

REPORT OF PROCEEDINGS BEFORE

STANDING COMMITTEE ON SOCIAL ISSUES

INQUIRY INTO THE FUNERAL INDUSTRY

At Sydney on Monday, 19 September 2005

The Committee met at 9.30 a.m.

PRESENT

The Hon. Jan Burnswoods (Chair)

The Hon. Kayee Griffin
The Hon. C. J. S. Lynn
The Hon. Robyn Parker
The Hon. I. W. West

DAVID BRIAN O'CONNOR, Commissioner for Fair Trading, Office of Fair Trading, 1 Fitzwilliam Street, Parramatta,

RODNEY KELVIN STOWE, Assistant Commissioner, Policy and Strategy, Office of Fair Trading, 1 Fitzwilliam Street, Parramatta, and

DAVID JOHN BRETT, Senior Policy Officer, Office of Fair Trading, Level 20, 227 Elizabeth street, Sydney, sworn and examined:

CHAIR: Mr O'Connor, would you like to make an opening statement before we address our questions?

Mr O'CONNOR: Yes, thank you, Madam Chair, and I would like to thank the Committee for the opportunity to be here. I know the Minister was going to do it but then circumstances changed and he no longer is our Minister, so you have been patient with the Office of Fair Trading. In my opening statement I am going to make reference to a number of graphs and I am just wondering whether it would be appropriate if we distribute those to the members.

[Moved by The Hon. Kayee Griffin that the graphs be tabled]

CHAIR: You might remember that Hansard may have trouble if you do not give at least a small visual description.

Mr O'CONNOR: Madam Chair, the opening statement I have written I will be quite happy to leave with Hansard.

CHAIR: I meant the graphs. We will be able to look at them but we will want a description of them in the evidence.

Mr O'CONNOR: Yes, I hope this is going to be straight forward. As the Committee is aware, the previous Minister, The Hon. John Hatzistergos, has provided a submission to the inquiry. As the Committee may be aware, the main involvement in the funeral industry as far as the Office of Fair Trading is the regulation of contributory and prepaid funeral funds through the *Funeral Funds Act* and the Funeral Funds Regulation. These pieces of legislation provide for the registration of funeral contribution funds, prepaid funeral funds and prepaid contracts. It also sets out the requirements for the administration of trust funds under prepaid contracts.

Prior to the introduction of the *Funeral Funds Act* there were practices involving funeral funds which were not in the best interests of consumers. These included: bereaved relatives finding that the money that the deceased person had contributed to a funeral fund did not fully meet the cost of the funeral services promised; some funeral directors were using the contributions to run their own businesses and as a result the funds were not available when required.

As a result of concerns about these and other practices, in 1977 the Prices Commission held an inquiry into the funeral industry. The inquiry found that there were grounds for concern about the financial viability of some funeral funds. As a result, the *Funeral Funds Act 1979* was introduced to establish standards for the conduct of funeral funds, ensure that money paid in advance for the provision of a funeral service was protected and ensured the funeral service was delivered as per the contract.

A review of the *Funeral Funds Act 1979* commenced in 2000 as part of the Government's National Competition Review. Although the review mainly focussed on examining competition issues, it also examined other consumer protection issues to ensure that the legislation was efficient and equitable. The review was completed in 2002. It resulted in the *Funeral Funds Amendment Act 2003*, which was passed by the Parliament in late October 2003 and came into force in November 2004.

The changes to the Act were designed to strengthen the prudential management of funeral funds and to enhance protection for consumers who deal with these funds. These included: a requirement for all previously exempt funds to be registered with the Office of Fair Trading; removal of legislative duplication where a fund is subject to other appropriate prudential scrutiny; and increased disciplinary powers for the Commissioner for Fair Trading, including imposing conditions on or cancelling a fund's registration. These changes also provided for a number of initiatives to be dealt with more specifically in the Funeral Funds Regulation of 2001.

On 15 June this year a discussion paper "Funeral Funds Regulation 2001: Potential Areas for Reform" was released. Issues being considered in the discussion paper include: cooling off periods for prepaid contracts; mandatory disclosure of items to be included in the contract; and the transfer of contracts between funeral funds. Submissions closed on 29 July and our office has received a number of submissions and is currently reviewing these documents. It is hoped that a final report will be prepared fairly soon.

Madam Chair, the principal protection of consumer interests by regulation in New South Wales is through the *Fair Trading Act 1987*, and existing consumer protection for funeral industry services is managed under that legislation. The Act prohibits misleading, deceptive and unconscionable conduct and provides for a range of consumer remedies over and above those available through common law, which would extend to the activities of the funeral industry. The *Fair Trading Act 1987* (sections 63A, 68 and 72) gives consumers a right to compensation for loss or damage which occurs as a result of conduct that is in contravention of the Act, except in relation to certain unconscionable conduct provisions. This right is accessed by action in the courts.

Fair trading legislation does not regulate the price of goods and services, rather it deals with the relationship between traders and consumers. Businesses are free to set prices according to market conditions as long as they do not contravene their trading legislation. There are no national licensing arrangements or regulation of the funeral industry.

New South Wales Fair Trading raised this issue at a meeting of the Standing Committee of Officials of Consumer Affairs, called SCOCA, in 2003. There was little support from other jurisdictions for any national or consistent approach to regulation except with regard to consumer education and awareness. At that meeting SCOCA passed a resolution to establish a working party to consider strategies to raise education and awareness with regard to the funeral industry. The SCOCA working party was chaired by New South Wales and had representation from Western Australia, South Australia, Northern Territory and Tasmania.

The working party's main role has been to consider strategies which participating jurisdictions could adopt to improve consumer understanding of some of the more important issues involved in organising a funeral. The working party met on an ad hoc basis only three times. It was also to share information about any measures or activities being undertaken in jurisdictions related to the funeral industry.

The development of a New South Wales consumer guide was the major outcome of the working party. While New South Wales developed the guide, other members provided feedback and comment. The development of a consumer guide for funeral industries was a New South Wales Government 2003 election commitment. The Office of Fair Trading released the "Guide to Funerals" and "Funeral Arrangements" brochure in 2005, and I am sure the members of the Committee are aware of those documents. The guide and brochure are designed to assist consumers make decisions about funeral arrangements. The guide outlines the process of selecting a funeral director, what a funeral can involve and a number of useful contacts, including those relating to coping with grief, probate and financial advice.

The guide and brochure are available via the Office of Fair Trading Call Centre, Fair Trading Centres, of which there are 23 throughout New South Wales, and of course our web site. At the time of its release the guide and brochure were mailed to over 100 relevant stakeholders in Federal, State and local government, the legal industry, community groups, pensioner groups and welfare organisations to inform them of the availability of the guide. The guide and brochure were also

mailed out to the funeral industry to inform them of its availability and to encourage their use.

I am pleased to say that the other States and Territories have considered the "Consumer Guide to Funerals" a useful document. On 2 February this year New South Wales arranged for the release of its content for use in all other jurisdictions. While it is my understanding that no other jurisdiction has adapted or used the guide at this stage, its use is under consideration by a number of agencies in other jurisdictions, including the Victorian Department of Consumer Affairs.

As the guide was only released in 2005, a full evaluation has not been completed. However, the responses we have received regarding it have been positive. For example, the Office of Fair Trading has received positive feedback from organisations like Liverpool Hospital and the Seniors Information Service which has ordered quite a lot of copies of it. We have also received positive feedback from a number of funeral directors and their associations who have requested copies of the guide and brochure, including the Australian Funeral Directors Association.

The Office of Fair Trading has observer status on the Funeral Industry Council. Just to make it clear, Madam Chair, the Office of Fair Trading does not have any voting rights and does not involve itself in the deliberations or decision-making processes of this council. In particular it should be noted there have been instances where observer Government agencies, including Fair Trading, have been requested to leave the meeting while voting members resolve contentious issues.

I am now going to make reference to figure 1. The Office of Fair Trading receives very few complaints regarding the funeral industry and where complaints are received they largely relate to funeral funds. We have brought with us some statistical information, which I am happy to table. The number of complaints regarding the funeral industry was 22 in 2004-2005. 55 per cent were related to funeral funds. We only received seven complaints in 2003-2004. Five of these related to funeral funds. In 2001-2002 and 2002-2003 we received no complaints.

