

**STANDING COMMITTEE ON PUBLIC ADMINISTRATION AND  
FINANCE**

**LOCAL GOVERNMENT ACT 1995**

**TRANSCRIPT OF EVIDENCE TAKEN  
AT PERTH  
ON TUESDAY, 7 OCTOBER 2003**

**SESSION 5**

**Members**

**Hon Barry House (Chairman  
Hon Ed Dermer (Deputy Chairman)  
Hon Murray Criddle  
Hon John Fischer  
Hon Dee Margetts  
Hon Ken Travers  
Hon Sue Ellery**

[2.50 pm]

**SMITH, MR DENIS**  
**Chief Executive Officer,**  
**City of Joondalup,**  
**examined:**

**The CHAIRMAN:** Welcome to everybody in the public gallery. I indicate that all you can do is listen; you cannot talk or take notes, with the exception of accredited media. The photographers will be here for just a few minutes to take a couple of holiday pictures and then they will remove themselves. Mr Smith, on behalf of the committee I welcome you to the meeting. Can you explain the status of Tony Davies?

**Mr Smith:** Mr Tony Davies is from Blake Dawson Waldron and is here as a legal adviser on any matters on which I consider I need strict legal advice.

**The CHAIRMAN:** And not as a witness.

**Mr Smith:** That is my understanding.

**The CHAIRMAN:** Correct. In that case, it is obvious that you cannot speak as a witness.

**Mr Davies:** I understand that and I have pushed the microphone away.

**The CHAIRMAN:** Mr Smith, you will have signed a document entitled "Information for Witnesses". Have you read and understood that document?

**Mr Smith:** I have.

**The CHAIRMAN:** These proceedings are being recorded by Hansard. A transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of this hearing for the record and speak into the microphone. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the proceeding. Please note that until such time as the transcript of your public evidence is finalised, it should not be made public. I advise you that premature publication or disclosure of public evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege. Once again, Mr Smith, welcome. Would you like to make an opening statement to the committee?

**Mr Smith:** I certainly would. First, thank you for the opportunity. I have formally requested that my evidence today be given in private session. The grounds of my request were set out in a facsimile from solicitors Blake Dawson Waldron to the chairman of this committee on 30 September 2003. The committee has already noted the media coverage surrounding my appointment to the role of CEO of the City of Joondalup, which is the genesis of this inquiry into the terms of the Local Government Act 1995. I believe that the allegations that have been made against me are part of a campaign orchestrated by one individual - Mayor Carlos - to have me leave my position. Baseless as they may be, the allegations have received a considerable amount of media attention. For months I have been the topic of numerous newspaper articles, radio programs and parliamentary hearings. As a consequence, I have been subjected to public criticism and commentary about not only my appointment but also my professional and personal integrity and my professionalism. In May this year Mayor Carlos said words to the effect: "If you resign, it will

mean I will not have to expose you or your qualifications and there will be no further media articles, and I will pursue this matter to the nth degree. I have legal advice, the Government's support and the minister's support. I will put this matter in the hands of the WA Ombudsman and the WA police and I will not let the matter rest." The mayor's threats to me leave no doubt in my mind that he is determined to do whatever it takes to force me to leave my current position, including going to the Press, the general public and whatever other avenues that may appear to him to express his personal views about me, which are unchecked, despite the fact that councillors of the City of Joondalup have already dealt with this and all associated issues on numerous occasions. Having regard to this and in the extremely contentious and if not legal context of your committee's inquiry, I believe it is appropriate that any evidence I give to the committee should be heard in private. I wish to put it on record that I have made this request in not only my own interest but also the interests of the City of Joondalup to avoid inflaming a situation that the majority of councillors of the City of Joondalup have endeavoured to put to rest. I must say that I was advised this morning through my lawyers, and I am disappointed, that the committee has not acceded to this request and I wish to have that recorded.

In respect of the selection of witnesses, I also wish to make a statement. In respect of the witness program set out in your inquiry, I am deeply disappointed that there has been a differentiation in the different opportunities made available to different groups of witnesses called to give evidence to the committee as part of this inquiry into the Local Government Act 1995. I am unable to see why seven councillors were allocated a short period of time as a group in which to give evidence, yet the mayor and Councillor Caiacob, who was not a councillor when I was appointed, were each allocated one hour to give evidence. I am particularly concerned about the distribution of time for witnesses, given the mayor's significant involvement in the campaign against me and his extremely outspoken views about my appointment, which have not been supported by the majority of councillors at any time.

[3.00 pm]

Mayor Carlos has been censured by his own council for continuing to publicly express his views on this subject despite four council resolutions in my support. I also point out to the committee that the details and circumstances of my appointment to the role of chief executive officer have already been the subject of extensive investigation and consideration by the Department of Local Government and Regional Development, the Western Australian police through its fraud squad and by the council's own solicitors, who have provided extensive reports to the council on various matters. These matters are now complete. I trust that the committee is fully aware that the matters are resolved and that today is not seen as a mechanism to reopen them or to reopen old wounds.

Support: I also wish to bring to the committee's attention two letters of support that I have recently received. I have here - and I will tender these documents at the end of these proceedings - a letter dated 7 August from the Union Secretary of the Western Australian Shire Councils, Municipal Road Boards, Health Boards, Parks, Cemeteries and Racecourses, Public Authorities Water Boards Union, which is known as the LGRCEU. This letter has been written in the past two months and states -

Arising from recent meetings between the union and its members employed by the City, the union has been unanimously directed by membership to communicate to you personally their support and appreciation for the direction in which the City has taken under your leadership, and their acknowledgment of the improvements that have occurred in communication and participation in decision making that have greatly assisted them in the delivery of services to the ratepayers of the City, and in understanding the importance of their role in the efficient delivery of those services.

The union also looks forward to continuing the good working relationship that it and its members have with the City.

That letter will be tabled for your consideration, Mr Chairman. I also have a letter from Tanya Barnett, a former councillor, who I know voted against my appointment at the time that the council appointed me as the chief executive officer. Ms Barnett has offered me her support because she believes I have brought value to the city through my experience and ability to do the job in a most professional manner. I will also table that letter from former councillor Barnett.

