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PUBLIC
HEARING

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO QC

PUBLIC HEARING

OPERATION SIREN

Reference: Operation E09/1228

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 22 SEPTEMBER 2010

AT 10.05AM

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THE COMMISSIONER: Mr Bouris, is it, yes.

MR BOURIS: Mr Stephenson will be here later today, Commissioner.

THE COMMISSIONER: I understand. Are there new representations please?

MS SPRUCE: Commissioner, I seek leave to appear for Mr Barnes.
Spruce, S-P-R-U-C-E.

10

THE COMMISSIONER: Yes, Ms Spruce.

MS WHITTAKER: My name is Whittaker, I seek leave to appear for Mr Price.

THE COMMISSIONER: Yes, you have leave and so do you, Ms Spruce.
Yes, Mr Payne.

MR PAYNE: Commissioner, today is a resumption of the matters
20 concerning the civil delivery inspectors and PIAS inspectors - - -

THE COMMISSIONER: Yes.

MR PAYNE: - - - and I propose to complete that evidence today. There was an issue that arose last Friday in the evidence of Mr Price concerning earlier evidence about Mr Barnes and I recall Mr Barnes - - -

THE COMMISSIONER: Yes.

30 MR PAYNE: - - - for the limited purpose of dealing with that matter.

THE COMMISSIONER: Yes, thank you. Now, Ms Whittaker, I don't recall if a section 38 order was made for Mr Barnes.

MS SPRUCE: There wasn't and none is required.

THE COMMISSIONER: Thank you. I think if you would re-swear Mr Barnes please.

40

THE COMMISSIONER: Yes, Mr Payne.

MR PAYNE: Mr Barnes, just for the record, your full name?---Ian Robert Barnes.

10 And you gave evidence before this Commission last week?---I did.

And just at the outset, Mr Barnes, is there anything in the evidence that you gave to this Commission last week that you wish to correct today?---No.

Can I ask you about a specific conversation that Mr Price says took place outside the hearing room here after you had given your evidence and for that purpose can I show you a transcript of Mr Price's evidence before this Commission and I'll just take you to two pages in that?---Ta.

20 I take it you've had an opportunity in recent times to read that transcript?
---Yeah, on the Internet, yeah.

On the Internet, yes. Can you turn to page 1073T in the transcript that I've just handed you?---1073, sorry, sorry.

I'll just make sure that I don't have a special copy?---Yep.

30 All right. It's 1073T. After your evidence did you have a conversation with Mr Price outside the hearing room?---Are you asking me or reading from this? Sorry?

I'm just having directed your attention to that page, I'm now asking you, did you have a conversation with Mr Price outside the hearing room after your evidence was complete?---Yes.

40 Did he, did you say to him, "If I did not tell you then I apologise"?---My recollection is that I said to Jim, "Did I get anything, recall incorrectly?" And he said, "Yes, mate. I wasn't there." And I said, "Sorry, my recollection was that you were. I apologise for putting you somewhere where you don't recall being."

And that was the only conversation you had outside the hearing room?---We probably spoke about other things. We also spoke to, to another chap, but that was specifically to this, this inquiry.

I see. So you had a conversation about other matters. But so far as your evidence to this inquiry last week was concerned, what you've just told me you say is the complete recollection you have of the conversation about your evidence?---That's my recollection, yes.

And you don't recollect that you said anything else or that he said anything else about the topic of your evidence?---Not that I recall.

And have you had any subsequent conversation with him about your evidence?---No, I have not.

10 And I take it from what you told me earlier, Mr Barnes, you were not intending to convey in any way to Mr Price that any evidence you had given this Commission was untrue?---Not, not to my recollection. I gave, that's what I recalled happening, yes.

And you were giving truthful evidence from your recollection?---I was.

And nothing you said to Mr Barnes, so far as you were concerned, was intended to indicate any moving away from evidence that you'd just given? ---No.

20 And just go back to 1072T, just for a second. And you'll see there at about line 30, it's the same convention as the documents I've shown you before. There are line numbers down the left hand side of the page?---Yep.

Just after line 30, the Commissioner asks Mr Price this, and you say that he told you after his evidence that it was untrue and Mr Price replies, "That's correct. That's correct." So far as you are concerned, you never told Mr Price that any part of your evidence to this Commission was untrue?---Can you repeat that, sorry?

30 Do you say today, Mr Barnes, just so we understand one another, that you never told Mr Price that any part of your evidence was untrue?---That's correct. I never told him my evidence was incorrect.

THE COMMISSIONER: Or that it was untrue. Or that it was untrue? ---That's correct.

MR PAYNE: Commissioner, I don't have any further questions for Mr Barnes.

THE COMMISSIONER: Yes. Ms Whittaker.

40 MS WHITTAKER: Mr Barnes, my name is Whittaker and I represent Mr Price?---Ah hmm.

Outside the Commission last week, did you tell Mr Price that it's possible that you had a memory lapse about whether or not Mr Price was present in your conversation with Mr Mattern?---I didn't use, I don't believe I used the word memory lapse. It was my recollection and I apologised for putting him somewhere that, that's what I recalled. He recalled differently and, and he was more solid with that and I apologised.

Indeed. Is it possible that your recollection about the conversation with Mr Mattern isn't correct?---To the best of my recollection what I said is, is what I think happened.

But is it possible that your recollection is wrong?---My recollection could be vague, but I can't say that it's wrong, 'cause I don't, it's too vague. Yeah.

THE COMMISSIONER: I beg your pardon?---It's vague, my recollection is, is vague.

10

What part of your recollection is vague?---Well, what the lady's just asked me.

Can you tell me in your own words what you (not transcribable)?---My, my recollection of the events is vague.

Is your recollection concerning Mr Price's involvement is that vague?
---Yes, it is, yes.

20

That's not what you said during your evidence is it?---I, my evidence is, is to the best of my recollection.

Yes. You had no hesitation in putting Mr Price there did you when you gave evidence?---I don't believe I did.

You have hesitation now?---Only because of Jim saying he, he doesn't remember being there, it's, yeah, I could, as I said my recollection is vague but that was my recollection.

30

I don't understand what you mean when you say your recollection is vague?---Well, - - -

Do you mean that you, it's difficult for you to remember or you're uncertain or you just don't remember the particular events, which of those is it?---All of the, all of the above.

MS WHITTAKER: Can you be sure that Mr Price was present for that conversation?---Outside the Commission I'm sorry, I'm not aware - - -

40

No, not outside the Commission?---Sorry?

I'm not talking about the conversation outside the Commission, I'm talking about the conversation with Mr Mattern, the conversation that you put Mr Price as being present at and Mr Price's evidence is that he wasn't present?
---Ah hmm.

What I'm asking you is are you sure that Mr Price was there?---My best recollection is what I've said, I thought Jim was there.

But can you be sure?---No.

And when you tell the Commissioner that your memory is vague that means that you're not sure but you think he was?---That's, that's, that's my recollection.

10 And when Mr Price says to you that he wasn't that rather makes you think that he wasn't present?---He seemed more certain than, than, than I was, yes.

THE COMMISSIONER: Of course it all depends on whether he's telling the truth doesn't it?---That's, that's my recollection, that's his recollection.

MS WHITTAKER: Sorry, Commissioner, may I continue?

THE COMMISSIONER: Yes.

20 MS WHITTAKER: The conversation with Mr Mattern how many years ago was this?---At least five.

And in recent years, Mr Barnes, have you had any issues with your health? ---With my?

Health?---House.

Health, sorry, I'm originally from New Zealand I struggle with this word. Your health, your wellbeing?---My health?

30 I apologise?---Yes, yes, I've, I've suffered a heart attack, yeah.

Has that affected your memory?---I don't have any medical evidence to say that but I've often spoken to people to say there are just things I don't remember but that's no excuse, I'm not using that as an excuse.

THE COMMISSIONER: Mr Barnes, I know that people with heart attacks, who have had heart attacks often don't remember things afterwards? ---Mmm.

40 But I've never heard of people with heart attacks remembering things that didn't happen. Are you suggesting that you may be remembering things that didn't happen?---No.

MS WHITTAKER: It's a situation, Mr Barnes, that over the course of your many years working together with Mr Price in this small team you've had innumerable conversations with Mr Mattern at which Mr Price may or may not have been present?---Yes.

And you say that you are certain that you had this conversation with Mr Mattern?---That's my recollection, I, I, that I may have spoken to Mr Mattern.

And in your usual course you assume that Mr Price would've been present at that conversation because he's part of the team?---Correct.

But he may not have been?---He may not have been, correct.

10 Nothing further, Commissioner.

THE COMMISSIONER: Mr Barnes, do you have the transcript?---Yes, of my previous - - -

Yes?---Yes, I do.

Can you turn to page 1072T, please. And you look at - - -?---I'm sorry - - -

20 MR PAYNE: That's Mr Price's transcript (not transcribable) directing you to?---I'm sorry, I'm sorry, I was, 107 - - -

THE COMMISSIONER: 2?---Yeah.

Line, starting at line 21 or 22, "I've got to put it on record here now that Ian walked out of here yesterday and apologised to me that, to say that he could not recollect me having a conversation with him." Did you say that to Mr Barnes after having given evidence, that is, that you could not recollect Mr Price having a conversation in effect, well, with him?---Ah - - -

30 That is with him, with Mr Mattern?---My, I don't recollect having, the words, in saying me recollect me having a conversation. What I recollect is that I said did I get anything wrong in my recollection and he said yeah, I wasn't at the meeting and I apologised.

I think - - -?---Yeah.

If you just go back again - - -?---Sorry.

40 - - - to line, to line, to Mr Price's answer when it was put to him that he had a discussion with you and Mr Mattern, that's the question. It was put to him that he had a discussion with you and Mr Mattern some time between 2004 and 2008. He says I, I did not?---Ah hmm.

And he says, "I've got to put it on record here and now that Ian walked out of here yesterday and apologised to me to say that he could not," that is, that, this is what he says you said, you could not recollect him, Mr Price, having a conversation with Mr Mattern and you apologised?---No, I apologised to him for putting him somewhere that I was recalled that I

thought he was, he said he wasn't there and I apologised for putting him somewhere where he thought he was not, that's what we spoke about.

I understand that's your evidence?---Yes.

You've said that repeatedly and you've maintained that, I understand that but what I'm asking is whether you've said to Mr Price that you could not recollect him having a conversation with Mr Mattern?---I don't recall that comment, no.

10

It wasn't very long ago that you had this conversation with Mr Price?---I understand.

So did you or did you not have such a conversation with Mr Price?---I've, I've mentioned what I can recall about the conversation with Price.

All right. So is Mr Price's version wrong?---That's his recollection I can't -
- -

20

No, I'm asking you whether his version of the recollection to the, to your memory is wrong?---Well, it's different to my recollection.

I know it's different. Do you accept that his record of it is accurate?---Its, 90, as it's here it's not exactly how I recall.

Mr Barnes, are you trying to protect Mr Price?---No, I am not.

Well, do you mind giving me a straight answer to my questions?---I thought I was.

30

Did Mr Price tell you that, I beg your pardon, did you say to Mr Barnes that you could not recollect him having a conversation with Mr Mattern?
---Sorry, can you repeat that, you got the names (not transcribable).

Did you tell Mr Price that you could not recollect him having a conversation with Mr Mattern?---(NO AUDIBLE REPLY)

You won't find the answer in the transcript?---No. I'm trying to recall. I don't recall saying that, no.

40

Did you say it?---I don't recall saying it.

This happened on 17 September?---Ah hmm.

That happens to be four days ago, five days ago. Is your memory of that so vague that you are unable to say affirmatively whether you had that conversation or not?---I had a conversation with Mr Price.

But did you say those words or not?---I don't recall saying those words.

Did you say them?---I don't recall saying them.

So you're saying it's possible that you might've said them?---Yes.

Now why is it, why could you possibly have said that when you, when you gave evidence immediately before then to the effect, to the opposite effect?

10 ---It was my best recollection of, of something that happened five, five, maybe six years ago.

Before coming here today did you have consultations with various people from Sydney Water?---Yes.

Who did you have conversations with?---James Millar.

And is he a lawyer?---Yes, he is. Yes.

20 And did you discuss with him what you and Mr Price had said?---Yes, I did.

Did he tell you what to say?---No, he did not.

Did his, do his remarks have any influence on the evidence you've given here?---No.

Why didn't you tell us when you gave evidence that, about Mr Price's involvement that your evidence was very vague or vague?---It was, it was my, my best recollection of what happened.

30 Yes. Yes, Ms Spruce.

MR BOURIS: I'm sorry, no questions.

THE COMMISSIONER: Ms Spruce, yes, no questions from Ms Spruce either.

MS SPRUCE: Mr Barnes, can I just ask you to look at the transcript of your evidence, page 922T. Have you got that page of the transcript?---Yeah, page 922T?

40

Yes?---Yep.

And do you see at the top of that page you are asked in relation to your conversation with Mr Mattern whether you recollect any of the details? ---Ah hmm.

Do you see that?---Ah hmm.

And that your answer is, "Not particularly?"---That's correct.

When you say that your recollection of the conversation with Mr Mattern and Mr Price is vague, is it that you don't recall the details of those conversations?---That's correct.

10 THE COMMISSIONER: But you weren't asked about, I withdraw that. What I'm interested is whether your recollection that Mr Price was there was vague not what the details of his conversation were?---My recollection of the whole situation is vague.

MR PAYNE: Commissioner, there are one or two matters arising, if I might have your leave to ask some questions?

THE COMMISSIONER: Yes.

MR PAYNE: Can the witness be shown P144, which is your statement, sorry, 114.

20 THE COMMISSIONER: Does Mr Barnes have his statement?

MR PAYNE: Open it if you will to paragraphs 17 to 18 which is what I'm going to ask you about, Mr Barnes. Do you remember we spent some time examining these paragraphs in your evidence on the last occasion? And just to refresh your recollection paragraph 17 the telephone calls that you received and you did tell me that your memory was vague about precisely when they were received but you had a clear recollection that they were implying to you that Mr Buckley was taking bribes and that was the evidence you gave on the last occasion. Correct?---No, that was my
30 assumption.

Yes. You inferred although they did not say taking bribes you had a clear recollection and I think you said you were quite shocked by it that they were implying and you had inferred that Mr Buckley was taking bribes. Correct? ---No, that's not my, that's not what I, I don't think I said beer at all. I don't think I would, did I say the word shocked? I don't believe - - -

40 I'll take you to that in a moment. In any event in relation to these conversations after each of them you informed your manager and you say you were pretty sure it was Mr Mattern?---That's my recollection, yes.

Understand. And then over the page you say, "I also told Jim Price and some of the audit guys about these phone calls." And the key thing I want to put to you is that you recalled when you made this statement, you recalled when you gave your evidence on the last occasion and you recall today that in discussions with Mr Price it was agreed that what you had been told in these phone calls was hearsay and nothing further could be done about it. Correct?---That's my recollection, yes.

