



PUBLIC INQUIRY INTO LIVERPOOL CITY COUNCIL

**COMMISSIONED UNDER S 438U OF THE LOCAL
GOVERNMENT ACT 1993 (NSW)**

**PUBLIC HEARING
SYDNEY**

**TUESDAY, 19 AUGUST 2025
AT 10.20 AM**

DAY 16

APPEARANCES

**Ms T McDonald SC, Counsel Assisting
Ms B Anniwell, Counsel Assisting
Mr E McGinness, Counsel Assisting
Mr J Emmett SC with Mr D Parish and Mr N Andrews, Counsel for Liverpool
City Council
Mr T Boyle, Counsel for Mr J Ajaka
Ms C Hamilton-Jewell, Counsel for Mr P Ristevski
Ms K Richardson SC and Ms C Palmer, Counsel for Mayor N Mannoun**

*Any person who publishes any part of this transcript in any way and to any person contrary
to any direction against publication commits an offence against s 12B of the Royal
Commissions Act 1923 (NSW).*

<THE HEARING RESUMED AT 10.20 AM

COMMISSIONER: Yes, Ms McDonald.

5

MS McDONALD: Could you excuse me for a minute. We don't have any administrative matters at the moment, Commissioner. I don't know if anybody else does.

10 **COMMISSIONER:** Silence.

MS McDONALD: Silence. If we can proceed with our first witness for today, I call Sandie Morthen.

15 **COMMISSIONER:** Yes. Ms Morthen, would you like to take an oath or an affirmation?

MS MORTHEN: Affirmation, please.

20 **COMMISSIONER:** Thank you.

<SANDIE MORTHEN, AFFIRMED

COMMISSIONER: Yes, Ms McDonald.

25

MS McDONALD: Please state your full name.

MS MORTHEN: Sandra Marie Morthen.

30 **MS McDONALD:** Your occupation?

MS MORTHEN: Manager, Energy, Utilities, Private Sector and Airlines with the United Services Union.

35 **MS McDONALD:** How long have you been working for the United Services Union?

MS MORTHEN: Almost 16 years.

40 **MS McDONALD:** 16?

MS MORTHEN: Yes.

45 **MS McDONALD:** You've described the particular area that you now cover as a manager. When did you commence looking after that area?

MS MORTHEN: The last week of May (indistinct).

MS McDONALD: Before moving to that area of the union's membership, did you look after a different area?

5 **MS MORTHEN:** Yes, I was an organiser in our Metropolitan Local Government team.

MS McDONALD: Sorry, that was the metropolitan.

10 **MS MORTHEN:** Local Government team.

MS McDONALD: And for how long were you an organiser for the Metropolitan Local Government Government team?

15 **MS MORTHEN:** Almost 16 years.

MS McDONALD: Okay. As an organiser, did you look after particular local councils?

20 **MS MORTHEN:** Yes. I looked after Blacktown, Campbelltown, Camden and Liverpool Councils.

MS McDONALD: You described your role as an organiser. Just very briefly, what duties does an organiser have?

25 **MS MORTHEN:** We represent members in meetings and consultation and we also grow the membership of the union.

MS McDONALD: And meetings and consultations, are they meetings that are occurring either where the members call, for example, a yard meeting or some kind of membership meeting?

MS MORTHEN: They could be that. It could be as part of an investigation. It could be a meeting called by the employer. There's all different sorts.

35 **MS McDONALD:** Now, concentrating on Liverpool City Council, some of the correspondence in respect of industrial relations at the council seemed to make a distinction between indoor and outdoor employees.

40 **MS MORTHEN:** Yes.

MS McDONALD: What - it's probably obvious, but I'll ask you. What's the distinction between an indoor and an outdoor worker?

45 **MS MORTHEN:** An outdoor employee is generally someone who is based in a council yard, whereas an indoor employee is more likely to be based in an administration building, a library or an early education centre.

MS McDONALD: And with Liverpool City Council, the yard, was that mainly at the Rowe Street depot, covering the workers there?

5 **MS MORTHEN:** We covered workers at all three. However, Rowe Street was predominantly where I was working.

MS McDONALD: As part of an indoor employee or worker - as part of an indoor worker or employee, you included, I think, early education workers, people working
10 in the library. So the union had - I'm using the wrong word - jurisdiction over that type of employee? Or coverage. That's probably the word.

MS MORTHEN: Yeah. Our rules say we can cover anyone who works in any position in Local Government.
15

MS McDONALD: So for example, if you were an employee and working as a CEO of a council, your coverage would include that person?

MS MORTHEN: 100 per cent.
20

MS McDONALD: Now, the workers or employees who you covered, were they mainly covered by an award?

MS MORTHEN: Yes.
25

MS McDONALD: And was that the Local Government (State) Award?

MS MORTHEN: Yes, it was.

30 **MS McDONALD:** I'm just putting these as hypothetical questions to you at the moment, but if an issue arose, for example, at the Rowe Street depot that you wanted to agitate on behalf of your membership, what were the steps? Would you - for example, would you initially raise it with management?

35 **MS MORTHEN:** Okay. The award is quite clear. If the - and in each - a situation arises like that, the worker should first raise it with a - verbally with a leader or another authorised officer, who may be human resources. If that doesn't work, they would then be encouraged to submit what we call a grievance form, which is
40 a written record of what they were concerned about and the outcome they were seeking. The union can get involved at any step of the process and we may further escalate that by writing a letter or ultimately lodging a matter with the Industrial Relations Commission.

MS McDONALD: The submitting of the grievance which is set out in a grievance
45 form, to whom would the members submit that?

MS MORTHEN: They would usually give it to someone in their line of management or directly to human resources if it was related to their line of management.

5 **MS McDONALD:** And when you spoke about lodging with the commission, we've heard a reference to the number of outstanding industrial grievances at particular points of time. Your understanding of that term, the "industrial grievances", what do you understand that to mean?

10 **MS MORTHEN:** That's actually not a term we would use. We would either have a grievance or a matter before the Industrial Relations Commission. So I assume that whoever has said that meant both of those things together. So it probably covered grievances and matters in dispute.

15 **MS McDONALD:** So a grievance could still be just at the internal level of the council. It may be resolved or it may be escalated by either party to the Industrial Relations Commission?

MS MORTHEN: Correct.

20 **MS McDONALD:** Can I take you to to 2024 - around April 2024. In your dealings as an organiser, did you have - and again I'll put it broadly - involvement or interactions with the CEO of the Council?

25 **MS MORTHEN:** Yes.

MS McDONALD: As at 22 April 2024, the CEO was John Ajaka. You knew him?

MS MORTHEN: Yes.

30 **MS McDONALD:** You had dealings with him?

MS MORTHEN: Yes.

35 **MS McDONALD:** Also, was he a member of the union?

MS MORTHEN: Yes.

MS McDONALD: When did he become a member of the union?

40 **MS MORTHEN:** Shortly after he started at Council. I don't know the exact date, sorry.

45 **MS McDONALD:** Your experience as an organiser for the four councils that you nominated just shortly before this question, was that unusual?

MS MORTHEN: No. At the four councils I looked after, three of the CEOs were members of the union; two of them exceptionally long-term members, one for more than 40 years.

5 **MS McDONALD:** One more than 40 years.

COMMISSIONER: What about across Local Government more generally? Are you aware of whether other CEOs or general managers, as they may be titled?

10 **MS MORTHEN:** I've organised at almost every council in Sydney and it's my experience that CEOs or general managers generally do join the union. Sometimes it's the USU. If they have a planning background, it's more likely to be DEPA.

MS McDONALD: Sorry, who was the alternate union?
15

MS MORTHEN: DEPA. There's actually also engineers, but it's usually - a CEO will belong to the USU or to DEPA.

MS McDONALD: Okay. And I didn't ask you this, but your coverage - there are
20 also unions that cover, for example, engineers?

MS MORTHEN: Yes.

MS McDONALD: And also planners, are they -
25

MS MORTHEN: That - DEPA is for planners, and the Local Government Engineers' Association is for engineers.

COMMISSIONER: Can you just assist me with the acronym?
30

MS MORTHEN: Developmental Environmental Planners' Association.

COMMISSIONER: Thank you.

35 **MS McDONALD:** Can I take you to April 2024. Around 22 April, which was a Monday, were you contacted by John Ajaka?

MS MORTHEN: Yes.

40 **MS McDONALD:** Do you recall how he contacted you? Phone or email or text?

MS MORTHEN: Yes. From my memory, he called me a few days before and asked me if I would meet him on the morning of the 22nd in his office.

45 **MS McDONALD:** As I said, the Monday - the 22nd was a Monday. So you recall that he contacted you the week before. Do you remember what day?

MS MORTHEN: I - I don't, sorry.

MS McDONALD: But he contacted you and (Zoom frozen) on the Monday morning?

5

MS MORTHEN: Yes.

MS McDONALD: You attended the meeting?

10 **MS MORTHEN:** I did.

MS McDONALD: And where was the meeting held?

15 **MS MORTHEN:** The meeting was held in his office, which was - I believe it was at Civic Place. I think we'd moved to Civic Place by then.

MS McDONALD: At the meeting, was it only you and Mr Ajaka?

MS MORTHEN: Yes.

20

MS McDONALD: And what was discussed at that meeting?

25 **MS MORTHEN:** We discussed the concerns he had about having told Mayor Mannoun to shut the F up and he told me the circumstance that had arisen to that, and he told me that that was because he had refused to cut 150 jobs that he'd been asked to cut.

MS McDONALD: You mentioned the "shut the F up".

30 **MS MORTHEN:** Yes.

MS McDONALD: Did he explain to you the context of that occurring? That it was in some kind of meeting or - did he give you those details?

35 **MS MORTHEN:** Yeah. He told me that there was a meeting, that the mayor, the deputy mayor, and I believe Farooq Portelli had been at, and that there was heated discussion at that meeting.

MS McDONALD: And did Mr Ajaka say that he uttered those words?

40

MS MORTHEN: Yes.

45 **MS McDONALD:** And your evidence was that he set out how that arose and that there was, my notes are, a suggestion or a proposal to cut 150 jobs. He had been asked to cut 150 jobs?

MS MORTHEN: Correct.

MS McDONALD: Did Mr Ajaka, at the meeting, raise anything about a concern - sorry, I will start again. Did he give you an indication of when that meeting had taken place?

5

MS MORTHEN: He said the previous week.

MS McDONALD: At that stage, as the organiser for the union, had you heard of any proposal to cut any positions or jobs?

10

MS MORTHEN: I had not.

MS McDONALD: During this meeting, did Mr Ajaka raise anything about his job or his position as CEO?

15

MS MORTHEN: Yeah. I believe that he was concerned because of the altercation that his job may be at risk. I am of the understanding that the relationship had already become strained, and John had mentioned that to me previously.

20 **MS McDONALD:** When you say the relationship had already become strained, the relationship between who?

MS MORTHEN: Sorry, between Mayor Mannoun and John.

25 **MS McDONALD:** Was the indication to you that the relationship had become strained before that, if we describe it as the swearing meeting?

MS MORTHEN: I knew about it before that meeting, so yes.

30 **MS McDONALD:** How did you know about the relationship becoming strained before the meeting?

MS MORTHEN: It was a very strong rumour and discussion at Council and John had spoken to me about it as well.

35

MS McDONALD: And when you say a strong rumour at Council, who are you speaking of?

40 **MS MORTHEN:** Local Government is a hotbed of rumours. So, yeah, it was well-known around the Council that the relationship between the mayor and the CEO was not going well.

MS McDONALD: And when you say "Council", are you talking about your members?

45

MS MORTHEN: Yeah, the employees.

MS McDONALD: Do you recall before the swearing meeting what John Ajaka had said to you about the relationship with the mayor?

MS MORTHEN: I - I don't, sorry. I just do remember we discussed it.

MS McDONALD: And the impression that you had is that it was strained before the swearing meeting?

MS MORTHEN: Yes.

COMMISSIONER: About how long before April was that?

MS MORTHEN: Maybe two or three weeks.

COMMISSIONER: I see. So -

MS MORTHEN: Yeah, it was fairly recent still.

COMMISSIONER: And is that the same with the perception held within the membership, that the relationship was strained? Was it about that March to April period as well?

MS MORTHEN: Yes. Yes.

MS McDONALD: Do you recall at this meeting, or before - sorry, I'll start again, that's unclear. The meeting that you had with Mr Ajaka on the 22nd, do you recall whether at that meeting or before that meeting Mr Ajaka raising with you an email that he had received from the mayor about some changes that he wanted incorporated into the budget?

MS MORTHEN: I don't believe so. I don't recall.

MS McDONALD: The reference to cutting the 150 jobs, was there any detail about, for example, it's anticipated that these positions would go or this would go, or these types of roles would go?

MS MORTHEN: The language was "of your members", but that - our membership at Liverpool is almost 600 members - so we have membership that covers the whole organisation, so it doesn't really narrow it down.

MS McDONALD: Okay. At that meeting or before that meeting, were you told by Mr Ajaka that there was a proposal to get rid of two directors?

MS MORTHEN: No.

MS McDONALD: A number of managers?

MS MORTHEN: No.

MS McDONALD: A number of non-core employees?

5 **MS MORTHEN:** Not before that meeting, no.

MS McDONALD: Did you hear about that subsequently?

10 **MS MORTHEN:** Not from Mr Ajaka, but yes.

MS McDONALD: But as events proceeded.

MS MORTHEN: Yes.

15 **MS McDONALD:** Okay. All right. So you're at this meeting with Mr Ajaka - and I'm just broadly summarising it - he raises with you the 150 jobs to be cut, that he was concerned that his job may be at risk. Did you resolve with him at that meeting that you would do anything or the union would do anything?

20 **MS MORTHEN:** No, I don't have the authority to do that. Yeah.

MS McDONALD: To do something, what are the next steps as an organiser?

25 **MS MORTHEN:** So I left - I would leave that meeting, which I did, and called my manager.

MS McDONALD: At that point, who was your manager?

30 **MS MORTHEN:** Steve Donley.

MS McDONALD: And when you say your manager, if we're imagining an organisational structure, you're the organiser, you're a direct report to a manager?

35 **MS MORTHEN:** Yes.

MS McDONALD: That manager was Mr Donley.

MS MORTHEN: Yes.

40 **MS McDONALD:** And did Mr Donley - I keep on using the word jurisdiction, I don't know if that's correct - did he have coverage or responsibility for Local Government?

45 **MS MORTHEN:** In Sydney. He covers all the metropolitan councils.

MS McDONALD: So all of them, not only your four.

MS MORTHEN: All councils in Sydney.

MS McDONALD: All right. So you called Mr Donley. What did you say to him?

5 **MS MORTHEN:** I told him that Liverpool was looking at cutting 150 jobs.

MS McDONALD: In that conversation, did you tell him the source? Who - how you -

10 **MS MORTHEN:** Yes. Yes.

MS McDONALD: So you told him something along the lines of, "I've come from a meeting."

15 **MS MORTHEN:** Yeah. He knew I was going to the meeting, because to attend the meeting I had to withdraw from a team activity that was scheduled for that day. So he already knew I was meeting with John.

MS McDONALD: So you were supposed to be doing something else that morning?
20

MS MORTHEN: Yes.

MS McDONALD: So he already knew you were attending the meeting?

25 **MS MORTHEN:** Yes.

MS McDONALD: If he had some other union work organised, is it usual to not do the union work and attend a CEO meeting?

30 **MS MORTHEN:** No, it's - it's a judgment call. So, I mean, we prioritise our work every single day. There's some work we can delegate to our delegates, who are employed by council and represent the union, and some we just have to do.

MS McDONALD: So Mr Donley knew that you were attending the meeting. You
35 then ring him and say, "Liverpool City Council is looking at cutting 150 jobs."

MS MORTHEN: Yes.

MS McDONALD: What else is discussed at that stage?
40

MS MORTHEN: There was probably some swear words.

MS McDONALD: Okay.

45 **MS MORTHEN:** But other than that, we talked about arranging member meetings for the following day and informing our members of what was occurring.

MS McDONALD: Right. Now, after you had - that was a telephone call with Mr Donley?

MS MORTHEN: Yes.

5

MS McDONALD: Did you contact any of the delegates within the Council?

MS MORTHEN: Yes.

10 **MS McDONALD:** Who did you contact there?

MS MORTHEN: I contacted Rafael Catanzareti.

MS McDONALD: Yes. And what was their role?

15

MS MORTHEN: They're one of the head delegates.

MS McDONALD: And again, just to explain, you've got your membership of the union. That - the membership then elect a delegate?

20

MS MORTHEN: Yes.

MS McDONALD: And then there must be a number of delegates, is it.

25 **MS MORTHEN:** Yes. At Liverpool, at that time, I believe we had 22 delegates.

MS McDONALD: And then there is a head?

30 **MS MORTHEN:** There's generally two head delegates, one for indoor staff and one for outdoor staff. At Liverpool we had two indoor delegates and then two kind of outdoor delegates. Raf traditionally is an indoor worker but works at Rowe Street depot, so he was elected as one of the outdoor head delegates.

MS McDONALD: Outdoors. Okay. Right. Did you have a meeting with Raf?

35

MS MORTHEN: I had breakfast with Raf.

MS McDONALD: You had breakfast with Raf. All right. Where did you have your breakfast?

40

MS MORTHEN: At a restaurant called Lilys, which is at Prestons, which is part of Liverpool Council area.

MS McDONALD: Is Preston mainly an industrial area?

45

MS MORTHEN: It's both industrial and residential, but where Lilys is located is right in the middle of the industrial area. So it's maybe eight to 10 kilometres away from the CBD of Liverpool.

5 **MS McDONALD:** All right. So you and Raf meet up at Lilys to have breakfast. When you're there at Lilys, do you see anybody else you know or anybody else associated with Council?

10 **MS MORTHEN:** I did. So Lilys is an open-plan restaurant that that has a private meeting room located off the main dining area. And whilst we were sitting there, I looked up and I noticed that there were some councillors sitting in the private room, but the doors were open.