Terms of reference: In any event, the purpose of the committee's inquiry is to critically examine the terms of the Local Government Act 1995. The committee will determine whether recommendations for amendments to the Act should be made. The scope of the inquiry is contained in the terms of reference that have been prescribed for the purpose of this exercise, which I have examined extensively and of which I am fully aware. As I understand it, the inquiry is not directed to me personally, nor to my appointment as the CEO of the City of Joondalup. The evidence upon which I expect to be questioned by the committee must be properly limited to the inquiry's terms of reference. Mr Chairman, with the greatest respect to your inquiry, I would not expect today's hearing to personally cross-examine me to give personal information, particularly in respect of details of my appointment as CEO or my academic qualifications, the answers to which naturally do not bear directly to any of the terms of reference; that is, the answers to the terms of reference are to be objectively determined. What the inquiry might or might not recommend depends upon the powers available to the council and any legal restrictions placed on those powers assessed having regard to the strengths and weaknesses of those processes. For example, having regard to the first term of reference, whether or not there is a need to clarify the powers and processes of a local government appointing a chief executive officer depends upon the clarity of the existing law being objectively assessed, not what the City of Joondalup did when appointing me. Consideration of issues such as the terms of reference, minimum qualifications, verifying accuracy of information, transparency in terms of contracts, fall to be decided on how the law stands, and will be assessed in the light of community standards and values rather than what the City of Joondalup required or decided in one particular instance. The information for witness sheet states that I am not obliged to answer questions that are outside the scope of the matters in issue before the committee. My personal circumstances do not fall within the scope of the terms of reference. Personal questions - especially in the context whereby I have been denied a private hearing - would be clearly objectionable.

The matters before the committee for consideration include whether amendments should be made to the Local Government Act; to clarify the powers and processes of a local government to appoint its CEO; to allow for regulations that establish matters that must be considered with regard to each applicant for appointment; to allow for regulations that establish matters to establish minimum qualifications or experience required of any person for appointment and the standard of proof that must be met by an applicant who claims such qualifications or experience; and to permit individual councillors to verify the accuracy of any information provided during the selection process.

I remind the committee that I am not in a position to comment on my selection or appointment to the position of CEO, as I was not part of the process. That is a matter for the councillors and the council personnel involved in that selection process. I am able to comment generally about the selection criteria for candidates to the position of CEO. I am also prepared to give evidence to the committee about what I believe are the key elements of desirability for the role of a CEO; that is, a candidate's professional experience or expertise, which is more important than academic qualifications. I will also obviously answer any questions with regard to issues that are set out in the terms of reference of the inquiry to the best of my ability.

My qualifications have been given a great deal of coverage in electronic media, local media and also in the great newspaper that is published on Sundays and also in *The West Australian*. Notwithstanding my comments about the terms of reference of the inquiry, I am prepared, as part of this statement, to set the record straight about the real issues that have been resolved to the satisfaction of the council and the Western Australian police fraud squad, which continue to be

agitated by one person, and one person alone - Mayor Carlos - at the expense and time of the City of Joondalup. Although I am not the subject of this inquiry, I hope the comments I make in relation to my employment will mean that the matter can be laid to rest once and for all so that I can get on with my job as the CEO of one of the largest local government areas in Western Australia.

I make it entirely clear that in November 2002, soon after the issue of my qualifications was first raised by Councillor Carlos, when he was a councillor rather than the mayor, I immediately sat down with then Mayor Bombak of the City of Joondalup and it was my decision - and my decision alone - to show him my qualifications in the presence of Mr Loader from the human resources section. I invited Mr Loader as a witness to that exercise. Mr Loader was called by me and I was not asked by Mayor Bombak. I took it upon myself to call a meeting with the mayor and with Mr Loader. At the time, I distributed a memorandum to Mayor Bombak which set out in their presence a detailed description of every qualification that I held. That memo can be made available. The committee has already requested it. Each qualification was sighted. They were the original qualifications and they were stamped from various institutions and were numbered. Every one was sighted by both parties present. They were noted where they were sighted on the documentation as having been sighted and that documentation was then forwarded to every councillor, including Councillor Carlos, despite how many times he denies having seen the details of my qualifications. Every councillor, including Councillor Carlos, was supplied with the details of every qualification that I held. The only area in which there was some dispute was the question of whether I held a bachelor of business. I clearly stated I did not hold a bachelor of business.

[3.10 pm]

The purpose was to show the mayor the qualifications that I held. This is why I strongly object to suggestions by the current mayor and a number of his councillors - very few in number - that I have been evasive and dishonest about my qualifications. That is simply not the truth and Mayor Carlos knows that.

In that memorandum I also made a number of comments about the conduct of Councillor Carlos and my involvement in my appointment as the CEO, which I would like again to draw to your attention for the benefit of the committee. First, my employment contract was prepared by the City of Joondalup and its lawyers at the time when I was appointed. It was provided to me by Recruitment Australia acting on behalf of the city. It was executed by the city. I did not have any involvement in the preparation of the contract. The contract was submitted to me and I had it legally vetted in the east. Its approval was by council; it was not by Smith. I strongly resent any implication that I had in some way influenced terms or conditions of the employment contract. Any comments I had on the contract were up to the council to determine. The contract was executed by those who were given the necessary authority to execute the contract.

Secondly, the CEO position at Joondalup was never advertised. I was never required to submit, and never have submitted, any formal application for the position. In June 2001 Management Recruiters Australia contacted me about a CEO position in Western Australia and asked would I be interested. They would not even supply details of the council, only that it was a large local government authority in Western Australia. They asked whether I would be able to urgently submit to them general details about my employment history. With my wife's assistance I set out a summary of my CV and I forwarded that to Management Recruiters. That CV incorrectly referred to a bachelor of business from the university of technology. It has been suggested that I have endeavoured to blame my wife for this error - you have only to read that in the media - when on my behalf the police were informed during the course of the fraud investigation that my wife typed the CV on my behalf. This information was provided not as an excuse but as a fact - it was a real fact. I was asked the question through the lawyers, who actually typed the document, and they were advised. I take full responsibility that I was required to read and ensure that the details of my CV were correct. I accept that if there was any error or misunderstanding, it is my responsibility. I took

immediate steps in November of last year to rectify those situations and to clarify the position, crystal clear, pertaining to qualifications.

As soon as the question about my qualifications became an issue, I stepped in to clarify the matter with the then mayor so that there was no misunderstanding. I set out in clear English what my qualifications were, and I will provide that information to you as a tendered document later this evening. Even though I was never required to provide the qualifications to the city - they are not the property of the city - there was an issue which I considered needed to be addressed and I addressed it with the mayor at the time in the presence of an independent witness. It is my understanding that my experience and expertise in the position on other councils and in private enterprise were also a key element in why I was selected for the position of CEO. I am extremely disappointed that Mayor Carlos continues to make misleading statements to the public and to this committee about my disclosure, or alleged lack thereof, or an error on my CV.

