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STANDING COMMITTEE ON RURAL AND REGIONAL AFFAIRS
AND TRANSPORT

**Reference: Airspace Bill 2006; Airspace (Consequential and Other Measures)
Bill 2006**

THURSDAY, 1 FEBRUARY 2007

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**SENATE STANDING COMMITTEE ON
RURAL AND REGIONAL AFFAIRS AND TRANSPORT
Thursday, 1 February 2007**

Members: Senator Heffernan (*Chair*), Senator Siewert (*Deputy Chair*), Senators Ferris, McEwen, McGauran, Nash, O'Brien, and Sterle

Participating members: Senators Adams, Allison, Barnett, Bartlett, Bernardi, Boswell, Brandis, Bob Brown, George Campbell, Carr, Chapman, Crossin, Eggleston, Chris Evans, Faulkner, Ferguson, Fielding, Hogg, Hutchins, Joyce, Lightfoot, Ludwig, Lundy, Ian Macdonald, Mason, McLucas, Milne, Nettle, Payne, Polley, Robert Ray, Stephens, Trood, Watson and Webber

Senators in attendance: Senators Ferris, Heffernan, McEwen, O'Brien, and Siewert

Terms of reference for the inquiry:

To inquire into and report on: Airspace Bill 2006; Airspace (Consequential and Other Measures) Bill 2006

WITNESSES

BYRON, Mr Bruce, Chief Executive Officer, Civil Aviation Safety Authority 1

**CARMODY, Mr Shane, Deputy Chief Executive Officer, Strategy and Support,
Civil Aviation Safety Authority 1**

**GEMMELL, Mr Bruce, Deputy Chief Executive Officer, Operations, Civil Aviation
Safety Authority 1**

**MRDAK, Mr Mike , Deputy Secretary, Department of Transport and Regional
Services 1**

Committee met at 9.02 am**BYRON, Mr Bruce, Chief Executive Officer, Civil Aviation Safety Authority****CARMODY, Mr Shane, Deputy Chief Executive Officer, Strategy and Support, Civil Aviation Safety Authority****GEMMELL, Mr Bruce, Deputy Chief Executive Officer, Operations, Civil Aviation Safety Authority****MRDAK, Mr Mike, Deputy Secretary, Department of Transport and Regional Services**

CHAIR (Senator Heffernan)—Ladies and gentlemen, this is the second hearing of the Senate Standing Committee on Rural and Regional Affairs and Transport inquiry into the Airspace Bill 2006 and the Airspace (Consequential and Other Measures) Bill 2006. The inquiry was referred to the committee by the Senate on 7 December 2006 for report by 26 February 2007. The committee has received eight submissions for this inquiry. Submissions have been authorised for publication and are available on the committee's website.

I remind all witnesses that in giving evidence to the committee they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee, and such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to a committee. The committee prefers to hear all evidence in public, but under the Senate's resolutions witnesses have the right to request to be heard in private session. It is important that witnesses give the committee notice if they intend to ask to give evidence in camera. If a witness objects to answering a question, the witness should state the ground on which the objection is taken and the committee will determine whether it will insist on an answer, having regard to the ground which is claimed. If the committee determines to insist on an answer, a witness may request that the answer be given in camera. Such a request may, of course, also be made at any other time.

Our hearing this morning involves officers from the Civil Aviation Safety Authority. I welcome you all here, and I hope you all had a good night. If you would like to make another opening statement, you may—this is your third go in two days. If not, we will just go straight to questions.

Mr Byron—We have no opening statement, Chair.

Senator O'BRIEN—Late yesterday we were talking about the training deficiencies that led to the November 2006 suspension action. Can you tell us the source of the information?

Mr Gemmell—I would rather not.

Senator O'BRIEN—Was it a source that had previously contacted CASA, given that there was evidence of whistleblowers in the past?

Mr Gemmell—It certainly was not any of the 'known' whistleblowers. Perhaps that is a conflict in terminology, but I think you know what I mean.

Senator O'BRIEN—When was that information obtained?

Mr Gemmell—On 23 November.

Senator O'BRIEN—Did that information indicate that requirements of the regulations had been breached?

Mr Gemmell—It suggested or alleged that there were some deficiencies in what had been done, the implication of which would have been some noncompliance, you would imagine, with either the regulations and/or Transair's own operations manual.

Senator O'BRIEN—Do those actions or omissions, whatever they might be, which would seem in the circumstances you describe to be a breach of the regulations—that is, if they are not complying with their manual then they are also breaching the regulations—give rise to grounds for a prosecution?

Mr Gemmell—There is a long road between an allegation and grounds for a prosecution. In a philosophical sense, if you find that an organisation is breaching the rules, it is possible to get to a prosecution. There are many other responses to that as well. A prosecution is not the normal response to finding out that someone has not complied with a requirement.

Senator O'BRIEN—With regard to this training deficiency matter, we have had a number of conversations about the human factors training component which ATSB discovered was not being complied with. How does it relate to that training?

Mr Gemmell—I cannot say it particularly does.

Senator O'BRIEN—What sort of training are we talking about that was absent or improperly delivered?

Mr Gemmell—The suggestions were about some of the check-to-line training—their proficiency, ongoing proficiency, checking and that sort of stuff.

Senator O'BRIEN—That it just was not taking place?

Mr Gemmell—No, not that it was not taking place but questions about whether it was taking place with the appropriate frequency and whether it was being done to the appropriate quality—whether it was being fast-tracked through rather than being done to a full standard.

Senator O'BRIEN—It must be fairly serious if it gave rise to the suspension action.

Mr Gemmell—I tried to explain yesterday what gave rise to the suspension action. We had the allegations, we went in to check those allegations, we were denied access to the documents that would suggest one way or the other and so we suspended them on that basis.

Senator O'BRIEN—So the suspension was more that they refused to comply with a request for information and inspection?

Mr Gemmell—Yes. The fact is that at the time of the decision to suspend we did not know if the allegations were right or wrong because they denied us access to the documents that we were lawfully entitled to. That gave rise to suspicions and concerns on our part as to why that might be. But the fact is that we suspended at that point. The suspension gave us the opportunity to conduct an investigation, which meant we could go in and look at the files and documents and see for ourselves whether the allegations were correct.

Senator O'BRIEN—Does that mean that CASA were never able to fully investigate those allegations?

Mr Gemmell—Prior to the decision to suspend, yes.

Senator O'BRIEN—Subsequently?

Mr Gemmell—The purpose of the suspension was to enable us to go in and look at these things, which was an action we took.

Senator O'BRIEN—So CASA did look at those things?

Mr Gemmell—Yes. That is the point of the five days that we have to look and conduct an investigation to try and find out—

Senator O'BRIEN—What was discovered?

Mr Gemmell—It think it is fair to say that everything that was alleged was not confirmed but a significant proportion of what was alleged was, in our belief, found to be accurate. That is not proven; that is the judgement that our officers made when they looked at the documents and searched through the files and papers.

Senator O'BRIEN—So the observations of CASA officers from the inspection—if I can summarise what you have just told me so that we are on all fours and I am understanding what you are saying—were that there were significant deficiencies in training frequency and quality.

Mr Gemmell—There were deficiencies in that.

Senator O'BRIEN—And they were not insignificant; they were significant—is what I am taking from what you are saying—in the view of CASA inspectors.

Mr Gemmell—We did not ask them that question. We asked them to check out the allegations and whether they were sustained by the information or disproven by the information that was there. For a lot of them, it did seem to be that either it had not been adequate or the records did not show that the training had occurred in the way it should have.

Senator O'BRIEN—Going back how long?

Mr Gemmell—I cannot recall, but it was—

Senator O'BRIEN—A considerable period?

Mr Gemmell—Some time, yes.

Senator O'BRIEN—Do you know what period the CASA inspectors looked at when they checked this information during the suspension period?

Mr Gemmell—They looked over a range of periods in trying to ascertain what training had been done and whether it met requirements.

Senator O'BRIEN—Senator McLucas asked the following question on notice, CASA 17, at estimates in February last year:

Is it correct, from Mr Byron's answer at Estimates Hearing on 13 February 2006 ... that no check was made of the pilot's qualifications generally or their completion of training and the type and quality of the training undertaken, and that all that was checked was whether the appropriate systems were in place?

The answer provided was:

The samples of the records of six pilots were randomly selected from the company's flight crew employees list and were examined for:

Medicals

Dangerous Goods training

Base and Route Checks

Emergency Procedures Training

Instrument Ratings

Flight and Duty Hours

All were found to be recorded correctly and current. In addition, the pilot's type conversion examination records were checked and found to be satisfactory.

As to the training element, Flying Operations Inspectors from Brisbane have observed training and testing conducted by Lessbrook (Transair) and two senior inspectors, one from Sydney and one from Brisbane, have completed the full type training package for the Metroliner Aircraft with the company. In all cases, the training was considered to be at an acceptable standard.

Is the training that you are talking about different from that which is referred to in that answer?

Mr Byron—The summary you have read from the answer there is the information that our inspectors gave us as a basis for their oversight of the airline. Clearly they did not check everything—and I do not expect that in doing any audit they would check everything—but it seems that there are elements of the new information that came to light to us in November that might be covered by some of those areas. If they did samples, they might not have checked some pilots where there may have been deficiencies. Certainly, from my point of view, the way in which we conduct the detail of the audits is something we have been looking at for the last year. Whether or not there were elements that were deficient at the time with other pilots that they did not check, I do not know; we have not got to that stage yet.

Senator O'BRIEN—You have not got to that stage yet.

Mr Byron—No, we are reviewing the detail of how our inspectors do their audits. We are providing additional guidance to them. Whether or not there were issues there when they conducted the audits on other pilots that were deficient and they missed those, I do not know. But we are trying to get to the bottom of that, and we are providing additional guidance to our inspectors so that we have a broader range of coverage. From my point of view, I think the most important thing is that we have increased the amount of surveillance of this type of activity since about mid-2005. We have increased our focus on the regional airline sectors, which I think I mentioned about a year ago here, mainly because we feel that this part of the industry is an area that needs additional scrutiny. Training and checking systems in regional airlines, particularly, is an area that was looked at by our control group inspector system through the course of the last financial year, and it has indicated across the board—not specifically in relation to this airline—that we need to have a more detailed look at check and training systems across the regional airline sectors. We are currently working our way up to doing that right now.

Senator O'BRIEN—Another answer, to CASA 19, provided in the February 2006 estimates round contains this passage in relation to Transair:

Training and the testing and checking of training have been regular considerations within audits and have been found to be at an acceptable standard.

I take that to mean that the audits which we know took place in 2001, 2004, 2005 and 2006 all audited training—is that right?

Mr Byron—I do not think all those audits looked at training; some of them did. As I mentioned yesterday, we have details—

Senator O'BRIEN—What do 'regular considerations' mean, then, in the context of that answer in February 2006?

Mr Byron—It would mean that the inspectors have reported that during the audits they looked at some element of training. It might have been training of cabin crew; it might have been training of pilots—it could have been a range of a number of issues. But, certainly, it would not be a full comprehensive investigation of the whole check and training system.

Senator O'BRIEN—In terms of the matters which the whistleblower advised to CASA as being matters that should be inspected which led to the suspension, are they matters which relate to emergency procedures training?

Mr Gemmell—First of all, to clarify: I used the expression 'whistleblower'. I hope you understood that it was not one of the known—

Senator O'BRIEN—For the purpose of this question, I am not interested in who provided the information. You have told the committee that certain information was provided about certain training, there was a check made, and some of that information was verified. I am asking: was the training referred to relevant to emergency procedures training?

Mr Gemmell—Some of it was related to pilot emergency procedures training.

Senator O'BRIEN—The answer to CASA 17 tells me that the emergency procedures training for six pilots were examined and were found to be recorded correctly and current. How can that be if, subsequently, information was found which indicated that there were problems which, it sounds, were in that area? Does that mean that the original audits were not competently conducted?

Mr Gemmell—I think you can fairly say that we were not previously aware of the information that came to us on 23 November, hence the need to take action. In light of the information that flows from the various investigations, including the ATSB investigation, we have to look back to try to make some judgements about why information that appears to be accurate now was not detected—

Senator O'BRIEN—Was not detected or was not available?

Mr Gemmell—That is a question that has to be answered. Maybe it is a more recent thing; that is a possibility. Airlines are not static in their nature. This could have been a recent event. But, for those that have been around for a while, why weren't they detected?

Senator O'BRIEN—Were the officers who conducted the inspections during the suspension period the same officers who had been auditing the airline prior to that period? I am interested in knowing if the people who did the inspection during the suspension period—

Mr Gemmell—What do you mean by 'during the suspension period'?

Senator O'BRIEN—In that five-day period, you tell us that you had officers go in and look at—

Mr Gemmell—Okay. No, it was certainly not an officer who had been regularly involved. We sent an officer from the headquarters—

Senator O'BRIEN—From Brisbane or Canberra?