And then - - -?---To the best of my recollection.

I understand that. I ask you to do any better than the best of your recollection?---Sorry.

10 But you agree with me that in that paragraph we've just, I've just shown you there is nothing about your recollection of Mr Price's involvement in that matter namely that these complaints were hearsay and nothing could be done about it but nothing there to suggest that your recollection is vague or faulty. Do you agree?---I may not have said it there but my, my, my recollection is what it is. That's, that's to the best of my recollection.

I understand that, I'm not suggesting that it's not your best recollection, in fact I'm putting to you that it is. Correct?---Okay. Correct.

20 And that you didn't say in the statement that there was any problem with your recollection about that matter, namely the discussion with Mr Price that these complaints which had been made to you were hearsay and that therefore nothing could be done about them. Correct?---Could you repeat that, sorry?

You didn't say anything in your statement about what is set out in that last paragraph 18 that I have taken you to about Mr Price and the discussion you had about these complaints being hearsay being based on any imperfect or faulty recollection did you?---I haven't said it there, no.

30 No. And when you gave your evidence, you've still got in front of you the transcript of your evidence?---That's what I'm reading from now. No, sorry.

Yes, that paragraph 18?---Sorry.

40 Go to the transcript and get page 924T, two pages on from what you were just taken to by your counsel. And let's just go through it together. I'm asking you questions about line 10. "If you think Internal Audit might be interested in the fact that you had formed the view although not in so many words you'd been told that Mr Buckley was taking a bribe." You asked me to repeat the question. I said, "Do you think in those ten years that your Internal Audit department might be interested in the fact that you had been told although not in so many words but by two or three constructors that Mr Buckley was taking bribes." And you said, "No." "You don't think Internal Audit would be interested?" "Not in hearsay conversations, no." Do you remember these questions and answers we had last week?---Yes, I do.

Looking down the page the Commissioner asks you a question. "You call it hearsay because it wasn't in writing." "Correct." Then the Commissioner asks you, "I think that you had within the team including Mr Price did you?"

And I think you say this in paragraph 18 if you want to look at that, "You told Mr Price you formed a consensus did you that unless it's in writing or there is further evidence", I take it by that you mean writing, "it was hearsay and nothing further could be done about it." You say, "That's how I recall the decision of the team, yes."?---That's, that's how, that's my recollection, yes.

And then I ask you, "Mr Mattern was involved in this discussion too was he?" Answer, "I believe he was." You see that?---Yep.

10

Do you agree with me that nothing in that evidence conveys that your recollection is vague or faulty. Do you agree?---Well, I believe he was, his, his, his, his, his, as obvious as what I can say. That's what I believe, that's how I recall it, yes.

And so far as Mr Price is concerned, in the question and answer above that, there is nothing to convey that you believed your recollection was faulty or vague about the matters I've shown you in paragraph 18 of your statement, do you agree?---Could you say that again?

20

There is nothing in this transcript, will you agree with me, that conveys any impression that your recollection is faulty or vague on the subject of discussions with Mr Price about the oral complaints being hearsay, do you agree?---That's how I, my recollection is that's what happened.

Exactly. But that's what the team got together to discuss, you'd had these oral conversations you tell us about in paragraph 17, correct?---Yes, yes, we have conversations all the time, yes.

30

And you raised it with the team and in particular you identify Mr Price as being a person you raised it with in paragraph 18, correct?---Well, that's, I, I felt I did discuss it with Jim, yes.

Yeah, I didn't suggest that to you, that's in your statement, isn't it?---Yes, yes.

And that's what you told the ICAC investigator - - -?---Yeah.

40

- - - when he came out to talk to you?---That was, that was my recollection, that I had discussed it, yes.

Was and remains your recollection I take it?---Yes, yes.

And at least on that matter, namely that you had a discussion with Mr Price about these telephone calls wherein it was decided that they were hearsay is something that you recollect as you sit here today?---(NO AUDIBLE REPLY)

You're nodding, you agree with me?---That's, that's my recollection. I thought I spoke to people about it and, yeah.

And on that topic, namely that you spoke to Mr Price and agreed that oral complaints were hearsay your memory's not vague, is it?---Well, this is five years ago, it's to the best of my, my recollection. That's what I thought occurred.

And you still think it occurred?---That's my best recollection, yes.

10

Yes. I have nothing further for Mr Price, Commissioner, Mr Barnes, I'm sorry, Mr Barnes.

THE COMMISSIONER: Mr Barnes, how long did you spend with Mr Millar in discussing your evidence that you were going to give today? ---We, we spoke on the phone. He rang to say that I'd been, I had to come back due to circumstances that have occurred on I think last Friday. He rang me.

20

What else did you discuss?---He just said that, I actually think Richard Keegan was, was on the phone as well and they said that due to matters that had been raised today you, you, you need to come back to clarify some, some information.

Did they tell you what the matters were?---What did they tell me, something to do with Mr Price not agreeing regarding a presence at a, at a meeting.

30

Is that all you discussed?---That's all we discussed, no, they also mentioned that they couldn't represent me anymore and that they would have to find further representation and that they would get back to me once they'd arranged that, arranged that representation.

Why was it necessary for two lawyers to be on the phone to just make formal arrangements like that?---That's my recollection of the phone call.

40

Didn't it strike you as curious to have two lawyers on the phone to just to make arrangements for you to come back to court?---Well, one, one, one, one lawyer from my understanding works with Sydney Water and the other one is a, works for Mallesons which is another, another firm, he was representing us when I gave - - -

And they both had to be on the line to make arrangements for you to come back to court and that's all?---No, no, it was just the phone call and I was, James rang and then Richard indicated to me what the circumstances had occurred and that I had to come back.

Yes. You may be excused?---Thank you.

THE WITNESS EXCUSED

[10.39am]

MR PAYNE: Commissioner, I recall Mr Price. I take it, Commissioner, as it's a transcript of the public hearing there's no need for me to tender that transcript?

THE COMMISSIONER: No.

10

MR PAYNE: Thank you.

THE COMMISSIONER: Would you swear Mr Price in again, please.

MR PAYNE: Mr Price, you have before you a transcript of what you said on the last occasion, last Friday?---I have my transcript.

If it's easier I'll give you a full copy?---If you don't mind, I'd like a full copy. It's okay, I'll, I'll work with this one. It's okay.

10 All right. Turn if you would to page 1072T. Do you have that?---1072T, yes.

At line 30, see the Commissioner asks you this question, "And you say he told you after his evidence that it was untrue". And you answer, "That's correct. That's correct." Do you see that?---That's right.

I want to suggest to you Mr Price that Mr Barnes never told you the evidence he had given was untrue. Do you agree?---I agree with that statement, yes.

20

And when you told the Commissioner that he had told you after the evidence - - -

THE COMMISSIONER: Do you want to, are you rising for some purpose?

MS WHITTAKER: I beg your pardon, Commissioner, I've been remiss. I should have, when I announced my appearance and sought leave to appear, requested that a Section 38 would be made in relation to this witness. As I understand it, and Commissioner, you would appreciate I didn't appear on the last occasion, such a declaration has not been made.

30

THE COMMISSIONER: No.

MS WHITTAKER: And I apologise to Mr Payne for interrupting.

THE COMMISSIONER: And are you seeking one now?

MS WHITTAKER: Indeed. I beg your pardon, I am.

40

THE COMMISSIONER: I have to tell you that evidence given when an order has not been made carries its usual weight.

MS WHITTAKER: Indeed, Commissioner.

THE COMMISSIONER: Yes. Ms Whittaker, when I talk to you do you mind standing?

MS WHITTAKER: Of course not, Commissioner. I apologise.

THE COMMISSIONER: That is the convention.

MS WHITTAKER: Indeed.

10 THE COMMISSIONER: I accept that you inadvertently did not ask for a Section 38 order and I have no wish for any advantage to be taken of such inadvertent acts. And I certainly won't wish to prejudice Mr Price in that respect. If you wish for what it is worth, I will make the Section 38 order retrospective to the commencement of his evidence this morning.

MS WHITTAKER: I would greatly appreciate that, Commissioner.

20 THE COMMISSIONER: Pursuant to Section 38 of the Independent Commission Against Corruption Act I declare that all answers given by this witness and all documents and things produced by him during the course of his evidence this morning at this public inquiry are to be regarded as having been given or produced on objection and accordingly there is no need for him to make objection in respect of any particular answer given or document or thing produced. For the sake of clarity, this order applies as from the commencement of Mr Price's order this morning, even though the order was actually made after he has given some evidence this morning. The order does not apply to the evidence he gave on the previous occasion.

30 **PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT I DECLARE THAT ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS AND THINGS PRODUCED BY HIM DURING THE COURSE OF HIS EVIDENCE THIS MORNING AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND ACCORDINGLY THERE IS NO NEED FOR HIM TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED. FOR THE SAKE OF CLARITY, THIS ORDER APPLIES AS FROM THE COMMENCEMENT OF MR PRICE'S ORDER THIS MORNING, EVEN THOUGH THE ORDER WAS ACTUALLY MADE AFTER HE HAS GIVEN SOME EVIDENCE THIS MORNING. THE ORDER DOES NOT APPLY TO THE**
40 **EVIDENCE HE GAVE ON THE PREVIOUS OCCASION**

MR PAYNE: Mr Price, I'm asking you questions about the answers you gave the Commissioner at 1072T?---Yes.

And you've agreed with me that after Mr Barnes gave his evidence he did not tell you that it was untrue. You agree with that proposition?---That's correct.

10 And when you told the Commissioner at line 30 in this transcript, 1072T that Mr Barnes had told you after his evidence that that was untrue, your evidence on that occasion was untrue. Do you agree?---He said to me that he was, he was mistaken. That he could not, he said to me, sorry, Jim, that he was mistaken, that he could not recall whether I was present at the meeting when he made, when he said that there was phone calls that he'd received. And I, and so basically I took offence to that because if he did tell me that there were phone calls, I would've said to him that we need report it.

Mr Price, let's be quite clear about this?---Yes.

On this page, 1072T?---Yes.

20 Have a look at line 20. I didn't ask you about any conversation outside the hearing room with Mr Barnes did I? You volunteered it. Do you agree? ---Yes, sir.

You volunteered it. I was asking you about a discussion with Mr Barnes and Mr Mattern and you at some time between 2004 and 2008. And after saying you, you did not participate in such a discussion, you volunteered and put it on the record here and now, Ian, walked out yesterday and apologised to say he could not recollect having a conversation. He apologised to me. Do you see that?---Yes.

30 You raised this matter. Correct?---I raised this matter because, because he said that I was present at a meeting.

And it was not responsive to the question that I asked you. Do you agree? ---Now, now I recollect that you were saying - - -

40 You were volunteering information as you put it, to put it on the record. Correct?---No, I did not put it on the record. I wanted to make it clear that Ian had made a statement I was saying that, that conversation did not occur. Ian did not tell me that he got phone calls from suppliers that were complaining about corrupt activity. And I just wanted to put that clear that Ian apologised.

Mr Price?---Yes.

Please attend to my question?---Okay.

With your permission I'll ask you again?---Yes.

You wanted to put it on the record that what Mr Barnes had said to this Commission was untrue. That's what you were saying wasn't it?---It was untrue that I was present at the meeting when Ian received the phone calls.

And you wanted to put on the record, you say, that Mr Barnes had admitted that to you outside the courtroom. Correct?---I was just telling you that Ian Barnes came out to me and said to me that he was mistaken and that he could not recall whether I was there or not.

10 THE COMMISSIONER: That's not what you said. You, you, at line 29 you accepted that what Mr Barnes had said was untrue?---That's right. It was untrue. I objected to Ian saying that I was present at a meeting where he had a conversation with Fred about phone calls that he had received about people ringing him and it's against my integrity to, to go ahead and, and if Ian would've told me that, I would've made an official complaint and followed it through.

MR PAYNE: Mr Price?---Yes.

20 Just so we're clear with one another?---Yep.

I want to suggest to you that what you've just told me is a lie. Do you agree?---No, it's not a lie.

We'll come to this in some detail. But I want to suggest to you - - -?---Yes.

- - - that when Farrell made an oral complaint to you, which you've told us about in your own statement?---Yes.

30 You went to Mr Mattern and told him and you agreed that it was a verbal and it would go no further. Correct?---That's not, that's not true. I took, I took, I took the, the verbal complaint from Mr Farrell and followed it through to my manager, Mr Saxby.

You took it to Mr Saxby did you?---I took it to Mr Saxby.

I see. Do you remember having a conversation with Mr Saxby about the complaint from Mr Farrell do you?---I remember feeding it to, the complaint to Mr Saxby. I asked Mr Farrell to put it in writing. He did not
40 want to put it in writing. So I then had, I had to follow my, my responsibility to forward it to my boss to say that I just received an allegation from Mr Farrell. That, and he, he has told me that Mr Buckley is receiving bribes. He does not want to continue along with it, making a formal complaint. I'm telling you as my manager, that that is what Mr Farrell has told me.

Do you tell the Commissioner on your oath that you had a conversation with Mr Saxby about Mr Farrell's complaint?---I, yes, I did have a conversation with - - -

10 What did you say to Mr Saxby?---I told Mr Saxby that, that I had received a complaint from Mr Farrell that a constructor by the name of Joseph Nasrallah had told Mr Farrell who's a WSC that Mr Buckley wanted bribes and he was holding up his job. And I told Mr Saxby that Phil did not want to continue on with it and if Mr Saxby could pursue it and that was my obligation. I called then my, my, my manager and that was my responsibility.

What did Mr Saxby say to you about this complaint of corruption you were bringing to his attention?---I'm not too sure about that, sir, it was taken out of my hands and I was hoping that Paul would've taken it to Internal Audit.

Did you have any, do you recollect Mr Saxby saying anything to you about this complaint you had made to him?---No, sir.

20 Can you point to a single piece of paper anywhere within Sydney Water recording your having received this complaint or having passed it on?---I'm sure that I had an email, I sent Mr, Mr Saxby an email.

You sent Mr Saxby an email about this complaint did you?---Well, I, I recalled it in a conversation, I recall, I recalled it in a phone call from Mr Farrell, I recall having a conversation with Mr Saxby and I also recall putting an email to Mr Saxby so that I had documented evidence and to this day I cannot find that email.

30 THE COMMISSIONER: Mr Bouris, I call for the email.

MR BOURIS: Nothing is known of it at present I'm instructed, Commissioner.

THE COMMISSIONER: Well, you better make inquiries.

MR BOURIS: Certainly, that's to be done.

40 THE COMMISSIONER: I want, would like a statement on oath that it doesn't exist if it can't be found.

MR BOURIS: Certainly some more evidence about the dates would be helpful.

THE COMMISSIONER: Yes.

MR PAYNE: We'll come to Mr Farrell and this complaint in a little more detail, Mr Price?---Yes.

