his possibility of being a more professional funeral operator, and they are the sorts of people that we invite into our organisation. We want the public to be confident that when they use a member of our association that they are getting a very professional, well-organised funeral director.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You said that your fees have not gone up very much. Are they representative of fees across the industry or only your own members?

Mr CHAPMAN: I believe they will be across the industry, but I have got no evidence of that. All the evidence we have is what we have collected from our own members. Our members' fees have risen pretty well in line with the CPI over the last decade—slightly above.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: That is not what your own figures say in your own submission.

Mr CHAPMAN: They say that.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: They have gone double the CPI.

Mr CHAPMAN: No, that is not ours, that is the burial fees. Our members' fees have only gone just over 30 per cent: a 28.6 per cent increase in the CPI, and I think our members' fees have gone up about 30-something per cent.

CHAIR: The table is cemeteries and crematoria, but in your own submission it is your own members.

Mr CHAPMAN: Yes.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Would you say because you are predominantly country funeral directors you might not have had the same rise as, say, the city ones might have had?

Mr CHAPMAN: Yes, I think that is a good point actually. As has been explained here today, the cost of burial sites in the country is much less than in the Sydney metropolitan area. That probably does contribute a lot to their lower prices, but despite that there has still been a marked increase overall in the cost of burial sites.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Do you have a standard way of quoting?

Mr CHAPMAN: I think perhaps one of the funeral directors should answer that. There is a pretty standard way.

Ms PHILLIPS: There is a standard format for presenting a quotation to a client, but the amounts will vary from funeral director to funeral director.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: But is that format constant across the industry or only constant across your membership?

Ms PHILLIPS: I would say it is fairly constant across the industry.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Because we have had some evidence that there are varying elements of a quote so that you cannot compare quotes directly. There is not a standard, say, seven items or eight items that everybody quotes on and the bottom line at the end of that quote is what you are going to be paying and you can then compare that across the industry, it has been suggested that there is a great opacity in the fees and somebody can get a nasty surprise at the end.

Ms PHILLIPS: The variance in that can be simply because of what the family requires. In other words, you are not going to quote one family on items similar to what you would quote another family on because they may be differing as to what the family wants. In other words, a quotation for a cremation is going to be different to a quotation for a burial. A quotation for a church service is going to be different to the quotation for a service that is held at a grave site or a crematorium chapel; whether that family requires other additional costs such as flowers, press notices, memorial cards.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Is your margin constant on those quotes? Say, for example, there is a fee to the parson that takes the service, do you pass that, say, 12 per cent on? I think a builder adds 12 per cent on to each subbie's margin.

Ms PHILLIPS: No, we do not pass on any additional costs at all. They are purely expenses paid on behalf of the client: no additional fees.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So all the fee for arranging all the other subcontractors or elements of it is encompassed in your professional fees, which is a separate item at the top?

Ms PHILLIPS: That is right.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: And that is within the code of ethics of your organisation, is it? Do all members subscribe to the fact that they will do that?

Ms PHILLIPS: There is not a mark-up on those disbursement fees. The professional fee is to cover the costs associated with running the funeral director's business. If the florist charges \$165 for flowers that is what the family is charged; there is no additional cost added to the service fee. The service fee is a standard fee regardless of what the service entails.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: That would not appear to be uniform across the industry. Are you saying it is uniform across your members?

Ms PHILLIPS: Yes.

Mr CHAPMAN: I suggest it is, and as Jan said, the disbursements cannot be added onto, they have got to be paid directly as they are received, and that entails a lot of the periphery things in a funeral. The only thing that a funeral director makes a profit out of is part of his service fee and some margin on the coffin.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So there is a margin on the coffin that is bought and sold?

Mr CHAPMAN: Yes.

Ms PHILLIPS: Bought and added to and sold—trimmed. When a coffin is purchased it is usually just a shell.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You put the lining in it?

Ms PHILLIPS: And the handles and the other attachments that go on it.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: They are fitted by the funeral director himself or herself?

Ms PHILLIPS: Yes.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Do you allow people who do not have hearses or mortuaries to use your facilities—smaller directors who do not have those facilities?

Mr CHAPMAN: We do not encourage it in our association although some of our members do allow other funeral directors in that category to use their mortuaries. That does happen. We do not encourage it. We suggest that to raise the standards each funeral director should have his own mortuary. But I emphasise that it is not something that we believe all funeral directors should be required to do. If funeral directors want to have some sort of economy of scale and run a small operation and use another mortuary and they can get approval to do it that is all right by our association. But we could not accept people like that as a member.

CHAIR: Did you say you could not accept those people as members?

Mr CHAPMAN: Not of our association, no. Not if they did not have their own mortuary and their own hearse.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: If someone were excluded from a crematorium that would be the prerogative of the crematorium owner you would say?

Mr CHAPMAN: Under present conditions or under proposals we have put up for the FIC? Do you mean now, at present?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: We have heard of people being excluded from the use of crematoria.

Mr CHAPMAN: They cannot by law be excluded. The law states that a crematorium cannot refuse a body for cremation.

CHAIR: Regardless of the state in which it arrives?

Mr CHAPMAN: Even if they are owed money and they cannot get it out of them they still cannot refuse a body from a funeral director at this stage.

Mr KAUS: Without lawful purpose.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Do you allow relatives to act as pallbearers? If so, do you train them?

Mr CHAPMAN: I will answer part of it and perhaps some of the operators can answer another portion of it. We heard with interest WorkCover speaking about that. We do not encourage relatives to be used as pallbearers simply because not only did we have WorkCover tell us that in the past—despite what was said here today—some of the WorkCover people in fairly senior positions have told us otherwise. In addition to that there is the public liability aspect. We would not encourage it but we cannot stop people if they want to do it, I will put it that way. Many of the ethnic groups want to take over and carry the coffin. John might want to continue on that.

Mr KAUS: Yes, certainly. As the WorkCover evidence was given this morning, it is up to the manager or the person who has control and conduct of the funeral to minimise risk. I guess every funeral director makes a value judgement that if he allows family members to carry a casket, and in my circumstance if I tried to stop families carrying a casket I very shortly would not have a business. It is an accepted thing in country areas that families carry the casket. When we explain to families at the arrangement interview, which is certainly the procedure for my firm—all my arrangers do this—we explain to them that we do not recommend that the coffin be carried above waist height. The coffin is fitted with handles. Those handles are quite safe to carry it by. Our recommendation is that it is safer to carry the coffin by the handles at waist height.

That is not to say that every family wishes to do that. But for the families that do wish to do that, we facilitate it. We spend a little bit of time—not a vast amount of time—with the pallbearers prior to the service taking place. Often you do not know who the pallbearers will be until you arrive at the church. The family will say, "We have the pallbearers here. Would you like to have a talk to them?", and we do. We explain to them a little but we do not have a vast amount of time to explain to them the intricacies of all the WorkCover manual handling requirements. So we explain to them in a commonsense way what we recommend they do. That is not to say that when you get to the front of the church after having had a funeral service and the family, unbeknownst to the conductor, says, "Okay, boys, we are going to lift that coffin to the shoulder" I cannot stand there in the church and haul the coffin backed down. It is purely a matter of practicalities.

Mr CHAPMAN: I would like to add that the union has played a very big part in the coffin lifting issue. The award states that coffins must be carried no higher than waist high. Our members are restricted by the union regulation. As we all know, an award is law. So if you encourage it to be lifted on the shoulder you are assisting in breaking a law. I also heard it mentioned today that having family members carrying the coffin would cut back the number of funeral directors operating. That is not the case because the award also provides that there must be three people operating a funeral. By the award, you cannot have a funeral conducted by fewer than three people.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: That was to be my next question. If you carry your own coffin you still have to pay for the people who are not carrying the coffin, as it were. You have to have three.

Mr CHAPMAN: But the coffin has to be transported to the church in any case, or the cemetery or both. We require by law three people to do it.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So the three people come anyway and if part of that carrying is not done then you do not save any money.

Mr CHAPMAN: No.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Presumably you could not have relatives doing that: that would also be against the law, would it?

Mr CHAPMAN: I think the union would be down very hard on us if we tried to use family labour.

Ms PHILLIPS: When we are asked by family members whether they can assist with carrying the coffin very rarely is it based on cost. I have never yet had a family say to me, "Would it

be cheaper if we carry it?" They want to carry the coffin. If they choose to carry the coffin is usually because of an attachment to the person. It is their emotional attachment; it is not because they are presuming that they are going to save money.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Do any of your members facilitate do-it-yourself funerals? What is your attitude to them?

Mr CHAPMAN: There is nothing to prevent anybody doing their own funeral. The law provides for them to be able to do it. But it is a very complex situation. I am not aware of too many people who could go through the whole process of conducting their own funeral. A lot of procedure is involved. Firstly, they have to have the use of a mortuary: it is illegal to coffin a body unless it is in an authorised mortuary. Then you have the purchase of the coffin, the various forms to be filled out. There is an awful lot of process involved in it.

Ms PHILLIPS: Transportation of the body.

Mr CHAPMAN: Transportation of the body is another issue. There is a multitude of things that a person has to do. That is not to say that we are opposed to it. If people can do that and at the time of grief are prepared to put the time and effort into doing that they are welcome to do it.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: And they can use the coffin that they manufacture or do they have to buy a coffin?

Mr CHAPMAN: No, they can use their own manufactured coffin.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: And they are not obstructed in any way in the use of crematoria, burial grounds or whatever?

Mr CHAPMAN: You would have to ask the Cemeteries and Crematoria Association about that, but I do not think they would be.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: We have heard of cases in which they were refused entry to crematoria because they have the wrong type of coffin or it was not certified or whatever.

Mr CHAPMAN: I am unaware of that. There is no right or wrong type of coffin.