The police fraud squad, which is the appropriate authority to investigate this matter, has seen all relevant information. Yes, it was given the original documents. They were taken to the fraud squad. The original documents were also certified by Blake Dawson Waldron as lawyers, and the fraud squad had the ability to be able to vet any documentation that it wished to see. All my original documentation was given to the lawyers for the fraud squad to investigate, including the memorandum that we referred to before. The very purpose of the memorandum was to be transparent and candid about my position.

It is true that I did not provide copies of my qualifications to Mayor Carlos when he demanded to see them. I absolutely refuse to be intimidated, bullied and threatened into accepting Councillor Carlos's commands, particularly in light of the fact that I had resolved this issue to the satisfaction of Mayor Bombak and the entire council except Mayor Carlos. In December of last year - I will produce the minutes - the council, after receiving my memorandum and the mayor's memorandum, voted a vote of confidence in me as the CEO, a strong vote of confidence, and the record will speak for itself. My responsibility to the city was met. It was not for Mayor Carlos to again re-agitate the situation. He had no legal right of access to personal documents or to request the information he had requested; he did not have the power to do so under the Local Government Act. I have some experience in dealing with people of Mayor Carlos's style, and I have no intention of conceding to him when he has no legal basis on which to request that information.

Finally, I wish to state the facts on my salary with Warringah Council, as I believe that the committee has against been misled in relation to the information that has been available to Mayor Carlos and to councillors about my salary. I will tender information from the acting general manager of Warringah Council dated 20 May, which has already been supplied to the City of Joondalup, which clearly states -

At the time of his exit from Council he occupied the position of General Manager with a total remuneration package (TRP) of \$218,630.87.

If Mr Smith had remained in employment with Warringah Council until November 2001 -

That is when I had commenced for one week at the City of Joondalup. The local government state award increase was 3.3 per cent and my total remuneration package as at 1 November would have been \$225 800. I dropped \$800 to take up this position. At Warringah Council I paid almost half the amount for my motor vehicle that I do here. We are talking in terms of a drop of salary in the order of \$10 000, not as exaggerated as the figure that Councillor Carlos has put before your committee. Those are some of the points that I wish to make at this stage.

**The CHAIRMAN:** Thank you, Mr Smith. Would you identify for the record the documents that you wish to table with the committee now and the ones that you intend to provide?

**Mr Smith:** The documents I intend to table as a total package. I have a total package to lodge with your committee. It includes the minutes of the four council meetings which have dealt with the

matter of the employment of the CEO since the time that I have been occupying the position; that is, there have been four separate occasions when the council has formally resolved a vote of confidence in me as the CEO and the job that I am doing. I will table those four minutes. I will also table a letter from former Councillor Barnett; a copy of the memorandum which I distributed to his worship the mayor at the time, who was Mayor Bombak; a copy of the letter from the office of the Commissioner of Police. That memorandum that I just made reference to was the memorandum that went to every councillor under the signature of the mayor, not the signature of the CEO. It was distributed to every councillor. I also table a letter from the media department of the Western Australian fraud squad. They are the documents that I intend to table for your consideration. I also have a letter from Warringah Council in respect of the salary situation.

[3.20 pm]

**The CHAIRMAN:** Can you explain what you just did?

**Mr Smith:** I kept one copy marked "Smith's copy". Also, there is a letter from Warringah Council. I do not have 10 copies of that. Is that in order?

**The CHAIRMAN:** That is fine. The committee has considered your request for this session to be heard in private. According to standard procedure, I, as the chairman and on behalf of the committee, would like to put to you a series of questions in public session and invite you to respond. If you wish, you can request to respond in private, and we will consider that further. Could you please outline to the committee your academic qualifications and work experience since leaving high school?

**Mr Smith:** I do not have my academic qualifications in front of me as I was not aware that the question of my academic qualifications would be the subject of your inquiry. I do not have a record of them in front of me. I can give you, to the best of my ability, my professional work history, but I do not have all the details pertaining to it and I would hate to get it wrong.

**The CHAIRMAN:** What is your work experience since leaving high school?

**Mr Smith:** I have already provided to you a memo, which clearly sets out all the qualifications I currently have. I am currently undertaking an advanced diploma in leadership and management through the University of Western Australia. I can outline to you my work experience. Bear in mind that this is to the best of my ability. I was appointed to my current position in October 2001. Prior to that, from January 1998 to October 2001, I held the position of general manager for Warringah Council, which is a large municipal council on the outskirts of Sydney. When I first joined the council, I held the position of director of services for three months. After a three-month period as director of services, I was appointed to the position of general manager. Between 1994 and 1998 I was at Coffs Harbour City Council. I held the position of director of planning, environment and development and also, by resolution of the council, I held the title of general manager, acting. Those resolutions have also been provided to the appropriate councillors at the City of Joondalup. From 1986 to 1994 I was an associate of a company called Gutteridge, Haskins and Davey Pty Ltd, and I held the position of manager, environment, planning, design for its New South Wales division. I held that position for probably four to five years of that time in private enterprise. Prior to that, I was from 1981 to 1986 the chief town planner at Baulkham Hills council; and from 1970 to 1980 I held the positions of chief town planner and first deputy chief town planner in the city of Campbelltown. Prior to that I was employed by the department of lands, where I was a cadet surveyor.

**The CHAIRMAN:** Thanks. How did you first become aware of the vacant position of chief executive officer at the City of Joondalup?

**Mr Smith:** In June 2001, when I was employed as general manager of Warringah Council, I received a telephone call from a person at Management Recruiters Australia inquiring if I would be interested in a position as CEO with one of the largest local government authorities in Western

Australia. I am not sure of the person's name at the time. It was not Warren Reynolds; it was one other of his staff. I was not given the name and I was not provided with any details. I was advised that they were at the time seeking out a number of people who may be interested in applying or being considered for the position. Management Recruiters did not advise me that the position was to be advertised. In fact, I asked that question, and I was advised the position was not going to be advertised. I found it difficult to understand how you could be considered for a position without seeing either an advertisement or documentation relating to it. That is how I first became aware of it.

**The CHAIRMAN:** Thank you. Had you had any dealings with Mr Warren Reynolds or Management Recruiters Australia prior to your contact with them in relation to the position at the City of Joondalup?

**Mr Smith:** No.

**The CHAIRMAN:** During the selection process for the CEO position at the City of Joondalup, were you ever advised that a minimum academic qualification and/or work history was either essential or desirable for the position? If so, what was that minimum academic qualification and/or work history?