There's nothing about this email in any statement you've made to the Commission. Do you agree?---No, it's not but I'm telling, I received a phone call which instigated the complaint from Mr Farrell in regards to how I reported it, I reported it to Mr Saxby that Mr Farrell had made a complaint that Joseph Nasrallah from Joseph Plumbing had paid bribes to Mr Buckley and I had a responsibility as a Sydney Water auditor to pass it on to my superior which I did.

10 To your knowledge what happened to the complaint that you say you passed on?---To my knowledge is I left it with Paul and that was confidential. I've got no, I've got no responsibility to ask for what he did with that and if he took it to Internal Audit that's confidential.

And you tell the Commissioner do you that you never heard anything about this matter ever again?---That's correct.

20 Including from Mr Farrell?---It, it, it wasn't, I don't discuss those things with Mr Farrell. Mr Farrell made that confidentially, that, that, that allegation confidential to me, I followed it through the, my manager and it was confidential, I left it at that.

Do you tell the Commissioner on your oath that you never had a conversation with Mr Farrell about his complaint after you had passed it on?---It's some time back, I can't, I'm not going to sit here, Mr Payne, and say to you that I honestly did not but it's hard to recall but I would say probably no.

30 Were you here in court when your senior counsel was cross-examining Mr Farrell about this conversation, Mr Price?---Yes, I was. Yes, I was.

Do you remember him putting to Mr Farrell a version apparently from you that Mr Farrell rang you and said in a sarcastic tone of voice, Thanks for passing the complaint on. Do you remember that?---Certainly do and it stayed in my mind, Mr Payne.

40 You told me not three questions ago that you never had any discussion with Mr Farrell about this complaint after you'd passed it on. You say now that you did have such discussion?---I'm saying, I'm saying that the phone call that I received from him I then, I then passed it on to my superior Paul. Paul, Paul then rang Mr Saxby immediately and immediately Mr, Mr, Mr Farrell rang me. So I'm referring to the same timeframe not going the next day or two days after I'm saying within about ten minutes of me reporting, having the phone call with Mr Farrell, Mr Farrell then letting me know, I let Paul know, Paul then let Mr Farrell know immediately after that and then Mr Farrell came back to me and said, Thanks very much, Jim, now I'm going to have to follow this through. So it's all in that probably ten minute window of that happening.

Mr Farrell said to you, Thanks very much, Jim, I'm going to have to follow this through. Is that what your evidence - - -?---No, well, again, Mr Payne, Mr Farrell said to me that, Thanks, Jim. He didn't like the idea of me going to Paul because he, he, again Mr Farrell wanted me to pursue the issue, Mr Farrell did not want to be the one who was the instigator of the issue. He wanted Sydney Water to take it up on his behalf.

Mr Price, I just want to be clear?---Yes.

10

You told me in an answer I think one question ago in this conversation with Mr Farrell he said to you, Thanks, Jim, and words to the effect, Now I will need to take this further. Is that what you say Mr Farrell said?---Well, I'm saying to you, I'm saying to you, Mr Payne, that Mr Farrell said to me in a sarcastic manner, Thanks very much for following it through to Paul because Paul's going to come to me and now he's now asking questions about what happened. So that, how he said it to me is, basically what he's saying to me is that you've now made me have to follow this through. And that was my, that was what I wanted to do is to make Mr Farrell be
20 accounted, make Mr Farrell follow it through so that we had strong, hard evidence. Mr Farrell was out there in the field, Mr Farrell witnessed that happening, I wanted Mr Farrell to come through and have clear understanding, clear documentation, clear evidence and it wasn't hearsay. I wanted to get this out in the open so that we had strong evidence, sir.

You've just told me you didn't want it to be hearsay. Correct?---I didn't want it to be hearsay, yes.

30

Because your understanding was wasn't it that verbal complaints were hearsay. Correct?---Verbal complaints, verbal complaints were, were rumours.

And thus hearsay. Correct? In your mind?---In my mind, yes.

Your word, you've just used it in an answer to my question?---They were, that they were rumours, they were, and hearsay unless people were willing to come forward in writing and make an allegation, make a commitment that they did witness something, yes, it was hearsay.

40

And that's been your view for some years as a Sydney Water employee hasn't it?---It has been, Mr Payne. And I've said to you before that unless you've got strong evidence and that people can back it up it's always been our belief that don't go somewhere where you've got no evidence and no back-up where people aren't willing to come forward you can be seen to be in a situation where you've got no hard evidence.

You've just told me that it's always been our belief, the "our" in that answer is your immediate team including Mr Barnes. Correct?---That's correct.

So you've had many discussions have you with Mr Barnes to the effect that oral complaints not in writing were hearsay and couldn't go any further. Do you agree?---Yes. When you say hearsay they were rumours but rumours are now second hand and there was nothing that we could go, no, no hard evidence that we could pursue because people did not want to come forward and make a commitment that these things were happening.

And just so we're clear?---Yes.

10

The conversation you had with Mr Farrell who regarded as hearsay unless and until it was documented. Correct?---No. Mr Farrell made a commitment to come to me and that is where I take that stance. If somebody makes a rumour I've got no evidence but if someone comes to me personally which Mr Farrell did that to me is saying that he's committed and he's telling me that something is going on out there and I have got a commitment then I will then follow that through and that's what I'm saying Mr Farrell came to me personally, it wasn't hearsay. Mr Farrell took the time out to make a telephone conversation to me, Mr Payne, and that's why I followed it through.

20

I thought you told me five minutes ago - - -?---Yes.

- - - that one of the reasons you were pleased when Mr Farrell rang you back was that he was going to have to commit himself and that what he was saying would no longer be hearsay. Do you agree that you told me that five minutes ago?---I may have said that but Mr Farrell was making an allegation, Mr Farrell said he witnessed things out there. I wanted him to make a commitment, follow it through so we had strong evidence that finally someone had come forward with strong evidence and it wasn't just a rumour.

30

And - - -?---Yes.

- - - unless and until he did that it was hearsay but you were pleased because he was going to be forced in your words to become fair dinkum, correct? ---He was going to be forced to provide strong evidence that we needed to say that this did occur.

40

And that strong evidence in your mind would be in writing because what he'd done to date was hearsay, correct?---Have it in writing but have a commitment from himself that he did witness that happening out in, in the field, he, he as a water servicing coordinator had first-hand knowledge of it happening and that the constructor and himself could come forward and give strong evidence that it did happen.

And your belief at the time - - -?---Yes.

- - - was that if it was a verbal, a verbal wasn't going anywhere, correct?
---A verbal wasn't going anywhere unless the person made a commitment to come forward and personally tell you. And it's always been my belief, Mr Payne, that verbal, you know, if people made a verbal and weren't committed to following it through that, that's my belief, yes.

Mr Price - - -?---Yes.

10 - - - I regret having to do this but I want to put to you that what you've just told me over the last 20 minutes or so is a pack of lies?---I don't, I don't, I disagree with you, sir.

When Mr Farrell rang you - - -?---Yes.

- - - you tell us in your own statement - - -?---Yeah.

- - - you tell us that what you told him - - -?---Yeah.

20 - - - this is a serious allegation - - -?---Yes.

You have a responsibility as a WSC to back up what you're saying and it is no good just making a verbal as verbal was not going anywhere, that's what you told him, correct?---That's correct.

30 That was your genuine belief I suggest to you?---No, it wasn't my, my, I said, I said to Mr Farrell that, that he needs to put something in writing, he wasn't willing to put it in writing so I followed it through. Mr, Mr Farrell was making a verbal call to me and I said you need to put it in writing. He did not want to put it in writing. I then had an obligation as an auditor and, and, to follow it through because Mr Farrell made that verbal, the verbal call to me personally so I followed it through to Paul.

Mr Price - - -?---Yes.

- - - do you, do you say on your oath - - -?---Yes.

40 - - - that when you told Mr Farrell it is no good making it verbal as verbal is not going anywhere you were lying to Mr Farrell?---I wasn't lying to Mr Farrell.

It was your genuine state of mind wasn't it that if what Mr Farrell was doing was making a verbal complaint, a verbal was not going anywhere, correct?
---Mr, Mr, again, Mr Farrell was making a verbal complaint, I asked him to put it in writing, Mr Farrell did not want to put it in writing so I had an obligation to go to my superior which was Paul Saxby and say to him that I had received a phone call and it was a verbal and that's what I call verbal, from Mr Farrell and I've, I've, I've said to Mr Farrell you realise the seriousness of this allegation, you need to put it in writing and he did not

want to do that so I then went to my superior and, and, and told my superior, Mr Saxby that he didn't want to continue on with it. So I, I went to (not transcribable) with it.

Yeah, he did not want to continue on with it?---Mr, Mr Farrell, Mr Farrell did not, Mr Farrell's verbal, he did not want to put it in writing and that's what I'm saying, he did not want to continue on with it. He was quite happy to pass it on to me and let me continue on with it but when I asked him to be committed and put something in writing he did not pursue it.

10

Let's just be clear?---Yes.

You went to Mr Saxby?---Yes.

Are you now telling him you told Mr Saxby that Mr Farrell does not wish to pursue the complaint, was that part of what you conveyed to Mr Saxby, do you say?---No, I, I told, well, I told, I said to Mr Saxby that I received an allegation from, I received an allegation from Mr Farrell that Joseph Plumbing reported that there was, that he had been asked for bribes from
20 Mr Buckley and, and basically that Mr Farrell, I asked Mr Farrell to put it in writing and he didn't want to put it in writing.

Did you tell Mr Saxby that he didn't wish to pursue the matter?---I probably did so, I probably did say that.

What did Mr Saxby say to you about that matter?---I'm not sure about that, sir, because I didn't speak to Mr Saxby about that.

THE COMMISSIONER: Is it true that he didn't want to pursue the matter?
30 ---It is, it is true that he wanted to just pass the information on to me, Commissioner, and not pursue the matter.

I thought he only didn't want to put it in writing?---Well, he didn't want to put it in writing, he, he did not want to be the so-called instigator, that he was the one who was making that, the, the allegation, Commissioner. He did not want to be the one that if it all came out that he was the one who started this.

40 He didn't want to be the official complainant?---He didn't want to be the official complainant, exactly right. His reputation was on the line.

He was scared?---He was scared. He, he was like everybody in Sydney Water, there was rumours around, Commissioner. Mr Farrell did not want to put the, the whipping boy so to speak.

MR PAYNE: You were here when Mr Farrell gave his evidence?---I certainly was.

And when Mr Farrell told the Commissioner that if he had been told by you that you had passed on the complaint up the chain within Sydney Water he would have been pleased, you tell the Commissioner that that was never conveyed to you at the time by Mr Farrell?---No.

You say he was displeased, do you?---I'd say that he did not want to, he did not want to pursue it, he wanted Sydney Water to pursue it and he was displeased that I went to Paul Saxby.

10 Doing the best you can - - -?---Yes.

- - - give us the complete conversation with Mr Farrell when he rings you back. What did you say, what did he say?---Mr Farrell said something to the nature that thanks, Jim, you've now made it, yeah, made it a bigger issue and I now need to follow it through. It's very difficult, Mr Payne, to recall those specific words, I cannot, you know, I can't go back that far, those words but I do recall Mr Farrell ringing me back and not being all that delighted in me making him the instigator that had to follow this through now.

20

But giving you to understand that he was pleased that it was going to be followed through, correct?---He didn't, he never gave me that, that, that idea that he was pleased that it was going to be followed through.

But it was your clear understanding after you had spoken that Mr Farrell, so far as Mr Farrell was concerned, his complaint was going to be processed within Sydney Water and he, Mr Farrell, would take it forward. Is that what you say?---No, what it was is I took it forward to Mr Saxby, whether it went forward or not I'm not too sure, yeah, I had no conversation with Mr Farrell where, where it went forward, what was happening, that was confidential. That was in the hands of my, my manager, Mr Saxby. I had nothing to do with it.

30

How many allegations of corruption have you reported in your time at Sydney Water, Mr Price?---One.

And you tell the Commissioner on your oath do you that you never once made an inquiry of Mr Saxby of what had happened to this one allegation of corruption you had passed on?---It's hard for me to recollect but I would, I would say that I left it in the hands of Mr Saxby and, and Mr, Mr Saxby would have taken it to internal audit and it was confidential, so I'm saying no, I don't, I, I can't recall asking Paul what he did with that, it was confidential.

40

Is the answer to my question you have, you deny ever speaking to Mr Saxby about the outcome of this allegation?---That's correct. I did not, yeah, I can't recall having a conversation in following that through with Paul. I followed my obligation and it was now with Paul.

If what you're telling me, Mr Price - - -?---Yes.

- - - is correct - - -?---Yes.

- - - Why did you say to Mr Farrell when he rang you, it's no good making it verbal, as verbal was not going anywhere? Why did you say that?---
Because again, Mr Payne, I wanted him to be committed, put something in writing. He was making a serious allegation. He was telling me that a
10 constructor that he was a WSC for had been, his job was held up, he was asked by John Buckley that, to, to make a bribe and, and that, I said to him, this is a serious allegation. You'll need to put something in writing so that we have got strong, hard evidence that when I take that to Paul or when you forward that to Paul, Paul can then take it to our, our auditors and we've got strong evidence.

You said to him though, verbal is not going anywhere. Was that true?
---Verbal is not going, that's right. My, I made that statement Mr Payne, verbal is not going anywhere because I wanted him to be committed with
20 coming forward with strong evidence.

THE COMMISSIONER: Was that true or not true? That verbal was not going anywhere?---Verbal was not going anywhere.

Is that a true statement?---Well, it is probably something that I did say to him.

I understand that?---Yes.

30 But, but was it true?---It probably was true. But there was a continuation, verbal was not going anywhere unless you back up. That, so, so that was - - -

Back up with a written document?---Back up with a written document.

MR PAYNE: So we're in furious agreement are we Mr Price, that when you told him a verbal is not going anywhere, that reflected your state of mind at the time. Do you agree with me?---Yes it did because on previous occasions, previous occasions there's been rumours out there, we wanted
40 some strong evidence and this is what the opportunity that the (not transcribable) was conveying.

And you told him and you tell the Commissioner on your oath you believed it to be true that if it was verbal it was not going anywhere. Correct?---No, that's not true. I'm saying sir, I'm saying verbal is not going anywhere unless you can back it up.

THE COMMISSIONER: So verbal's not going anywhere unless you provide a written document?---Unless you provide a written document.

And that was your state of mind at the time?---That was my state of mind at the time.

MR PAYNE: And you regarded a verbal complaint without backing of a written document, you regarded that as hearsay, as I think we've earlier agreed?---No, not necessarily. Well, if I had, if I had a, a verbal complaint
10 and it came to me, it came to me, conveyed to me personally, I would follow it through.

But you've just agreed with the question the Commissioner asked you - - -?
---Yes.

- - - that when you told Mr Farrell - - -?---Yes.