15 **MS McDONALD:** Okay. And which councillors did you observe in there?

MS MORTHEN: Mayor Mannoun, the deputy mayor Fiona Macnaught, Mel Goodman, Councillor Ammoun - sorry, I can't remember his first name - and Betty Boustani was also in there.

20 **MS McDONALD:** Your recollection of the Council at that stage, were they all the councillors who represented the Liberal Party?

MS MORTHEN: Yes.

25 **MS McDONALD:** And Ms Boustani, what was your understanding of her role?

MS MORTHEN: That she was a policy adviser to the mayor.

30 **MS McDONALD:** No other councillors there? No independents, no Labor Party councillors?

MS MORTHEN: No. No.

35 **MS McDONALD:** Did you approach them?

MS MORTHEN: I did. I left my table and walked across the restaurant to the room and I said, "Good morning," and I asked the mayor why he was cutting 150 jobs.

40 **MS McDONALD:** Did he respond?

MS MORTHEN: He did not respond to that. He just kept asking me if I thought it was acceptable that one of my members had told him to shut the F up.

45 **MS McDONALD:** And was that the extent of the interaction with you and the mayor at Lilys?

MS MORTHEN: I asked the question a few times, he responded the same a few times, and then I went back to Raf.

5 **MS McDONALD:** And then your breakfast with Raf, did you discuss what plans - for yard meetings or meetings the next day?

MS MORTHEN: Yeah. While we were sitting there, from memory, I had my laptop out and I was drafting up the fliers for the meetings.

10 **MS McDONALD:** So were meetings or rallies organised for the next day?

MS MORTHEN: Union meetings were organised for the next day.

15 **MS McDONALD:** And what locations?

MS MORTHEN: We had one at Rowe Street depot at the start of the day, which would have been 6.30. We had one in Moore Street in the Learning Hub, I want to say 12 o'clock, but it was around the middle of the day. And then we had a Teams meeting later in the afternoon for people who may not have been able to attend either
20 of those two meetings.

MS McDONALD: The Rowe Street, is that primarily for the outdoor workers?

25 **MS MORTHEN:** Primarily, but it wasn't unusual that the office staff based at Rowe Street would also join that meeting rather than driving up to Moore Street later in the day.

MS McDONALD: Right. And then Moore Street, was that, again, primarily indoor workers?
30

MS MORTHEN: Yes.

MS McDONALD: And then the - later on, the Teams meeting is for -

35 **MS MORTHEN:** It was a mix.

MS McDONALD: Right. Could you please bring up document NMA.004.001.0002, please. Yes, please. Now, look, this is an exchange of text messages that you're not party to, but I wanted to draw your attention to the - kind of the screenshot in the
40 middle. Maybe if we could expand that, please, which - you can see the heading - that's better.

MS MORTHEN: I was feeling a bit old for a minute.

45 **MS McDONALD:** You can see there:

"Urgent member meetings. Meetings are urgent due to the potential threat to a large number of Council jobs."

5 Et cetera, and this could be discussed as early as the council meeting on the 24th.
When you spoke about having your laptop out, is this one of the flyers that you had created?

10 **MS MORTHEN:** Created is a stretch. So what happens is I write the text in the middle and it goes to a member of our Comms team, who makes it - be created, yes.

MS McDONALD: Okay. Who puts the kind of, like -

MS MORTHEN: Yeah, the pretty pictures and a nice format.

15 **MS McDONALD:** All right. Sorry, could we just - excuse me.

COMMISSIONER: Where it says:

20 "This could be discussed as early as the council meeting, Wednesday 24th."
Was that something you were told, do you remember?

25 **MS MORTHEN:** I honestly don't remember, but it is a fair assumption, with a claim that big and us having meetings, that it probably would have been brought up by a councillor at the meeting.

MS McDONALD: Can I just - could we keep on going - and I know you're not party to this exchange, but there's a message - yes. Under the flyer, can you see:

30 "Do these guys really get paid to go to meetings to rally against council?"

MS MORTHEN: Yes.

35 **MS McDONALD:** What's the position, first, with attendance at, for example, the meetings that were going to be held on the 23rd?

40 **MS MORTHEN:** So - and it's different at different councils. So at Liverpool, since John had commenced, we had an agreement that Council would pay for every second lot of union meetings. So this one was paid. So I can't remember what the meeting before this was, but it would have been unpaid. It can still happen during Council time. We generally don't do it during Council time, but it can, and then it - it won't be paid.

45 **MS McDONALD:** All right. The question of - and we'll come to this - if there's going to be a rally outside the council meeting, was that paid for or was that a matter of workers attending but they would not be paid for that period?

MS MORTHEN: Members were not paid to attend a rally. They were on their own time.

5 **MS McDONALD:** Now, on 23 April - the inquiry has heard evidence of Steve Donley being interviewed by Ray Hadley. Did you know that interview was going to occur before it did?

MS MORTHEN: Only shortly before.

10 **MS McDONALD:** Did you listen to it at the time?

MS MORTHEN: From memory, I did.

15 **MS McDONALD:** Excuse me. If we can bring up - we've got the transcript of that interview, NMA.001.001.0007. And it can be live streamed. Now, I just want to take you to some early entries here. The third entry, where Mr Hadley says:

20 "Now, let's go through what you know or perhaps have been told that there are at risk at Liverpool City Council 150 jobs. Is that what you've been told or what you know?"

And then Mr Donley says:

25 "That's exactly what I've been told by my organisers who have been out to Liverpool. We were out there at a mass meeting this morning."

I take it - this occurred at about 10.40, so the mass meeting would have been the meeting at around 6, 6.30 that you were -

30 **MS MORTHEN:** 6.30.

MS McDONALD: - talking about:

35 "There is 150 jobs on the line. The CEO, John Ajaka, has been told that there will be a council meeting tomorrow at 2 o'clock. They'll go into a closed session and the so-called Mayor Ned Mannoun will sack him."

40 Can I just ask, from the evidence that you've given, where Mr Donley refers to, "I've been told by my organisers," at least you're one of the organisers?

MS MORTHEN: He's referring to me.

45 **MS McDONALD:** The 150 jobs on the line, your evidence is that came from your meeting with Mr Ajaka on Monday morning?

MS MORTHEN: Yes.

MS McDONALD: Where it says Mr Ajaka has been told that there will be a council meeting tomorrow at 2, they will go into closed concession and the mayor will sack him, what was the source of that? What - sorry, I should start, when asking, were you the source of that information?

5

MS MORTHEN: Potentially.

MS McDONALD: Right.

10 **MS MORTHEN:** I honestly can't remember.

MS McDONALD: Right. Do you have a recollection - sorry, withdraw that. You did give evidence that at the meeting on the 22nd Mr Ajaka expressed concern about his job - job security.

15

MS MORTHEN: Yep.

MS McDONALD: Do you remember him - and, sorry, I'll start again. The council meeting at 2 o'clock, I assume that's already been scheduled?

20

MS MORTHEN: Yes.

MS McDONALD: That's like a regular council meeting.

25 **MS MORTHEN:** That's the regular monthly council meeting.

MS McDONALD: It's not an extraordinary council meeting.

MS MORTHEN: No.

30

MS McDONALD: The "they will go into a closed session and he may be sacked," do you recall where that came from?

35 **MS MORTHEN:** I don't, but we knew John's job was at risk. The fact that it goes into a closed session is not unique to this. If any CEO or general manager's role is at risk it would go into closed session, so Steve may have just been saying it will happen at that meeting.

40 **MS McDONALD:** And that's - of course, a number of CEOs had been either dismissed or terminated previously.

MS MORTHEN: Yes.

45 **MS McDONALD:** That was the - you move - the Council would move into a closed session to consider that.

MS MORTHEN: Yes. Any staffing matters have to move into closed session.

MS McDONALD: All right.

5 **COMMISSIONER:** Just so I'm clear, where it - and I appreciate this is Mr Donley's words, not yours, but where it said:

10 "The CEO, John Ajaka, has been told there will be a council meeting tomorrow, they'll go into closed concession and the so-called Mayor Ned Mannoun will sack him."

Was that something - that topic discussed with you in your meeting with Mr Ajaka on the Monday?

15 **MS MORTHEN:** Not from my recollection that it could happen at that - that week, at that council meeting, but definitely that it was coming.

COMMISSIONER: All right. When you say that it was coming -

20 **MS MORTHEN:** That his job was at risk.

COMMISSIONER: He expressed that to you?

MS MORTHEN: Yes. And as I said, I had already heard that.

25 **COMMISSIONER:** Yes.

MS MORTHEN: Previously.

30 **COMMISSIONER:** I appreciate it's a little while ago, but doing the best you can, can you give me a sense of what he said to you about that? I'm not after precise words, but the gist of the conversation.

35 **MS MORTHEN:** Yeah. I can't remember the precise words, but he would have said - so when John started at Liverpool, as - when Jason started at Liverpool, we would express our concerns or - maybe in a bit of a jovial manner, you know, "How long will you last," right? So it's something that's constantly discussed at Liverpool. It's constantly discussed how long the CEO will last. So John would have - may have said, you know, "My time has come," or, "We're done. He's going to sack me." I just remember that he said that it had blown up the week before, and that he was at risk.

40 **COMMISSIONER:** Whatever words were used, do I understand you - and do correct me if I've got this wrong, but the sense you got from Mr Ajaka in that meeting was that he sensed that his job was at genuine risk?

45 **MS MORTHEN:** Yes. Yes, I believe so.

MS McDONALD: Your answer to the Commissioner that it was constantly discussed at Liverpool Council - and I think you kind of said, you know, "Is your time up," or, "Will your time come," or something like that - when you say constantly discussed, at what levels of -

5

MS MORTHEN: Amongst members. So I don't want to sound horrible, but I guess it's a bit of a joke. So, like, a new CEO will start and people will call them "dead man walking".

10 **MS McDONALD:** Okay. And over your nearly 16 years working there, was that a constant refrain or comment amongst members when a new CEO would start?

MS MORTHEN: Of those 16 years, I was only at Liverpool for 13 years. So the first three years I was elsewhere, but yes.

15

MS McDONALD: Other than comments about "dead man walking", et cetera, did you observe it - have any effect on workplace culture or workplace morale at the Council amongst your members?

20 **MS MORTHEN:** In terms of when a new CEO started or -

MS MCDONALD: Well, from the evidence you've just given, there seem - from what you've said, there seems to have been at least comments by members that a CEO won't last that long, "dead man walking", and the inquiry has heard evidence of, over a number of years, a number of CEOs have either - their employment has been terminated or that they haven't been renewed, et cetera. That - it has been described to us as instability. I'm just wondering, other than the flippant comments of "dead man walking", have you observed any effect on workplace morale or workplace culture amongst your members?

30

MS MORTHEN: Yep. Okay. So definitely when it becomes clear that a CEO is leaving or that there's difficulties, morale definitely drops. And then depending on who becomes the new CEO, it lifts. So sometimes the CEOs have been appointed from within the organisation, like Kiersten Fishburn, and so people's morale lifted when she became CEO because she was a known quantity, members liked her, she was very approachable. But, I mean, any organisation that gets a new leader at the head, I think there's always an issue with morale and people feeling a little bit unstable at work.

40 **MS McDONALD:** Now, we're still on 23 April. Do you recall - I'm sorry, withdraw that. Did you know that later on in the Ray Hadley Show, the mayor, Mr Mannoun, had provided some documents to Mr Hadley that he'd referred to - not with Mr Donley, but later on in his show.

45 **MS MORTHEN:** I didn't hear it live, but I was made aware.

MS McDONALD: If we could bring up transcript INQ.050.001.0033.

COMMISSIONER: What's the date?

MS MCDONALD: I'm sorry, 23 April 2024.

5

COMMISSIONER: A folder I didn't bring.

ASSOCIATE: Do you want that (indistinct)?

10 **MS McDONALD:** Yes, please.

COMMISSIONER: This is it. Sorry, I thought you were referring to - ignore me. It's all right.

15 **MS McDONALD:** Have you seen this before? This is -

MS MORTHEN: Not in this format, but I have seen a transcript of the interview.

20 **MS McDONALD:** All right. And it would appear from this, as it states at the beginning:

"The mayor of Liverpool, Ned Mannoun, has supplied me with page after page after page of repudiation of what I've said this morning. However, he's talking about employees and middle management and upper management staff being reduced."

25

And there's a reference to 41 managers. Then, if you go down the page, can you see - hold on - about the 10th line, which starts:

"It shouldn't happen either."

30

And then it's got:

"So what he's told me is, 'We wouldn't cut 150. That's 15 per cent of our organisation. We've asked the CEO to look at reducing management costs.'"

35

And there's a reference then to directors and managers, et cetera. And then it continues down - it's hard actually to tell, I think, what is - what Mr Mannoun has said and what's, I suppose, some commentary by Mr Hadley, but you can see that again, towards the bottom, it's got:

40

"For example, do we need an international business development officer? A million dollar reduction in wages is probably eight positions, nowhere near the 150. And then it claims this budget will actually increase staff, more people on the frontline."

45 "So you're not going to sack 150, you're going to give more people jobs."

So that would appear that it was a denial by Mr Mannoun of the 150, though as Mr Hadley tries to indicate, there's - jobs will be cut but at a higher management level, but they're actually going to employ more people. Do you remember - I'm sorry, I think I asked you this - you were told or heard about this after -

5

MS MORTHEN: I was told that it had been said on the radio. So on 2GB, you can go to the app and you can go backwards. So I believe I would have gone backwards and listened to it.

10 **MS McDONALD:** All right. The denial of the 150 by Mr Mannoun, this obviously occurred before the 6 am meeting - or 6.30 am meeting.

MS MORTHEN: This is after.

15 **MS McDONALD:** No, no, no, sorry. The 6.30 meeting occurred before this.

MS MORTHEN: Yes.

20 **MS McDONALD:** But that information that he is refuting the 150, he's conceding that there's going to be job losses, though there might be some more people employed in another area. What did you do, if any, with that information that there was now a denial by the mayor of the 150?

25 **MS MORTHEN:** Yeah, we would have spoken about this at the remaining three meetings. However, what I would have said is that this is not clear, and that the particular job he actually names is not a management job and is definitely not a senior management job, and so is still of a concern to us. This is not clear at all. So he can deny what he wants to to Ray Hadley. We would have spoken about this and we would have said, "But the union still has concerns. We've been told there's 150
30 jobs and this doesn't clear it up for us."

MS McDONALD: All right. And so your recollection is that this denial of at least the number of 150 was raised with your members?

35 **MS MORTHEN:** I would have raised what was said at the interview, so yes.

MS McDONALD: Which included the denial of 150. But your view is, when you had listened to this, all your issues or concerns were not resolved?

40 **MS MORTHEN:** Hundred per cent.

MS McDONALD: Excuse me for a minute. I wanted to then take you to 24 April. First, would you bring up, please, INQ.047.001.0054.

45 **ASSOCIATE:** Do you want this document shown (indistinct)?

MS McDONALD: Yes, please. Now, this is a letter from the union to Mr Ajaka. If we can just go down a little bit, to see the signature block. It's signed by the General Secretary?

5 **MS MORTHEN:** No, it's signed by Steve Donley on behalf of the General Secretary.

MS McDONALD: I'm sorry. Yes. The signature block is Graham Kennedy, but it's actually signed by Steve Donley.

10

MS MORTHEN: Yes.

MS McDONALD: And if you look at the content of it, you refer to meeting with the members on the 23rd and the following motions were passed, full confidence in
15 Mr Ajaka, that the Council cease working on any restructure and not commence any more until after the Council election, and then that all union members stop work at 12.30 to attend the 1 pm rally at Civic Place, and that any member who gets in trouble or intimidated for attending the rally will have the full support of the USU. Did you have a role in drafting -

20

MS MORTHEN: No. We don't pre-draft motions for meetings. So what would have happened is these motions would have been passed at the 6.30 meeting, and then our procedure is then I would raise them at each subsequent meeting that day and put them to the same vote, so each meeting endorsed the same motions.

25

MS McDONALD: The actual drafting of the letter -

MS MORTHEN: Sorry, I drafted the letter, yes.

30 **MS McDONALD:** Yes. Okay. Can I just draw your attention to point 2, which was:

"Council will cease working on any restructure."

Where did the terminology, I'm sorry, of "restructure" come from?

35

MS MORTHEN: You can't get rid of roles without doing a restructure. So under the award, I can't just say, "Sandie doesn't have a job any more." I have to do a formal restructure process and remove the role that Sandie is in.

40 **MS McDONALD:** All right. Was the question of restructure, to your recollection, ever raised with Mr Ajaka up until the council meeting on the 24th?

MS MORTHEN: No. That is - would have been our interpretation of how you get rid of 150 jobs. That's the only way to do it.

45

MS McDONALD: 150 jobs. What about another -

MS MORTHEN: One job, you still have to do the same process.

MS McDONALD: And that's governed by the award?

5 **MS MORTHEN:** Yes.

MS McDONALD: Now, it also refers to, as you have foreshadowed, members attending the rally. Could document INQ.047.001.0062 be brought up. Yes, please. And maybe if we could just put it - to begin with, the whole. Now, was this a flier
10 leading up to the rally before the council meeting on the 24th?

MS MORTHEN: This had to have come after, because it references that we've written to an acting CEO. Before the rally, we would have written to the CEO.

15 **MS McDONALD:** Right. Okay. So this was after. All right. If we can just bring that down for a minute. Now, the council meeting on the 24th was to start at 2 pm. The rally we've seen, I think, was scheduled for about 1 pm. Did you attend the rally?

MS MORTHEN: Yes.
20

MS McDONALD: With the rally, what was your role?

