COMMISSION OF INQUIRY INTO THE CFMEU AND MISCONDUCT IN THE CONSTRUCTION INDUSTRY

COMMISSIONED UNDER THE PROVISIONS OF THE COMMISSIONS OF INQUIRY ACT 1950

INTERVIEW OF MICHAEL DE'ATH

OFFICES OF THE COMMISSION OF INQUIRY INTO THE CFMEU AND MISCONDUCT IN THE CONSTRUCTION INDUSTRY

THURSDAY, 8 OCTOBER 2026

APPEARANCES

Mr. Michael De'Ath
Mr. Erick Sorgese - senior investigator at the COI, CFMEU
Mr. Justin McWatt, senior investigator at the COI, CFMEU
Ms. Joanne Jary, Partner at Holding Redlich
Ms. Tessa Neivandt, solicitor at Holding Redlich

<THE RECORDING COMMENCED

MR McWATT: Okay. The time is three minutes past 11 on Thursday 8 October 2026. Speaking is Justin McWatt, senior investigator for the Commission of Inquiry into the CFMEU, currently at [redacted], conducting an interview, recorded interview, with the person that I know is Mr Michael De'Ath, and I will in a second go around the room for everyone to introduce themselves for the tape, starting with my colleague Erick.

MR SORGESE: My name is Erick Sorgese. I'm a senior investigator at the Commission of Inquiry.

MR McWATT: Okay. And Michael, can I please get your full name and what you're currently doing at the moment.

MR DE'ATH: Certainly. Michael De'Ath. Former director-general of Queensland Education. That was my last role. I now own and operate an independent advisory firm.

MR McWATT: Okay. Yep. And the name of that business?

MR DE'ATH: MD Advisory.

MR McWATT: Okay, yep, no worries. And you've also brought legal representation?

MR DE'ATH: Correct.

MR McWATT: And I'll go from your right firstly.

MR McKENNA: John McKenna, senior counsel for Mr De'Ath.

MR McWATT: Yep. And where are you from?

MR McKENNA: I'm independent but at the bar, yep.

MR McWATT: Independent. And - sorry?

MS HOIBERG: Emma Hoiberg, junior counsel for Mr De'Ath, also at the independent bar.

MR McWATT: Independent.

MS JARY: Joanne Jary, partner of Holding Redlich, solicitors for Mr De'Ath.

MR McWATT: Okay.

MS NEIVANDT: Tessa Neivandt, associate with Joanne.

MR McWATT: Okay. And you're obviously going to be taking notes. No worries at all. All right. Okay. There's a bit to go through at the beginning. There's a bit of a protocol. Any time you've got any questions - and I'll have a couple of documents just to show you, which is obviously the notice that has brought you here today. So to further confirm, your attendance was compelled under notice 26867, and I'll just show you for the purpose of the tape, that's the notice that's brought you here today.

MR DE'ATH: Thank you.

MR McWATT: No worries. Okay. Before we start the formal interview, I want to provide a short overview of the Commission of Inquiry. I don't know whether you've been following it or not or your legal representatives have, but the Commission has formally established an order in council which establishes the Commission's terms of reference and formally appoints the Commissioner to conduct the inquiry. This is the gazette for the inquiry. The terms of reference guide the Commission, setting out what the Commission must examine during the inquiry. The Commission is obviously focused on misconduct occurring in the construction industry. The terms of reference oblige the Commission to investigate, among other things, organised crime, financial irregularities and other general misconduct by the CFMEU against a variety of industry stakeholders. Operationally, the way the Commission manages its inquiries is essential to subject matter. These subject matters or topics are referred to as case studies, and this case study that we are investigating ourselves is in relation to the government capture.

MR DE'ATH: Thank you.

MR McWATT: The focus of our case study is regulatory capture, as I just stated, which concerns allegations that the CFMEU exercised improper influence over Queensland government agencies. As you may have seen if you've watched the previous hearings or any other case studies, our inquiries have to date been focused for the most part on the Office of Industrial Relations and, to a lesser extent, the QBCC. Okay. You have attended here today pursuant to notice 26867, which I've shown you before, served on 16 September 2026, which requires you to attend and answer questions. It is important you are aware that failing to answer a question or knowingly providing false or deliberately misleading information in response to a question is a serious matter and may constitute an offence. Those offences, for your benefit, includes fabrication of evidence, contrary to section 126 of the Criminal Code, or perjury, contrary to section 123 of the Criminal Code, both in conjunction with section 22 of the Commission of Inquiry Act, so it relates back to that.

MR DE'ATH: Thank you.

MR McWATT: Yep. Failure to comply in all respects with the requirements contained in section 5 of the notice without a reasonable excuse, contrary to section 5(2) of the Commission of Inquiry Act, is how it all interlinks them together. Okay. Contempt of the Commission by obstruction contrary section to 9(2) of the Commission of Inquiry as well.

MR DE'ATH: Thank you.

MR McWATT: The reason we mention this is to ensure that you are fully informed about the formal nature of the inquiry before we begin. So as you might be aware, the inquiry does have a lot of information. A lot of people have spoken to us, a lot of documents have been sourced through notices, a lot of things we know, a lot of things we don't know, and with your legal representation, it's in your best interests to tell us the truth.

MR DE'ATH: Thank you. I hope I can assist you with that today.

MR McWATT: Yep, no worries. Okay. We will record this interview. The recording will then be used to generate a transcript. As I stated before the interview commenced, if we decide that you have information that is relevant to the Commission's inquiry, we then prepare a witness statement based on your answers in the interview, which you review and settle with our barristers. Okay. And this is a statement that becomes your evidence-in-chief. Okay. The recording of the interview and subsequent transcript may be tendered in evidence in some circumstances, including if we are not satisfied that the witness is fully cooperating with the Commission and giving truthful answers to the best of their recollection. A witness that is not cooperating may be called and cross-examined, including about any answers given in the interview that we believe are false or misleading. The interview is confidential, and you must not disclose what was discussed to anyone other than your legal team. As stated before, if your legal representatives ask for a copy, we'll comply with that and provide that, obviously not immediately but once the transcript's done.

MR DE'ATH: Thank you.

MR McWATT: If you require a break at any time, as I stated before, please, if you wish to discuss anything, Erick and I will leave the room, and then just let us know. If you need fresh air or anything like that, by all means please just ask. That goes for everybody. Okay. All right. Do you have any questions prior to -

MR DE'ATH: I don't have any questions. Thanks for the overview.

MR McWATT: No, that's all right. Okay. All right. At the commencement of this interview, or prior to, you provided a statement to the Commission.

MR DE'ATH: I did.

MR McWATT: That's a copy, just to confirm your copy of the statement that was provided under notice 26435, and it was issued on 26 May '26.

MR DE'ATH: I can confirm that's my statement.

MR McWATT: Okay. Is there any changes or amendments or clarification to that statement that you wish to bring up at this moment?

MR DE'ATH: No, not at this time. I don't think there's anything further to raise that comes to mind.

MR McWATT: Yep. No worries at all. You've had a look. That's fine. All right. In the first part of it, you clarify your qualifications and your work history. Just for the interview, can you just please go back over your qualifications verbally and in your - how you became the DG of Department of Education.

MR DE'ATH: Sure. I'll try and do that succinctly.

MR McWATT: Yep.

MR DE'ATH: So I hold a diploma of teaching, bachelor of education, an executive master's in public administration, and a master's in educational something - education administration. I've held many roles throughout my career. I won't go through all those roles unless you wish me to, but I became the director-general for Queensland Education, Industrial Relations and Racing through a merit selection process, a fairly comprehensive merit selection process, prior to commencing into the role. There was a machinery-of-government change at a point - I can't remember the exact timing, certainly prior to the last election, and at that time no longer held the Racing and Office of Industrial Relations portfolios, just the Education portfolio.

MR McWATT: Okay, yep. Who did that move off to?

MR DE'ATH: I don't recall at the time, actually. I was just very pleased to just have Education, as you would well understand.

MR McWATT: Yep, no doubt that's probably going to be raised here, and you'll give us a bit of a background to that.

MR DE'ATH: Certainly.

MR McWATT: Yep, okay. You arrived here on Tuesday?

MR DE'ATH: Correct.

MR McWATT: In Brisbane, I should clarify. Yep. Have you spoken to anyone besides your legal team about this interview today?

MR DE'ATH: No. Well, other than my wife.

MR McWATT: Oh yep, yep. Fully understandable. She'd want to know where you're going. Okay. Well, probably - just talking about getting rid of OIR and Racing, that's probably brought us to the first part of the topics, and a lot of it will be based on what was in the statement.

MR DE'ATH: Sure.

MR McWATT: And we've got some emails and that we wish to clarify as well.

MR DE'ATH: Certainly.

MR McWATT: Which I'll show to you as we go along. But under the leadership of the Office of Industrial Relations, it sounds as though you had a bit of a - there was turmoil there, from what you've just said then. What did it mean to you as the director-general, taking - or being in control of the OIR?

MR DE'ATH: So if I can give a bit of context in answering your question.

MR McWATT: Yep.

MR DE'ATH: So you will no doubt be aware that I was carrying three portfolios: the Education portfolio, of course, singularly massive in its own right -

MR McWATT: Yep.

MR DE'ATH: - the Racing portfolio, of course, a very active portfolio to Queenslanders and to the government, and then the Office of Industrial Relations. What did it mean to be taking that over? I hadn't had the portfolio previously in my career - I'd had certainly plenty of exposure to industrial matters through various other portfolios; I have quite a diverse career across government work - and so it was important for me to gain as much information early as I could. Just by way of context, remembering that when you're director-general of three big portfolios like that, then your deputies play a critical role on your behalf. So while I'll probably, throughout the course of this interview, I'm sure, make reference to the role of people like Ms Bancroft and other people who were acting in the role at periods of time, I also had, you know, a plethora of deputies in Education. We had Racing Queensland as a statutory authority and so on. So, you know, the breadth of work and what those deputies were responsible for - and they're not entirely independent; there's always a director-general - but they carried a good degree of independence in managing and leading their portfolios.

MR McWATT: So what was most of your daily work with Education? Like, was most of your day-to-day interaction for Education and a little bit for OIR and Racing, or was that taking up a lot of your time as well?

MR DE'ATH: By far the majority of my work was the Education portfolio: extensive travel, extensive policy work, extensive stakeholder engagement. There's absolutely no doubt about that. There were points in time when the Office of Industrial Relations became reasonably consuming, depending on what was going on at any particular time, but in general, it's fair to say the Education portfolio was the lion's share of my work. The Racing portfolio to a lesser extent, but again, it depends what's happening at any given time. You know, you move in these roles to engage with the important issues as they arise, as well as keeping everything else going.

MR McWATT: And based on this inquiry, was a lot of your time and interaction with the union? No doubt you had the Education union, but a lot of it with the union for OIR?

MR DE'ATH: I think that could be fair to say. And that also depended too, to some degree, on who was in the deputy role at the time.

MR McWATT: Okay.

MR DE'ATH: So - and I would say to you that Ms Bancroft's time in the role consumed then a considerable amount of my time on the portfolio.

MR McWATT: Yep. We'll get on to Ms Bancroft soon.

MR DE'ATH: Sure.

MR McWATT: But in relation to your interactions with the CFMEU - and I'll go through a couple of names, and no doubt they'll be obvious to you, but Mr Ravbar.

MR DE'ATH: Mmm-hmm.

MR McWATT: Yeah. You obviously had a fair bit of interaction with Ravbar?

MR DE'ATH: When you say "a fair bit", we had, I guess you might call, regular meetings, although perhaps irregular. I couldn't recall exactly how many meetings I had with Mr Ravbar or some of his officials during the time I had the Office of Industrial Relations, but let's say there might've been 20 of them. I'm happy to give you some characterisation of those meetings if you would like.

MR McWATT: We've got some meetings that we know there's been a few interactions with.

MR DE'ATH: Certainly.

MR McWATT: But I'm more than happy for you to clarify them now if you like.

MR DE'ATH: Yeah. So I think it's fair to say that Michael Ravbar was an extremely difficult stakeholder to engage with.

MR McWATT: Yeah.

MR DE'ATH: A lot of those meetings were, let's say, on Michael's part, highly assertive, difficult for other people to have an opportunity to speak, and on a number of matters, could I say almost - almost irrational in nature in terms of trying to get engagement and see a different perspective on matters, and I think it'd be fair to say Michael had a particular view, it was evident to me, about matters, and there was no movement on any of those matters in the face of anything we may put forward.

MR McWATT: Yep. So what you're talking about is - and no doubt we'll talk about it - is the triaging system, the process that was going to be implemented. Is that something that Mr Ravbar just wouldn't comprehend or assist or meet with?

MR DE'ATH: That's good language. He would meet with us to the point at which he said he wouldn't meet with us any more about it is my recollection. He was not open to a change in system and indeed, within a relatively short space of time, would not come to the table to look at changes that were considered necessary to that system. That was probably the most significant matter in dealing with Michael. The other things were things like, I think, white card training, where he had a particular view about that, and despite the evidence of what was happening in other jurisdictions, wouldn't budge on that, and then there were significant attempts to engage the CFMEU in things like selection processes and the Office of Industrial Relations, for which eventually on some matters wouldn't assist any further, wouldn't be on a panel in the end, withdrew and so on. And I think you will no doubt have correspondence in relation to some of those matters, and I'm happy to take questions on those things.

MR McWATT: Sounds like he was a bit of a hindrance. That's my word, but -

MR DE'ATH: I think - you know, I've had a lot of thoughts about Michael over the years. I think - and it's totally speculative on my part - I think he was a person who had come to believe that a certain modus operandi and a certain set of beliefs were the truth and the only way, and that is very difficult to deal with when you're working with a stakeholder. You would probably see that over my career I've worked with many, many stakeholders, many unions, many other peak bodies and so on, and never in my career have I encountered such a difficult relationship, in fact, not even close, in terms of trying to work through really important matters. I mean, the health and safety of workers is, you know, paramount. Everybody should come home safely from work, and they should be able to enjoy and feel valued in the workplace. Trying to achieve that with the way that Michael viewed that was extremely challenging at times.

MR McWATT: How did you manage between him and then the minister, Grace Grace?

MR DE'ATH: Obviously, you know, all of my ministers I've ever worked with, you have a close working relationship with, a professional, Westminsterial working relationship, and, you know, that is of great importance to me, and I can honestly say that my dealings with Grace Grace over both the industrial relations portfolio and the other portfolios -

MR McWATT: Racing, yep.

MR DE'ATH: Yep, and my concerns over matters with the CFMEU. Where it was appropriate, Grace was incredibly supportive. In fact, I'm sure you have documentation there about one meeting that I ceased with Mr Ravbar and two of his - two of his - the Electrical and Plumbers trades unions, I think, were with him that day, and in ceasing that meeting and the comment that was made to me by Michael, I think the word was "boofhead", that was reported to the minister's office. I can't recall whether I reported that to her chief of staff or to Grace directly, but it was certainly reported to the minister's office, and I was assured that that would be dealt with. Grace was very good like that. It wasn't very often I would have to raise something with her office about the relationship, but you keep your minister aware of relationships with stakeholders, and I would notice that after, you know, something become tense or difficult, or certainly something like that meeting, that things would sort of settle down a little bit. But it certainly wasn't a settling down that was maintained, can I say.

MR McWATT: Yep. So it definitely wasn't for show, like, that type of meeting where he called you boofhead and then you've asked him to leave. He's obviously passionate about safety and the union, but you know how some people, they put the show on for their audience and then leave. Like, it wasn't that type of relationship with him, that he would go and then you'd be chatting just normal about - to solve problems or -

MR DE'ATH: Look, I don't think I can comment on sort of what's in Michael's head about how he behaves in a meeting.

MR McWATT: Yep.

MR DE'ATH: It would be purely speculative on my part. But it would seem that - like, I ended that meeting.

MR McWATT: Yep.

MR DE'ATH: I had got to a point in the relationship where I was not prepared to tolerate the behaviour that you have no doubt read about in the file note, and Michael was cautioned, I think, three times in that meeting before I concluded it. So I think his behaviour in that meeting was possibly fairly consistent with a

number of meetings that I had with him, even where on occasion there were one-to-one meetings between him and I.

MR McWATT: Yep. As we've said, we'll get to those later on.

MR DE'ATH: Certainly.

MR McWATT: Mr Kurt Pauls: what type of interaction and relationship did you have with him?

MR DE'ATH: I don't really recall meetings with Kurt Pauls, and there are other names mentioned there. I think these are people who I've met. I think they were people who were probably in meetings at times. But my interactions - my focus in any interaction was as the director-general with the head of the union, in this case of course Michael.

MR McWATT: Did you have any interaction with Mr Royce Kupsch?

MR DE'ATH: Not that I recall.

MR McWATT: So yeah, Kurt took over from Royce, but -

MR DE'ATH: Yeah.

MR McWATT: Besides the CFMEU, did you have any issues with any other unions?

MR DE'ATH: No. Well, I mean, you have issues with unions that are transactional in terms of they have a role, you have a role, and I think - I think we're very good at that in the public sector, and I think unions in the main are very good at that. We each respect and understand each other's roles, and there are processes where people want to go down certain paths and so on, and those processes are followed, generally, by the union, or objected to by us. And, you know, that is part of the job. I think what I've probably already conveyed is that the interactions with Michael were unreasonable and difficult and uncompromising.