**Mr Smith:** At no stage was I asked any questions pertaining to academic qualifications, either informally or formally, by the recruitment agency or any member of the selection panel; and at no stage was I asked to address any of those matters, either verbally or in writing.

**The CHAIRMAN:** What documentation did you provide to Management Recruiters Australia as part of your application for the position at the City of Joondalup?

**Mr Smith:** I never made an application for the position. I was asked in June 2001 to forward to Management Recruiters, as soon as possible, some details of my work experience and what I considered to be a condensed curriculum vitae so that it could consider the matter. The only information I have ever supplied to it was the document that is referred to by numerous people as a condensed CV, which was sent to it in, I think, late or mid June 2001. That is the only information I ever tabled or ever submitted.

**The CHAIRMAN:** Do you know whether any of your referees or other people with whom you have previously worked were contacted by either Management Recruiters Australia or staff or councillors of the City of Joondalup prior to your appointment as the CEO of the city?

**Mr Smith:** Yes.

**The CHAIRMAN:** Would you like to elaborate?

**Mr Smith:** I would rather answer that question in private. I can reveal the names of the appropriate people. I would object to having to relay that information in a public forum. I am more than comfortable to supply the names of the referees. I have them readily available in the sense that I have knowledge of the ones who were asked. I can supply that, but I do not think it should be in the public arena.

**The CHAIRMAN:** During the selection process, what contact did you have with the councillors of the City of Joondalup?

**Mr Smith:** Zero.

**The CHAIRMAN:** Who was involved in the negotiation and drafting of your employment contract and remuneration package?

**Mr Smith:** I dealt with Warren Reynolds at all times during the exercise. There could have been times when the acting CEO arranged to fax documentation to me as a result of receiving documentation from Warren Reynolds. That would have been Mr John Turkington.



**The CHAIRMAN:** What do you see as the essential attributes and skills required of a CEO of a large metropolitan local government?

**Mr Smith:** I would expect that the CEO most certainly should be commercially and professionally acuminate in the sense of having a clear understanding of what is required through best practice from both an administrative and a managerial point of view. A CEO should be able to move local government out of the forum of the 1970s and 1980s and take it through as a commercial entity. I would expect that a CEO in those positions should have experience in both private enterprise and either a government instrumentality or in what one would deem to be local government; that is, a fairly large local government authority.

**The CHAIRMAN:** Are there any significant differences between your role and responsibilities at the City of Joondalup and those you had at Warringah Council in New South Wales?

**Mr Smith:** They are very similar. Coastal councils, fairly complex urban development, complex governance matters and codes of conduct were issues at both Warringah Council and the City of Joondalup. Both are thriving local government authorities. Warringah is one of the fastest-growing local government authorities in New South Wales. It also has very strong support from business. I would see that it has lot of things in common with Joondalup, such as new urban areas, new urban development and a need to provide a new cultural and social fabric.

**The CHAIRMAN:** The committee understands that some councillors at the City of Joondalup have seen documentation in relation to your academic qualifications and previous work history, but that other councillors have been denied access to this documentation. Why?

[3.30 pm]

**Mr Smith:** After the May elections, I was approached by Councillors Prospero, Brewer and Gollant, who indicated to me that they would like to have a discussion with me regarding my qualifications. They did not demand anything; they did not request to see my qualifications. They asked for a meeting to clear the air on some matters that had been raised during their election campaigns. I met with Councillors Brewer and Prospero, and at the time of the meeting with them, I showed them all the documentation that I had shown to Mayor Bombak at the time, and also to Mark Loader. After that time, I received legal advice that I did not need to produce the documentation, and in fact should not have produced the documentation, and from there on I decided that it was not in my interest to continue down that track. I then denied access on the basis that I had received advice to that extent.

**The CHAIRMAN:** Those are the questions I have asked as Chairman on behalf of the committee, and I am pleased with your response. I note that you have requested a private hearing on one of those questions. It is our normal practice now to move to individual members to ask questions, and I would like to do that. You are aware of the conditions attached to a request you might make for certain evidence to be heard in private?

**Mr Smith:** I understand that, Mr Chairman.

**Hon JOHN FISCHER:** Do you believe there can be a resolution for a functional working environment on the part of Joondalup council, with the present situation not being finalised one way or the other?

**Mr Smith:** Certainly.

**Hon JOHN FISCHER:** Why do you believe certain councillors would say that they have not been able to view your qualifications, when you have indicated that the memo was sent out to all of them, listing those qualifications?

**Mr Smith:** I would find that most misleading information to put before your committee. It is factual information that every councillor received the memo in individual envelopes duly marked, and I have the documentation showing that each councillor got a separate document, because they

were watermarked, so that each document was marked, so if at a later stage it appeared in a certain position we have evidence of what document was sent to each individual councillor. They were all marked; every sheet was marked with a number and with a coding.

**Hon JOHN FISCHER:** What details did that memo have on it?

**Mr Smith:** I need to clarify what I said. Every councillor received the memo setting out the qualifications that had been sighted and where the sighting had taken place and what was the actual term of the qualification.

**Hon JOHN FISCHER:** It would appear to me that, because most of the problem that has arisen here seems to revolve around either the sighting or non-sighting of your qualifications, it would have been much easier for you to allow all councillors to view them.

**Mr Smith:** It would be just as easy for the mayor also to accept the referee's decision, which is a formal meeting of council, where his mayor at the time had sighted them in the presence of an independent witness. They had been verified. They were also verified by the fraud squad. That still did not meet the acceptance of Mayor Carlos, even after the fraud squad had indicated they had also viewed it, in light of a complaint that had been lodged by Councillor Walker.

**Hon JOHN FISCHER:** Surely given the ongoing confusion that has resulted out of this it would have been certainly to the benefit of the ratepayers of Joondalup to have all the councillors view your qualifications so the city could get on with the job and look after the ratepayers, who seem to me to be the suffering individuals in all this.

**Hon DEE MARGETTS:** How can you have a postgraduate qualification if you have no degrees?

**Mr Smith:** It is my understanding I applied to the institute of technology to be admitted to undertake a postgraduate course in business management. I had to use my qualifications as a town planner, and what I had previously obtained through the faculty of science for environmental and pollution studies. I made application at the time. Also it was deemed that experience was relevant - my experience at GHD, my experience with the Baulkham Hills council, and also Campbelltown council was deemed relevant, and I was permitted to undertake the course.

**Hon DEE MARGETTS:** What was the actual name of the course, please?

**Mr Smith:** That is detailed on the memorandum.

**Hon DEE MARGETTS:** I would call a post-degree course a postgraduate qualification, if I had graduated. If it were a diploma, and I had not graduated, I would call it a diploma. Can you explain how you call your qualification a postgraduate diploma, if you do not have a degree?