Despite these low levels of complaints, the previous Minister for Fair Trading was concerned about the funeral industry because people organising funerals are often in a vulnerable state and may not be in a position to uphold their rights. He was also concerned that the circumstances surrounding the funeral experience may result in under reporting of complaints. Complaining about the funeral service could be seen as disrespectful by some people and may also extend the grieving process. The current Minister shares these views and is continuing to work with her predecessor on these issues. As a result of these concerns and to determine the extent of the problem and the level of consumer detriment, a number of initiatives were instituted as part of the review of consumer protection and the New South Wales funeral industry.

I will now make reference to the consumer hotline, Madam Chair. To allow consumers the chance to share their experiences when arranging a funeral or using the services of a funeral industry professional, the Office of Fair Trading ran a consumer telephone hotline from 27 May until 3 June. An on-line survey commenced at the same time and closed on 8 July. All up we received over 100 responses. I am happy to table the results of the telephone hotline and the on-line survey and speak to the information provided.

Those who took part, either by phone or electronically, were asked specific questions, e.g. how satisfied they were with the experience of arranging a funeral, as well as being invited to make general comments. Figure 3 shows nearly 60 per cent of people who had been directly involved in arranging a funeral said they were satisfied with the experience. However, despite the overall satisfaction level, 54 per cent nonetheless had concerns about some specific practice they had encountered. This is shown in figure 4. Concerns ranged from, for example, disrespectful behaviour to mistakes with death certificates. The largest cluster of concerns though was to do with financial issues, billing practices, quotes, et cetera. Figure 5 shows that 43 per cent of respondents mentioned problems to do with money issues. These included being asked for full payment before the service was held, being billed for unexpected charges or unauthorised services and being refused a breakdown of various charges such as service fees. The single practice which was most commonly complained about was pressure selling. As figure 6 shows this was raised by 20 percent of those who raised concerns about practice. Overall, the hotline suggested that consumers are reasonably satisfied

with the way the industry behaves but they have problems with issues to do with such things as billing and quoting.

I will now turn to our shadow shopping research. A shadow shopping survey was conducted in July 2005. Independent contractors were engaged to conduct phone interviews with funeral businesses across the State, seeking information on prices for a simple, dignified and reasonably inexpensive funeral. Over 270 businesses across New South Wales were contacted. The businesses were chosen at random from funeral businesses listed in the electronic Yellow Pages. The scenario presented was of a consumer wanting information on low cost options so they could give their families some idea of the type of funeral they would like for themselves but without wishing to enter a prepaid funeral. Respondents were rated on how willing they were to give information over the phone and prices were also recorded for specific items, including coffins and professional fees. As figure 7 shows, 87 per cent of businesses contacted were rated as very willing to give indicative prices on the phone. This indicates a widespread willingness to help consumers. However, other results show that despite this willingness consumers might have a difficult time getting quotes on a comparable basis.

As figure 8 shows, not all respondents were prepared to quote on the same items. Of the respondents prepared to give an overall price, about 48 per cent were also prepared to give a price for both a coffin and their professional fees. Just under 31 per cent would quote on a coffin but would not give a price for professional fees. Slightly under four per cent would quote a professional fee but would not give a price for a coffin, and slightly under 18 per cent were also prepared to give a price overall but would not give a price for a coffin or state their professional fee.

There are obvious difficulties for businesses giving phone quotes for items unseen by the consumer but the situation shown in figure 8 clearly creates real difficulties for clients of the industry. Figures 9 and 10 further confirm this. All respondents were given the same scenario of a dignified but low cost funeral, but there were wide variations in prices. As figure 9 shows, the cheapest price quoted for a coffin was \$230 and the highest was \$2,950. The lowest price quoted for professional fees was \$615 and the highest was \$3,170. Some respondents were prepared, for example, to describe in detail the coffin they were quoting on but others exerted pressure for the shadow shopper to come in person. Overall, the results show how that comparison shopping could be difficult for a recently bereaved consumer.

Madam Chair, I will now make reference to the interdepartmental committee and the agencies with some involvement in this area. This interdepartmental committee was convened by the former Minister, Minister Hatzistergos, to review the funeral industry in New South Wales. The committee's brief is to examine the funeral industry in New South Wales to determine the adequacy of current legislative and regulatory frameworks in regard to consumer protection and any other relevant matter. The agencies involved are the Office of Fair Trading as chair, the Department of Health, the Department of Lands, WorkCover, the Public Trustee and the Department of Ageing, Disability and Homecare.

I am pleased to advise, Madam Chair, that the Committee has completed a discussion paper, which was released last Friday, and I am now able to table a copy of that document for members. This document will give people the opportunity to comment and also provide the Office of Fair Trading with data which will further inform the Government's understanding as to the extent of any problem with regard to consumer protection in the New South Wales funeral industry. The discussion paper provides background information on the funeral industry, outlines the current regulatory environment in New South Wales, the laws in other States and Territories of Australia, as well as examples of overseas approaches. It also lists recent New South Wales Government initiatives, including the consumer telephone hotline and the on-line survey and examines possible issues within the industry.

The paper also outlines a range of possible measures which could provide for varying degrees of consumer protection. I must stress that these options would only be relevant if the review concludes that reform of the New South Wales funeral industry is necessary and that this is a matter, of course, for Government to decide. Some of the options which have been raised are: running an

information and education campaign to inform consumers on such matters as prices, dispute resolution processes, industry best practices and standards; supporting a voluntary code of practice; development of a funeral brokering industry; introducing mandatory product information standards; the provision of mandatory basic funeral services and the licensing of funeral directors. This document, which you have now received, is now being distributed to stakeholders, it is on our web site and public submissions will close on 14 October. Following the assessment of the submissions and consultation with relevant interest groups, a final report will be prepared for the consideration of the Hon. Diane Beamer MP, Minister for Fair Trading.

Madam Chair, that concludes my opening statement. Thank you for the opportunity to appear this morning. The Office of Fair Trading considers that the work of this Committee, along with the work of the Office of Fair Trading are both complementary and important for the consumers of New South Wales.

CHAIR: Thank you, Mr O'Connor. You have given us a great deal of information, both in your statement and in the document you have given us. It may mean that we suffer from a bit of indigestion in terms of the questions we have to ask you. I think you have answered a number of them, in part at least, very fully indeed.

Mr O'CONNOR: I intended to actually.

CHAIR: But I am sure Committee members will be able to ask a few questions. Just to get it clear in my mind, in relation to your shadow shopping survey, I think it is figures 7, 8 and 9 in the document you gave us, I assume you do these things reasonably frequently with different industries. I am just wondering in terms of the things you highlight, the failure to give information or the huge range, whether or not the figures that you have got in here would be reasonably typical of other shadow shopping surveys or should we conclude that the funeral industry is unusual in relation to that?

Mr STOWE: Madam Chair, it would be hard for us to make comparisons. I think the last time we used a shadow shopping survey for research purposes was last year when we were looking at the instance of the sale of flat screen televisions, which are very prevalent now, and the way in which sales representatives were providing information to consumers and whether that was extensive enough. So I think it is safe to say that we could not make a comparison at this stage, no.

CHAIR: When you say 87 per cent of the businesses contacted were rated as being very willing to give indicative prices over the phone, in relation to general consumer affairs, in the experience of the Office of Fair Trading, is that a high figure or a low figure?

Mr STOWE: I really do not think we have got the data to make that comparison. I suppose our concern, Madam Chair, was to find out whether or not there was transparency in the way information was disclosed, because I think that is one of the things that has been raised in the past, that a consumer had difficulty making comparisons when it comes to looking at the price of the service and that was largely what this exercise was about.

The Hon. KAYEE GRIFFIN: Can I ask in relation to your comments that there were complaints from people who were asked to pay for the funeral service before the service occurred, in doing your surveys, what percentage of groups contacted would have wanted the payment up front before the service had occurred?

Mr STOWE: I think there were only a couple of respondents to the survey who indicated that. I am happy to go back and provide further details for the Committee. You must remember too this was a survey where we invited people to come to us. So people pretty much self selected. The information is largely of a qualitative value. One needs to understand that there may have been other motives for people ringing and lodging information. There were a couple of submissions which were identical. So one draws the conclusion that people may have wanted to try and give emphasis to their particular point of view.