Mr Gemmell—It is an interesting point. The headquarters is there, but the officer was actually still in Canberra at the time, I think. The headquarters technically was in Brisbane.

Senator O'BRIEN—How does CASA propose to determine whether this information could have and should have been discovered during the earlier audits?

Mr Gemmell—All I can say is that we are looking at those sorts of issues to make judgements about them. We have got people looking at the issues about our oversight of Transair in the light of all of this to try to work out—

Senator O'BRIEN—Who is doing that?

Mr Gemmell—We have got a variety of people—

Senator O'BRIEN—What level?

Mr Gemmell—Some independent and some staff. It is a major issue for management as well. It is an issue for me to look at as well, to try to ascertain why it is that information that may have been detectable was not.

Senator O'BRIEN—Have you advised the coroner of this information?

Mr Gemmell—No. Why would I advise the coroner of it?

Senator O'BRIEN—The coroner is looking into an event, and this information may have bearing on that event.

Mr Gemmell—I am not aware that the coroner's inquiry has commenced at this stage. When it does, we will provide whatever information is appropriate. But I do not think that is underway.

Senator O'BRIEN—In terms of what is occurring within CASA at the moment, is there a special team appointed to look at this matter, or is there an informal process to look at this matter?

Mr Byron—The broader issue of our surveillance systems is being looked at with the air transport area by the Group General Manager of the Air Transport Operations Group, and that has been underway for about a year now. I made the assessment some time ago that, whilst our auditing processes were carried out by technically competent people who looked at specific technical areas, in some cases they lacked the breadth of management and system experience to be able to look at an operation and the issues that were found and, if you like, to join the dots and determine a system problem. In my view, that deficiency had been existent

in the CASA surveillance system for some time. In early 2005, we set about planning to improve our surveillance systems, particularly with the introduction—

Senator O'BRIEN—Can I interrupt you? When did you know of this deficiency?

Mr Byron—It was a view that I formed in early 2005 but it was not something that I could put my finger on and say, 'That particular area or that particular person isn't doing the job that I want.' It was across the board. I felt that it was a system issue that we needed to address.

Senator O'BRIEN—So you, as the chief executive officer, had a view some time in early 2005 that there was a significant deficiency?

Mr Byron—What I am saying is that there was a way in which we could improve our surveillance and that I believed that we could do a lot better. So we set about planning, first of all, to increase surveillance. In early 2005, I asked the then airline office to increase its surveillance across the board by doing operational surveillance in addition to its planned audits. That started to happen at varying rates throughout 2005. At the same time, I explored the opportunity of discussing with my colleagues our workforce capability. Did we need a new type of person to come into the organisation that had management or systems experience? With the arrival of the new Group General Manager of Air Transport Operations Group in late 2005, we set about adjusting our workforce. Obviously doing it within our existing budget, making adjustments, planning for it and having to recruit all take time. By mid-2006, we had in place at least three systems safety specialists and the plan is to increase their number.

I suppose a summary of my view of our surveillance is that we needed to increase the competencies. We certainly needed our technical people to get into the detail but we needed different people to take a broader look at larger organisations.

Senator O'BRIEN—What you have told me—correct me if I am wrong—is that you thought that in some circumstances the auditing process lacked the breadth of experience needed to conduct the process?

Mr Byron—Yes.

Senator O'BRIEN—Could you summarise, in your view, the skills that were missing at that time?

Mr Byron—Systems knowledge and management experience.

Senator O'BRIEN—Do any of those bear on the issue of the Transair suspension and the training information that had not been discovered during the audits?

Mr Byron—As part of our 'show cause' process as a result of our increased surveillance of Transair after mid-2005 and the audits conducted in 2006, elements of maintenance control in particular were found to be deficient. The audit report also showed that there were issues of management control and that type of thing.

Senator O'BRIEN—The training issue that arose as a result of whistleblowing or whatever we want to call it was found in the inspection during the suspension period.

Mr Byron—It would not be possible for me to say specifically whether that was a management failure; it might have been an individual failure. I cannot say at this stage.

Senator O'BRIEN—In early 2005, you commenced a process to increase operational surveillance.

Mr Byron—Yes, I flagged to the management team that I would like to see an increase in operational surveillance.

Senator O'BRIEN—Who was responsible for implementing that?

Mr Byron—Directly responsible to me was the chief operating officer and then the group general managers of the various groups.

Senator O'BRIEN—To your knowledge, how was your direction put into effect?

Mr Byron—I said that I wanted more operational surveillance conducted. From about mid-2005, I started to get an indication in my monthly reports of increasing operational surveillance by the officers at different rates. CASA is an organisation that has a lot of technical people who work to various plans, and you just cannot push a button and change overnight the way they do their work. Also, the organisation is used to doing business in a certain way and, if you make a change like this rapidly, things might fall between the cracks. So I did not want to push them to do things too fast. From mid-2005, I started to get information that indicated an increase in operational surveillance, and that picked up significantly in the reports that I saw throughout early 2006.

Senator O'BRIEN—When the Lockhart River crash occurred, did you make any special effort to see whether the deficiencies that you had discovered might have had a bearing on CASA's nondiscovery of any problem with Transair?

Mr Byron—Immediately after the accident—in fact, on the day after it—I and the chief operating officer, Mr Gemmell, had a telephone hook-up with all those in the Brisbane and Canberra offices. Mr Gemmell and I asked for and received the most recent audit report and were given verbal briefings from the local manager and the inspectors responsible for this operation. I was given an assurance at that time that the operator had no serious problems. The February 2005 audit report did not indicate any huge problems. I had seen audit reports of various other industry operators having operated in the industry; it was fairly par for the course. The assurance from the local manager and the inspectors was that this was a good operator with no significant problems.

Senator O'BRIEN—I thought the EVU referred to audits in 2001, in 2004 and in early 2005.

Mr Byron—There were a lot of other audits. Perhaps we could go through the audit activity of the operator so that we have the full picture. We can do that for you.

Senator O'BRIEN—I would be happy to have a copy of the document.

Mr Byron—Can we quickly take you through it?

Senator O'BRIEN—Sure. It is useful to have a document in these situations where detail is important.

Mr Gemmell—I am happy to table it. I will read from the information in it. Our audit documentation goes back to December 1999. To give you a picture, in December 1999, the audit came up with 21 of what were then called non-compliance notices that had been issued.

Seventeen of them were for flight operation matters and four were for airworthiness. I have the details of all of those. I might go through some of them as we get closer to the Lockhart River date, but I do not propose to do it for this one. We audited again in June 2000, and there were five NCNs, most of which concerned dangerous goods activities. I should read you the scope of the audit so that you can see the things that we looked at.

In March 2001, they next looked at document control, maintenance, and maintenance and control. A review of discrepancies noted at previous audits and an assessment of progress in relation to implementation of the complete reissue of the company's operations manual were carried out. We changed the name at that stage from NCNs to RCAs—requests for corrective action. There were two of those issued, both in the airworthiness area. Just to give you an indication of what they were, because there were only two of them: one was that the maintenance control manual did not identify the certificate of the registration holder, and the other was the non-compliance with CAR 50—defects and major damage are to be endorsed on the maintenance release.

Senator O'BRIEN—They were not, in other words; there were defects and major damage that had not been—

Mr Gemmell—That is the implication, yes. They had not been recording it correctly. That is not to say that—

Senator O'BRIEN—Is that the matter that ATSB have referred to as one of the problems: that incidents were not reported to them?

Mr Gemmell—No, that would be more about the recording. It is not to say they do not record it; it is about where they are supposed to record it. So it does not tell you that they were not. It may tell you they are not recording it at all, but that gets very serious. It is most likely to be that they are not on the maintenance release, but they are written somewhere else. The ATSB issue is about where they do have major defects. They have a definition in their legislation of what they call 'reportable incidents'. When incidents of that nature occur they are supposed to report that to ATSB, and ATSB allege that that had not occurred.

The next one was September 2001. The scope was control of records, pilot training, LAME/ground handling information, flight planning and dispatch rostering, ground handling, and line operation. Two RCAs were issued, both on flight operations matters. I can tell you those, too. One was a proficiency test not completed for use of life rafts, and the other one was that a route proficiency form was incomplete and a pilot's route knowledge had not been checked.

Senator O'BRIEN—Would 'pilot training' refer to a range of issues with pilot training?

Mr Gemmell—The two RCAs were 'proficiency test not completed for use of life rafts' and that a route proficiency form was incomplete.

Senator O'BRIEN—Does that imply that there was emergency training looked at at that time, or are you not sure?

Mr Gemmell—Not necessarily, no.

The next audit was in November 2001. This was about control of documents; line operation; load control; maintenance control; performance, routes and ports; and pilot

training. Four RCAs were issued: two in airworthiness and two on the flight operations side. One of the airworthiness ones was 'control of documents: aircrew not being supplied with operations manuals'. The next audit occurred in September/October 2002. The scope was facilities and equipment, ground handling, information, line operations, maintenance, responsibility and authority, and pilot training. Seven RCAs were issued, all for flight operations issues. The next audit occurred in February 2003, in pilot line operations training. There were no RCAs issued. In August 2003 the scope was internal audit, internal communication and consultation, purchasing and subcontracting, review of safety management, and pilot training. No RCAs were issued.

In February 2004 the scope was flight operations, personnel training and qualifications, and route structures. There was one RCA issued in respect of flight operations. That one will be of interest to you, Senator O'Brien. It was about load sheets not being left at Gunnedah. You would recall some discussion about that one.

Senator O'BRIEN—Yes.

Mr Gemmell—That was in February 2004. In August 2004 the audit scope was aircraft configuration control, manuals, flight operations, and personnel training and qualifications. There were 13 RCAs issued. Six of those were in the airworthiness area and seven were in flight operations. Examples of the 13 were, in flight operations: no life jacket stowage for seat 1C in VH-TFF, which is a breach; no procedures for a handicapped person sitting in an emergency exit seat; documentation not updated; and deficient passenger briefings. They are all breaches. You can see that sometimes some breaches are not massively significant and others can be.

The February/March 2005 audit was, of course, the one immediately prior to the accident. The audit scope was audit systems, aircraft configuration control, flight operations, personnel training and qualifications, and route structures. Nine RCAs were issued. There were four in airworthiness, two in flight operations and three in dangerous goods. I might go through those. I think you might have this information, but I will go through it anyway. The airworthiness ones were for a maintenance task schedule, placards and markings, compass swing, and fire extinguishers. The flight operations RCAs were for passenger briefing information and baggage information. The dangerous goods ones were for dangerous goods training, no displayed dangerous goods information and out-of-date dangerous goods regulations. The next audit was in February 2006. The scope was aircraft configuration control, manuals, flight operations, and personnel training and qualifications. Twelve RCAs were issued—10 for airworthiness and two for flight operations.

Senator O'BRIEN—What sorts of things were they?

Mr Gemmell—You will recall that this is the audit that actually flows down from that EVU show cause. So we are starting to see some things that we would regard as serious. The RCAs were as follows: maintenance due and not recorded, which applies across the fleet of aircraft; maintenance manual not complied with; maintenance manual not complied with; another maintenance manual not complied with; airworthiness directives cannot be tracked—you can see maintenance documentation control issues coming through in that one—and aircraft flight manual record sheet not listing aircraft flight manual changes. These are all

'aircraft maintenance manual not complied with'. I will stop repeating that because every one of those is. The others were: worksheets not complying with the maintenance control manual; an unapproved modification; maintenance personnel not trained; and unauthorised maintenance. There are some quite serious issues in those ones. There was one for the manual not being kept up to date. In flight operations, again, we have the manual not being kept up to date and superseded maintenance release and defect recording procedures. There was another one with the manual not being complied with. Fifteen discrepancies were listed.

There was another audit in August 2006. The scope was manuals, flight time and duty limitations, and pilot training. There were three RCAs issued, all on flight operations matters. There was a manual out of date. In flight and duty limitations there were electronic program parameters not being set correctly, and all flight and duty limitations understated for all air crew. In pilot training, the company had permitted persons who were not approved and not qualified to undertake training and checking within the training and checking organisation. Finally, in November 2006, flight training records—I am just trying to think of your expression, Senator—

Senator O'BRIEN—Suspension inspection.

Mr Gemmell—Post-suspension surveillance. No RCAs came out of that. Events overtook the follow-up to all this. But they audited the 17 pilot training files and identified that pilots within Transair were being trained and checked by pilots who were neither qualified nor approved to undertake such a task. The chief pilot explained he had misinterpreted CAR 217. The audit showed that a large number of pilots had not recorded the pressurisation endorsement for the Metroliner aircraft. That does not mean they were not qualified; that means they had not endorsed it but they are required to endorse it.

An audit of the pilot files revealed that the Metroliner aircraft ground course and flying conversion course occurred on the same day. Between four and eight hours were recorded for the flying conversion course. What that is trying to get at is the quality of the ground school and conversion courses, the implication being that if they are done too quickly you are not getting through the syllabus in the right way.