MR McWATT: Yep. I'll go to Ms Bancroft in a minute, but anything you want to raise on that?

MR SORGESE: I just wanted to ask, prior to you taking up the DG role, were you given any type of preparation or, like, some sort of handover as to potentially some of the contentious issues you might come across with the CFMEU and the like? Were you prepared or otherwise warned?

MR DE'ATH: Yeah, you're going - you're going well back in time. So my - there was - the person who was acting in the role that I went into was the

deputy director-general from Office of Industrial Relations. Sorry, his name just escapes me at the moment. You will have that name. Anyway, so he had certainly talked to me about -

MR McWATT: Was it Mr Allen?

MR DE'ATH: Thank you. He had certainly talked to me about some of the issues in the Office of Industrial Relations. Of course, once you get into the job, you know, one of the first things you do - well, I always do as a matter of practice when I commence a new role is meet with all of those direct reports individually and get them to talk about sort of what the key issues are and so on. And so at that time, I believe I would have been informed about matters of significance, and they're of course matters in terms of the relationship with the CFMEU as a matter of course. Can I recall exactly when that was, what was said? I can't, sorry. But you would no doubt be aware from the sort of issues that we're already talking about that people are talking to you about them early.

MR McWATT: Yep.

MR SORGESE: Thank you.

MR McWATT: All right. As we were talking about before, Ms Bancroft has been brought up in your previous statement.

MR DE'ATH: Mmm.

MR McWATT: What was your knowledge of Kym Bancroft and why was she chosen for the role?

MR DE'ATH: Yeah, that's an excellent question, and I'm happy to share that with you. So it's a hard role to fill, can I say, and you could well imagine why. It's an extremely difficult deputy role. The panel - and on that panel, I believe at the time was Jacqueline King, the secretary of Queensland Council of Trade Unions - in my view, a sterling person - and Rob Setter was the Public Service Commissioner, I think, so Rob, myself, Jacqueline, and I think it was the then Commissioner of Police, I think. So it's a pretty good panel. I can't recall her name, sorry. Katarina Carroll. As we were going through that process, and even in the brief before, you know, we're looking for people who have a background in the role. Very hard to get someone who will have a comprehensive background in all aspects of that role.

MR McWATT: Yep.

MR DE'ATH: We saw a couple of things in Kym. One was her sort of experience in the work health and safety area. But also that she was from outside. So given some of the challenges that we were facing with that office, and some of the things that you'll no doubt want me to ask me about, there, you know, were

various suggestions, accusations, you know, etcetera. I think the panel were unanimous in seeing this was perhaps a good opportunity to bring someone in clean who didn't have a history with these issues, didn't have a history with the CFMEU and so on. The risk we were aware of in making this appointment was that she also didn't have a background in government. Not, if you like, a pure background in government, as so many of us do. So that always was for me an area that I knew we would be supporting Kym in that role with, and indeed did. So, yeah, that was really what we were going for. There were slim pickings, can I say. She wasn't the only candidate, but it was certainly hard to get a pool of candidates.

MR McWATT: Okay. All right. And how was your working relationship with Kym?

MR DE'ATH: It was very positive. I liked Kym. I thought she was a good person. She was, for the better part, in my initial stage of working with her, I felt working with good intent. She was working hard. She was working in difficult circumstances. But, you know, many deputies of large portfolios work in difficult circumstances. The challenges with the CFMEU, you could see, were quite apparent. I don't think there's any doubt they were very opposed to that appointment and made that very clear on a number of occasions they weren't happy about it. So in the better part of that relationship, yes.

I think what did happen over a period of time is that Kym did require a lot of support in the role, and that almost seemed to escalate as time went on and as I watched her navigate through certain processes and certain other things I became concerned about. But certainly a hard worker. She was very committed to the role. She had some good ideas, and - but I don't believe that her - she was entirely suitable for the role at the end of the day.

MR McWATT: Yep. Okay. All right. And then when she - so she commenced on 1 August 2022, and I know that's a while ago, but can you recall what your instructions to Kym was in that DDG role?

MR DE'ATH: I can't recall the exact words, but I can make some suggestions as to the sort of things that would have been in my mind.

MR McWATT: Yeah, I wouldn't expect you to remember everything.

MR DE'ATH: So certainly the history of some investigations, and I wanted to ensure that she was briefed on the detail of those by our OIR. Can I just put a little bit more context.

MR McWATT: Yep.

MR DE'ATH: OIR gets moved around in machinery-of-government changes all the time. You'll be aware of that. But it is set up a little bit independently in that

way, unlike other things that get moved round, so it does have its own HR facility and things like that, and own finance facility and so on. So it's relatively ring-fenced.

MR McWATT: Yep, like a small department.

MR DE'ATH: That's right, yeah. So you can get internal briefings - you know, she can get internal briefings there, and so I wanted to make sure she was well aware of that. Of course, any tensions that existed around things like obviously the CFMEU being a case in point. And then there were just ongoing discussions around, you know, what it means to work in government and making sure that I was sort of across her being guided in a way that I knew there was a particular skill set she didn't necessarily automatically bring in. Having said that, I think she - in essence, my impression was a bright, capable person who could - had a suitable intellect to pick up those things relatively quickly. That was initially my observation.

MR McWATT: Yep. All right. Do you want to ask anything about Kym?

MR SORGESE: Yeah. Could you please be a little bit more specific as to what particular skills - at the time Ms Bancroft was engaged, what particular skills were front of mind for you that she may not have, particularly with regard to public sector experience that she didn't obviously bring along? What areas were you like, "Oh, we're probably going to have to watch her in this field, this field over here"?

MR DE'ATH: Yeah, just those government processes that we have in government. Like, I can't think to name anything off the top of my head, but, you know, briefings, briefing materials, preparing for stakeholder and ministerial engagements, HR processes.

MR McWATT: I was going to say, would it be fair to say "processes"?

MR DE'ATH: Processes, yeah, government processes, yeah.

MR SORGESE: Okay. And you mentioned before about some - you were cognisant of some supports that you might need to provide Kym with respect to those skills that she didn't naturally bring. Do you recall any of those supports and what the nature were?

MR DE'ATH: Nothing particularly comes to mind, other than remember, we had a massive education department with, you know, skill sets in it. She was part of the executive leadership team. She had access to other deputies and their skills and experience, particularly in the corporate space, and I - I recall making sure she was connected to everyone she needed to be connected to and that she could be - and she could openly seek guidance where she needed to. I believe that Jacqueline King had spent quite a bit of time with her, and that was a discussion that Jacqueline and I had had, I think at some stage through the selection process.

And I think that was generous of Jacqueline, and I think she did her level best to provide support as well. That's my recollection.

MR SORGESE: That's all from me.

MR McWATT: While we're on Ms Bancroft, going to the - obviously there was complaints made to the CCC about Ms Bancroft.

MR DE'ATH: Mmm.

MR McWATT: There was two complaints made. One was directly to the CCC, and the other one was through Department of Education's Ethical Standards. Do you recall what I'm talking about?

MR DE'ATH: I know a complaint was made to the CCC. You might need to refresh my memory about the two complaints.

MR McWATT: So it's on the same basis.

MR DE'ATH: Same issue?

MR McWATT: Yeah, same issue, but they ended up combining it and provided the one matters assessment report back, which I'll show you in a minute.

MR DE'ATH: Thanks for refreshing my memory, and I can't recall - I can't recall ever seeing anything come back for the CCC in my time in relation to that complaint.

MR McWATT: As in the end or the beginning?

MR DE'ATH: I remember us submitting a complaint.

MR McWATT: Yep, which will be this one. So that's called the intake and assessment corrupt conduct assessment.

MR DE'ATH: Thank you.

MR McWATT: That's the one there. I'm pretty sure your signature along the bottom.

MR DE'ATH: Yep. I think I do recall signing that. Thank you. If I can just take a moment just to refresh my memory, please.

MR McWATT: No, that's fine. I'll just - for the purpose of everyone else, it was a complaint in relation to a conflict of interest and some procurement.

MR DE'ATH: Yep. Thank you. I recall at the time the advice I received on the matter was that I was obliged to report; hence the report.

MR McWATT: Report the corrupt conduct?

MR DE'ATH: The conduct.

MR McWATT: The corrupt conduct, yep, under section 15.

MR DE'ATH: Did anybody else want to -

MR McWATT: Yeah. So as I stated, that was the complaint from the Department of Education, which happened on the - what was the date on that? It was the -

MR DE'ATH: And I do recall I couldn't - I didn't feel that I could arrange that complaint to be processed through the Office of Industrial Relations, for obvious reasons.

MR McWATT: That's yeah. I was going to - we were talking before about they have their own little areas, and they do have an ethical standards area.

MR DE'ATH: Correct.

MR McWATT: Yep. That was something that I did wonder: why wasn't the complaint through there?

MR DE'ATH: I just felt it was too close.

MR McWATT: Okay. Yep.

MR DE'ATH: It was too close, and there were, I think I recall at the time, a number of issues being raised in various places, and with the experience and expertise sitting in the Department of Education, it felt appropriate to - to prepare that through - through that avenue.

MR McWATT: Yep. And I don't know whether you are aware or not, but did the complaint actually come through OIR and then sent to Department of Education or was it directly sent to Education?

MR DE'ATH: I can't recall.

MR McWATT: No, that's all right.

MR DE'ATH: If it helps, I can't even recall how I was made aware of this issue.

MR McWATT: Yep.

MR DE'ATH: But I was made aware of it, and I was deeply concerned by it.

MR McWATT: Yep. So, yeah, there's - to clarify, there's a complaint made on 6 January to the CCC, which is through their portal.

MR DE'ATH: Thank you.

MR McWATT: You hadn't been made aware, because obviously they take some time, the CCC.

MR DE'ATH: Sorry, can I clarify?

MR McWATT: Yep.

MR DE'ATH: So that complaint had come from somewhere else, not from me?

MR McWATT: Correct.

MR DE'ATH: Thank you.

MR McWATT: Yep, yep. And then on 7 February, the complaint is made to Ethical Standards at Department of Education.

MR DE'ATH: Thank you.

MR McWATT: And then this is - the complaint is made to the CCC. This is obviously typed up and then sent through on 9 February '23.

MR DE'ATH: So I believe that's my lodging in relation to becoming aware of concerns.

MR McWATT: Yep, which is under the Act, you're obliged to do so.

MR DE'ATH: Correct. Correct.

MR McWATT: All right. Then obviously they do their bit of reporting, and then returned is a - it's called a matters assessment report from the CCC, and they lodge the complaint as, for the tape, CO-230542, and then they also combine the other complaint to advise that they've had two complaints now, and that was CO-230213. Okay. So this would have been sent to - or this was sent back to Education, and the person that was the notifier was Ms Lauren Mattea.

MR DE'ATH: Okay. What date was that?

MR McWATT: So that came back on - so it says on 9 February. I also have - would have been around about 10 March.

MR DE'ATH: Okay, thank you.

MR McWATT: So have you come across the matters assessment reports before or -

MR DE'ATH: I can't recall what I've seen. Sorry. And thank you for helping with the chronology of it, because I was trying to recall that, because I thought it might be helpful, but - so that's helpful, thank you.

MR McWATT: Yep. No problem. So the matters assessment report is what the CCC wishes for your department to do in relation to the investigation. So as you'd be aware, the CCC can take the investigation, provide it back for no further action or no further reporting or they don't believe it's corrupt conduct; or they wish to be reported on, but to be advised six weeks, three months, six months, nine months.

MR DE'ATH: Sure. And what was their assessment?

MR McWATT: So their assessment was - so:

> "No action should be taken by the Department of Education upon the basis of the report until the CCC has reviewed it and provided advice to the DOE."

MR DE'ATH: Thank you. Thank you.

MR McWATT: So, in other words, the report's come back to them, they make the assessment and then advise to either, "Yes, continue," or, "Can you please go and speak to this person," or whichever, and then usually at the end of the report, or the last report, the CCC will say, "Yes, we agree," or, "We disagree with the proposed outcome that you wish to do."

MR DE'ATH: Thank you for refreshing my memory about that process.

MR McWATT: Yep.

MR DE'ATH: I can't actually recall seeing that. I am sure I would have seen that, and of course, for you, I'm sure that explains why I hadn't commenced an investigation myself.

MR McWATT: Yep. Yep. Okay. So while I think of that burning in the background, on 16 February '23, you send an email to Duncan Anson. Do you recall Duncan Anson?

MR DE'ATH: I know Duncan very well.

MR McWATT: Yep. And it's to advise on 16 February '23, you decided to suspend the procurement, purchasing and financial delegations for Ms Kym Bancroft.

MR DE'ATH: Thank you.

MR McWATT: I'll just show you that email.

MR DE'ATH: Thank you again for refreshing my memory. I do recall that.

MR McWATT: Yep. And just take us through your thought process. And I believe I know why, but I'd rather hear it from you.

MR DE'ATH: Oh, this was a serious matter. When you are employed into a role such as Ms Bancroft was in, whether you've had a background in the public sector or not, like, procurement processes are very clear. The forms are clear about disclosures on conflicts of interest, and I could see quite clearly that - in this process, that there was a distinct conflict of interest, and that - let me put it in a bit more context too. In itself, standing alone, it's a significant offence, in my view, for a senior executive. Put in the context of a critical time in our work with the CFMEU, where you have an important report being held up as, you know, the advice and model for how to go forward, and the credibility of that report basically being shattered due to this. So non-disclosure as a director of a company still, when you go through these processes to sign up in the public service, it's very clear you can't do that without special permissions and so on, and then - and then a procurement process through an associate of that directorship, albeit them working in QUT.

MR McWATT: Yep.

MR DE'ATH: This was a serious matter for me, and it was important that I made sure that the risk was reduced around this happening, while I worked out, "What am I going to do about this?" And I recall now moving the delegation to Duncan Anson, which simply meant that any matters of that nature that Ms Bancroft may be responsible for going forward, then they had to go through Duncan Anson. Duncan's an extremely experienced CFO. I have a lot of respect for Duncan. I was very pleased that I was able to make that interim arrangement.

MR McWATT: Yes. I do know of Duncan.

MR DE'ATH: Yes. He's moved now to Corrections.

MR McWATT: Oh, right. Probably in this building.

MR DE'ATH: Yeah, he may well be.

MR McWATT: So when you've done the suspension, have you had that conversation with him around that time?

MR DE'ATH: I can't recall the exact chronology of conversations. I certainly spoke with him about my concerns when I was made aware of them. She was certainly aware that they were reportable, and I certainly would have advised her of - of this action, really in her interests as well as the organisation's. So I can't remember when or where that occurred, but I know that that occurred.

MR McWATT: Yep. I was thinking, if you suspend her and then she - not suspend her, suspend her ability to purchase -

MR DE'ATH: You have to tell her.

MR McWATT: You have to tell her, yeah, yep. And then no doubt questions will be raised and - maybe from her or yourself, but -

MR DE'ATH: Oh, she was - Kym would have been very aware of why that decision was made.

MR McWATT: Yep. And do you recall whether she disclosed further about the allegations?

MR DE'ATH: In talking with Kym, my recollection is that she - this was no denying that these were the facts of the matter, that she had her directorship in place. I think she sought to immediately take that down. Whether it was taken out formally or whether it was just on the website - we could see it on the website for that particular entity, and in terms of the connections and, you know, the procurement and so on, and the non-disclosures, there was no denying of any of that from Kym. It was pretty compelling.

MR McWATT: Yeah.

MR DE'ATH: Yeah. It was incredibly unfortunate.

MR McWATT: So obviously Kym's continued on with her work. Is it Nick Seeley that took over that project or looked into it?

MR DE'ATH: Nick Seeley was the executive officer in my office. He did not take over that piece of work. I think - sorry, I can't recall exactly how we managed the process in relation to the report and the triaging from there. You may have some correspondence.

MR McWATT: (Indistinct) because Nick's cc'd into it, so -

MR DE'ATH: Yeah, Nick would have been cc'd in because he is the executive director or he was the executive director of my office.

MR McWATT: Okay, yep. So on 28 March - so not long after that was, so that was 16 February - 28 March, I don't know whether you're aware of this or not, but an email comes back from the Public Sector Commission, and then a letter will come very shortly after that. So that's outlaying the procedure for the investigation, but Mr Rob Setter, on 5 April, he sends this typed letter.

MR DE'ATH: Is that where Mark Cridland becomes involved?

MR McWATT: Correct.

MR DE'ATH: Thank you. Gosh, you forget all these things.

MR McWATT: Yeah, so that is the formal documentation. That's a bit of a heads-up to the integrity area.

MR DE'ATH: Yep, thank you.

MR McWATT: And then there's the formal letter.

MR DE'ATH: Can I just take a moment just to refresh my memory on this, please?

MR McWATT: Yep, by all means, yep.

MR DE'ATH: So they devolved it on 17 April. That - thank you. Yes. Thank you.

MR McWATT: Yep. And that's obviously just to inform how to proceed ahead, because of the - the position that Ms Bancroft held.

MR DE'ATH: Thank you.

MR McWATT: That's what that is. Just bear with me for a second.

MR SORGESE: Could I ask (indistinct) when you had the meeting or when you had a conversation with Ms Bancroft and suspended her procurement allocations, you just mentioned earlier it was around risk mitigation; is that correct?

MR DE'ATH: Well, this was a person who seemingly had - had seemingly committed a major misstep and a communication - really a reportable offence, if you like.