**Mr Smith:** I think I just explained that, to the best of my ability. I am not able to explain it any further. I have attempted to explain it to the best of my ability.

**Hon DEE MARGETTS:** How long has your CV, which indicated a bachelor degree, been in error? How many other organisations have been presented with that CV with that incorrect information?

**Mr Smith:** I do not have those details before me. I would not have that knowledge.

**Hon DEE MARGETTS:** Did you also give your previous council documentation that you had a degree?

**Mr Smith:** I would have to have a look at the application made to Warringah Council. I could not comment on that. I do not have those details available. In respect of the degree, I advised in November of last year, before a defamation hearing, that I do not have a degree in business. The councillors clearly understand I do not purport to have a degree in business management. Clearly that was an error - black and white, crystal clear, in November last year.

**Hon DEE MARGETTS:** However, it has been on your CV for a considerable length of time?

**Mr Smith:** They are your words. I did not indicate to you that it was for a considerable period of time. I would be unable to advise, without seeing all records pertaining to Warringah Council. I find it very hard to understand how one who applies for a position at Warringah Council or at Wollongong Council is relevant to your terms of reference that are being set out as being the terms of reference before your committee of inquiry.

**The CHAIRMAN:** We allow a degree of flexibility. I think we have all established that there seems to be a fascination with your qualifications. That is behind much of the interest in the matter. If we can resolve those matters, the committee will be doing a service to the people of Western Australia and the people of Joondalup.

**Mr Smith:** Do I understand that the purpose of your committee is to establish what my qualifications are?

**The CHAIRMAN:** I did not say that. The purpose of our committee is to examine aspects of the Local Government Act, using the situation involving yourself and your appointment at the City of Joondalup as a case study.

**Mr Smith:** I have indicated that I do not hold a Bachelor of Business. I have never held a Bachelor of Business, and I admitted in November last year that any information relating to a Bachelor of Business I do not hold. That is the information I put before the council so the council could openly and transparently understand that matter in November of last year. I do not hold a Bachelor of Business. I assure you that many people can apply for postgraduate qualifications without having a degree.

[3.40 pm]

**The CHAIRMAN:** I will just cut in here. I know that other members wish to ask questions. Mr Smith, why do you not provide our committee with your qualifications - your certificates - to clear up the matter?

**Mr Smith:** I have provided all my qualifications to Blake Dawson Waldron. They are detailed in a memo that I supplied to you. Every qualification I hold is detailed in the memo that I have supplied and have been sighted by the mayor, the manager of human resources and the fraud squad.

**The CHAIRMAN:** Are you prepared to table your qualifications or certificates?

**Mr Smith:** Not unless I am given a direction to do so from your inquiry. You would need to set out the purpose for that and the parameters of how you can legally require that.

**Hon KEN TRAVERS:** In New South Wales -

**Mr Smith:** Just before Mr Travers asks his question, I am sure that the Western Australian fraud squad would be able to assist you, Mr Chairman, in being able to verify my qualifications, because its officers have witnessed all the original documentation. They were provided by Mr Tony Davis in the presence of legal counsel.

**Hon KEN TRAVERS:** Just to clarify that matter, was a document that lists all your qualifications, which have been sighted and certified by Blake Dawson Waldron, provided to us in the documentation?

**Mr Smith:** That is correct. The document is the memo. That was sighted by the fraud squad. That was forwarded to the fraud squad.

**Hon KEN TRAVERS:** One of our terms of reference is to look at minimum qualifications. You obviously have had experience in New South Wales. Under the New South Wales system is there a requirement for CEOs of local authorities to have tertiary qualifications?

**Mr Smith:** Absolutely zero.

**Hon KEN TRAVERS:** No qualifications whatsoever?

**Mr Smith:** That is correct. It was removed when the Local Government Act was substantially revamped in 1993.

**Hon KEN TRAVERS:** So it is completely the same situation? Councils cannot set minimum qualifications?

**Mr Smith:** A council could if it so desired, but the Act most certainly does not prescribe any minimum qualifications for a general manager.

**Hon KEN TRAVERS:** For instance, from your personal experience, did Warringah Council have a requirement for tertiary qualifications?

**Mr Smith:** I have no knowledge of whether it did.

**The CHAIRMAN:** Hon Murray Criddle has to go in a couple of minutes. I just want to give him an opportunity to pose a question.

**Hon MURRAY CRIDDLE:** Thank you for appearing Mr Smith. The questions that I was going to ask were ones that I asked during the previous session. I am quite happy to have received the answers that you have given as answers to those questions. From my point of view, I am happy that I have heard the evidence. I will take it from there. Thank you.

**Hon KEN TRAVERS:** To clarify, did Warringah Council set minimum requirements for the employment of CEOs?

**Mr Smith:** I would be unable to answer that question.

**Hon KEN TRAVERS:** Do you recall the press release that was sent out at the time you were appointed as general manager of Warringah Council? Would you have sighted the press release that was sent out at that time?

**Mr Smith:** It is possible, but I would be unable to comment unless I sighted the document. I would probably then have to look at its whereabouts.

**Hon KEN TRAVERS:** If there had been an error in that document, would you have brought that to the attention of the then mayor?

**Mr Smith:** I have no knowledge of the matter you are referring to. Maybe if you give me a copy of the document.

**Hon KEN TRAVERS:** We have been provided with a document that purports to be a media release that was sent out at the time of your appointment as general manager of Warringah Council, which quotes Councillor Sam Danieli, Mayor. The press release states that you have a Bachelor of Business Management from the University of Technology, Sydney.

**Mr Smith:** I could not comment.

**Hon KEN TRAVERS:** You could not understand why that would have been? If you had seen that at the time, would you have raised it with the mayor and said, "Hang on, that is wrong"?

**Mr Smith:** It is possible. I am unable to comment.

**Hon KEN TRAVERS:** You earlier mentioned the document you provided to us today and which was sent to all councillors. I think Councillor Carlos refused to accept it and denied ever receiving it. Is that a correct summation?

**Mr Smith:** I indicated that every councillor definitely received it.

**Hon KEN TRAVERS:** I think you also indicated at one point that he had denied receiving it or continues to deny having received it. I cannot remember the exact words, but it was to the effect that he had denied receiving it.

**Mr Smith:** Something to that effect.

**Hon KEN TRAVERS:** Did you ever try to provide a further copy to him to try to resolve the matters that were obviously causing dissension in the council?