MS MORTHEN: Okay. So I obviously got word out about the rally - that is my job, to communicate with our members. I would have been there on site and I would have
25 had a number of union flags and banners that just state, "USU, by your side," that we have to keep in our cars. And I would have been there to greet both Steve Donley and, in this case, Emma Chandler, who's one of our comms officers, who was there to help me. And when people arrived, I would have spoken to them. Had I not had a dislike of my own voice, as an organiser, I may have run the rally. However, I don't
30 like hearing my own voice on the speaker, so I would have been standing next to Brandon Rhodes, as head delegate, and - while he ran the chants and things for the rally.

MS McDONALD: All right. Now, Brandon Rhodes, you described him as head
35 delegate?

MS MORTHEN: Yes.

MS McDONALD: Was that in addition to Raf?
40

MS MORTHEN: Yeah. We have two outdoor and two indoor.

MS McDONALD: So he was an outdoor head delegate?

45 **MS MORTHEN:** Yes. Yes.

MS McDONALD: So he, in a sense, was the person speaking at - primarily speaking at the rally. But were you the person who was, as you said, organising chants and -

5 **MS MORTHEN:** Yep.

MS McDONALD: - in a sense, how the rally would proceed?

10 **MS MORTHEN:** Yes, although the chants were pre-organised in a meeting with the delegates the night before. So I generally would not let delegates or members make up the chants unless I'd had a look at them, because sometimes they're a bit colourful.

MS McDONALD: Okay. This meeting the night before, you attended that?

15 **MS MORTHEN:** It wasn't a meeting. We have a Facebook chat. So it would have just been chatting backwards and forwards.

MS McDONALD: But you attend that?

20 **MS MORTHEN:** Yes.

MS McDONALD: And Mr Rhodes attended that?

25 **MS MORTHEN:** All of the delegates had access to the chat. It's an ongoing chat.

COMMISSIONER: It wasn't a meeting. It was an exchange of messages.

MS MORTHEN: Yeah, we were - we were, like, brainstorming ideas.

30 **MS McDONALD:** And the chants - you just made a comment that you usually like to have a discussion and settlement of the chants beforehand because sometimes on the spur of the moment they could become colourful?

35 **MS MORTHEN:** Definitely.

MS McDONALD: All right. So is it your recollection that different chants were decided upon?

40 **MS MORTHEN:** Yes.

MS McDONALD: And can you give an example of -

MS MORTHEN: Yeah. I mean, union chants are pretty boring.

45 **MS McDONALD:** Yes.

MS MORTHEN: So generally we just change the name, like, "Heave-ho, Ned's got to go." Things like that.

5 **MS McDONALD:** All Right. You've used the description that sometimes chants can become colourful. In the chants that were determined the night before, were there any colourful -

MS MORTHEN: No.

10 **MS McDONALD:** When you used the description "colourful", at times can chants become potentially offensive? I'm just talking generally at the moment?

MS MORTHEN: Yeah, I mean - I mean, anything can become generally offensive, and the whole reason we had that control and that check is so that doesn't happen.
15

MS McDONALD: Right. And when I've used the word "offensive", does that include potentially racist or sexist -

MS MORTHEN: It could.
20

MS McDONALD: All right. So at the rally, are you on the stage or the -

MS MORTHEN: It's - there's no stage. At this particular rally - out the front of Civic Place there's, like, some raised flat garden beds that have quite broad edges. So
25 Brandon was standing on one of those directly in front of the building and I was next to him.

MS McDONALD: Right. Roughly how many members turned up?

30 **MS MORTHEN:** Maybe - maybe 200, 300. There was a lot - because it's a public area, it's a little bit hard sometimes to tell who are members and who are people just watching what's going on.

MS McDONALD: Now, I'll come back to the rally, but the rally commenced at 1
35 pm. At 2 pm, the council meeting started. Did the rally end before the council meeting started?

MS MORTHEN: Yeah, about 10 to 15 minutes before.

40 **MS McDONALD:** And when the rally ended, did you go to the - did you attend the council meeting?

MS MORTHEN: I did.

45 **MS McDONALD:** And did other members attend the council meeting?

MS MORTHEN: Some of the members, not - not everyone who had been at the rally, but members did attend.

5 **MS McDONALD:** Now, you mentioned that Steve Donley was at the rally. Did he speak?

MS MORTHEN: I don't believe so.

10 **MS McDONALD:** So was it primarily Mr Rhodes?

MS MORTHEN: Yes.

15 **MS McDONALD:** Now, just going back to the rally, at some point was there a bit of a break in the rally and did something occur?

MS MORTHEN: Well, I mean, there's - has to be little breaks every now and again. That's a lot of talking and yelling for someone to do - like, 45 minutes, so Brandon would stop and -

20 **MS McDONALD:** And have a glass.

MS MORTHEN: - have a bit of water or whatever. Or - yeah. I don't know exactly what you mean by "did something happen", though.

25 **MS McDONALD:** Well, you've spoken about the chants.

MS MORTHEN: Yes.

30 **MS McDONALD:** And that there was an agreement on chants -

MS MORTHEN: Yep.

MS McDONALD: - the night before. Was a chant made that wasn't part of your list?

35 **MS MORTHEN:** There was no chant that was made. That was - wasn't part of my list.

MS McDONALD: Okay.

40 **MS MORTHEN:** A person in the group of people made - one person called something out, and Brandon repeated it once, with a little bit of a giggle, but it wasn't a chant. A chant means everyone repeats it.

45 **MS McDONALD:** All right.

MS MORTHEN: Yep.

MS McDONALD: And you've said one person called out something else. When you say "one person", that was a person in -

MS MORTHEN: One of the people at the rally, participating in the rally.

5

MS McDONALD: And what did that person say?

MS MORTHEN: He said, "Get some pork on your fork."

10 **MS McDONALD:** Was that phrase incorporated into any of the chants that you had all agreed upon the night before?

MS MORTHEN: No.

15 **MS McDONALD:** So a person - sorry - in the group attending the rally called that out and then Mr Rhodes repeated it?

MS MORTHEN: Yes.

20 **MS McDONALD:** And, you said, with a bit of a giggle?

MS MORTHEN: Yes.

MS McDONALD: When that occurred, what did you do?

25

MS MORTHEN: I said, "No."

MS McDONALD: You were standing next to him.

30 **MS MORTHEN:** Yes, I was standing right next to him.

MS McDONALD: And you said no. Did Mr Rhodes repeat that phrase?

MS MORTHEN: Not after the first time.

35

MS McDONALD: Did anybody else in the audience - in the audience - I'm sorry, in the rally. Anybody at the rally then pig up or repeat that?

MS MORTHEN: Not from my recollection.

40

MS McDONALD: So your observation was a person at the rally said that. And was that in a break when Mr Rhodes was having a swig of water or something like that?

MS MORTHEN: Well, he wasn't talking, so he - I don't know if he was drinking water, but he wasn't talking.

45

MS McDONALD: And then he repeated it, and then you said no -

MS MORTHEN: No.

MS McDONALD: - or something along those lines.

5

MS MORTHEN: Yep.

MS McDONALD: And when you were there, you did not hear it be repeated by Mr Rhodes or by anybody?

10

MS MORTHEN: Not other than that one time.

MS McDONALD: All right. If we can turn to the council meeting. At the council meeting, you attended. Did Mr Donley attend?

15

MS MORTHEN: Yes, he sat right next to me.

MS McDONALD: And you spoke about somebody from the union's -

20 **MS MORTHEN:** Emma. She sat in the next block of - the next block of seats across from me.

MS McDONALD: And you observed some of your members also attended?

25 **MS MORTHEN:** Some of them attended in chambers. Some stayed outside, in the foyer just outside the chambers. And some didn't come up at all.

MS McDONALD: Right. And the foyer outside the chambers, can you observe or see what's going on in the chambers?

30

MS MORTHEN: You can if you walk up to the door, but you can't, like, sit down in the foyer and still see. You would have to be close to the doors.

MS McDONALD: Right. It wasn't being live streamed or anything.

35

MS MORTHEN: No.

MS McDONALD: Not at that time.

40 **MS MORTHEN:** No.

MS McDONALD: And what's your recollection of what occurred at the council meeting? Did it start in its normal fashion?

45 **MS MORTHEN:** Yes.

MS McDONALD: And Mr Ajaka was there?

MS MORTHEN: Yes.

MS McDONALD: Sitting next to the mayor, in the usual position?

5

MS MORTHEN: Yes.

MS McDONALD: And you said that the meeting commenced in its usual fashion. Did something occur at one stage?

10

MS MORTHEN: I can't remember the whole meeting. So from my recollection, it was fairly early on in the meeting. So there would normally be a prayer at the meeting, the national anthem and then mayoral minutes and condolence motions and things like that. From my recollection, it was fairly early in the meeting when the mayor said that they would move into closed session to discuss a staffing matter.

15

MS McDONALD: Okay. And what happened when that was announced?

MS MORTHEN: Members didn't want to leave the chamber. They didn't want to go outside.

20

MS McDONALD: So the procedure is if it's moving into closed session, the public area of the chambers is emptied?

25

MS MORTHEN: Yes.

MS McDONALD: And, what, the doors shut?

MS MORTHEN: Yes.

30

MS McDONALD: And the councillors then proceed with a closed session?

MS MORTHEN: Yes.

35

MS McDONALD: So members were not willing to leave?

MS MORTHEN: No, so we didn't leave either.

MS McDONALD: And you didn't leave either?

40

MS MORTHEN: No.

MS McDONALD: And did the councillors and the mayor remain in their area of the chambers?

45

MS MORTHEN: At that stage, yes.

MS McDONALD: And so you didn't leave. Your observation was members weren't leaving. And were other people not leaving as well?

MS MORTHEN: There were members of the public in there who also didn't leave.

MS McDONALD: And so what happened with not leaving?

MS MORTHEN: Ultimately, some police officers arrived, and I texted Emma and asked her to grab my bag if I was arrested because I didn't know what was going to happen, so -

MS McDONALD: Okay.

MS MORTHEN: And there was a discussion and the police explained that we really should leave, and that - we didn't want to create any problems, so we encouraged our members to go outside. From my recollection, as we were leaving - so I was next to Steve Donley and on the other side of Steve was Peter Ristevski, who's - wasn't a councillor at that stage, he was just a member of the public. From my recollection, the mayor left his bench and came over to where Steve and Peter were, holding up his phone and accusing Steve of consorting with criminals, and they were shaping up a little bit but there was no violence, and then we went outside and the doors closed.

MS McDONALD: Do you know what the allegation was that he was consorting with criminals?

MS MORTHEN: At that stage there was a court case going on, I believe, between the mayor and Peter Ristevski about defamation and some fliers. So I assume it was related to that.

MS McDONALD: Okay. So people did leave the chambers?

MS MORTHEN: Yes.

MS McDONALD: Door was shut?

MS MORTHEN: Yes.

MS McDONALD: And then eventually did the council meeting resume?

MS MORTHEN: Yes. It was a very, very long time. Like, maybe up to two hours. We were out there for a long time. Council staff were even bringing out bottles of water for people, and Peter Ristevski ordered pizzas for everyone. Like, we were out there for a long time.

MS McDONALD: And when you say outside, is that in the foyer area that you described?

MS MORTHEN: In the foyer, yeah.

MS McDONALD: Can I just ask you when the council meeting actually started until they moved into a closed session, was chanting still occurring downstairs?

5

MS MORTHEN: No. No, the rally had finished.

MS McDONALD: And when the meeting resumed, what happened then?

10 **MS MORTHEN:** So from my recollection, it was announced that John was going to take some special leave and that Jason Breton, who was the director of City Presentation, would move into the role of acting CEO.

MS McDONALD: On that night, did you speak with Mr Ajaka?

15

MS MORTHEN: Yes.

MS McDONALD: At what point did you speak to him?

20 **MS MORTHEN:** Before we went back into - into the council chambers. So while it was still in closed session. So they must have been having a break.

MS McDONALD: And what did - what was your discussion, if any, with Mr Ajaka at that point?

25

MS MORTHEN: So Jason - so, sorry, Jason Breton and John were standing up near the bathrooms - in that public foyer there's a small kitchenette and they were standing up there, so - yeah.

30 **MS McDONALD:** And did you discuss anything with him or -

MS MORTHEN: We asked how he was.

MS McDONALD: All right.

35

MS MORTHEN: He looked pretty terrible, so - yeah. I do have a recollection that he asked Steve, "Who told you 150 jobs?" To which Steve said, "You did, mate." And then they were called back in, so -

40 **MS McDONALD:** Okay. And then you - the council meeting was resumed, and what had been resolved in the closed session was then made public?

MS MORTHEN: Yes.

45 **MS McDONALD:** Did the - is your recollection - did the meeting continue then?

MS MORTHEN: Yeah, it did, but we all left.

5 **MS McDONALD:** You all left. All right. Now, part of the resolution was that there'd be some kind of inquiry into the events and Mr Ajaka's role, and that was conducted by a company called Weir, and Mr Ajaka was interviewed as part of that investigation process. You attended his interview but as some kind of -

MS MORTHEN: As his union representative.

10 **MS McDONALD:** Right. I was going to say support person, but it's more formal.

MS MORTHEN: Yes.

15 **MS McDONALD:** That as a union member, he's entitled to have a union representative to attend.

MS MORTHEN: Yes. And a non-member is entitled to have a support person.

20 **MS McDONALD:** Right. Now, the meeting with Mr Ajaka - sorry, I withdraw that. The interview with Mr Ajaka was conducted on 22 May by a Peter Harvey. Does that -

MS MORTHEN: I - I - I know Peter Harvey through other investigations. I'm not sure of the date, but I'll take your word for it.

25 **MS McDONALD:** All right. And you attended that?

MS MORTHEN: Yes.

30 **MS McDONALD:** Can you just - excuse me. Could you bring up LCC.008.001.0022, please. And it can be live streamed. This is a transcript of the interview. So we're on the first page and you can see, the second entry, you identified yourself from the United Services Union. And primarily, as the union rep, you're really not being interviewed.

35 **MS MORTHEN:** Yes.

MS McDONALD: You're there as an equivalent of support person and also, I suppose, looking after the interests of your member -

40 **MS MORTHEN:** Yes.

MS McDONALD: - if something occurs in the meeting that you're concerned about?

45 **MS MORTHEN:** Yes.

MS McDONALD: Would you go to page 23, please. Now, can you see the last paragraph there, Mr Ajaka says:

5 "So again, by the time it got to the stage where the 150 went out, it was literally was less than a day in real time for me, but at the same time I was in a situation where I knew he was going to move a motion of Council to terminate me. That was the problem."

You see that? Then Mr Harvey says:

10 "I - I'm - just to clarify with the 150, that was something that the union - you were saying, sorry - I could bring you into this because you were mentioned, but that was discussed. Who brought that figure up?"

15 So instead of being just the union rep -

MS MORTHEN: Yep.

20 **MS McDONALD:** In a sense, just making sure everything goes - is kosher in the interview, you're suddenly being basically asked a question. And you're - can we move up a little bit. Thank you. Then we've got you saying:

"Yeah, we're being very firm that we'll only discuss that when we're in court, but I can tell you that that person's not in this room."

25 **MS MORTHEN:** Yep.

MS McDONALD: When you answered:

30 "We're being very firm, we'll only discuss when we're" -

when you said:

35 "We're being very firm that we'll only disclose that when we're in court" -

the "we" there, is that the union? The kind of talk - sorry, I shouldn't - I should ask you who is the "we":

40 "We'll only disclose that when we're in court."

MS MORTHEN: I don't know if I was referring to the union in particular, but more if this matter went to court.

45 **MS McDONALD:** And when you say -

MS MORTHEN: This matter related to - anything to do with the 150 people or John's employment.

MS McDONALD: All right. So the possible court could be something about the termination of John's employment or something about about job losses at the Council?

5

MS MORTHEN: Yep.

MS McDONALD: And then you say:

10 "But I can tell that you that person's not in this room."

MS MORTHEN: Yep.

MS McDONALD: In the room was you.

15

MS MORTHEN: Yes.

MS McDONALD: In the room as Mr Ajaka.

20 **MS MORTHEN:** Yes.

MS McDONALD: And in the room was Mr Harvey.

MS MORTHEN: Yes.

25

MS McDONALD: That answer suggests that the person who said 150 was not Mr Ajaka.

MS MORTHEN: Yes.

30

MS McDONALD: Your evidence today is different to that.

MS MORTHEN: Yes.

35 **MS McDONALD:** When you said:

"But I can tell that you that person is not in this room."

Was that correct?

40

MS MORTHEN: No.

MS McDONALD: Why did you not give a correct answer to Mr Harvey in the interview?

45

MS MORTHEN: Because I was protecting the interest of my member and I had concerns that if I did give that correct answer, John would have his employment

terminated. And in hindsight, I wish I hadn't have said that, but that is what I was doing. I was protecting my member.

5 **MS McDONALD:** Had you discussed with John beforehand - sorry, when I - I'll start again. Before attending this meeting as his union representative, had you discussed with John anything along the lines of, "If the 150 comes up, what are you going to say?" or anything along those lines?

10 **MS MORTHEN:** No. No.

MS McDONALD: Now, just still on roughly this topic, at the May meeting of Council, Mr Ajaka's employment was terminated, and it was terminated with cause at that stage.

15 **COMMISSIONER:** Sorry, Ms Morthen, I can see you nodding. Just for the transcript, if you wouldn't mind saying -

20 **MS MORTHEN:** No, I'm sorry, I'm not agreeing. I'm sorry, I'm just nodding as a reflex, so -

COMMISSIONER: All right. Okay.

MS MORTHEN: That's just because my head's -

25 **COMMISSIONER:** So that's exactly why I interject, so we're clear.

MS McDONALD: Thank you, Commissioner. I'm just jumping ahead. Do you recall that at the May meeting of Council Mr Ajaka's employment was terminated?

30 **MS MORTHEN:** Yes.

MS McDONALD: After that termination, the union wrote to the Office of Local Government, raising concerns about the termination of his employment?

35 **MS MORTHEN:** Yes.