CHAIR: I do not think we have heard that in evidence. Some of us have had representations outside the Committee.

Mr CHAPMAN: There is no right or wrong type of coffin. One of the things that the Funeral Industry Council has done—and it has done quite a few things that have not been brought up here today—is have coffins tested to find out a minimum standard of coffin that would be acceptable. It was done through TestSafe Australia, which is part of WorkCover. There is a very basic standard, particleboard coffin that is quite acceptable and it is very cheap. It passed the test of TestSafe and has the approval of the Funeral Industry Council.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Is that design available to the public?

Mr CHAPMAN: Absolutely. They would probably get it from some of the distributors of coffins, if they would sell directly to the public. But I doubt that most of them would.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: If you wanted to do it yourself where would you find the design of something like that?

Mr CHAPMAN: I am not sure about finding the design but anybody that is a carpenter and pretty good with tools would probably be able to build one without much trouble.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: As long as they did not have difficulty getting it into use, that is the question. As long as there was not an obstruction within the industry saying that you cannot use that because it is not regulation or it is not certified.

Mr CHAPMAN: I cannot see that there would be, but then again that is a matter for the cemetery operators.

CHAIR: Perhaps we could add that to the questions the cemetery people have taken on notice.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: That might be a good idea.

Mr KAUS: If I may add a little to that, there are practicality considerations as well. A metal casket would be inappropriate for a cremation. Clearly that would be a barrier if the family wished to fashion a coffin out of metal for a deceased who was to be cremated. Clearly that would be inappropriate because a metal container could not be put into a cremator. There are those practicality issues. In a case my firm handled some years ago the mates of the guy who died made his coffin. It was solid hardwood. One of the fellows who was skilled in blacksmithing even blacksmithed the handles. It was for earth burial, not for cremation. But there is no problem in a homemade coffin, if I may call it such.

The Hon. ROBYN PARKER: Running through the scenario of someone with a handmade coffin, am I right to assume that if it is okay for you to do it for somebody else you can then take a ute, front up at the hospital mortuary, pick up Uncle Joe, put him in the back of the ute and drive off and no-one checks along the way what has happened to him?

Ms PHILLIPS: Because that person is not a funeral director there is no control over him. The controls within the industry only relate to funeral directors. The disposal of body regulations through the health department only relate to funeral directors.

The Hon. ROBYN PARKER: So in New South Wales there is nothing to stop me going to the hospital, backing up my ute, putting my uncle in the back and driving off into the sunset?

Ms PHILLIPS: Provided you have the right documentation.

CHAIR: But you would need a doctor's certificate if the body was cremated and the cemetery has registers and so on in relation to burial.

Ms PHILLIPS: You would also have to register that person's death. So you need to have the documentation to register the death, part of which is entering the disposition of the body, which is the form that I mentioned earlier.

The Hon. ROBYN PARKER: Last night on television I saw an ad about funeral funds. Could you explain how funeral funds and prepaid funerals work and your role in administering the funds?

Ms PHILLIPS: Currently prepaid funeral funds are registered under the Funeral Funds Act 1979. Anybody who wishes to prepay a funeral must do so through a registered fund. That does not necessarily mean that they have to go through a funeral director. Most choose to use a funeral director in order to establish the costs that are going to be involved. There is a prepaid contract, a fixed-price contract, and the money is paid to a funeral director and forwarded to a registered funds. The money is forwarded to a registered fund.

That fixed-price contract means that the family decides what they want, their costs are calculated by the funeral director, and the amount of money is then paid to the registered funds. At the time that that service is required—the service according to the contract is provided—the funeral director makes a claim against the funeral fund to have the value of that contract paid out for the funeral. The family pays no more. That is a fixed-price contract. There are funeral bonds or contributory funds. A person contributes a certain amount of money which is then forwarded to a

registered funeral fund, not held by a funeral director. That money at the time of need is used toward the cost of the person's funeral and can only be used for that purpose.

The Hon. ROBYN PARKER: When you determine a fixed-price contract do you assess at the time the likelihood that the person might be deceased and how much it might cost or is it just at current day price?

Ms PHILLIPS: It is current day pricing.

The Hon. ROBYN PARKER: We heard evidence that some consumers have been disappointed by the service that is available when they come to use their funeral funds. They have told us they have been advised that they have not paid enough in and they have not got the service that they expected to get. Could you explain how that system works in practice?

Ms PHILLIPS: It could quite possibly be that those funds are 30 or 40 years old. That is just a suggestion. Prior to 1979 there was no registration of funeral funds. Funeral directors held moneys that had been contributed by clients towards the costs of their funerals. Over a period of time the company may have changed hands—it may have changed management for whatever reason—and it is quite possible that whoever was providing the service at the time has seen fit not to accept that there is enough money there to cover the costs. The funeral funds regulation came into being in 1979 to prevent that sort of thing from happening. It is really at the discretion of the funeral director at the time and the type of contract, if a contract was signed at the initial time that the contributions were made.

CHAIR: I refer to question No. 6. Mr Chapman, you spoke in your opening statement about this issue. Basically, you support the Funeral Industry Council's recommendation for a licensing scheme?

Mr CHAPMAN: Yes.

CHAIR: To be run by whom?

Mr CHAPMAN: We would suggest that perhaps the Funeral Industry Council would be a standalone group, with fees being provided through legislation perhaps.

CHAIR: So it would be given some statutory powers?

Mr CHAPMAN: Yes.

CHAIR: It would mean it would need a constitution and those other things that we heard about in evidence.

Mr CHAPMAN: The reason there is no constitution is that we are awaiting the outcome of this inquiry.

CHAIR: The Funeral Industry Council has been round for a while without a constitution.

Mr CHAPMAN: Yes, but it has take quite a process to get to where we are now. There have been a lot of stumbling blocks. We know what we want; it is just a matter of seeing how this goes from here on. It would be senseless proceeding with this now if we were to become an official body censured by government.

CHAIR: Do you agree that it would need to be formalised far more than it is now?

Mr CHAPMAN: Yes.

CHAIR: Would you also, for instance, change the membership? Would you include more consumer representatives? Would you include government agency representatives, ex officio, or would you still see it essentially as an industry body?

Mr CHAPMAN: In the view of our association it should be a wide organisation with perhaps additional representation. Even though some government departments are there as observers now, there is no reason why they cannot become full operative members. I do not believe so anyway.

CHAIR: What about consumers or members of the public?

Mr CHAPMAN: There would be scope for more consumer representatives or members of the public. That is something that has to be sorted out. At the moment the Funeral Industry Council just does not have any teeth. It has no authority, no power. It is more or less a group that is there to advise industry. We just do not have any way that we can control the outlaw or feral groups in the industry at the moment. We believe that some teeth should be given to the council.

CHAIR: Are there any positive or negative effects that would affect regional and rural areas if a licensing scheme were to be pursued?

Mr BROOKS: I believe it would assist us all in offering a better service to our clients.

CHAIR: Why?

Mr BROOKS: If all funeral directors have to comply with certain regulations, as it stands at the moment somebody can walk in and open a shopfront and say, "I am a funeral director." What they have out the back and what their clients do not see is no mortuary. Where are they doing their bodywork, and that sort of thing? Families do not know. They believe that because it states "funeral director" out the front, it means that this man is a professional and he is doing everything the right way.

CHAIR: You do not think the local government inspection of mortuaries and things like that would overcome that problem?

Mr BROOK: If there is no mortuary the local government inspectors do not go there. The public do not know that.

CHAIR: While some people cannot become members of your association they can still run a business?

Mr BROOKS: They can still run a business.

Ms PHILLIPS: And I might state that that does not apply just in the country.

The Hon. KAYEE GRIFFIN: Presumably the person has not even gone to the council for what used to be deemed a change of use to find out about zonings and other issues. They do not necessarily have the right to give development application approval on that?

Mr BROOKS: No.

CHAIR: You suggested that if licensing or the code of conduct does not come into fruition there should be a compulsory code of conduct for all funeral directors—something like a fallback position?

Mr CHAPMAN: We would accept either licensing or a compliance situation, providing there is some provision to censure or prevent the operation of rogue elements in the industry.

CHAIR: So who would run a compulsory code of conduct? Who would be in charge of drawing up a black list or an approved list? How would you see that operating?

Mr CHAPMAN: I believe that the Funeral Industry Council would be well placed to do that.

CHAIR: Again, essentially you would have legislation but self-regulation within the industry under the umbrella of legislation that laid down the rules?

Mr CHAPMAN: That is correct.

The Hon. KAYEE GRIFFIN: I refer to what the Hon. Robyn Parker said earlier. You have a register in which you detail a range of things. The only formal information that comes out is what is on the death certificate—information about where a person is going to be interred. Is the register that you hold at your place of business the only formal registration of where a person dies and when he or she is buried? The information that you supply on the death certificate is about where the person is interred and whether you have taken the body to the crematorium?

Ms PHILLIPS: On the information of death form for the purpose of death registration, yes. The records are held at the cemetery of where that person is buried.

The Hon. KAYEE GRIFFIN: Depending on what people want to do once someone has been buried—whether or not they want the ashes in a columbarium, or whatever it might be—the only other detail is at the cemetery or crematorium. That really is not something to which everyone necessarily looks for access. The formal registration is the death certificate in which you give information about where the person has been buried because you officially attended the burial or the crematorium to which you have taken the body?

Ms PHILLIPS: That is right.

The Hon. KAYEE GRIFFIN: That is the bit in the middle—between your records and whatever records are held by a cemetery or a crematorium?

Ms PHILLIPS: That is right.

The Hon. KAYEE GRIFFIN: There is no other place in which that information is held, is there?

Ms PHILLIPS: It is obviously held in our records.