- - - that verbal is not going anywhere without being backed up in writing,
20 that was a true reflection of your state of mind. Do you now wish to withdraw that answer?---Yes. I was saying, I'm saying a verbal, I'm saying, I'm saying that Mr Farrell came to me with a verbal. I'm saying I want you to back it up. I still would've gone to my, Mr Saxby with the verbal, because me made a commitment to come to me personally. I'm saying, I then continued on and said to Mr Farrell, you as a senior SWC have got a role, a role to play here and back up what you are telling me.

THE COMMISSIONER: Mr Price, are you making, drawing a distinction between rumours which do not involve the identification of anybody who was asked to make bribes on the one hand - - -?---Yeah.
30

- - - and somebody who comes verbally to tell you that an inspector asked for bribes on the other?---Most definitely, sir.

MR PAYNE: I'll ask you again?---Yes.

Just so we understand?---Okay.

40 You agree that you told Mr Farrell when he relayed this complaint to you that a verbal is not going anywhere? Do you agree you said that?---I, I agree I said that, but not in that context. Verbal is not going anywhere, I still would've taken it to my manager, Mr Saxby, because he made that statement. I'm saying verbal is not going anywhere because previously we had known in Sydney Water that unless we have strong evidence, nothing was going to happen. I wanted Mr Farrell to be committed and follow it through with a, with a document that said what had happened.

So when you told him a verbal is not going anywhere - - -?---Yes.

- - - do you tell the Commissioner that you were lying to Mr Farrell do you?---No. That's not the case. I was saying to Mr Farrell, Phil, you cannot come to me on the telephone with a telephone conversation to me and make these allegations and then not back it up.

THE COMMISSIONER: You see Mr Price - - -?---Yes.

- - -the problem is that probably what's giving rise to all these questions - - - ?---Yes, sir.

10

- - - is, is the fact that you told, you say you told the person, I can't remember, who was it you - - -

MR PAYNE: Mr Farrell.

THE COMMISSIONER: Mr Farrell?---Yes.

20 You told Mr Farrell that in effect that oral, an oral complaint is going nowhere unless you back it up with a written document. But on the other hand you say that even though you didn't have a document you went to Mr Saxby. So there's an inherent contradiction there. And I notice that that's, that's causing the problem?---Okay, I totally understand. What I'm saying, sir, is there was rumours out there in the field and you've got no strong evidence.

No, I'm just talking, I understand that. I understand that. But this is the particular - - -?---Yes.

30

- - - contradiction in what you're saying - - -?---Yes.

- - - in what you're saying about what you, what you told Mr Farrell and what you did. Because you told Mr Farrell that an oral complaint without backing it up goes nowhere. Yet, you actually say that you pursued it by reporting it to Mr Farrell. So in this case, the oral complaint was taken further?---It was taken further because it was made personally to me, Commissioner.

All right. I think, Mr Payne, I don't think we'll get further.

40

MR PAYNE: I'll move on. Mr Price, it's correct isn't it that in the period 2004 to 2010, right up to the present day - - -?---Yes.

- - - that if one of the members of your team came to you and said, look I've just had this telephone conversation, nothing was said in terms, but I think that I was being told that somebody was soliciting a bribe. You would have said, well, they have to put it in writing because if it's not it's hearsay and we can't take it further. Correct?---No, that's not right. If someone told me

that I would've, I would've said to them that we have a responsibility to forward that to our senior management.

10 And do you say on your oath there was never an occasion when it was reported to you that somebody else within the team had a belief that they had heard bribes were being solicited and you discussed this question of whether it was in writing and whether if so it was hearsay?---We, we may have had, we may have had a conversation about that. But I'm saying it did not personally come to me. I did not, yeah, my, my, all the team may have discussions about that, but I, I, if that hearsay, if that did happen, well, yes, I was, I was at that meeting, yes.

20 I see. And if Mr Barnes was the person who had raised something that you regarded as hearsay, that's what you'd have told, namely it's hearsay and we can't take it further. Correct?---If it's, if it's hearsay and we didn't have strong evidence and hearsay is rumours, that our team was of the belief that we needed to have it in writing. But if someone came to, if someone said, if someone came to us and, or made phone calls or personally came to us and made phone calls about bribery, we had the commitment to follow it through.

30 If Mr Barnes told you that it hadn't been said in so many words that it was bribery, but that was his understanding, I take it you would've told him, Ian, that's hearsay and we can't take it further. That was your state of mind wasn't it?---That was my, that was my, no, my state of mind was that Ian, if someone's come to you personally, you have got a commitment to take it up. Similarly to when I go back to Ian saying about phone calls that he received. Ian would've, I would've advised Ian that he had a commitment to follow it through.

Well, this discussion about hearsay, that is one that you regularly in your team wasn't it?---Yes. They were rumours that we were hearing.

Rumours of bribery in relation to Mr Buckley. Correct?---Rumours that we were hearing, yes, and no one would, no one wanted to come forward. No one wanted to make a statement. They were all just second-hand rumours.

Well, let's just examine them for a moment?---Yes.

40 On how many occasions do you say you were told first, second, third or any other hand that Mr Buckley was taking bribes in that decade that we've just had?---It's hard to say but there probably would've been, probably would've been probably times that when I went to the External Quality Council, times when I went to WSC forums, Mr Farrell's complaint, there probably would've been about, and our audit team meetings probably would've been about six or seven times.

And on each of those occasions it was your state of mind wasn't it that without a written complaint that was hearsay and you couldn't do anything about that matter?---I had one complaint and that was from Mr Farrell. No one else was committed to come forward, no one wanted to get involved, nobody wanted to be committed to come forward, it was just rumours.

Well, the six or seven occasions you just talked about, the Quality Council for example you would hear people experienced in the field say things about Mr Buckley and bribery wouldn't you?---Yes.

10

You regarded that as hearsay and didn't take it further?---I, I was at the, I was at the External Quality Council with my senior managers, those things were discussed and it was in the hands of my senior managers to take that further.

Just so we're clear, Mr Price?---Yes.

I'm not suggesting that you're the person who's come up with this idea of hearsay I'm suggesting to you though that in your team you, Mr Barnes, Mr Mattern that is it wasn't in writing you regarded it as hearsay. Correct?
20 ---That's right 'cause hearsay to us was rumours.

Yes. And if it wasn't in writing you would regard it as hearsay and you didn't think that there was anything that you had to take forward. Correct?
---That's correct. Because again, and I made my statement that we, we were, we were led to believe in the early days that if we, we got involved in, in things that we had no evidence that we could be getting ourselves into deep trouble.

30 I understand, we've been over this?---Yes, okay.

There was bullying (not transcribable) and bullying policies?---Yes.

You went forward and you thought there were, I think you told me you had a duty of care to Sydney Water not to pass on complaints unless you formed the view that they were better than hearsay, i.e. in writing?---Yep.

40 And I want to suggest to you that Mr Barnes did have conversations with you over this period in which he told you that he had phone calls but nothing had been explicitly said to him about bribery but he thought that's what he was being told namely that Mr Buckley was taking bribes. And that it was agreed amongst your team, you didn't come up with the idea but it was agreed amongst your team that it was hearsay and regrettably nothing could be done about it. You agree?---That's not true. Mr Barnes, if Mr Barnes had told me that he had received phone calls I would've said to Ian that you have a right to follow that through similar to what I did with Mr Farrell. When Mr Farrell phoned me I had a right to follow that through with our manager and that is what I was saying to Ian that, that if you'd

said, if you'd said to me that you had phone, phone conversations with people making allegations about bribes that you had a commitment to follow that through and that is what, what I'm saying.

Can we just test that?---Yes.

You've agreed with me in relation to the six or seven matters that you'd heard in the field about Mr Buckley and bribery?---Yes.

10 You didn't take those forward because they were hearsay and you didn't believe - - -?---They were rumours, sir, yeah, rumours.

I'm sorry?---They were rumours, yeah.

You characterised them as rumours because they weren't in writing?---Yes.

20 Is what you are telling me that the critical difference in your answer about Mr Barnes is the characterisation of what he was told on the phone. So if you formed the view that what Mr Barnes was telling you amounted to no more than rumours you would've told him that was hearsay and you couldn't take it forward but if what he had told you amounted to bribery you'd have told him to take it forward. Is that what you say?---I'm saying when, when, when a, when a person, when a person makes a commitment to make a phone call to talk about that, that there's bribery taking place that we have a responsibility, that fellow has made a personal commitment to make a phone call to come forward we have got to, we have got, we have got an obligation to follow it through as the audit team.

30 THE COMMISSIONER: Is it necessary for that obligation to arise for the person making the phone call to say that the attempted bribery was made to me personally?---Well, that, by that person making that phone call, yes, we are hoping that that's what - - -

But if the person said to me, I know that there are other people involved in taking bribes and giving bribes not me but others are, I'm not prepared to put it in writing but I'm telling you this is happening and one of them is Mr Buckley would you do something about it then?---Well, again like I did with Mr Farrell, yes, and that's what I'll say (not transcribable).

40 You'd report it to your superiors?---I would report it to the superiors because the fellow has come forward to make a conversation, sorry, to make a complaint, he's put it to us with a phone call, he's committed, we've got a responsibility then to follow it through.

MR PAYNE: And on the occasions that you formed the view that what you had heard was hearsay did you discuss that with other members in your team?---We discussed rumours, yes. We discussed, we discussed a lot of things, we discussed, we discussed the number of cars John raised, we

discussed the number of jobs that John had, had stalled, we discussed a number of things and we discussed rumours out in the field but we couldn't get a commitment from anybody.

10 And when you discussed those rumours it was agreed amongst you I suggest that those rumours were your words hearsay. Correct?---Again hearsay to me is rumours, not strong evidence, no one was willing to come forward with a commitment, it was just that people would, people would just use that, people just say it tongue in cheek and not follow it through and you ask them to follow it through they wouldn't, they didn't want to go ahead.

And in those circumstances you wouldn't report it. Correct?---That's correct.

20 Because you asked them to put it in writing, they wouldn't do it, you thought it was hearsay, as a result of your training you thought that there was no point in passing that on because you'd get into the sort of trouble we talked about before with bullying and so on. Correct?---They were just rumours, sir. Again if people come forward to me and made an allegation I would then follow it through but when you've got second hand evidence it's very difficult to follow it through, no one wanted to be committed.

Mr Price, I just want to put some propositions to you. The first proposition is that you had many conversations with Mr Barnes on the subject of Mr Buckley when it was agreed between you that what you knew was simply hearsay and nothing further could be done about it. Do you agree with that?---That's right.

30 And I want to suggest to you that in those conversations on two or three occasions Mr Barnes told you that he'd been discussing something with a constructor, nothing had been said to him but that he, Mr Barnes understood that the constructors were saying that John was asking for a bribe and that you agreed that was hearsay and nothing further could be done about it. Do you agree?---These ones I'm sure you're referring to were the phone calls.

40 No, I'm just asking you a question. Do you agree that that happened?---If, if it wasn't made by a phone call, if it was just a general conversation that Ian and myself had, yes, but if it was a phone call that Ian was discussing that he had received I would've said to Ian that you have a responsibility now that that fellow has made a phone call to you personally to follow it through.

What's the difference between hearing it at the External Quality Council and hearing it on the phone, Mr Price?---Hearing it on the phone is someone personally speaking to you and making a statement to you, coming forward. Hearing it at the External Quality Council is basically it's being discussed.

External Quality Council is a forum that Sydney Water runs with senior people out in the field isn't it?---Certainly, yes, it is.

A serious forum?---It is a serious forum.

10 And you told me if you heard it there unless they would put it in writing you regarded it as hearsay and you wouldn't take it further. Correct?---That was in the hands of my managers. My, my, my managers, my managers had the responsibility, my managers were led to believe, I was led to believe by my managers that that was, that was, our auditors had been told, our internal auditors had been told about that at the, at the External, well, it was first brought up in the early 2000s that our senior managers were passed on to Internal Audit.

Who told you that?---Mr Saxby, Mr Purcell.

You have a clear recollection of being told by - - -?---I don't have a clear recollection but I was led to believe that that's what was going to happen.

20 And you say on your oath that was by Mr Saxby and Mr Purcell?---Well, I don't, I'm not going to say on my oath but I was led to believe that.

Well, I'm trying to understand, you're giving evidence, Mr Price?---Yes.

You just volunteered this to me, who told you that these complaints made to External Quality Council had been passed onto internal audit?---I was led to believe that by my manager, Mr Purcell.

30 You're nodding somewhere, you're nodding at Mr Purcell, are you?---I believe, yeah, I believe that Mr Purcell passed them onto internal audit.

You mentioned Mr Saxby before?---Yeah.

Do you recollect any conversation with him about having passed on complaints about Mr Buckley and bribery to internal audit, do you remember being told that by Mr Saxby?---No.

I'm sorry?---Can you repeat the question again then?

40 Do you remember being told by Mr Saxby - - -?---Yes.

- - - that he had passed on complaints about Mr Buckley and bribery received at External Quality Council meetings to internal audit?---No, because I did not go there, sir.

I'm sorry?---I did not go there, I did not pursue the issue with Mr, Mr Saxby.

So what you told me a moment ago about your state of mind when you heard these things - - -?---Okay.

- - - at External Quality that you - - -?---Yes.

- - - that understanding you got from Mr Purcell you say?---Well, Mr, I'm trying to recall now whether he was my boss at the time but I know Mr Purcell and Mr Saxby were, were there at the time and I know that they are my superiors and if something needed to be taken up it wasn't my duty to take it up, sir, that my managers had, well, my superiors, they had the obligation to take it up. I did not discuss that with them and I cannot recall whether, but I know that I was there at those meetings and privy to people making complaints.

And you think on, what, six or seven occasions you heard complaints about Mr Buckley and bribery from between 2000 and 2010 at either this External Quality Council or water service coordinator forums, is that what you say? ---In some of the cases, not six or seven times at the External Quality Council but in, in, on the top, there was times that that was mentioned at the WSC forum and at the External Quality Council but we did not, we did not keep discussing those issues because when it was first taken up we were led to believe that it was addressed and it was being looked into and it was confidential.

So you did not regard what was said at External Quality Council as hearsay, you regarded those as serious complaints and you understood your managers were taking them forward, correct?---I would have hoped that that's what they were - - -

Well, I'm asking for your understanding. Is that what you thought was happening?---Well, again, again it was just WSCs coming forward saying that, that John Buckley is taking bribes and my understanding was that, that our management were going to take it forward.

And so you remember senior representatives of constructors or WSCs at these External Quality Council meetings making a direct oral allegation that Mr Buckley was taking bribes, do you?---They were just making a, they were just making a statement that they, they believed that Mr Buckley, Mr Buckley was taking bribes, yes.

And you thought that was a serious complaint, not hearsay?---That's correct.

And your understanding was that your senior managers, Mr Saxby and Mr Purcell, were taking those matters up with internal audit?---That's correct.

Were you ever present at External Quality Council meetings when there was a report back from any person within Sydney Water about the outcome of any investigation Sydney Water had conducted?---I can't recall being at that meeting, no.

I want to suggest to you, Mr Price, do you still have your transcript from last Friday in front of you?---Yes, I do.