40 **MS McDONALD:** Would document INQ.047.001.0065 - and then at page - if that can be brought up. Yes, please. And if we can go through, first, to page 6. Now, this is a letter from the union dated 4 June 2024. If we just can go to the bottom of this page, page 6, there's a signature, but if we go to the next page, the signature block is Steven Donley. At that stage, he was the acting General Secretary?

45 **MS MORTHEN:** Yes, but that's not Steve's signature. That is Daniel Papps' signature.

MS McDONALD: Yes. Sorry. It then says, "Per Daniel Papps."

MS MORTHEN: Yes.

MS McDONALD: So if we go back to page 6 - so that's Mr Papps' signature?

5 **MS MORTHEN:** Yes.

MS McDONALD: And in this - again, did you have any input into the content of this letter?

10 **MS MORTHEN:** No.

MS McDONALD: Did you see the letter before it went?

15 **MS MORTHEN:** I'm sure I would have.

MS McDONALD: All right. And then it refers there, in the beginning, that on 29 May there was the resolution to terminate his employment with immediate effect:

20 "With a hung vote, the mayor exercised his additional vote to pass the motion. He completely disregarded the Council's previous resolution to complete an independent investigation."

Other issues are raised about that, and then you've got the paragraph:

25 "The union continues to be deeply troubled by the actions of Mr Mannoun. His decision to terminate without concluding the independent investigation undermines any sense of procedural fairness."

30 And then the next paragraph:

"His actions of late have been overwhelming responsible for industrial unrest at Council and his punitive interventions only serve to fuel the frustration of our members."

35 And then if we can bring up INQ.047.001.0065, but this time page 8. And that can still be live streamed. This is a letter of 7 June to OLG. And if we jump to page 9, you can see it's Daniel Papps still signing it.

40 **MS MORTHEN:** Yes.

MS McDONALD: And then if we jump back to the letter, it's raising further concern about the circumstances in which Mr Ajaka's employment was terminated.

45 **MS MORTHEN:** Yes.

MS McDONALD: Including, if you have a look at page 10, a timeline of what occurred on 29 May. At 11, a motion to rescind the resolution terminating his

employment. Correspondence between a Councillor Kaliyanda and acting CEO Jason Breton. And then on page 14, the press release or the media statement. Now, if you go back to page 8, the letter of 7 June, you can see in the final paragraph after the various complaints that you've - that Mr Papps has set out in the letter, it concludes with:

"We trust these documents will be of assistance to you in your investigation. Please do not hesitate to contact us should you need."

10 There was an OLG investigation that was conducted?

MS MORTHEN: Yes.

15 **MS McDONALD:** And you and Mr Donley were interviewed as part of that investigation?

MS MORTHEN: Yes.

20 **MS McDONALD:** And a transcript was produced of your interview?

MS MORTHEN: Yes.

25 **MS McDONALD:** Would OLG.001 - I'm just finishing this point before we have our morning tea break. If you could bring up OLG -

COMMISSIONER: The urge for caffeine is strong.

30 **MS McDONALD:** I know. I feel it. OLG.001.001.1039. And that can be live streamed. That's the first page. So it's a transcript of an interview that both you and Mr Donley attended. Can you see that?

MS MORTHEN: Yes.

35 **MS McDONALD:** And if we can go through to page 9 - I think maybe if we just go to the bottom of page 8. So it's Mr Donley speaking. He starts off by:

"He was getting smashed by Ned about grass being mowed and all of this stuff."

40 "He was getting smashed", is it your understanding that's a reference to Mr Ajaka?

MS MORTHEN: Yes.

MS McDONALD: All right. Then if we can turn to page 9. And then we've got:

45 "On Monday afternoon Sandie rings me" -

sorry this is the end of the first, kind of, paragraph:

"Sandie rings me and says, 'We just had a discussion. Ned's told the CEO to get rid of 150 staff, make the budget look good for the election.' I went, 'You're kidding.'"

5 And then the investigator stops and says to you:

"This is what John Ajaka told you? Said to me it was actually a Monday morning. So John Ajaka told you" -

10 and then you say:

"I know there's a lot of contention about where" -

that then he says:

15

"That's why I'm interested. That's where it came" -

and you say:

20 "Yes, that's where it came from."

"So it's something that Ned actually said?"

And you answered:

25

"John says that Ned said - you know, the whole 'shut the F up' meeting."

30 All right. So your interview with the OLG at that point - and the section I've taken you to, that was broadly consistent with your evidence that you've given this morning?

MS MORTHEN: Yes.

35 **MS McDONALD:** And was different to the evidence - well, sorry, I withdraw that. Was different when Mr Harvey asked you the question in the interview?

MS MORTHEN: Yes.

40 **MS McDONALD:** But your evidence on oath or affirmation today is that the 150 came from that meeting with Mr Ajaka on Monday morning?

MS MORTHEN: Yes, it is.

45 **MS McDONALD:** Is it an appropriate time?

COMMISSIONER: Yes. Ms Morthen, we'll take a morning break for about 20 minutes.

MS MORTHEN: Yep.

5 **COMMISSIONER:** We'll start again at five past 12. So if you wouldn't mind being back here, ready to go, just before that, I'd be most grateful.

MS MORTHEN: Thank you.

10 **COMMISSIONER:** I'll adjourn till five past 12.

<THE HEARING ADJOURNED AT 11.47 AM

<THE HEARING RESUMED AT 12.17 PM

15 **MS McDONALD:** Before turning to a new topic, I just wanted to revisit two aspects of your evidence before the break, and I wanted to revisit the meeting with Mr Ajaka on 22 April. Now - and I'm putting this broadly - you've given evidence that Mr Ajaka raised with you at that meeting something along the lines of 150 jobs were going to be slashed or go. Something along those lines.

20 **MS MORTHEN:** Yes.

MS McDONALD: To the best that you can, what were the actual words or words to the effect that Mr Ajaka said to you when he raised that - the - I'll call it the number 25 150.

MS MORTHEN: Yeah. To the best of my recollection, he said, "He" - and when he said "he", he was referencing the mayor because we'd already been speaking about the - "He has told me that I must get rid of 150 jobs and I told him to, 'Shut the F 30 up.'"

MS McDONALD: At the time, to your knowledge, were there some jobs or positions within Council that were vacant and hence unfilled?

35 **MS MORTHEN:** There's always, at every council, that situation.

MS McDONALD: I'll start with asking you, after Mr Ajaka said that, was there any discussion along the lines of, "Well, does that include unfilled" - you know, vacancies or - 40

MS MORTHEN: No, we didn't discuss that.

MS McDONALD: So it was really, "I must get rid of 150 jobs"?

45 **MS MORTHEN:** Yes.

MS McDONALD: And was there any further discussion along the lines of, "Is it mainly going to be outdoor or indoor," or what level or anything like that?

MS MORTHEN: No. No.

5

MS McDONALD: I wanted to play for you a very short video of the rally in the area outside the Council's chambers on the 24th.

MS MORTHEN: Yes.

10

MS McDONALD: Could we bring up, please, NMA.001.001.0008.

COMMISSIONER: Do you want this fed to the stream?

15 **MS MCDONALD:** Yes. Maybe if we can - maybe - can you expand it a little bit? Or does that create difficulties?

(Video played)

20 **MS McDONALD:** Sorry, can we just pause there. And I'll just replay it in a minute, but looking at the footage, is it your recollection that that is footage of the rally?

MS MORTHEN: That is not the actual footage taken of the rally. So that - that is someone's footage, and I know the man who took the footage, and that has been
25 edited into a new Facebook video. And you can tell that it's not actually the original footage, because when you hear the words of Brandon - and that's Brandon standing up there with his funny hat on - saying, "Put some pork on the fork," the first time he says it he's holding the microphone. The other times you hear it said, the
30 microphone's not near his mouth. And when this was put on Facebook, this was put on the mayor's - I think it's called Ned Mannoun Mayor for Liverpool Facebook page, and there was a lot of discussion from the gentleman who originally made the video saying, "You've edited and cut my video," and, "You had no permission to use my video."

35 **MS McDONALD:** All right. Can I just pause. Before getting into the details, that is the rally before the council meeting?

MS MORTHEN: That is the rally.

40 **MS McDONALD:** And the person that you described as wearing the funny hat up on the, kind of, elevated area, that's Mr Rhodes?

MS MORTHEN: Yes.

45 **MS McDONALD:** And are you near him but not depicted in the footage?

MS MORTHEN: Yeah. I'm kind of - sorry, I'm really bad with left and right, but the side that's not got the arch in it. I'm off to that side.

MS McDONALD: So looking at it, to the right - to your right?

5

MS MORTHEN: Yes. Yes.

MS McDONALD: Now, the person - if I can just ask you about the evidence you've given that - you've seen this before, this particular footage, and you've seen it on - I think you said it was the mayor's - mayor Facebook page?

10

MS MORTHEN: Yes, his personal Facebook page, not the Council-run Facebook page.

MS McDONALD: You spoke about a person who took the original footage having an issue with it being edited in some way. Who was the person who took the original footage?

15

MS MORTHEN: I'm going to say his surname wrong, and I apologise for that because I always get it wrong, but his name is Michael Angelico?

20

MS McDONALD: Okay. Do you know where - I'm sorry, withdraw that. Is it your understanding that Mr Andjelkovic, I think, posted the video somewhere else?

MS MORTHEN: He was, from my recollection, live streaming. He was standing off to the side, on the balcony of the library, and I believe he was live streaming the rally onto Facebook.

25

MS McDONALD: I'm pretty hopeless with this. If it's being live streamed onto Facebook, does that mean that somebody else can, like, make a copy of it?

30

MS MORTHEN: Yes. It's always, then, on Facebook, unless you go and delete it.

MS McDONALD: And because it's then on Facebook, somebody else can -

35

MS MORTHEN: Can use it.

MS McDONALD: Can use it.

MS MORTHEN: Yes.

40

MS McDONALD: And is it your understanding that somebody else can use it, they can change it or deal with it -

MS MORTHEN: Yeah, you can edit a video.

45

MS McDONALD: And if you need to see it again we can play it, but what was - in your opinion, what was the editing that occurred?

5 **MS MORTHEN:** So when you play - and I don't need to see it again unless other people do, but when you played it - and it showed that Brandon said, "Put some pork on your fork," the first time, and then it had writing come across, as if it was echoing, "Put some pork on your fork" - but when I looked at Brandon, the bull horn wasn't near his mouth, so I don't think he was speaking.

10 **MS McDONALD:** All right. We'll just play it. And could I just ask - I'm sorry. If you could take it back to the beginning. Could you just allow the line with the timing underneath to still be seen, if that's okay?

(Video played)

15 **MS McDONALD:** So watching it again, do you have any other comment?

20 **MS MORTHEN:** No. I'm still adamant that he only said it once. And then when he says, "We're making a commercial," that was in reaction to me telling him to shut up, because at the - I don't know if you know, but that saying has actually been around since maybe the late eighties, the - I think it's the pork federation of Australia or the meat federation - had a campaign about eating more pork, and it had recently been discussed because there was a telephone booth on the Hume Highway right next to Liverpool Council Museum that had a poster on it that said, "Put some pork on your
25 fork," because they were reviving the campaign. So when I told Brandon to shut up, he said, "No, I'm making a commercial." And then he moved onto the next chant.

MS McDONALD: And that chant, which referred again to Ned, "Save our jobs," was that one of the official -

30 **MS MORTHEN:** Yes.

MS McDONALD: That was an official chant?

35 **MS MORTHEN:** Yes.

MS McDONALD: Okay. All right. So - all right. If that can be brought down. I want to ask you some questions about some other matters. And again, we're looking at roughly around April 2024. Was there some posts on the mayor's personal
40 Facebook page but - Mayor Mannoun's Facebook page concerning union members?

MS MORTHEN: Yes.

MS McDONALD: Would you please bring up INQ.047.001.007. And if we can go to page 1 first.

ASSOCIATE: (Indistinct) live stream?

MS McDONALD: Yes. Thank you. Now, just from this page, it appears that the video that we've just watched is immediately under the post. That is your understanding?

5

MS MORTHEN: Yes.

MS McDONALD: And the first thing, looking to the post:

10 "Racism should never be tolerated. We all have the obligation to speak up when we hear or see something wrong being done."

Then:

15 "I won't be bullied by racist thugs and will always stand up and speak. This is what happens when we ask them to do a better job cutting the grass or fixing the roads for you."

20 Was that one of the posts that members identified which they expressed concern about?

MS MORTHEN: Yes.

25 **MS McDONALD:** And would we then move down to page 2 - excuse me for a minute. I think it's the bottom half. Keep on moving down a little bit, please. Hold on. Can you see there there's an entry where the author is Mr Mannoun?

MS MORTHEN: Sorry, which one? And - the mayor's one?

30 **MS McDONALD:** Yes.

MS MORTHEN: Yes.

35 **MS McDONALD:** Can you see it's got:

"Author: Ned Mannoun, mayor of Liverpool."

MS MORTHEN: Yes.

40 **MS McDONALD:** And it's got - it says:

"If it's not all of them, then take your pig. They're all as bad as each other."

45 **MS MORTHEN:** Yes.

MS McDONALD: Sorry, it's - sorry, can we go back - could you go back to the top of page 2. And this is a response by Mr - is it Scarfe? Where he says:

"Disgraceful behaviour. Fire them, Ned Mannoun, mayor of Liverpool. There's plenty of decent people looking for work."

5 **MS MORTHEN:** Yes.

MS McDONALD: Did members of the union at Liverpool City Council express concern to you about those postings?

10 **MS MORTHEN:** Yes, members were extremely upset that they were being called racist.

MS McDONALD: Were there, around this time - I'm sorry, I'll just - also around this time, was there an interview with the mayor on a radio station, 2GB, with
15 a Chris O'Keefe?

MS MORTHEN: Yes.

MS McDONALD: Did you hear that interview or did you listen to it subsequently?
20

MS MORTHEN: I heard it while I was driving.

MS McDONALD: And if we can bring up document INQ.050.001.0032. And it can be live streamed. You see this is headed Transcript of Radio Interview Between
25 Mayor Mannoun and Chris O'Keefe?

MS MORTHEN: Yes.

MS McDONALD: And it starts off with Mr O'Keefe referring to the bun fight at
30 Liverpool Council:

"Truly juvenile from many of those involved."

And you can see after those introductory comments - if you keep on going down that
35 page, you can see that he says:

"The mayor, Ned Mannoun, joins me live. Mayor, thank you for your time."

The mayor there makes some comments about the "put some pork on your fork"
40 comments, saying it's anti-Semitic, it's Islamophobic and un-Australian, et cetera.

MS MORTHEN: Yes.

MS McDONALD: Then quoting General Morrison:
45

"The standard we walk past is a standard that we accept."

And:

"We need to stand up to bullying in politics."

5 Then if you go to page 2 - and this is at 5.16 to 5.54. The mayor refers to the truck driving around Liverpool - that his children have brought this up to him and they're very concerned. But what I want to take you to in that entry:

10 "The ratepayers are sick and tired of lazy people who don't go out there and cut the grass. We pay people very good."

And then he says:

15 "What I was trying to do is take away management jobs, people - fat cats on half a million dollars a year. And when you talk about all the time, Ray Hadley talks a lot of time and take that money and get it onto the frontline, right, so we can meet more people."

20 Again, these comments about people who don't go out there and cut the grass, et cetera, were those comments raised with you by any of your members?

MS MORTHEN: Constantly.

25 **MS McDONALD:** Now - excuse me for a minute. The comments and the interview with the mayor, did that lead to action by your members - I'll say first, in that - raising disputes or grievances within the workplace?

MS MORTHEN: Yes.

30 **MS McDONALD:** Which eventually led to proceedings, whether conciliation or possibly arbitration, within the Industrial Relations Commission?

MS MORTHEN: Yes.

35 **MS McDONALD:** And also led to a generation of quite a lot of correspondence between the union and the acting CEO, Mr Breton?

MS MORTHEN: Yes.

40 **MS McDONALD:** All right. I just want to take you to some of that. The first one is - if we could bring up document INQ.047.001.0050.

ASSOCIATE: Do you want this document (indistinct)?

45 **MS McDONALD:** Yes, please. Sorry. Now, this particular letter is addressed to Dr Betty Green, who was a councillor.

MS MORTHEN: Yes.

MS McDONALD: And just looking at the substance of the letter, it's an invitation to a meeting, but the substance of the letter refers to, "As you may be aware, there is
5 currently concerns" - and I'm just paraphrasing - "amongst members about a number of issues, which include safety and resourcing, and members resolved at a meeting to invite the councillors to attend a meeting on 7 May. This will be an opportunity for councillors to hear respectfully the concerns of our members and Council's employees, and attached is a petition signed by workers at Council requesting that
10 you attend." If you would then bring up document INQ.047.001.0051, please. And it can be live streamed. This is the first page. And you can see it commences:

"We sign this petition to show how distressed and angry we are with the comments of Ned Mannoun on social media, and the media not only attacking Council staff but
15 is also causing disharmony in the community and putting people at risk."

And then it's:

"We ask all councillors to attend a yard meeting on 7 May."

20 And there are a number of signatures there, and the pages of this petition, I think, continue up until about page 7, though some of the signature pages aren't complete. Most of them are. Now, what I want to ask you first is where there's a reference to putting people at risk, around this time, were there any incidents which raised safety
25 concerns of members of the union when doing Council work but outside Council property?

MS MORTHEN: Yes. There -

30 **MS McDONALD:** Would you describe the incidents?

MS MORTHEN: Yes. There were two that we knew about at this time, and there was a third one that I personally didn't know about but Council did - or management at Council did. The first of the two that I did know about at this time - we had a parks
35 worker in a park who is profoundly deaf. So he doesn't wear a sign that says that, so no one would know, but he was in a park and a member of the public came up behind him and was gesturing in an aggressive way, and that genuinely upset that park worker and he felt that it was linked to the mayor's comments.