MR SORGESE: Yep.

MR DE'ATH: So to come back to your question, I think - can you just repeat that question for me again, please?

MR SORGESE: Essentially, were you saying that was a strategy to mitigate the risk?

MR DE'ATH: That's right. So I didn't want that to happen again, and it was very evident to me that we needed to keep a close eye on how she was operating.

MR SORGESE: Okay. The only reason I ask is that in that original referral, there was also a risk mitigation strategy of potential suspension from duties, but I don't think that eventuated. Do you remember why?

MR DE'ATH: What I recall throughout this whole episode is I was considering, really, "What am I going to do about this?" So a CCC matter is one matter; suspending the procurement delegation is another matter. But really, as I'm going through this, I'm going, "What am I going to do?" This is a major problem for me. This is a critical portfolio. I now have someone responsible for it who is now under investigation. I've had a number of missteps in important processes like selection processes, for example. You may, I'm sure, wish to raise some of those with me. And, if you like, the transaction cost around working with Kym as a deputy who should be operating relatively independently, notwithstanding some matters I've said we would support her around. So all through this, I'm going, "What am I going to do?"

MR SORGESE: Do you recall any other risk mitigation strategies that were considered at the time?

MR DE'ATH: You will probably note through some of the correspondence that - that in the end I presented her with two - two options. Now, that is - that would not be my usual practice when you're terminating a contract, but in this case I was awaiting this. I had other issues that had played out, selection process being the significant one, and - but I think I opened this by saying I liked Kym. Like - and I recall very well talking to Megan Barry about what other options did we have? Megan had a big area as a deputy for me in her own right in Education, and she said, "Well, you know, we have been talking the problems we've got with our work health and safety area, and maybe Kym's expertise could be of value." And I said, "Okay, well, that's probably a good idea, that at least there is another avenue," and it's a safer avenue until such time as I might get an outcome here. I was pretty concerned; I don't want to overly pre-judge the matter, but the evidence was compelling. So - yes, so that's what led to going, "Well, is there another option? Is there something else we could do with this person in the interim?"

MR McWATT: When you say the evidence was compelling, what was that based off?

MR DE'ATH: I knew that the procurement process had not been followed with the appropriate disclosures, and I knew that upon her employment, because I went back and checked, she had not disclosed her directorship, which is a requirement.

MR McWATT: And that was that before you had the discussions with Kym or after? Because you just said before that you had the discussions with Kym and she openly talked about it, and I think that was around about 16 February or so? So this is based all the way along, coming up to the 20th, 21st of April?

MR DE'ATH: I - sorry, my recollection is not strong, but generally my practice would be to gather information that would ultimately lead me to some form of action if required, and I wouldn't take an action unnecessarily or on the basis of anything that was not pretty compelling.

MR McWATT: Going back, 6 April, that's the letter advising about Mr Cridland.

MR DE'ATH: Thank you.

MR McWATT: Did you have any knowledge of Dr Tristan Casey? Were you aware of his background or why he was appointed - well, not appointed - contracted, I'll use the term?

MR DE'ATH: Not comprehensive, but I do recall Kym talking to me about someone who had a comprehensive background in the sort of thing that we needed for this triaging model before it could be done. I was absolutely not aware at any stage prior to being aware of the conflict of that, though.

MR McWATT: Okay. Were you aware that he worked previously for OIR?

MR DE'ATH: I don't recall that, no.

MR McWATT: And did you have any knowledge or did you go and have a look at the New View Safety on a website or did you look into them?

MR DE'ATH: I remember seeing the website, where Kym's photo was clearly displayed as a director.

MR McWATT: Was that shown to you or did you actually look it up yourself?

MR DE'ATH: I can't recall whether I looked it up myself or someone had referred me to it.

MR McWATT: The Commission's received information that Ms Kate Stuchbury was appointed to assist Ms Bancroft. Do you know anything about that?

MR DE'ATH: I recall that at a point of time, Kate Stuchbury went into the Office of Industrial Relations to assist, I think maybe in an executive officer capacity. I can't exactly recall.

MR McWATT: Do you know a reason why or -

MR DE'ATH: It definitely was who could we put in there who would have a good sense of process that could assist?

MR McWATT: Yep. Because she's from Department of Education?

MR DE'ATH: Correct.

MR McWATT: Yep. And how did that relationship go, do you know? Like, working relationship?

MR DE'ATH: I don't have a recollection of anything one way or the other.

MR McWATT: And do you think she was helping Kym or -

MR DE'ATH: I think - I think that that was helpful, yep.

MR McWATT: So on 21 April, a progress report has been sent to the CCC as a one-pager, and you may not have seen (crosstalk).

MR DE'ATH: (Crosstalk) I wouldn't have seen this.

MR McWATT: Ethical Standards.

MR DE'ATH: I'll just take a moment to have a look at that.

MR McWATT: No worries at all. So that would be the three-month report.

MR DE'ATH: Thank you.

MR McWATT: Pretty well backing up Mr Cridland has been - or will be appointed.

MR DE'ATH: Thank you.

MR McWATT: Do you know Mr Cridland or -

MR DE'ATH: I do.

MR McWATT: And did you have any discussions with him besides the -

MR DE'ATH: I don't recall. No, I don't believe I did. Not that I'm aware of.

MR McWATT: So in the context of this interview, obviously there's a lot going on. So keep in mind we're probably - we're narrowing it down to a four-month period.

MR DE'ATH: Sure.

MR McWATT: So there's some dates flying around, and then if you need to recall something back, I'll flick back to it.

MR DE'ATH: Sure.

MR McWATT: But no doubt you're aware from your interactions in that, there was a lot going on. So by all means, if you need to see something again, please ask. Yep, okay. We'll move on to the executive director recruitment. Have you got anything prior to that?

MR SORGESE: No.

MR McWATT: Anything you want to ask or clarify?

MR DE'ATH: No. No.

MR McWATT: All good? All right. So as we were saying, you'd mentioned before there were some recruitment issues.

MR DE'ATH: Mmm.

MR McWATT: Before I ask anything, but tell us what the issues were.

MR DE'ATH: Well, there were a number. There were issues in relation to CFMEU participation and their willingness or otherwise to participate at various phases. I would say upfront my recollection from way back then is now vague about the - some aspects of the processes, the timing, how many processes and so on. But there are certain things that I do recall. One is that at a point in time, the CFMEU delegate, I was informed - and I think I was informed by Ms Bancroft - had made inquiries about a candidate, outside of the process, just I understand off their own bat, had gone and made contacts into New South Wales. So that's a breach of process. So that was sitting there, and then, unfortunately, I had what I considered was a reasonable concern of the CFMEU, albeit a bit ironic, that a subsequent interview or meeting with the candidate, or the preferred candidate, I think, had been held by Kym without the knowledge of the panel.

Now, sometimes when you're conducting selection processes and you end up with something like that, maybe you can, you know, go back, talk to panellists, say, "Look, I probably should have come back to you. How do people feel about that," and so on. Maybe you can get through it. But first and foremost, it's - it's not an acceptable practice in terms of our selection processes that, you know, someone would independently step off from the panel, make their own inquiries without the panel knowledge. Now, senior executives are provided with good advice about how to conduct processes. I recall it was one of the areas that, you know, when Kym was going into selection processes that I'd say, "Well, make sure you follow

the process carefully. You've got your HR people there. Take the advice. Follow the steps. It's a formal process."

MR McWATT: Yep.

MR DE'ATH: Now, to say I was disappointed would be an understatement that, you know, we had ended up with a critical appointment - it was a controversial appointment, not necessarily about the person, but just in terms of the role that person played and the relationship with the CFMEU, and I - I was concerned that we then had a process error. Now, again, my recollection of chronology is vague, but I do recall at a point in time on the selection report - and happy for you to refresh my memory, if indeed you have it - writing on the selection report that - and I can't remember my exact words, but it was just that there were process errors and "I think we need to recommence the process". That was incessantly frustrating, can I say, on an important appointment. And, you know, the correspondence with Michael Ravbar through it, I think he had raised it in meetings with me, you know, it was just starting to consume an endless amount of time. We didn't need that error in there, from either party, but certainly not on our side.

MR McWATT: Yep. When you say it was an important appointment, the ED position, why do you say that?

MR DE'ATH: I recall the - I mean, they're all important appointments.

MR McWATT: Yep.

MR DE'ATH: But when you're dealing with, you know, a fairly challenging stakeholder like the CFMEU, this role - and I can't remember exactly its portfolio coverage, but there were elements of it that the CFMEU had a strong view around, and, you know, they had also - Michael had also conveyed at times, you know, ideas about who he thought was sort of the best candidate, and, you know, there was no way we were buying into that. We were running a clean process.

MR McWATT: Tell us about that.

MR DE'ATH: I can't remember the name, sorry. There was one particular person. I think I might have - I did listen to quite a bit of Kym's evidence, and I think it might have been there or it might have been in Paul Smith's evidence. I can't recall, sorry. But if you said it, I would know it.

MR McWATT: Okay. Was it Helen Burgess?

MR DE'ATH: Oh, no. No. It was a male.

MR McWATT: Mr Marc Dennett?

MR DE'ATH: Thank you.

MR McWATT: So Mr Marc Dennett previously held the position?

MR DE'ATH: Yes, pre-dating me. Yeah.

MR McWATT: And do you recall some of the things Mr Ravbar was talking about, about Mr Dennett?

MR DE'ATH: Only - only that he thought he was a terrific person for the role.

MR McWATT: Yep. Yep. Any thoughts on that?

MR DE'ATH: I won't speculate on why Michael thought that.

MR McWATT: Given that he was previously in the role, why would somebody come back to that role?

MR DE'ATH: Correct. And I had been - I don't know who told me, but somebody said Marc had no interest in coming back to that role. And it was Kym's selection process to run.

MR McWATT: Yep.

MR DE'ATH: Which - you've probably got correspondence there - bizarrely, the CFMEU thought she shouldn't be involved. Like, I've never heard anything quite so bizarre in my life, that someone running a direct-report selection process would not be on the panel. So, yeah, he didn't - I don't recall he appeared in any of the applications or anything like that.

MR McWATT: Yep. Do you know if any discussions in relation to Mr Dennett involved increments of money, like a pay rise or anything to the position?

MR DE'ATH: I have no awareness at all about that. I've never heard anything of that nature.

MR McWATT: No, that's okay. I'll show you that email, but this goes back to - so we're going back to 28 October '22. So this is when the processes -

MR DE'ATH: Were starting.

MR McWATT: Yeah, so obviously before the complaint's even made. So you must have made - and I'll show you this email. So it starts on 28 October, and you've asked Ms Bancroft in relation to the CFMEU being on a panel.

MR DE'ATH: I don't recall the email, but I have a vague recollection of this sort of discussion, if you like, about who's on the panel.

MR McWATT: Yep. So reading that email, my interpretation is that you was intrigued about why the CFMEU would be on the panel?

MR DE'ATH: Yes and no. It wasn't unusual to have a stakeholder like that on the panel, and I'd ask you to keep in mind that all the way through this time, we're actually desperately trying to engage constructively with this stakeholder.

MR McWATT: Yep.

MR DE'ATH: And being inclusive is a really constructive strategy for engaging with a stakeholder. Somewhat impossible at times, but we certainly made significant attempts. Jacqueline King is someone who I had significant respect for. I valued her advice, and she has, you know, a much deeper history in the OIR space than me, of course, and so - I mean, in some ways, this is a way of supporting Kym, is, "Go and have a chat to Jacqueline. You've got a relationship with her. See what she thinks."

MR McWATT: Okay, yep. You were saying about stakeholder engagement. Given this is 2022, when you entered the role of DG, you must have been aware of all - what was going on in Work Health and Safety in relation to the inspectors. Are you aware of, like, their bullying and things on the sites by the CFMEU?

MR DE'ATH: I'm aware of a wide range of, you know, suggestions, both within the inspectorate around the CFMEU and about the CFMEU around the inspectorates.

MR McWATT: Yep, yep. That didn't have any - that didn't come to mind of a reason not to have the CFMEU on there, involved with OIR decision-making or -

MR DE'ATH: I don't recall that was in my mind. I was quite focused on trying to establish constructive engagement.

MR McWATT: Yep. Were the other unions involved in sitting on panels?

MR DE'ATH: I can't recall who was on the panel, sorry.

MR McWATT: Oh no, not that panel, but were they involved in selection panels at any other times, do you recall?

MR DE'ATH: Oh, yes. Well, if you take, for example, Jacqueline King, like, not necessarily the union, but being involved in Kym's appointment, for example, it was pretty important for an Office of Industrial Relations. As for other panels, I don't think it's unusual for government organisations to include certain stakeholders in panels, yeah.

MR McWATT: Yep. If you sat on another department's or another entity's panel, would you be providing your advice in the way that Mr Pauls did on some of these recruitment - as you said (indistinct).

MR DE'ATH: Okay.

MR McWATT: Yep, yep.

MR DE'ATH: I think I see where you're heading, but yeah, please continue.

MR McWATT: Yeah, yeah. So as we were saying before, there was a few things in relation to Ms Bancroft with her selection and a bit of undermining - that's my word - let's say, from Mr Pauls, Kurt Pauls, who was on the panel. That's something I wish to ask about as well. He's - from reading the emails, and I'll show you in a sec, he's come in and - yeah, I would say undermined, about the process, what should occur and what hasn't occurred. I understand each panel member has a voice or an opinion, but is it usually customary for somebody to come along and interfere with government process?

MR DE'ATH: To that extent, and my recollection of some of the claims that were made really didn't hold up -

MR McWATT: Yep.

MR DE'ATH: - that would be highly unusual. I think I mentioned before, generally in a selection process, part of having a panel is that you get diverse perspectives, and also at times stakeholder buy-in to the decision. And so in my experience - in fact, without exception, other than this case - panels work that through very professionally.

MR McWATT: Yep. Okay. So here's an email dated 31 October - so it wasn't too long after that, 29 October - 31 October '22. The first part is from Kym to yourself. Conversations with Jacqueline. As you said, she would go and see her. Proposing the interview panel consists of herself, Craig Dearling, Master Builders, and a Work Health Safety board member; Kate Veach, nurses, or Mark Raguse from the AWU, also both Work Health and Safety board members; and Mark Stone, (indistinct) regulator:

> "If you're happy with the above, I'll draft the letter explaining the rationale for the above and how we are rotating the representation on the panel."

You've just replied, 30-odd minutes later or under 30 minutes later, and said:

> "Yes, please draft."

Okay?

MR DE'ATH: Thank you.

MR McWATT: So that's on 31 October, and given some time - given some time, from October to early December, there's an email - or it's actually an invitation for the short-listing, and it has gone to Ryan Webster, Eleanor Ryan, Robert Djukic, Craig Dearling and Kurt Pauls. I'll show you that. Given that there was about a month - over a month there, do you have any idea why the plan was then to add Kurt Pauls?

MR DE'ATH: I don't have a recollection of those pieces of correspondence, other than like you're refreshing my memory, I'm going, "Oh, vaguely." In that intervening period, I'm wondering why we made that change, and I wouldn't be surprised if we had representation from the CFMEU on participation in that panel. I can't recall, but again, we may have altered that panel composition to assist with the buy-in to - and the relationship with that stakeholder. I can't recall.

MR McWATT: Yep. Do you know if there was any direction or anything from anybody else to put the CFMEU on that panel?

MR DE'ATH: There - there would be no direction from anywhere else to me, that's for sure. If there were any suggestion of changing the composition of that panel to engage that stakeholder, I can only feel that that would have come from me. But I can't recall doing it.

MR McWATT: Yep. Yep. Just bear with me for a second. Okay. This is a letter that Ms Bancroft writes, and it's added to this email. So this is a follow-up on the meeting of 30 January. The email was dated 31 January, and it's from yourself to Mr Ravbar, and it says:

> "Dear Michael, thank you for meeting with me yesterday to discuss current issues. Firstly, you raised concerns with the recruitment and panel process."

It then goes on about the training and that, but I've just added that attachment there that it refers to. But it's different to the initial - what the question's about. Do you recall what Mr Ravbar was referring to that - that meeting? That's just the letter that's referred to.

MR DE'ATH: Oh, Mr Pauls' letter. Right, yeah, I do recall that letter.

MR McWATT: The main part is the highlighted bit at the beginning.

MR DE'ATH: (Crosstalk) your question.

MR McWATT: Yeah.

MR DE'ATH: So I think I've outlined right at the outset that there were some concerns about the recruitment panel process, and I think I made clear that, you

know, as - as a government entity, it's important that we're pretty squeaky clean in terms of our processes.

MR McWATT: Yeah.

MR DE'ATH: When you can't work that through to some sort of logical conclusion within the existing process - and indeed, I felt that they had raised a fair point, albeit their behaviour, but that was not the hill to die on, that it was important - this is my recollection, is that this reference is to some discussion about process errors. I think - I think certainly set out in Mr Pauls' letter - I won't read that now, but I think that's in that letter.

MR McWATT: Yep.

MR DE'ATH: And therefore - and I think I pointed you to the selection report, where I had made comments on there about process errors and I think a need to recommence the process. And I can't remember whether I did that before or after the meeting with (indistinct).

MR McWATT: I can help you with that.

MR DE'ATH: Oh, good.