The Hon. KAYEE GRIFFIN: The ones who had a complaint about having to pay for these services before the funeral took place, did they say what specifically was in that prepayment that was a concern to them?

Mr STOWE: No. The information that was elicited was fairly simplistic and did not go into a lot of detail.

The Hon. KAYEE GRIFFIN: I would imagine that from the time the person passes away until the funeral is held a lot of people, apart from the cost of a funeral service anyway, would have great difficulty in trying to be able to have that money there to be paid before the service takes place because usually there is only a couple of days and I just thought that people might have made further comment. I suppose the other question would be just how many funeral directors across New South Wales would want prepayment before the service took place?

Mr STOWE: I really cannot answer that from the data we have collected.

CHAIR: Can I suggest to yourselves and to Committee members that we go through the questions that we have prepared, because I think in many cases there will be extra issues arising out of them, but in some cases probably it more or less gives us an opportunity to note that what you have said and what you have given to us pretty much covers it.

The first one dealt with the Standing Committee of Officials of Consumer Affairs. I think the thing that has interested the Committee most is why the other States seem to take so little interest in the suggestions raised by New South Wales in 2003. We have not as yet collected a lot of information on the regulation and so on in other States but some people have expressed surprise.

Mr O'CONNOR: When you are looking at regulation there are two things: Has there been or is there market failure and the interests of the consumer, and that can only be judged to some extent by the number of complaints. When we raised this at the stage when the working party was formed, I guess the experience of the other States somewhat reflected ours in that there was not a great number of complaints in relation to the funeral industry. I think the major thing was that what we should really do in the first instance is provide information and create consumer awareness. As a result of that we prepared the documents, the brochures that were released earlier in the year, and that tended to satisfy the other States.

Since then, apart from some nibbles, could I say, from Victoria, none of the others have indicated at all any interest in regulation of the funeral industry. They were pleased with our brochures, they have distributed our brochures and of course they have every right, as we give them to, to reproduce them as their own if they so wish. I am not aware that that has happened. So I just think that maybe they were all regulated out, but other than that, if there were not sufficient complaints, nor any real indication of market failure, I guess they were not going to go down the way of regulation but awareness and information to the consumer.

CHAIR: Perhaps to turn the question around, is there any reason to think that there might have been more complaints or more concern from the public, from consumers in New South Wales than there was in other States?

Mr O'CONNOR: I am not aware that that is the case.

Mr STOWE: No, our situation seems to be typical of the other States.

CHAIR: So New South Wales took the initiative in putting it on the agenda but that was not because you feel that there were particular problems in New South Wales that would be different from other States?

Mr STOWE: I think it stems from Minister Aquilina's approach from the Combined Pensioners Association. They had raised issues with him and he had asked the Commissioner to raise it at a national level.

CHAIR: And that was in 2003, was it not?

Mr STOWE: That is correct. We have also brought additional copies of those brochures, if members of the Committee wish to refresh their memories.

CHAIR: Yes, it might be good to refresh our memories. On question 2 you have probably mostly dealt with the issue of the feedback that you have received. The distribution - I think you said the web site and the fair trading information centres.

Mr O'CONNOR: The information centre, any stakeholders who have made contact with us, and it is freely available in our Fair Trading Centres. We have 23 Fair Trading Centres throughout New South Wales. The fair trading information centre, people would make a call and we would post a brochure. If they came in to the office they would simply pick one up at the counter.

CHAIR: I am just wondering whether in terms of the major target group whether they would be people who are perhaps less mobile, perhaps less able to use the web site for instance, whether there are any other distribution mechanisms.

Mr O'CONNOR: As I said, we did get positive feedback from Liverpool Hospital. So I assume part of the groups we went sent them to were hospitals and senior citizen groups.

Mr STOWE: And we experiment all the time with distribution methods, particularly to seniors, doctors' surgeries, retirement villages and the like as a distribution channel. I am not aware that we have done it in this case with the brochure but we make these assessments all the time if we feel there are more effective ways of getting it into people's hands.

CHAIR: I notice that some of Fair Trading's brochures are incredibly popular in electorate offices for instance. Those lower house members particularly who have a display will find that certain of your publications will move really quickly and they will be re-ordering them and others are relatively slow to move. I guess that is another way you could keep an eye on the demand and the interest.

Mr STOWE: That is correct, and we can also look at the number of hits we get on the web site. That is another good way of indicating people's interest in the area.

The Hon. ROBYN PARKER: I am sorry, I may have been out of the room when you answered these questions. I was just wondering how long you have been concerned about consumers with issues in relation to the funeral industry.

Mr O'CONNOR: I think it would be fair to say, Madam Chair, that we constantly monitor the market place for consumer concerns and trends. From our call centre telephones we keep statistics, and we do that with the funeral industry. As my colleague Mr Stowe said, it was the initiative of the previous Minister John Aquilina that we raised it at a national level and we did that work. Our more recent Minister, Minister Hatzistergos, asked us to up tempo that. He also was talking to groups within the community. I think also Minister Hatzistergos has a personal interest, and that is when the latest round started in terms of the interdepartmental committee. We do constantly, as I said, monitor the market place to see what trends are there and what is concerning people. We do that with telephone calls. We do it by following the media. We do it with correspondence.

The Hon. ROBYN PARKER: But in relation to concerns about other industries, how is the funeral industry operated in terms of the level of concerns and complaints?

Mr STOWE: I have got to say very low compared to other areas.

The Hon. ROBYN PARKER: Very low, what sort of percentage compared with others?

CHAIR: Figure 1 makes it very small indeed.

The Hon. ROBYN PARKER: So there were very few complaints.

Mr STOWE: 22 in a year is a very small number of complaints.

The Hon. ROBYN PARKER: When was it that the Minister announced the inquiry?

Mr STOWE: On 17 February the Minister had a deputation from NCOSS with Gary Moore and Gary raised with the Minister his concerns about the funeral industry and it was directly after that meeting that he asked the department to start to have a closer look at some of these issues that Mr Moore had raised with him.

The Hon. ROBYN PARKER: So when was the inquiry that you undertook announced? In March, is that right?

CHAIR: Correct me if I am wrong, I think your hotline web site took place in May and June.

The Hon. ROBYN PARKER: No, I wanted to know when the Minister announced the inquiry, your investigation.

Mr STOWE: The interdepartmental committee or the hotline?

The Hon. ROBYN PARKER: The inquiry that you undertook into the funeral industry, the hotline and the consumer survey.

CHAIR: That is what I was trying to summarise, the different parts of it.

Mr STOWE: I will have to take on notice the date that the Minister made a press release.

The Hon. ROBYN PARKER: It says somewhere here in March. I was just wondering what date in March. Could you take that on notice and come back to us?

Mr STOWE: I am happy to do so.

The Hon. ROBYN PARKER: Was that before or after the Social Issues Committee inquiry?

Mr STOWE: That was before.

Mr O'CONNOR: We started work before the inquiry.

The Hon. ROBYN PARKER: Was the announcement by the Minister before the Social Issues Committee's inquiry?

Mr O'CONNOR: I do not know about the date of the announcement. We certainly started work - I think the announcement might have come a little time after that because we started work and provided advice to the Minister of the best way to go and we thought that was an interdepartmental committee, knowing too well that there are quite a number of Government agencies involved in matters relating to funerals.

The Hon. ROBYN PARKER: So did you have discussions, Mr O'Connor, with the Minister about the inquiry prior to announcing your investigations?

Mr O'CONNOR: Yes. I cannot remember the date but it was the request of the Minister that we start this, and as my colleague has said, it happened soon after his meeting with Garry Moore

from NCOSS, which was on 17 February, and we were meeting the Minister on a weekly basis. So it was probably the next meeting after 17 February.

The Hon. ROBYN PARKER: So were you aware of the inquiry that was a reference going to the Parliament at that time?

Mr O'CONNOR: I personally was not. I do not know if any of my colleagues--

Mr STOWE: I was certainly aware of the announcement of the Committee's work and that would have been discussed with the Minister at some point down the line.