40 The other one was an early education worker who had stopped in the supermarket on her way home from work and was wearing a Council uniform, and she had a man come up to her and aggressively yell at her in the supermarket about being a racist Council employee, to the point where she left her shopping behind and went out to her car and he followed her to her car.

45 So - and the one that had happened that I didn't know about until a few months later was another member of ours was driving on a road in - so I don't know the technical

term, but like a big enclosed tractor-type plant. They don't drive very fast. And he alleged that his vehicle was shot at and that there was a bullet hole in the glass, and that was reported to management, but unfortunately it didn't get any further than the desk of the manager he reported it to until it was raised with us those few months later.

MS McDONALD: Sorry, the member was driving on a road in, like, an enclosed tractor?

MS MORTHEN: Yeah, like a - a little backhoe or something, but it can drive on the road.

MS McDONALD: Okay. And that somebody shot at it?

MS MORTHEN: He alleged that it was a - that someone had shot at him.

MS McDONALD: And that was reported to management?

MS MORTHEN: It was reported to his manager. Unfortunately, it was later found that it didn't - there was a failing process and it didn't go any further until the union raised it when we found out about it.

MS McDONALD: All right. And the first example with the worker who was deaf -

MS MORTHEN: Yes.

MS McDONALD: - your evidence was that the member of the public who approached him and was gesticulating - and the worker felt that it was linked to the mayor's comments.

MS MORTHEN: Yes.

MS McDONALD: Do you know why the worker felt that it was linked to the mayor's comments?

MS MORTHEN: I - I would assume that it would be because of the tensions running through the yard and that the workers were upset about the mayor's comments. But Peter is profoundly deaf, so he was never able to tell us what the man said.

MS McDONALD: All right. And he, to - your understanding is he couldn't read lips or couldn't -

MS MORTHEN: He can read lips, but for - in order to - because he reads my lips at yard meetings, but you need to speak calmly and slowly. If you're angry, things fly out of your mouth and it's harder to read the lips.

MS McDONALD: All right. Now, the issues that have arisen, if I can first describe it as the question of the Facebook posts - and I don't want to, in a sense, get bogged into details of what occurred, but the issue of the posts and the upsetting and concerns about safety with staff, was that raised by the union with the acting CEO?

5

MS MORTHEN: Yes.

MS McDONALD: And as part of that procedure, did that lead to the matter being referred to the Industrial Relations Commission?

10

MS MORTHEN: Council referred it to the Industrial Relations Commission, as our members stopped work on safety grounds.

MS McDONALD: Right. Excuse me for a minute. Is document INQ.047.001.0060 on the system? Can you bring that up, please.

15

ASSOCIATE: (Indistinct) on the live stream?

MS McDONALD: Yes. Now, this is a union letter dated 1 May, addressed to Jason Breton.

20

MS MORTHEN: Yes.

MS McDONALD: It refers to yard meeting outcome number 2, and refers to a meeting of members at Rowe Street on 1 May.

25

MS MORTHEN: Yes.

MS McDONALD: And within that you've got:

30

"To ensure our safety in the workplace, we request the following be provided."

Now, there's a reference to security guards.

35

MS MORTHEN: Yes.

MS McDONALD: A reference that the mayor remove any social media post attacking staff or using staff images.

40

MS MORTHEN: Yes.

MS McDONALD: And then a media release and a social media post stating that the staff are not lazy, staff are not racist, workforce is understaffed and he apologises for his comments.

45

MS MORTHEN: Yes.

MS McDONALD: And then further on, that:

"No worker works alone, and any reports of assault, verbal attack or intimidation against staff be investigated with the utmost urgency."

5

MS MORTHEN: Yes.

MS McDONALD: Now, the security guards - there was a period, I think, for most of May when security guards were provided?

10

MS MORTHEN: Yes.

MS McDONALD: The other matters that are raised - that is, the removal of social media posts and a statement by the mayor - were they pursued?

15

MS MORTHEN: Yes.

MS McDONALD: Excuse me for a minute. Excuse me just for a minute. Would document INQ.047.001.0015 be brought up, please. Yes, please. Can you see there there's an email from Daniel Papps to the Industrial Relations Commission?

20

MS MORTHEN: Yes.

MS McDONALD: And it's for the attention of Commissioner Sloan. He was a member of the State Commission at that time?

25

MS MORTHEN: Yes, he was.

MS McDONALD: And did he deal with issues or industrial issues raised at Liverpool City Council?

30

MS MORTHEN: Yes, he did.

MS McDONALD: All right. Now, in this email, can you see down the bottom:

35

"I refer to the above matter and the position the parties reached last Friday."

And then across the page, there was some kind of union communication that was being put to members regarding job numbers?

40

MS MORTHEN: Yes.

MS McDONALD: And there would appear that there was - it was - a draft was provided to the Council. They could provide feedback. Most of the feedback not accepted, but some of it was, and the communication was emailed to all members.

45

MS MORTHEN: Yes.

MS McDONALD: Then:

5 "Despite agreement, no corresponding draft or proposed statement from the mayor was provided to the union, nor has anything been provided as of the time of this email."

And then again, next point:

10 "Despite agreement, the relevant social media posts of the mayor remain on the mayor's social media profile as at the time of this email. It would appear that the Council did not and still have not complied with their part of the agreement."

MS MORTHEN: Yes.

15

MS McDONALD: So from that, in a sense, report back to Commissioner Sloan, was there some kind of resolution whereby the Council agreed or undertook that the media posts of the mayor would be taken down?

20 **MS MORTHEN:** The mayor had actually agreed. So on the Friday previous to this, Commissioner Sloan had called us all into the commission for a full-day, I guess, mediation with himself. So there were about 10 or 11 of us in the room, and at the conclusion of the day a number of things were agreed. One, that the union's
25 truck - signage truck would cease driving around Liverpool; that we would put a communication out to our members confirming that we no longer believed that 150 jobs were at risk; that by the following Monday, I believe it was, that the mayor would remove any social media post that referenced our members, and that he would issue a statement. And that hadn't occurred at the time of Daniel sending this email.

30 **MS McDONALD:** All right. At this - and that was your recollection of the resolution of this day-long mediation?

MS MORTHEN: It - it wasn't before the bench, so I'm - I think it would probably be better termed mediation than conciliation.

35

MS McDONALD: So the Commissioner was there, but were you kind of sitting around -

MS MORTHEN: Yeah, we were all - we were all chatting.

40

MR EMMETT: I should raise - although it's not my client's interest, I'm just conscious there are various provisions that - I don't know if they're to be engaged - about what goes on at these - in conciliations when they're not in an open hearing. I wouldn't want that to be trespassed on unintentionally by anyone.

45

COMMISSIONER: Okay.

MS McDONALD: Could - excuse me for a minute. I'm sorry.

COMMISSIONER: That's all right.

5 **MS McDONALD:** We shouldn't be having a debate -

COMMISSIONER: No, it's quite all right, if it's a means to a pathway -

10 **MS MORTHEN:** He may - he may be -

COMMISSIONER: Mr Emmett, is there a - just hang on -

MS MORTHEN: He may be correct.

15 **COMMISSIONER:** Hang on, Ms Morthen. Hang on. Hang on. Is there an - I mean, the Council was a party to this process, wasn't it?

MR EMMETT: The answer is - this is the first I've - I've just had no notice of it.

20 **COMMISSIONER:** Yes.

MR EMMETT: The Council may have been a party to it. I just don't know - I don't know anything about this topic, except to say if it's - if a process - a fundamental tenet of which was confidentiality - is to be exposed in public, that raises real
25 procedural fairness concerns, without hearing from anybody else who may have an interest in that confidentiality.

COMMISSIONER: I see. Your concern is that there might be people not here who have an interest in that process.
30

MR EMMETT: This is the trouble. I know nothing about -

COMMISSIONER: No, no, I'm not being critical.

35 **MR EMMETT:** Yes.

COMMISSIONER: I'm just trying to get to the basis of the concern.

MR EMMETT: If I could put it this way - moving it out of the IRC context, if this
40 had been a private mediation it would be very surprising to start leading evidence in a public inquiry of what occurred in a confidential mediation without notice and the parties having an opportunity to consider their position. I just don't know what the position is.

45 **COMMISSIONER:** Yes.

MR EMMETT: And I - in order to ensure this doesn't go off the rails, I raise it.

5 **COMMISSIONER:** No, and I'm grateful. Can we do it this way - if it's to be explored in more detail, would it be appropriate to do it in private, to then get to the bottom of Mr Emmett's - the issue Mr Emmett, rightly I think, raises - overnight, and then if it can be published, it can be published.

MS McDONALD: Probably, yes. That's a way forward.

10 **COMMISSIONER:** Would you have a difficulty with that?

MR EMMETT: Only this - noting the time, can I take some instructions over that and try to get to the bottom of what I can from our side, and can we confirm that at 2 o'clock?

15 **COMMISSIONER:** Is there something we can do in the next five minutes or should we -

20 **MS McDONALD:** Could I just ask a question which might - may I just ask this question? At this day-long mediation, the union was represented?

MS MORTHEN: Yes.

MS McDONALD: The Council was represented?

25 **MS MORTHEN:** Yes.

MS McDONALD: Anybody else?

30 **MS MORTHEN:** No.

MS McDONALD: Did Mr Mannoun attend?

MS MORTHEN: Yes.

35 **MS McDONALD:** In -

MS MORTHEN: Sorry.

40 **MS McDONALD:** You said yes, he did attend. So he attended personally?

MS MORTHEN: Yes.

45 **MS McDONALD:** All right. Is your recollection whether - you might not be able to answer this, but did it appear that he was being represented by the Council or did he have separate representation? Can you recall anything along those lines?

MS MORTHEN: There was - there was one person there from Council who I believe is legally trained, but I think they were there as a Council employee, not to provide him representation, but I'm not sure.

5 **MS McDONALD:** So can I just ask, Mr Mannoun was there?

MS MORTHEN: Yes.

10 **MS McDONALD:** There was a Council employee there?

MS MORTHEN: There were three Council employees there.

MS McDONALD: And did that involve some Council employees who had expertise in industrial relations or -

15 **MR EMMETT:** I am going to rise. I just know whether this - I do need to object to this level of detail without an opportunity to understand.

20 **COMMISSIONER:** Why don't we - it's 12.58. Why don't we take the luncheon adjournment. We'll resume at 2 o'clock. And, Mr Emmett, if you're able to take it to a point by then, we can proceed. And if not, then we might proceed in the way that I foreshadowed a moment ago.

25 **MR EMMETT:** That might -

COMMISSIONER: Is that convenient?

MS McDONALD: Yes.

30 **COMMISSIONER:** All right. Ms Morthen, we're going to break for lunch. We'll resume at 2 pm.

MS MORTHEN: Thank you.

35 **COMMISSIONER:** If you wouldn't mind being back just before then, I would be grateful. And I'll adjourn till 2 o'clock.

<THE HEARING ADJOURNED AT 12.59 PM

40 **<THE HEARING RESUMED AT 2.05 PM**

MR EMMETT: Commissioner, can I assist further and indicate what we think is a way through.

45 **COMMISSIONER:** Yes.

MR EMMETT: So the first thing is, according to the Industrial Relations Commission's guide to conciliations, it's stated that conciliations are conducted in private and parties are expected to keep the matters discussed in the conciliation confidential. Now, what that means is absent that - putting to one side any statutory
5 regime, it would appear to be the subject of negotiation privilege, and this commission doesn't have power to intrude upon privilege.

But the way through seems clear enough. As I understand it, what is sought to be elicited is the outcome of the conciliation and then questions about the
10 implementation of the outcome of the - and so if the questions are confined to, number 1, what was agreed, that - as the outcome - there was a party to the agreement to the outcome, and then questions about the implementation of that agreement, we have - the concern I raised before lunch doesn't arise.

15 **MS McDONALD:** That's how I intended to proceed.

COMMISSIONER: Great. Thank you. I'm grateful, Mr Emmett. Thank you.

MS McDONALD: Now, just before lunch you gave evidence about who was in
20 attendance at this mediation or conciliation, and I took you to the email to the Commissioner sent by Mr Papps, which complained about some matters that the union considered were agreed had not been implemented. Do you recall that?

MS MORTHEN: Yes.
25

MS McDONALD: Would you please bring up document INQ.047.001.0035. Yes, please. This is a letter from the union to Mr Breton, acting CEO, of 29 May. You appear to be the contact person; correct?

30 **MS MORTHEN:** Yes. Yes.

MS McDONALD: And then if you look at the content of the letter, it refers to 24 May, being at the Industrial Relations Commission, negotiating a way forward. And then the second paragraph:
35

"Council made commitments that included removing social media posts against our members and issuing a statement in support of our members. Only a portion of the posts were removed and no statement was released by 11 o'clock on 29 May."

40 And then the union was advised by the Chief People Officer that no statement would be forthcoming. Then there's a further issue about the various posts and the partial removal of the posts. And then:

"The union, however, met all our commitments. This is extremely disappointing.
45 Further proves the contempt with which the mayor views our members and your staff."

And then there's a reference to the union invokes the grievance process. Where it's written that the union invokes the grievance process, what does that mean?

5 **MS MORTHEN:** That's a reference to the grievance clause in the Local Government (State) Award, where we have to - or our members need to advise their employer that there is actually a grievance. And then at - the conditions of that clause come into place, including that the union or the Industrial Relations Commission can intervene at any time.

10 **MS McDONALD:** Now, there was a response from Mr Breton. If document INQ.047.001.0003 can be brought up. Yes, please. Now, this is a letter from the Council, Mr Breton. It's dated 2 July 2024. If you look at the content of the letter, it refers to that letter of 29 May that I've just taken you to, and the Council acknowledges the disappointment expressed by the USU. Then there's a reference to
15 the removal and non-removal social media posts have been discussed at length:

"Parties are aware that an arbitration held on 30 May was conducted partly on the basis that the social media posts were unlikely to be removed."

20 And so Mr Breton then expresses his view that ventilating the issue further would be futile, and then he notes:

"It is important to note that I have limited control over the actions taken by the mayor and the opportunities to resolve the issue have been exhausted."

25 **MS MORTHEN:** Yes.

MS McDONALD: And in respect of this particular issue of the posts and some kind of public statement by the mayor, was that debated or resolved further or, as
30 Mr Breton suggests, you've kind of exhausted the ability to resolve the matter between the union and the Council?

MS MORTHEN: The matter was back in front of Commissioner Sloan on the morning of of the 30th for conciliation, and Commissioner Sloan advised us we'll be
35 moving straight into arbitration that day. And as a result of that, some of the safety related work bans that members had put in place were lifted, some were not. What Mr Breton is referring to is that. However, within a few days of this, the social media posts had been removed, to my knowledge, and an apology or a statement was never forthcoming at all.

40 **MS McDONALD:** The statement or apology never forthcoming?

MS MORTHEN: No.

45 **MS McDONALD:** But is it your recollection that the social media posts were removed?

MS MORTHEN: Yes.

MS McDONALD: Before turning to another aspect of this, I just wanted to ask you generally some questions about Mr Rhodes.

5

MS MORTHEN: Yes.

MS McDONALD: After the rally on 24 April, and the "Pork on the fork" part that we've seen, was Mr Rhodes' employment - was he put on leave or suspended or anything like that?

10

MS MORTHEN: He was suspended with pay the Monday following the rally. I think that's the 28th or the - 28 May. Sorry, 28 April. And an investigation was then conducted, and at the end of the investigation he was issued with a show cause letter, and then his employment was terminated.

15

MS McDONALD: All right. Can I just take that through steps. His employment was suspended, pending an investigation?

20 **MS MORTHEN:** Yes.

MS McDONALD: Did Mr Rhodes apologise?

MS MORTHEN: He had apologised in writing before he was suspended.

25

MS McDONALD: To whom did he apologise?

MS MORTHEN: He emailed it to the acting CEO and had asked that it be passed on to the mayor, and Mr Breton later did confirm it had been passed on to the mayor.

30

MS McDONALD: A - some kind of fact-finding investigation was undertaken?

MS MORTHEN: Yes.

35 **MS McDONALD:** And was that undertaken by an outside organisation, I think called Continuum - something like that?

MS MORTHEN: Yes.

40 **MS McDONALD:** To your knowledge, was an interim report prepared?

MS MORTHEN: Potentially. I'm not aware of what report Council got back.

MS McDONALD: All right. You, as the union organiser, were not provided with that?

45

MS MORTHEN: No.

MS McDONALD: And to your knowledge, nobody within the union was provided with that interim report?

5 **MS MORTHEN:** Not at that time. Not at that time.

MS McDONALD: And then a show cause letter was issued to Mr Rhodes. That was issued by Mr Breton?

10 **MS MORTHEN:** Yes.

MS McDONALD: And is the purpose of the show cause, "I'm now considering whether to terminate your employment. Do you have anything else to submit to me?"

15 **MS MORTHEN:** Yes.

MS McDONALD: And Mr Rhodes was given an opportunity, to your knowledge, for further submissions?

20 **MS MORTHEN:** Yes.

MS McDONALD: And was his employment terminated?

25 **MS MORTHEN:** Yes.

MS McDONALD: After his employment was terminated, were any proceedings brought on his behalf by the union?

30 **MS MORTHEN:** Yes. We lodged an unfair dismissal.

MS McDONALD: And that was lodged with the State Commission?

MS MORTHEN: Yes.

35 **MS McDONALD:** Did that lead to an arbitration or a hearing of the unfair dismissal claim being set down for a particular date?

MS MORTHEN: Yes.

40 **MS McDONALD:** And on the doors of the hearing room or the arbitration room, was there a settlement of that dispute?

MS MORTHEN: Yes.

45 **MS McDONALD:** And as part of that settlement, was Mr Rhodes re-employed by the Council?

MS MORTHEN: Yes, he was.

5 **MS McDONALD:** Can you just excuse me for a minute. Another part of repercussions or developments from the interview with Chris O'Keefe and the postings, to your knowledge, did the union notify SafeWork of concerns?