In terms of RCAs, we issue RCAs. We seek that the airlines solve the problems and come back to us and tell us that they have, which they do, in a period of time. We will then proceed to close it off. We usually do not close it off until we go and see them again, which can be at the next audit. So if that were a year later, with respect to the RCA, whilst the operator will have told us they have done it and fixed it, we will not formally close it off until we have looked and confirmed for our own satisfaction that they have fixed it. So it could be some time before we will close off the RCA.

Senator O'BRIEN—Which of those November '06 training matters have been looked at previously, to your knowledge?

Mr Gemmell—You can see we have looked at pilot training in various ways.

Senator O'BRIEN—'03, '04—

Mr Gemmell—Yes.

Senator O'BRIEN—'Personnel training': I am not sure whether that means 'pilot' or something else.

Mr Gemmell—Yes, it probably means something other than pilots. They tend to use 'pilots'. It is hard to tell whether they looked at this sort of detail. Things like how long they take on the ground, doing the ground school, are not likely to have been known or even particularly checkable. That sort of information will have had to come from people with knowledge. One of the tricks of getting information from other people is that they have access to information that is simply not available to CASA and may not have been available to CASA no matter how diligent we were in trying to find out that information. So it is not a matter of questioning whether the training occurred, because that can be recorded, but questions about the quality of it are much more difficult to get at. What we are looking at, for example, in the ground school stuff is whether it happened too quickly. It is supposed to be a two-day course, so if it happened too quickly it perhaps did not quite comply with all elements of the syllabus.

Senator O'BRIEN—CASA's seventh email says that flying operations inspectors from Brisbane had observed training and testing conducted by Lessbrook and in all cases the training was considered to be at an acceptable standard.

Mr Gemmell—Yes.

Senator O'BRIEN—I am having difficulty lining up those statements with what was discovered in November 2006: training by untrained trainers. At the beginning of 2006, that was not an issue apparently—I assume, or you would have told us. The minister told us that in all cases the training was considered to be at an 'acceptable standard'. Does that mean that no-one checked whether the trainers were qualified?

Mr Byron—The answer to that question reflected the information that came from the people on the site, our front-line people who were conducting the audits. We naturally have to rely on our front-line officers, our front-line staff, to tell us how it is. We look at their records. During this process, of course, we double-check to see exactly what had been recorded. As Mr Gemmell has gone through, there were no significant warnings in the reported information from the audits. Immediately after the accident, as I mentioned earlier, we were assured by the front-line staff that this was a sound operation and that there were no significant issues.

I think that by the time we got to 2006 we were starting to take a more detailed look at what was going on and we started to find additional issues. The issues about training and the assurances that we had from our front-line inspectors would have been on the basis, I assume, of their observations of line operations. I know I asked the question after the accident as to whether we had done any line flying, and we had apparently in the February audit. We had done eight sectors. The report was that all operations were conducted well. Of course that is normal operations. During the course of RPT operations, our inspectors would be looking for normal operations. Our concerns in late 2006 related to new information that gave concern about whether or not the pilots were adequately trained to handle emergency situations, which would not normally be observed during line operations. And that was on the basis of the information.

Senator O'BRIEN—What does that mean?

Mr Byron—When a pilot goes through their training they are trained to fly the aircraft under normal operations, with everything working. That is what happens 99 per cent of the time. When our inspectors fly with them, they observe their line operations and they observe normal operations. But it is very important that pilots are also trained to handle emergency situations—engine failure and that type of thing. They also must have, in complex aircraft, a very detailed knowledge of the systems in the aircraft. If they have failures of those systems, like a pressurisation system or, in the case of a Metro, oil pressure problems with propellers and that sort of thing, they must have the systems knowledge and they must know the emergency procedures to handle failures of those systems. Our concerns in November 2006 raised questions as to whether they had had training to give them that knowledge and whether or not they were in a position to handle an emergency situation.

Senator O'BRIEN—This answer says 'flying operation inspectors from Brisbane'. I assume that means your officers, CASA officers.

Mr Byron—That would be the Brisbane airline office at the time.

Senator O'BRIEN—Yes. Employees of CASA.

Mr Byron—Yes.

Senator O'BRIEN—It says that they have observed training and testing conducted by Lessbrook—Transair. It goes on to say 'and two senior inspectors, one from Sydney and from Brisbane, have completed the full type training package for the Metroliner aircraft with the company'. Presumably that means emergency procedures training as well.

Mr Byron—Yes.

Senator O'BRIEN—In all cases the training was considered to be at an 'acceptable standard'.

Mr Byron—Yes, but our concerns were not whether the CASA inspectors had been given appropriate training; it was whether the airline pilots had been given the appropriate training.

Senator O'BRIEN—What I am asking is: would you have expected the flying operations inspector and the two senior inspectors to determine who was delivering that sort of training to the pilots generally?

Mr Byron—Yes, they would know that.

Senator O'BRIEN—So, in November 2006, when it was discovered that certain training was being provided by unqualified and untrained staff, and that apparently went back some time, what was done to line up what had been discovered before, what was now discovered and why hadn't it been discovered?

Mr Gemmell—Obviously, we send people in to try and find out what has gone on—why information that may have been detectable previously was not detected in those audits. We have had both management staff and other advisers assisting us in that process.

Senator O'BRIEN—Who outside of CASA has done an assessment of the Transair matter and of what went wrong from the point of view of CASA's performance?

Mr Mrdak—I think the critical work is being done by the Australian Transport Safety Bureau. The officers at the table are in a difficult position in that the ATSB's final report is

now with directly interested parties for comment. That is a statutory process. The ATSB has looked at a range of issues, as you are aware. My understanding is that that directly interested parties process will be completed by the end of this month, with the ATSB final report being publicly available from that point. The ATSB has obviously looked at these various issues in relation to regulatory compliance of the company in the lead-up to the accident and has also looked beyond the accident, in terms of how that company has operated. The critical area now that all of us are awaiting is the finalisation of the ATSB report.

Senator O'BRIEN—So apart from ATSB there has been no other review outside of CASA?

Mr Mrdak—No. In significant accidents like this, the ATSB takes the lead and all parties work to cooperate with the ATSB investigation. As Mr Byron has indicated, CASA management has obviously looked closely internally, within the organisation, in relation to its activities, but beyond that everyone is awaiting the findings of the ATSB. As I said, the officers are in a difficult position because that report is now with interested parties, as a statutory process, and confidentiality requirements are around that until parties have made their comments and the ATSB has finalised its report.

Senator O'BRIEN—Is that the report that was issued in December?

Mr Mrdak—That is correct. On 15 December it went to directly interested parties. That includes CASA.

Senator O'BRIEN—What is the normal time period for comment on those reports?

Mr Mrdak—Sixty days. During that statutory period, there are obviously confidentiality provisions in relation to that because essentially that process is one by which the ATSB findings are tested for any factual errors by the parties involved and they are given an opportunity to comment back before the ATSB finalises its report. My understanding is that the ATSB is looking to finalise and release that report in early March.

Senator O'BRIEN—In terms of Transair, the answer to CASA 01 from the February round states:

The scheduled audit of Lessbrook (Transair) that was conducted prior to the Lockhart River accident covered all RPT routes flown by the company. This is a relatively small company that has undergone recent expansion into a geographically large RPT route network. CASA considered it worthwhile to commit the resources to test the whole network to ensure that there were no areas where safety or regulatory shortcomings or difficulties were apparent or compromised.

There is a recital of the training for pilots that I have referred to, including emergency procedures training. What has CASA done to satisfy itself that the deficiencies discovered in November 2006 were not discoverable in that audit that is referred to—which I take it was in February 2005? What have you done to find out what was done and why the provision of training was by unqualified or untrained personnel?

Mr Gemmell—I think it is fair to say we are still working on that. You have to ask, 'Was this information potentially detectable?' And, if that was the case, why wasn't it detected and what can you learn from that—was it the fact that we did not look hard enough.

Senator O'BRIEN—But you should have asked those questions by now, surely. You should have the answers.

Mr Gemmell—We are still working through it. The answers are not always that simple, and you have to be a little careful with some of the stuff that is used. For example, if I can use the pressurisation approval point, there is little doubt, I think, that these people were not properly given their pressurisation approval. The fact is they were well trained. The endorsement, as is required, was not specifically written on their records, and that was a failure. Was it a safety issue? Probably not. They were all checked out; the records just were not properly endorsed. So you have to look through all that. You also have to look at things like, where people say they have not done enough of this sort of training, how the operator conducted the training. Perhaps they ran that training with some other things. You have to break down how the training was conducted. And how it was recorded, because it may simply be a recording problem: so, it was all done legitimately but not well recorded—or whatever it was.

Senator O'BRIEN—Maybe I am wrong, but it sounds like the fact that some training was not delivered by a properly qualified or trained person was discoverable from written records.

Mr Gemmell—Probably discoverable. There are questions about whether they were properly authorised. There may have been an approval that was not appropriate to give—a person we would have happily given the approval to and, indeed, we knew was—

Senator O'BRIEN—This is not trivial. This was something you were pursuing as one of the issues which you thought might justify a suspension, given the company would not show you the records.

Mr Gemmell—No. We had suspended them because they would not show us the records. We were tracking through this. Whether what we found led us to say, 'Okay, that's it; we're going to shut them down,' is a different kettle of fish. We had not got to that point and indeed never got to the point where we had to make that particular judgement, because the airline itself asked for its AOC to be cancelled.

Senator O'BRIEN—On the face of it, that is an indication that they had some difficulty over the matter.

Mr Gemmell—Perhaps, Senator. It could be that they accepted that they had got things wrong; it could be that they did not have the money to fight the legal cases. At that stage they were in the Federal Court, they were in the Administrative Appeals Tribunal and indeed they were on the ground at that point too—they were not even operating. It would be unwise to surmise their motivations for that, but it could have been because they accepted that they would have difficulty meeting all of their requirements. The point I am trying to get to is that you have to look through what went wrong in terms of whether there were procedural failings and administrative failures to see whether there were significant safety effects from all of that. If they were procedural, that is one thing—and you might view it dimly, but you would probably whack them for poor procedures and get on with business. If they had an effect on safety, that would lead CASA to take serious action.

Mr Carmody—I think that, following this line of questioning, there is an important point to note—that is, as soon as CASA discovered deficiencies in any way during these audits it

either issued an RCA, which was subsequently reviewed, or it went to an EVU process and a show-cause process and eventually went through suspension and cancellation. So actions were taken when CASA was aware that there was a problem. Also, in terms of some of the issues discovered in November 2006, they will probably quite rightly be canvassed by the ATSB in its report. But it is difficult to trawl back through them at present, particularly questions such as ‘Why didn’t you know and could you have known?’ They are difficult questions to ask and they are difficult questions to answer.

Senator O’BRIEN—But surely CASA, testing its own capacity, would want the answers to those questions.

Mr Carmody—Certainly.

Senator O’BRIEN—And quickly because they might impact on the regulation and scrutiny of other operators. Surely you would want that answer quickly.

Mr Carmody—Absolutely; there is no doubt about that.

Senator O’BRIEN—Why does it take more than two months to get the answer to that question? It is more than two months since this information was discovered in the latter part of November.

Mr Carmody—The accident was in May 2005. We have not got to the final report yet.

Senator O’BRIEN—I am not asking you for all the details about the crash and all the forensics that go into that. This is simply about the material that was discovered in late November 2006, which went back some time and which we are told had not been discovered earlier. All I am asking you, because this is entirely within CASA’s control, is what CASA has done to discover why that was the case. I am asking you why it takes more than two months to do that; I am not asking you to review the whole thing.

Mr Carmody—The only point I was making is that with 18 months of very coercive powers—which the ATSB has and CASA does not have—to get the records, compel people to testify and compel people to give evidence, we are still a long way from a final report. It takes some considerable time to review this data and make sure it is right. Some elements are allegations; some are confirmed. I think we are working on it as expeditiously as we can. If I can use the other example, as I have, it has taken a long time to get to the final report. I think there are interesting parallels.

Senator O’BRIEN—There are processes which involve public consultation, the ability to comment and negotiation about the text, but I am particularly interested in this case where CASA are looking at their own operations because there is the ability to talk to your own officers and get them to say why they think this was not discovered. Have you done that?

Mr Byron—As I mentioned earlier, over the last 12 months we have implemented a considerable range of what we believe are improvements to the way in which our front-line people work, our surveillance activity and that sort of thing. In the light of the November exercise, I have commissioned an internal audit, using our auditors, to verify for me that the improvements that we have been implementing and which have been reported to me as being applied in the organisation are actually happening. That does include checking with our front-line people about the way they do their work.

Senator O'BRIEN—Sorry, that does or does not include checking with the front-line people?

Mr Byron—Yes, it does.

Senator O'BRIEN—So is this internal audit charged with answering the sort of question that I have just asked?

Mr Byron—Why we perhaps did not find out certain things and do we have a better system in place for a more comprehensive surveillance system—yes.