The Hon. KAYEE GRIFFIN: It is accessible only to the family as it has a copy of the death certificate after it has been registered. But there is no formal access for anyone to obtain that information quickly; that is what I am saying.

Ms PHILLIPS: Only from our own records, yes.

CHAIR: I refer to licensing or the code of conduct. Given what you said earlier about the legal obligation on crematoria to accept a body that is brought to them, how would the stricter licensing or compulsory code of conduct impact on that? How would you have that operate?

Mr CHAPMAN: There would have to be a change to the legislation to eliminate that part of the legislation that requires a crematorium to take a body.

CHAIR: If a crematorium were allowed to turn away a body, what would happen then?

Mr CHAPMAN: I envisage—and this is only what the association thinks, and many in the Funeral Industry Council think the same thing—that a certificate of compliance will be issued to all funeral directors who comply with the code of conduct. There would be a list of those funeral directors. That list would be given to all the cemeteries and crematoria. If a person was not on that list and he or she did not have a certificate, he or she would not be able to book a body into a cemetery or a crematorium in the first place. So the chance of somebody turning up to a funeral with a body would not exist. They would be knocked back.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So you would totally wipe out in one hit do-it-yourself funerals?

Mr CHAPMAN: No, this would not apply to anybody engaged in a do-it-yourself funeral. We are talking now only about funeral directors.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So individuals would be exempt?

Mr CHAPMAN: That is right.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So that is a loophole in the legislation that could be used by anyone?

Mr CHAPMAN: I suppose it would be. I do not think too many families would go to an individual to conduct a funeral. If they went to a company, the company would have to conduct the funeral. If it does not comply with the code of conduct it would not be acceptable.

The Hon. ROBYN PARKER: If the cost is becoming prohibitive people might choose that option.

Mr CHAPMAN: To go to somebody else?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: A do-it-yourself funeral.

The Hon. ROBYN PARKER: We cannot call them do-it-yourself funerals.

Mr CHAPMAN: There are other alternatives. As I said, licensing would be ideal. If we had licensing with some teeth in it to prevent the rogue element from operating we would be perfectly happy with that. Failing that, we need a system of compliance where people have to conform to a code of conduct or they do not get access to a cemetery or crematorium. That would be the next step.

The Hon. ROBYN PARKER: I refer again to Uncle Joe in the ute in a particle board coffin.

Ms PHILLIPS: Which, in fact, is a do-it-yourself funeral.

The Hon. ROBYN PARKER: We have established that there is nothing in between the death certificate process—basically, of picking up Uncle Joe, and wherever Uncle Joe ends up. There is a death certificate at the end of it and the death is registered.

Ms PHILLIPS: I wish to clarify the difference between death certificates. There is a medical certificate for the cause of death that is issued by the attending practitioner at the time of the person's death, which is commonly referred to as a death certificate but it really is not. Then there is the certified copy of the death certificate that is issued by the Registry of Births, Deaths and Marriages on the completion of that process of disposing of the body and certifying its disposal.

The Hon. ROBYN PARKER: Does anyone check that the end process is attained? What if I did not want Uncle Joe to show up as being dead?

Ms PHILLIPS: The doctor has issued a medical certificate stating his cause of death. That certificate is then sent to the registry. The registry would then be waiting for the information of death form to come from an individual or a funeral director to specify what happened to that body. So there is a link at the registry that says, "Okay, we have a death here. What has happened to the body?"

The Hon. ROBYN PARKER: I hope that is followed up.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: What happened to the Department of Fair Trading's draft guidelines for do-it-yourself funerals? There were draft guidelines for funerals and the do-it-yourself part of it was truncated and adapted in that process. Do you know how that happened?

Mr CHAPMAN: No, I was not aware that it had happened. I know about the guidelines that were issued. From recollection I think that was still included.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: The first draft had information relating to do-it-yourself funerals and the final one had less information relating to do-it-yourself

funerals. I understand that the Funeral Industry Council or its agents had some input into that. Is that correct?

Mr CHAPMAN: No, that is incorrect. That has never come before the Funeral Industry Council. I represent the association on the Funeral Industry Council. That never came before the council.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Are you concerned about the increasing control by InvoCare of the industry as a whole and the Funeral Industry Council in particular?

Mr CHAPMAN: I do not believe there is an increase in influence by InvoCare. As a matter of fact, in its own submission, which I have read, it states that it has now lost quite a bit of business in New South Wales, or in Australia generally, because it initially was an American-owned company, even though it is not now. I do not think it is growing in any way at all. I believe that its presence is good for competition in New South Wales. Our members welcome it. Our members can compete very adequately with InvoCare members on a number of fronts. From what we can see it is not growing any bigger than it was five years ago. It has about 25 per cent of the industry, but it used to have about 40 per cent at one stage. So it has dropped off a bit.

CHAIR: Is that in New South Wales?

Mr CHAPMAN: I think it is in Australia generally. New South Wales is no different; it would be about the same.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Does that include the ones in which it has an interest, but which it does not own?

Mr CHAPMAN: Yes. The funeral company operators that we know of all are all InvoCare companies. They are fine companies; they operate well. We just compete well with them. We do not believe they are getting any more business. In fact, I think some of them are getting a lot less business than they did before.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: When you say 25 per cent of the industry, do you mean the number of funeral directors or the total turnover of the industry in the State?

Mr CHAPMAN: The number of funerals they do in New South Wales.

CHAIR: It is now about 25 per cent.

Mr CHAPMAN: Yes.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Would that be 25 per cent of the total value of funerals or are they doing the top-end ones?

Mr CHAPMAN: I could not say. It might be more than that. All I know is that I can talk about numbers and I know that they are doing something like 25 per cent or 26 per cent of funerals at the moment.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Can you tell me about cardboard coffins? Did they come before the Funeral Industry Council and what happened to them?

Mr CHAPMAN: There have been two samples of cardboard coffins presented. The original one was just like a brown cardboard box. We asked the group that was producing them—a company called Ecoffin from Tasmania—to give us some samples for testing with TestSafe. We asked them to do it for 12 months or so but they did not produce any product to be tested. A new product came on the market from a company called Apogee which is now Life Art. It is an enviro board material, which is cardboard combined with some timber. That was produced for testing. It was put before TestSafe, went through all the procedures and came out with flying colours. So as far as the Funeral

Industry Council, our association and I am sure the whole industry are concerned, that particular cardboard coffin is quite safe and quite acceptable for use.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So the Tasmanian one was not tested and therefore not used by funeral directors.

Mr CHAPMAN: They did not provide us with any so we could not test them.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Should they have had to?

Mr CHAPMAN: I do not know how we could have tested them without having product provided for us.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Could not members have used them?

Mr CHAPMAN: We had no objection to them being used. All we were saying is that, from looking at them, there was no guarantee that they would not warp under refrigeration. Certainly the handles could not stay in them. Bear in mind that the union requires coffins to be carried waist high and the handles will pull straight out of ordinary cardboard. They were two of the things that were wrong. There was also a problem with cremations whereby the cardboard ignited too quickly and there was a flashback, which is a danger to the operators in a crematorium. Frankly, funeral directors and crematorium operators did not want them used. Also there was a danger that the coffins were not strong enough to hold large bodies. So even for burials they would not have been really safe.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: But they were not tested.

Mr CHAPMAN: No, but the company agreed with what we were saying. They agreed that they would not be able to meet the requirements of TestSafe.

CHAIR: Did they ever come on the market?

Mr CHAPMAN: I think they did put some on the market. I believe in South Australia they were accepting them for burials. I am not sure.

CHAIR: "Were"—past tense.

Mr CHAPMAN: Yes, I am not sure about now. I have not seen any evidence of them being about now.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So the Funeral Industry Council discussed the issue and required them to be tested.

Mr CHAPMAN: We asked to be able to test them before we declared them safe for our members.

CHAIR: We need to move on because we are well over time. We have missed one issue—we have hopped around a bit and not asked many of our questions in the form in which we sent them to you originally. You have said quite a bit about some of the people in the industry whom you are concerned about and you attached your complaint resolution policy to your submission. Can you give us an indication of the number and type of complaints that the association receives and whether you refer them either to NSW Health or to Fair Trading?

Mr KAUS: Not wishing to reply in any glib way, we do not get a lot of complaints. I am not trying to blow our own trumpet but our association maintains a standard. A requirement of membership of the Funeral Directors Association of New South Wales means that you, as a practitioner in the funeral industry, agree to comply with a certain standard. If you breach that standard then certainly the association wants to know and needs to know, and so the formulation of the complaints policy was put in place some time ago.

We have not had a lot of complaints referred to us as yet. There is a formal chain of events that occurs if a complaint is received—it depends on the nature of the complaint. I guess the ultimate sanction that we, as an association, can inflict on a member who behaved in most a grievous manner is to terminate their membership. If the circumstances decreed, we would certainly refer a complaint on to maybe a government body. If it was seen to be a health-type breach, it would certainly be referred to an environmental health officer. If it was something in the fair trading sphere of influence, we would certainly refer something to them.

CHAIR: But you have not done that as yet.

Mr KAUS: No, not as yet. We exhaustively investigate these things and often times—I will not say that complaints can be frivolous because "frivolous" is not the right word—when a complaint is investigated the actual facts do not quite bear out the complaint, if I can put it in those terms. On further investigation, probably better and more accurate particulars are obtained, counselling of the member is often undertaken and there is certainly monitoring of that member's future performance if that is felt necessary. But, as I say, as a general rule we do not receive a lot of complaints. But if a complaint were to be made we would welcome it with open arms, and that is the reason that a complaint resolution policy was put in. We see it is good practice as an association that requires its members to meet a certain standard.