MS MORTHEN: Yes, we did.

10 **MS McDONALD:** Would document INQ.047.001.0006 be brought up.

ASSOCIATE: Do you want this document shown on the live stream?

15 **MS McDONALD:** Yes, please. Now, that's a letter dated 30 April 2024 to SafeWork New South Wales. And if you could move down the document, there's a reference to the interview with Mr O'Keefe. And then:

"Since that prominent media appearance, we had reports from our members working at the Council they feel unsafe."

20 And then there was a reference to one alleged instance of a Council employee being verbally assaulted by a member of the public. You outlined before the three instances of members being concerned about their safety?

25 **MS MORTHEN:** Yes.

MS McDONALD: Which one - was that a -

MS MORTHEN: This is the first one, the gentleman in the park.

30 **MS McDONALD:** Right. Now, the next paragraph:

35 "What is particularly concerning is that Liverpool City Council were the recent recipients of a fine from SafeWork in relation to matters surrounding their failure to appropriately handle and manage psychosocial hazards."

Do you know what that's referring to?

MS MORTHEN: Yes.

40 **MS McDONALD:** What was it referring to?

45 **MS MORTHEN:** So an ex-employee had made a complaint around how Council dealt with bullying complainants, and as part of the outcome, the findings from SafeWork had to be displayed on notice boards at Council, and that's where our members saw them, in particular on the notice board in the Rowe Street depot, and it indicated that Council had received a fine from that display.

MS McDONALD: All right. So your understanding is an ex-employee made a complaint directly to SafeWork?

MS MORTHEN: Yes.

5

MS McDONALD: And as part of the resolution, there was a requirement that information about the complaint and how SafeWork dealt with it be put on a notice board at the depot.

10 **MS MORTHEN:** I don't know if that was part of the resolution, but I know that that is what happened - the outcome was put on the notice board.

MS McDONALD: All right. Did the union have any role in this employee making the complaint?

15

MS MORTHEN: No.

MS McDONALD: So your knowledge of it was through the posting of whatever this document was on the notice board?

20

MS MORTHEN: Yes.

MS McDONALD: All right. Would document INQ.047.001.0071 be brought up. Yes, please. This is a press release that the union issued on about 30 April?

25

MS MORTHEN: Yes.

MS McDONALD: And there's again a reference to the interview with Chris O'Keefe.

30

MS MORTHEN: Yes.

MS McDONALD: And then, again:

35 "Council employees have reported feeling unsafe at work."

Et cetera.

MS MORTHEN: Yes.

40

MS McDONALD: Would you bring up document INQ.047.001.0062. I briefly showed you this earlier in the day. This is the union - and it's described as a member update.

45 **MS MORTHEN:** Yes.

MS McDONALD: And I think I was under the impression that it had been prepared and distributed at an earlier time than one of the answers to my questions from you indicated.

5 **MS MORTHEN:** Yes.

MS McDONALD: And in particular, you picked up on the reference to the acting CEO.

10 **MS MORTHEN:** Yes.

MS McDONALD: And of course, a reference to the acting CEO would be a reference to Mr Breton?

15 **MS MORTHEN:** Yes.

MS McDONALD: And would have to be some communication from him after the Council meeting of 24 -

20 **MS MORTHEN:** Yes.

MS McDONALD: - of April because that's when he was appointed acting.

25 **MS MORTHEN:** Yes.

MS McDONALD: All right. Now - and if you want to have a look at the whole of this document, just to - so under underneath The Facts, you've got:

30 "The union was advised of 150 jobs being under threat."

Then there's a reference to the document provided to Ray Hadley, which had referred to two directors, four managers and an undisclosed number of non-core staff. Then there's a reference to information that in various discussions Ned Mannoun has talked about outsourcing The Parks and cleaning areas, and then:

35 "The mayor has repeatedly said Council is committed to increasing frontline staff."

40 This particular member update that was issued, what - did something prompt that or is this part of your regular updating or communication with your members?

MS MORTHEN: When there's a situation where emotions are running high and there's a lot of acting - matters, it's not unusual that we would put out an update at least once a week, just so members know what's going on.

45 **MS McDONALD:** All right. Under Union Actions you've got:

"The union has written to both the acting CEO and the mayor today, asking them to commit in writing to the union that there will be no job losses or redundancies."

MS MORTHEN: Yes.

5

MS McDONALD: Did you receive a response from the acting CEO?

MS MORTHEN: I'm sorry, I genuinely cannot remember.

10 **MS McDONALD:** All right. Can you just excuse me. Do you recall whether you got a response from the mayor?

MS MORTHEN: I personally have never received a response from the mayor.

15 **MS McDONALD:** All right. I was going to suggest to you - and I'm just trying to find the document - there may have been some communication by the acting CEO that there wouldn't be any restructure until the Council elections in the latter half of the year.

20 **MS MORTHEN:** I'm not sure if that - that did happen, but I'm not sure if that happened now or if that happened a little bit later in the timeline.

MS McDONALD: All right. Now, also dealing with repercussions or further action taken in respect of the interview and the posting, did the union make a complaint or
25 raise matters with the Office of Local Government?

MS MORTHEN: Yes.

MS McDONALD: Would document INQ.047.001.0065 be brought up.
30

ASSOCIATE: (Indistinct)?

MS McDONALD: Yes, please. Looking at this document, have you seen this
35 before?

MS MORTHEN: Yes.

MS McDONALD: And I won't take you to the detail of it, but - because it raises
40 matters that you've been giving evidence about for the last hour or so, but in substance, is the union again raising the conduct of the mayor? And also if you continue down the page, you can see there the union identifies the Council's code, that being the code of conduct?

MS MORTHEN: Yes.

45

MS McDONALD: And what the union sees to be breaches of that code.

MS MORTHEN: Yes.

MS McDONALD: And did - consistently with that, was a code of conduct complaint actually made to the acting CEO?

5

MS MORTHEN: I believe so, yes.

MS McDONALD: Could document INQ.047.001.0065 - and this is now page 3 of that document. You've got page 3 up there. And if you look at that, it's a letter addressed to Mr Breton, acting CEO, and they're writing pursuant to a particular clause of the code of conduct procedures to make a code of conduct complaint.

10

MS MORTHEN: Yes.

MS McDONALD: Then if you - if we could bring up INQ.047 - sorry, it's the same document, this time page 5. I'm terribly sorry. This is the response by Mr Breton?

15

MS MORTHEN: Yes.

MS McDONALD: Refers to the code of conduct complaint. Then in the third paragraph says:

20

"In this regard, I refer to clause 4.8 and ask whether the complaint on these matters - you wish to have it resolved by mediation or by any other alternative means."

25

And then requires a response?

MS MORTHEN: Yes.

30

MS McDONALD: If we can go to page 4 of that document. This is a letter dated 15 May and it's the response by the union, in which, in substance, they do not agree with the relevant complaint being resolved by mediation or alternative means.

MS MORTHEN: Yes.

35

MS McDONALD: And actually refer to the - shortly engaging in a conference facilitated by the commission.

MS MORTHEN: Yes.

40

MS McDONALD: Excuse me for a minute. Would you please bring up document LCC.010.001.5356. This is a letter dated 13 June from the union to Mr Breton.

MS MORTHEN: Yes. Yes.

45

MS McDONALD: Referring to the code of conduct complaint. And you can see in the second paragraph there:

"We are seeking an update on the current status of this complaint."

5

MS MORTHEN: Yes.

MS McDONALD: And then in the subparagraphs, there's various questions which go to the procedure.

10

MS MORTHEN: Yes.

MS McDONALD: If we just go through. And:

15 "We would appreciate clarification of the above by 18 June."

Would you then bring up document LCC.001.003.0468.

ASSOCIATE: (Indistinct)?

20

MS McDONALD: Yes, please. This is dated 22 July.

MS MORTHEN: Yes.

25 **MS McDONALD:** And I know it's not all the way up there, but it's a letter from Mr Breton responding to that recent correspondence.

MS MORTHEN: Yes.

30 **MS McDONALD:** And if we can continue down that page, you can see he says:

"I've chosen to deal with your code of conduct complaint against the mayor by alternative means. In this regard, the mayor has apologised for the actions during the IRC conference. The mayor has already removed the social media posts, and I have counselled the mayor via informal discussion."

35

And as he then states, in accordance with the procedure, he now considers the matter finalised.

40 **MS MORTHEN:** Yes.

MS McDONALD: So that was the end of - result of the code of conduct complaint made by the union?

45 **MS MORTHEN:** Yes.

MS McDONALD: There's just two other topics that I want to deal with. Excuse me a minute. The union, on behalf of its members, can make inquiries of the Council about particular roles within the staff at the Council which might have recently been created?

5

MS MORTHEN: Yes.

MS McDONALD: Did the Council make an inquiry in May 2024 about the role of a senior adviser?

10

MS MORTHEN: Yes.

MS McDONALD: Would document INQ.047.001.0048 be brought up, please. Yes, please. And just looking at the beginning of this, the union is seeking further details on the role of a senior adviser.

15

MS MORTHEN: Yes.

MS McDONALD: And in particular, underneath, the union is seeking certain documents. So the position description details on the grading and the salary range, a copy of the organisational chart, details of when it was added to the structure, and when the role was last advertised and how it was advertised. Would you then bring up document INQ.047.001.0034, and it can be live streamed.

20

This is the letter in response to that inquiry dated 20 June 2024. And if you look at - if we can bring up the rest of that. They attach the position description. They then identify that the position is graded a G15, band 3, level 2, and attach a salary band information. The position is located within the City Futures directorate, and then it was endorsed by the joint consultative committee on 1 February and it's currently a direct appointment on a temporary contract ending in September 2024.

25

30

MS MORTHEN: Yes.

MS McDONALD: Now, pages 2 to 5 of that document, that's the position description?

35

MS MORTHEN: Yes.

MS McDONALD: Then if we go through to page 6 - and is there any chance we can whiz page 6 around? Brilliant. Is that what was described in the letter from the Council as the salary band information?

40

MS MORTHEN: Yes.

MS McDONALD: Now, I think we've heard some evidence very early on - you've got the award, which has different classifications, and then in conjunction with that there's a salary structure or a salary system?

45

MS MORTHEN: Yes.

5 **MS McDONALD:** And is this an extract from the salary system that was in operation?

MS MORTHEN: Yes. This is Council's salary system.

10 **MS McDONALD:** Yes. And that's peculiar to Liverpool City Council?

MS MORTHEN: Yes.

15 **MS McDONALD:** And where it refers to - I'm just reading from the Council letter - graded a G15, I take it "G" is grade?

MS MORTHEN: Yes.

20 **MS McDONALD:** And so looking at this document, you'd go to the grade column and you go down to number 15?

MS MORTHEN: Yes.

25 **MS McDONALD:** It then refers to band 3. Is band 3 actually a reference to an award classification?

MS MORTHEN: Yes. Where it references bands and levels, that is the wording used in the award.

30 **MS McDONALD:** All right. But it also refers to level 2. Does level 2 also have some relevance for the next - in a sense, you've got level 1, three columns.

MS MORTHEN: Yes.

35 **MS McDONALD:** Then a thick black line, and then you have level 2, two columns.

MS MORTHEN: Yes.

40 **MS McDONALD:** So is the reference to grade 15, level 2 a reference to those two middle columns?

MS MORTHEN: Yes.

MS McDONALD: All right. Which is annual salary, fortnightly and then hourly?

45 **MS MORTHEN:** Yes.

MS McDONALD: All right. And then if we could then go to page 7, this is Office of the Director of City Futures proposed - and there's a direct report from the senior adviser to the director of City Futures. Because it's headed Proposed, was it your understanding that that actually wasn't in operation at the time?

5

MS MORTHEN: Yes.

MS McDONALD: And where it's got "senior adviser", "market rate", what does the "market rate" refer to?

10

MS MORTHEN: "Market rate" means a market premium paid on top of the salary system.

MS McDONALD: All right. Okay. Now, you've given evidence that you looked after - or you had coverage of the union members at the Liverpool City Council for about 13 years?

15

MS MORTHEN: Yes.

MS McDONALD: During that time, did you deal with a number of CEOs?

20

MS MORTHEN: Yes.

MS McDONALD: Can I first ask you, when Mr Ajaka's employment was terminated, there was a period when Mr Breton was the acting CEO?

25

MS MORTHEN: Yes.

MS McDONALD: And I think it was up until about April of this year, when he was permanently appointed to that role.

30

MS MORTHEN: Yes.

MS McDONALD: Can I ask you, your relationship as an organiser of the union with Mr Breton after he was appointed the acting CEO, how would you describe that relationship?

35

MS MORTHEN: Strained.

MS McDONALD: When you say "strained", strained in what way?

40

MS MORTHEN: We had come from Mr Ajaka, who was a CEO who was very open and consultative, to Mr Breton, who was not at all interested in consulting, spoke down to me, spoke down to my members and wouldn't engage with us or turn up at meetings unless there were senior union officials at the meeting.

45

MS McDONALD: We've heard evidence that when Mr Ajaka became the CEO, there were, I'll give you a rough indication, maybe about 46 industrial grievance matters that had come to - that were current.

5 **MS MORTHEN:** That sounds about right. There were a lot.

MS McDONALD: We also heard evidence that by the end of his employment with the Council, that number had decreased considerably.

10 **MS MORTHEN:** Yes.

MS McDONALD: And that - and again, this is just off the top of my head - there might have been about four - or three or four outstanding at that time.

15 **MS MORTHEN:** Yes.

MS McDONALD: After Mr Ajaka's employment was terminated, was there an increase in the industrial grievances?

20 **MS MORTHEN:** Yes, there was. There was an increase in grievances and disputes.

MS McDONALD: Has that - and some of that increase, I take it, reflected the matters that I've taken you to - dealing with the social posts and the interview with Chris O'Keefe?

25 **MS MORTHEN:** Yes.

MS McDONALD: If you can, putting that to one side, have the number of industrial grievances or disputes remained high?

30 **MS MORTHEN:** Until now?

MS McDONALD: Yes.

35 **MS MORTHEN:** I'm no longer at Liverpool.

MS McDONALD: I'm sorry.

40 **MS MORTHEN:** So - no, but that's okay.

MS McDONALD: Until you left in May.

45 **MS MORTHEN:** There were - there were less actual disputes in the commission at the time that I left, but there was still a large number of grievances outstanding.

MS McDONALD: And I don't - when you say "grievances outstanding", we've seen in the correspondence that the union will say, "This is a grievance," and, as you've given evidence, that invokes procedures within - under the award.

5 **MS MORTHEN:** Yes.

MS McDONALD: So at that point, if it's an industrial grievance, does that mean it's at the level where the union and the Council are trying to resolve the matter?

10 **MS MORTHEN:** So when the union writes the letter, even though we invoke the grievance procedure, that's not a grievance under the award. A grievance is written by an employee and it is something that they give to their employer that sets out what they're aggrieved about and what their resolution was. So when I say there was a large number, I'm not referring to our letters. I'm referring to those grievances
15 lodged by members.

MS McDONALD: All right. So they're really at a level, at that stage, outside the commission?

20 **MS MORTHEN:** Yes.

MS McDONALD: And is it the case that if ultimately they can't be resolved, that may lead to some notification to the commission?

25 **MS MORTHEN:** Yes.

MS McDONALD: And after Mr Ajaka's employment was terminated, the grievances outside the commission increased in number?

30 **MS MORTHEN:** Yes. But they were probably tied to matters that were already going to the commissions.

MS McDONALD: All right. So is it kind of a -

35 **MS MORTHEN:** They were around safety and -

MS McDONALD: - artificial distinction?

MS MORTHEN: Yes.
40

MS McDONALD: Or artificial demarcation?

MS MORTHEN: I'm not sure what you mean by that, but I guess when John was terminated the number of disputes in the commission went up.
45

MS McDONALD: Yes.

MS MORTHEN: And - drastically. But if the grievances went up, predominantly they were related to matters that we were already dealing with in the commission.

5 **MS McDONALD:** And up until - you spoke about the relationship being strained. Did the relationship improve over time? Did it become less strained?

MS MORTHEN: Marginally. Marginally improved.

10 **MS McDONALD:** And when you left in May, were the number of disputes or the number of grievances - were they still at an increased or a high level or -

MS MORTHEN: I would say the grievances were probably still at a high level. There were no outstanding matters with the commission, though, at the time that I'd left.

15 **MS McDONALD:** Right.

COMMISSIONER: So what was with the commission had been finalised or resolved -

20 **MS MORTHEN:** Yes.

MS McDONALD: And when I spoke previously about when Mr Ajaka - we've had some evidence that when Mr Ajaka became the CEO, the number of grievances was in the 40s. Is your understanding of that that it's the member grievances and not matters at the commission?

MS MORTHEN: It was a mix.

30 **MS McDONALD:** It was a mix. Okay. Now, I've asked you, in a sense, about your experience with Mr Breton as either the acting CEO or, for a short period, the CEO. Looking back, pre-Mr Ajaka and your experience with other CEOs, was it, again, a mixed bag from the union's perspective - that there might have been strained relationships or good relationships or -

35 **MS MORTHEN:** It was mixed, but they were - they were more often productive than non-productive.

40 **MS McDONALD:** And when you say "more productive than non-productive", what do you mean by that?

MS MORTHEN: So if I - if I looked at the 11 previous CEOs, I would probably say that we had a good working relationship - and including acting CEOs, that we had a good working relationship with - if there are 11, maybe eight of them, and then there were three where the relationship was a little bit more rocky.

MS McDONALD: When you describe it as a good working relationship, in your mind, what do you mean by a good working relationship?

5 **MS MORTHEN:** I mean if we can't resolve something at the HR/union level, that I can reach out to the general manager or CEO of a council and try and resolve it at that level.

MS McDONALD: So is that, in a sense, being able to approach the CEO if a matter can't be resolved at management levels below the CEO?
10

MS MORTHEN: Yes.