10 I want to suggest to you that when you told the Commissioner at 1072T that Mr Barnes had told you that his evidence had been untrue that what you, what you said there was deliberately false, do you agree?---No, it wasn't deliberately false.

I suggest to you that you were trying to distance yourself from Mr Barnes and his evidence and to accuse him of having admitted to you that his evidence that he had given this Commission was untrue, would you agree? ---That's not correct, that's not true.

20 What did you mean in answering the Commissioner's question, "You say that he told you after his evidence that was untrue," you answer, "That's correct, that's correct?" What did you mean to convey to the Commissioner in that answer?---I mean to, I meant to convey that Ian's, Ian's answer that he had received phone calls from suppliers out there in the field about bribes and that then he had discussions with myself and Fred and I said to him, and then Ian said to me, Sorry, Jim, if you weren't there and I must have been mistaken and I said, Yes, I was not there.

30 And you were accusing Mr Barnes in that answer of having confessed to you that his evidence was untrue, weren't you?---Well, that's unfair. I was just saying to Ian that you've, you've, you've put my name, you've put my name into a meeting that I do not have any recollection of being there and Ian came out and said, Sorry, Jim, I must, if I've inferred your name I must have been mistaken.

40 I suggest to you, Mr Price, that you were trying to put, paint Mr Barnes in the worst possible light, do you agree?---No, that's not true. Ian is a work colleague of mine and Ian and myself have worked together, I'm just saying to you that Ian has made a statement that he received phone calls from suppliers and he conveyed it to me, I'm saying he did not convey it to me. Ian walked out of the room and said to me, Sorry, Jim, I did not know whether you were there or not and at the time I was taken aback because, you know, it's something that didn't happen.

I want to suggest to you - - -?---Yes.

- - - that that evidence that you've just given is also untrue?---That's not true.

I want to suggest to you that Mr Barnes never told you his evidence was untrue?---Mr Barnes, Mr Barnes came out and said to me, sorry Jim, I may, I may have been mistaken. Now, mistaken, okay, untrue was probably a wrong, is a, is a wrong word to use. Mr Barnes said to me he was mistaken that he could not recall whether I was at the meeting or not and if I was, if I wasn't, he's apologised to me.

10 When you told the Commissioner that Mr Barnes told you after his evidence that the evidence was untrue, that was a lie, wasn't it, Mr Price?---That, that, that's a big statement there, untrue. Ian said mistaken.

And so when you agreed at transcript 1072T line 31 with the Commissioner's question, "And you say he told you after his evidence that was untrue," just so we're clear, I'm suggesting to you that your answer, "That's correct, that's correct," was a deliberate lie, Mr Price?---No, it's not a deliberate lie. Ian conferred to me that he was mistaken.

So when you, when you said, "That's correct, that's correct" - - -?---Yeah.

20 - - - you were intending not to agree with the word untrue, were you?
---Untrue's probably, untrue was probably, looking back, Mr Payne, is probably a harsh word to use under the circumstances. I was taken aback by what Ian had, Ian had said, Ian had actually said that oh, he informed me of, of phone conversations that people had rang and I was taken aback by that so at the time when, oh, at the time I wasn't too happy about it so untrue is probably a strong word to use. Ian conferred to me that he was mistaken.

30 You brought this up, Mr Price and you were given the opportunity to address this and you said that's correct, that Mr Barnes has told you his evidence was untrue, do you see that?---Yes. He told me that he was mistaken and I took mistaken as being that it wasn't truth, that he could not recall whether I was there or not so it wasn't true because I wasn't there.

THE COMMISSIONER: As I understood Mr, the thrust of Mr Barnes' evidence today - - -?---Yes.

- - - he didn't say to you, according to him - - -?---Yes.

40 - - - that he was mistaken, he said if you weren't there then I was mistaken, that's different, isn't it?---Yeah, sorry, yeah.

Which of the two did he say to you?---He said to me that basically that he could, he could not recall that, yeah, I was there, he was mistaken and I took, I took, I sort of probably took offence to that in a strong way.

Are you saying that he, he made the blanket assertion to you that in saying that you were there he was mistaken?---That's exactly right.

MR PAYNE: Mr Price, look over at 1073 of the transcript. I gave you this opportunity last Friday to tell the Commissioner precisely what was said. You see that at about line 15. I said, "Use his words", or, sorry, the Commissioner said to you, "Use his words more or less." Do you see that?
---(NO AUDIBLE REPLY)

Do you see that, Mr Price?---(not transcribable)

Yeah, 1073T?---Yeah.

10

Look up to about line 15, halfway between 10 and 20. The Commissioner is asking you some questions?---Yes.

He says, "Use his words more or less."?---Yes.

That's the conversation- -?---Yeah.

- - -between you and Mr Barnes?---Yes.

20

You say, "Yes, he said to me, 'If I didn't speak to you about the, the matters in relation to the bribes taken out in the field, I'm terribly sorry.'" And you said, "You never spoke to me about incidents." And he said, "I apologise." Do you agree with me he said to you, on your own version last Friday, "If I didn't speak to you, I'm sorry."?---That's exactly right.

He never said to you, I don't recollect it, did he?---He, he said to me that he, he apologises because he can't recall whether he, whether I was at the meeting or not that he had with Fred, and that it what made me infuriated that he was using my name at something that I knew that I wasn't there.

30

THE COMMISSIONER: Mr Payne, I think that this is, we've had enough of this topic.

MR PAYNE: Yes, Commissioner. I have no further questions.

THE COMMISSIONER: Yes, Ms Spruce?

MS SPRUCE: I don't have any questions, Commissioner.

40

THE COMMISSIONER: Yes. Mr Bouris?

MR BOURIS: Yes, I have something. Mr Price, I'm the barrister representing Sydney Water in this matter. You understand that. Now, you gave some evidence this morning about communications with Mr Saxby about the matter of the complaints you'd heard about Mr Buckley from Mr Farrell?---Yes.

When do you say that you forwarded that information on to Mr Saxby approximately?---Yes.

When was that?---That's probably around 2007/2008, but I can't recall how long ago it was.

THE COMMISSIONER: Is that your email?---I'm, I'm, again, I'm dead certain that it was an email.

10 At that, in 2007 or 2008?---Yes.

MR BOURIS: Can I ask you this?---Yes.

Was there also a conversation you say you had with Mr Saxby as well as an email?---I can't recall having a conversation with Paul. I put it through to Paul and let Paul take it up using his powers.

20 THE COMMISSIONER: What happens to your emails, do you print them out, are they printed out at regular intervals?---Ah, probably in situations like this they should have been printed out so you had strong hard evidence but- - -

What happens to the, what happens to the hard copy that- - -?---They get saved, they get saved on discs, they- - -

But do you print it out?---No, I don't. Well, sometimes, yes, I do print it out and, and, and, and keep it as a, as a ah, hard cover document, yes, hard, hard copy.

30 Do you keep it in a file?---Sometimes I do, yes.

Did you do it to this email?---I can't recall that, sir, no, otherwise I'd have it here today.

So the emails that you do send, are they recorded and kept on hard disc? ---That's correct.

40 Where is the hard disc kept?---It would be in our head office, in our, well, I think it's in our Homebush IT section.

MR BOURIS: You have said to the Commissioner on a number of occasions, Mr Price- - -?---Yes.

- - -that you regarded matters of complaints concerning corrupt conduct very seriously?---Yes.

And you regarded those as essentially confidential and you thought, you're nodding assent, so yes for the transcript?---Say that again, sorry, I, I- - -

You should say yes for the transcript.

THE COMMISSIONER: When you agree with something, would you mind just saying yes, because it has to be recorded in the transcript?---Sorry, sorry, I- - -

MR BOURIS: You regarded matters of complaints concerning anyone indeed as confidential matters within Sydney Water?---Yes.

10

And that they should be limited to a relatively small group of individuals? ---Yes, internal audit.

I was going to ask you, within your understanding, what individuals would you consider those such complaints ought to be limited to?---It would be my superiors and internal audits.

And your superior at the time was Mr Saxby, you say, that's in 2008? ---That's correct.

20

He was the manager in charge of your area?---That's right. Yes.

Now, can I ask you about the email system, just in terms of how you sent and received emails at that time. Was it the case that anyone else would have direct access to emails either that you sent or that you received at that time?---Not really no. No one had direct access. Only our IT people had direct access.

30

There was no system for example of your emails being copied to your manager or to some other manager within your area?---We could just forward it over to our, to our appropriate manager.

But there was no automatic system- - -?---No.

- - -whereby it was copied?---No.

40

Right. Do you know anything about the system whereby those emails are put on disk? Do you know if that occurs on a daily basis, weekly basis or - - -?---I'm not too sure, but I know that it would be, that our, I think it is on a daily basis, it gets run overnight for the, the, the, the information that's been put in during the day. It gets run overnight as a backup, yes.

And you didn't print out a copy of this email to your recollection?---No.

Do you recall at all, doing the best you can- - -?---Yes.

- - -what you said in that email to Mr Saxby?---Yes. I said to, to Mr Saxby I received a, a, an allegation from a WSC, Mr Phil Farrell, that a constructor

by the name of Joseph Plumbing, Joe, Joseph Nasrallah, had, had made a complaint that ah, that he had received some, a bribe or paying money to Mr Buckley and, and I, to that nature. And that's what I, that's what I forwarded over to Mr Saxby.

How often would you have seen Mr Saxby at that time during the course of a working day at Sydney Water?---A couple of times, but I didn't have a lot of dealings with Mr Saxby.

10 Where were you located?---I was located in, in a, on the same floor but in a different ah, different location, not, not where his office was located, no.

Did you, after forwarding your email- - -?---Yes.

- - -go and have a conversation with Mr Saxby and told him that you'd sent him an email?---Not that I recall, no. I - - -

20 Did you go and have a conversation with Mr Saxby and repeat to him the contents of that email?---Not that I recall. I, I, I basically just take it, took it that Mr Saxby had received it and it was, and Mr Saxby, as the senior manager, was going to follow it through ah, as, as the senior manager. And I did know that Mr Saxby did get the email because Mr Farrell rang me back because Paul reacted from my, my email.

Now, you said that this was the first time, the only occasion when you sent an email to anybody about (not transcribable)?---Yeah, that's exactly right, the only time.

30 THE COMMISSIONER: Well, I think you said that is the only report you've ever made of corruption?---That's the only, that was the first time that I made a - - -

Either oral or by email or in any other way?---That was the first report that I had had.

40 MR BOURIS: Given that fact, was it not something that you thought you might talk to Mr Saxby about or that you would want to talk to him about? ---Probably in hindsight, and it's hard to go back, but again, it's confidential. I forwarded the email to Mr Saxby, Mr Saxby being a senior, my senior manager, it's up to Mr Saxby to do what he, what he does with it. It's not for me to have a conversation and tell him what he needs to do with that email or that conversation that I had with him. It's not for me to do that, no.

I wasn't suggesting you tell him what to do with it- - -?---No.

- - -but that you would talk to him about it?---Yes. Well, maybe in hindsight, yeah, I could have, I could have spoke to him about that but I don't think I did because I, my email said it all, I didn't have to.

But you understand the system can be confidential in the sense that Mr Saxby could not tell you the outcome of his inquiries or any investigation he might institute into that allegation?---Mr Saxby and myself were on the external quality council and we knew that these so-called allegations were being bandied around, so I, I, Paul and myself had ah, had that, those
10 conversations previously so both Paul and myself knew where I was coming from and I knew where he was coming from and I knew that Paul would have taken it further because this was something that we wanted to ah, this was like a starting point that we had strong evidence.

That wasn't quite my question which is, I'll put it another way?---Okay.

Did you have an expectation that Mr Saxby could not report to you the outcomes of any investigation he might institute?---No, I didn't, I did not have that expectation but I believed that it was confidential the information.
20

Was it confidential from you is my question?---No, no.

So he might've done so and you had no reason to think that he would not would you say?---That's, that, that's right, he may have done so, I can't recall back, back then but all I know is, sir, that I passed it on to him and that he had the responsibility to follow it through.

You don't believe you need hard evidence, I think you used that word in your evidence this morning, before reporting an allegation or corruption to your superiors do you?---If someone comes to me personally which Mr Farrell did I would then follow it through which I did. I then requested Mr Farrell to provide us with a commitment with some documented evidence that was in black and white so that we could then pursue it.
30

But you understood at that time didn't you that hard evidence which was your words included a direct report to you of possible corruption?

THE COMMISSIONER: I think you might explain what you mean by direct report?
40

THE WITNESS: Yes.

MR BOURIS: Well, within your understanding of the concept hard evidence Mr Farrell reporting to you that a named individual constructor had been the subject of fraudulent practices by a named individual production employee Mr Buckley would you regard that report direct in that sense that I've used as hard evidence from Mr Farrell?---Most definitely.

You wouldn't require hard evidence to be evidence from Joseph's Plumbing, Mr Nasrallah would you?---I would've liked to have seen some hard evidence from him as well.

Yes, you would've liked to have seen it but it's enough that Mr Farrell told you?---But that's not, but that's not - - -

THE COMMISSIONER: Enough for what?

10 MR BOURIS: Enough for the matter to be reported further by you? ---That's not for me to, to, to report on. Mr, Mr Farrell came to me on behalf of his constructor who he was the WSC for, he was the project manager for, he was representing Joseph Nasrallah and I was taking, I was following through what Mr Farrell has passed on from what he heard from Joseph Nasrallah.

All I'm saying is if I put it another way is that you didn't need Mr Nasrallah to say or to give you a report as well as Mr Farrell did you?

20 THE COMMISSIONER: To hand it on further?---No, that was Mr Farrell's obligation to do that.

MR BOURIS: You didn't need two reports, one for Mr Farrell, one for Mr Nasrallah before you would hand it on further did you?---I wanted, I wanted, that's right, yeah, I left it in the hands of Mr Farrell for Mr Farrell then to gather the information from Joseph Nasrallah and forward it to Sydney Water upon investigation.

30 It wasn't your understanding was it that there was any practice or policy within Sydney Water that you knew about that required complaints of possible fraud or corruption to be put in writing?---That's, that's correct, there wasn't, no.

Have you attended training courses where those matters have been discussed within Sydney Water at any time in the last ten years?---Sorry, I go back, yes, I have, I have received some training.

40 Do you recall when that was?---Probably right through, right through my, my career but there was nothing about how to really deal with corruption.

But there was general information given to you about ethical behaviour? ---There was, there was general information and a lot, a lot, a lot of the things that did come out were saying that, and I go back to our anti-bullying policy, don't go, don't get involved in something that you haven't got strong hard evidence to back up because - - -

THE COMMISSIONER: I don't understand an earlier answer you gave to Mr Bouris?---Okay.

I may have misunderstood your evidence, Mr Price?---Sorry. Yes.

But I understand your evidence to be generally until that answer to Mr Bouris that it was a firm policy of Sydney Water that you would not act on what you called hearsay evidence?---No, no. Can you, yeah, can you repeat that?