The Hon. ROBYN PARKER: So just to go back, there was a very low level of complaint about the funeral industry. However, there was a decision made to undertake an inquiry. What was the cost of the investigation by the Department of Fair Trading?

Mr STOWE: There are several aspects.

The Hon. ROBYN PARKER: The brochures, the hotline, could you provide us with a breakdown of that? Could you take that on notice?

Mr STOWE: Yes.

Mr O'CONNOR: The brochures of course happened some time prior. We will be able to do that. As far as the cost is concerned, it is the cost relating to the salaries of officers involved. I am not too sure how easy that would be to quantify.

The Hon. ROBYN PARKER: If you could just provide us with a breakdown. It must be in your budget somewhere. When you undertake to do an investigation, I would have thought, into a particular industry, you must know how much all of that costs.

Mr STOWE: Yes. It is not an investigation. I should make it clear that it is not an investigation so far as Fair Trading is concerned. We have done some research and we have issued an issues paper. Investigation in terms of Fair Trading usually relates to compliance and enforcement activities. I just need to make that very clear.

The Hon. ROBYN PARKER: Why did you decide to leave the hotline open only for one week?

Mr STOWE: No, it was much longer than a week.

Mr BRETT: The telephone hotline was only for a week but the actual on-line survey was for a month.

The Hon. ROBYN PARKER: So when did you make a decision that a week was long enough for the sort of consumers that might be responding to this?

Mr STOWE: It was based very much on our experience. With hotline inquiries we find that usually after there is an initial announcement there is a flurry of activity and the calls drop off over that period of time and that was certainly experienced with the hotline on this occasion.

The Hon. ROBYN PARKER: And how did the responses compare with other surveys that you have done into other industries?

Mr STOWE: It is probably lower. The ones that I can recall that we have done in recent times about petrol and other issues which have attracted, under Mr Watkins, quite a number of inquiries at the time, so it is probably regular.

CHAIR: If you did a petrol one now, I guess you would get a few more than a hundred.

Mr O'CONNOR: We will leave that to somebody else hopefully.

CHAIR: I note the brochures that you have given us today are dated November and December 2004. I guess that means that there is an update to some extent of the first issue in 2003 or were they first issued in 2003?

Mr STOWE: They were first issued then, so that is the current version of the publication.

CHAIR: So basically the inquiry is about complaints as to costs that started in 2003, both at a State and national level, and the brochures came out in 2004.

Mr BROWN: As a result of the deliberations of the working party it was felt that that would be the best way to go.

CHAIR: Yes, and then the more recent hotline and so on was this year. This inquiry was, as you would know, to some extent a reaction to the same people I think. It began when NCOSS and combined pensioners began lobbying members, different groups in the Legislative Council, and just to help you with giving those dates, the inquiry was referred to us on 23 March by the house.

You have told us something about your role in administering the Act in relation to prepaid funerals. It seems as if there have not been many breaches or offences. It is an area of complaint but can you give us some more information on whether there have been offences that you felt needed to be followed up?

Mr STOWE: Madam Chair, my understanding is there has been a low level of matters raised with us and in all of those instances where the matter was taken up with particular funds or funeral directors a satisfactory resolution was obtained.

CHAIR: So therefore the Office of Fair Trading investigates, thinks there is something worth following up and you try and take more of a mediation role?

Mr O'CONNOR: That is correct. In the last few years I understand there have been six detected breaches of the Funeral Funds Act. In most instances the issue was that consumers paid for a prepaid funeral but the money was not passed on to the registered funeral fund. In all but one instance the issue was resolved without legal action, and I think that legal action is continuing.

CHAIR: In one instance?

Mr O'CONNOR: Yes, so we have been able to resolve it for them.

CHAIR: Can you tell us anything about that legal action?

Mr O'CONNOR: Well, no. It is still ongoing. In fact, it is an argument I think between two funds as well as a consumer and a solicitor. One, I do not have enough information, but it is continuing.

CHAIR: You told us quite a bit about the interdepartmental committee and obviously we have not yet had time to digest the paper that was put out on Friday, so probably those questions about the meeting and the types of issues and so on are questions that you have answered in here pretty much. I note that the Public Trustee was included in your interdepartmental committee. They are not a group that we have talked to in this inquiry really. And I notice that local government was not included and I guess that is probably because the local government concerns that we have addressed in our hearings are not consumer related, they are more to do with regulation and inspection and so on.

Can you tell us what led to those six agencies, Fair Trading, Health, Lands, WorkCover,

Public Trustee and the Department of Ageing, Disability and Homecare - they are the six and I am leading up I guess to our previous question, question 5, where the one Government agency should take the lead role, because a number of people have made the point to us that it is an industry where a large number of agencies seem to have a major role to play?

Mr STOWE: Madam Chair, on the composition of the departmental committee a number of recommendations were made to the former Minister as to who might comprise the committee, based upon our understanding of the involvement of those agencies in the industry, and the list that you have contains the ones that the Minister approved and we subsequently wrote to the relevant agencies and they agreed to participate.

CHAIR: So local government would not have seemed relevant to consumer protection issues?

Mr STOWE: Not strictly, no.

CHAIR: Is the Office of the Public Trustee a major agency in relation to - I guess they get involved in organising quite a lot of estates?

Mr STOWE: They do. They are involved in a significant number of funerals being arranged for clients over any period of time and we thought they might be a useful source of information about costs of funerals because they do have data for comparative years on the average cost of funerals, so we thought that might be a useful thing that they could contribute to the research.

CHAIR: And did that prove to be the case?

Mr STOWE: They have provided some information which we are currently working through now. What we are trying to compare is price differences. I think we have got statistics for the years 2000 and 2005 and we are looking at what the price differential might be over that period.

CHAIR: Is that dealt with at all in your discussion paper?

Mr STOWE: No, it is not, Madam Chair, because we have not finalised the work on that yet.

CHAIR: Would you be able to give us either a progress report or final report depending on timing because it would help this Committee?

Mr STOWE: We are happy to provide that, indeed, certainly.

CHAIR: Does the Public Trustee act mostly on behalf of less well off people? Is it possible to generalise?

Mr BRETT: I think that is the case.

CHAIR: Therefore issues of cost and so on would be of importance to them and their clients?

Mr BRETT: Yes.

CHAIR: Would it be beneficial if one Government agency was designated to take a lead role in relation to the funeral industry?

Mr O'CONNOR: That really is a question you will have to ask Government. We have explained our role clearly is consumer protection under the legislation that we administer, the Fair Trading Act, but as the Committee knows better than I do, there are all sorts of other issues involved in funerals and what happens after someone dies until they are either buried or cremated. There are

all sorts of health issues in that. We would not be in a position to suggest whether it would be a good idea for one to be involved. Some may well argue that everything is working fine now, and that is up to the committee and our review as to whether or not that is so. I think it would be very difficult for us to answer that sort of question.

CHAIR: From the information you have given in the document research findings, it seems as if the complaints which you have fielded deal mostly with Fair Trading kinds of issues.

Mr O'CONNOR: Well, the funeral funds essentially, because that is something that we control from a prudential point of view, and if you look at the figures I mentioned, they nearly all related to funeral funds.

CHAIR: So could we assume that if someone had a complaint about say a health issue, that they would not ring you?

Mr O'CONNOR: Well, if they did we would refer them to --

CHAIR: But you do not have any statistics on that?

Mr BROWN: No.

The Hon. IAN WEST: Could I ask if the Office of Fair Trading has a view or recommendation on the Funeral Industry Council's comments on regulation of the industry?

Mr O'CONNOR: I am not aware of what the Funeral Industry Council's view might be. In the paper we have looked at the possibility of some options that might be considered at the end of the process. I mentioned those in the opening. Just to go over them, some of the options that we have suggested are: An information and education campaign, raising consumer awareness about what it is all about and making them more informed. As a result of that, maybe there will be more complaints if people know there is somewhere to go to. Another issue we raised as a possible option was a voluntary code of practice which would be administered by the industry themselves. I must say you need a fairly strong industry association for voluntary codes to be of any real use. One thing that was mentionrd I think at one stage by the Combined Pensioners and Superannuants group was the concept of a funeral brokering industry, where people could actually go and get someone, as they would with insurance, to broker a deal so to speak. That was one thing that was raised and we understand that there are such groups in Canada and the United States that actually provide brokering services. So that could certainly be an option. A mandatory product information standard, which is something which would come under the Fair Trading Act, which actually prescribes product information that must be provided. In other words, a person must not supply goods unless the person has complied with what we call the mandatory product standard and such information be consistent with requirements for disclosure of information, such as price, performance, composition, contents, place and date, all sorts of things in relation to that. So that is another possibility, mandatory product information, such as a price board at a petrol station where you go in and see how much petrol cost and you can make a comparison of the cost of unleaded petrol.