Senator O'BRIEN—So there is not a specific process to look at this particular matter and get you some quick answers. You are content that this goes off into this audit? I was going to ask you what the timetable is for it.

Mr Byron—Nothing is going off into an orbit.

Senator O'BRIEN—‘Audit’ not ‘orbit’.

Mr Byron—I hope it is not going into orbit!

Senator O'BRIEN—Sometimes audits are a bit like that!

Mr Byron—CASA does not have responsibility for space activities yet, so it is not in orbit!

Senator O'BRIEN—You are close!

Mr Byron—I am going to wait and see what I get from the audit report before we start looking at the detail. I did mention in my opening statement yesterday that we are looking very carefully this year at how our individual inspectors do their job. There are some scoping initiatives being done now by management to do that sort of work. When I get the audit reports and I can hopefully get confirmation that the systems are changed and the surveillance is improved to the degree that I want it increased, I will then make a decision as to whether to support the improvements across the board that I want to see by the end of this year and whether or not we dig into the way in which individual inspectors did their job on the day. I will tackle that as part of that process.

Senator O'BRIEN—Yesterday I asked for copies of the show-cause and suspension notices. Can we have them? We do not have them; they have not been supplied to the committee.

Mr Gemmell—No, they have not been supplied to the committee. I was apparently in error in believing it had been sent to you in the Senate context. I have been counselled with some caution about the provision of these documents because of the ongoing ATSB investigation and indeed the forthcoming coroner's inquiry and the unclear possibility of litigation as to whether their public release could arguably cause a problem. So it has been suggested to me that I was a bit ambitious in happily agreeing to provide these.

Senator O'BRIEN—How would the supply of those under parliamentary privilege prejudice any action? As such, they are not able to be used in any court but that does not mean that they cannot be obtained in another fashion.

Mr Gemmell—They are being made publicly available. If they were to be made available through the due process in the coroner's inquiry that would be legitimate and everyone would

have the same access. To come through this could lead people down some interesting paths. My preference if the committee want to insist on seeing these documents is to provide them in confidence. You could have it and you could see it but then that would avoid the problem of any possibility that it could prejudice any of these further coronial and possible legal proceedings.

Senator O'BRIEN—Certainly, I would prefer to get it in that form than not at all, but I would prefer to get it on the record if we can get it on the record.

Mr Carmody—Can I jump in there and make the point that a number of elements in the show-cause documents were allegations which have subsequently been resolved. The problem with publishing those or making them public is that people have a tendency to be led down the wrong path. Sometimes allegations in the show cause are responded to very positively by the operator and the issue goes away. Sometimes the issue is not substantiated and it goes away. We believe that, as this goes to an inquiry process, if these become public, they have the potential to disrupt those who are closest to and most affected by the accident. I think that they will find their way out in due process and that is why we would prefer to produce them in camera and not have them yet on the public record.

Senator O'BRIEN—As I said, I accept them on that basis if that is the best that can occur.

CHAIR—I would like to think that we would err on the side of caution and not go in camera at this time. It is so agreed.

Mr Carmody—Thank you.

Senator O'BRIEN—Can we have those today?

Mr Carmody—Certainly.

Senator O'BRIEN—Was the training deficiency that was noticed about management and mitigation of threats and human error in emergency circumstances?

Mr Gemmell—Were the training deficiencies that have been suggested to do with management and mitigation of threats and human error?

Mr Byron—I think that issue is generally in relation to flight-deck activity—the operations of the pilots. That is the way we generally view that sort of issue in a flight operations context, and I think that is the way most airlines would view it.

Senator O'BRIEN—I am interested to see how much of that is relevant to the human factors training, which is also described as crew resource management training.

Mr Gemmell—The allegations and the deficiencies were about existing requirements and whether they are being complied with. They were existing endorsements, or whatever, that were required from the pilots. There is no doubt in our mind that human factors training is a good thing. But, as we all know, it did not occur in Transair prior to the accident, but we still think it is a good thing and have been promoting it quite widely around the aviation industry as a desirable thing, even if not mandatory, in our regulatory suite. But the allegations that we received were not related to that—and, frankly, if it is not mandatory there is nothing much we can do about it; it related to things that were in fact requirements or at least the quality of the training.

Senator O'BRIEN—We have had the debate about whether you could have prosecuted for not observing the manual. There is a very clear view that you could have, and you chose not to. I do not consider that training equates to whether someone has epaulets on their jacket or wears their cap at the right angle. The manual may refer to matters that are trivial and it may be that the choice has been made not to use resources to pursue a matter such as that, but I am still at a loss to understand why the attitude was taken that if a training matter was in the manual you would not prosecute in case it was taken out of the manual. The manual is produced as part of the process of obtaining the certificates that allow the business to operate, isn't it?

Mr Gemmell—Yes. The point I am trying to make is that we cannot insist that a non-mandatory requirement is there, and therefore the remedy to anybody, if we insist that they do it, is that they could go off and do it, which is the desired outcome, or they can simply remove the requirement. We cannot. We have nowhere else to go and we cannot force it into the manual. They are allowed, at whatever point they like, to rewrite their operating rules for their company so they can take it out. There would be little utility in a prosecution for that, we would think, in terms of the safety outcome that is likely to be produced. Even assuming that we got a prosecution—which would be extremely unlikely; you would take that prosecution through the DPP process—if the greatest outcome you got for aviation safety was that they removed the requirement from their ops manual then I would not think you would be making much advance.

Senator O'BRIEN—Is there a reason it is not required training?

Mr Gemmell—It is not in the regulatory requirements.

Senator O'BRIEN—No, but CASA is the regulator. Why isn't it?

Mr Gemmell—The rules have not been passed by the parliament.

Senator O'BRIEN—But CASA forward the regulation to parliament, effectively, through the minister.

Mr Gemmell—Yes, through the minister. We have been consulting for some considerable period of time about the rules, and they have not yet moved through the process as such that they have been approved by the minister and put to parliament.

Senator O'BRIEN—Is the requirement for such training in contemplation?

Mr Gemmell—Yes, in the same way that things like operators of this nature have in safety management systems. It is certainly in contemplation and we have talked about it for some considerable time, but it is not actually in the rules for airlines at this stage. It is in the rules for some aviation operations, such as airports, but we have long talked about the fact that that is the way we are headed and that is what we want to do when the rules get changed.

Senator O'BRIEN—The material that you have agreed to supply in camera would have already been provided to the AAT and/or the Federal Court in some form, wouldn't it?

Mr Gemmell—I would have to check on that. Certainly the notice of cancellation is obviously a document that would go to the AAT. I do not think there is any reason for the show-cause material to have gone to the Federal Court. The decision letter to suspend on the basis of serious and imminent risk would have gone to the Federal Court, but they were not

particularly looking at the show-cause issue or the merits review of the original cancellation decision. It is almost certain that we would not have provided the show-cause material to the AAT. It is the preliminary lead-up stuff. They would have got the cancellation decision letter.

Senator O'BRIEN—Mr Byron, can copies of all CASA chief executive officer directives relating to the surveillance of Transair and the Lockhart River tragedy, including directives 001 of 2006 and 002 of 2006, be provided to the committee?

Mr Byron—I understand that is a question on notice and, yes, they are being provided.

Senator O'BRIEN—Do you know when we will get them?

Mr Byron—Yes, I can follow that up.

Senator O'BRIEN—Thank you. And the CEO directive 002 of 2006 relating to the ATSB interim factual report?

Mr Byron—Yes, we can provide those.

Senator O'BRIEN—Has CASA promptly and comprehensively responded to all requests for information from the ATSB in relation to the Lockhart River matter?

Mr Carmody—That question was raised once before—

Senator O'BRIEN—Yes. In fact, I lodged a question on notice, No. 2923.

Mr Carmody—and it was also raised, I think, in the Senate debate on the inquiry. When we first answered the question last year, we were certain that we had been cooperating fully with the ATSB. When the question was raised in the Senate late last year, I wrote to the ATSB. I received a response from the ATSB on 22 January. In that response, they cited three instances where they thought cooperation could have been better. They made the point that they did not think it was conspiratorial in nature—just three issues where they thought cooperation could have been better and our turnaround times could have been faster. I have since responded to Mr Bills on that basis. We are of the view organisationally that we are cooperating fully with the ATSB. I must say that we were surprised that there were three instances where they felt that we could have been more cooperative or we could have turned the paperwork around more quickly, and we have since written back to them and clarified those.

Senator O'BRIEN—Can we have copies of that correspondence?

Mr Carmody—Certainly the letter I sent back to them.

Senator O'BRIEN—What about the ATSB correspondence?

Mr Carmody—It is up to the ATSB, I would have thought. I am sure that it could be arranged.

Mr Mrdak—I will check that and come back to you if there are any problems with that. I am just conscious that I need to check with Mr Bills that that does not in any way impinge on the directly interested parties process which is currently underway in relation to the report. If it contains any material which is germane to that and would present a problem, I will come back to you.

Mr Carmody—But I am certainly happy to table my response.

Senator O'BRIEN—So was all the material in CASA's possession related to Transair provided to the ATSB?

Mr Carmody—That is a difficult question to answer. The ATSB ask for material legally. They seek particular material and they define what material they want. When they ask for material, we give them the material. On a number of occasions they have come to us and had difficulty in defining exactly what they wanted, so in our Brisbane Airline Office last year we opened all of our files on Transair to them for them to review, and they were able to review all of that material. So, to the extent of my knowledge, we have provided everything, but they still might come up with something that we have not provided—if that makes sense.

Senator O'BRIEN—Okay. You think you have. If you haven't and they think you haven't, they haven't told you.

Mr Carmody—We have provided everything they have asked for.

Senator O'BRIEN—And if they think there is something more, they have not told you that they are waiting for something. Is that what you are saying?

Mr Carmody—That is correct. They have a legal process in which they ask.

Mr Mrdak—I do not think any of us is aware of any outstanding material that the ATSB is seeking. Certainly from my knowledge, from the ATSB, there is no outstanding information.

Senator O'BRIEN—So how does the filing system work? Were the Transair files in one place or in a number of offices?

Mr Carmody—Most of the Transair files—and Mr Gemmell will correct me if I am incorrect—were in the Brisbane Airline Office, where Transair was managed, but there are certainly references to files in the development of legal responses. There is material which is held here in Canberra in our Legal Services Group. So the information is actually in a number of places.

Senator O'BRIEN—Is there a central file registry so that, if someone wants information, you know which files are where and what is in them?

Mr Gemmell—There is not so much a central file registry but a recording arrangement so you know what files are there. The trick is to make sure that you have them all. I recall that we fell foul at one stage of having a file, when we were looking for Transair and some relevant papers were on a file that had the name Big Sky Express, Big Sky Express being the marketing arm of one part of Transair. We did not put two and two together and search that one, and there were some documents that we did not locate because of that.

Mr Carmody—In one of the three instances that they referred to when asking us for a document we found on a file, the question that they asked was in relation to one of the whistleblowers, but the report we found on a file was titled 'Allegations into another company'. It depends on what the report is called. It depends on what they ask for.

Senator O'BRIEN—How many notices, requests or requirements were served on CASA under section 32 of the Transport Safety Investigation Act concerning the Lockhart River investigation?

Mr Carmody—To my knowledge, there were nine section 32 notices.

Senator O'BRIEN—Can the committee have copies of those notices?

Mr Carmody—I do not know. I would like to be able to provide them. I wish to check the facts with the ATSB, given the fact that their interested parties' report is still in development. If we can provide them, we will.

Senator O'BRIEN—On 1 December last year the ATSB announced that it intended to refer Transair to the Commonwealth Director of Public Prosecutions for failing 'over several years to report aviation safety occurrences to the bureau'. We have touched on this but, according to ATSB, these occurrences include seven immediately reportable matters between 1 July 2003 and the Lockhart River crash. They also stated:

The failure to report these occurrences, which were reported by relevant pilots to the operator, is indicative of a poor safety culture and poor safety system within the operator.

The question arises: was CASA aware of any or all of the 25 safety incidents that went unreported to ATSB between 1 July 2003 and the May 2005 crash?

Mr Gemmell—Senator, first of all, I caution you that those are allegations, and I have found it slightly surprising how quickly everyone has assumed all of that is accurate and correct. They are not proven, so they are allegations. I have seen what I believe is a list of non-reported incidents, some of which were in fact reported to CASA.

Senator O'BRIEN—So the fact that at least some of them took place is not in question, because they were reported to you? Presumably they would not have been reported—

Mr Gemmell—In a number of cases things that appear to be the same were reported to our service difficulty reporting system. But they should have been reported to ATSB under their immediately reportable things, and ATSB say that they were not. I do not know what the company would have to say about it.

Senator O'BRIEN—Do you know how many of those there were?

Mr Gemmell—It is probably best to ask the ATSB.

Senator O'BRIEN—The ATSB have talked about a number. I have asked whether any or all of those 25 safety incidents went unreported.

Mr Gemmell—My recollection of the ones that were reported to us was about three or four of those.