MR McWATT: This is an email dated Thursday 2 February. So I'll go back a bit first. So the CFMEU has - yeah, so panel members. Yeah. So it's from Kurt Pauls to the panel:

> "Following my correspondence dated Friday 27 January '23 in relation to the position of ED Work Health and Safety Compliance and Field Services OIR and the recommendation that Sarina Wise be appointed in the correspondence, I requested that no further steps be taken in relation to the selection report due to the failure of an agreed process from the panel last year on 9 December '22."

Which is pretty much what we were talking about before.

MR DE'ATH: Thank you for refreshing my memory. That is the action that I took. I couldn't remember my wording.

MR McWATT: Yep. I'll jump forward and I'll show you this in a second. So this is from yourself to Kym and cc'ing Nick Seeley. The subject, Urgent ED Appointment:

> "Kym, noting Mr Pauls' concerns, I felt that all matters could have been resolved and the process continued. However, the secretary of the CFMMEU, Mr Michael Ravbar, informed me in a meeting at their location on Monday 31 January..."

Which is another one we'll talk about later:

> "...that Mr Pauls had informed him about a preferred candidate and that he, Mr Ravbar, had proceeded to make inquiries about that person in New South Wales with various parties. Given this breach of confidentiality, as delegate for this process I will be unable to endorse any recommendations out of the current process. On this basis alone, I direct that a new process be undertaken. In undertaking a new process, can I ask that you again state clearly to the panel the importance of confidentiality and, with this, adherence to due process."

Is that what you were referring to before?

MR DE'ATH: Yep, no, I don't need to read that. Thank you.

MR McWATT: No, that's all right. So no doubt that has occurred again. Was there any view on changing the panel?

MR DE'ATH: I don't recall a discussion about changing the panel. There may well have been. I don't recall.

MR McWATT: Yep. And the reason I ask this is because going back to before, that an outside stakeholder has got involved and released information, confidentiality, as you say. Should they be placed back on a panel?

MR DE'ATH: That's a fair question. I can't recall what, if any, action was taken further in relation to that, if indeed there was a panel change. The selection processes - for me as delegate, it's when I get to the end of the process and see what's happened and I have to make a decision. The actual running of that process, although you can see I've been consulted at various times, is really for the deputy director-general to decide, and should she have wished to change the composition of that panel, then that would have been up to her. I can't recall what happened after that, but I - I vaguely recall at some stage that CFMEU withdrew from the process or something entirely anyway. I just can't recall.

MR McWATT: On the second - well, yeah, you're right. They're involved in the second process but then leave.

MR DE'ATH: Correct. Yep, thank you.

MR McWATT: About the process - and as you said earlier on, you've seen Ms Bancroft's evidence. Have you looked at anyone else's evidence to the Commission?

MR DE'ATH: I dipped in and out of the inquiry. I think I heard the bulk of Ms Bancroft's. I think I heard a considerable amount of Mr Paul Smith's. Aside from

that, nothing followed, you know, absolutely. In fact, I haven't looked at the inquiry probably really since that evidence.

MR McWATT: Yep, yep.

MR DE'ATH: See plenty of press.

MR McWATT: Yeah, yeah, there's plenty of that going on. So Mr Smith, Paul Smith's evidence, spoke about - and just prior to this 31st, where the process gets messy, I will state, Paul Smith advised that on 24 January '23, there was a meeting with the minister, Grace Grace. Do you recall him talking about this?

MR DE'ATH: I do.

MR McWATT: Yeah? What do you recall about it?

MR DE'ATH: He - he - what do I recall about it? There are a couple of things that I think sort of stick in my mind. I think he made some comment about the minister making reference to Helen Burgess.

MR McWATT: Yep, that was probably one of the things, yep.

MR DE'ATH: Yeah. Thank you. And I don't even - I don't actually know what we were in that meeting for. I can't recall what we were there for and what we were talking about, or even how that came up. That's - sorry, it's pretty vague, yeah.

MR McWATT: So the comment was made to pause the ED process, and I think the term - is that the term where they kicked the can down the road?

MR SORGESE: I think that was a little bit later.

MR McWATT: Yeah, a little bit later.

MR DE'ATH: Did Paul say that, sorry?

MR McWATT: Yeah, Paul's provided evidence that - in the meeting, that the ED process was - the comment was made to pause the ED process.

MR DE'ATH: By who, can I ask?

MR McWATT: I believe it might have been by the minister.

MR DE'ATH: I - I don't recall that at all. And can I say quite clearly that in all of my dealings with the minister, the line between the operational work and the minister's policy portfolio responsibilities was always very clear to me. I don't recall a comment of that nature. I'm sure I would remember something like that.

MR McWATT: Did she ever ask about the relationship between OIR - not ask about it, but any suggestions or anything about sorting it out between the CFMEU and OIR or listen to what they have to say or - I've never sat in any of these meetings, so you'll have to enlighten us.

MR DE'ATH: Well, I didn't actually meet with the minister very often about the Office of Industrial Relations at all. Most of those meetings would have been between the deputy director-general and her or her staff. Probably the chief of staff and probably the adviser for the Office of Industrial Relations. So I think there - there was on occasion - there would be some suggestion about the difficulties of working with the CFMEU. I think the minister was extremely sympathetic to that. I can't recall if I said earlier, but on occasion when I was having difficulties with that relationship and that behaviour, I always received a good response from her office about that, and I think - I can't say what action was taken, but certainly I think she - she or her office would intervene.

MR McWATT: Yeah. At this time, what was her relationship with the CFMEU? Because I know at one stage they turned.

MR DE'ATH: The minister?

MR McWATT: Yeah.

MR DE'ATH: Oh, look, can I say all credit to the minister for taking that action with the Federal Government around administration. I think - I can't say what's in the minister's mind. It was an action for her. When that happened, my personal view was that was highly appropriate.

MR McWATT: Why was Paul Smith at that meeting?

MR DE'ATH: Paul - look, not at my request. So I believe that Kym had brought him in for an agenda item. I just can't remember what the matter was.

MR McWATT: Do you have any questions while I just have a quick look here?

MR SORGESE: I do. So earlier you were discussing one of the issues associated with that ED process was Ms Bancroft's departure from process in having that -

MR DE'ATH: Mmm.

MR SORGESE: With the benefit of being able to read some of your correspondence, do you recall if that was the paramount issue there, or was it more surrounding what the actions of the CFMEU were?

MR DE'ATH: There were two parts to it, as I think I've explained, and both of them were of concern to me, but I think it's fair to say, when you're in these sort of roles, and, you know, government needs to be squeaky clean, can I say.

MR SORGESE: Yes.

MR DE'ATH: And it's always been important to me that we're thorough in our processes, and that if we are not thorough in our processes, then we leave ourselves open to the exact sort of issue that arose on this occasion, notwithstanding the fact that the CFMEU had been out of order as well. So I think for me in my mind what's driving me on this is what was our role and what does that leave us open to and what should we do about it?

MR SORGESE: Okay. If I'm not mistaken, in that email you were saying words to the effect of "the departure from the process on OIR's side was not insurmountable; we could have resolved them".

MR DE'ATH: Yeah.

MR SORGESE: And (indistinct) on the basis alone of the CFMEU's conduct, "I direct that this process be redone."

MR DE'ATH: Mmm.

MR SORGESE: Could you elaborate a little bit more as to where the departures are in terms of significance from Ms Bancroft versus the CFMEU? I'm just a little bit confused, given that that email trail says that it's on the basis alone of the conduct of the CFMEU that the process has to be redone.

MR DE'ATH: Yeah, that's a fair question. I - I can't recall the conversations or the correspondence with Ms Bancroft in relation to it, but there was certainly a conversation, and I was certainly very concerned about it. Indeed, with the benefit of hindsight, it could have formed part of my correspondence for the selection. I can't tell you why I didn't do that, but there were definitely two parts to it.

MR SORGESE: Okay.

MR McWATT: I'll just show you some corro here, but this is an email dated on 15 March. It's highlighted, but you're requesting some - something be drafted for Mr Ravbar. And Mr Ravbar has made - just a typical letter. I just have to dig it out here somewhere. I think it comes up later on. But the point I want to get to is these things seem to be taking up a lot of time. Would this be something that you ordinarily have to deal with daily?

MR DE'ATH: Oh, no. This was a nightmare. I mean, this is one of my central points, is in relation to both the obfuscation by the CFMEU as we're working through it and then clearly for me a competence and even a question about honesty

in relation to my own direct report, you know, you can see that when you've got, as I've given you context before, all these other responsibilities over here and this is consuming time, then highly problematic. It's highly problematic. Sorry, like, we had serious work to get on with in the Office of Industrial Relations, and we really couldn't afford the types of errors on our part or the obfuscation that was happening on the other side.

MR McWATT: Yep.

MR SORGESE: It's at this point relevant for me to ask, on the back of my last question, there's an email here on 15 March 2023 where you have instructed a draft - the drafting of a letter to Mr Ravbar, and you state:

> "Unless you provide me advice otherwise, I have been well across this process and accept it as sound and good comment, and therefore I expect the response of Mr Ravbar to say exactly that."

Just going back to your response earlier, you were saying that there was definitely two parts to it.

MR DE'ATH: Mmm.

MR SORGESE: What can you tell me about that particular email?

MR DE'ATH: Yeah, so I'm interested in the chronology here about what I - I did read that before - what I was aware of and when, and then, of course, what was the response we drafted, and so what happened in the intervening period between that email and drafting a response. So I would actually be interested in seeing what the response was.

MR McWATT: I'm pretty sure I have it here. It's down in further - what's the date of it again? 15 May, he writes -

MR SORGESE: (Indistinct) 15 March.

MR McWATT: And he writes on 15 March. I'm pretty sure I've got it here; it's coming up further. 7 March. Hang on. Just bear with me for a second. No, that's 17 March, so it can't be that one. You did write a lot of corro.

MR DE'ATH: Sometimes not that coherent.

MR McWATT: 14 March. I remember looking at this this morning, I think. I think it is this. This is the draft. No, hang on.

MR DE'ATH: You're certainly right. There was a lot going on.

MR McWATT: Yeah, and everything is crossing over into one thing after another. I'm pretty sure I had that this morning.

MR SORGESE: Just seeing if I can load the soft copy.

MR DE'ATH: I don't recall the draft, and that's why I'm asking.

MR McWATT: What date did I say it was? That's the 17th.

MR SORGESE: The 17th?

MR McWATT: That might be it. Oh no, that's not his draft, but that might be the one back. Is that one on the 7th? Sorry.

MR SORGESE: There was two on the 17th. Got the spinning wheel on the laptop and have for around 10 minutes now.

MR DE'ATH: You have the pleasure of government IT systems.

MR SORGESE: So efficient.

MR McWATT: We'll dig that out. We'll have to dig it out.

MR DE'ATH: That's okay.

MR SORGESE: We'll come back to that.

MR McWATT: I think there was a reason why I didn't - sorry, just bear with us. That meeting that we were talking about before - and we'll come back to that email soon - that meeting we were talking about before with the minister and the discussion about Ms Burgess, what's your knowledge of Ms Burgess?

MR DE'ATH: Oh, first of all, I've never met her, but I became aware fairly early on in the role, I think it'd be fair to say, about there had been a history of investigations, and in fact, you know - and it was actually quite difficult, because there had been a series of investigations, I understand, and the only thing I recall being particularly aware of that was only the substantive finding was that she had used her personal phone and had some correspondence (indistinct).

MR McWATT: Yeah.

MR DE'ATH: Given sort of the level of accusation, if you like, or concern that had been being raised in OIR, it was concerning that that's all we had, and then I think I walked in in the early stages, too, there was some report. I believe from there, there was a CCC referral, and my recollection is of quite a degree of frustration from our side about a response from the CCC about whatever those concerns were - I can't recall all of that; I can't recall the timeframes - and that my

concern too was in the face of what I was informed was probably little evidence - I think Tony James was keeping me informed at that stage - that there wasn't a lot we could do. I probably I think initially had some degree of concern around the staff member herself. We have an obligation to all of our staff, and you know, when they're continually subjected to this sort of suggestion and we're trying our best to get some findings one way or the other, but I wouldn't say - so I had to be mindful of that, and I think anybody leading the Office of Industrial Relations had to be mindful of that.

However, I think it got to a point where, despite having any outcome from the CCC, that change had to be made, and I think that change was very necessary in terms of the interests of the employee: remove them from a situation where there is all the suggestion around them, and then the model that we used that had been, you know, of some concern that related to the suggestions around Helen. So I was hugely supportive of the work we were undertaking to - to sort of manage those matters, and - yeah, that was really important to me, and again, any suggestion of any compromise to the health and safety of workers because of the way the systems and our office were operating or any suggestion about what might be appropriate or inappropriate, we had to work through, and I think you will see we were doing that. Hence, as I mentioned earlier, my disappointment when we had a critical report.

MR McWATT: Yep. Was that one of Kym's tasks to resolve?

MR DE'ATH: Definitely.

MR McWATT: Yep. In that meeting with the minister, do you recall the comment was made about referring to Helen Burgess and that the minister felt sorry for her, to leave her alone?

MR DE'ATH: I do recall that comment, and can I say this: Minister Grace wouldn't be the first minister I've ever worked with who expressed some concern around a staff member.

MR McWATT: Yep.

MR DE'ATH: And if you think about it from a minister's perspective and what they don't know, and they see and hear of some staff member being subjected to repeated investigations and accusations and so on, I think - I can understand why a minister would say that.

MR McWATT: Yep.

MR DE'ATH: And I don't think there was any response from me in that meeting in relation to that comment.

MR McWATT: Yep.

MR DE'ATH: There was a lot of water to go under the bridge yet in relation to matters around Helen Burgess.

MR McWATT: Yep. Why did the minister have so much knowledge about the director of - at OIR? Like, do you know if there's a relationship there previously or -

MR DE'ATH: With Helen Burgess and the minister?

MR McWATT: Yeah.

MR DE'ATH: I do recall the minister saying she'd never met her. So I - I don't believe there was a relationship, certainly not one I was aware of. Not at all.

MR McWATT: A lot of the staff had come out with this with their Working for Queensland survey and that, a lot of mistrust of Ms Burgess. Are you aware of all that in the background?

MR DE'ATH: Look, I'm aware of elements of it, not - I don't recall a whole lot of detail, but I'm certainly aware there were concerns.

MR McWATT: Yep. Okay. How'd you go?

MR SORGESE: Finally got it. It's less than a page.

MR DE'ATH: Okay.

MR SORGESE: (Indistinct).

MR DE'ATH: I'm happy if you want to read it.

MR SORGESE: Sure. Okay. So it's a letter here. It's dated 17 March 2023, and it says:

> "Dear Mr Ravbar, thank you for your letter dated 15 March 2023 in relation to recruitment for the executive director Work Health and Safety, compliance and Field Services, Office of Industrial Relations. The earlier recruitment process you referenced closed in February 2023. Mr Kurt Pauls from [paraphrase] the CFMEU was invited to be on the new recruitment panel, which commenced in early March 2023. I am satisfied that this current process complies with the provisions of the Public Sector Act and the current commission chief executive directive of 12/20. I note your ongoing dissatisfaction with the recruitment and selection directive. Please advise Ms Kym Bancroft, DDG of OIR, by 22 March '23 should you not wish to continue to be involved in this process as an invited stakeholder."

MR DE'ATH: Thank you. Yes, I have some recollection of that. Happy to make a comment.

MR SORGESE: Please.

MR DE'ATH: There was no way that I would allow a stakeholder to determine, referring to previous correspondence that we've been talking about, that, you know, one of my deputy director-generals would not be able to lead a process for a significant appointment reporting to them, and I think I was very clear on that with Mr Ravbar and, you know, very clear that we would, you know, be entering into the process. The option was there whether to participate or not.

MR SORGESE: Okay. So overall, you're apparently conveying your overall satisfaction with the process on the OIR side. Is that fair to say on my part?

MR DE'ATH: I don't know. I don't know whether - I don't think I'm conveying that. This is the new process we're talking about?

MR SORGESE: It's a further reference -

MR DE'ATH: This is restarting the process?

MR SORGESE: Yeah. It references both processes. So, okay.

MR DE'ATH: Yeah. So - so he's making reference to - I think it's - is it Kurt Pauls' email? A whole lot of stuff about the directive. It's a very confused piece of correspondence. I do recall asking for some advice at a point in time about whether any of those suggestions about the director were actually correct or not. I can't remember the advice I got back, sorry.

MR SORGESE: Sure. Okay.

MR McWATT: Did you have a fair bit of phone contact with Mr Ravbar?

MR DE'ATH: No, I don't recall a lot of phone contact. I'm trying to recall. There was certainly the meetings. No, I don't recall a lot of phone contact.

MR McWATT: Sorry, we've just gone a bit back and forwards here. Yep. So you had no problems with the process. Yep. 10 March. When the new process did occur for the recruitment, Ms Bancroft has left the department. Ms Barry took over the process. Do you recall that?

MR DE'ATH: I assume so. I can't recall the exact - but I would assume so.

MR McWATT: Yep. Do you know anything about the comment made to Ms Barry that Ms Bancroft had bungled the ED recruitment process?

MR DE'ATH: I'm not aware of any comment. Sorry, what is the suggestion about? Who made that?

MR McWATT: That yourself had made that comment.

MR DE'ATH: I don't recall saying - using that language.

MR McWATT: Okay.

MR SORGESE: Do you recall different language, just on that?