MS McDONALD: You could approach the CEO directly and try and resolve it through his or her -
15

MS MORTHEN: Yes.

MS McDONALD: Would you just excuse me. Yes. No further questions.

20 **COMMISSIONER:** Could document INQ.001.001.1099 be brought up, please. And this is the minutes of the meeting on 24 April. And if we go through to page 10, please. This is the recording of the motion that was passed in closed session once the meeting resumed. And I just want to take you to paragraph 2 of the resolution, and 2(a):
25

"Council resolved to investigate Liverpool City Council workplace health and safety concerns that were advised to be impacting the organisation culture, including issues raised and feedback provided by USU representatives with the mayor and other councillors on Tuesday, 23 April 2024, regarding safe, acceptable and appropriate workplace culture."
30

Do you see that?

MS MORTHEN: Yes.
35

COMMISSIONER: Did you have a meeting with the mayor and other councillors on the 24th?

MS MORTHEN: I do not recall having a meeting at all that week. It is possible we wrote to them.
40

COMMISSIONER: So sitting here today, do you have an understanding of what that paragraph is referring to?

45 **MS MORTHEN:** I know I didn't have a meeting. So it's not unusual that we will write to councillors as a collective when we've concerns, and I would have to check our files, but I would say that's most likely what we did.

COMMISSIONER: All right. And are you aware of any investigation, following 23 April 2024, into feedback raised by USU representatives regarding safe, acceptable and appropriate workplace culture?

5

MS MORTHEN: I'm not.

COMMISSIONER: Does anyone -

10 **MR EMMETT:** I have no questions, Commissioner.

COMMISSIONER: Thank you.

15 **MS RICHARDSON:** Ms Morthen, my name is Ms Richardson. I appear on behalf of Mayor Mannoun. So you gave evidence this morning to Ms McDonald, counsel assisting, that Mr Ajaka called you a few days before you met him on the Monday, 22 April. I just want to remind you, in your interview with the - I'll call them the section 430 investigators, do you understand what I mean by that?

20 **MS MORTHEN:** Yes.

MS RICHARDSON: In your interview with the 430 investigators, you said that he rang you on the Friday before the Monday. Does that sound correct to you?

25 **MS MORTHEN:** That sounds correct.

MS RICHARDSON: Okay. And you told the 430 investigators that Mr Ajaka rang you and said he needed to have a meeting with you.

30 **MS MORTHEN:** Yes.

MS RICHARDSON: Does that sound correct?

35 **MS MORTHEN:** Yes.

MS RICHARDSON: That's what he said to you?

MS MORTHEN: Yes.

40 **MS RICHARDSON:** Did he tell you on the phone on the Friday why he needed to have a meeting with you?

MS MORTHEN: Not from my recollection.

45 **MS RICHARDSON:** And then you met with him in the morning on the Monday, 22 April?

MS MORTHEN: Yes.

MS RICHARDSON: It must have been relatively earlier, was it, because you went out for breakfast after that. Is that correct?

5

MS MORTHEN: Early is relative, I've learned. So my day starts at 5 am, but it was probably about 8.

MS RICHARDSON: So about 8 am.

10

MS MORTHEN: Yes.

MS RICHARDSON: But it was early enough that you could go and then have a working breakfast meeting with someone afterwards?

15

MS MORTHEN: Second breakfast, because I also ate doughnuts in his office, which is why I will never forget the meeting. Because they were very nice doughnuts.

20 **MS RICHARDSON:** They were nice doughnuts?

MS MORTHEN: Very.

MS RICHARDSON: Okay.

25

MS MORTHEN: Pink icing.

MS RICHARDSON: So if we just go to that meeting, it was about 8 am?

30 **MS MORTHEN:** Yes.

MS RICHARDSON: How long did it go for, to your recollection?

MS MORTHEN: Probably up to an hour.

35

MS RICHARDSON: About an hour. Okay. And it was just the two of you there?

MS MORTHEN: Yes.

40 **MS RICHARDSON:** In his office.

MS MORTHEN: Yes.

MS RICHARDSON: And he brought doughnuts to the meeting, had he?

45

MS MORTHEN: They were in his office.

MS RICHARDSON: Right. And had you met with him in his office before -

MS MORTHEN: Yes.

5 **MS RICHARDSON:** - about other topics?

MS MORTHEN: Yes.

10 **MS RICHARDSON:** And you've given evidence that he told you words to the effect, that day, that - I think Ms McDonald asked you to recall to the best you could exact words - that Ned - Mr Ajaka said to you, "Ned has told me that I must get rid of 150 jobs."

15 **MS MORTHEN:** Yes.

MS RICHARDSON: He said that to you?

MS MORTHEN: Words like that, yes. I do not remember the exact words.

20 **MS RICHARDSON:** Yes. But he definitely said words to that effect to you?

MS MORTHEN: Yes.

25 **MS RICHARDSON:** And you've also given evidence today that he gave - said to you that 150 jobs of your members are at risk?

MS MORTHEN: Yes.

30 **MS RICHARDSON:** And I think you also gave evidence today that he said words to the effect that 150 jobs of your members would be slashed. Is that correct?

MS MORTHEN: I think that when I was questioned to be more exact, I think he said "get rid of" 150 of my members' jobs, but -

35 **MS RICHARDSON:** "Get rid of".

MS MORTHEN: - I initially did use the word "slash".

40 **MS RICHARDSON:** Thank you. And so in the way he expressed that to you, he said that the mayor had, in effect, given him a direction that he needed to get rid of 150 union members' jobs. Is that correct?

MS MORTHEN: Yes.

45 **MS RICHARDSON:** Did Mr Ajaka express that to you as rumour or gossip?

MS MORTHEN: No.

MS RICHARDSON: Was - he expressed it to you as a direction that the mayor had given him; is that correct?

5 **MS MORTHEN:** At the meeting they'd had the previous week, where he had said, "Shut the F up."

MS RICHARDSON: It's the meeting my learned friend's calling the swearing meeting.

10

MS MORTHEN: Okay. Yes.

MS RICHARDSON: And so based on what he told you, you understood it was not just a rumour or conjecture - that actually it was a direct that the mayor had given
15 Mr Ajaka; correct?

MS MORTHEN: Yes.

20 **MS RICHARDSON:** And you gave evidence in the 430 investigation that you had been concerned about breaking Mr Ajaka's confidence - and you were cut off in that interview, but you've said words to the effect of, "He's given that to us," under something or other. I just wanted to explore that with you. So Mr Ajaka told you that information about getting rid of 150 jobs.

25 **MS MORTHEN:** Yes.

MS RICHARDSON: In that meeting you had on the 22nd. And did he also ask you to keep it confidential in that meeting that he was the source of that information?

30 **MS MORTHEN:** No.

MS RICHARDSON: Well, you agree with me you told 430 investigators that you were concerned about breaking John's confidence if you revealed him to be the source of the information; correct?

35

MS MORTHEN: Yes.

MS RICHARDSON: So what was the source of the fact that it was Mr Ajaka's confidence and you were not willing to reveal him as the source of the information?
40 What was the basis -

MS MORTHEN: I wasn't willing to reveal him as the source because he was a union member and I was worried that by me revealing that while he was still employed that would put his job at greater risk.
45

MS RICHARDSON: Was that obvious to you, that if you revealed Mr Ajaka as being the source of the information about getting rid of 150 jobs that his job would be at risk?

5 **MS MORTHEN:** I missed very - two words you said at the beginning, sorry.

MS RICHARDSON: Sorry. Was it obvious to you that if you revealed Mr Ajaka as being the source of the "get rid of 150 jobs" information, that his job would be at risk?

10 **MS MORTHEN:** I don't know if "obvious" is the right word, but it was my feeling that it would be.

MS RICHARDSON: Well, isn't it obvious?

15 **MS MORTHEN:** It was my feeling that if I revealed that, his job would be at further risk.

MS RICHARDSON: So you were proceeding on that basis, were you?

20 **MS MORTHEN:** While he was employed, yes.

MS RICHARDSON: Whilst he was employed, you were proceeding on the basis that if you revealed that he was the source of the "get rid of 150 jobs" information, that his job was at risk; correct?

25

MS MORTHEN: Could be at risk, yes.

MS RICHARDSON: So is it the case that your evidence that he did not ask you in that meeting you had with him to keep it confidential that he was the source? Is that correct?

30

MS MORTHEN: He did not.

35 **MS RICHARDSON:** But you just understood that that's what you needed to do while ever he was employed, so as to not put his job at risk; correct?

MS MORTHEN: Yes.

40 **MS RICHARDSON:** And did you take that position because he was a union member?

MS MORTHEN: Yes.

45 **MS RICHARDSON:** And you were seeking to protect him?

MS MORTHEN: Yes.

MS RICHARDSON: So in the 430 interview, you remember that you and Mr Donley were interviewed together as part of that process?

5 **MS MORTHEN:** Yes.

MS RICHARDSON: He had said, "We got it on good faith that there was 150 people who were going to be terminated."

10 **MS MORTHEN:** Mr Donley did?

MS RICHARDSON: Yes.

MS MORTHEN: Yes.

15

MS RICHARDSON: So did you also take the position that when Mr Ajaka had told you that he had been directed to get rid of 150 jobs, that you could take that in good faith because it was coming from the CEO?

20 **MS MORTHEN:** Yes.

MS RICHARDSON: And you took it in good faith that he was telling the truth?

MS MORTHEN: Yes.

25

MS RICHARDSON: Was Mr Ajaka the only senior executive of the Council who gave you information about 150 jobs being at risk? Was he the only one?

MS MORTHEN: Yes.

30

MS RICHARDSON: So he was the sole instigator of that information; is that correct?

MS MORTHEN: Yes.

35

MS RICHARDSON: And in the meeting you had with Mr Ajaka on the 22nd, you gave evidence this morning that you got the sense that Mr Ajaka felt at this time that his job was at real risk; is that correct?

40 **MS MORTHEN:** Yes.

MS RICHARDSON: And, now, I can take you to the 430 interview you did, but isn't it the case that the way Mr Ajaka described what had happened at the swearing meeting was that Mr - Mayor Mannoun had said to him - I'll get your exact words from this morning. Mayor Mannoun had said to him, "You must get rid of 150 jobs," and that in the meeting Mr Ajaka said he'd said, in effect, "No, I won't do that."

45

MS MORTHEN: Yes.

MS RICHARDSON: So Mr Ajaka made clear to you that the mayor had given him that directive but he was indicating he would refuse to obey it; correct?

5

MS MORTHEN: Yes.

MS RICHARDSON: And it was in that context that - after that, that Mr Ajaka recounted to you he had told Mr Mannoun words to the effect of - sorry, I'll start again. Mr Ajaka said that he told the mayor, in effect, "No, I won't obey that direction"; correct?

10

MS MORTHEN: I think the words he used were, "We can't do that. I won't do that."

15 **MS RICHARDSON:** But he made it clear he would not be following that; correct?

MS MORTHEN: Yes.

MS RICHARDSON: And then Mr Ajaka said that what the mayor had said in response was, "You will do what I'm telling you to do." Correct? Is that what Mr Ajaka relayed to you? I can take you to the transcript if that would assist you.

20

MS MORTHEN: Yeah. I mean - sorry, I -

25 **MS RICHARDSON:** That's okay.

MS MORTHEN: It was a year ago.

MS RICHARDSON: Just what you said in your transcript is that John had said - this is him recounting to you what was said:

30

"John said, 'I'm not sacking anyone,' and then Ned said, 'No, you will do what I'm telling you to do,' and then it was, 'Well, shut the fuck up.'"

35 **MS MORTHEN:** Yes.

MS RICHARDSON: Is that -

MS MORTHEN: That sounds about right.

40

MS RICHARDSON: That sounds about right. So that's what Mr Ajaka recounted to you as to what's happening in that swearing meeting.

MS MORTHEN: Yes.

45

MS RICHARDSON: In terms of the sequence of what happened.

MS MORTHEN: Yes.

COMMISSIONER: Ms Richardson, sorry to - could I just have the page of the -

5 **MS RICHARDSON:** Sure.

COMMISSIONER: Just the internal page number's fine if you don't have the doc ID.

10 **MS RICHARDSON:** Internal page 10, at about point 2 of the page.

COMMISSIONER: Thank you.

15 **MS RICHARDSON:** So what Mr Ajaka told you as the sequence - or the gist of what had happened at the swearing meeting was that the mayor had given him a direction that he must get rid of 150 jobs, and Mr Ajaka had made clear he would not be going through with that.

20 **MS MORTHEN:** Yes.

MS RICHARDSON: And then Mr Ajaka recounted that the mayor said, "You will do what I'm telling you to do," and then it culminated in Mr Ajaka saying the "shut the fuck up" language; correct?

25 **MS MORTHEN:** Yes.

MS RICHARDSON: And that was the sequence that he recounted to you.

30 **MS MORTHEN:** Yes.

MS RICHARDSON: So was the gist of how Mr Ajaka was describing the swearing meeting to you - was that it was the mayor who was dictating that there would be 150 job losses of union members and that Mr Ajaka was standing up to that and saying, "No, it can't happen."

35 **MS MORTHEN:** Yes.

40 **MS RICHARDSON:** And it's also the case, isn't it, that at that meeting you had the distinct sense that Mr Ajaka understood that his job was at real risk?

MS MORTHEN: Yes.

45 **MS RICHARDSON:** Including by - as he recounted it, standing up to this direction of the mayor?

MS MORTHEN: Yes.

MS RICHARDSON: So wasn't it the case that you came away from the meeting with the distinct impression that it was the mayor who was driving this proposal of 150 job losses of union members, that Mr Ajaka was seeking to block that and refusing to comply and he was putting his own job on the line to stop that happening? Correct?

MS MORTHEN: I think his job was already on the line, but yes.

MS RICHARDSON: But you also understood that he was putting his job on the line by reason of his stance against the mayor on this issue. Correct?

MS MORTHEN: Yes.

MS RICHARDSON: And does that in part explain why the union came out so strongly in support of Mr Ajaka, in terms of the moves in relation to Mr Ajaka at the meeting a few days later?

MS MORTHEN: In -

MS RICHARDSON: As an understanding that he was putting his job on the line to protect union members.

MS MORTHEN: I think what we came out in response to was that potentially we were going to lose 150 jobs at Liverpool Council. Our members felt very strongly about John Ajaka because he was a very good CEO, probably the best one they'd ever had, and so they wanted to stand there and fight for him.

MS RICHARDSON: You also yourself had a sense of injustice, didn't you, that you were very concerned about significant union job losses and he was a person you thought was sticking up for union jobs and putting his own job on the line?

MS MORTHEN: I have a sense of injustice about most things that happen in my life, but my primary concern -

MS RICHARDSON: What about this one?

MS MORTHEN: My primary concern was the 150 jobs.

MS RICHARDSON: Well, didn't it add to your sense of injustice that one of your members, Mr Ajaka, might lose his job over the stance he was taking?

MS MORTHEN: 150 jobs were my concern. Mr Ajaka was not the first CEO at Liverpool Council who was a member who lost their job.

MS RICHARDSON: Just listen to my question. He was a member?

MS MORTHEN: Yes.

MS RICHARDSON: And you took other actions to protect him; correct?

MS MORTHEN: I represented him in meetings, yes.

5

MS RICHARDSON: Right. Part of your sense of injustice was a sense - a concern that 150 union jobs were on the line, from your understanding, and that one of those members, Mr Ajaka - his job was specifically on the line for standing up to that proposal. That was part of your sense of injustice; correct?

10

MS MORTHEN: I understand what you're saying. I just want to not downplay that the greater sense - a very large sense of my concern was for the 150 jobs.

MS RICHARDSON: Sure, but Mr Ajaka was part of the picture, wasn't he? A sense of injustice about him?

15

MS MORTHEN: I was concerned about Mr Ajaka losing his job, yes.

MS RICHARDSON: And so it's - an email was sent by a USU advocate on 22 April - we can bring that up - which describes the fact - it suggests that there might be moves to sack Mr Ajaka at the council meeting in a few days' time. I might just have that brought up. Do you know who authors emails from USUadvocate@gmail.com?

20

MS MORTHEN: No, I do not.

25

MS RICHARDSON: Is that an anonymous person?

MS MORTHEN: It's anonymous to me.

30

MS RICHARDSON: All right. So you don't know - you're not party to who's drafting those emails?

MS MORTHEN: No.

35

MS RICHARDSON: I can tell you that email, which is at LCC.001.003.0461_5 - that was - an email on that same date, 22 Monday, at 1.55 pm, is already describing the fact that there would be moves to dismiss the CEO at the council meeting "this coming Wednesday". So were you aware that there were already rumours on that Monday that there might be moves taken at the council meeting on the Wednesday to dismiss Mr Ajaka?

40

MS MORTHEN: I was aware before Monday that there - that his job was under threat. I think I've already mentioned that.

45

MS RICHARDSON: But you knew that on the Monday, didn't you?

MS MORTHEN: Because of this email?

MS RICHARDSON: No, I'm just asking -

5 **MS MORTHEN:** Sorry.

MS RICHARDSON: - you generally. You knew after your meeting with Mr Ajaka in the morning -

10 **MS MORTHEN:** I don't know if I knew. I think I could make a fair assessment on the information before me that it could happen.

ASSOCIATE: (Indistinct)?

15 **MS RICHARDSON:** Yes. Thanks. So you gave evidence this morning that after your meeting with Ajaka you then went and had a meeting with a union delegate who was employed by the Council. Is that Mr Catanzareti?

MS MORTHEN: We had breakfast.

20 **MS RICHARDSON:** Sorry, Rafael Catanzareti?

MS MORTHEN: Yes. But it was breakfast, not a meeting.

25 **MS RICHARDSON:** Okay. But you discussed business things at the -

MS MORTHEN: Well, I was working while we were eating breakfast, yes.

30 **MS RICHARDSON:** Okay. So that's Rafael Catanzareti, who's - goes by - you call him Raf sometimes?

MS MORTHEN: Yes.