CHAIR: Can you quantify any of those at all? For instance, in 2004 how many complaints did you receive?

Mr KAUS: I do not have those exact numbers.

CHAIR: Could you take that question on notice?

Mr CHAPMAN: In 2004 we probably would have received perhaps two complaints about our members. Our office receives a lot of complaints about funeral operators who are not our members; they are generally the rogue element in the industry. They are issues that we refer on to Fair Trading or Health.

CHAIR: If there were two complaints about your members how many complaints did you receive about non-members—how many is "a lot"?

Mr CHAPMAN: Two a month.

CHAIR: Compare two with 24 in 2004. Would that be a fair estimate?

Mr CHAPMAN: I think so, yes.

CHAIR: You referred those on to Fair Trading, for instance.

Mr CHAPMAN: We did on a number of occasions.

CHAIR: Are they mostly cost or management complaints or health-type complaints?

Mr CHAPMAN: They are about a wide range of things. Cost is definitely one. Some people are surprised by the bill they got or do not believe they got value for what they were charged for. Those complaints go to Fair Trading. Matters relating to bodies kept in the wrong places—not in a mortuary—go to Health. We receive some complaints that we cannot do anything about at all. We had one only the other day about the manner in which a body was being treated by the funeral director. It was probably the same one that came in in the open-toed shoes, which was talked about earlier today. Basically, they mishandled the body. They were crudely dressed.

CHAIR: It is more a lack of respect.

Mr CHAPMAN: Yes. They were laughing, joking and that sort of thing. They tried to chat up the nurses in the nursing home. They were not a member of any association. We were able to

arrange to have the funeral taken off that funeral director and given to one of our members. That is a complaint that you cannot pass on to anybody.

CHAIR: How would you achieve that—through working with the family or through going to the nursing home?

Mr CHAPMAN: We worked with the family.

Ms PHILLIPS: A nursing home lodged the complaint initially.

Mr CHAPMAN: In the industry generally there are things like that that do not fall into any category—Health, Fair Trading or WorkCover. There is nowhere to slot them in. One of the things we need an industry group to do is to look after things like that and to censure those particular funeral directors who operate like that or, if necessary, get them out of the industry.

CHAIR: I think we have gone through all the issues—as I said, not necessarily in the prescribed order or words. Thank you very much for coming, particularly those of you who travelled from Mudgee and Tamworth. I think you have taken a couple of questions on notice or there are issues that we may get back to you about.

Document relating to costs accepted.

CHAIR: Thank you very much for your attendance today.

Ms PHILLIPS: Thank you for the opportunity.

(The witnesses withdrew)

IAN EDWARD GEORGE STRATHIE, Divisional President, Australian Funeral Directors Association, New South Wales/Australian Capital Territory Division, 1/700 High Street, Kew East, Victoria, and

DARREN JOHN EDDY, Senior Vice President, Australian Funeral Directors Association, New South Wales/Australian Capital Territory Division, 1/700 High Street, Kew East, Victoria, sworn and examined:

ELIZABETH YOUNG, National Director, Australian Funeral Directors Association, 1/700 High Street, Kew East, Victoria, affirmed and examined:

CHAIR: I welcome members of the Australian Funeral Directors Association. Thank you for coming. I am sorry that we are running a little late—it usually happens, particularly as the day goes on. But I imagine it was quite useful for you to hear some of the evidence of the previous witnesses.

Mr STRATHIE: We chose to stay outside.

CHAIR: I am glad you told us that because we usually concentrate on the witnesses rather than those who are present in the room. We have received your submission. Before we turn to the questions that we prepared for you would you like to make an opening statement?

Mr STRATHIE: Yes. As the New South Wales Division of the Australian association, we are very encouraged to think that this Committee has gone so far as to open up a review into the funeral industry. Our association at this particular point in time is encouraged and believes that we need to have an open and frank discussion about the industry and the practices therein, the regulations, licensing and the code of conduct and practices of the association. We are here to answer any questions that you care to put to us and to have an open and frank discussion.

CHAIR: Thank you. So you did not hear the evidence of the funeral directors.

Mr STRATHIE: No.

CHAIR: We asked a number of questions of them about why there are two associations and about their membership compared with your membership. That is of some relevance but we did not spend much time on that issue. Can you tell us a bit about the role of your association and your New South Wales membership, in particular? You may want to say something about your Australia-wide operation as well.

Mr STRATHIE: With your permission, I will direct that question to Liz Young, who will give you an oversight of the whole picture of the Australian Funeral Directors Association, and then put it into context for New South Wales.

Ms YOUNG: We are a national funeral industry association, with members in every State and Territory. This year we are celebrating our seventieth anniversary of service to our members. Our data indicates that our members Australia wide conduct about 62 per cent to 65 per cent of the Australian market. Our primary role is to regulate our membership. Our mission statement is to promote funeral industry standards. We do that by membership criteria and other policies and practice statements. Our primary role is to regulate our members to ensure that the community can be served well and professionally.

CHAIR: You are based in Melbourne?

Ms YOUNG: The head office is based in Melbourne, yes.

CHAIR: What about your New South Wales percentage and membership?

Mr STRATHIE: In New South Wales, our head office is by nature also in Victoria as well. We operate a division which has a properly constituted directorship. We have a board of membership

and also membership. Our membership currently is 45 members in New South Wales. We have brought with us a map of New South Wales to show our distribution of members as opposed to other members' organisations within New South Wales to help to facilitate the broader picture. With your permission, we were show you that later.

CHAIR: Yes, that will be useful, thank you.

Mr STRATHIE: Within New South Wales, our latest data seems to indicate that we represent approximately 51 per cent or 52 per cent of total funerals that are conducted within New South Wales.

CHAIR: You referred to the map, but do you have a bigger share in Sydney, or perhaps Sydney-Newcastle-Wollongong and perhaps less in the country?

Mr STRATHIE: We will show you the map. If you go on actual membership numbers, we tend to be spread around the whole of New South Wales. In metropolitan Sydney, we have two conglomerates which are Australian owned, I might add, not just overseas. They are all Australian based.

CHAIR: It is the biggest map we have ever been given.

Mr STRATHIE: It is a big State.

CHAIR: And the pink dots?

Mr STRATHIE: The pink dots are ours. The orange dots represent what we believe are the Funeral Directors Association, who preceded us in the hearing. On that map we have not indicated independent federal homes who have no allegiance with any particular organisation; they are just a purely mums and dads who are operating on their own.

CHAIR: So it is quite a spread in that State.

Ms YOUNG: That is across the country and regional. It is not big enough to do dots for the metropolitan area.

CHAIR: For Sydney?

Ms YOUNG: Yes.

CHAIR: On the whole, are your members the bigger companies who are conducting more funerals than the group that we heard just before?

Mr STRATHIE: I would not like to say. On my own personal basis, we conduct approximately 300 or 310 funerals a year. Darren Eddy, who is our senior vice president from Albury, conducts in the vicinity of 250 or 260 funerals, and we also have members who conduct only 80 funerals in a year. We also have funeral directors in metropolitan Sydney who conduct thousands of funerals. The actual numbers and demographics of the numbers show that we are broad based.

CHAIR: Our second question asked you to refer specifically to issues that affect rural and regional areas. Obviously, judging by the map, your members have a lot of experience in rural and regional areas, including two of you.

Mr STRATHIE: Yes, we do.

Mr EDDY: Yes.

CHAIR: Obviously, as you would know, there have been issues raised with us relating to the degree of choice in funeral operators in regional areas and whether or not that has an impact in terms of costs or in terms of servicing particular groups in the community who may have special needs or requests.

Mr STRATHIE: If you are looking at special costs and special needs for particular groups of people, in my own home town that I come from, Nowra—and I will speak specifically to that—there are three funeral directors in our town. One has joint membership with the Funeral Directors Association and the Australian Funeral Directors Association, and I have single membership of the Australian Funeral Directors Association. We also have an independent funeral director. As far as competition and choice go, in our town that is fine, but I must say with the actual demographic, the death rate in our town can support three people. We can say that with a smirk, but if you think about Gilgandra or other places like that, they might have only 10 or 20 funerals a year, so how do you get competitive with a client base of only 20 a year? It comes down to demographics.

CHAIR: So for most people in New South Wales, you think that there is an adequate degree of competition to give people a choice.

Mr STRATHIE: The higher the population growth, most assuredly, but the smaller the population growth, the tyranny of distance has a great part to play.

CHAIR: Mr Eddy, what about Albury and the area, say, around Albury?

Mr EDDY: Certainly in Albury we have ourselves and another funeral director who is independent of any association. We have a funeral director in Victoria, just across the border—obviously, with Albury-Wodonga being right on the border—who services Albury also. We have a number of smaller funeral directors in country towns within a 50-kilometre radius who also would come to Albury or any of the surrounding areas and provide a funeral service, and they have done so for some time. It is quite common. Our major cemetery is in Albury. There are smaller ones in outlying areas, but the only crematorium within approximately 150 kilometres that is council-owned is in Albury. We find that people who are seeking a cremation, they are coming into Albury, and we are having a lot of funeral directors who are coming to Albury and ringing up, getting prices and quotes from funeral directors, to provide that service in Albury. There is quite a range of availability. Wagga Wagga is similar. Wagga Wagga is a town that is not unlike Albury. It has four funeral directors plus a few other funeral directors in outlying areas that service that community also.

CHAIR: Does Wagga Wagga have a crematorium?

Mr EDDY: It does. My personal thought is, certainly within my area, that there is ample competition and we find we have a lot of people who ring, looking for funeral estimates. We encourage that. If we give an estimate to a family, we encourage them to seek an additional estimate from other funeral directors.