MR DE'ATH: In Ms Barry picking up the work, and at short notice, I think it's safe to assume - I can't recall the conversations, but that I would have shared with her my concerns about where things were at. So Ms Barry was very across, of course, the issue around the QUT report and what had happened there. I think she may have been across the issues around selection process matters, and that I would have made it very clear that I needed all this to be sorted out.

MR McWATT: To Ms Barry?

MR DE'ATH: Mmm.

MR McWATT: We'll come - we'll get to Ms Barry soon. Before I start about the triaging, got anything there? I'm sure we're going to get -

MR SORGESE: Yeah, no, I don't think I've got anything else on the ED process.

MR McWATT: Everything and all the dates interlink with so many subjects going on at the one time.

MR SORGESE: Was there anything else you wanted to add about the recruitment process at all?

MR DE'ATH: No, I think - I mean, I think I've I given you a fair bit of context. If you just imagine what it was like while you're trying to run a massive -

MR SORGESE: I'm trying not to.

MR DE'ATH: And you've got all this going on, you know, and emails coming at you of the nature that you've seen and so on and process issues and so on. You can see - you asked me a question, I think, early on about, you know, "How much time were you dedicating to this?" And, you know, it was escalating, and that was something that I certainly could not afford.

MR McWATT: Given your other roles prior to this, was there anything like it, or was this anything like what you'd encountered before?

MR DE'ATH: Never. There are a couple of things when you're in government that are, like, just sort of, you know, 101 procurement processes, selection processes. You know, those sort of things have to be managed well. Stakeholder engagement is massive and, you know, as I - as I think I said earlier, I usually enjoy stakeholder engagement. I did not enjoy this. This was tricky every step of the way.

MR McWATT: All right. As I just stated, the triaging system or the process.

MR DE'ATH: Mmm.

MR McWATT: Clearly gave it away there. What was your understanding of the -

MR McKENNA: Excuse me. Could I just ask - we've had two hours of this.

MR McWATT: We've been going -

MR McKENNA: Do you want to have a stand-up or -

MR DE'ATH: Look, I wouldn't mind, actually.

MR McWATT: Okay, we'll take a break. We'll do that.

MR DE'ATH: A bathroom stop.

MR McWATT: I didn't even realise the time.

MR SORGESE: Having too much fun.

MR McWATT: Yeah. And I'll get some refreshments. Okay. I'll stop that, and it's 12.57 pm.

MR DE'ATH: Thank you. Thanks for that.

<THE RECORDING PAUSED AT 12.57 PM

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MR McWATT: Okay. The time is 1331 hours, still on Thursday 8 October 2026. Speaking is Justin McWatt for the Commission of Inquiry. We've just taken a 30-minute break, and everybody else attended downstairs on the premises but out of Level 1. Michael, we agree that no discussions was had about anything during the break?

MR DE'ATH: No.

MR McWATT: All right. Cool. Does anyone else want to raise anything? No? Is there anything you want to raise that you've thought about over lunchtime or anything?

MR DE'ATH: No, I'm happy to continue on.

MR McWATT: Anybody else? All good? Do you want to raise anything before we start?

MR SORGESE: No, all good.

MR McWATT: All right. We started discussing about the triaging system and had a bit of a - to that.

MR DE'ATH: Yes.

MR McWATT: What's your knowledge or understanding of what the triaging system was, prior to Ms Bancroft?

MR DE'ATH: So I was fairly lightly across this, I would say. I was aware of some of the more controversial elements in it. I was aware of concerns that had been raised where there was a suggestion of favouring and directing inspectors to certain work sites over others. As I said earlier, you know, there were matters that I understood that were waiting for CCC to investigate. And I was certainly wanting to see that. However, it certainly got to a point where there needed to be some action in relation to that on our part. And again, I can't recall all the timeframes and everything around this, but there were certain important things that happened. I think we've already referenced the fact that at a point in time, Ms Helen Burgess was set aside to another role. And can I say, my recollection is that Mr Ravbar was incredibly unhappy about that and raised that with me on a number of occasions. I can't remember the detail of those conversations other than I recall it being raised.

MR McWATT: Yep.

MR DE'ATH: That the work was underway to develop a model. That at some point in that development, given the importance of the engagement of the CFMEU in that process and that design process, they completely - my recollection is they completely withdrew from that process and would not participate in the design. That there was a procurement for a piece of work as we've talked about earlier, a design piece, which I was, you know, pleased we were doing that. We certainly needed something more independent to run off to progress that work. And as we went through that, aside from what we've already talked about, my problem I was left with when there were process errors around that procurement and the conflict, the actions of the CFMEU, in terms of their refusal to participate, refusal to use the new process and direct all their calls to Ms Bancroft, that - that was of enormous concern to me, and I was - I was concerned for Ms Bancroft in that

process as well, of which I felt she exercised considerable resilience, and I can't remember what strategies we talked about. We talked about different strategies for dealing with that at various points in time. But I can't recall that going on for too long prior to me having to make other decisions based on other information.

MR McWATT: Yep.

MR DE'ATH: So if you - you know, if you were to ask me about the detail about how the triaging system worked under the new model, I wouldn't be able to dive into that level of detail other than that it was important that we change it from what was leaving our workforce both vulnerable and disconcerted.

MR McWATT: Yep. So I'll show you this email, which is 12 January 2023, and this is an email from Kym to Michael Ravbar, cc'ing Kurt Pauls, Jade Ingham, Kane Lowth and Jacqui Collie, and there's an update on the OIR triaging system. Or process, sorry, I should say. Obviously the phone numbers have been blanked out, because that was tendered into evidence.

MR DE'ATH: Sure.

MR McWATT: And that's about bringing in an interim process in early January. I'll let you have a read of that.

MR DE'ATH: Thank you. I will just read it. Thank you. Yes, I have some vague recollection of that communication.

MR McWATT: Yep. So the process was to call the regional directors, not the (indistinct).

MR DE'ATH: All good. So there was an intervening period of protected industrial action, so changes were made, and then it moved to calling inspectors. Have I got that right?

MR McWATT: Yeah, no, so the previous process was that they were calling - calling Ms Burgess -

MR DE'ATH: Correct.

MR McWATT: - or Mr Dennett, prior to him leaving, and then they would select an inspector to attend a site, a certain site, and then you've probably seen other evidence where those inspectors would be called away or told to leave and another inspector would come in to either issue an infringement notice or a -

MR SORGESE: Improvement notice.

MR McWATT: Improvement notice, yeah. That's the one I was looking for. Okay. So, yeah, so that's in January, the process goes into calling the regional

directors, Mr Paul Smith - who have we got there - Mr Robert Wicks and Kym Tollenaere from the Logan area, okay. And then there are, as you said, the CFMEU was being a bit difficult to come on board or didn't want to - yeah. What was your - what was your reaction to that or on hearing that?

MR DE'ATH: Oh, that was highly problematic, and I was very concerned about that. I think, again - I mean, I think you'll see a pattern here of making, you know, serious attempts to engage particularly Michael in things and get him to engage his people in it, and I think, you know, to cut everything out in the middle of that, to the point where ultimately completely withdrew from having participation and reverting those calls to Kym. So naturally I was very concerned about that.

MR McWATT: Yep. Okay. Do you know if there was stakeholder engagement internally with the inspectors and that conducted, like, about process and their views about -

MR DE'ATH: Not - not from me, but I heard - and I can't remember, there may have been a letter at some point, I think there was a letter at some point from some of the inspectors, and certainly whoever was heading up OIR at any point in time was keeping me informed on - on - you know, at a surface level, can I say that, you know, there were concerns being raised by inspectors.

MR McWATT: Are you aware whether Ms Bancroft - and I don't know - but whether she was consulting all parties in the change of this? Because it must have affected the inspectors.

MR DE'ATH: Oh, look, I - I got the impression that Kym was very consultative.

MR McWATT: Yeah. Okay. This is 2 February, and this is a reply to Kurt from Kym. I'll let you have a look at that. But that's something about - and pretty much what you just said about trying to engage with the CFMEU.

MR DE'ATH: So I might make a comment about this letter if I may.

MR McWATT: Please do.

MR DE'ATH: So the reason why I recall this letter was that I was consulted on this letter -

MR McWATT: Okay.

MR DE'ATH: - prior to it being sent, and I asked for a line to be added in there about their actions creating the heightened risk and negatively impacting the health and safety of Queensland workers.

MR McWATT: Yep.

MR DE'ATH: Which I felt very strongly about at that point.

MR McWATT: Yep. And why was that, like, that you felt strongly about it?

MR DE'ATH: Because taking the action that they were taking about converging all activity on Ms Bancroft creates another whole level of risk, and I'm happy to share that I did have conversations with Michael Ravbar about this. I know that he was furious about that line, because Michael would claim that they are all about the health and safety of workers, so I had no concern with that claim other than it was contradictory to their behaviour in relation to this matter that I felt around the risk of having a severely negative impact on health and safety. If Ms Bancroft was not available for any period of time or something and didn't get to a message - you know, we're all human; I didn't expect her to sit on her phone 24/7 waiting for their call - then in the event that there was something serious that we didn't get to, well, that is a very poor process.

MR McWATT: Yeah.

MR DE'ATH: And I felt very strongly about that matter.

MR McWATT: And what was Mr Ravbar's initial reply about that?

MR DE'ATH: He was furious that I would even suggest that, and in fact, it wouldn't really - it didn't really seem to matter what I said to Michael; he would not see my perspective on that.

MR McWATT: Okay. Yep. Okay. So just for your record, this was a list that Kym had put together -

MR SORGESE: Could I just ask first, you were saying about, like, essentially the funnelling in of all of these calls to Ms Bancroft is - my words - an unacceptable risk, really. You know, she can't be on standby 24/7. That sounds quite rational and reasonable to me. Was there anything other than - in Michael Ravbar's response other than the suggestion that, you know, he was putting workers at risk - was there anything else, like, to go back at your logic with that? Because it seems quite straightforward to me.

MR DE'ATH: Well, it's very difficult to have a logical conversation with Michael, and I say that with all seriousness, and I - I - I don't think I can speculate on what his motivations and so on were. I'm sure there will be plenty of speculation on that. But it did seem unusual to me that there was such a significant level of protest about us changing the system and then responding with that sort of action, to the point where, you know, I seriously wondered, you know, what was in somebody's mind that they would think that was okay. It wasn't okay. At worst, I could understand why somebody might go, "That system's not really working for us. Can we talk about it?" You know, "And can we do that quite quickly, because we really want to see something different here." It was just like:

"You've done this. We refused to participate in the design anyway, and now you've done that, we're just going to do this." Bizarre.

MR SORGESE: Okay. So I'm not missing anything there?

MR DE'ATH: No.

MR SORGESE: Just checking.

MR DE'ATH: Believe me, I've asked this question many times in my own mind as I was going through this. Like, what is going on?

MR SORGESE: Right. Understood.

MR McWATT: So this is a list that Kym prepared, and it was about all the meetings that had occurred or attempts with the CFMEU?

MR DE'ATH: Yeah. I think I asked for that list to be prepared, from memory.

MR McWATT: You are correct, yes. So there's quite a substantial amount there, yep.

MR DE'ATH: That's right. I think that was probably around the time when I was really starting to probably lose my patience with stakeholder engagement at the level we were trying (indistinct).

MR McWATT: Yep. On saying that, was there any pressure from anywhere else about the stakeholder engagement? Like, obviously things are getting brought up in Parliament, news and CFMEU protests and things. Was there any pressure from anywhere?

MR DE'ATH: I didn't feel any pressure from anyone in terms of saying that I had to endure that, if that's where you were - was underlying your question.

MR McWATT: Yeah.

MR DE'ATH: In fact, I felt confident in that, you know, these were largely operational processes and matters.

MR McWATT: Yep.

MR DE'ATH: And I was pursuing them, as was Bancroft with my support, and, you know, we weren't backing down.

MR McWATT: Yep. So you've got the February there going ahead. This is the temporary process till we come up with a new one - well, not a new one - with a foreseeable future to lock it in.

MR DE'ATH: Mmm.

MR McWATT: Ms Bancroft writes a - types up a briefing note, and this is the first one. You may not have seen that one, but it does eventually change, and I'll show you that one in a second. So this is the one, the briefing note. So they were - as you will see -

MR DE'ATH: So that's - sorry.

MR McWATT: That one says to the Minister Grace Grace, and there's a change to the heading in that, and some of the context has changed, but that's the final version.

MR DE'ATH: Okay. So this is a draft?

MR McWATT: That's a draft.

MR DE'ATH: Right. Thank you.

MR McWATT: So I just want to show you what she had typed.

MR DE'ATH: Right.

MR McWATT: And some of the - to put it clearly, you're getting straight to the point.

MR DE'ATH: Yep. Okay. I've had a cursory glance at that. Happy to field your questions.

MR McWATT: And then you tick it for -

MR DE'ATH: A copy for the minister's office.

MR McWATT: The minister's office, so she's aware.

MR DE'ATH: Yep, so that would be standard practice.

MR McWATT: Yep, okay. So on this, the new process is that there's going to be a designated 1300 number for the union to call in relation to - or an email address for inspectors to attend site. Do you recall that?

MR DE'ATH: Yes, I do have some recollection of that process.

MR McWATT: Yep. And Kym's said it will commence in 14 days and has sent to all the unions, to the Electrical Union, the Plumbers Union, the CFMEU, I think one other or something or other, to do with the Building Trades.

MR DE'ATH: There's a lot of them.

MR McWATT: Yep, yep. You were happy with that process, that that was going to be, as you just stated, that it shouldn't land on one person; you were happy with that 1300 number?

MR DE'ATH: Correct.

MR McWATT: Yep. And when you were briefed in relation to the 1300 number - I'll call it the 1300 number - did Kym or anybody else provide how they came around to that to come up with that strategy?

MR DE'ATH: So I'm not an expert in triaging systems in itself. So what I'm looking for is that we're well informed on any changes we would make, and there's a level of expertise and judgment that I would rely on the - on the deputy director-general for; indeed, employed for that purpose. So I'm not suggesting that I'd be abrogating my responsibility at all, not in the slightest, but it seemed, on the basis of what I was informed, that that was good process.

MR McWATT: Yep. Okay. It was signed off, you're happy with it and -

MR SORGESE: Sorry. Do you recall if the minister would have been briefed or was briefed at the time or before you signed this?

MR DE'ATH: I don't recall. As I said, meetings occurred between the office of OIR and the minister's office, which may be the minister, it may be her staff, that I wasn't always present at. In fact, often I wasn't, and that was pretty common practice.

MR SORGESE: Yeah.

MR DE'ATH: So I can't recall, sorry, but I can see clearly there that I wanted the minister's office to be aware of that operational change.

MR McWATT: I'll just go to the next question. So, yeah, that's signed off and then sent to the minister later on. But in between that time, a letter comes from the CFMEU to Ms Bancroft about a safety incident which occurred at Cross River Rail at Albert Street, Lot 1. I'll just give you a read of that, the highlighted section down there. I thought it was a very interesting comment.

MR DE'ATH: Yes, this is - this is Michael's very strong reaction to our suggestion, or my suggestion. Yeah, right. Thank you. I've had a read of that.

MR McWATT: With that letter, obviously it's going to go hand in hand. That reads:

"You must have forgotten that when you made the deliberate choice to not answer their calls, as it was not consistent with the process."

So they're referring to the -

MR DE'ATH: The new number.

MR McWATT: - new process. You just said then that this is consistent with Michael's type of -

MR DE'ATH: Well, I think it aligns with what I raised earlier, that it's hard to get someone to understand the risk that they are creating while accusing you of creating a risk. So in that letter, it would seem to me that Michael is saying it's because she didn't answer her phone, when we had put it strongly to Michael that he was creating the risk by not complying with the process and taking that action.

MR McWATT: Yep.

MR DE'ATH: So actually, my view on that statement is it's actually the opposite.

MR McWATT: So at this time, it's the three-person contact. There's the regional director's contact at that time, because it hasn't been implemented yet, the 1300 number.

MR DE'ATH: And that may well be right. So I'm not aware of the chronology on it.

MR McWATT: Yep, that's all right. So there's a letter back to Mr Ravbar, and this is informing that the - about that letter, dated 7 March, and then it advises that the new process is coming into play.

MR DE'ATH: Thank you. I have a vague recollection of - I mean, what I recall is that we were determined to carry on to get this tidied up.

MR McWATT: Yep. Yep. So that goes to the CFMEU, the briefing note which we described before, and sent to the minister, yep, and signed off, "We're going ahead with the 1300 number." Okay. So on 5 April '23, so a couple of days later, Kym sends you an email, and this is pretty well, "We're going full steam ahead." She says once you and the ministers -

MR DE'ATH: Thank you.

MR McWATT: So that's at 8.16 in the morning. And then in the afternoon -

MR SORGESE: Sorry, do you want to -

MR McWATT: Oh yeah, we'll come back to that later.

MR SORGESE: Later, yep.

MR McWATT: Then they're not privy to that, but that's Ms Bancroft saying it's all going to be happening.

MR DE'ATH: So at this point - and I'm trying to remember what's happening here, with reference in the paragraph below to where your highlights are about stakeholders expressing significant concerns:

> "It's clear we can't have the old system going forward. We're concerned the situation has allowed (indistinct). We've identified a process going forward to consult. There will be a broad range of stakeholders. It allows for some breathing space for this to play out."

Thank you.