10 Well, I understood that it was the firm policy of the unit for whom you worked that without - - -?---Strong evidence.

Strong evidence or without evidence that was not hearsay evidence you would not take the matter further?---That, that's exactly right because we - - -

And that was a policy?---It, it wasn't a policy but the anti-bullying, bullying policy - - -

20 Well, it was a practice?---It was a practice to say that when you're out, when, when, if you're out there having a one-on conversation, one on one with a conversation don't get involved in, in, in, in getting yourself in a situation where you could be bullied or it can be taken out of context. And in this situation when someone made a statement about, second hand we were told don't get involved unless you've got strong evidence.

MR BOURIS: Who was it that told you don't get involved unless you have strong evidence in relation to bullying?---It, it, it was just, it was a policy.

30 THE COMMISSIONER: Not only, I understood your evidence to be and please correct me if I'm wrong that you were told and it was the policy or the practice that you would not get involved or take further any allegation of bribery unless it was hard evidence and not hearsay?---That's right. Unless it was hard evidence, unless someone came forward with a commitment - - -

You wouldn't take it further?---We wouldn't take it further unless they had a commitment with strong evidence and back-up data but if it was second hand or rumour, yeah, we were, we were led to believe don't get involved.

40 MR BOURIS: Is this the position that by strong evidence or hard evidence and someone having a commitment as you put it is this what it means that an individual comes to you or to anybody - - -?---Yes.

- - - and that individual has a direct knowledge of conduct that affects that individual or someone who that individual represents such as a developer do you regard that as strong or hard evidence?---I'm saying a strong commitment that they're willing to, to, to back up, put something in writing, if they were then queried or for want of a better word interrogated that they

had strong enough evidence that they would, that they could be committed to follow it through.

My question is not so much about a strong commitment or about strong evidence - - -?---Strong evidence (not transcribable).

10 - - - (not transcribable). What is strong evidence is your mind someone like Mr Farrell who acts in the interest for this purpose and reports on behalf of a developer and knows things from the developer do you regard or did you regard that at the time as strong evidence?---I did regard that as strong evidence because what Mr Farrell was telling me was that a bribe had taken place and I've got a lot of respect for, for, for Phil Farrell and I would like to think Mr Farrell's got a lot of respect for me and I was taking it that what Mr Farrell was telling me was the truth so I just wanted Mr Farrell to follow it through.

Can I suggest this to you - - -

20 THE COMMISSIONER: Sorry. You wanted him to, Mr Farrell to follow it - - -?---I wanted Mr Farrell to be committed to, to, to make the, to make that allegation in a written document to say what had happened.

MR BOURIS: Can I put this to you?---Yes.

You've used both expressions. You've referred to strong evidence, you've also referred to a strong commitment on the part of the individuals reporting alleged corruption like Mr Farrell?---Yes.

30 Can I suggest to you that strong evidence on the one hand is different from an individual having a strong commitment to present whatever evidence that individual has. Do you agree with that?---That's true.

So do you agree with me that an individual might have strong evidence and yet have no commitment to taking it further, be terrified of taking it further?---That, that, that, yeah, that's right, that could happen, that would be terrible if, if he did that.

40 In most circumstances, you would according to your duties of employee that audit area within your division of Sydney Water, you would report that further would you not, even if you didn't have a strong commitment as I described it in my last question?---If, if, if it did come through, if it did come to us, if that person did come to us to say that, that he had evidence, we would've followed it through.

THE COMMISSIONER: But that person being the contractor?---That person being the contractor if, if I was out in the field or he had a conversation with me, I would've followed it up.

MR BOURIS: But I suggest to you that if a water services coordinator came to you as Mr Farrell did - - -?---Yep. Yes.

- - - with evidence that a contractor had told him that bribery was taking place - - -?---Yes.

- - - and Mr Farrell or a person in his position had no strong commitment, you would still regard what he told you as strong evidence would you not?
---I would because he is making an allegation to me. I've got a
10 responsibility to forward that through. It's up to our internal audit to follow that through, to investigate that.

THE COMMISSIONER: Even though you had no, no strong commitment to provide you with any evidence in writing or any - - -?---Yeah, but if he made, if he made that, if he made a call, a statement, I had a, I had a responsibility to forward it.

MR BOURIS: Have you ever considered, and I don't mean this critically,
20 have you ever considered that in some circumstances you have the ability to report matters yourself to the Independent Commission Against Corruption, for example, when you suspect bribery or corruption?---I've said this before and I'll say it again. We were never ever trained in that. We're not policemen. We're not out there to be cowboys to be Rambo's and get ourselves involved in corrupt activity. In hindsight, it's a wonderful thing now what we know. But going back to 2000 when this happened, we weren't trained in that and it, it's something that happened that, yeah, we didn't want to get involved in.

I'm not putting to you that you should've done it, Mr Price?---Yes.
30

I'm just saying is what you thought about ever?---Again not really, no.

Now, it's not the case is it that at any of these training session you attended anybody said to you that any particular sort of evidence was required before you would report corruption to your superiors. You say they didn't go into that topic at all, what evidence you need. You wouldn't of expected them to do that in the sessions you attended either would you?---If they did attend and if it was in some sort of document, it probably would've been there.
40 But it wouldn't of been, it wouldn't of been going on talking about, talking about that, no.

Now, and at none of these sessions involving your training in the areas you've given evidence about this morning was it said to you that complaints had to be in writing before you would forward them to your superior was it?---There were some, there were some documents that did say, yes, have it writing. Yes.

Do you recall what those documents were about?---Oh, I can't recall. But I

do, I do know that there has been some documents in Sydney Water that says that you must have some strong evidence in writing. Because there's a
- - -

Strong evidence before doing what? Do you recall?---Yeah, you need to have, to have, to get, get evidence in writing to back up what, what, back up what, yeah, back up any evidence that you've got in relation to any corrupt activity.

10 Are you quite sure about that? A moment ago you told the Commissioner that you're not a policeman. It's not your job. It wasn't your job to collect strong evidence or any sort of evidence was it?---That's exactly right. I made the statement that, yes, we weren't a policeman. That's exactly right.

So it would be unusual would you not agree with me for some document to contain a statement that you would have to have strong evidence before referring a matter of corruption or bribery to your supervisor?---Okay. I see where you're coming from there. I had a, yeah, we had a, there was a document there that said that if, yeah, if allegations have been made in
20 regards to corruption that you had to have something in writing. Not so much corrupt, but if some, if something was happening where people were being bullied or, or people were being told, were being harassed or whatever, that you had to have a commitment and put something in writing.

That was something that you had to put in writing not the complainant. Is that right?---Oh, well, the complainant as well.

As well as you?---Well, no, sorry, the complainant had to put in writing.

30 But I thought you said earlier in your evidence that you would act upon a complaint that was not in writing and report that complaint of bribery or corruption to your superior?---Oh, that's exactly right, 'cause I had an obligation 'cause it was made to me personally.

Now if that's the case then do you say that there was some training you received or a document you saw that said to you that you needed to have something in writing before reporting to your superior?---This, this is a long time ago. I, I don't read every document that goes, but I know there is, there is a document there that if you're accusing somebody of something or
40 whatever, that you should do your level best to have a, have it in writing to back it up what you're saying.

You say that them, that that document you saw said something like you should do your level best to have something in writing?---No, no, no. Yeah.

It didn't say that?---No.

Did it say, I'm sorry, did it say you must have something in writing?---No. It said, it said that if, if, it said something to the words that you must have something, yep, if you're making a complaint it needs to be in writing.

Sorry, if you're making a complaint, is that you or an outsider?---No. That, if an outsider is making a complaint you need to have this, you need to have strong evidence and it needs to be in writing. And again - - -

10 (not transcribable) what happens?---Well, it's enough evidence to, it's enough evidence to, to, it's in black and white.

What do you need this evidence for? Sorry, Commissioner?---Well, if someone is, if someone is making an allegation, you want to, yeah, you've got to have, you've got to have some evidence to back that up.

THE COMMISSIONER: To do what?---To be able to have a, to be able to have a, yeah, if someone, yeah, you've got evidence to back up if someone's - - -

20 To do what, Mr Price? To report it to your superior or what?---Yeah, to report it to management.

MR BOURIS: Now you can't recall as you sit there - - -?---Yeah, okay.

- - - whether that was in relation to corruption, bullying, fraud or something else can you?---Yeah. This is, this is a long time ago. And it's probably got nothing to do with, with what I'm talking about with Mr Farrell.

30 THE COMMISSIONER: Well, I gather that that was, whatever was said in the written document, by the time these events with Mr Buckley and others - - -?---Yes.

- - - were taking place, your understanding was that you needed something in writing before reporting to the manager?---That's exactly right. Our training was very limited in those policies. And if it was something in there, it was very limited. It wasn't portrayed to us in the manner that, that we accepted.

40 MR BOURIS: In 2007/'08 when Mr Farrell contacted you - - -?---Yes.

- - - did he put his complaint in writing?---Mr Farrell made a, made a phone conversation, had a phone conversation with me. I wanted him to put it in writing.

You've never suggested anywhere in your evidence, indeed you suggest the opposite that it was never put in writing. Isn't that so?---That's exactly right. That's why I wanted, again, I go back to a commitment, that's why I wanted a commitment from Mr Farrell to put it in writing so that we had

strong evidence that the activity out there did occur and that Mr Nasrallah was going to come forward to Mr Farrell. And there wasn't going to then be this perceived idea that, did it happen or it didn't happen. That we had a strong commitment that it did happen, because Mr Farrell followed it through.

THE COMMISSIONER: Mr Bouris, this topic is close to being exhausted.

10 MR BOURIS: Yes. I have been giving it some fresh face, your Honour, but I accept - - -

THE COMMISSIONER: Yes, fresh faces do not inject freshness into the point. I wish it were the case, but it doesn't. The point is, the point is exhausted, Mr Bouris.

MR BOURIS: I'll move on to another point. You gave some evidence that you thought you did say to Mr Saxby on this occasion, 2007/008 that Mr Farrell did not wish to pursue the matter. Do you remember giving that evidence this morning to Mr Payne?---Yes, I did. This was a long time ago.
20 I'm saying yes, Mr Farrell gave me the impression that he wanted me to forward it on. That he did not want to be the one who was the instigator and if it did come out that it would go back to Mr Farrell as the one that, who blew the whistle.

Just one final question before I exhaust that topic, Commissioner, no one from internal audit - - -

THE COMMISSIONER: Were you just, are you just teasing, Mr Bouris?

30 MR BOURIS: I've not been accused of that, Commissioner.

THE COMMISSIONER: I thought you were going to say it's your last question.

MR BOURIS: As I said it it occurred to me, that's why I added the suffix. The point is, the point of my question I should say, Mr Price, is that no one from internal audit ever said to you that it was a practice or a policy that Sydney Water insisted upon that complaints of fraud or corruption from an outsider have to be in writing?---That's correct and I regarded them as, as,
40 as a confidential body that would only deal with them personally, they wouldn't come to us.

You gave some evidence that you were led to believe that certain complaints had been made, I think you said Mr - - -

THE COMMISSIONER: Sorry, Mr Bouris, I'm going to ask you to stop by half past 12.00.

MR BOURIS: I will only be a few minutes.

THE COMMISSIONER: Yes.

MR BOURIS: You indicated that there were certain matters, complaints you received over the years or you heard about, in particular you said that you were led to believe that complaints had been passed on to internal audit and Mr Purcell led you to believe that, do you remember that?---I, I did say that and I also said that it may have been Mr Saxby at the time but I know
10 as, as they are my superiors, that they have an obligation if someone at our, at our External Quality Council makes those allegations that they would have taken minutes and then probably would have then taken action from that to take it internal audit, but again its not responsibility, sir.

No, no, I'm simply asking that it's your belief - - -?---Yeah, yes, my belief was that's what - - -

Who led you to believe that?---That's my belief, that's what - - -

20 But who led you to that belief?---Well, my belief is that we are senior people here and when you get a serious allegation like that, that my two superiors would have had the, the knowledge and the know-how to, to take that forward, they wouldn't have sat on it.

So your belief is a belief, I suggest, not critically, that you would have expected Mr Purcell or Mr Saxby to pass it on?---Okay, that's a, that's a good word, yes.

30 You had no direct knowledge that Mr Saxby or Mr Purcell had passed it on? ---Again, confidential, I did not pursue the matter with them.

THE COMMISSIONER: Did you, did you regard it as their job to do something about it?---I did, they were my superiors.

MR BOURIS: So you're, in fact you led yourself to believe that, is that the case?---No, I did not lead myself to that, I know my, my superiors have got a responsibility and they're my superiors, they're senior men. I, I'm not, I can't go over the top of them.

40 But all I'm saying is - - -?---Yes.

- - - you believed it because of what you believed about your superior officers doing the right thing?---That's correct. I was hoping that they would do the right thing.

All right. I don't have any further questions.

THE COMMISSIONER: Ms Whittaker.

MS WHITTAKER: Commissioner, would you indulge me with ten minutes in which to - - -

THE COMMISSIONER: No.

MS WHITTAKER: Mr Price, are you aware of a gentleman called Khare Aoun?---Yes, I am.

Mr Aoun - - -

10

THE COMMISSIONER: How does this arise from the evidence he's given?

MS WHITTAKER: I beg your pardon, Commissioner?

THE COMMISSIONER: How does this arise from the evidence he's given or is this a fresh topic you're raising?

MS WHITTAKER: Indeed, I simply wish - - -

20

THE COMMISSIONER: What's the relevance of it before I allow it?

MS WHITTAKER: I wish to put to Mr Price statements made by Mr Aoun about conversations between himself and Mr Price.

THE COMMISSIONER: Relevant to what issue?

MS WHITTAKER: Relevant to the issue of whether or not Mr Price made statements to the effect that gifts and the receipt of alcohol and money was something that Sydney Water turned a blind eye to, Commissioner.

30

THE COMMISSIONER: Very well.

MS WHITTAKER: I should be very brief, Commissioner. Were you present when Mr Aoun gave this evidence to this Commission, Mr Price? ---No.

The evidence given by Mr Aoun includes a statement that you had a conversation with Mr Aoun in which you said that, "We all know that Sydney Water representatives take boxes of beer and bottles of scotch but we see that as fine." Have you made such a statement to Mr Aoun?---No.

40

Did you say to Mr Aoun that you did not see taking beer or gifts as a problem?---No.

Did you say to Mr Aoun that it was acceptable to take boxes of beer or Johnnie Walker or Jack Daniels at Christmas?---No.

Have you ever said to Mr Aoun that we all know that Sydney Water inspectors get money and get paid but that Sydney Water or yourself turns a blind eye to that?---No.

Have you at any time had any conversation with Mr Aoun in which gifts, the receipt of money, the receipt of alcohol was discussed by either of you? ---No.

I have no further questions, Commissioner.

10

THE COMMISSIONER: Mr McIlwaine.