CHAIR: Given your location, which is right on the border, are there any advantages or disadvantages or preferences between people choosing to go to Wodonga, choosing to go to Victoria, or choosing to come across the border? Do Victorians find that lower costs or something else is better in Albury, or vice versa?

Mr EDDY: Not as a rule, but what we might find is the opposite is happening now. Our cemetery is controlled by the Albury City Council and we have just been in discussions with them at present because there has been quite a significant price rise from the council. For a double grave, effectively the increase from 1 August is 88 per cent. We have had an 88 per cent increase. The reason that this has come about is because the cemetery has decided to effectively load the second interment into the first fee payable. We have had some serious talks to council officers about that. At this stage, we have not had a lot of success, but we continue to talk to them about that. Also we have had a pretty significant increase with regard to what we would consider to be an entry level memorialisation for people wishing to have their ashes interred at Albury.

Initially the increase that they were looking to impose was 50 per cent, which took it up to just under \$1,000, and after discussion with council officers, that has been decreased back to a Consumer Price Index increase, which we feel is much more suitable. But what will happen is that we have a lot of smaller cemeteries—probably 20 within a 30-kilometre radius—and I am sure now that they will find there is an increasing burial rate because of the high costs associated with the Albury cemetery. Wodonga will be one that may benefit, being literally I suppose a 10-minute drive for most

people in central Albury. It may become a real option for them to go south to have their burial taking place there.

CHAIR: How much cheaper is it?

Mr EDDY: It is roughly \$1,000 cheaper for the same type of grave.

CHAIR: For a cemetery?

Mr EDDY: For the cemetery fees.

CHAIR: And for cremation?

Mr EDDY: Cremation is the same because the Wodonga funeral directors and those from Wangaratta and Benalla as well as those who are an hour or so away also come to Albury, although there is some talk, now with the increases, of them looking elsewhere for their cremations to be done. So those factors have had a pretty significant increase just in our town.

CHAIR: Is there anything else, other than cost, that affects the choice of crossing the border?

Mr EDDY: We do have our border parochialism. It tends to be a tradition of Victoria and New South Wales, not unlike the State of Origin. It seems to be that way. We find that the funeral director in Victoria would generally do 95 per cent of his funerals in Victoria. We would do the majority of our funerals in New South Wales. There are some families that cross over, but generally the Murray River may as well be a 50 foot brick wall in that regard. It just does not happen in that regard. I think there is a little bit of the home town feeling in that.

Certainly, again, we have had people who have rung and requested estimates on funerals for us to do in Wodonga and we provide that. We also ask them—generally you can get an idea if they have contacted another funeral director because the questions become more specific from, generally, "How much does a funeral cost?", to "What does it cost to have an additional mourning car" and "Do you charge for a condolence book?" We then can get a bit of an idea that we have a better educated person ringing up—educated as to what things may be involved in our funeral cost—so we can get a bit of an idea that way.

From that factor, it is not a cost-driven thing. As I said, we are yet to see, but I would imagine that with the cost increases that we have just been given in cemeteries, we may find that Albury people may choose to go across the border for their burials and may not necessarily use a Victorian funeral director in fact may still choose to use or ask for another funeral director in the town. But those sorts of things will have an impact on where they decide and the type of service that they decide to use, certainly. More but as I mentioned, in our areas particularly, we probably have 10 funeral directors that people are able to access within 40 kilometre to 50 kilometre radius of Albury.

CHAIR: We have a couple of questions here about funeral funds and prepaid funerals. We probably got enough actual detail from the Funeral Directors Association of New South Wales in the last hour or so, so maybe we should ask you for any comments you have to make on the operation of these funds and why there are complaints about them, for instance, and perhaps anything else that you think it is important for the Committee to understand.

Mr STRATHIE: One of the points I wish to draw the Committee's attention to is with relation to prepaid funerals. They have been going for in the vicinity of 15 to 18 years, in that sort of time frame. In our local area on the South Coast, all our money was invested with the Illawarra Mutual Building Society. At that particular stage a typical funeral cost in the vicinity of \$1,750, to just pluck a figure out of the air. The return on that investment we are realising today is less than 1 per cent. If we were to equate that to a real-cost funeral today, our company, although we do not add on the extra costs, would be suffering a loss in the vicinity of approximately \$1,000, but we honour the contract to the letter because that is what we do. We have recognised that and it has made us more astute in the education of the client and in the protection of the client. For example, for an Interflora or florist tribute of the beautiful flowers that we see on the top, in those days it was around \$70 or \$80.

To get that today, you would be likely to get half a dozen red roses, so you would be equating the floral tribute on top of the casket today at in the vicinity of \$200.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Have you not been getting interest on that for 20 years?

Mr STRATHIE: One per cent. It does not keep up with inflation, sir.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: But that money is invested.

Mr STRATHIE: That is not for us, though, sir.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: But it is in a trust, is it not?

Mr STRATHIE: It is in trust.

Ms YOUNG: Or a friendly society, which is the most common vehicle.

CHAIR: So you are saying that the money has not grown.

Mr STRATHIE: The money has not grown in context with today's real cost of actually doing business.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So it was bad in its investment. It was not invested in a realistic share portfolio, or whatever.

Mr STRATHIE: We had no control over that. That is controlled by actual legislation of the Parliament.

The Hon. ROBYN PARKER: It has to go to a specific place?

Mr STRATHIE: Yes, we have no control. You give us a cheque and we just pass it to the funeral fund to invest appropriately, and 10, 15 or 30 years down the track, we say that this contract needs to be drawn, and what is the money that is there, and they say, "The reality is, on today's prices, you are short", so we just wear that.

CHAIR: So you honour them?

Mr STRATHIE: I honour them, to the letter.

CHAIR: But as time goes on, you say that the loss to yourself is bigger.

Mr STRATHIE: Yes.

CHAIR: What about the prepaid funerals? They are worked out with the directors?

Mr STRATHIE: That is the prepaid funeral that we are talking about.

CHAIR: But the funeral fund?

Mr STRATHIE: The funeral fund is the same sort of thing. What we are observing is that, with the contracts we are writing today, we are being more specific in what we are saying. For example, in our company, if someone wants a floral tribute of a huge number of roses, we say that we make an allowance of—

CHAIR: Six roses or 20 roses, or whatever.

Mr STRATHIE: Yes, that sort of thing, whereas years ago we were pretty naive in the funeral industry in relation to funeral funds because it was brand new to us. Within the industry, and I dare say for us and other associations, we are very cognisant of the fact that we need to protect

consumer rights at all times because it is a time where I know our organisation and other associations are not there to take advantage of people; we are there to assist people through a time. Prepaid funerals is just another way of taking the burden off the family at that particular stage in their life when they don't want to do that.

CHAIR: The Committee has heard evidence that increased costs come from those ancillary services, such as flowers and cemetery and crematorium fees, rather than from direct services that funeral directors provide. Is that your argument?

Mr STRATHIE: Within our submission you will notice that we supplied statistical information. The information gathering period was 14 days in which we had to get information out and correlate it for the submission dates. Within that particular data we noticed that the disbursements that were non-funeral director related, in and out cash flows, represented 40 per cent of our total funeral spend. For example, I know the cemeteries and crematorium will always cop a bagging. Darren has talked about his area. In our area, Shoalhaven City Council has drawn policies where they will only increase by CPI as they go through, but that is a local government area, it is not a commercial identity.

Wagga Wagga City Council has given an edict of a 10 per cent rise per annum for the next 10 years. If you look at some of the metropolitan cemeteries, we are looking at areas where a funeral will be booked today and when we phone up tomorrow we will be told of an \$1,800 increase in cemetery fees overnight. This constitutes 40 per cent of the total funeral spend for families. But when it comes down to actual spending, in my private submission, we looked at total cost. A civil celebrant or a Minister in those days, five or 10 years ago, was \$50. Today it is \$130 for a priest or a clergy. If I want a civil non-religious celebrant I can pay anywhere from \$200 to \$330 for the same function for the Master of Ceremonies out the front.

When we look at people who compare costs of funerals they say "This funeral account was \$2,500 and this one is \$5,000. Where is the difference?" What we really have to do is compare apples with apples and oranges with oranges. In the submission we said that there are many line items that constitute a funeral account. Every funeral is different, every person is different, the cost structure for every funeral, although the services fees are the same, the coffin is the same, but when everything is added, everything is different because there is no continuity between that Holden and that Holden.

CHAIR: What justification is Wagga Wagga council putting forward for a 10 per cent increase every year for 10 years?

Mr STRATHIE: The answer is "Yes"

Mr EDDY: The argument that Wagga Wagga gave was purely a financial decision made that it was given a directive from the council to be self-sufficient effectively. They looked at their fees and discovered that the only way that that was possible was to have this increase.

CHAIR: Are they arguing that, in effect, they had been subsidising burials before?

Mr EDDY: Yes, and that is the same argument that we are getting from Albury City Council that the council is losing money, hand over foot, on the provision of their cemetery crematorium. The only way that they are able to make that area self-sustainable is to increase the fees to a degree where it can make its own money. I do not dispute it, but the council is telling us that the cost increase is because they want that cemetery crematorium to survive on its own two feet. They do not need or want to take money from Consolidated Revenue to fund the cemetery.

CHAIR: Are you challenging the correctness of that?

Mr EDDY: I haven't seen any evidence to say that that is not correct. We certainly had a meeting with senior council officers, and in fact the manager in charge of Albury services who runs the cemetery, only 10 days ago, just prior to me coming up here with not only ourselves but with the other funeral director in Albury and the one in Wodonga. We had spoken to the other funeral directors that are in that area about what we were intending to do. At that meeting the reason that we were given for the amount of the increases was so that the council could not have to fund the cemetery any

more. We asked if they could indicate the amount that it was losing, and where they were losing it, but obviously they are not in a position to give that to us. So I can only take what they are telling me to be correct. I cannot dispute it one way or the other.