MR McWATT: Was there something about that or -

MR DE'ATH: No, I'm just trying to recall what was happening.

MR McWATT: Okay. So that's going ahead, and I'll go back to something. Just before I forget, in the letter to Mr Ravbar, it states that any contact with obviously Ms Bancroft - but also to Mr Andrew Harris. Do you recall Mr Andrew Harris?

MR DE'ATH: Yes, I do.

MR McWATT: Did you have dealings with him?

MR DE'ATH: I think Andrew was the head of the HR in OIR, vaguely.

MR McWATT: Yep.

MR DE'ATH: I don't recall significant dealings with Andrew.

MR McWATT: Okay. Was you aware that the CFMEU refused to deal with Mr Andrew Harris?

MR DE'ATH: Oh, vaguely. I mean, look, honestly, there's a very long list of people that the CFMEU refused to deal with, so yes, it may well have been Andrew too.

MR McWATT: Okay. Yeah, because that's actually in an email about Andrew that they will refuse - and then it goes way back. For me, I thought it was interesting that he was placed in the letter to be the contact person when they're already refusing to deal with him.

MR DE'ATH: Well, I don't think we would be unduly influenced about who they were refusing to deal with by who we selected to be in any given role, and, you know, I believe that whoever it was, if it was Kym, had determined that that was the best person, then I was - you know, I wouldn't have intervened. I don't think I was even aware - maybe - anyway, I certainly wouldn't have stepped in to say, "Well, you can't have Andrew because they don't like him."

MR McWATT: Yeah, yeah. In the lead-up to 5 April and the briefing note to the minister - or, sorry, the briefing note and then it was forwarded to the minister - do you recall any discussions about - about the process in a room or anything with the union and the minister and/or the chief of staff?

MR DE'ATH: I don't recall ever being in the room with the minister and the union at the same time. You may have something to correct my memory on that, but I do not recall on any occasion being in a meeting with the minister and the union.

MR McWATT: And then you brought it to the attention earlier on about the meeting with Ravbar and things got fiery and that.

MR DE'ATH: Mmm.

MR McWATT: So in the context of that, that was on 28 March.

MR DE'ATH: Mmm.

MR McWATT: So it's in between all this happening, these emails and letters going back and forwards. Can you - I know you've done a briefing note on it or you asked Kym to do a note on it, and I'll get to that in a second. Can you recall what that meeting and the - what actually happened?

MR DE'ATH: So the briefing note, I'm pleased that we decided to do that, because all I recall from that meeting is three warnings, the meeting finished, and what Michael said to me as he walked out of the room. So I also had Terry Elliott there, our head of infrastructure and the deputy director-general for infrastructure in the Department of Education, and so obviously we were traversing - I think Kym's done a reasonable sort of overview of what it was. I can't remember what was said in those conversations. But we would have covered education infrastructure matters and some OIR matters. So - yeah. I was - quite honestly, at that point, I was more focused on reasonable conduct, and what I had determined was it was now time that if I wasn't going to get reasonable conduct, then meetings would not go ahead, and I was not prepared to - I am a pretty resilient sort of guy, but I see no reason why my staff needed to be subjected to that sort of behaviour.

MR McWATT: So that was the draft, and then Kym -

MR DE'ATH: Yeah, and then there's a final, isn't there.

MR McWATT: And then there was a direction to draft it.

MR DE'ATH: Yeah. So I don't remember the draft as such, but I was certainly familiar with the final. So clearly we were talking in that meeting about the process. Yeah. Okay.

MR McWATT: Did Ravbar ever call you to say that Kym's a liar? Do you ever recall that? Did he refer to her as a liar or -

MR DE'ATH: Look, I don't recall. You asked me earlier about, you know, whether we had phone conversations, and, you know, as I said, my recollection of that were there were very few. I - look, I don't - I don't think I recall that. In fact, I don't recall that. But I can't say it didn't happen, to be fair.

MR McWATT: Yep. So after going through this material now, on 12 April - and I'll call it a backflip - the process is not going ahead. The 1300 number is not proceeding, and they're going to stick with the temporary one that occurred from January. Why the change?

MR DE'ATH: So we talked extensively before about my concerns about the report -

MR McWATT: Yep.

MR DE'ATH: - and what I had discovered about the report, and you will see that those discoveries were earlier to this decision. I had said earlier that, you know, I had to work this through and think about what we were going to do. Effectively now I had a situation where the triaging system we'd proposed was based on a piece of information that was now of significant concern to me, the substance of that. I said earlier I'm not an expert on those matters, but I do rely on a process that means that whatever we received has come through a process that's not compromised, and I had to work out what I was going to do about that.

MR McWATT: So was there any discussions about the change of the - or to not do the change of the 1300 process?

MR DE'ATH: I can't recall, sorry, what discussions may have taken place. I think from memory -

MR McWATT: That's nearly a week.

MR DE'ATH: Yeah.

MR McWATT: And mind you, as we discovered yesterday, Easter's in that period too, so -

MR DE'ATH: Right, okay, so not much time. I was quite focused on, you know, I guess what had gone wrong and my escalating concerns around Kym's role in that. When you're in that sort of situation, you're contemplating what action you'll take. You're also thinking about, "Who am I going to get to look after this? Who can come in and help us, you know, do whatever we need to do from here?" So I remember that being my focus, is I think I have to do something here. We're at serious risk of credibility failure over a really important piece of work.

MR McWATT: Besides Kym, who else would you bounce ideas off about this type of stuff?

MR DE'ATH: Megan Barry.

MR McWATT: Yep.

MR DE'ATH: I possibly would have talked to Nick Seeley. Nick Seeley, as my office executive director, was dealing with Kym and her office on - like, it was just taking a lot of our time.

MR McWATT: Yeah.

MR DE'ATH: Really sort of guiding on all sorts of matters and so on. And I think, thinking back, that was part of the Stuchbury decision, to try and help that, and Nick had a lot of faith in - is it Kym? No.

MR McWATT: Kate.

MR DE'ATH: Kate, thank you - and they could communicate well together to sort of get us through everything and anything that was coming our way. It was taking an increasing amount of our time. Aside from that, I would - probably - I can't remember whether I did this or not, but you know, the person who I had a lot of faith in the organisation in the Education side of things who, you know, I could bounce ideas off was actually the associate director-general, who's now the director-general of education, Sharon Schimming, and Sharon would be someone who I would say, "What are we going to do?"

MR McWATT: Yeah.

MR DE'ATH: It was one of those situations where you actually were going, "What am I going to do here?" Like, you know, this is so critical. I felt really let down, actually, on our side, in terms of what - what had happened. There was no reason for that to have happened, and - and I felt that something had to give.

MR McWATT: Did you feel as though there was any pressure from above you to have these matters sorted?

MR DE'ATH: Yeah, I couldn't be clearer on this, can I say.

MR McWATT: No, no.

MR DE'ATH: And I will be really quite emphatic about it, is that - I mean, I think there's been some suggestion of ministerial influence, and I just have to say that that is absolutely not my experience of working with Minister Grace. She was always very clear that operational matters were my responsibility, and despite - I don't know, whatever conversation, whatever she was having in the background, the briefing is there. We were going down a path. What I did go to her office with - and I can't remember whether I spoke to her or spoke to her office, because I'd had quite a bit of engagement with the chief of staff; ministers aren't always readily available - is once I'd made the decision that I was going to terminate that contract, that as a matter of course - and this was my practice; there were a few terminations of contracts or non-renewal of contracts with senior executives, only two or three in my time - I would do the courtesy of letting the minister's office know that that was the action that I was taking.

MR McWATT: Okay.

MR DE'ATH: Now, I think you'd understand that that would be fair and reasonable, that, you know, to have something - given the media, which it could well do in this case, and the minister not to know. So - but that was the extent of it.

MR McWATT: Yep.

MR DE'ATH: Those were my decisions. I made them, take responsibility for them, and I took the decisions that I thought were appropriate at the time.

MR McWATT: Not that I would think you would, but did you have any interaction with other ministers?

MR DE'ATH: Over those decisions?

MR McWATT: Oh, no, just - I know Grace Grace is the Education minister, but - and OIR and Racing etcetera, but any other - like the treasurer or anyone like that?

MR DE'ATH: No, no, no, no.

MR McWATT: Only reason I ask is because it's just been brought up in evidence yesterday.

MR DE'ATH: Oh, right. No, no.

MR McWATT: Not for you, but just -

MR DE'ATH: No. Sorry, the only other person I would have informed about this situation and the decision I was taking would have been Rachel Hunter, the head of the Premier's department.

MR McWATT: Yep. Name I haven't heard for a while. All right. Okay. So, as was stated before, Kym has Kate to give her a hand, and it's sort of about from this date onwards Kate starts drafting material for Kym, and I'll show you - you're not privy to the email, but just for your side of it, just to show you, as we're going down the track here a bit, they're the emails. Virtually it's the same email, but just a few changes.

MR DE'ATH: Okay. Yeah, look, without reading all of that - oh, sorry, there's a highlighted section here. Okay, yep. So I'm not - I'm not familiar with it, but I'm unsurprised that Kate is supporting Kym. Sorry, you want me to look at -

MR McWATT: No, you can have a look, yeah. It's highlighted.

MR DE'ATH: Thank you.

MR McWATT: I'm now going to refer to Mr Ravbar's letter dated the 4th, which we saw before, (indistinct) processing and everything.

MR DE'ATH: Oh my goodness. See that paragraph there:

> "It is critical for the senior public servants with the Office of Industrial Relations to cultivate relationships with industry stakeholders. At each stage you have made temporary changes, you have failed to consult with our unions about the processes to be implemented."

I mean, that is just unbelievable -

MR McWATT: Considering what we saw before, yeah.

MR DE'ATH: - quite frankly. And again, a failure to see the impact on the health and safety of workers.

MR McWATT: Well, on that note, it doesn't contemplate our side of it - it doesn't contemplate the workers within OIR.

MR DE'ATH: Sorry, what do you mean by that?

MR McWATT: Like, he's saying the work health and safety of their workers, but there's also the workers of OIR, the inspectors and who's receiving the calls and the triaging, etcetera, etcetera.

MR DE'ATH: You make a very good point.

MR McWATT: That's one-sided.

MR DE'ATH: And as I think you've heard from me, you know, my concern is for the welfare of our staff. No matter what is up against them, Helen Burgess included, is, you know, fairness prevails, and -

MR McWATT: Yep. Did you ever get the report back? No, you'd left by then, haven't you? For Ms Burgess?

MR DE'ATH: No. No, because - so a bit of context, if I may again.

MR McWATT: Yep, by all means.

MR DE'ATH: You're probably aware of this, but - so Megan held the fort there for a while, I think did a good job, trying to move things on, and then Peter McKay, who has provided - sorry, I did listen to Peter's evidence, by the way, which I thought he was very good. Peter stepped in. Look, I - I remember talking to Peter, obviously, about - I think Megan did a handover. I had a talk with Peter coming into it. I almost had to peg Peter to come into that role, to be honest, and I - and because of Peter's experience, I said, "Look, keep me informed, but as you see fit to manage through where we're at." Now, then, it wasn't long after that that we had a machinery-of-government change and the portfolio moved over.

MR McWATT: Yep. Okay. We'll talk about Peter in a minute, because obviously that will flow into 20 and 21 April, things that have occurred. Okay. All right. So Kym prepares the documentation for Mr Ravbar. (Indistinct) this is the letter, and it's dated 19 April. So that, I believe, is a Wednesday.

MR DE'ATH: Yeah, that was pretty generous of Kym in that last sentence, I thought. I don't recall the letter, but looking at it now, I think it was pretty generous.

MR McWATT: So by this stage, the 19th, what was going on in your mind about - I'll call it the backflip, the procurement which you were just talking about before, the decision, the interactions with Mr Ravbar and everyone else from the CFMEU, the ED selection process, what's your train of thought at this stage?

MR DE'ATH: So I'll probably talk generally about what was happening at the time. I think I've already outlined some of it. So when you're faced with the sort of issues that I was faced with, particularly in relation to our credibility and moving forward, you know, obviously you're collecting information, so I'm - for that period, well before then, like, talking to Kym about procurement, you know, gathering information on what that really means, getting advice - I think Megan obtained advice for me about, you know, I think this is reportable. Is it reportable? You know, you need to check you're doing all the right things. I think - I was clearly thinking about what my actions were. Whether I'd - I would have been talking to Megan about - well before then, probably, about what other

role could we have for Kym. Who am I going to get to do the job? How am I going to get a reset on this? How do we move forward?

And so I can't remember what I was thinking on any particular given day, but that was generally the pattern of thought. I think you probably appreciate, you know, as a director-general, when you're faced with something that for me was, like, right up there in terms of concern about where we were at on critical issues, a recalcitrant stakeholder, a critical piece of work, the health and safety of workers, and when you've lost trust and confidence in the very person you're relying on to - to do the right things, then, you know, that took me where it took me, quite frankly.

MR McWATT: Okay. When you said you were thinking about who obviously to place in the position, what was going to happen to move Kym, etcetera, earlier on you stated you had those discussions with Megan Barry - it was Nick Seeley, I think, or maybe -

MR DE'ATH: Look, I may have canvassed it with Nick, but probably it was probably more with Megan, particularly given the CCC involvement and so on. I mean, let's be fair, the executive director of a director-general's office pretty much sees everything that's going back and forwards. Not in every meeting by any stretch, but certainly, you know - and sometimes acting on my behalf to, you know, set up meetings, make correspondence, track correspondence and so on.

MR McWATT: Yeah. Did you discuss - obviously you would tell the minister if you were going to remove somebody or end their contract. Did you have those discussions with Grace Grace?

MR DE'ATH: As I said earlier, I can't remember if I spoke with her directly. I may well have. The sort of language that I recall having in my mind about whoever I spoke to, it may have been a chief of staff. I just can't recall.

MR McWATT: On that, which chief of staff? Because she's had a few.

MR DE'ATH: Two. So I think Sharon Durham had gone by then.

MR McWATT: Yep.

MR DE'ATH: Had Sharon Durham gone by then? Maybe she hadn't.

MR McWATT: No, I think you're right.

MR DE'ATH: So it was Katelyn Dougherty.

MR McWATT: Yep.

MR DE'ATH: And Katelyn had previously, before she was chief of staff, had the portfolio for Industrial Relations.

MR McWATT: Oh, okay. Yep.

MR DE'ATH: Yeah. And I think my language would have been - my vague recollection - I'm sorry I can't remember who I spoke to, but it was certainly around there were some governance issues that had caused me concern that had led me to form a conclusion that I needed to take a particular action.

MR McWATT: Yep.

MR DE'ATH: Can I be really clear that I'm advising of my action.

MR McWATT: Yep.

MR DE'ATH: I'm not asking about protection, obviously.

MR McWATT: The - you reminded me of something then, but I can't remember what it was. Do you have any questions? I'll try to come back to what I was thinking.

MR SORGESE: You mentioned earlier - and just correct me if I'm wrong; I just want to make sure I'm getting this clearly - is with respect to how we were full steam ahead with the triage process in one direction, and then about a week or so passed, and then there was a shift towards the opposite direction. You mentioned before one of the things that was front of your mind was the credibility failure.

MR DE'ATH: Mmm.

MR SORGESE: Was there anything else in the centre of your mind or that you were taking into consideration when making - do you confirm if you made the decision or if that was Kym?

MR DE'ATH: The decision to -

MR SORGESE: To go the opposite direction with respect to the triage process itself.

MR DE'ATH: I can't recall exactly, but - so this is not linear, right?

MR SORGESE: Yeah. We're finding that.

MR DE'ATH: You know, you're going through it, and you go - and I'm sitting there going, "What am I going to do?" You've got to keep things moving. You know, you can't give the impression at some point that - suddenly stop while I think about this. So I was doing my best to navigate it. I think you saw I put in

mitigation strategies around the procurement, the management of finance. But I - I just recall, the more I went through it, the more it became clear to me that I couldn't - I couldn't take the risk any longer around such an important piece of work with someone who I had lost trust and confidence in. And, like, trust me, that's a very difficult decision to make, midstream, a critical piece of work like this.

Now, the CFMEU, through this inquiry, are going to become privy to that very matter, I'm sure. At this point in time, unless somebody has informed them, I don't believe they are, and, you know, at - I went through that. I made that decision and then looked to people to take a reset, to rebuild our position back again. And I look back and I think that was the right course of action. You know, I just couldn't go on.

MR SORGESE: Sorry, was that with regard to Kym's termination or this shift in direction for the triage process?

MR DE'ATH: Well, they're one and the same in terms of - I think - I think it's quite possible - as I say, my recollection is vague -

MR SORGESE: Sure.

MR DE'ATH: - that I would have known what I was going to do over here and that pausing that, in preparation for that, to get the reset would have been, you know, a sequence of decisions. I can't recall exactly. I think you're helping refresh my memory a little bit around the chronology of it, but it was an extremely difficult time.

MR SORGESE: But there's no recollection of any other contributing factors to "This is untenable to continue going down this path with regards to the triage process itself"?

MR DE'ATH: No.

MR SORGESE: It was the fact that - if I'm understanding correctly, and correct me if I'm wrong, but it's the credibility failure of the QUT report. Is that right?