The Hon. IAN WEST: So in general terms you would not oppose the recommendation by the Funeral Industry Council that there be appropriate regulation or some licensing system?

Mr O'CONNOR: I do not think we have come to that conclusion at this stage, that there is, and that is why I think we have got the discussion paper out there, as to whether or not there needs to be regulation and what type of regulation that might be.

CHAIR: The very last point, 7.6, discusses possible different licensing systems.

Mr O'CONNOR: That is some of the things that I was just mentioning in response to Mr West's question, and we did mention positive licensing as one way or there is such a thing as negative licensing where you continue to operate to a standard and once you stop doing that you

cannot operate anymore, but that is not the same thing as a positive licence.

The Hon. IAN WEST: Can I just clarify the hotline survey? How many people were involved in the hotline survey?

Mr O'CONNOR: About 100.

The Hon. IAN WEST: Can you just clarify for me in figure 7, where you say that funeral businesses were very willing to give indicative prices over the phone, are you quoting willingness to give indicative prices as being transparent?

Mr STOWE: Yes, I think what we were trying to do is work out whether or not a consumer could get the sort of information they needed to make an informed decision by comparison with the different services provided. I think what our research showed was that the information provided ranged from virtually information that you might desire to just information about the cost of a casket. Our experience was that it is relatively difficult for people to get consistent information about a consistent range of services.

The Hon. IAN WEST: I have misinterpreted that figure 7. I got the impression you were saying in figure 7 that everything was fine, there was great transparency and there was not a problem.

Mr STOWE: People are willing to give you the information. The question is whether that is the information you need. Only 13 per cent of the funeral directors who were contacted were not willing. Most were happy to give information over the telephone.

Mr BRETT: They might not have given all the information.

CHAIR: You need to read 7 in conjunction with figure 8.

Mr BRETT: Correct.

CHAIR: You find for instance if figure 8 says that 31 per cent gave a price for a coffin but not a professional fee, that is 31 per cent of all those people who did give an indicative price.

Mr BRETT: That is correct, who were willing to give information over the telephone.

CHAIR: So it might have been 87 per cent if everyone gave an indicative price, but of those who did only 30 per cent of them were willing to specify those two pretty basic things.

Mr BRETT: Yes.

The Hon. IAN WEST: It is just the conclusions that I have come to are different to what you are saying. That is fair enough.

CHAIR: Do you want to keep going or does that clarify it?

The Hon. IAN WEST: It clarifies for me that my interpretation of figure 7 was not your interpretation. I am educated by that.

CHAIR: But you do not have any further questions in relation to that matter?

The Hon. IAN WEST: No.

CHAIR: Can I ask a question arising from 7 and 8 I suppose? Do we gather correctly that you did not ask questions about the price of burial places or of cremation costs in relation to the cemeteries or crematoriums but you have only stuck to the actual funeral directors part of the industry?

Mr STOWE: Yes.

The Hon. KAYEE GRIFFIN: That is a question I was going to ask. When the shadow shopper survey was done, the professional costs did not include either the cost of the cemetery plot or what happens to a person's ashes if they want to be cremated, because I assume that presumably the funeral directors would have said that was a difficult thing to say if you could not give them a proposal about where you wanted the person to be buried. Is that correct?

Mr STOWE: Yes, that is right.

The Hon. KAYEE GRIFFIN: Given that you have said that local government was not involved with the groups, they obviously have a big responsibility, particularly outside metropolitan Sydney, in relation to the cost of burial plots and so on, would it be appropriate to look at those sorts of costs in relation to this? That is one question and the second one was that when you had complaints about the cost of funerals did people specifically talk to you about the issue of how much a burial plot cost as part of those, because usually they are included as part of the professional fees?

Mr STOWE: So far as that is concerned, my understanding is that over recent times they have had less legislative responsibility for the funeral industry. That is one of the reasons we have decided that that is appropriate to involve in the work of the interdepartmental committee. So far as eliciting information about cost, I suppose through our survey part of it definitely is trying to keep this to a relatively short conversation with somebody, so we are a little bit restricted in how much information we would totally cover in that conversation. At this stage we have not proposed any additional work other than what we have provided you with.

Mr BRETT: A lot of burial space issues, as far as I understand, would have been dealt with by that other interdepartmental committee which was run by the Department of Lands. They were dealing with those specific issues while our focus was mainly on the funeral services.

The Hon. KAYEE GRIFFIN: I must admit that I have not had to arrange a funeral for some considerable time, but I just thought there might have been some comment by the people who rang in during the hotline survey about the fact that when you receive the cost of the professional fees, part of the breakdown of the cost is for the burial plot or whatever happens, whatever the choice is in relation to people who are cremated. I just thought there might have been some comment about those people who rang in about the issue of how much that is. Particularly in the metropolitan area there would be substantial costs attached to particularly a burial plot.

Mr BRETT: Not that I am aware of.

CHAIR: It is interesting, because some of our witnesses put to us that the biggest percentage increase in recent years in cost, particularly for burials, comes from the cost of the burial space, not from the cost of the more narrowly undefined funeral director's services, and certainly we had evidence from the representatives of the trust at Rookwood that when you looked at the figures over recent years, the growth in the fees for burial spaces is really striking, but that is something that you do not regard as within your area?

Mr BRETT: No.

CHAIR: Can you tell us a little bit more about the comment you made, Mr O'Connor, about the Funeral Industry Council? We know that you, like other Government agencies, only have observer status there.

Mr O'CONNOR: That is correct, yes.

CHAIR: We have not previously heard evidence to the effect that you are actually asked to leave if the Funeral Industry Council--

Mr O'CONNOR: That is what I have been advised by my officers, I think even fairly recently. I do not know the circumstances relating to it but that is what I was advised, and over the years we have had a somewhat indifferent association with it. We have had different parts of the organisation. At the moment we have a policy oriented person there. Prior to that there was a compliance type person associated with it, and I was just advised that we only have observer status and that when they are deliberative - I do not know the details, unless my colleague here knows what the subject at that time was.

CHAIR: Mr Stowe, can you give us any more information about that?

Mr STOWE: I do not recall the subject but I know the officer concerned worked for me and she told me they were excluded from the meeting, along with the other Government representatives, and I believe that happened on more than one occasion.

CHAIR: What sort of timeframe are we talking about, within the last year or the last few years?

Mr STOWE: Certainly the last 18 months, yes.

CHAIR: You may have answered question 11 negatively so to speak. You have not mentioned to us in the detail you have provided complaints in relation to cultural or indigenous groups.

Mr O'CONNOR: We are not aware of any complaints regarding specific cultural indigenous groups, no.

CHAIR: Do you think they would come to you if they had them or are they groups whose problems may be more hidden and less talked about?

Mr O'CONNOR: Yes, we actually have a good outreach to the ethnic communities. We have an active program called Think Smart where we work with various ethnic groups on consumer issues. My experience would be that there should not be a difficulty. The same with the Aboriginal people, we have a fair outreach for Aboriginal people as well and I think they have some faith in Fair Trading and I think they would come to us if they had a particular difficulty. With the ethnic groups, as I said, we have a good outreach to various ethnic organisations. They may well come through those organisations that will come back to us, but we are not aware of anything that is ethnically, culturally or indigenously based.

CHAIR: That finishes the questions that we had, unless members had anything else. The discussion paper is now a public document.

Mr O'CONNOR: That is correct.

CHAIR: Is the Committee able to make the research findings and the statistics public, because we normally put these things on our web site?

Mr O'CONNOR: Yes, no problem at all.

CHAIR: We will take it that we can make those public. You have taken one question on notice I think. We can give you the detail later when we see the transcript.