CHAIR—We will have a short break.

Proceedings suspended from 10.33 am to 10.49 am

CHAIR—We are back in session, thank you very much. Senator O'Brien?

Mr Gemmell—Could I amend an answer I gave to you in this morning's session? You asked a question about whether the show cause notice would be available to the Administrative Appeals Tribunal and I, based on advice, said no, I thought it highly unlikely. In fact, further advice tells me that the show cause notice would be included in the documents presented by the parties to the Administrative Appeals Tribunal. Therefore, it would be before the Administrative Appeals Tribunal.

Senator O'BRIEN—Which is completely consistent with your enforcement manual.

CHAIR—There you go; he was setting a trap for you!

Mr Gemmell—Senator, I am embarrassed that you know our enforcement manual better than I do!

Senator O'BRIEN—In fairness, it does not say 'show cause'. It says:

- Correspondence with that respondent seeking urgent explanation ...

and:

- Any response received.

I presume that means 'show cause in the response'.

Mr Gemmell—Yes, I understand the logic. The real, substantive document in front of them is the decision letter, but the show cause stuff is there to show due process—so they can be sure that due process has been followed.

Senator O'BRIEN—Yes.

Mr Carmody—Can I add something, Senator. You asked whether we had a central file system. We do have a central file system; it is TRIM Captura version 4.3, which is National Archives compliant. That is our central file system.

Senator O'BRIEN—What does 'TRIM' stand for?

Mr Carmody—I do not know. I have always wondered, but I do not know!

CHAIR—It means 'skinny'!

Senator O'BRIEN—I will bet you it is an acronym.

Mr Carmody—I think it probably is. I can find an answer for you, Senator, if you really want one.

Senator O'BRIEN—Yes; just don't make one up! On this show cause issue, it has been drawn to my attention that Senator McLucas asked for a copy of the show cause notice during estimates on 30 October and Mr Murray said he would provide it. He said:

... we would be pleased to provide copies of the show cause notices.

I know we have been through that, but I just think—

Mr Carmody—I thought he said he would be pleased to provide it if he could or if it was allowable. I do not have the document in front of me, I am afraid.

Senator O'BRIEN—Mr Murray said:

... I have no problem with producing a copy of the show cause notice, or indeed the supplementary show cause notice, if we are in fact allowed to do that.

And I said:

This committee has been supplied with just such documents.

Mr Murray said:

I am advised that we almost certainly can and we would be pleased to provide it at the same time as the other documents.

The other documents have been supplied. Senator McLucas asked:

Why the delay? Senator O'Brien has indicated that this has happened before. What is the difference with Transair?

And Mr Murray said:

I am not aware of that, but I will defer to my colleagues. I do not think that there is a delay; I think it is just a matter of practicality, but we would be pleased to provide copies of the show cause notices.

I do not think that indicated anything other than a time delay.

Mr Carmody—Well, I think we clarified our position on them this morning.

Senator O'BRIEN—Going back to the ATSB statement of 1 December, presumably the ATSB made its own inquiries to discover this information. Does CASA have the same access to files and information as ATSB by law? In other words, can you go and demand the sort of information that the ATSB can demand?

Mr Carmody—No. They can compel the provision of evidence. I believe that power exists with them; it does not exist with us. So the answer is no.

Senator O'BRIEN—Okay. So can we, maybe on notice, be supplied with details of their legislative power and yours in that regard? It is just a reference to the legislative—

Mr Mrdak—Certainly, Senator. I will provide you with some advice in relation to the ATSB's investigative and evidence-gathering powers.

Mr Carmody—And we can provide advice on CASA's, Senator.

Senator O'BRIEN—When an audit has been conducted, what rights does CASA have to look at the files, the records, of the operator? How far can you go in looking at what the operator has on record? I am just trying to understand what the difference would be. I know we are waiting for some information but—

Mr Carmody—CASA are entitled to look at any documents that they are required to keep under the regulations. I think, without paraphrasing what the ATSB can do, the ATSB, if I understand it correctly, can compel people to give evidence and has a much wider range of powers.

Senator O'BRIEN—But in terms of perusal of documents, your limitation is—

Mr Carmody—We are entitled to look at documentation that they are required to keep by regulation.

Senator O'BRIEN—The recording of aviation safety occurrences would be required to be kept by regulation, wouldn't it?

Mr Carmody—I do not know off the top of my head, but certainly somebody will be able to provide us with an answer.

Senator O'BRIEN—We will check that.

Mr Carmody—My advice is that not every occurrence that the ATSB would consider to be significant is required to be recorded by our legislation. They are required to provide us with service difficulty reports.

Senator O'BRIEN—Has CASA investigated whether they complied with the requirements to supply CASA with information? Clearly, ATSB has not; or is that something that you are unable to do?

Mr Gemmell—We had a look at what service difficulty reports Transair had supplied to us and they had supplied us with not a large number but not an abnormal number. We have not formally taken any investigation further as to whether they breached our legislation. We do not actually have any data to support that allegation. ATSB might have information about it, but we do not. You have to be extremely careful, and ATSB is very protective of the information they gather in the course of their no blame inquiries being utilised. In fact, it is not allowed to be utilised by us in a blame investigation or that sort of thing.

Senator O'BRIEN—I understand in a no blame inquiry why CASA has a power to compel someone to give evidence; I am not sure about this power to scrutinise documents and why there is a difference.

Mr Carmody—Do you mean ATSB has the power?

Senator O'BRIEN—Yes.

Mr Carmody—I am not totally familiar with the act, but I understand that it is a no blame investigation. They have the power to compel witnesses to answer questions and they can investigate and ask them, which is not a power that the regulator has.

Senator O'BRIEN—I understand that. In the case where the regulator is pursuing a possible prosecution, I guess there is the right for non-self-incrimination, but the right to access documents may be a different matter.

Mr Gemmell—I think what you have to understand is that the ATSB, in finding whatever they find for the no blame inquiries, is one thing. If in fact we want to go and pursue an investigation based on anything that they find, which leads to a prosecution or the like, we have to get that information ourselves. So, for example, if the ATSB were doing some destructive testing of engine parts, or whatever it is, that might be critical to a prosecution, we would have to have someone there observing that, because the ATSB people cannot be called and the information that they find from that cannot be utilised in the proceedings. If there is any prospect of prosecution or other such action flowing, we have to do it ourselves.

CHAIR—So would they advise you that it might be worth your while coming to have a look at whatever?

Mr Gemmell—It is not quite like that. They keep us aware of what they are doing. We have to make our own judgements about where that might track through to a prosecution. But under MOU we have the possibility of being there, so evidence won't get lost. Indeed, in some cases the evidence is not destroyed, just because they have looked at it and it has been made available to us—records would be like that. They are still there, they still exist, they are still the official records. They can use it and we can use it.

Senator O'BRIEN—In relation to CASA's performance on the Transair matter and the fact that certain information was not discovered in the ordinary audit process, as has been documented for the committee and a copy supplied to the committee, you have instigated an

audit of those matters generally—not just about Transair but generally. Is that how I should understand it?

Mr Byron—Yes. Transair is on the ground. I am interested in the broader issues, particularly in relation to our oversight of regional airlines more broadly, but also all our air transport operators. Having implemented through the air transport operations group some changes to the way they do their surveillance, the increasing surveillance, the use of different personnel, and having reported to me that we are making progress and that type of thing, I just want some independent assurance that the initiatives that we have moved on are happening and I have asked for some comment about the pace of change.

Senator O'BRIEN—So is someone going to specifically respond about the Transair matter?

Mr Byron—Transair is on the ground, but my immediate issue is to look at how we are handling the airlines that are flying. When I get that report, I will discuss it with the deputy CEOs and the air transport operations group in particular, have a look at what they are planning to do with their changes to the way in which our inspectors work this year—and we have already flagged with our own inspectors that there is some work on that—and determine whether or not there are still questions about how the individual inspectors conducted the work on Transair because, if it is determined that we would learn from that particularly, if we don't already have the answers, then that is something that we need to deal with so that we can make sure that we cover it off.

Senator O'BRIEN—So this is not an internal audit?

Mr Byron—It is not using any CASA staff, no. We have a number of internal audit providers, so I have commissioned them. But they are not CASA employees.

Senator O'BRIEN—So who are they? Who are your auditors?

Mr Byron—KPMG.

Senator O'BRIEN—And when did they start this work?

Mr Byron—In December. It would have been late December. I haven't received the report yet. They have a bit more work to do.

Senator O'BRIEN—I understand what you have said, but I am interpreting your answer as saying there isn't a specific brief on Transair.

Mr Byron—No, but I am keeping an open mind on it. Transair is on the ground. My immediate concern is for the airlines that are operating at the moment. So certainly after the information that we were provided with in late November, I felt it best to take this action and I wanted it done independently. That will then give me an indication as to whether or not we need to use the experience of Transair auditing activities to modify the way our people do their work this year. My expectation is that we will look at the way in which auditors and auditors in the Brisbane office were dealing with Transair. That is my expectation. I am going to wait till I see the report first.

Mr Mrdk—To reiterate my earlier comments, I think Mr Byron is in a difficult position in relation to Transair. The ATSB report has been quite critical to everyone's understanding of

what occurred with Transair and is in the DIP process at the moment. It is going to be a case of when that is finalised for all parties, for all government agencies. The industry looked closely at that in terms of what lessons may be learnt with regard to regulatory matters and operations matters for the company and also issues around crewing. So all those issues are subject now to awaiting the finalisation of the ATSB report, which makes it more difficult to determine.

Senator O'BRIEN—Are you saying that it would somehow be proper for CASA to look at its own performance internally while that is happening?

Mr Mrdk—I am not saying that at all. As I think Mr Byron has indicated, that is happening. If there are specific issues around Transair, they will need to await the finalisation of the ATSB report that is out for directly interested parties' comment to check the facts. Once those facts are on the table, and ATSB confirms it, I think that will give Mr Byron a bit more certainty, if there are some of those issues.

Mr Carmody—I have an advantage that I think you don't have, and that is that I am privy to the information in the interested parties' report, because we are in the process of developing a response. The ATSB report makes a number of observations—not trying to sound negative—a number of assertions. We have to work our way through those; that is what the interested parties' process is. We have to determine whether or not those assertions are valid, and whether or not we agree with the conclusions that the ATSB has drawn, or the implications that they are drawing. The process for us is to respond to the draft interested parties' report. There are, dare I say, likely to be lessons in there for us, but there are likely to be areas of disagreement between us as well. There is a great deal of this. It is a very detailed report. It will take some time. You do not just take one element out and say, 'Well, that looks like one we will pursue, and leave all of the rest.' I think the answers so far do not indicate how much work is going in behind that response at present.

Senator O'BRIEN—That may be a cryptic way of saying that you are doing it, but you cannot tell me—I am not sure.

Mr Carmody—We are doing a lot of work—thank you, Senator.

Senator O'BRIEN—So you are doing it, but you can't tell me?

Mr Carmody—We are reviewing everything that is in the report and commenting on it. If there is something left out, I am sure that we would respond to it.

Senator O'BRIEN—I expect you would do that. My only comment is that for CASA to arm itself it would need to have full understanding of what took place. That is why I asked about what steps you were taking to find out why material that you became aware of in November 2006 had not been discovered previously. What you are saying is that essentially that is part of ATSB's work and you might disagree with what they find.

Mr Byron—We might disagree with some of it; we might agree with some of it.

Senator O'BRIEN—That proposition was open with what I said. You might disagree with some of the things that they find and agree with some of the things.

Mr Byron—If anything comes out in the final ATSB report that indicates that we need to be taking a more forensic look at how things are done, that will be done.

Senator O'BRIEN—I am only saying that you would be better placed to respond if there were a thorough internal investigation taking place at the same time. I don't know that ATSB's work would pre-empt or prevent that? Is that the case? Is there anything which would prevent CASA from internally reviewing what had taken place and coming to its own understanding?

Mr Mrdk—Not to my understanding. I think Mr Byron's discussion around the work he has commissioned from KPMG is that work—

Senator O'BRIEN—That is a general set of studies, not a specific Transair one.

Mr Mrdk—As I understand Mr Byron's explanation, he is looking at the broader surveillance and auditing processes that CASA undertakes. The specifics of issues relating to Transair and how they might drill down to some of those specific issues, we are trying to say, will await the final ATSB report. But certainly, as you have said, arming yourself, or making sure that CASA has an understanding of where its audit and surveillance processes are at, is the work that KPMG is now doing for Mr Byron, and his senior managers are now looking at it.

Mr Mrdak—As I understand Mr Byron's explanation, it is looking at the broader surveillance and auditing processes that CASA undertakes. As to the specifics of issues relating to Transair and how they might drill down to some specific issues, I think what we are trying to say is that that will await the final ATSB report. But, certainly, as you have said, arming yourself or making sure that CASA has an understanding of where its audit processes and surveillance processes are at is the work that KPMG is now doing for Mr Byron, and his senior managers are now looking at that.