MR McILWAINE: Commissioner, my client has given that evidence. It is clearly in dispute, I don't - - -

THE COMMISSIONER: There's no rule I'm not applying the rule in Brown v Dunn strictly.

MR McILWAINE: Yes. Well, in those circumstances, I am (not
20 transcribable).

THE COMMISSIONER: Yes, I understand that. Mr Payne, do you wish to ask any further questions?

MR PAYNE: No, Commissioner.

THE COMMISSIONER: Yes, Mr Price, thank you, you may leave the witness box. You are discharged from the summons?---Thank you.

30

THE WITNESS EXCUSED

[12.16pm]

MR PAYNE: Commissioner, I call Mr Saxby.

MS WHITTAKER: Commissioner, might I be excused?

THE COMMISSIONER: Yes, certainly.

40 MS WHITTAKER: Thank you. In fact, Commissioner, I will remain if I may.

THE COMMISSIONER: Yes. Are you legally represented, Mr Saxby?

MR SAXBY: I am.

THE COMMISSIONER: By whom?

MR BOURIS: I'm sorry, I seek leave to represent Mr Saxby.

THE COMMISSIONER: Yes. Does Mr Saxby need a section 38 order?

MR BOURIS: No, Commissioner.

THE COMMISSIONER: No. Do you wish to give your evidence under oath or do you wish to affirm the truth of your evidence?

10 MR SAXBY: Under oath is fine.

THE COMMISSIONER: Could you swear Mr Saxby in, please.

MR PAYNE: Mr Saxby, what's your full name?---Paul Douglas Saxby.

I think you're an employee of Sydney Water until 4.00pm today, is that right?---4.00pm yesterday.

So you're no longer employed by Sydney Water?---That's correct.

10

You've made a statement in this matter to ICAC and a brief correcting statement. Can I show you both documents. Dealing firstly with the statement to ICAC of 1 June, 2010 subject to the matters in the document dated 21 September, 2010 do you tell the Commissioner that the matters contained therein are true and correct to the best of your knowledge and belief?---I do.

Yes, Commissioner, I tender that statement.

20 THE COMMISSIONER: Sorry, Mr Payne, both statements?

MR PAYNE: I was just tendering at this stage the ICAC statement and then I was going to ask some questions about - - -

THE COMMISSIONER: Yes, the statement of 1 June, 2010, is that right?

MR PAYNE: 1 June, 2010, yes, Commissioner.

30 THE COMMISSIONER: Yes. The statement of Mr Saxby of 1 June, 2010 is Exhibit P142.

#EXHIBIT P142 - STATEMENT OF MR SAXBY DATED 1 JUNE 2010

MR PAYNE: Mr Saxby - - -

40 MS WHITE: Excuse me for interrupting, Commissioner, Ms White appearing for Mr Funovski.

THE COMMISSIONER: Yes.

MS WHITE: I wonder if I could have a copy of the statement.

THE COMMISSIONER: Does this have anything to do with Mr Funovski?

MS WHITE: I was notified by Ms Colquhoun to be here today for the evidence of Mr Saxby.

THE COMMISSIONER: Well - - -

MR PAYNE: Mr Saxby, can I ask you some questions about the second statement, the statement of Paul Saxby dated 21 September, 2010. That's a document you prepared with solicitors from Malleson Stephen Jaques yesterday?---That's correct.

10

And it corrects or qualifies some matters contained in the statement which has just been tendered, Exhibit P142?---That's correct.

And you tell the commissioner that the matters of a correction or qualification contained in that statement are true and correct to the best of your knowledge and belief?---That's correct.

Commissioner, I tender that additional statement.

20 THE COMMISSIONER: Yes. The statement of Mr Saxby of 21 September, 2010, is Exhibit P143.

#EXHIBIT P143 - STATEMENT OF MR SAXBY DATED 12 SEPTEMBER 2010

MR PAYNE: Do you have that statement to ICAC there in front of you, P142, Mr Saxby?---(NO AUDIBLE REPLY)

30

Can I ask you firstly to go, if you would, to paragraph 14. And the qualification or the two qualifications to paragraph 14 made by your statement made yesterday, P143. The first is you believe that these two separate allegations about Mr Buckley requesting money or payment were made in 1998 and 1999?---That's correct, in that period.

40

How did you come to that understanding?---Just, just going back and I, during the years 2000/2002 I was offline, I wasn't working in the business, I was the project manager working with consultants that were putting together the new e-Developer IT program, so I wasn't involved in any direct business with, with the urban development group during that time so therefore those, I've concluded that those allegations would have been I thought prior to that period, so therefore in that period 1998 to 1999.

Were you assisted by any documents concerning the complaints here set out in fixing those dates as two years earlier than you originally thought?---No, no. I was unable to locate any documents to, to put it down to a definite date.

And so far as you're aware, there is no single piece of paper anywhere in Sydney Water dealing with these two separate allegations you discuss in paragraph 14. Is that correct?---There were no documentation within our business. I couldn't say within Sydney Water yes or no.

10 Certainly none has ever been shown to you, including by your, the solicitors were Malleson Stephen Jaques, I take it, acting for Sydney Water, that you made this correcting statement with?---That's correct. I've seen no documents concerning those allegations.

Okay. And in order to fix these dates, just to be clear, nothing was shown to you suggesting that there was any documentary record within Sydney Water of these complaints or of any investigation into them?---That's correct.

20 Why do you say that the complaints are likely to be before 2000 rather than after 2002 when you came back online?---That's probably, the best of my recollection, it was quite some time ago and ah, and I think they were before that time. I certainly can't say definitely they were because I've got no documentation, but to the best of my recollection, that would be, should have been the period.

Right. Have you had any discussion with anybody mentioned in paragraph 14 to try and do better about placing the date or not?---No, I haven't.

So you haven't discussed with Mr Purcell, for example, anything to do with -- -?---No.

30 -- -these complaints?---No.

Do you have a recollection of ever, before the ICAC inquiry started and this process, do you have a recollection of ever having discussed with Mr Purcell complaints made about Mr Buckley and bribery?---There were, yes, there certainly was discussions with Mr Purcell over the last five or six years because this, these allegations had been raised for some time.

40 And so after, and we'll come to the detail a little later, so after these initial allegations you're telling us about in paragraph 14, there were other allegations made about Mr Buckley and bribery and you have a recollection of discussion with Mr Purcell about those matters?---Well, not um, there would have been, I can't recall any specific discussions with Mr Purcell about those allegations, no.

We'll come back to that perhaps in detail, but let's stick with paragraph 14 at the moment. So the first qualification is to put it back in time. The second qualification is that you say in paragraph 14 of the ICAC statement, which is Exhibit P142, that you are pretty sure that Steve Purcell was at the meeting, but having put the allegations back into '98/1999, you now say in

the new statement, Exhibit P143, that Mr Purcell may not have been present at the meeting when those allegations were made?---That's correct. And as I've stated then, Mr Purcell wasn't in a management position at that time, he was a team manager or team leader, and therefore didn't attend those meetings on a regular basis.

10 So it's a, to be fair to you, Mr Saxby, when you first said I'm pretty sure that Mr Purcell was at the meeting, you derived that understanding from your general practice of both attending meetings after 2000?---Correct, yes, yes.

And so having put the meeting back in '98/'99, you're now no longer sure that Mr Purcell was at the meeting because you understand his role at that time wasn't the more senior role that he came to occupy?---That's correct.

I said two, but there are three things. I suppose just for completeness, in paragraphs 9 and 10 of your new statement, Exhibit P143, when you say, I recall Steve, this is about halfway down paragraph 14?---Yeah.

20 "Steve Purcell and I advised the forum", you now say you have a recollection of you having advised the external quality council forum but for the same reasons of reconstruction you think it unlikely that Mr Purcell also advised them at that time about the nature of the complaint and whether it was part of the external quality council?---That's correct.

30 And subject to those matters, just dealing with paragraph 14 at the moment, subject to those matters of correction there's nothing else that the Commissioner should understand you wish to qualify or change about the sequence of events in these two complaints?---No, no, nothing else.

Could I just ask you about the last part of paragraph 14. So this is, we're now dealing with two separate allegations. You think one was made by Mr Farrell. Do you remember what the allegation was?---Ah, yes. The allegation was that, that Mr Buckley was requesting bribes of money to pass off work, to finalise work.

40 Mr Farrell was a water service coordinator at that time?---That was just prior to those positions being created. He was a project manager at that time. A similar role to a water service coordinator.

Yes. Nevertheless there was an external quality council in '98 and '99? ---Yes, yes. I think it was under a different name, the quality council may come into effect, that term, once the water service coordinator was put into effect.

Yes. I was going to ask you about that.---There was a meeting, yes.

So there was a process under the old regime, if I can put it that way, prior to water service coordinators having designation that they now enjoy- - -?
---Yes.

- - -there was a process of meetings between senior officers of Sydney Water on the one hand, designers, constructors and those involved in the, in the development process on the other?---That's correct.

10 And you say you can't recall who raised the second allegation. I take it though it was an allegation to the same effect, concerning Mr Buckley?
---That's correct.

Namely that he was either soliciting or accepting bribes in order to pass work?---That's correct.

You say in paragraph 14 you passed the information straight on to internal audit and you think that was Mr Barry McClure?---Yes, that's correct.

20 Do you remember how you passed that on?---It, it would, it would have been ah, with, during a phone conversation followed up by a meeting with, with Mr McClure.

And where, where to your recollection did that meeting take place?
---At that, that point in time I was located at our Liverpool office. Mr McClure was in head office. I, I don't recall whether we met at Liverpool or head office.

30 Head office at that time was in the city in Bathurst Street, was it?---That's, that's correct.

And you're clear though that there was both a phone conversation and a face-to-face meeting?---Being so long ago, I'm not a hundred per cent clear on, on, on those facts.

You do say in paragraph 14 that you were told by Barry McClure that the matter was being investigated, I take it you have a recollection of being told that?---Certainly, yes, once I'd passed it on to Internal Audit that was their role.

40 And you say you didn't hear anything else about the matter?---That's correct. I never heard any outcome of any investigation into that matter.

Were you surprised, Mr Saxby, not hear something back from Internal Audit about the outcome of allegations of corruption which had been made to you in a serious forum?---Not, not really because the allegations were based on a Sydney Water employee that didn't work or report to me at all, they were in a completely different division and business and I assumed that whatever results the investigation were being dealt with by Internal Audit and that

business that it wasn't, wasn't part of our, that area was not part of our business.

And just to be clear had Mr Buckley been an employee as part of the Urban Growth section of Sydney Water you would've been expected to have been notified in those circumstances because you were the man in charge of Urban Growth at the time?---I wasn't in charge, I was, I was, there was a manager above me but yes, if that person in our business would've been investigated I would've expected to hear, to be consulted on the outcome of that investigation if they were in my business.

Did you ever have any subsequent conversation with Mr Barry McClure about that investigation in circumstances where, and we'll come to them, subsequently allegations were raised about Mr Buckley and bribery?---I didn't have any further discussions with Mr McClure about that particular matter, no.

You told me about what you think was a phone call and a meeting, do you believe that you put these allegations or recorded these allegations in writing?---I don't recall that I did.

Would it have been part of your usual practice in 1998 and 1999 to have recorded allegations of corruption made at a forum like the External Quality Council in writing?---They, they certainly weren't recorded in the minutes of our, of our, our meeting because those minutes were circulated right throughout the industry, I would've recorded those in my diary, my own personal diary my meeting with Barry McClure, that was my process at that time and unfortunately my diary 1998 I don't have but I, I do record all my meetings and all my discussions in my personal diaries.

THE COMMISSIONER: There was no system at Sydney Water for recording complaints that were made in a formal way?---There certainly is a system in Sydney Water for recording all complaints and follow-up, Commissioner, I, I'm not, that's been introduced over the last five to ten years, I'm not 100% certain whether that existed in 1998.

MR PAYNE: And in any event you've looked I take it or had caused searched to be made for any written record that you made in relation to this complaint?---I did when I made, when ICAC contacted me and I made these statements but at that time I was not able to locate any documents in relation to that 1998, 1999 matter.

Yes. And I think Mr Fox from ICAC saw you on two occasions and after taking initial details you had an opportunity to go and conduct searches for documents relevant to the matters that you discussed?---That's correct, I did.

And you did conduct those searches and couldn't find anything whatever?

---That's correct.

THE COMMISSIONER: Does this apply, those questions are about the 1998 complaint aren't they?

MR PAYNE: Yes.

THE COMMISSIONER: Yes.

10 MR PAYNE: And cut to the chase, Mr Saxby, in relation to all complaints that you were aware were made about Mr Buckley and bribery throughout the entire period of time you were with Sydney Water I take it you're not able to put your hands on any single piece of paper concerning those complaints?---Not in regards to allegations of bribery.

THE COMMISSIONER: Can you explain that?---Well, there were the complaints raised against Mr Buckley about the Corrective Action Requests, the CARs that he raised and whether they were, they were valid or not. And there was - - -

20

What I don't, sorry to interrupt, Mr Saxby, what I don't understand is why a record is kept of complaints of that kind, of a technical nature but there is no record kept of complaints about bribery?---I'm talking about records within my business. My personal complaints, sorry, the complaints received by me, the two allegations that I passed on to internal audit, I would assume there are records within that division - - -

I see?--- - - - concerning, concerning that matter.

30 So in your section you don't make a record of complaints about bribery?
---There were, there were two allegations of bribery that I received concerning Mr Buckley. I'm sorry, two allegations I passed on to internal audit. Allegations were made, another allegation was made at that period, 1998, '99, the, the allegation was made at a meeting. The, the individual who made that allegation, I spoke to them and said, this is, the allegation was purely, Mr Buckley is taking bribes, full stop. We want you to do something about it. I said, okay. We can investigate that, but we need some more information. The urban development group processes 4 to 5,000
40 applications a year and there would be a couple of hundred developer jobs in that order that go to the inner west area where Mr Buckley is. And it's very, very difficult if you make a statement that he's taking a bribe to investigate on those couple of hundred jobs where it was. I said, you need to give me the, the job details and then we can pass it on and get it investigated. It didn't have to be in writing. What we wanted was that additional key information, what job did this occur so that it could be investigation. There were only two allegations at that time. One allegation was, the information was provided. The second allegation, the WSC, it could've been Phil Farrell, went back to his client and the contacted me and

the client said, I do not wish to give my information and my job details. And I do not wish to be, this to proceed any further.

Are these just the 1998 complaints?---And there were complaints made further on. And the, and the same information, I requested a job detail, some information, so we could hone in on it. Not in writing, verbal was fine. And the only one that I did receive was from Mr Pascoe recently and that was over the phone. It was verbal and he gave me the job details, who it was, which, as on record, I pass that immediately on to internal audit to carry out the investigation.

So when there are complaints of the first kind where no job number or identification provided, no record is kept?---Yes, that's, that's correct. Other than, as I said, I certainly didn't (not transcribable) in my diary.