Mr O'CONNOR: Yes, I think in relation to costs, we will try and provide a breakdown of that.

CHAIR: Yes, and I think Ms Parker's questions about dates too. There were a couple of dates.

Mr O'CONNOR: Dates, yes.

CHAIR: So there are two areas that our staff will get back to you on to define those more precisely.

(The witnesses withdrew)

FRANCIS EDWARD VINCENT, Chief Executive Officer, Daruk Aboriginal Community Control Medical Service Co-operative Limited, 2 Palmerston Road, Mt Druitt Village, and

PETER FERNANDO, Deputy Chief Executive Officer, Redfern Aboriginal Medical Service Co-operative Limited, 36 Turner Street, Redfern, affirmed and examined:

CHAIR: Could I note that we are here on the land of the Gadigal people of the Eora nation and we pay tribute to their elders. Did you receive the questions that we prepared?

Mr VINCENT: Yes.

Mr FERNANDO: Yes.

CHAIR: Before we go into those, you were here for part of the previous evidence and you would have seen the way we operate with our written questions, that we go off onto others as well. Did you either of you want to make an opening statement before we start on those questions?

Mr FERNANDO: No.

Mr VINCENT: No, I am fine, thanks.

CHAIR: Can you start off perhaps by telling us the particular practices that are important to Aboriginal people in relation to funerals that we need to be aware of, in other words practices that are different from what may be the majority practices in the community that the funeral industry needs to be aware of.

Mr VINCENT: This is just a personal view. Can I just say that to begin with, Madam Chair. Apart from returning home to country, there is very little cultural practices that are practised by Aboriginal people today. I think that basically has a lot to do with the law governing funerals and where you can bury people, but I think in regards to cultural practices there has been very little of that practised today.

Mr FERNANDO: The only main sort of practice that I have seen a lot of is the smoking ceremony, which is basically at the beginning and at the end of the ceremony and the wake as well.

CHAIR: And is the smoking ceremony performed at a very high percentage of funerals?

Mr FERNANDO: Most that I have attended, yes, because I am from the country and it is more of a practice out in the country than it is in the city region.

Mr VINCENT: It is becoming more and more practised even in Sydney. I have experienced that in Sydney. It is becoming more and more predominant now.

CHAIR: Mr Fernando, when you say you are from the country, whereabouts? What sort of areas would you be talking about where the smoking ceremony is common?

Mr FERNANDO: My mum is from Collarenebri, north west New South Wales. My dad is from Angledool. Mostly around that area, north west. There is a lot of difference in the cemetery itself. We like to decorate our cemetery with broken bottles which are heated in hot water and then smashed to give them a certain look and it is decorated in different sites, just on a slab of cement on the ground.

CHAIR: So you get the glittering green glass or brown glass effect?

Mr FERNANDO: Yes, and it can be coloured, it can be white, it can be painted, all different sorts. My nephew, for instance, has had his done in the Manly colours, which was a good

choice of his family because he was a Manly supporter. There are others which have Second World War medals, not so much medals, but the wreath put on them and they are all put around in that area. Collarenebri cemetery has been going for a long time. They have only just got a main road into there. So if you basically passed away at a certain time it was impossible to get to the cemetery. So we are pretty lucky that the cemetery out there has been there for ages. That is just one. I know one at Cumadungera(?) down in the Murray Riverina area is pretty similar, but they are the main two that I know about. There are others but they are the main two I know about.

CHAIR: Some of these cemeteries which are inland were once a mission for instance and where most of the people buried there would be Aboriginal people, like Cumadungera(?) or Angledool?

Mr FERNANDO: Yes, Cumadungera(?) is. The one at Collarenebri is about five kilometres out of town. There is only Aboriginal people buried there, and that has been around, as I say, for a long time. Most of them - if you take the next town, Walgett, they have not got their own cemetery, they use the main cemetery which is in town, and that is a lawn cemetery, so that is a little bit different on the cultural side of things.

CHAIR: Other than the things you are mentioning, most of the funerals would be conducted according to the traditional religious practices, Anglican or Catholic or whatever?

Mr FERNANDO: It depends on what is in the town at the time. There is only one in Collarenebri and that is Catholic and there are two in Walgett which are Anglican and Catholic. You have to go through a provider of services.

CHAIR: So if people choose to have a religious service, then that is what they have?

Mr FERNANDO: Yes. For instance, my mother has requested that it is not held inside a church, so it should be done by a proper father or priest or whatever but not inside a church. There have been some requests around that area and usually they are held out at the cemeteries themselves.

CHAIR: In the open?

Mr FERNANDO: In the open, yes.

CHAIR: Our second question is whether there are any problems with funeral directors. If Aboriginal people, for instance, specify that they want something done in a certain way, do you know whether funeral directors are usually co-operative?

Mr FERNANDO: Most I have come across are pretty co-operative. Some will request that you do not do a smoking ceremony inside, you do it outside. That is not a major problem as far as I see. I have not heard of too many issues around decorating the church itself or the hall. As far as I know, no.

Mr VINCENT: I would concur with that. There is not a great deal of problem in regards to that. Most funeral directors are happy to comply with the wishes of most families. One of the other practices I should have mentioned in the first question is that there is a position now that a lot of Aboriginal people are being buried with the Aboriginal flag and the Aboriginal colours and most funeral directors are able to comply with those sort of things.

The Hon. ROBYN PARKER: With decorating the grave area, you were saying that there have not been any problems that you know of?

Mr FERNANDO: Not if it is an Aboriginal owned cemetery. I know we did want to do something for my dad, which was in Coonamble, which is a general cemetery, and it is pretty hard to do, because you would be the only one. I do not think we pushed the request enough to have what we wanted.

The Hon. ROBYN PARKER: So you were refused whatever it was that you wanted with the funeral?

Mr FERNANDO: Yes, we did not ask and we did not take it any further.

The Hon. ROBYN PARKER: Were the family upset about that?

Mr FERNANDO: Not most of them, no. Me personally, yes, but not others. You do not want to cause an argument about the death of your father.

The Hon. ROBYN PARKER: What was the refusal on the grounds of?

Mr FERNANDO: It was more of a family issue, the two families.

The Hon. ROBYN PARKER: Were they refusing because of safety or because of appearance?

Mr FERNANDO: No, it was just a general appearance would be most likely but it was more the fact that every other cemetery has a headstone, so it would be out of place.

The Hon. ROBYN PARKER: Are most Aboriginal people buried or cremated?

Mr FERNANDO: I think that is a personal choice.

Mr VINCENT: Yes, it is not something that every Aboriginal person practises. It depends on their personal beliefs.

The Hon. IAN WEST: It is not a cultural issue?

Mr FERNANDO: No, it is not a cultural issue.

The Hon. ROBYN PARKER: When you say that the usual practice is to go back to country, what does that mean for someone who was born and bred in the city, in Redfern for example, where would you take them?

Mr FERNANDO: We can actually find an available area. A lot of people go all the way up to the Penrith area because there are no spots at La Perouse or Little Bay any more. You are paying a lot of money for it. In areas like that, it is a cost factor for some.

CHAIR: Is it possible to give any indication or any kind of rough estimate of Aboriginal people who may die in the city, whether it is Redfern or Blacktown or wherever it may be, how many of their families might then wish them to go back to the country?

Mr VINCENT: We run a deceased persons transport program. Over the last seven years of the program we have transported 281 people back home for burial.

CHAIR: Can you tell us what that involves? With the transport service what do you do?

Mr VINCENT: It depends where the person passed away and whether they had to have an autopsy. Usually we will pick it up from the hospital or from the State morgue and transport it back to the funeral parlour and wherever the family has made the arrangements for the funeral. It is a free service on our part to basically transport the body back to the funeral director for preparation for the funeral.

CHAIR: So you just use an ordinary vehicle for that or do you have a special vehicle?

Mr VINCENT: I am not absolutely correct about the Act, but under the Act I do not think

there is any specific requirement in regard to transporting a body, provided it is transported within eight hours. If the trip is longer than eight hours you are required to refrigerate the body every eight hours. We have a refrigerated van, so it is not a problem for us.

CHAIR: And how is the service funded?