Mr Byron—Certainly, KPMG as part of the scope of work is looking at how we conducted surveillance on Transair.

Senator O'BRIEN—I'm sorry; I did not appreciate that from your earlier answer. You said that there was no specific brief on Transair. Perhaps I interpreted that to mean—

Mr Byron—That is what the—

Senator O'BRIEN—There is a generality there.

Mr Byron—It is a much broader scope, but as part of it they are looking at that.

Senator O'BRIEN—Mr Byron, referring to your memorandum of 11 October last year, 'CASA's relationship with industry—a new definition', did the minister approve the publication of that memorandum?

Mr Byron—Not the memorandum, no.

Senator O'BRIEN—Do you maintain that a focus on compliance with regulations is 'no longer a viable approach to safety as it is simplistic and not based on any analysis of the ever changing risks the aviation industry faces'? Can you explain that?

Mr Byron—I think I addressed some of this in questions from the last estimates hearing. Certainly our focus in the past has been purely on checking compliance with regulations. That notice that went out was an educative note. It was meant to focus on the fact that we are doing additional things. I did try in the last estimates hearing to give the committee assurance that

the activities that we do, where we go out and check compliance with the regulations, will continue. The message and what I am trying to communicate to the industry is that there will be additional activities. There will be additional contact with CASA that goes beyond looking at whether they comply with the regulations.

One of the big things that concerns me is the behaviours that exist in some parts of the industry. They are not covered by regulation, but they certainly affect the way in which safety outcomes can be, and in some cases are not, delivered. It is by getting a clear understanding of how people operate and how they do their things, which you will not normally get through a mere check on regulatory compliance, that we get a better understanding, and in some cases we can influence them. As an example, we have started with a number of mature operators that have safety management systems. We have started going in and looking at how those safety management systems operate. That is not an issue related directly to regulatory compliance. In fact, one operator said, 'You don't have the head of power to look at safety management systems—why are we doing this?' We explained, 'This is part of our new approach to take a broader look at how the operator manages safety in the broader context of complying with the regulations but including all of the other issues that manage the risks on a daily basis.'

I think I said before that, from my own experience, if an operator or a pilot or an engineer simply went to work and said, 'I am going to comply with the regulations and nothing else,' that is not good enough. There are risks out there on a daily basis that change. I know from running an airline operation and from flying a plane that you really have to adapt to the risks that are there. We would like to engage more with industry to see how they are doing that sort of aspect. A safety management system in an airline is an excellent way of airline management, up to and including the CEO. I engage with CEOs of all of the major airlines and I ask them, 'How are you managing your risks in your operation?' It is that sort of work in addition to simply going in and checking compliance with regulations that I think is a very important part of what we do.

Senator O'BRIEN—In addition to checking compliance?

Mr Byron—In addition to that. If, from what I have said there, you are drawing the conclusion that we are going to stop checking the regulations, then that is false. When you embark on a new direction and a change, you have to emphasise the change. That is my experience, anyway. What I am trying to do is emphasise the change and emphasise the new stuff.

Senator O'BRIEN—You say:

Although the amount of industry surveillance has and will continue to increase, there will be far less emphasis on getting involved in the operational detail of organisations through issuing administrative notices such as requests for corrective action, as this is in effect CASA doing the work of managing safety for industry

How should we interpret that?

Mr Byron—Remember that this is a communications exercise. This is trying to flag to the industry that if they manage their safety adequately—if they manage the risks—there will be less need for the regulator to come in and issue them tickets. But that applies if they do that. It

is trying to encourage a greater assumption of responsibility. In my time in the industry I have dealt with people in the industry who have had CASA come in the door—and I am including people who work for me—and said: ‘What we’ve got to do is just keep CASA happy. They’ll come in, they’ll have a check list and we’ll just tick the boxes. As long as we do that we’re sweet.’ Well, that is not enough. I know from operating that I would like to see more.

It is a matter of gently, gently trying to influence behaviours. If we can encourage operators to have an approach to managing safety that goes well above the requirements, we will be able to see that when we go and look at their systems. Admittedly we are talking here about the middle-size and larger operators. There will always be the approach for the one-man bands to go in and double check the detail. There will always be that, and that is why we are retaining a large number of our technical inspectors to do that.

There was a fellow called Patrick Hudson who did a series of safety management system presentations a few years ago. He is a professor of human factors at some European university. He articulated what is called a safety maturity model, which we use in some of our material with industry. He says that the characteristic of the responsibility at the top of an organisation is chronic unease. I agree with that. When I managed an operation I was always uncomfortable about things and wanting reassurance and getting things double checked. That meant having our own resources to do that in an operation.

I actually talk about that to the CEOs of our major airports and our major airlines. I say: ‘If your technical people are saying to you that everything is 100 per cent and there are no issues that you need to worry about, that is the time to start worrying. You should always be double checking and questioning.’ That has been my experience and it is that level of engagement with senior people in the industry that I am trying to encourage.

I will give you an example. I was with one of our low-cost carriers about three weeks ago on one of my visits—I am doing my bit to try to encourage behaviour—and I was asking about how their safety meetings were run. They said, ‘The CEO chairs it and if he gets a telephone call on some important commercial issues the meeting stops and when he is available the meeting starts again.’ That is a level of engagement that I have not seen in some larger carriers years ago, but we are starting to see that sort of approach now with a range of operators. That is encouraging to me. If the CEO of an organisation is uncomfortable enough to be engaged in double checking the safety performance of his organisation, it indicates a fairly high level of safety maturity, and if that is the case then we probably have less need to spend excessive time burrowing into the detail of that operator than perhaps another operator which we do not see that level of maturity and commitment from.

Senator O’BRIEN—I understand that you made a statement in CASA’s annual report for 2005-06 that Australian aviation does not require a prescriptive regulator. What does that mean?

Mr Byron—It means that you cannot achieve the ideal safety outcomes by being purely prescriptive. You have to do more than that. Again, it is part of the behaviour-modifying approach that we are trying to take. People need to take responsibility for their own safety and cannot rely on the regulator producing regulations and double checking those regulations as the only means of achieving the best safe outcome. There is prescription. In our development

of rules it is quite clear to our people now that they have to produce rules that are based on known or likely safety risks. That is prescription, but there is a lot more to it than that.

Senator O'BRIEN—I think we have had an exchange on this before, but the Seaview royal commission finding was that 'no doubt the benevolent treatment of industry and the apparent willingness to overlook quite serious breaches was given impetus by industry being declared the partner of the civil aviation authority'. In the 2005-06 annual report it is declared that CASA wants to be:

... a valued partner with the aviation community in providing Australia with a worldclass air safety environment, which has public trust and confidence.

That is, at best, an unfortunate choice of term in that context, isn't it?

Mr Byron—There is a lot in the context of what you set out there. You talked about a benevolent regulator. We are certainly not a benevolent regulator. If we see issues that we need to deal with, we deal with them. I think we need to accept the reality about how things actually work out there, and that is that aviation safety outcomes are produced by having operators that obey the regulations, that manage their risks properly and that have the right attitude and approach to it. In addition, it needs a regulator that double checks that they are complying with the regulations but also assists people to lift above that stage. So you would have to say that we are doing things that influence an operator producing a better safety outcome, which is checking the regulations but also doing additional material. Is that a partnership? Some would say it is; some would say it is not. But the message is that we are in this together.

Senator O'BRIEN—So if there is no industry, there is no CASA. But the reverse does not follow. It may be a lesser industry ultimately.

Mr Byron—Our objective is to influence the safety performance that other people deliver. The industry manages those things on a daily basis. I am quite firm that there are two prongs to CASA's activities: one is the regulatory compliance approach and the other is the modifying of behaviours. I have seen it for myself. If you take the single path, you will only get half of the story.

Senator O'BRIEN—Mr Byron, do the terms of your appointment still require you to spend an average of two to three days per week in Canberra and the remaining days in Melbourne, with an increased number of days in Canberra during the parliamentary sitting period?

Mr Byron—The letter of appointment which was signed with Minister Anderson in late 2003 said that. There has been no formal change to it. But in discussions with Minister Anderson and subsequently with Minister Truss, it was understood that I would modify my working arrangements to best suit what I thought was needed to run the organisation given that those original considerations did not take any account of the need to be out with the industry, and I have put a lot of emphasis on that.

I have tried to balance my time so that when I need to be in Canberra I am in Canberra. If I am not required to be in Canberra then I am either somewhere else or down in Melbourne. Certainly from my position, I live where I live—I live down south of Melbourne—and coming to Canberra has a cost to the organisation. So I try to do what I think is best for the

organisation but at the same time satisfy my management requirements. I do also engage in quite a lot of videoconferencing and telephone conferencing with senior managers around the organisation. Our operational headquarters is now largely based in Brisbane. I spent a week in Brisbane before Christmas. So I have a need to be in different locations.

Senator O'BRIEN—Will CASA's additional airspace functions impact on the time you spend in Canberra?

Mr Byron—It probably will. I will need to take a look at that when I appoint a person to run it and when we see the full scope of what needs to be done. Certainly that position will be reporting directly to me and I will want to make sure that I am comfortable with it, particularly given the past history of airspace reform. I think it will need careful management and I will certainly give it the attention that it needs. If that means I need to spend more time with the person running that in Canberra, or somewhere else with industry, then I will do that.

Senator O'BRIEN—So have you prepared a schedule of days spent in Canberra as requested in question No. 2662?

Mr Byron—Yes. I think in answer to a previous question you were given information up to the end of financial year 2004-05. I asked the electronic system for the details of my time. We seem to have a problem accessing the information for the calendar year 2005, but we are working on it and I have paper records that I can trawl through to verify that. I can give you the full details for 2006. From January to June 2006 I spent 30 days in Canberra, seven days in Melbourne, 48 days in Boorabbin and 20 days in other locations around the country. From July to December—I think your question related to up until October, but I have done it to December—I spent 27 days in Canberra, five days in Melbourne, 53 days in Boorabbin, 22 days travelling the country and one day in that six-month period in my home office.

CHAIR—When do you do the gardening?

Mr Byron—My wife does that.

Senator O'BRIEN—So 113 days are accounted for in the first half of the year and 107 in the second?

Mr Byron—I have not done the maths, but there would be periods of leave in all that.

Senator O'BRIEN—Sure. I am making the point that there must have been time for gardening.

Mr Byron—My wife will remember that.

CHAIR—No, do not put anything on the record—happy wife, happy life.

Mr Byron—With the fire risk we have at the moment, I had to get someone in yesterday to cut some trees down near the house. I was not doing that.

Senator O'BRIEN—That is very wise. Cutting trees down is a dangerous job. Mr Gibson made comments which were referred to in an Australian newspaper under the headline 'Freefall to death' on 23 January last year. He told the paper that proposed rule changes for the sports aviation industry had been delayed since 1998 but that CASA would make an announcement about rule changes soon. Can you tell us what rule changes have been considered since 1998?

Mr Gemmell—A number of parts of the civil aviation safety regulations would constitute what we would describe as the sports aviation rule package. Part 103 is sport and recreational aviation operations, part 105 is on parachuting operations from aircraft, part 149 is for recreational aviation administration organisations and, although it is probably not sports, part 115B is on non-recreational ballooning—ballooning for money. That might be a poor expression—professional ballooning. Those rule sets have been under consideration for some time and have been hotly debated.

Senator O'BRIEN—For eight years, apparently.

Mr Gemmell—Over periods of time. We have gone from total despair at the prospect of ever getting any of this done to a point now where I know through our standards consultant committee that the sports aviation administering bodies are very keen for us to get on and get out an NPRM—a notice of proposed rule making.

Senator O'BRIEN—Would that be the first for these parts in that period?

Mr Gemmell—I am not sure. It might be the first time we have got to a notice of proposed rule making. Can I check that? I am pretty sure we had discussion papers out on various topics.

Senator O'BRIEN—Sure. Can we get copies of those if there have been?

Mr Gemmell—Indeed—there are some out now or due to come out. There are some out on the market now. There is actually strong support from the sports aviation bodies. I guess I should not get overexcited, but I have some quiet confidence that these will go through the processes and be presented to parliament in the not-too-distant future, which will be good.

Senator O'BRIEN—Just for completeness, if there have been since 1998 any NPRMs in this area, can we have a copy of those?

Mr Gemmell—Of course.

Senator O'BRIEN—How many people participating in sports aviation have been killed since 1998?

Mr Gemmell—I can give you those figures by year, by type of operation and in total. It is quite a big table. If you want the total, it is 138. These are fatality statistics that have been provided to us by the relevant aviation administering bodies. The numbers are the number of fatalities. There are 138, and six we would describe as GA accidents.

Senator O'BRIEN—Six of those 138 are GAs?

Mr Gemmell—138 plus six more. They are actually aircraft accidents.

Senator O'BRIEN—So a plane carrying parachutists crashes or something?