And Mr Saxby, sorry?---I just document that in my diary.

You're a person very experienced in the, in the plumbing industry?---In the development industry, sir.

Yes?---Yes.

Do you accept that contractors would be very nervous about giving information of corruption concerning inspectors in a way that could identify them?---I, I think, I thought that was the case, yes.

And so one can understand why a contractor is not prepared to identify the job because by identifying the job he's identifying himself?---That's correct.

And I do appreciate what you've said about the number of jobs and mixed into the work of Sydney Water, but do you, or are you saying that because of that, if you do get reports about corruption or Sydney Water gets, we're talking about in plural, not you as an individual, get reports about corruption from contractors who are not prepared to identify themselves, you can do nothing about it?---Like I might just add some additional information which will, I hope will answer that. During, during that period when we, in '98/'99, we had the External Quality Council meeting, we also had an equivalent internal management meeting of all the businesses that were involved in our developer process, which civil maintenance, which were called network services, I think at that time. Our planning division, our planning business area, operations area, our property area, representatives from all those businesses that provided input into our process we met regularly to discuss issues, change in process, policy, improvements, et cetera. When the allegations were made against Buckley at that time, it was discussed at that meeting that was a potential issue and the management of the civil maintenance or network services at that time, were all aware that this allegation was raised. Discussions were, how can we prevent this, should this person be rotated, moved or whatever. So it wasn't just the

urban development business that or urban growth as it's now called that, that were aware of this potential issue. At that time they were only allegations. They were made known to the managers in that business as well.

I mean, so the responsibility is left to those managers?---Well, the risk, the risk and the issue was in an area that was outside of our Urban Growth's direct management, chain of management.

10 So into whose sphere of responsibility did this fall?---The management of that particular, well, it was a risk in that, in that particular business that we've been made aware of, the potential risk we should - - -

So what is the answer to the question? Into whose sphere of responsibility did this risk fall, this particular risk having been given the information? ---Well, I think a shared responsibility, obviously Urban Growth manages the total process, different business units within Sydney Water contribute to that process. In the case of Civil Maintenance they had the employees that carried out those inspections and they managed those employees.

20

Was anything done about this?---As I've said the investigation was carried out, I was - - -

By whom?---By Internal Audit.

Do you know about it?---I'm sorry, what was that?

30 Do you know about it?---No, no, as I stated earlier that 1998, 1999 that period, that, that allegation was passed on to our Internal Audit but I was not given any information about the outcome of that investigation.

And other than the '98, '99 allegations you know, you've received no other allegations until the last one which came to you?---No other allegations directly to me that I recall but again, and I think as others have stated there were rumours that this was still occurring.

Did that not disturb you?---Certainly did.

40 What did you do about it?---There were restructures that occurred within Sydney Water numerous times, the issue with Civil Maintenance and these types of issues were discussed. One proposal which was never taken up was that we have a dedicated team or two within Civil Maintenance that deal specifically with developer projects, the staff in those teams then would be rotated back into maintenance to maintain their skills but then come back into the developer side and so there wasn't an ongoing long term individual or individuals dealing with, with developers and that was one proposal - - -

I understand that general steps were taken but what, were any particular steps taken against Buckley to find out whether these allegations were true which kept coming through?---Our business was not directly in control of Mr Buckley. I put numerous emails to his management concerning other issues that were raised, complaints concerning the CARs he raised and the delays that he caused through inaction in not, not passing on, not approving connections, the developer jobs.

10 Other than Mr Buckley did any other allegations of bribery and corruption come to your attention over the ten year period in this 21st century?---Not concerning other employees of Sydney Water, Sydney Water in that maintenance area, no.

Yes, Mr Payne.

MR PAYNE: Who, who do you say it was within civil delivery that you passed on information about Mr Buckley and bribery to?---This was in the period 1998/99?

20 At all, at any time?---Who?

Yeah, who did you pass it on to?---It would have been the representatives of that business who attended our meetings. Now, they've, they change and varied from time to time so I don't recall a specific individual name. I can't recall that.

30 THE COMMISSIONER: And nothing was put in writing?---Well, again, the, the minutes of those meetings with our internal management were circulated so discussions of this nature were not documented in, in the minutes, no.

But I understand that it would be undesirable to circulate minutes of that kind but there are other ways in which written records can be made of serious allegations of this type?---Certainly, yes, I agree, there would be emails between those managers and myself in more detail. In that period they were again, I was not able to locate any documents going back that far.

40 But people change jobs and did you not think it was important to keep a record of the allegations made against a particular inspector who is said to have committed corrupt acts so that if you leave other people can see it and that other people who investigate it can see that this is an ongoing problem? ---I had archived all, most of my dealings in all areas, yes.

With Mr Buckley?---With all developer issues. I have - - -

So is there is a specific, if someone wanted to investigate an inspector against whom allegations of corruption are made is there some means at Sydney Water which enable the investigator to go and look up and see if

there are, any previous complaints have been made of corruption about this particular individual or is there nothing?---Again, those sort of investigations are carried out by our internal audit branch, I'm not sure what powers or what ability they have got to, to do that, certainly if anyone came to me I would have archived and been able to draw on a lot of records going back to the, the complete period that I was in, in the urban development branch.

Yes.

10

MR PAYNE: Mr Saxby, you know who Mr Hammond is?---Yes, I do.

He's a gentleman who would attend External Quality Council meetings from time to time?---That's correct.

Have you been shown a transcript of his evidence before the Commission?
---No, I haven't.

20

I want to suggest to you, I'll read from what Mr Hammond said in a statement to the Commissioner about you and the External Quality Council meetings at a time he puts in the last four to five years. He says this, "Paul Saxby during the Quality Council meeting said that an investigation had been done," and that the topic is Mr Buckley and bribery, "an investigation had been done and that John was squeaky clean." Now, he explained in his evidence that they weren't the words you used but that you conveyed to those present at the External Quality Council meeting that there had been an investigation by, the things, urban growth and Mr Buckley had nothing to answer for in relation to bribery allegations. Now, can you tell us whether you recollect saying such a thing to an External Quality Council meeting?

30

---I certainly did not say that in regards to bribery allegations because as I early, earlier stated I did not receive any advice of the outcome of any investigations in regards to the bribery to Mr Buckley but we also were investigating Mr Buckley in regards to the CARs that he issued and there was complaints about those, investigation in regards to the CARs showed that Mr Buckley was certainly very diligent, very, what would you say, he got down to the minute detail and he knew his standards well so the CARs that he raised in relation to faulty work were all very, were correct and therefore the context of squeaky clean in regards to CARs would have applied but certainly not in regard to bribery because I was not aware of any outcome of the investigations.

40

THE COMMISSIONER: Well, the CARs are only correct if the information on them is accurate?---Yes.

You had no idea whether they were accurate or not?---Oh, yes, no, no, we, I, we have access to the CARs, the Corrective Action Requests that are raised by Mr Buckley, the come into our - - -

That's not what I mean?---I'm sorry, yeah.

Mr Buckley would record on the CARs- - -?---Yes.

- - -on a CAR that there was some defect or something had not been done properly?---Correct.

10 But you only know whether what he's saying is, you don't know whether what he's saying is true or not?---Okay. Yes. Whether that was correct, that statement, to what was in the, in the work, construction work, no, no.

You just took them at face value?---That's, that's, that's, well, ah, yes, that's, that's correct.

And there were, is it true that Mr Buckley issued substantially more CARs than anyone else in (not transcribable)?---Oh, in civil maintenance business, correct, he did. He issued many, most, the majority of the CARs.

20 Did you not wonder why?---Again, the, this was questioned a number of times with his managers and they were happy with his performance, they were happy with him to document, other inspectors in that civil maintenance area dealt with those sorts of issues verbally with the constructor and requested them to be fixed, they didn't document it and they were fixed, was the answer that we, we got from ah, the manager for that area.

Yes, Mr Payne?

30 MR PAYNE: I now want to ask you about some evidence that Mr Price gave. You were in court when Mr Price gave evidence this morning but I think last week you were away until the weekend?---That's correct.

Have you had opportunity to look at the transcript of evidence that Mr Price gave?---No. No, not last week.

40 I want to suggest to you that he gave evidence and there was some more evidence today about this, that about three years ago Mr Farrell called him and made a verbal complaint of corruption against Mr Buckley, namely that he was taking money in relation to inspections. Would you accept that from me, that that's the evidence he's given?---(NO AUDIBLE REPLY)

Do you recall being made aware either by Mr Price or by anyone else in Mr Price's management team, of this complaint by Mr Farrell about three years ago?---Not, not three years ago. I certainly don't recall any of that about three years ago.

Do you say that what you were telling us about from 1998/1999, that was something that came through Mr Price?---No, no, no. That was raised

directly at that meeting with the external suppliers and it was, that was raised by Phil Farrell at that time.

I understand. So what I'm asking you about is whether there was any communication, oral, written, on the telephone, in person, from Mr Price to you about a complaint Mr Farrell had made about Mr Buckley and corruption?---Three years ago, I do not recall that.

Well, at any time- - -?---Oh.

10

- - -had Mr Price made a complaint to you about corruption and Mr Buckley?---I don't recall any, any allegations coming through Mr Price about Mr Buckley, no.

Do you remember any discussion whatever with Mr Price on the topic of Mr Buckley and bribery?---Um, not specifically with Mr Price, but his manager at the time, Fred Mattern, certainly there was discussions about that issue over a number of occasions because the allegations were arising from time to time, but nobody was willing to provide any specific information about where or what occurred.

20

So we're talking over an entire, so the specific information of the kind you describe, you remember that being provided in, in '98/'99, so- - -?
---Correct, yes.

- - -twelve-odd years ago. Since that time you tell the Commission that you had a number of discussions with Mr Mattern- - -?---Ah hmm.

30

- - -about Mr Buckley and bribery allegations?---There were times when, yes, that, that, those, those allegations were made and we had discussions on that, yes.

How many times do you recall discussing with Mr Mattern allegations of bribery against Mr Buckley being made?---It's hard to recall, but certainly it was more than one, but whether it was three or four- - -

THE COMMISSIONER: Six or seven?---Possibly three or four times.

40

Six or seven?---I don't think that many.

And did you make any written record of these allegations of corruption about Mr Buckley that Mr Mattern was telling you about?---No.

MR PAYNE: Can I ask you this, Mr Saxby? The Commissioner put to you you're a very senior experienced officer within Sydney Water, why didn't you make any record of those allegations?---What I can state again is the discussions, all that type of information I did make a record in my own personal diary but again these were allegations with no basis or no other

information behind them. We discussed this as an ongoing issue and how that could be dealt with.

Did you understand it to be a policy of Sydney Water that no written record was to be made of allegations of corruption unless you had hard evidence?

---No, no.

Well, I ask again why didn't you make a record then, Mr Saxby?

10 THE COMMISSIONER: An official record?---I can't answer that, I'm sorry. We had discussions, probably the only reason I can put forward that why I didn't make an official record myself was that it was relating to an individual that was not in our business, it was not under my management, it was outside my area of control so to speak.

MR PAYNE: Looking back, Mr Saxby, and knowing what you do now about what Mr Buckley was doing over at least a decade or as you say perhaps more do you accept that you could and should have made a written record of these allegations when they came to your attention?---I think we
20 were lacking guidelines for these particular types of matters that would've, I would think in hindsight now, yes, ensure that written records were made.

And as you understood, you disagreed with me when I said, I'll withdraw that. You told me there was no policy not to write down allegations of corruption of this kind because what you say that you were unclear as a senior officer within Urban Growth just what you should do and for that reason made no written record?---That, that's correct. I, I, my understanding of policy guidelines weren't clear, these particular
30 circumstances on, on allegations with no detail or no substantiated information or no detail, no information to, to pinpoint where and what was being done.

Did you ever have a discussion with anybody from Internal Audit about what you should do in relation to these allegations? I think you said three or four that you discussed with Mr Mattern?---Mmm. Mmm. Internal Audit carried out regularly audits of, of our developer process and these types of, and identified risks that were associated with processing and processes that we should put in place to minimise and hopefully eliminate these sorts of risks. I, I cannot say for certain but I think that would've been raised and
40 discussed in one of those audits over a number of years but I cannot pinpoint or, or, or say what particular audit that those risks we identified and discussed.

So is what you're saying you think you raised with persons from Internal Audit, in effect what should I do about these allegations of corruption that I've been discussing with Mr Mattern?---Not specifically in that manner that this was a potential risk within the business of bribery within our business

and within other businesses and what, what processes or what things we could put in place to eliminate those risks.

I think you've agreed with the Commissioner a little earlier today that you regarded an allegation of corrupt conduct by Mr Buckley, even though he wasn't directly reporting to you, as a very serious matter indeed?---Correct.

10 I'd just like to understand the thought process. Why didn't you, when you discussed with Mr Mattern these allegations which had been made, why didn't you raise those with internal audit?---I think just as I said, as a part of the regular audits that were carried out in our business and the various risks, it would've been discussed, but again, as I said, I cannot pinpoint a audit or a time on it when it may have been discussed.

20 Do you accept that it would've been helpful to have created an official record of Sydney Water of these complaints that you've discussed with Mr Mattern, if for no other reason then that you could discuss them in detail with internal audit during these risk reviews you just told us about?---In hindsight, yes, I accept that.

30 And the reason you didn't make an official record, I think as you told me was, that you were unclear about Sydney Water's policy and what you should do and that you were concerned that if you did write it down there might be repercussions for you about having in effect conducted an off the reservation investigation of Mr Buckley?---No, I don't think that's correct. The policy and guidelines at the time from my knowledge weren't clear what to do in this particular circumstance. They were very clear if an allegation and a situation was, was identified where a bribery, a bribery allegation was made, yes, we reported that to internal audit. That was very, very clear. And that's what I did when the allegation was made with specific information about the job and when it occurred.

40 THE COMMISSIONER: So what wasn't clear?---Well, in this, this case Mr Buckley was renowned for being pedantic and putting CARs and ensuring they were all signed off before he finished a job. So the person wasn't well liked out there. And whether this allegation was just vindictive and trying to besmirch his reputation or (not transcribable) reputation, it was hard to say. This person from all reports from his business, was a very conscientious person who, who ensured that standards were applied to. So this, he certainly wasn't well liked, probably is the, by the industry. And whether the allegation was just trying to get him moved off or what, it's very hard to say.

Is it reasonably practical for Sydney Water to have a, a group of people who are specifically responsible for investigating issues of this kind?---Well, my understanding is that is the role of our internal audit group.

What they should actually get out and interview people as well?---Well, they would make the decision whether they do it or whether they pass it on to ICAC. I understand the, I'm not sure how long it's been in effect, but those sorts of allegations should go straight, directly to ICAC.

This is the (not transcribable)

MR PAYNE: I note the time, Commissioner.

10 THE COMMISSIONER: Yes. We'll adjourn until 2.00pm.

LUNCHEON ADJOURNMENT

[1.02pm]