Mr VINCENT: Very poorly, but funded by New South Wales Health Department. They fund us for the purchase of the vehicle and fund a small operating cost for the vehicle, which includes the petrol and running costs of the vehicle, insurance and the like, and a small amount for accommodation if the driver has to stay over night, but they do not fund a position with the vehicle.

CHAIR: And is that number growing or has it varied over time?

Mr VINCENT: I have a list of all of our transport services here if you would like me to table that?

CHAIR: That would be good, yes, thank you.

The Hon. IAN WEST: You have just one vehicle?

Mr VINCENT: Just one vehicle, yes. We average about 1.2 transports a week and we are limited in doing that because of the cost. As I just said, we do not get funded for a person to do it. So it is one of our existing staff. In our case it is our transport officer who is there to transport people to and from our centre and to appointments. He then takes up the other job of transporting deceased people home. It just depends on our circumstances and availability of staff. We have on occasions had to refuse to take people home because we have not had the staff or we have already transported X amount per week and because of costs we have to limit the number of times we do transport. We have occasionally called on Redfern to assist us. They have been helpful, but again they do not have the vehicle any more. So it is basically totally relying on us now at the moment. The service did in the first year I think 25 or something and we average around about 40 to 50 every year now.

The Hon. IAN WEST: There is no special licence required for the driver's licence?

Mr VINCENT: It is just a normal driver's licence.

CHAIR: Would most of the deceased people be going to north western New South Wales?

Mr VINCENT: You will see from that list we have included the whole list of every place we have transported to. We have actually transported people to the extremities of New South Wales for transport into other States. You will see that we have taken people to Queensland and met another service on the border of Queensland, where they have taken it further. We have gone out to Broken Hill for people going to South Australia and we have gone down to Victoria. Basically all over New South Wales really.

CHAIR: And do you charge the family for the transport?

Mr VINCENT: There is no fee at all.

CHAIR: Do you think the service should be more readily available?

Mr VINCENT: I think that the demand is there for it to be more readily available. It would be worthwhile I think if the department came to the party and funded us fully for the program, which would alleviate some of our problems in some of the times when we have had to refuse transport.

Mr FERNANDO: The cost to transport people home, to the north west of New South Wales it cost about \$2,000 to transport someone home through the funeral directors themselves.

CHAIR: Presumably when a body is transported, say to north western New South Wales, the costs of the funeral and the burial are cheaper than if the person was being buried in Sydney, the actual cost for the burial space for instance?

Mr FERNANDO: The actual costs, yes.

CHAIR: The funeral director costs would be cheaper out of Sydney, leaving out the transport?

Mr FERNANDO: As I say, I can only go on what my mum has planned and she has planned hers at around about the \$3,000 mark for the funeral service and the hole in the ground. The other thing which I forgot to mention, I am not sure about the rest of the State, but with my medical service, we actually dig the hole. So we do basically all the work for the cemetery.

CHAIR: What would be the percentage of burials as compared to cremations for indigenous people, do you have any idea?

Mr FERNANDO: I have only heard of one cremation. That is in my time in Sydney. That has been nearly 11 years.

CHAIR: Is there a cultural thing against it, is it non-traditional, is it just a habit or why do people prefer burial to cremation?

Mr VINCENT: I think if you were to look across the country you would see diversity of how people are buried. I think in some parts of the country they actually do burn the body, but predominantly in New South Wales as far as I am aware that was not the practice.

CHAIR: You are talking about traditional practice?

Mr VINCENT: Traditional practice, yes. It was buried in a favourite spot, in a tree, whatever. It just depends. There was diversity even in New South Wales. You could go to different parts of New South Wales and they buried you close to a particular outlook, in a tree. So it just depends, but in New South Wales I think cremations are now not based on a cultural belief.

CHAIR: And what would you say, Mr Vincent, in your experience about the frequency of cremations, particularly for people who die in the Sydney area, cremations compared to burials, do you have any idea?

Mr VINCENT: Funerals are a very important part of Aboriginal society. Most people will attempt to get to a funeral of anyone they know. I have been to quite a few, and especially in Sydney, over the last 20 years and I think I could count on one hand the number of times that someone has been cremated. It is not large numbers. It is very small.

CHAIR: Within the broader community cremation is seen to be becoming more frequent and that is partly a cost issue. Cremations are quite cheaper, partly because of the cost of the burial space rather than the funeral director costs, and cost is obviously an issue for Aboriginal people but you are saying there is still a strong cultural push towards burial?

Mr VINCENT: I think most people prefer to be buried.

Mr FERNANDO: Also, it is becoming more of a gathering as well, a gathering of family. It is not very often that families actually get together these days and we always see that. The only time that we actually meet most of our family is at a funeral and part of the cultural thing now is that we get to see uncles, aunties, nephews and nieces that we have not seen. Yes, a funeral is more in that line where cremation would not be. You do not invite everyone to a cremation.

CHAIR: Why?

Mr FERNANDO: It is a personal thing that is sort of like it is not the right thing to do. I know my mum has talked about it.

CHAIR: Your mum is talking about it?

Mr FERNANDO: Yes.

CHAIR: Why, because it is cheaper or easier?

Mr FERNANDO: No, she want to be spread across her country.

CHAIR: So it is the scattering of the ashes that is important?

Mr FERNANDO: The scattering of the ashes, yes. Mine is more of a modern thing. I will be buried at Collarenebri but that is just my personal belief.

The Hon. IAN WEST: The Aboriginal Land Council I understand runs a funeral benefits scheme. Can you tell us about that?

Mr FERNANDO: I could not tell you anything about it.

Mr VINCENT: I am aware that under the Act, in 1983 the Act allowed the establishment of a funeral fund. It did not happen though through the New South Wales Aboriginal Land Council until about seven years ago I think there was actually a fund established. There were some legal matters that had to go through the court because I think there was also an Aboriginal funeral fund that was established on the north coast and that challenged the validity of the New South Wales Aboriginal Land Council's right to establish a fund, and once that was finalised in court I think that funeral fund continued.

It is administered by the New South Wales Aboriginal Land Council. From what I know of it, any Aboriginal family, regardless of whether they are a member of that fund, can apply for financial assistance to the fund. The process is I think though that they need the local land council to write to the State land council confirming that the person is an Aboriginal person and seeking assistance. The amount, from what I understand, is \$1,000.

The Hon. IAN WEST: Can you tell us how often it is utilised?

Mr VINCENT: I could not, to be honest. I am also the chairperson of the local land council, the Daruk Aboriginal Land Council. We regularly get people coming in for the letters to send to the State land council for assistance but I could not give you exact numbers of that. I was not aware that was going to be asked. I did not actually find out that sort of detail.

CHAIR: We may be able to find out from the New South Wales Aboriginal Land Council.

Mr FERNANDO: I know we refer everybody who has approached us for financial assistance to go straight to the land council.

CHAIR: And do they get it?

Mr FERNANDO: I am not quite sure after that. Our donations that we donate towards funeral costs would be about \$100 towards a funeral cost but that is only out of donations that we receive ourselves and our donations are getting very low these days as well. Sometimes we have to unfortunately say no and we have made it a certain rule that we only donate towards a funeral cost for people who live inside the Redfern area.

The Hon. IAN WEST: So the letter that you write to the New South Wales Aboriginal Land Council, the response to that goes direct to the family. You write the letter but you do not get a

response?

Mr FERNANDO: No, we write the letter for the family. We give it to the family. They take it straight to the land council.

Mr VINCENT: I think it is released to the funeral parlour and not to the family and that is the practice whenever we give assistance. We are exactly the same as Pete. We provide \$100 assistance for families, plus sometimes we will help with people travelling back home from the funeral, and that is out of any income that we have generated ourselves.

The Hon. IAN WEST: So the letter that you write is given to the family and the family gives it to the funeral director?

Mr VINCENT: It is sent directly to the State land council and with all the funeral director's details from what I understand.

Mr FERNANDO: We actually hand it to the family to do that.

CHAIR: You do it differently but in each case the letter has to end up at the New South Wales land council?

Mr VINCENT: That is right.

The Hon. KAYEE GRIFFIN: After the court case in relation to the funeral benefits scheme, the north coast one does not exist then?