**Mr Smith:** Mayor Carlos was fully aware of that memo. His attention was drawn to it on numerous occasions. It was also drawn to the council's attention by Blake Dawson Waldron in a number of letters of correspondence that were sent to not only Mayor Carlos but also all councillors.

**Hon KEN TRAVERS:** Okay. I just want to go through it. In terms of the document you have provided today and which was provided to Management Recruiters Australia in terms of your CV, as I understand it, it lists a range of different positions. I think we have clarified that item (b) on the document you have provided, which was the postgraduate qualification of a Bachelor of Business Management, was an incorrect statement on the CV that was provided to MRA. I think we have clarified that. Is that a fair comment?

**Mr Smith:** That is correct.

**Hon KEN TRAVERS:** The next one you had was a postgraduate diploma in environmental and pollution studies from the faculty of science at the New South Wales Institute of Technology. Going through the documentation that you have provided to us today, item 4 lists a postgraduate qualification. I assume it relates to this one. On the document you provided to Management Recruiters Australia, it was a postgraduate diploma, and on this document you are saying that it was a postgraduate qualification course from the New South Wales Institute of Technology in environmental and pollution studies. Is a diploma the same as a qualification course, or are they different?

**Mr Smith:** That is my understanding. That was verified by the fraud squad. If you look at the correspondence back from the police commission, you will see that it verified that information.

**Hon KEN TRAVERS:** So it is the same qualification. Is the documentation you have a diploma? What does it say on the document?

**Mr Smith:** I do not have the document in front of me.

**Hon KEN TRAVERS:** All right. You mentioned earlier in your evidence that the general manager position was a decision of the council at Coffs Harbour. Again, I am not sure about this. The wording changes in various documents between chief executive officer and general manager. I take it that they are one and the same position. Was that a decision of the council?

**Mr Smith:** I indicated that there was a title called "general manager acting". That was by formal resolution of council. A copy of that resolution has been provided to the council.

**Hon KEN TRAVERS:** To the City of Joondalup?

**Mr Smith:** That is correct.

**Hon KEN TRAVERS:** How long did you hold that position?

**Mr Smith:** That position was held for the whole time that I was there.

**Hon KEN TRAVERS:** Right. That has been provided to the council?

**Mr Smith:** That is correct.

**Hon ED DERMER:** I would like to go over a couple of the matters you have raised so far this afternoon. The term of reference that I am interested in learning about from your experience is the standard of proof that may be required, by regulation or otherwise, for the future appointment of CEOs. You earlier explained that your wife had assisted you in preparing your curriculum vitae and that you took responsibility for checking it and making sure that what was in it was accurate, including the one error that later came to light. You can recollect your wife assisting you with this work. Can you recollect when she did that work?

**Mr Smith:** It would have been in June 2001.

**Hon ED DERMER:** So the error in your CV was introduced in June 2001?

**Mr Smith:** It could have been there previously. I indicated that previously.

**Hon ED DERMER:** It may have been there and it may not have been.

**Mr Smith:** That is correct.

**Hon ED DERMER:** The next matter I would like to go back to is when you explained that the original certification from educational institutions establishing each of your post-school education qualifications was provided to the fraud squad.

**Mr Smith:** That is correct.

**Hon ED DERMER:** Was the curriculum vitae that I referred to in my last question also provided to the fraud squad?

**Mr Smith:** I would have to seek some assistance from Blake Dawson Waldron in respect of that exercise. It is my understanding that all those details had already been supplied to the fraud squad as a result of information that had been supplied by an elected member.

**Hon ED DERMER:** Okay. It would seem logical that, if we are trying to address whether the qualifications listed on that CV were accurate, the process would be to take the CV or the information that was given to the people who made the decision about your appointment. If the fraud squad was involved in that process, that would work only if the fraud squad had a copy of that CV as well as a copy of the original parchments or other certificates from the educational institutions involved.

[3.50 pm]

I am explaining this to make clear the relevance of the question. It would be very helpful to the committee if you could provide verification - either yes or no - that the curriculum vitae was also provided to the fraud squad along with the certificates from the institutions.

**Mr Smith:** It is my understanding it did have a copy of the document.

**Hon ED DERMER:** Would you be happy to check that and advise the committee one way or the other?

**Mr Smith:** Most certainly. We can verify that through the fraud squad.

**Hon ED DERMER:** Thank you. Lastly, when you went through that process in November last year, as I understand it, with Mr Loader and Mr Bombak, the then mayor, you went through each of the certificates from educational institutions and checked them against the list. So, you were then able to then make a list of those to satisfy Mr Loader, Mr Bombak and yourself and you each checked each of the certificates from educational institutions and made a comprehensive list, which was then included in the memo that went to all the councillors at the City of Joondalup at the time. Is that correct?

**Mr Smith:** That is correct.

**Hon ED DERMER:** Most of this controversy could be resolved if your certificates from the educational institutions were provided to independent people or institutions and compared with the list on your CV. With regard to your answer to my previous question, we are not sure whether the fraud squad had the CV list to compare it with the memo list -

**Mr Smith:** I have already indicated the answer is yes, it did.

**Hon ED DERMER:** It had a list of certificates -

**Mr Smith:** That is correct.

**Hon ED DERMER:** But you were not sure whether it had the CV -

**Mr Smith:** Yes I am. I have already indicated to you, member, the answer is yes; it had the CV, the memo and all the original documentation.

**Hon ED DERMER:** Okay, that is different to what I previously understood. However, you are saying that very clearly now. What would be very helpful would be an opportunity for people who were not involved in your selection process to compare the documents. With all due respect to Mr Bombak and Mr Loader they were involved in the original process. I think the presentation of that set of certificates from the educational institutions and the CV for comparison by a totally independent body would be very helpful. I am pleased that you are now confirming that the fraud squad had the CV and the list of documents to allow it to make that comparison. Thank you.

**The CHAIRMAN:** Mr Smith, you have now had two years experience in the Western Australian system of local government. Do you have a view with regard to your circumstances and other examples that I am sure you are aware of around local government circles in Western Australia, on the process that is used by councils to appoint CEOs in WA?

**Mr Smith:** Most certainly. I have read the submission that has been made by the LGMA, which is part of the documentation that is being submitted to you. I endorse that submission; that is, the submission made by the LGMA in respect of the current provisions of the Act. I am of the view that the one area that needs to be corrected is that all positions should be advertised and you should be required to make a formal written application together with a set of criteria that are spelt out in the job specification to which you apply. That would clarify a great deal of the controversy that has been attached to this matter.