Mr Gemmell—Yes. If a plane carrying parachutists crashes it is a plane accident; it is not a parachuting incident. For parachuting, since 1998 there have been 26, plus five in an aircraft accident, which was relatively recent. By year, starting from 1998, the figures are as follows: in 1998 there was one; in 1999 there were four; in 2001 there were five; in 2002 there were none—a good year; in 2003 there were five; in 2004 there were four; in 2005 there were four; and in 2006 there was one, plus the five in the aircraft accident.

Senator O'BRIEN—That was in 2006, wasn't it?

Mr Gemmell—I am sorry?

Senator O'BRIEN—You said 'plus the five'.

Mr Gemmell—Yes, it is one plus the five in the aircraft accident. I think that is the one that we can recall.

Senator O'BRIEN—In Queensland.

Mr Gemmell—So that is 26 parachuting deaths in total.

CHAIR—Can you break them up into ones where the parachute did not open and ones where something else went wrong?

Mr Gemmell—We probably could, Senator. They would all have been investigated. The numbers are not that big. You could go back and—

CHAIR—Even for lots of very experienced parachutists, one day it does not open.

Mr Gemmell—Yes, there are things like things getting tangled. Two people could die from the same incident, if you like, getting tangled. That could all be disaggregated if you want.

Senator O'BRIEN—What about ultralights?

Mr Gemmell—I can give you that information. Just to clarify, there are some nuances in all of this. There are two sets of figures that I can give you. Both sets of figures relate to fatalities of operations oversighted by what used to be the Ultralight Federation. They are now Recreational Aviation Australia. The sets of figures relate to two different types of aircraft that they oversight. One type is called a weight-shift microlight. They oversight some of those. Not all weight-shift microlights are oversighted by Recreational Aviation Australia. The figures are as follows. In 1998 there were three plus two of the weight-shift microlights. In 1999 there were four. In 2000 there were four. In 2001 there were five plus one weight-shift microlight. In 2002 there were seven plus one weight-shift microlight. In 2003 there were nine. In 2004 there were seven. In 2005 there were four plus two weight-shift microlights. In 2006 there were three plus one weight-shift microlight. The totals are 46 in what they describe as fixed-wing, three-axis control aircraft—I am sure that is very instructive to you—and seven in weight-shift microlights.

Senator O'BRIEN—What is a weight-shift microlight?

CHAIR—That is where you steer it by moving your body around.

Mr Gemmell—Yes, that is it.

Senator O'BRIEN—Is that like a hang-glider?

Mr Byron—Similar principles, just a slightly bigger machine.

Senator O'BRIEN—So hang-gliders are safer than the others, apparently.

Mr Gemmell—I will come to that. I have figures on those. Balloons are very simple: zero in all categories for every year—there have been no fatalities in balloons since 1998. For gliders, in 1998 there were three, in 1999 there was one, plus one tug—that means that the tug, which is an ordinary aircraft, went down as well. In 2000 there were zero, in 2001 there

was one, in 2002 there were zero, in 2003 there were zero, in 2004 there was one, in 2005 there were three and in 2006 there were three. The total for the years is 12 plus one tug. I will give you gyros now.

Senator O'BRIEN—Is that a mini helicopter?

Mr Gemmell—Yes, gyrocopters. In 1998 there were two, in 1999 there were three, in 2000 there were zero, in 2001 there were seven, in 2002 there were three, in 2003 there were two, in 2004 there were two, in 2005 there was one and in 2006 there were two. The final category I will give you has three figures for each year in the order of hang-glider, paraglider and weight-shift microlight—that is the weight-shift microlight not administered by Recreational Aviation Australia. In 1998 there were two, zero and one. In 1999 there were zero, zero and zero. In 2000 there were three, one and zero. In 2001 there was one, zero and one. In 2002 there was one, one and one, in 2003 there was one, one and one, in 2004 there was one, one and one, in 2005 there were four, one and zero and in 2006 there was one, one and zero.

CHAIR—There you go. So what does all that mean—we should all ride a pushbike or it is more dangerous on a pushbike?

Mr Gemmell—You have to devise how many people are doing these things to work out the relative rates and all that sort of stuff. If you are interested, I can give you the total of all that for each year so you have all the categories—you can add it up, of course.

Senator O'BRIEN—I could add it up.

Mr Gemmell—In 1998 the total fatalities in all of the categories is 14. In 1999 there were 12 plus the one tug—you could argue that in or out, as the case may be. In 2000 there were 10, in 2001, which is the worst year of all the years we are looking out, there were 21, in 2002 there were 14, in 2003 there were 19, in 2004 there were 17, in 2005 there were 19 and in 2006 there were 12, plus the five in the aircraft accident, which you probably should leave out. The total is 138 plus six, which you could argue in or argue out, depending on your view.

Senator O'BRIEN—Which is, I suspect, a lot more than in other aviation over the same period?

Mr Gemmell—No, in general aviation there would be 40 to 50 fatalities occurring in the year. It is coming down, but it is still of that order. The rate is variable. The learning rate is obviously terrific. The glider rate, given the amount of flying, is actually very good and comparable with general aviation. We have difficulties knowing the volumes that are used here, but some of the other rates are, I think, somewhat higher than occur in some categories of general aviation. But the data on which all that is based is very unreliable because you are trying to work out how many hours are flown in gyrocopters in the year. It is not exactly reliable data.

CHAIR—I am sure this is connected to the bill in some way.

Senator O'BRIEN—It is. This is an area that you do not really regulate, isn't it?

Mr Gemmell—We do regulate.

Senator O'BRIEN—You have arrangements for someone else to do it?

Mr Gemmell—We arrange for someone to do the bulk of the work, and so they do a lot of work on our behalf. For a recent meeting with industry, we did a lot of work to try to calculate relative rates of accidents per the different sectors—general aviation versus ultralights and those sorts of things—which we could provide to the committee.

Senator O'BRIEN—I appreciate that.

Mr Gemmell—It shows, as best as we can work it out, with all the qualification you would put on it, what we think are the relative rates of accidents.

Senator O'BRIEN—This is an area where you do delegate, given that there is a provision in the bill about delegation of airspace management?

Mr Gemmell—Yes, we do give some airspace management. We do not delegate airspace management here.

Senator O'BRIEN—There is a provision—a delegation power in the bill, which is very general. I am not suggesting you are going to give the power to whatever the current iteration of the—

Mr Gemmell—Delegation powers also exist in the Civil Aviation Act. There are some delegations which apply to enable self-administering organisations to have appropriate oversight of what is going on in the operation.

Senator O'BRIEN—Mr Byron, when was the maintenance regulations project team formed?

Mr Gemmell—Was that one of the questions—

Senator O'BRIEN—Yes, question 2665.

Mr Gemmell—That is the one I am looking at.

Mr Carmody—Did you actually ask when it was formed? I thought you asked for the names of all of the members and the composition of the team.

Senator O'BRIEN—I probably did.

Mr Carmody—I do not think you actually asked when it was formed.

Senator O'BRIEN—That was remiss of me.

Mr Gemmell—Is late 2005 sufficient specificity?

Mr Carmody—It is more than 12 months ago, but I do not know the exact date.

Senator O'BRIEN—What is its role?

Mr Byron—The maintenance regulations project team was formed so that we could finally get resolution on the content of proposed new maintenance regulations. It is an activity that had been going on for some years. From my observations outside CASA before I joined, there was considerable resistance from industry as to how the drafts were being prepared. When I did a check internally I found that a lot of the drafts were not necessarily being prepared in line with the requirement that I had stipulated in late 2004 that we have safety outcome based regulations.

I felt it would be a good example for us to get a combined CASA and industry team approach to developing these regulations. At the end of the day, regulations that CASA drafts are subject, obviously, to passage through the parliament and it had certainly been my experience, in observing this from industry, that if there was considerable resistance in industry to whatever CASA was proposing then there was not much chance of it getting through in the first place. That was my observation.

When I asked how our previous regulatory successes had worked—and parts 21 to 35 was the example quoted to me—I was told that we did it the same way that the Canadians and the Europeans did it, and that was to have a joint CASA and industry expert group sit down and write the regulations. So it seemed to me that that was the best way to make sure that we had the regulatory input on the safety related regulations we felt we needed to have, but at the same time we have input from people with current industry experience. And having current industry experience available to CASA to assist in the drafting of these sorts of rules in my view is absolutely essential. That was the reason we formed the team.

It was recommended to me, but I also agreed with the view, that the best way to achieve success was to make sure you had a relatively small group of people. If you end up with the committee of 50 people it is unlikely to make much progress. The key was to make sure that we had the clout from CASA and the clout from industry that at least knew the subject material, and to have a small team—my definition of ‘small’ was up to about eight—and get them to sit down and work through it together. That was the concept.

Senator O’BRIEN—I did ask for the details of the membership of the team since its formation. Have you got that information?

Mr Byron—Yes. On CASA we had Mr Gratton, the team leader; Mr Patrick Dodgson; Mr Rick McMaster and Mr Joe Tully. From industry we had Mr Jim Pilkington, Mr Mark Sinclair, Mr Rob Tassini, Mr Terry Ward and Mr Stephen Dines. There were a few changes along the way but that was the initial team that we formed.

Senator O’BRIEN—Have any aviation community representatives on the project team been subject to regulatory action by CASA?

Mr Gemmell—Because the industry people were operational in industry in one company or another they were all subject to CASA’s regulatory oversight. So in terms of regulatory action, surveillance and that sort of thing, the answer is yes. As for regulatory action in terms of what you might describe as enforcement action the only occasion we have been able to find where we have taken any action is when one member of the industry project team was counselled as a pilot in 1986, 20 years ago. Whilst we may have had dealings with them and we may have had correspondence about various issues, certainly nobody has been fined or subject to prosecution. The only action we can find that has ever been taken was counselling of someone in quite a different role 20 years earlier.

Senator O’BRIEN—Where can we find a description of all functions that fit under the umbrella of the office of chief executive officer?

Mr Byron—The simplest way would be to look at the organisational chart. That is certainly available on our website. The two principal executives, apart from me in the office of the CEO, are the deputy chief executive officers, who have accountability for certain parts

of CASA as is quite clearly articulated in the organisational structure. Section 84A of the act talks about the duties of the director, who is the chief executive officer. I am the third executive in there, but I effectively delegate on a daily basis the certain functions of the organisation to the two deputies.

Senator O'BRIEN—Is that amended in this bill?

Mr Byron—No.

Senator O'BRIEN—Is there a need to amend it?

Mr Byron—No, I would not think so, because the bill says that we would have an office of airspace regulation. It will be reporting to the CEO. Does the bill actually say that?

Mr Mrdak—No. The bill is designed to fit within the existing powers and authorities of the Director of Aviation Safety as the CEO. It does not change any of the stature of responsibilities of the CEO. The functions under these bills simply become another function that the CEO performs in accordance with other functions under the act.

Senator O'BRIEN—So it is an additional function?

Mr Mrdak—It is an additional function for the organisation.

Senator O'BRIEN—You announced last February the creation of an Industry Complaints Commissioner. How is Mr White going?

Mr Byron—Mr White resigned last week and we will be advertising externally and internally for a replacement.

Senator O'BRIEN—Was it the pressure of the work?

Mr Byron—He is exploring other opportunities, I think. From my point of view, I think it has been going really well. When I started at CASA, through my office and my own dealings with industry, if people had a complaint I tried to encourage them to put it to me or my office. I have given people in their first year or so at the organisation my mobile phone number, my email address and all of that sort of thing and some people took me up on it and some did not. Some people were uncomfortable with it. But over a period of about 18 months I got the view that if people really had an issue, and they really wanted it looked at independently, they were comfortable to report it to the CEO's office. Previously, the way in which complaints seemed to have been handled in the organisation over many years is that they would generally come to the local office and then gravitate up. I think it is probably fair to say that some years ago some complaints made at a local level may not have made it to the senior management. There was also a hotline. People had the ability to ring the hotline, which was in corporate relations.

When we established the Industry Complaints Commissioner, a number of people thought, 'If this is an independent function within the office of the CEO, I am going to use it.' We got quite a few complaints coming in. There were a range of them. There was a bit of a surge in issues related to ASICs and that sort of thing. We tried to quarantine them and get them dealt with while the business processes improved, but there were a number of other complaints that were reported. Although you have not directly asked me this question, if I could just continue, the way in which it works is that the ICC—the Industry Complaints Commissioner—working within the office of the CEO, received complaints through the website, by email or by

telephone and he would deal with them as he saw fit. In some cases, if he felt they were purely operational issues, he would refer them to the operational area. For example, if someone was complaining about not having their aircraft on their AOC quick enough—it is a regulatory service—he would get in contact with that area and ask, ‘What’s the story here?’ They would say, ‘We can sort it out’, but he would monitor it and close it out when he felt it was appropriate.