Mr VINCENT: I think it has fallen on its face through shortfalls in funding or whatever, and it was a membership type thing and I do not think it had a lot of people applying for membership.

The Hon. KAYEE GRIFFIN: So to your knowledge it was strictly paid out to people who were actually members rather than people who needed financial assistance?

Mr VINCENT: The north coast one was, yes, but the State land council one was not. You do not necessarily have to be a member, and even though they were at one stage taking membership, that has stopped now and they just provide \$1,000 assistance to any family that applies.

CHAIR: The cost issue is a big issue, is it not? \$100 does not go very far towards the cost of most burials these days.

Mr FERNANDO: No.

CHAIR: In your experience do people try to get the cheapest possible coffin, do they try and cut down on flowers for instance? As you say, funerals are a very important thing to mark in most Aboriginal communities but that brings with it a fair cost, does it not?

Mr FERNANDO: It does. When we are directly involved in it, not so much organising the funeral but assisting the family, we know that we will never basically make it. We assist basically like talk to the funeral directors to say what exactly do they want and then how can we actually make it a little bit cheaper. We find a lot of the services are the cost. So everyone would like flowers around and all the other stuff, and that costs a bit of money on the side of it. It is just all those little add in bits which are associated with a funeral. So we try to talk to the families and do that, but sometimes it is hard to talk to the family about it when the family want to organise it. So it is a matter of the cost. It is just very high and it is getting higher.

CHAIR: Are there particular funeral directors, in the area around Redfern for instance, who try to keep costs down and that can be recommended or is it pretty much the ordinary industry rate?

Mr FERNANDO: Joseph Medcalf has been around for many years in Redfern. He has basically grown up in that area. He would have a fair idea of how things really work.

CHAIR: Do most people use his services?

Mr FERNANDO: A lot do, yes.

[Moved by The Hon. Ian West: that the documents in relation to the transport service be tabled]

CHAIR: We did ask whether there are particular cemeteries where people from Sydney are buried in the Sydney area rather than being taken out of Sydney, like Botany for instance. Is Botany a major cemetery that is used by Aboriginal people? Are there particular areas in individual cemeteries or are Aboriginal peoples' remains just scattered over all the cemeteries?

Mr VINCENT: I think you will find that it is the costs that will influence peoples' decisions these days. Most of my family are buried at Botany cemetery. I very much doubt whether I will be buried there because the price is just too astronomical an amount and there are not a lot of plots there now, so I doubt if I will be buried there.

CHAIR: Because these days the space there is very rare.

Mr VINCENT: I live out in western Sydney now and I have lived out there for nearly 25-30 years, so I will probably be buried out there, and I think there are a lot of people even in Sydney who are being buried, as Peter said, out in western Sydney now, and I think land is the issue in regards to cemeteries. There is not a lot of land in Sydney, so that is driving the cost of funerals up.

CHAIR: The newer cemeteries in western Sydney, for instance, a lot of them are lawn cemeteries with therefore restrictions as to the kinds of plaques and memorials people can have. Is that an issue for the Aboriginal people that you are aware of?

Mr VINCENT: It is, and whilst I think for some people it is an issue, as Peter said, there are a lot of people who have a specific request for what they want. As Peter said, I think there are a lot of issues now around cost and that is influencing a lot of decisions. So yes, it is a restriction to some people and I think those people will choose to look around and not go to a lawn cemetery.

CHAIR: Would be it going too far to say that it is a serious sort of cultural issue? Would it be more correct to describe it as a preference for a different sort of memorial?

Mr VINCENT: Pete has touched on an issue that I think is becoming more and more important in regard to Aboriginal practices these days, and that is the gathering, it is the wake. That is becoming more and more important in Aboriginal funerals these days. I do not know about Redfern but at my service we have a fairly large meeting room and on a number of occasions we have been requested to hold the wake in our meeting room and help with the cost of that. So yes, I think that is becoming more the practice. People realise that they cannot always have what they want in regards to the funeral and it may require them to change their views on how they want to be buried and where they want to be buried.

CHAIR: So they might be going through the service and the wake rather than through a long term memorial?

Mr VINCENT: Yes. Peter just touched on his mother talked about issues, and I do not think that it is spoken about a lot these days in the Aboriginal community. People do not talk about how they want to be buried. They do not necessarily relay back to their family where they want to be buried or the type of ceremony. They might definitely make a statement about where they want to be buried if they want to go back home, and usually that is the most predominant request, where they want to be buried, if they want to go back to country. Apart from that, they may say they do not want to be cremated. I think they are the two important topics, in Aboriginal society anyway, in New South Wales in regard to people making some sort of statement to their family about how they want to

be buried.

CHAIR: But Peter's mother is a bit unusual in the detail that she has talked about?

Mr FERNANDO: We are pretty open. My family is directly pretty open about where they are going and what they are doing. It is easier for me to talk to my brother and say, "You have got to work out what you are going to do because we can't lump your de facto or your children with the fact that they have got to bury you somewhere. Decide now to do that sort of stuff." I have got mine covered, so I do not have to leave that burden with my family.

CHAIR: So are you a member of a prepaid fund?

Mr FERNANDO: No, see, that is the glory of knowing a funeral director back home, and that has been a family business ever since my mum was a child. That is the good part about a small community. In the city it is a lot different; you do not really want to know your funeral director. On that fact, the funeral director does not get out and actually say nice things either, those sorts of things. It is a good notion for the funeral parlours and directors to get out and make a nice name community wise and all this sort of stuff as well. I do not think Joseph Medcalf has been in the community to any of the fairs to actually put up a stall, but he has put his name up around, has done a few little odds and ends here and there with any organisation, but he is a major party in the field. To me it makes a lot of sense to be known.

The thing about lack of burial places here, it would be a suggestion for the land councils to look at buying an area now, or for the Indigenous Land Co-operative, ILC, to buy a place where it is for Aboriginal people to have a low cost burial plot. That is the main thing, where to be buried.

CHAIR: Has that been discussed, I mean by you?

Mr FERNANDO: Only since we have been up. Myself and the doctors spoke and we talked about some of the questions and that was one of the suggestions that popped up, that maybe the land council should look at a plot of land somewhere.

CHAIR: Which might be on the outskirts of Sydney do you think?

Mr FERNANDO: Yes.

CHAIR: It would provide cheaper--

Mr VINCENT: Could I just say on that, a while ago I made a statement about being the chair of the Daruk Land Council. That has actually been an issue we have discussed at our council meetings. Our land council is establishing its own cemetery. We are actually currently the largest landholder in Sydney. So it is one of the issues we are looking at in our council.

CHAIR: If you were to establish a cemetery, roughly where would it be?

Mr VINCENT: Our land council boundary starts in the east at Silverwater Road, goes out to Mount Victoria in the west, out to Wiseman's Ferry, Colo Heights in the north and basically along Queen Elizabeth Drive in the south. So it is a fairly large area and we own large lots of lands in just about all of those regions except for the Blacktown local government area.

CHAIR: So are you seriously investigating the cost of that?

Mr VINCENT: Yes, we are.

CHAIR: Who would run it?

Mr VINCENT: It would be administered by the council.

CHAIR: Do you know whether other land councils are considering that in other parts, perhaps along the coast where the problems with costs of burial places are greater?

Mr VINCENT: I could not answer that. The State land council may be able to answer that. All that I can confirm is that that has been an issue for discussion around land councils. There will be the process of doing a business plan. Once we finalise the business plan, you will find that the cemetery will be part of the consideration in our business plan.

CHAIR: If you established such a cemetery, would you limit it to Aboriginal people or would you simply run it as a business?

Mr VINCENT: I think you probably would find the same attitude being adopted in regards to the cemetery as currently is adopted in regards to our dental program. I guess it is the same attitude at Redfern and the Aboriginal medical service is the same. Our dental program is funded as a free dental service for Aboriginal people. However, the non-Aboriginal spouse of an Aboriginal person can come and get the same service as an Aboriginal person in our dental program, and I would assume that in regards to the cemetery, it would probably be the same attitude that would be adopted.

CHAIR: So you would be thinking of at least a service for Aboriginal people and their families?

Mr VINCENT: Predominantly, yes.

(The witnesses withdrew)

(The Committee adjourned at 11.15 a.m.)