MR DE'ATH: Yeah, I can't recall anything else. I'm trying to think what else was in my mind or what else was going on. But I didn't see how we could carry on down this path and keep Kym in the role with what I knew that, really, nobody else really knew, other than those who had to know. So, yeah, that's - that's my recollection of what it was. As I say, it was extremely difficult when you can see the critical nature of the work, where we were at in terms of, you know, introducing and implement it, albeit by stealth in the end, and then to go, "I'm really vulnerable. We're really vulnerable here now."

If you look at it from - for me, if you were looking at it from any reasonable person's perspective and they go, "Hang on, you've based a whole lot of your decisions around a report that was done by the deputy director-general's business associate" - her friend, if you like, which is what would have been said, where do I go with that and how do I defend that? I think it's pretty indefensible. I was very, very concerned about us being in that position.

MR SORGESE: Did you have anything on that?

MR McWATT: I was going to ask, on saying that, was there any reason not to wait for the investigation report to be completed?

MR DE'ATH: Yeah, that's a fair question. Look, no reasons. Ends of contracts are entirely at my discretion as the director-general. That investigation will play out whether or not somebody's in the service, and that - that's a completely separate process. Any decisions that I make over here were clearly my decisions to make. You would have noted the other offer was there for her to do something else. She chose not to select that. She was very open to select that offer. She was - same pay and conditions. She chose not to select that option and took the option to end her contract. It's not - in other contract ends I've done, I haven't offered an option. In this case, I thought that could be an option and, you know, eventually, there would be an outcome of an investigation that may decide otherwise on her future. But at that point in time, I was okay with presenting that option. I look back on it - pleased she didn't take it.

MR McWATT: And you've mentioned it in your statement: why did you not note/document the decision-making?

MR DE'ATH: Sorry, explain?

MR McWATT: The dismissal or the end of contract for Ms Bancroft, why was there no documentation of your decision-making in relation to that?

MR DE'ATH: Because there was no obligation to.

MR McWATT: Okay.

MR DE'ATH: The no-reasons clause is very specific in employment contracts, and no reasons are no reasons. So the biggest mistake I think you can make when exercising that clause is to give a reason. I gave no reason, and I think someone has provided some evidence that says I did. I did not.

MR McWATT: Yeah, okay.

MR SORGESE: Just to confirm that, so while you mention that, is that -

MR DE'ATH: I knew you'd ask.

MR SORGESE: Excuse me. Is that a positive memory that you absolutely did not say that, or is it you don't recall -

MR DE'ATH: Irrefutable. Like, that's a rookie error, and I was absolutely clear that the options were put forward, the clause was referred to in the meeting with her about the no reasons, but here's another option. She asked for time to consider it. Her evidence is correct in that regard, and it's correct that she contacted me, I think the next day, to say what she had chosen to do. I think I was reasonably generous. Sometimes people sort of march out the door. I gave her time to, you know, say farewell to her staff and take (indistinct) and so on. So I think I opened with saying I actually liked Kym. I'm extremely disappointed in the position she left us in over how she conducted some of the affairs, and I'd have to say I'm extremely disappointed that - what I was aware of her evidence in relation to that contract end. And I won't speculate on why she chose to present her evidence in that way.

MR McWATT: Just to be clear for the record, there's no doubt in your mind, then, that that was never said that it was because of the unions?

MR DE'ATH: Absolutely no doubt. I might elaborate a little bit for you about why am I so clear.

MR McWATT: Yeah, yeah.

MR DE'ATH: One, never give a reason when you're using the no-reasons clause.

MR McWATT: Yep.

MR DE'ATH: Two, why would I say something like "a union is not happy with you"? I mean, 99.9 per cent of our conversations were about the CFMEU. Why wouldn't I say, you know, "The CFMEU are just not happy with you and you've got to go"? Like, as I said, I think earlier, if we got rid of everyone the CFMEU didn't like, there wouldn't be anyone there, and there's no way in this world that I would be swayed by the union view about one of my executives. I have my own view around my executives and their performance and the issues around them, and there were things that I was privy to that nobody else was privy to, other than people who were helping me on those issues, and there is no way I said that.

MR McWATT: Talking about reviews and that, you had a - I think it was 27 March with Kym, a performance review on that. No doubt that would have been a long discussion. Were things like this and the triaging brought up, do you recall?

MR DE'ATH: I don't recall. Yeah, I don't recall.

MR McWATT: But in the back of your mind, knowing that there's this issue with the conflict, would that have been discussed then or not?

MR DE'ATH: I just don't recall. I - I know that part of my modus operandi at the time was how do I keep as many things calm and not aggravate it as I can? And I think that - that, you know, you would understand that in an already inflamed environment, the last thing you need is inflammation in other places. So I think up to a point - and I think that the Ravbar meeting that I called to a close was a bit of a crescendo and some of that with "enough". So - and, you know, but the same with Kym is how do I just keep this calm while I work out what I'm doing and we get to some conclusion?

MR McWATT: Yep. While you're talking about meetings with Ravbar and that, what happened with the mobile phone incident?

MR DE'ATH: Oh my goodness. So I think - I have a strong recollection. Not of what we talked about. Often I don't recall what we talked about; I recall what happened, if you know what I mean. So I think what had happened on that occasion is that, again, trying to be conciliatory, Michael had always come to my office, and so I - I must have said, "Why don't I go to your office next time?" You know, like, this is a risk, but anyway. So I - I arrived at the office, and Michael put his phone down on the - I can't remember, it was the desk or something outside the office, it was in the office or something, and I put my phone down, and Michael picked up the phones and took them out a back door and was immediately back in. And I was sort of like, that's pretty strange.

And I've sort of reworked this moment many times since that occurred and thought, "Should I have just, like, said no and got my phone?" But as I think I've tried to paint a picture of, you're trying to keep things calm and you're trying to have a constructive conversation. Well, I don't recall a constructive conversation that day, and in fact, one of the reasons why I remember how long it went on is I had a meeting scheduled with an acting minister, because the minister was on leave or something, and this meeting was going on. I was clearly then running late. Look, I think we might have had an hour, I think it went for an hour and a half, and of course I needed to get back to 1 William Street. So I was so lucky to get given my phone back at the end, and - and I left the office. But I'll provide you a little bit more information on this particular issue, because, you know, things would happen, and you would think about them, you'd process and you would think, "Now, next time, you know, this is what I'm going to do."

And so the next meeting with Michael was at my office, and, you know, this was a threshold point. I've had enough. Michael arrived and, before entering my office, put his phone down on the credenza and indicated to me sort of like to do the same, and I went, "Oh no, there's no need for that, Michael. Come on in." And I had Nick Seeley sitting in the office, and he said, "Who's this guy?" And I said, "Well, this is my executive officer, and Nick will help us keep a record of the meeting." And he said, "I don't know him," and stormed off. There was no meeting. But you can sort of see the pattern where something would happen to you - and I think you've seen this in other evidence people have given - where you

go, "What?" And then how do you deal with that next time. And I'll leave other people to speculate on the motives for phones not being in the room, but I had no problem with problem with my phone being in the room in the meeting.

MR McWATT: Interesting incident. What have I got with those dates there? With the dismissal of Kym, or let go, end of contract, whatever you want to call it, when you brought her in on the 20th, the Thursday, how long was that meeting for?

MR DE'ATH: Oh, very short. Very short.

MR McWATT: Yeah. And how was the meeting?

MR DE'ATH: I think - it was cordial. As I say, you can't say what's in someone else's mind, but you can get an impression that - it was sort of like Kym wasn't surprised. I mean, Kym was very well aware of my concerns around what had happened about the report, the risks of that, things that had happened with processes and so on, and so - I don't know what was in her mind there, but those meetings - any of those meetings I've done are very short, because there's nothing to talk about other than, "This is the clause I'm exercising. Here's another option. Would you like to some time to think about it?" "Yes, I'd like overnight." "Okay, that's fine. Let's arrange to meet when you've had time to consider it," and then off you go. It sounds pretty callous, but it's - it's necessary.

MR McWATT: So while the lead-up to that, what's happening in the background with preparing for the next person to fill that position?

MR DE'ATH: Yeah, again, you know the order of all of that. So it's likely that I was talking to Megan about acting in it, or I may have done that afterwards. I can't remember whether someone covered temporarily until I put Megan in there. I just - I just can't remember what happened. But I had certainly - I mean, I would have had a - you always have a contingency in your mind about what you're going to do. You know, for example, if Kym had sort of said, "That's it, no, I'm off now," then, you know, you've got things at your disposal that you can do to cover, yeah.

MR McWATT: So Peter McKay, he ends up taking the position, as you'd be aware. Did you know Peter previously or -

MR DE'ATH: Oh, just - not in any depth, but I knew Peter had a background in industrial relations. I think he'd been in that office. He was in the Public Service Commission, I think, at the time I was talking to him. And - and I had sort of felt I needed someone who at least knew what they were walking into, and Peter was that person, as I say. I mean, to be fair to Peter, he was very reluctant, but he - I think he did the good public service thing and saw the need, and I can't remember who else we were talking to about that decision, but may want to unpack - I'm not

sure whether Rob Setter was still in the job at that stage as Public Service Commissioner who was -

MR McWATT: He's still there.

MR DE'ATH: He's still there. And maybe Rachel Hunter was advised; I don't know.

MR McWATT: Yeah. Did you have any other options besides Peter?

MR DE'ATH: No, not really. Not that gave me any confidence about going forward under the circumstances.

MR McWATT: Yeah. So do you recall when you made that decision to pursue Peter for that spot?

MR DE'ATH: Not really. I think we got Megan in there - I think Megan and I would have talked about who - you know, who could do it, because Megan was - I needed Megan back where she was. So we had to work out what we - what we were going to do. My next dread was then if we were having to move into a recruitment process, that gets hard. But, however, one step at a time. So, no, I don't really recall when I started talking to Peter.

MR McWATT: Yep. Okay. Did you have to run that decision about Peter up the chain, as you were talking before?

MR DE'ATH: If I'm making any significant appointment, I'd advise the minister's office that I'm making that appointment.

MR McWATT: Yep.

MR DE'ATH: But, again, can I just be really clear that it's not about that decision-making influence.

MR McWATT: No, no.

MR DE'ATH: I mean, I just keep seeing that suggestion, and I personally find it a bit offensive.

MR McWATT: Yep.

MR DE'ATH: But - no.

MR McWATT: No, I meant to advise. Do you have to run it up the chain to advise?

MR DE'ATH: I would advise. I would always advise around any significant appointment, absolutely.

MR McWATT: Yep. And do you have to discuss that with Rob Setter, being that he would have been his boss?

MR DE'ATH: Oh, yeah, definitely. Yeah, definitely, yeah. This is a collaboration. Rob was excellent. I mean, Rob was exceedingly helpful on - you know, Rob just had that ability to see a risk and a problem, and as I say, Rob was also on that panel who appointed Kym, so - and I think I may have talked to Rob along the way about concerns I had. We had a fairly regular catch-up.

MR McWATT: Okay. Yeah. Is it all in the same building, at 1 William Street?

MR DE'ATH: Yeah, yeah, definitely.

MR McWATT: What's the movements around there? Is it you can just go from one floor to another, or you can go and see another area, or -

MR DE'ATH: Yeah, my pass would get me around most floors.

MR McWATT: Yep.

MR DE'ATH: But my - because we were meeting with each other, but my pass wouldn't get me, for example, into the Premier's office or something like that. That's a separate access. But generally in terms of just on the floors, I don't - I don't recall needing being escorted to any particular floor.

MR McWATT: Okay, yeah. Chief of staffs and that just turn up to your door or -

MR DE'ATH: They can.

MR McWATT: Okay. With Mr McKay, there was the mobility arrangement that came into place. Had you heard that term before?

MR DE'ATH: Can you explain what you mean by that? I think I may have -

MR McWATT: Just the ability to move somebody from one area over and sit into the other area.

MR DE'ATH: Right. Yeah, I am, you know, superficially familiar with that, that ability to do that. So, for example, you know, I could have been assigned to any other portfolio, I believe, as an executive contract.

MR McWATT: I think that's it there. Yeah, this is it. So, yeah, that's the letter talking about it there, which transfers it over. You've signed it on the 21st.

MR DE'ATH: Thank you. Actually, that helps me a lot in terms of the chronology of what conversations I was having when. I signed it on 15 May.

MR McWATT: 15 May.

MR DE'ATH: Yeah, Peter signed - looks like Peter signed it on 25 April.

MR McWATT: (Indistinct) yep, sorry. And you were saying that Peter was reluctant to come across. Do you know any reason, besides being, as you said, a good public servant, but there was a discussion about the increase in pay for him to come across. Was you privy to any of that?

MR DE'ATH: Oh, I may have been. I don't recall. I don't - what I - what I vaguely recall - well, no, actually, not vaguely, but Peter had been at that office before. He knew that it's a hard portfolio.

MR McWATT: Yep.

MR DE'ATH: And so, naturally, you know, he had a bit of discussion. I was probably saying, "Pete, we really need your skills, and I need your help."

MR McWATT: Yep.

MR DE'ATH: And - but I don't remember conditions and pay and things like that.

MR McWATT: Yeah. Because it goes from, what was it, SES4 or something, I think it was, to HES4, is it? Something like that?

MR SORGESE: Is it CEO scales or just different?

MR DE'ATH: Right, yeah. I don't recall what was happening there. I don't even know whether that would have been up to me to make that decision, and I don't know whether there was a differential - there was probably a differential, maybe, between his role he was and the head of OIR. I don't know either. I can't remember.

MR McWATT: Yeah. So it gets increased, but there's also - previously the DDG position had been a GEMS profile done on it, and it was to be - it came up at a higher increase. So what I'm trying to understand is that occurred. Then Ms Bancroft's employed, but she's employed on the lower level, and then Mr McKay's come in, back up on the higher level.

MR DE'ATH: Okay. So there's a band.

MR McWATT: Yep.

MR DE'ATH: And while I don't recall, but what I can suggest is probably highly likely is given Ms Bancroft's lack of experience, if you like, you know, that we knew that she was - this wasn't something who was coming in that was entirely au fait with the government side of things and had things to learn and so on - that we had likely placed her further down on the scale, if not at the base of it. I'm suggesting that may be the case; I can't remember.

MR McWATT: Okay. Yep. The only reason I ask is because we're obviously going through putting pieces together and just how it looks. There's always an answer for it, or there's a reason for things, but just on the basis that people made suggestions that she comes in at this level and he's coming back in over the top, it may be that Mr McKay has the capacity to ask and Ms Bancroft didn't know. I don't know.

MR DE'ATH: I can see - I can see how you might look at that and wonder what that was all about. Look, I don't think there's anything untoward in there at all. That's not unusual that you would take account of someone's experience in placing them on the band in a role, and it would be - you know, and then you would also have to look at, for example, in appointing Ms Bancroft, what was she previously on? That comes in. People produce evidence of their previous salary and it's part of the recruitment process within what you do in the band. I don't recall everything that happened around that, other than to say I'm not surprised if she was further down or at the bottom of the band at commencement.

MR McWATT: Yep.

MR DE'ATH: Peter had a lot of experience. Yeah.

MR McWATT: Did you have to get approval for Peter to move across?

MR DE'ATH: I could have.

MR McWATT: Well, I say "approval". We'll go back to the -

MR DE'ATH: I would expect there would have been a process.

MR McWATT: Yep. Do you know if there was discussion about making Mr McKay an associate director-general?

MR DE'ATH: There may well have been. I think again I can say to you, there was an awful lot going on. I don't recall those conversations, if they were had with me. It may well have been a conversation. There may well be, if you like, some incentivisation.

MR McWATT: As you were saying, there was a lot going on, and you're right, when we're going through the emails, that the draft about Ms Bancroft was

commenced on the 20th, the day that you've had the discussion, they're going to either offer her the position to move to Education or to resign. Now, is that normal practice, to prepare that letter, given that she was going to come back in the next day and give an answer?

MR DE'ATH: Oh, definitely. So - because you would also - you know, in those situations, you present people with their parting salary figures.

MR McWATT: Yep.

MR DE'ATH: Because it's material to them, particularly when you've got an option about what decision you might make. But it's all drafted till the matter's finalised, and then you either have to amend your letter or whatever, but you certainly are prepared on the day for whatever that decision might be. In this case, there was a decision; in other cases, there isn't a decision.

MR McWATT: Yep. And then I take it there's a - what do you call it - like approvals for the delegation, because Megan Barry sat in that spot, so all those things to be signed off too. Like, things are happening pretty fast. That's usual?

MR DE'ATH: Oh yeah, definitely.

MR McWATT: The position to relocate Kym, was that just created, that position, or was there an actual need for her to work in that area?

MR DE'ATH: There was no role as such that created that opportunity. What we were looking at is we knew we had a need for a piece of work. Megan and I had been talking about that some time. There'd been presentations to my executive team on it and so on, and we'd been talking about it quite a lot. So naturally we saw an opportunity there to - to create that role. I - I can't recall whether I'd had conversations about actually formally creating the role at that time. I must have known I could, so I've had advice that I could. Because you have a quantum of executive positions available to you, so I must have had an executive position remaining that I could have used. You can't just magic it up and do your own thing.

MR McWATT: Yep.

MR DE'ATH: So yeah, it was a definite need.

MR McWATT: I understand. Any questions while I just go through and have a quick -

MR SORGESE: Just on the McKay period.

MR McWATT: Yeah.