**The CHAIRMAN:** In terms of setting those standards, do you see a role for the Western Australian Local Government Association or the Salaries and Allowances Tribunal in terms of remuneration and conditions, or some other body?

**Mr Smith:** Most certainly WALGA and the Department of Local Government and Regional Development would be able to assist in putting guidelines out with regard to setting the remuneration package. Each individual council should have the ability to determine what it will pay a CEO. However, in most instances, as Mr Loader indicated, one would seek professional advice, which they did from people who are specialists in remuneration packaging, and to look at the field of what they consider to be a reasonable span of salary or total packaging. I do not think that every case could be dealt with by regulation. I think the specific point made by the LGMA was that to regulate would be almost an impossibility for some local government authorities throughout WA. Probably the vast scope of local government authorities in some of your outlying areas would find it very difficult to recruit certain CEOs if you had prescribed regulations for every one of them.

**The CHAIRMAN:** Do you think it might be possible to group councils into certain categories; for example, the big metropolitan councils like Joondalup, Stirling and so on, through a series of classes - one to five or something like that - to the very small country councils?

**Mr Smith:** I have experienced that in the east. There were various classifications of councils that ranged from one to 20, 20 to 40 and 40 to 60. It was not a very difficult task to get listed out of 30, to get through to 20, depending upon the quality of the submission that you made and depending upon certain criteria. In some instances it was fairly sound but, most certainly, it had a number of flaws and that was removed when the Local Government Act was amended in 1993.

**The CHAIRMAN:** In 1995.

**Mr Smith:** Sorry, 1995.

**Hon JOHN FISCHER:** With regard to that, I am interested in that as far as any changes to the legislation go, what were the actual classifications for those? Western Australia has a problem if we are going to open it up as one right across the board. As previously mentioned, there are large councils such as Joondalup and then some very small councils. Prior to 1995, how many divisions were there in New South Wales? Five divisions, is that what you are -

**Mr Smith:** I am not sure exactly.

**Hon JOHN FISCHER:** You go from 20 to 40, to 60 to 80, to 100 or -

**Mr Smith:** I think there are about 170 local government authorities, or 173 -

**Hon KEN TRAVERS:** In WA there are 144.

**Mr Smith:** No, I thought we were talking about New South Wales.

**Hon JOHN FISCHER:** Yes. I specifically asked that question because I would like to have a look at that in the future.

**The CHAIRMAN:** There was an unruly objection from someone in the public gallery.

**Mr Smith:** The situation in the east was that most of the metropolitan councils were grouped into a metropolitan situation depending on population and income and expenditure. In some instances, that proved to be quite a difficult task because some of them were fairly rapidly growing local government authorities, and you would find that they would move out of one bracket and into another fairly rapidly. Most of the large councils would be within the first 20 and you would go almost on an outer lying area, but then there were some smaller local government authorities within the heart of Sydney that did not fall within the categories of being major local government authorities but who felt that some of the infrastructure they required far outweighed what they were able to pay under the terms of classification.

**Hon ED DERMER:** So it was not based simply on population?

**Mr Smith:** Population was one major criteria. Classification of being a city was another. Classification of income expenditure from the organisation and growth was also another important factor.

**Hon KEN TRAVERS:** I have one more question about your CV and other matters. In terms of your understanding of the common use words that I am about to use, whether you meet that requirement, "I hold formal tertiary qualifications in business management".

**Mr Smith:** That is correct.

**Hon KEN TRAVERS:** You do.

**Mr Smith:** That is correct.

**Hon KEN TRAVERS:** So what is your formal tertiary qualification in business management?

**Mr Smith:** As set out on the memo that I made reference to on a number of occasions today.

**Hon KEN TRAVERS:** So that is the postgraduate qualification course in business management -

**Mr Smith:** That is correct.

**Hon KEN TRAVERS:** But not a Bachelor of Business degree.

**Mr Smith:** That is correct.

**Hon KEN TRAVERS:** With regard to the issues in Joondalup, that seems to have caused some of the problems. Going back a year ago now and with the benefit of hindsight, would it have been in the best interests of the council to have made a public statement that clearly outlined that that part of your CV was incorrect and publicly explain exactly what you did?

[4.00 pm]

**Mr Smith:** I think the city has on numerous occasions attempted to put this matter to bed and Don Carlos has never accepted the umpire's decision and reignites it whenever he sees fit.

**Hon KEN TRAVERS:** Correct me if I am wrong, but has anyone ever made the public statement that in your CV you claimed to have a Bachelor of Business degree, and that you do not hold it but you do hold a post-graduate qualification course in business management?



**Mr Smith:** I could not answer that question.

**Hon KEN TRAVERS:** To the best of your knowledge, has that statement ever been made by anyone in council or yourself to the public?

**Mr Smith:** I could not answer that. I do not know.

**Hon KEN TRAVERS:** In terms of yourself, have you ever made that public?

**Mr Smith:** I am not aware I have.

**Hon KEN TRAVERS:** Are you aware of anyone else having done it?

**Mr Smith:** I just indicated to you that I was not aware -

**Hon KEN TRAVERS:** No, you said you could not answer.

**Mr Smith:** I could not answer the question.

**Hon KEN TRAVERS:** I am asking you whether you are aware of it?

**Mr Smith:** I could not answer that. I would be unable to advise you.

**Hon KEN TRAVERS:** To your knowledge - you can advise me on what your knowledge is - has anyone ever done that? It is not definitive that no-one has. I am asking whether to your knowledge has anyone ever done that or made that sort of statement?

**Mr Smith:** I am not aware.

**Hon KEN TRAVERS:** Would it have been in the best interests of the council for a statement along those lines to have been made publicly some 12 months ago?

**Mr Smith:** I would be unable to give you an opinion on that, but most certainly from my perspective as the CEO, a public statement clarifying the situation would have gone a long way to removing a great deal of the anxiety that has been attached to it. The answer would be yes from my perspective, but it would be up to the council if they wished to issue a statement.

**Hon KEN TRAVERS:** Did you ever ask the council to do that?

**Mr Smith:** That would be a council decision. I have never asked the council to do it.

**Hon KEN TRAVERS:** But under your contract one of the things you are required to do is to make decisions in the best interests of the council; is that correct?

**Mr Smith:** Do you want to give me a copy of the contract and refer to the appropriate clause?

**Hon KEN TRAVERS:** Under the appendix it does say that, as far as I am aware. Anyway, if you do not recall that section of your contract, that is fine. My next question is: do you recall what clause 15 of your contract states?