We mentioned to them quite frankly at the beginning of that meeting, we are not questioning the ability of council to put up fees if it chooses to—it was certainly not about that—but we are questioning the reason behind such a big increase and the reason why council had decided to load the second internment in with the first fee. Effectively, we have got a fee for a double depth grave, families are paying for the second internment now. Now the family may not choose to take up that grave and they will not get the money back. If they choose not to take up that re-open then I presume, or I hope, that that money would be in a registered Funeral Fund, to be honest, because I would imagine that that would fall under the same criteria as a family coming to me and giving me money to put aside for their funeral. My presumption is that any money for a reservation of ground would be held under the same context. It may not be the case.

CHAIR: I do not think it works that way.

Mr EDDY: I would hope that that would be the same. That family has paid for a position and would not want to have an additional cost burden on them in 20 years time when they go to re-open that grave. I have got no evidence to say that that is not the case.

The Hon. ROBYN PARKER: The Committee is trying to grapple with licensing and a way forward. The Funeral Industry Council has talked about a model of licensing. How do you think that would work?

Mr STRATHIE: I am also a member of the Funeral Industry Council as the President of the Australian Funeral Directors Association. I have only been there for two years and I believe the Funeral Industry Council has been operating for many years. The major criteria of the work that has been done, the whole emphasis for me and for our members in New South Wales, we are looking for, I believe, is going back to a model of licensing or of regulation where the consumer is protected to the nth degree. I will amplify that with a case in Nowra before I go down the track of models for you for the Funeral Industry Council.

The funeral director we have is a competitor in Nowra who does not belong to either association and to my understanding has not got any mortuary at all in the local area and has not put in a development application at the time of writing this submission for a mortuary. The question has to be asked: If Aunt Maud or Uncle Bill were to die tonight and they chose that funeral director where is Aunt Maud or Uncle Bill transferred and under what conditions? The next question asked is: If Aunt Maud or Uncle Bill have an accident of any description, what safety controls has that person taken to safeguard his workers or the family when they come to have a viewing of Aunt Maud or Uncle Bill? What about the contaminated waste that funeral directors have? What about the new entrants, where do they pick up this information? Where do they learn these things?

The Funeral Industry Council, I believe, is endeavouring to achieve some model or some due process whereby the consumer, the public, are protected in all rights and where regulations are adhered to, followed, administered and monitored. Our frustration within New South Wales is that we have a whole raft of regulation—in our submission we have 13 different Acts, regulations and so forth to which we have to conform—but we cannot go to one person and say "Please we have got a problem. How do we fix this?" I believe the Funeral Industry Council is endeavouring to work towards achieving some sort of semblance of regulation or control over an industry that has a very sensitive nature.

Queensland has a different model. I know it is outside our jurisdiction but it has a process of looking at world's best practise and is adopting that particular model. Victoria is going through the same process that we are going through here to look at licensing and regulation. But it is unanimous within those jurisdictions, as it is with ours here, I believe, that the consumer expects, anticipates and believes that funeral directors do have a licence and a code of conduct and regulations to which they adhere. But in reality when it comes to push and shove there is regulation but there is no watchman, gatekeeper or policeman.

The Hon. ROBYN PARKER: Is it your view that the Funeral Industry Council should be that regulatory or supervisory body?

Mr STRATHIE: It was a great move by Minister Knowles at that particular time to form that body. We needed to do something. We were meeting as a dyslexic group of funeral directors and cemetarians trying to get things done and it was then recognised that we needed to do something and the government of day said "Let's form a committee" and for want of a name, the Funeral Industry Council. We have been progressing down, exploring, examining and coming up with a solution. Luckily I thought we were on home base when we put the submission towards Minister Iemma, the then Minister for Health with our submission for a model of regulation within New South Wales. It might not be the right one the Government wants, or the public sees is right, but the "experts", the people who are in the industry and who work the industry all the time believe that that is a workable model. It was put there, I believe, as this is what we think is our best practise, it is the way we ought to go.

The Hon. ROBYN PARKER: Given that time line you have discussed, has the Government really been encouraging, supporting and resourcing that development of that licensing project? It sounds as though it has been stalling it from Minister to Minister and the Premier.

Mr STRATHIE: I do have a personal opinion that I do not want to express here. As far as the association goes, we are committed nationally, along with the Cemeteries and Crematorium Association and the Funeral Directors Association and Invocare who is a large funeral directing corporate in New South Wales, and have funded the development of that model that we have got to today out of our own pockets in the interests of public awareness, public safety and best practise. We have funded that out of our own pockets with the intent with no government support.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Can I ask about the corporatisation of the industry?

CHAIR: Before you do, I will continue with the questions on licensing. You say that it is proven that funeral directors from smaller companies can successfully operate and compete under that sort of proposal that went in at the end of last year. Can you provide evidence or examples to support that because clearly, as you know, it has been argued that a licensing system may disadvantage small companies?

Mr STRATHIE: Our national association has a code of conduct and practice, and equipment and standards, which we have submitted to you. I will ask Liz to explain that to you.

Ms YOUNG: The intent of our statement that it is proven that small funeral directors can operate is that because of the structure of our membership, our membership is by firm. So Liz Young Funerals Pty Ltd is one member. Whether or not I have another 20 branches, all of those 20 branches and the head office are considered one member. That member nominates a senior company executive, or a company director, to be its representative to the AFDA. That person is held accountable for the firm's practices, employees, premises, equipment and vehicles.

For us, that is quasi licensing, where we hold the principal of the firm responsible for that company's membership to our association. That is why we believe that small funeral directors, whether they conduct 50, 500 or 5,000 funerals, are accustomed to operating under that licensing regime, where they know that they have to comply, particularly in the area of premises, equipment and vehicles, because that is probably the greater investment in the funeral home, and that they appreciate and understand that. So they are very accustomed to it and they are very comfortable with it.

CHAIR: To return to Mr Strathie's example of the independent in Nowra with no mortuary, presumably that person could not survive under this system without a considerable investment in a mortuary?

Ms YOUNG: Correct.

CHAIR: But you would argue that that is a good thing?

Ms YOUNG: Our members in New South Wales are emphatic that it is appropriate for a professional funeral director to have facilities that have refrigeration, mortuary facilities, and appropriate transfer vehicles.

CHAIR: The next question is about the suggestion that the licensing scheme would be funded by consumers through a small levy on funerals. Do you have any idea how much that small levy might be, and again whether small operators might be disadvantaged if larger operators, with economies of scale, are able to absorb a large part of the cost?

Ms YOUNG: In the Victorian inquiry, the consumer research data indicated that consumers would be willing to pay even \$20 to be assured that that funeral director was licensed. That data showed that they are not averse to paying a licensing fee—much like motor traders, real estate agents or financial planners, for example. We understand that some years ago there was a figure of in the order of \$8, which we do not believe is excessive. With the number of funerals in New South Wales, if you said a reasonable figure could well be in the order of \$8, we believe that that is part of a funeral company's overheads and it should be part of its budgeting. We do not necessarily believe that larger operators are able to absorb it easily, or less easily than a smaller operator. For us, it is a running cost.

Mr EDDY: If it happens that we are talking about \$8, I suppose in real terms on the funeral invoice that would probably equate to one extra line on a family death notice in the *Sydney Morning Herald*. We are not talking about a significant amount. As Liz has already mentioned, our surveys have indicated that sometimes people would be quite happy to contribute two or three times that amount to ensure their protection.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I am concerned about the corporatisation of the industry. Are a few operators owning a greater and greater percentage of the funeral directors in Australia or New South Wales?

Mr STRATHIE: Can I ask for elaboration on your concern in that regard? As we explained earlier, the Australian Funeral Directors Association has 45 members, of which two are corporate; 43 are individuals like Darren and me.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: There was a perception that the Service Corporation of Australia was an American company which was buying funeral directors, so that many that appeared to be small funeral directors were in fact an arm of the corporate one trading under a different name. Do you agree that that was a perception? I believe it was happening to some extent. You may be able to tell me to what extent that was happening.

Ms YOUNG: Certainly when SCIA first commenced in Australia in the mid-1990s there were some concerns in the funeral industry, and some funeral directors used it as a way of marketing as proudly Australian owned. I would have thought that in commercial practice, when one buys out a company— We have lost some of our soups and biscuits to larger corporate entities, but you keep the trading name. It is a reputable company; they are still run by the Australian staff. I would have thought that it was in their interests to maintain that family tradition. And very often some of those families still manage—

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: However ironically perceived and executed. When it is owned by a corporate entity, it has no family traditions.

Ms YOUNG: No, but it does have the credibility in the town that that company will continue to offer you quality service.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Concern has also been expressed today about a group called Bells, which had a whole lot of different names but was a corporate entity outside New South Wales using subcontractors in New South Wales to deliver the service.

Ms YOUNG: Yes, that is Bells Funeral Services, which is based in Heidelberg, in Melbourne. As far as we understand, he has extensive advertising in the Melbourne *Yellow Pages*.

There are about 12 pages of trading names—might I say, full-colour pages—and then he advertised himself in New South Wales.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Do you think that is a bad thing?

Ms YOUNG: We felt that it was misrepresenting where he has locations and where he can do business. So that if a family rings up and says—

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Is that not the exact opposite of what you just said to me? If he is maintaining some good reputable trading names as family companies all around the place, and then happens to be a corporate entity, what is wrong with that? Is that not what you just said to me?

Ms YOUNG: No. The difference with this one is that his was about location, so that he promotes himself as being in your area. I understand that when he gets the call, he would then have to on-sell it to a local funeral director in that location that the family wanted.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So it is being corporatised, in the sense that much of the profit goes to the person in Melbourne and the person delivering the service is a subcontractor, presumably doing it at cost or close to cost in a much more perfect market?