For other more serious complaints, he dealt with them and conducted his own investigation. Every month he and I would sit down and we would go through all of the major complaints that were open and under investigation. We have a process where, through my monthly meeting with the deputies, the head of HR and the chief financial officer, we track action items that I have endorsed. It may well be that the ICC recommends to me an action that should be taken. I have to agree to that action being taken, but in most cases the deputy CEO in ops or deputy CEO in strategy and support are tasked to do certain things to fix the problem. Then we track that. When they are closed off, they are closed.

I am happy that we have seen a take-up in industry of people wanting to make a complaint and that they have a different avenue, or what is seen to be a mechanism that is far more independent from line operations. I think we have had some satisfied customers out of it. There are probably a few dissatisfied customers. I think that would be the case. I am keen, in seeking a replacement for Mr White, to make sure that we get someone that people can have trust and confidence in.

Senator O’BRIEN—So you are advertising at the moment?

Mr Byron—I think in the next week or so.

Senator O’BRIEN—Did Mr White give you feedback about his perception of the position and the role? What were his comments?

Mr Byron—Yes, we actually reviewed that about six months ago. We made some amendments to some of the administrative processes. It was agreed that he would report directly to me and he would not report through the deputies. That was certainly the intention of the original establishment. We tested that and continued with that approach. He felt that it was a success in that it was being taken up by industry and was giving people another avenue. I think we have had one or two occasions where people have said, ‘He is part of CASA and I am not getting satisfaction,’ but those issues seem to be fairly minor. Where we have had significant issues raised, the view that I have formed—and certainly Mr White advised me that he thought this—is that the system is a success. I intend to continue with it and bolster it where I can.

Senator O’BRIEN—On how many occasions since you have become chief executive officer has there been a negative comment on CASA or its officers in a decision by a coroner?

Mr Byron—I know there have been a number.

Senator O’BRIEN—That would be the sort of information that would be of particular concern to you as CEO, wouldn’t it?

Mr Byron—It certainly would. We have had the ICC established for a year. Nothing has come through the ICC in relation to coroners’ findings. But it is certainly an interesting view.

Certainly any comments that coroners make in regard to the performance of our officers are normally dealt with at an operational level.

Senator O'BRIEN—Do you know, Mr Gemmell?

Mr Gemmell—I can certainly recall some critical comments coming out of coroners' findings and indeed, in some cases, recommendations or things we could improve, which we could take either as just that or perhaps as a criticism of what we previously did. I do not know the number offhand. There is not a massive number of those. We could trawl back and find out. But I can certainly remember a number of criticisms. They come in and we deal with those.

Senator O'BRIEN—There are at least two in Western Australia.

Mr Gemmell—I certainly have in mind the Jandakot accident, where we were quite heavily criticised for the way in which we—

Senator O'BRIEN—That was about the manufacture of a part, wasn't it? Are you thinking of that one?

Mr Gemmell—Yes. That was the manufacture of a part. The part failed and the engine in the aircraft failed. The coroner was very unhappy with the way we conducted our oversight of that as well as some other elements.

Senator O'BRIEN—What do you do when that happens? What is CASA's response to such a very public and authoritative criticism?

Mr Gemmell—We have to deal with it. In some cases we may not agree and in other cases we may. If we do not agree, all we can do is write back to the coroner and say, 'We think you got that one wrong.' Publicly probably we can do nothing much more than that. Where we agree with them, the onus is on us to implement the things to fix it. If we have not had adequate oversight of some part of the aviation activity, we put in regimes to do that.

Senator O'BRIEN—Can you think of any such occurrences? Do you know of any such occurrences where you have agreed with the coroner's finding and you have made changes to comply with it?

Mr Gemmell—Yes, the Western Australian report on the Jandakot incident had some criticism of the way we oversighted aerodrome emergency procedures practices. They have a requirement in the CASA rules. They have a practice emergency every now and then. We had not been particularly proactive in our response to those. We noted they had done them and ticked it, and that was it. We were not looking at the quality of it. That was his concern—he said we should have.

There are some significant issues for us in that because in an emergency procedure, firstly, we have no controls over anyone who is playing in it—the police, the fire brigade. Whoever turns up, there are no controls over it. Secondly, in the main most of the emergency procedures, when they are activated, are activated for non-aviation safety reasons. It will be a security reason—a fire in the terminal. There are all sorts of reasons that those things will occur. So we had some limitations in what we had done, but we did agree that we had to lift our game. It wasn't really good enough just to tick the fact they had done it. We had to have

some involvement in the quality of it, and if things failed, do our best to try to make sure they fixed it.

I note that we have no ability to direct a resolution. We cannot direct the fire brigade to turn up 10 minutes earlier, or whatever is supposed to happen, but we can seek for the airport to try and improve their processes and practices—which they do anyway, as a matter of interest. The more mature ones put it that way. So we sought to improve our performance. There is a perception that CASA's performance has been variable depending on which office was managing, or involved, perhaps, is a better way of putting it.

Mr Gemmell—I suggest some caution with that. There are allegations made regularly that CASA's performance is variable according to individuals. That may well be true. You cannot dismiss it as a possibility. It could also be equally true that it is do with personality and whether you get on with them or whether you don't get on with them. We now manage the aerodromes area centrally, if you like, again trying to ensure that we get consistent national interpretations of all the stuff and application of the requirements and not separate regional approaches to it. I hear it all the time—I think I heard it yesterday. People say, 'It took me six months to get an AOC, and I know somebody who got it in three weeks.' That is a fair allegation. If it was exactly the same application for exactly the same thing, it would be pretty hard to explain. It is still possible. You can't dismiss it: we may have taken a hell of a lot longer on one than we should have on another. In many cases when we look at these things we find that the complexity of one application vastly exceeded the complexity of the other, and it was quite reasonable why one would have taken longer than the other. People don't worry too much about those things. But you have to look at the circumstances.

Senator O'BRIEN—So this much information versus three pages was the evidence we had yesterday, for example.

Mr Gemmell—Yes, and again, that may be true. You have to look at that. In other cases it comes back to this: it took them six months because they were really ill-prepared for it and had nothing ready for it and the other one was very well prepared for it—or we knew about it, or whatever it was. People say: 'We just wanted to add another aircraft to the AOC. It should take them a couple of days and we don't know what the concern is.' Some of the types they are trying to add are major changes in the way they operate and they don't realise that. And then the moment they butt up against us and we say, 'Hang on, you are not prepared for this; this is going to take a long time,' they complain about us.

My great bugbear is, when they bring the aircraft in, they sit it on the tarmac and then stroll across to us. They do all the homework and the finance necessary to buy the aircraft, but they do not do any homework with us. Then they suddenly say, 'We want this approval in a couple of days.' Sometimes we can do it, but at other times we say, 'No way; it will take a lot longer.' All I say is that you cannot dismiss those criticisms. To be fair, there are certainly occasions where we say, 'We cannot explain it in that way; there are some differences,' and we have to try to eliminate those. In other cases you just have to look at the circumstances to see whether they are valid. With a lot of those that I have seen, more often than not the comparison is not particularly valid.

Senator O'BRIEN—Going back to the coronial findings, can you provide us with information on adverse coronial findings and the responses that have occurred in Mr Byron's period?

Mr Gemmell—As I have said, in some cases—and I am thinking of the Western Australian coronial inquiry—adverse findings are relatively clearly defined. I can recall a relatively recent one. It was the Hamilton Island accident in Queensland where the coroner was not so much critical but did make some recommendations where he thought we could improve. I think he suggested some educational material for our staff. Maybe that is a criticism; maybe it is just a suggested improvement. But I can tell you that we went back and said, 'Terrific, thanks very much, we'll do that.'

Senator O'BRIEN—I am just looking for a collection of that information. I suspect that, in some respects, it is also a way of measuring how you have been performing. It is a completely independent review—in the worst of circumstances, obviously.

Mr Gemmell—Certainly, we will produce that. I would just caution you against assuming that it is a measure of performance, because what you keep looking at is occasions on which things fail. One of our problems is that we are measured by failure, and everyone wants to look at it when it is a failure. Of course, when it is a failure, you know that something has gone wrong and CASA have failed to prevent it, much as we would have liked to do otherwise. So you are always going to be looking for the holes and the faults in the systems.

Senator O'BRIEN—But failure is relative. From my point of view, a fatality is a failing and what you would look at is the extent to which CASA was responsible. In some circumstances you would say that maybe the accident was preventable, but possibly it would have been preventable by the right audit asking the right questions at the right time. Some things might be preventable if, in auditing a particular matter, there had been the opportunity to apply the necessary thoroughness. I say that only because you are right: CASA will be judged on performance and fatalities are a measure of performance, just as road fatalities are a measure of the performance of our road safety systems.

Mr Carmody—If I may add, just as Australia in having one of the safest aviation records, if not the safest and best aviation record in the world, is also a measure of performance. The regulator is responsible for setting that.

Senator O'BRIEN—It depends on whether the systems we want to compare ourselves with are those to which we would aspire, and there are some that we would not aspire to.

Mr Carmody—But my point is that you cannot have your cake and eat it, too. If we are responsible for the failures, we also have to be accountable for the success.

CHAIR—This is not as black and white as the Pommy cricketers.

Mr Byron—Senator, I think when you began—I do not know whether you did it intentionally—you talked about the ICC. The coronial findings are reviewed internally. They tend to be reviewed at a management level. I do not know whether you intended this, but certainly what I will take away from this is that, when we appoint a new ICC is to probably say, 'If there are coronial findings that are critical of an individual performance of a CASA officer then that is probably something that could go into that area.'

Senator O'BRIEN—Certainly, the performance of individuals is one thing and where that goes up the line then you have to look beyond that.

Mr Byron—Certainly. From an organisational point of view, we definitely look at any full coronial report in its totality.

Senator O'BRIEN—I appreciate that you are going to supply us with some information and that there is a caveat that coronial inquiries may have made comment that is not negative—for example, the Hamilton Island incident you mentioned.

Mr Gemmell—Yes. There are quite a few coronial inquiries that make no comments that are related to CASA at all. Do you want a list of those as well?

Senator O'BRIEN—No, I just want to know where CASA has been mentioned, assuming CASA has been involved and the coronial inquiry has not made a finding.

Mr Gemmell—We will get that to you. I am just nervous giving you a list of things that went wrong without giving you a list of things that went right.

Senator O'BRIEN—If you want to give me more information, I am happy to receive it, Mr Gemmell.

CHAIR—I can assure you it will be gratefully received and used against you!

Senator O'BRIEN—Especially the good information, that is right! I think you said you were going to give me copies of the CEO directives. When will they be available?

Mr Byron—We can provide them after this committee finishes.

Senator O'BRIEN—Okay. What about the documents you were going to supply in camera?

Mr Gemmell—They are on their way.

Senator O'BRIEN—Having received those documents, it may be necessary to have an in camera hearing. I will not know until I see them. I would not rule that out.

CHAIR—The only thing I am confident of is that all these questions today are not going to lighten the load at estimates.

Senator O'BRIEN—Estimates is a very short proceeding this time. I see we do have a spillover day this time apparently.

CHAIR—Is that a threat or a—

Senator O'BRIEN—I do not know whether this committee will be allowed to have that, because there are only four of the eight committees that can use the spillover day, so I do not know what the answer to that is.

CHAIR—Senator O'Brien, are you heading towards the finish?

Senator O'BRIEN—I am getting towards the point where, without seeing those documents, it would not be productive to continue on with the line of questioning I have been pursuing.

Mr Carmody—Could I make a correction and address another matter as well?

CHAIR—Yes.

Mr Carmody—I indicated before that there were nine section 32 requests. That was in fact incorrect. We have checked with ATSB and there were 31. I do think that the nine figure came from the fact that they come in multiples and we group them together when we receive them. So we actually had 31. I think ATSB would confirm that; we have checked with them today. I apologise for that. If I may, I want to hark back to a point that was raised yesterday. You referred to a statement made by Mr Gibson about Lockhart River, saying, ‘So in no way does it relate to the accident at Lockhart River.’ That was actually drawn from a paragraph of text from a press release. If it would be possible, I would rather read in the whole paragraph.

Senator O’BRIEN—Sure.

Mr Carmody—It says:

This is new information, information which literally only came to light in the last few days. So in no way does it relate to the accident at Lockhart River. At this stage we’re certainly not proceeding on that basis. Obviously, as further investigations go on, more things may be uncovered, but at the moment the decision to ground the airline was made on new information, only a few days old.

The context is pretty clear, Senator.

Senator O’BRIEN—Do you think so?

Mr Carmody—I think it is.

Senator O’BRIEN—I would have thought it gave the impression that this was something that had no relationship to the Lockhart River crash, from what you just read.

Mr Carmody—He said:

Obviously, as further investigations go on, more things may be uncovered, but at the moment the decision to ground the airline was made on new information only a few days old.

That was the sentence that immediately followed. I think is quite clear.

Senator O’BRIEN—We will agree to disagree.

CHAIR—Is that it?

Senator O’BRIEN—For the time being. As I said, I want to look at the other information and discuss with the committee whether we need to talk any more.

CHAIR—Thank you very much for your time and patience.

Committee adjourned at 12.15 pm