**Mr Smith:** Most certainly I do not.

**Hon KEN TRAVERS:** Do you recall that there is a section of your contract that refers to the payment of legal fees or who should pay for the performance of the contract?

**Mr Smith:** Mr Chairman, if member Travers would like to give me a copy of the contract I might be able to read clause 15.

**The CHAIRMAN:** I do not think we have had a copy officially tendered yet.

**Mr Smith:** I would be unable to answer the question, Mr Chairman, because I do not have the contract with me and I am not prepared to guess what is in the contract. There seems to be a lot of people who have a copy of it. A lot of people seem to know a lot about it, but most certainly I am not in a position to speculate on what is in it.

**The CHAIRMAN:** We can come back, Mr Smith, either in writing or verbally with that sort of request once we get all the documentation.

**Hon KEN TRAVERS:** What it says is -

Subject to any express provision in this agreement to the contrary each party shall bear its own legal and other costs and expenses relating directly or indirectly to the preparation of and performance of its obligations arising out of this contract.

You do not recall that clause in your contract?

**Mr Smith:** As I indicated, Mr Chairman, if you give me a copy of the contract I am happy to give an opinion on it. I am not prepared without having the contract in front of me. Member Travers seems to have the contract.

**The CHAIRMAN:** Just hang on a second. We cannot do that at this stage because the document that seems to have been referred to is confidential at this stage of our proceedings.

**Hon KEN TRAVERS:** I guess my other question was: do you recall how your performance review was conducted this year?

**Mr Smith:** I most certainly do.

**Hon KEN TRAVERS:** Can you advise the committee how there was the mayor and two other councillors - how the two other councillors were appointed?

**Mr Smith:** Yes. At the time in accordance with the contract I understand to the best of my knowledge there is a clause in the contract to say that the performance review or notice shall be carried out within a prescribed period. That is stipulated within the contract. I received advice from Mayor Bombak at the time that a performance review would be carried out in accordance with the terms of the contract and it was my understanding that the mayor and the deputy mayor and, in accordance with the contract, one other person to be mutually agreed to by one other councillor, to be mutually agreed to by the CEO and by the mayor. I nominated Councillor Rowlands and Mayor Bombak concurred with that. Prior to the performance review taking place Councillor Walker lodged a complaint with the Department of Local Government pertaining to the performance review being undertaken. I was contacted by the Department of Local Government and the city also sought advice on could the performance review be carried out with the mayor, deputy mayor and one other councillor that I had agreed to by mutual agreement with the mayor. The department advised the city that it was in order to proceed. The department also and our legal advice was to the effect that it was not a committee of council - it does not have a capital C, it is a small C - and advice was obtained from Freehills that the committee could be carried out in accordance with the contract. It could comprise the mayor, the deputy mayor and one other councillor that I agreed to. I did not nominate the deputy mayor; that came from Mayor Bombak. I understood the practice had been for many years that the mayor and the deputy mayor had participated in the performance review.

**Hon KEN TRAVERS:** Did the deputy mayor go on to that as a result of a decision of Mayor Bombak, or was it part of the contract that put the deputy mayor on the committee?

**Mr Smith:** I am not aware that the contract stipulates it is to be the deputy mayor. It says it is to be three councillors, one being the mayor and one to be mutually agreed to by the CEO and the mayor. I agreed to Councillor Rowlands and I understood that Mayor Bombak advised all his councillors that the review was to be carried out by the mayor, the deputy mayor and Councillor Rowlands. He sought comments from any of the elected members and if they wished to make any comments pertaining to the performance review. The department intervened. The department's advice was sought and so was advice from Freehills, and the advice both from the department and also from Freehills was that the city could proceed on the basis of carrying out the performance review with the mayor, the deputy mayor and Councillor Rowlands, and such performance review was.

**Hon KEN TRAVERS:** I am still a bit confused by what mechanism the deputy mayor became a member of that committee.

**Mr Smith:** It is my understanding that the deputy mayor was put on there by the mayor at the time, on the understanding that that had been the practice of the council during the previous CEO's performance reviews. It was always the mayor and the deputy. I cannot comment any further.

**Hon KEN TRAVERS:** From your point of view you had no input into that. That was a decision of the mayor and clearly was not a decision of the council; it was a decision of the mayor at that time.

**Mr Smith:** It did not require a decision of the council. It was not a committee of the council.

**Hon KEN TRAVERS:** How else would you pick the third member? So the mayor gets to pick that third person, the councillor?

**Mr Smith:** My understanding was that the mayor followed the practice that had been happening for some time - the mayor and the deputy mayor - which I considered from a CEO's perspective very sound. If you have a mayor and a deputy mayor they should be a member of the review panel.

**Hon KEN TRAVERS:** I have one final question. Were you ever the general manager of the New South Wales division of GHD?

**Mr Smith:** No. I clarified that when I gave evidence before. My title was associate manager and the question of general manager, that has already been clarified quite extensively and I intend to go into that further during closed session when you talk about the referees.

**The CHAIRMAN:** You have been the CEO now for roughly two years?

**Mr Smith:** That is correct.

**The CHAIRMAN:** In view of the current controversy and the legal costs associated with this situation, which from what we have heard is over \$100 000 at this stage, do you think the City of Joondalup have got value for money from you?

[4.10 pm]

**Mr Smith:** I think the City of Joondalup has had an outstanding CEO and I think the performance I have been able to carry out for the organisation over the last two years - my record speaks for itself. I have a performance review coming up in the next four weeks and I can assure you I have met the heads of agreement and the various criteria - more than met them. The city has moved ahead in leaps and bounds and I have never had a more united staff. There has been reference in this room by other people that we had a mass exodus when I was appointed. People need to be mindful of the truth. The council asked for a restructure and those who left the organisation were as a result of a formal resolution of council to restructure the organisation from four to three directors and from 17 to 12 business managers. As a result of that decision, yes, certain members left. That was a decision unanimously - one of the rare ones - supported by the whole council to reduce the senior management team from four to three and from 17 to 12 directors. The organisation has been functioning extremely efficiently on 12 managers and three directors. I think the city at the moment is most certainly excelling.

**Hon ED DERMER:** Was that decision on your recommendation?

**Mr Smith:** That is correct.

**The CHAIRMAN:** You have made a request for a closed session. Before we do that, is there anything you would like to say in closing this public session?

**Mr Smith:** No, Mr Chairman. Thank you for the opportunity of being able to speak here.

**The CHAIRMAN:** Thank you. We will continue this session in private. I thank the public and media for their attendance.

**[The committee took evidence in private]**