Ms YOUNG: It could be. I am not familiar with how they structure it commercially.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: If we are talking about the rising cost of funerals—

CHAIR: Perhaps Ms Young should be allowed to finish her comment that the association is not happy about this. I think that is what you asked her, and she started to speak about Bell and the way he is operating.

Ms YOUNG: Yes. It is obviously clear that Bell's Funeral Services is not a member of our association. I know that they New South Wales division wrote to the Office of Fair Trading about *Yellow Pages*, but Mr Strathie may be better equipped to respond.

Mr STRATHIE: We have written to the Department of Fair Trading, and the last response we have had in relation to Bell's is that it is under investigation. As far as I am aware, that is as far as the department has proceeded with that investigation.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Why is what they are doing different from what Invocare was doing?

Ms YOUNG: Because I believe that Bell's are advertising about location, that they are in your area as Bell's Funeral Services, with lots of different phone numbers.

CHAIR: You regard it as misleading advertising?

Ms YOUNG: Correct.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: As opposed to buying out a small local company directly and then presumably keeping the perception that it is local when in fact the lion's share of the profits are going back to a different corporate entity, are they not?

Mr STRATHIE: With due respect, I would like to suggest that that is a commercial decision for them to make. From my own experience with Invocare, and Bledisloe for that matter, who are brothers from the other side of New Zealand, I believe that the management structure that they have maintained is still the local people who operated the funeral home before they were purchased by those organisations. The families who operate the funeral home and conduct the business on behalf of that company are also community representatives within their own organisation. With regard to their fees and structures, if that is what you are trying to determine, they have to stand market competitive forces—

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: If they do not control a significant part of the market, they do.

Mr STRATHIE: I do not believe they do control a significant part of the market. If you have a look at the map—we did not show you metropolitan Sydney—there are still a lot of mums and dads who are operating funeral homes within metropolitan Sydney who the discerning client would definitely ring up and quote. I have noticed over the years that a large number of people are ringing up and asking for quotes on services—something that never used to happen 10, 15 or 20 years ago.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: We have had evidence that five out of seven crematoria in Sydney are owned by the one company, and I think one recent crematoria is in opposition. I think two out of two crematoria in Newcastle are owned by the one company. Surely that must make a difference to the prices?

Mr STRATHIE: I am only a small country funeral director from the south coast of New South Wales. The cost structure we have in our local government operated cemeteries and crematoria, especially the crematoria, is more than competitive with the prices we are charged here in Sydney "from the corporate organisations"; the prices are similar.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You think that the corporate entities in Sydney are having the same cost pressures you are having and have not responded abnormally to those cost pressures?

Mr STRATHIE: Our fee structure for a cremation is \$770. Darren, what is your fee structure?

Mr EDDY: Ours is identical, \$770.

Mr STRATHIE: And I believe for Wagga Wagga is pretty close.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Would Liz care to comment on the corporatisation of the crematoria in Sydney?

Ms YOUNG: They are not part of our membership.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Are they not owned by Invocare?

Ms YOUNG: Yes, but we only ask them to submit their funeral numbers; we do not manage their crematoria or cemeteries.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I am asking you to comment on whether the corporatisation and the virtual monopoly of crematoria services in Sydney have had an effect on prices from your point of view, taking a national view.

Ms YOUNG: None of our members has approached the association to indicate or suggest that the pricing structure from Invocare—that they have been discriminated against, that they believe that this could well be seen as vertical integration. None of our members has indicated that the price has been at a disadvantage to them or an advantage to Invocare firms.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: They would not complain against another member, would they?

Ms YOUNG: No, that is not correct. From time to time we do get complaints member to member. Some are about prepaid funerals and other issues, so we are accustomed to managing member to member complaints.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You have said that disbursements are 40 per cent of the costs, suggesting that they are a major driver of increased costs. Do your members have a margin for all disbursements, or is there no margin at all for disbursements?

Mr STRATHIE: By definition, a disbursement it is a straight in and out. In our organisation and the family-driven organisations, like Darren's for example, disbursements are straight in and out cash.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Is a coffin a disbursement?

Mr STRATHIE: No.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Because there you have a marginal amount?

Ms YOUNG: That is correct.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Which is what, roughly?

Ms YOUNG: The association does not have a view on the mark-up because we have taken the view that we cannot regulate our members on the profit margin they can have within their own service or hardware. So it is an individual company view as to what they think their market can sustain as far as mark-up and profit. Some people will choose to shop at Kmart and some will choose to shop at David Jones, and funeral directors have to be very mindful of what their consumers can tolerate as far as mark-up is concerned.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: By the customers are not actually buying the coffin from the coffin maker, are they?

Ms YOUNG: That is right.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Is it acceptable for the customer to come bring along their own coffin?

Ms YOUNG: If they meet the requirements of coffin making. So long as it meets Australian requirements and occupational health and safety, I cannot see any preclusions. Sometimes that can place the funeral director in an awkward position as to who is responsible if the coffin is damaged, if it is not as strong as they thought when carrying the coffin.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: But if someone brings their own coffin, in the absence of the person being able to prove that it met all those criteria the funeral director might choose not to use it?

Mr STRATHIE: I would like to flip the coin the other way. We have had exactly what you are talking about only a few weeks ago—a family well aware that the generic name, Aunt Maude, was dying and asked, "Can we make Aunt Maude's coffin?" I said, "Of course you can. Here are the standards I want you to follow".

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So you can. Is that the standard within the industry or can you only say for your own company?

Mr STRATHIE: I am not talking on the association's behalf, I am saying as a personal issue I have no problem with somebody coming along to us and saying, "Can I make Aunt Maude's coffin?" Not a problem.

CHAIR: What about you, Mr Eddy?

Mr EDDY: I would not have a problem either with that. And we have had this same case.

CHAIR: Does it happen very often?

Mr EDDY: I have been a funeral director for 17 years and I think that has probably happened four times in that time. That probably happened prior to occupational health and safety

regulations being as stringent as we have in New South Wales because obviously we have a duty of care now with occupational health and safety and the way we treat those regulations with regards to carrying and ensuring that we are providing a safe working place for not only our staff but also volunteers who are family members. I do not have a problem with that whatsoever, but now I would ask the question, "Does this meet, firstly, occupational health and safety regulations, manual handling regulations and, preferably, TestSafe?"

That is obviously going to be an impossibility. If somebody passes away on Monday and the funeral is on Friday and they want to make the coffin themselves they could probably practically make that themselves without any problems, but the only concern I would have with using that would be on occupational health and safety grounds. That would be the only thing that would preclude me from using that casket for a coffin. I would not have a problem.

CHAIR: Could you tell pretty quickly by looking at it that it did comply?

Mr EDDY: I probably could, but I would not be prepared to take the risk.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So you would say no?

Mr EDDY: I would say no.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: But you would use occupational health and safety grounds?

Mr EDDY: Well, they are the only grounds that I have got to use. If I carry a casket that a family has said meets all the requirements and the first time that there is load put on the handles the bottom falls out and unfortunately so does the deceased, well then, I am in trouble because I have used something that does not meet occupational health and safety. Another thing that could happen is the handles may not be secured safely and it falls and someone suffers a severe shoulder injury. Again, that would be the only reason. And if a family had an opportunity, if they knew that okay, they are going to build their own coffin, for argument's sake, and they are going to store it out the back, I would give them the details of TestSafe Australia, which seems to be the commonly used organisation for having these coffins tested, I would give them that information, have them make the casket, have it safely tested and then show me the documentation.

CHAIR: But almost never would there be time?

Mr EDDY: It would be pretty rare.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Whether you say it for an arbitrary reason or whether you say it for occupational health and safety, from their point of view they have built the coffin and you said they cannot use it. I mean, that is the bottom line.

Mr EDDY: That is the bottom line.

CHAIR: Would you say the same these days, Mr Strathie? Your example about it a few weeks ago was hypothetical?

Mr STRATHIE: No, it was a real case, but they came to me first and said, "What do we have to do?"

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You gave them the plan and then you looked to see if it followed the plan?

Mr STRATHIE: I said, "I want the base to be ½ inch particleboard; I do not want it to be 1/8 thickness cardboard".

CHAIR: Was this before or after Aunt Maude died?

Mr STRATHIE: Before Aunt Maude died.

CHAIR: So they had that extra time?

Mr STRATHIE: They had an expectation—an anticipation at least of what to do.

CHAIR: And did they make a satisfactory coffin that you were happy to proceed with?

Mr STRATHIE: It was as heavy as anything—over engineered, but it was fine.

The Hon. ROBYN PARKER: Why did they want to make their own coffin? Was it to cut costs?

Mr STRATHIE: I do not know. And it is not really my decision because as funeral directors I believe we are here to perform a service that allows people to perform their right of passage for their loved one, and whatever it takes we are there to try and accommodate it.

The Hon. ROBYN PARKER: What if they made their own coffin and it had decorations or inscriptions or something on it that you did not approve of?

Mr STRATHIE: Not my call.

CHAIR: Unless it was a matter of chemicals or toxins?

Mr STRATHIE: Chemicals or anything like that. But passive stuff, I do not have a problem.

Mr EDDY: We are not in the business of approving or disapproving what a family chooses to do, that is entirely up to them. We have had that. We have had people write on caskets, paint them; we have had grandchildren paint them; handprints, everything. We have had all of that. The only time when we have concerns is if it may be offensive or if it vilifies anybody, and in those cases generally—

CHAIR: Like "Uncle Bill killed Aunt Maude"?