MR SORGESE: I was curious - it did seem quite rushed or, you know, things had to move quickly. I was curious as to why there wasn't more time to do just, like, a bit of a handover. Because I think Peter McKay had leave or he was going overseas or something like that and -

MR DE'ATH: That's right, he was, yeah. Thank you.

MR SORGESE: And that's why Megan Barry had to -

MR DE'ATH: Yeah, because looking at that date, clearly we'd made a decision around Peter.

MR SORGESE: Yeah. Would you mind just elaborating a bit on why it was apparently an unacceptable risk to continue her on from, you know, 20 or 21 April to when he came back from overseas?

MR DE'ATH: I mean, clearly you get to a point where it's - it's too much to take.

MR SORGESE: Yeah.

MR DE'ATH: You know, when you've lost trust and confidence, and you're working through what you're going to do, you know, the fact that that ends up colliding with Peter's leave and so on is sort of neither here nor there. You have to make arrangements for whatever - whatever you're going to do. It's incumbent upon you as the director-general to do that. So I have never ended a contract of an employee and left them in the role for a period of time. At most, it would be that day to give them the opportunity to say goodbye to staff, and then also, depending on the circumstances, you're not even given that. And I think, you know, you would have seen that in, for example, how, you know, in change of government situations, director-general contracts are immediately terminated, people leave the building. So it's just - it is just how it rolls.

MR McWATT: We were discussing before, you didn't have to give a Kym - you wouldn't have said about the union. Is there any reason not to have, say, told her that you'd lost faith in her?

MR DE'ATH: Because that's a reason.

MR McWATT: Yeah. So you'd rather say nothing than -

MR DE'ATH: Absolutely clean, yeah. That clause exists in those contracts, and it's, you know, available to use and gets used, I think, quite frequently.

MR McWATT: Okay.

MR DE'ATH: Not one I've encountered in other jurisdictions.

MR McWATT: Yep.

MR SORGESE: Is it not?

MR DE'ATH: No.

MR McWATT: It's only in Queensland?

MR DE'ATH: In my experience - I've worked in New Zealand, Victoria, the ACT, and I don't recall that being in a contract, a no-reasons clause.

MR McWATT: So did you - how did you know about that, then? Obviously you'd been given advice.

MR DE'ATH: Obviously. I mean, there are certain things you do when you - certainly if you're coming into a new jurisdiction, you find out what the industrial arrangements are, you know. If you need to make change, and indeed I did lead quite a significant change agenda, then you need to know what your opportunities or risks are around particularly your executives, and so, one, I remember I had my own contract and I'd signed it, and I'd looked at it and I'd gone, "Whoa."

MR McWATT: Okay.

MR DE'ATH: And then, of course, then you're looking at when you're thinking you might need to make some changes, what options are available to you. So everyone - well, I can't say everyone, but it'd be fair to say that executives in the Queensland public service are very, very aware of that clause.

MR McWATT: All right. Is there anything else you want to add about Ms Bancroft that you think we should have asked and we haven't asked?

MR DE'ATH: That's an interesting question. Look, I just think I've been really clear. I was - I found - as I've said, I was disappointed about some of the things that happened, and I was disappointed to see the conclusion of the evidence - of her evidence about that departure, and - but that is what it is. And I'm disappointed at anything that I've seen or heard that suggests that I would be influenced by a member of the legislature about operational decision-making. Been around a while, and I am very clear about those respective roles, and at no stage did I feel that I came under undue influence about things that I shouldn't have come under undue influence.

MR SORGESE: Thank you for your candour there.

MR DE'ATH: I hope it's helpful.

MR SORGESE: Yep.

MR McWATT: We discussed about the CCC notification. Thank you for clarifying a lot of that.

MR SORGESE: I just had one question on that, though.

MR McWATT: Yeah.

MR SORGESE: How does it interact when you've got a decision that you need to make or have made, ie, terminate Ms Bancroft's contract, and the CCC are putting their referral back to devolve the matter? (Indistinct) to be dealt with in sort of being able to assess or review the investigation report?

MR DE'ATH: Yeah. I recall the advice I got about what I could and couldn't do when a CCC referral had been made, and essentially the advice I received was that the CCC are asking us not to go and investigate it. The interpretation is "do not start investigating this matter, because you're waiting to hear from us and make a decision". So they're really - they were two separate things in the end about why I was making a decision over here, and their process over here, which I understand their process continues regardless of whether the person remains in the public service or not.

MR McWATT: Do you recall who gave you that advice?

MR DE'ATH: Look, I don't recall. Probably came out of my HR area. May have even come out of my legal division.

MR McWATT: So it says no action - so these are standard.

MR DE'ATH: Mmm.

MR McWATT: Yeah:

> "No action should be taken by Education upon the basis of the report until the CCC has reviewed it and provided advice by the Department of Education."

So my experience with that is that if you found the allegations to be substantiated and that you proposed to terminate or loss of pay, whatever the outcome will be, that you would advise the CCC of that outcome before you do that, so that they say "we agree or disagree", because obviously some things are going to end up in QCAT. But that's my understanding and experience with that.

MR DE'ATH: It's not my understanding, and they - I saw them as two completely separate things. A process that could still run over here; a decision I had to make as director-general here about, you know, a loss of trust and confidence.

MR McWATT: Yep.

MR DE'ATH: Yep.

MR SORGESE: Do you remember who in particular gave you that advice from - I think you mentioned the HR?

MR DE'ATH: Look, honestly, if I was getting advice around this sort of thing, generally it would probably have gone to Megan Barry or even to Tom Jumpertz, our Education head of legal. But I - I honestly - you know, I can't recall.

MR McWATT: Besides the contract - this is probably going off course a little bit - is there a way to terminate somebody without investigation?

MR DE'ATH: So the general processes that could be followed, other than that direct process, was to go through the - you know, either the disciplinary or performance management processes.

MR McWATT: Yep.

MR DE'ATH: And you're probably aware, they take a very long time.

MR McWATT: Yep.

MR DE'ATH: So - and perhaps I could speculate on the reasons for that clause in executive contracts, but sometimes you don't really have time.

MR McWATT: Do you know the history behind that?

MR DE'ATH: I am not aware.

MR McWATT: No? Okay. The only reason I ask is I know another matter that you may have just touched on that took quite some time for the discipline.

MR DE'ATH: Yes. Perhaps not an executive contract.

MR McWATT: No, that person was a DDG.

MR DE'ATH: Oh, a DDG. Okay.

MR McWATT: Yeah. I just touched on the basis before, but - or you touched on the basis, but this is the senior executive handbook that (indistinct) and you've answered it, pretty much, but I'll - just for the sake of this recording - it was about record-keeping, and I asked the question before.

MR DE'ATH: Yep.

MR McWATT: And to record all major decisions, but that also comes out of the inquiry - not inquiry, sorry, an investigation that obviously you were aware of Mr Jeffrey Hunt? That was just -

MR DE'ATH: Oh, yes.

MR McWATT: Yep. So do you recall his misconduct?

MR DE'ATH: Look, that preceded me, but - well, not entirely, because I think -

MR McWATT: I think you came in -

MR DE'ATH: I came at the end of that. There was still - again, like Mr Cridland's role, there was someone else I think who was the decision-maker. That may have been Graham Payne; I can't recall. So yes, I do recall that.

MR McWATT: Because one of his misconduct things was not recording about the decision involved in recruitment and also a recruitment and his decision-making in relation to that.

MR DE'ATH: Mmm.

MR McWATT: Given that you just spoken about that clause in the contract - my words - I would say that that outweighs record-keeping.

MR DE'ATH: Oh, my understanding was that the contract trumps pretty much everything, you know, and also, I think - was not that a matter that was about process, which I have said to you I was very concerned about our process and breach of that.

MR McWATT: Yep.

MR DE'ATH: So I think that's supported by that document. But in relation to that clause, there's no requirement that I'm aware of to keep a record, other than there is a letter that says, "I'm ending your contract under this clause."

MR McWATT: Yep.

MR SORGESE: Could I ask - so the CCC get wind that Ms Bancroft is terminated, and we're privy to some evidence that indicates that they sought a reason why and whether or not that was linked to the allegation on foot, and the response that the CCC got back was:

> "Ms Bancroft's employment concluded in accordance with the terms of her senior executive service and final contract - for no reason."

Given that there seemed to be some connection to the allegations on foot, as you were describing earlier, do you know why that wasn't conveyed back to the CCC?

MR DE'ATH: I'm not aware of that.

MR SORGESE: You weren't - just to be clear, you weren't on the correspondence.

MR DE'ATH: Sure. Right. Right.

MR SORGESE: So it came from the - I think it was the ED in the integrity department in DOE.

MR DE'ATH: Right.

MR SORGESE: Yes.

MR DE'ATH: I don't think I can necessarily comment on that. Someone else has provided some information.

MR SORGESE: Sure.

MR DE'ATH: Other than perhaps it's a no-reasons clause. So technically, it's no reasons.

MR McWATT: So what do you tell HR? When you've - well, she's finishing, what do you tell the person that's going to deal with all the finalisation of it?

MR DE'ATH: I don't tell them anything, because the person who's responsible for HR deals with that.

MR McWATT: Yeah.

MR DE'ATH: But as, again, you're probably aware, HR people are there in particular roles because they're privy to very confidential matters.

MR McWATT: Yep.

MR DE'ATH: I mean, you've got to remember, while this is playing out, I've got teachers in the court, I've got principals being investigated by the CCC, I've got a paedophile in early-childhood settings. So, you know, they're dealing with a lot of highly sensitive matter all the time. And so when it comes to something like this, there's a process to exercise, and that gets exercised.

MR McWATT: Yep. Have you got anything else?

MR SORGESE: Unfortunately. Okay. So I'm still a little bit confused about just the triage process itself, and I know you're saying they're one and the same, with Ms Bancroft's termination process. Again, I'll refer to what you were sort of mentioning, that there was a credibility failure in the triage process and there was ultimately a QUT report. I've got a document that indicates that the QUT report or the QUT engagement itself contract was terminated, I think it was 17 Feb.

MR DE'ATH: That may well be correct.

MR SORGESE: Yeah. And I'm just wondering, if that contract had been terminated back then, and especially in light of the CCC notification, it appears you already had that information available to you at the time that you signed the briefing note, "We're going full steam ahead with the triage change." Could you help me understand just that nuance over there?

MR DE'ATH: I'll try. As I say, there's a lot going through your mind as you're navigating through, you know, whenever I discovered this through to when a contract was ended through to, you know, what we're doing in briefing and are we continuing with this, are we not? I think what your information suggests there, that at a period of time there we were just going to carry on, but at a point in time, clearly I had - of a mind that the risks are too high around all of this. I was probably still receiving information about directorships, websites, you know, what - what had happened in the procurement of the report and so on. I can't recall all of that. As I think you've acknowledged, there's a lot of activity going on, there's a lot of correspondence, there's a lot coming at me, and all the time when you're in these sort of roles, you're going, "What's my next step?"

MR SORGESE: Do you recall if there was any rallies by the CFMEU?

MR DE'ATH: There were loads of rallies by the CFMEU. I used to see them out the window.

MR SORGESE: Yeah. Sorry, I perhaps should have been a bit more specific. So 28 March was that meeting where basically you said to Mr Ravbar, "Out you get." 4 or 5 April, so within a week or so, there was this big, big rally. Do you recall that at all?

MR DE'ATH: Look, I don't.

MR SORGESE: Glass window smashed and stuff?

MR DE'ATH: Oh, I recall a number of serious incidents in relation to the CFMEU and rallies and sites and so on, but nothing that sort of goes, "Gosh, I really remember that thing."

MR SORGESE: Yeah.

MR DE'ATH: So, no, I don't really recall that. I mean, I couldn't tell you what they were protesting about or anything.

MR SORGESE: Yeah.

MR DE'ATH: I mean, there was so much of it, you know, yeah, you're just sort of trying to carry on and get things done.

MR SORGESE: Would you mind grabbing the emails just from Bancroft to Mr De'Ath on the 5th?

MR McWATT: On the 5th?

MR SORGESE: Yeah.

MR McWATT: 5 April you're talking about?

MR SORGESE: Mmm-hmm.

MR McWATT: Yeah, there's two.

MR SORGESE: Yeah. If I can get both of them.

MR McWATT: So this other one goes to - Kym to Kate. While Erick's doing that, you spoke about the process of the CFMEU calling Kym directly.

MR DE'ATH: Yep.

MR McWATT: Are you aware - and you probably are now, because you reviewed Peter McKay's evidence - but after Kym's gone, the CFMEU are still calling Peter.

MR DE'ATH: Yes. Yeah, I'm aware, and I did note that in Peter's evidence, and I think I was likely even aware of it. So if I can help you with this matter, as I said, Peter's a very experienced operator. Again, like with Megan Barry, my advice was to him, "You need to use your skills and experience and knowledge to navigate us through this in the best way possible while I'm, you know, facing credibility issues, and to continue to try and develop or use your historical relationship with these people to try and make some progress."

MR McWATT: Yep.

MR DE'ATH: Peter obviously made a decision to do that, and it was incumbent on Peter to decide how to go about working through that.

MR McWATT: Megan just didn't answer it.

MR DE'ATH: Yeah.

MR SORGESE: She (indistinct).

MR McWATT: She was like, "No, I'm not taking it."

MR DE'ATH: Yeah, and - and that's on the CFMEU, you know, like, we've told them, "That's not going to work." So - yep.

MR SORGESE: May I just show you these two emails again? So yeah, they're from 5 April, and we've read them earlier. Does it appear to you that, in the morning, there was a - it even says, "As discussed, we're still going ahead with the triage process," and then sometime in the afternoon or early evening, there's reference to - "Michael was suggesting let's not try to inflame things further, and we'll try and work out an agreed way forward."

MR DE'ATH: Yeah.

MR SORGESE: Can you plug any gaps there that might have happened between those two emails? Because it appears to be the first sort of documented shift in momentum, and it was a mere hours apart.

MR DE'ATH: As I think I've tried to explain, I'm working on what I'm going to do.

MR SORGESE: Yeah.

MR DE'ATH: You know, and I'm worried about what has happened, and -

MR SORGESE: Sorry, when you say "what has happened" -

MR DE'ATH: In terms of what happened over our credibility on this report.

MR SORGESE: Yeah.

MR DE'ATH: And - and I'm worrying about Kym's - I'm losing confidence in Kym's ability to get us all through all manner of things, not just this. So can I speculate on what might have been in my mind at the time of this, was it's likely that I was working on a plan, and that plan would - would be buying us some time before we go forward.

MR SORGESE: Who is - do you know who Kym might be referring to with regards to not inflaming the situation further?

MR DE'ATH: Oh, I - I wouldn't be wanting us to inflame the situation with stakeholders, namely the CFMEU.

MR SORGESE: Yeah, okay. All right.

MR DE'ATH: I mean, I think it's pretty evident we were constantly working to keep the level of - keep things as calm as we could and the level of aggravation as minimal as we could, so -

MR SORGESE: Yes. Thank you. No questions on that.

MR McWATT: We've covered quite a lot. Is there anything that you think we should have asked and we haven't asked?

MR DE'ATH: I think you've covered it well. I suspected you would have access to all sorts of things that I may have raised, and that's been canvassed, other than to say can I thank you for the manner in which you've conducted the interview. I appreciate it's a convoluted lot of information to get through, and it's not an easy task for you, as it's not an easy task for me to recall or be navigating at the same time that I was going through all of this. So - so I appreciate the - the interview allowed for a reasonable level of explanation.

MR McWATT: Yes. Thank you very much.

MR SORGESE: Thank you very much.

MR McWATT: All right. If there's anything else after the interview, by all means send it in an email or give us a call or - yeah, whether you get back on the plane and go, "Oh." Actually, this just reminds me. You just said there was a lot of things going on, and I appreciate that. Was there something else going on with Ms Bancroft that we probably aren't aware of or we haven't said today?

MR DE'ATH: No, not that I'm aware of.

MR McWATT: I'm only asking because you said there was a lot going on.

MR DE'ATH: Oh, there was lot going on in general. I mean -

MR McWATT: Yep.

MR DE'ATH: Yeah, so there was a lot of activity.

MR McWATT: Yep. I just wanted to make sure that there was wasn't anything else that we've probably missed and -

MR DE'ATH: Nothing that I'm aware of it.

MR McWATT: - that was of concern to you. Yep, okay. As I stated, if you think of anything else, by all means (indistinct). We can provide a transcript.

MR DE'ATH: Please do.

MR McWATT: We'll be in touch. Yep, we'll be in touch. Yep, sorry. Just a reminder that everything that we have spoken about today is confidential. We will speak to our barristers after today. They will review the transcript, and I - my feeling is that they will probably ask for an addendum statement and probably to give evidence, I would say.

MR DE'ATH: Sure.

MR McWATT: Yep. So is there any time other period that you are going away or anything like that we should be aware of?

MR DE'ATH: I think we've already received a summons for the second week in November. Is that right, Jo?

MR McWATT: Okay, yep.

MR DE'ATH: And - which could be either Tuesday, Wednesday or Thursday.

MR McWATT: Yep.

MR DE'ATH: So I'll leave that in everyone's capable hands, and certainly, of course, willing to continue to cooperate to help you with this work.

MR McWATT: Sounds good. All right. Does anyone want to raise anything?

MS HOIBERG: No. Thank you.

MR McWATT: All right. I'll conclude that. So the time is 1514 hours, and this interview is now concluded.

<THE RECORDING CONCLUDED AT 3.14 PM