Mr EDDY: Or if there was a car accident involved, something along those lines, that would be the only concern I would have. But again, under certain circumstances if it was a private family affair and they knew that nobody else was there and whatever they wrote on that particular coffin was going to be helpful in their grieving process, go right ahead.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: When you said the disbursements are a large part of the costs, the professional fees have gone up, have they not? Is that faster than inflation—faster than the CPI? We have had a great deal of confusion, to be quite honest, as to what the final funeral fees have been and what the changes have been over time in the sense that there do not seem to be any records of the moving average, if you want to put it that way.

CHAIR: At the bottom of page three you have got a figure of 3.3 per cent per annum.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I know these figures are given but I am questioning the basis of these figures. Have the professional fees, which presumably are well recorded, gone up only 3.3 per cent? On what basis are you saying that the fees have only gone up 3.3 per cent?

Ms YOUNG: These are the funeral director's fees, so it is their professional service, all their internal services and products. It does exclude the coffin. So it is any mortuary fees, transfer fees, professional fee. What is also interesting to note is that the funeral industry award over the 10-year period 1995 to 2005 our evidence suggests has gone up by 40 per cent over the total 10-year period. So therefore it becomes part of the funeral director's service fee.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: And has there been an increased use of employees as opposed to family members as there has been a change in the structure of the

industry? There used to be family businesses, did there not, where there was the father and the two or three sons, whatever, strapping lads who were pallbearers?

Mr STRATHIE: I can personally relate to that. There used to be my wife and I and my son. Occupational health and safety and WorkCover have come in and I have now got two extra full-time personnel on board because no longer can my wife and I or my son and I move a coffin anymore with Aunt Maude in it; we now have to use three and four people to do that same process. And, unfortunately, that is an extra salary.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: And so that has put your professional fee up because that presumably included your professional fee?

Mr STRATHIE: Yes.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Wages for the pallbearers are obviously not a separate disbursement?

Mr STRATHIE: No. Liz has quoted that figure there. Over the last five years the award has gone up 26 per cent.

CHAIR: In New South Wales?

Mr STRATHIE: In New South Wales.

CHAIR: I am very conscious of the time and we are way over where we meant to be, but just a couple of questions still on the licensing. We have got a question about whether you have a view about a licensing system across all States and Territories. That presumably would be that there should be a system everywhere, or would you argue that the States one way or another should get together and come up with the same or a very similar system? I know that there are implications in terms of competition policy and so on and particularly where a number of companies operate across State borders. Are there issues that we need to look at when we are focused on New South Wales?

Mr STRATHIE: I believe there is one specific issue we really need to look at in New South Wales and that is in the Department of Health. That is not just NSW Health, but we use that as the model. Aunt Maude, Uncle Bill all die: all deaths have to be registered and the same sort of paperwork has to be supplied to cemeteries and crematoria. It would be nice to say that the paperwork we get from Western Australia is acceptable in New South Wales and the paperwork we send from New South Wales is acceptable in South Australia. Unfortunately, that is an idyllic world and not the real world.

CHAIR: So this is the actual certified death certificate?

Ms YOUNG: Registration of death.

Mr STRATHIE: Registrations and the essential documentation. If we could just get that one thing right it would be nice.

CHAIR: So that is the sort of issue that the ministerial council of health ministers, for instance, should be looking at? I know some of the issues in relation to regulation of the funeral industry have been brought up at the ministerial council of fair trading Ministers—whatever they call themselves. Are there fair trading kinds of issues to do with licensing or regulation that concern you that go beyond the borders of New South Wales, and the ACT of course?

Mr STRATHIE: One of the concerns we have as an association within New South Wales, and I hinted at it before, is that if I have a complaint about fair trading, or any of my clients have a complaint about me as a funeral director, they do not know where to go. If there is a health issue, the consumer does not know. Whether it is a health issue or not, there is no central focus at all in New South Wales for the consumer, and we are all about consumer protection.

CHAIR: The other States do that better?

Mr STRATHIE: Not necessarily.

Mr EDDY: Not necessarily, no.

Ms YOUNG: The other States are equally confused about how to best approach it. The AFDA within its strategic plans, one of our major platforms is to promote licensing and regulation across Australia, and obviously each State government seems to have a different way of doing it.

CHAIR: But you would rather it be as uniform as possible?

Ms YOUNG: Absolutely.

CHAIR: Is that to make it easier for your members? I can understand if you are in Albury that may be even more important, but—

Ms YOUNG: No, I do not believe it is because we think it is easier for our members, we just think it is easier for the community. The community is much more disparate; families are not all together anymore, so that if they are moving and transferring, relocating for schools and work, that they know that what happened for their grandmother's funeral in Perth that when they move to Cairns they can expect the same regime. And of course our members are already accustomed to the one regime across Australia. The Victorian model, which is quite similar to what we are proposing here, we hope that perhaps the two heads can get together and work on that.

CHAIR: When you say "the two heads"—

Ms YOUNG: The two governments—the Parliamentary inquiries can look at each proposal and agree on starting the ball rolling and making good sense about a common theme across Australia.

CHAIR: I was just wondering, for instance, when we had the cemeteries and crematoria association here they mentioned that one big difference between Victoria and New South Wales is in relation to the absence or presence of privately owned cemeteries and crematoria. In other words, some things are already there and have been there for 150 years, I guess, that are different between the States, and there may well be other examples. It may be literally impossible to make the regime similar. But the other question I was going to ask is, given that you are supporting the Funeral Industry Council model of licensing, does that sort of body operate in other States and, again, is it possible to go for a pretty similar system across the States?

Ms YOUNG: It is a part that all States have a consultative committee of some type when all aspects of the industry get together, including stonemasons, celebrants—perhaps not so much the clergy—certainly cemeterians and funeral directors get together and, where possible, an advocate from independent funeral homes as well.

CHAIR: So the New South Wales Funeral Industry Council is narrower than the ones in other States?

Ms YOUNG: No. I think in fact it is broader because it includes the Labor Council.

CHAIR: Does it include representatives of celebrants or stonemasons?

Mr STRATHIE: Queensland does not. Queensland is specifically industry based. Queensland is a different model in that their focus is not from the public health department but from the Attorney General's department in rules and regulations in licensing. Victoria is again a public health regime.

CHAIR: So there is a lot of variation.

Mr EDDY: In a perfect world we would all have the same across the country—the same documentation, the same paperwork. Unfortunately, I think that it is a dream that we will not be able to achieve.

CHAIR: But you would like to get it as close as possible?

Mr EDDY: I would love to. With New South Wales and Victoria we have fairly specific problems already and—

CHAIR: And Tweed Heads and Coolangatta have the same issues.

Mr EDDY: Exactly. One in particular is the paperwork that is acceptable in cemeteries. Victorian doctors' medical referee certificates are not acceptable. So if somebody dies in Victoria and the family wants the cremation in Albury they have to find a doctor in New South Wales who will medically referee the cremation papers. Again extra costs are involved in that.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: With the funeral director in Nowra who does not have a mortuary, does it effectively mean that he takes the body from hospital, stores it somewhere—nobody knows where—and then brings out for the viewing the next morning?

Ms YOUNG: Or may not have a viewing.

Mr STRATHIE: Or might not have a mortuary.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: He has not got a mortuary. He takes the bodies from hospital and buries them. Something happens in the meantime. If you say he has not got a mortuary—

Mr STRATHIE: Within the local area. We believe he travels all the way to Sydney, in inverted commas, to provide storage for the deceased.

CHAIR: And then takes the body back to Nowra for burial?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Nobody inspects what happens to the body in the interim, that is your point?

Ms YOUNG: Correct.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: The council presumably is aware—

Mr STRATHIE: The State Government has taken the responsibility of inspections away from the local council and put it back on to area health, and area health is underresourced in that area to inspect any of the sorts of things that we would like to be policed.

CHAIR: Local government inspects mortuaries but if you do not have a mortuary there is nothing to inspect.

Mr STRATHIE: Local government do not inspect any more. That has been handed back to the health department.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So effectively it is kind of an open secret and the inspector simply does not inspect. Is it the point you are making?

Mr STRATHIE: You could say that is very true.

CHAIR: Would you like to say anything about any area we have not touched on?

Mr STRATHIE: We would like to touch on complaints processes. I have heard several issues today about complaints. We have data to provide you with information about complaints. Liz has that for you.

Ms YOUNG: On average the association receives 17 or 18 complaints per year across the whole of Australia. New South Wales has about three, and I am very confident in saying that they

have not been about price. It has been about communication, perhaps transferring the deceased, a tape not working correctly, the button not being pressed on time.

CHAIR: So the complaints are not within the ambit of Health or Fair Trading?

Ms YOUNG: Correct. We have a very tight policy. It must be in writing and we ask them to sign an authority for us to release the letter in full to our member firm and vice versa and we ask our members to respond within a 10-day framework. If we are able to resolve the issue between the family and facilitate a satisfactory outcome generally that occurs. If it does not, we make sure that the consumer is aware that they are welcome to go to the Office of Fair Trading or elsewhere. I have to say that we have been very successful in not having to do so with our members. If I get calls—and I do take the calls about complaints—about funeral directors that are not our members I am usually able to identify whether they need to be referred to Ken at the FDA. I am always confident that he will help them out. If I believe that they are not members of either then I am very happy to refer them on to the health department or the Office of Fair Trading. At times I say, "Please contact your local member of Parliament" if I think that their expression is an outrageous complaint.

CHAIR: Is that lovely map for us?

Ms YOUNG: Yes, I also have some of our annual reports, which I think might be of use to the Committee—late night reading.

CHAIR: Kayee, will move that we accept the tabled map? Thank you very much appearing, particularly given that you have all had to come from outside Sydney. You have answered a lot of questions.

(The witnesses withdrew)

(The Committee adjourned at 4.36 p.m.)