35 **MS RICHARDSON:** And the breakfast was at Lilys in Preston; is that right?

MS MORTHEN: Correct.

40 **MS RICHARDSON:** Now, you gave evidence that you saw Mayor Mannoun meeting with some other councillors in a private room but the door was open at that café?

MS MORTHEN: Yes.

45 **MS RICHARDSON:** And it's the case, isn't it, that you knew at that point that the source of information that 150 staff members would be sacked was Mr Ajaka. Correct?

MS MORTHEN: Yes.

MS RICHARDSON: And he was the sole source of that information.

5 **MS MORTHEN:** Directly to me, yes.

MS RICHARDSON: Yes. When you approached Mr Mannoun and the other people, you agree with me you didn't reveal to them that you had been told by Mr Ajaka?

10

MS MORTHEN: No.

MS RICHARDSON: That he was subject of a direction to get rid of 150 jobs. Correct?

15

MS MORTHEN: No, I asked the mayor why he was getting rid of 150 jobs.

MS RICHARDSON: But do you agree with me you didn't tell him the source of the information?

20

MS MORTHEN: I did not.

MS RICHARDSON: And what I want to suggest to you is that when you approached Mr Mannoun and the other people in that - at the café, you started by saying words to the effect, "I saw you here, Ned, and I thought it would be rude not to come and say hello." Do you recall -

25

MS MORTHEN: I would have said "Mr Mayor". I would not have called him by his first name.

30

MS RICHARDSON: But you said words - some introductory words, that you thought it would be rude not to come and say hello?

MS MORTHEN: Yes.

35

MS RICHARDSON: And then you said to him, "John's our friend. We have his back. If you go after him, we'll go after you"?

MS MORTHEN: No.

40

MS RICHARDSON: And you recall that Mr Donley had said words to those - of that effect to Mr - to Ray Hadley - that they were coming after Mr Mannoun?

MS MORTHEN: I'm aware of what was said on the radio, yes.

45

MS RICHARDSON: He said words to that effect, that he was coming -

MS MORTHEN: I'd have to check the thing, but if you say that he said that in the transcript, then -

MS RICHARDSON: Yes, it's on the transcript.

5

MS MORTHEN: - I will take your word for it, yep.

MS RICHARDSON: And you heard that interview on the radio when it happened; correct?

10

MS MORTHEN: Yes.

MS RICHARDSON: I want to suggest to you that you also said words to similar effect to Mr Mannoun, to say, "John's our friend. We've his back. You go after him, we'll go after you."

15

MS MORTHEN: I would like to suggest that if you ever had a conversation with myself and Mr Donley you would very soon realise we speak very differently, and I would never have said that.

20

MS RICHARDSON: And that you said words in the conversation to Mr Mannoun, "You know the staff have never had it as good as the last 12 months under John," and, "If the people that we know are coming in to replace him come in to replace him, then we'll the days of the propel again. I will make sure of it."

25

MS MORTHEN: I did not say that.

MS RICHARDSON: And then you said words to him to the effect, "Actually, you know what, I should have brought the trucks around if I knew you were here."

30

MS MORTHEN: I did not say that.

MS RICHARDSON: You were aware that there were trucks that the union was deploying with billboards that were adverse to the mayor?

35

MS MORTHEN: They weren't deployed by that day, no.

MS RICHARDSON: And that Mr Mannoun said to you, "You can do whatever you want, Sandie, but the fact remains that Mr Ajaka shouldn't have said to me what he said," or, "He should at least apologise."

40

MS MORTHEN: No. What the mayor said to me was did I condone the CEO telling him to "shut the F up".

45

MS RICHARDSON: And that you responded by saying, "You should have some thick skin by now. You just need to get over it." You said that to him?

MS MORTHEN: I did not.

MS RICHARDSON: And that he said to you, "Well, if I didn't have thick skin I wouldn't still be here, but here I am."

5

MS MORTHEN: He did not.

MS RICHARDSON: And that you said to the mayor and the other people that John was clearly under stress and he acted out in the moment.

10

MS MORTHEN: No.

MS RICHARDSON: And that Mr Mayor said to you, "Well, you said it. He is under stress, so he should take leave rather than act that way. We suggested that to him, but he didn't accept it. He won't even apologise." He said those words to you?

15

MS MORTHEN: No, he did not.

MS RICHARDSON: And you said, "John losing it at a meeting does not make it a sackable offence, you know?"

20

MS MORTHEN: I did not say that.

MS RICHARDSON: And that he responded to you, "Who said he was getting the sack? Not us. We've never said anything about sacking him."

25

MS MORTHEN: And he did not say that.

MS RICHARDSON: So - and do you condone one of your members saying to the mayor of an organisation, "Shut the fuck up"?

30

MS MORTHEN: Do I condone it?

MS RICHARDSON: Yes.

35

MS MORTHEN: I wouldn't say it.

MS RICHARDSON: I'm asking you a different question. You're representing a member. Do you condone that type of behaviour?

40

MS MORTHEN: Personally, no. But do I think that that is -

MS RICHARDSON: I'm not talking about you personally.

45 **MS MORTHEN:** Okay. So -

MS RICHARDSON: You're a union -

MS MORTHEN: This -

5 **MS McDONALD:** Well, no, I object. It was asked whether she would condone it. Her answer has been, "Personally, I wouldn't." If there's some other aspect about her - in her role as a union organiser, the question should be put on that basis.

10 **MS RICHARDSON:** I'll ask it on a different basis. You're a union organiser at LCC at the time; correct?

MS MORTHEN: Yes.

15 **MS RICHARDSON:** And, in fact, you represented Mr Ajaka in his interview as part of the Weir review with Mr Harvey?

MS MORTHEN: Yes.

20 **MS RICHARDSON:** So in your role as a union organisation - organiser with knowledge of industrial relations, do you think it's appropriate for a CEO to say to a mayor of a council, "Shut the fuck up"?

MS MORTHEN: As I said, it would not be appropriate to me, but what I can also -

25 **MS RICHARDSON:** No, just listen to my question.

MS McDONALD: I'm sorry, I object. She should be allowed to answer the question. If my friend considers at the end of the answer it's not responsive, that can be raised, which - in my submission, she should at least be allowed to complete the answer.

30 **COMMISSIONER:** I think that's right. Finish your answer.

35 **MS MORTHEN:** When I started as a union organiser, I would never have said that any swearing in the workplace should be condoned, but 16 years taught me that I was in the minority on that. So if someone else feels comfortable swearing in that environment, they feel comfortable swearing in that environment. I personally wouldn't.

COMMISSIONER: But you're - but from where you stand, it's not appropriate?

40 **MS MORTHEN:** No, it wouldn't be appropriate.

MS RICHARDSON: Putting aside your personal view, given you're a union organiser representing the USU, do you say it's appropriate or not?

45 **MS MORTHEN:** It's not up to me to judge whether that's appropriate. I personally would not do it. I don't know their relationship. I don't know their friendship. I don't know if the mayor ever swore back.

MS RICHARDSON: So after your breakfast with Mr Catanzareti in the morning of 22 April, you then started preparing fliers?

5 **MS MORTHEN:** I would have been writing the flier during the breakfast meeting.

MS RICHARDSON: For the following day, to have an all-staff meeting in relation to the 150 job loss issue?

10 **MS MORTHEN:** Yes.

MS RICHARDSON: And in those - in the flier that you drafted, it said these meetings are urgent due to the potential threat to a large number of Council jobs?

15 **MS MORTHEN:** Yes.

MS RICHARDSON: And you were - you were - had in mind there the 150 job losses that Mr Ajaka had recounted to you; correct?

20 **MS MORTHEN:** Yes.

MS RICHARDSON: And you described in the flier that the meetings were urgent. You understood that something might happen at the meeting on the Wednesday in respect of this issue and that's why it was urgent?

25 **MS MORTHEN:** It was urgent because 150 jobs is urgent.

MS RICHARDSON: The fact that there was a meeting on the Wednesday made it more urgent; correct?

30 **MS MORTHEN:** Yes, although as I've already explained, the jobs wouldn't be lost on the Wednesday because there is a process.

MS RICHARDSON: But there might be decision-making about that on the Wednesday; correct?

35 **MS MORTHEN:** Yes.

MS RICHARDSON: And so did you participate in all of the mass meetings that happened the following day, on 23 April?

40 **MS MORTHEN:** Yes.

MS RICHARDSON: And did you or another union representative reveal to council workers present that you had received information that there would be 150 job losses?

MS MORTHEN: I can't remember what I said, but it's likely I said that, yes.

MS RICHARDSON: The 150 number -

5 **MS MORTHEN:** It's likely, yes.

MS RICHARDSON: - was very likely to be mentioned at every meeting?

10 **MS MORTHEN:** Yes.

MS RICHARDSON: So that you or another union representative were repeating what - without sourcing Mr Ajaka, you were repeating what he had told you was the position about job losses; correct?

15 **MS MORTHEN:** Yes.

MS RICHARDSON: And that was the main issue being discussed at those meetings, was it?

20 **MS MORTHEN:** Yes.

MS RICHARDSON: Is it fair to say that emotions are running high and people are extremely agitated about that prospect?

25 **MS MORTHEN:** Yes.

MS RICHARDSON: And you - I think you've given evidence that you heard the radio interview that Mr Donley had with Ray Hadley in the morning of Tuesday, 23 April?

30 **MS MORTHEN:** Yes.

MS RICHARDSON: And he also repeated the information that had come from Mr Ajaka about 150 job losses?

35 **MS MORTHEN:** Yes.

MS RICHARDSON: And to your understanding, he only got that information from you, based on what Mr Ajaka had told you; correct?

40 **MS MORTHEN:** Correct.

MS RICHARDSON: The Ray Hadley Show - you would be aware that that's a radio show that's widely listened to by union members and people in the Liverpool area?

45 **MS MORTHEN:** The ratings would say so. I assume so.

5 **MS RICHARDSON:** Yes. And Ms McDonald took you to information of things that Mr Hadley said after that interview, that the mayor had sent him various documents, including something to the effect of, "We wouldn't cut 150 jobs. It's probably about eight positions, managers and so on." You recall that?

MS MORTHEN: Yes.

10 **MS RICHARDSON:** So as my learned friend put to you, the mayor, through Mr Hadley, was denying the 150 job loss proposition. Correct?

MS MORTHEN: Correct.

15 **MS RICHARDSON:** Is it the case that you and other union delegates, to your knowledge, were working on the basis that you had received, in good faith, information from the CEO that there would be 150 job losses?

MS MORTHEN: Yes.

20 **MS RICHARDSON:** And so you were proceeding on the basis that that was a real threat facing your constituents. Correct?

MS MORTHEN: Yes.

25 **MS RICHARDSON:** And is part of the reason why you put so much faith on that information - was that he was the CEO?

MS MORTHEN: Part of it, but not entirely.

30 **MS RICHARDSON:** And also that if anyone knew he would know, presumably?

MS MORTHEN: Yes.

35 **MS RICHARDSON:** Now, at the - so at the all-staff meetings - there were four versions of them, some in person, some online, on the Tuesday. Correct?

MS MORTHEN: Yes.

40 **MS RICHARDSON:** And you say the main topic that was discussed at those meetings was the 150 job losses?

MS MORTHEN: Yes.

45 **MS RICHARDSON:** And was another matter that was discussed there was encouraging union members to rally at the council meeting that would be held the next day?

5 **MS MORTHEN:** That wasn't encouraged at the first meeting. So the motion came from the first meeting. My job, then, is to then relay the motions that come from - and - sorry, an early morning meeting to subsequent meetings during the day. That happens at every council, so I would have read out the motions that had been done at that meeting. If one had have been added at the second meeting, I would have then also read that out at the third. But from my recollection, the motions from the morning were just accepted at each meeting.

10 **MS RICHARDSON:** So that was a motion accepted at the first meeting?

MS MORTHEN: Yes.

15 **MS RICHARDSON:** And so then that was put to all the later meetings and adopted; correct?

MS MORTHEN: Yes.

20 **MS RICHARDSON:** So the gist of all if that is that members were being encouraged through resolutions to attend a rally prior to the council meeting that would take place the next day?

25 **MS MORTHEN:** I don't - I don't understanding the terming which you're using, "encouraged". I just want to be clear that I didn't encourage them. If they encouraged each other because they passed a motion, then that's what happened.

MS RICHARDSON: Well, perhaps - could we have the motion brought up, please. I don't have the INQ number, I'm sorry. It was the motion from the 6.30 meeting.

30 **COMMISSIONER:** Is this the one that was recorded in a piece of correspondence the union sent to -

MS RICHARDSON: It may - it might be. INQ.047.001.0054. We think this is it, but we don't - yes, I think it's a letter that memorialises the motion.

35 **COMMISSIONER:** Yes.

MS RICHARDSON: So motion 3:

40 "All USU members stop work at 12.30 pm on Wednesday the 24th to attend the 1 pm rally at Civic Place."

See that?

45 **MS MORTHEN:** Yes.

MS RICHARDSON: So that was a resolution that was passed at each of the meetings on the 23rd.

MS MORTHEN: Yes.

5 **MS RICHARDSON:** So it's the case, wasn't it, in effect, regardless of who was encouraging who, that there was a unanimous motion that every USU member attend - stop work and attend the rally the following day?

MS MORTHEN: Yes.

10 **MS RICHARDSON:** And your understanding is that the thing that was motivating these motions was the 150 jobs loss issue. Correct?

MS MORTHEN: Yes.

15 **MS RICHARDSON:** It's the case, isn't it, that at no point did Mr Ajaka say to you prior to the meeting on the 24th, "Actually, I made it up. The idea that there's going to be 150 job losses is wrong."

20 **MS MORTHEN:** He never -

MS RICHARDSON: Did he ever say anything -

MS MORTHEN: He never said that to me.

25 **MS RICHARDSON:** Did he ever say, "Stop this. I've" -

MS MORTHEN: No.

30 **MS RICHARDSON:** - "started a hare running. It's false"?

MS MORTHEN: No.

35 **MS RICHARDSON:** So at all times during this process, you were working on the basis that Mr Ajaka had told you the truth about the directive to get rid of 150 jobs?

MS MORTHEN: Yes.

40 **MS RICHARDSON:** And you gave evidence that prior to the rally the night before, you'd had communications via Facebook or some other medium where you were brainstorming how to run the rally the following next - the following day?

MS MORTHEN: Just about chants.

45 **MS RICHARDSON:** Chants. Was one of the chants you agreed appropriate is, "Ned's a knob. Save our jobs"?

MS MORTHEN: Yes.

MS RICHARDSON: So in your view, that passed muster in terms the not being too colourful?

5 **MS MORTHEN:** Yes.

MS RICHARDSON: That's fine?

10 **MS MORTHEN:** It's not too colourful.

MS RICHARDSON: Not too colourful.

MS MORTHEN: There's no swearing.

15 **MS RICHARDSON:** So is it the case that you were part of a group the night before that agreed that it was appropriate to have a chant at the rally the next day saying, "Ned's a knob. Save our jobs." Were you part of the decision-making that that was an appropriate -

20 **MS MORTHEN:** So my job is to cull the ones that are I - are just a little bit too colourful, and I did not cull that one.

MS RICHARDSON: And you did not what?

25 **MS MORTHEN:** Cull that one.

MS RICHARDSON: So you didn't cull it because you felt it was appropriate. Correct?

30 **MS MORTHEN:** I didn't feel it was overly colourful.

MS RICHARDSON: Well -

35 **MS MORTHEN:** It rhymes. It's catchy. It's easy to say.

MS RICHARDSON: Ms Morthen, you gave evidence this morning that part of your role as the relevant union organiser was to, in effect, approve what chants were okay and agreed upon, and what were too colourful. Correct?

40 **MS MORTHEN:** I'm not sure I used the word "approved".

MS RICHARDSON: Well, part of it was that you would agree upon what chants were appropriate and what were not. Correct?

45 **MS MORTHEN:** Yep, I removed ones that were inappropriate.

MS RICHARDSON: And as part of that - is that you were expressing your agreement as to whether a chant is appropriate or not. Correct?

MS MORTHEN: Yes.

5

MS RICHARDSON: And so, "Ned's a nob. Save our jobs," was among the chants that you agreed was an appropriate chant. Correct?

10 **MS MORTHEN:** That was among the chants that I left on the list to be used at the rally.

MS RICHARDSON: Because you formed the view they were appropriate; correct?

15 **MS MORTHEN:** I formed the view that it wasn't too colourful.

MS RICHARDSON: Ms Morthen, let's get real. You thought that was an okay chant. Correct?

20 **MS MORTHEN:** It is an okay chant. It's catchy.

MS RICHARDSON: And Mr Brandon Rhodes, he is a USU delegate who also works at the Council. Correct?

25 **MS MORTHEN:** Yes. Correct.

MS RICHARDSON: And that he - because you don't like hearing your voice or you don't want to be up the front, he agreed to be the person up the front with a loudhailer. Correct?

30 **MS MORTHEN:** Yes.

MS RICHARDSON: So he was the primary person representing the union at the rally?

35 **MS MORTHEN:** He was leading the chants at the rally.

MS RICHARDSON: But he was the union person speaking on behalf of the union at -

40 **MS MORTHEN:** No. If there was any speaking other than chants it would have been done by myself. He was leading chants. And that's all we had at the rally.

MS RICHARDSON: So to the extent there was anything done by a union organiser at the rally, it was done by Mr Rhodes?
45

MS MORTHEN: No, because he is not a union organiser. He is a union delegate. He was leading chants. He did not set up the rally. He did not hand out the flags. He did not muster people. He led chants.

5 **MS RICHARDSON:** So was he the only person that spoke out the front at the rally?

MS MORTHEN: No. I believe I probably spoke a little bit - I would have spoken a little bit at the beginning about being appropriate. I would have spoken a little bit at the beginning about keeping it calm, because I do that at every rally. And I would
10 have spoken at the end about calmly going inside and being respectful if you were going to go into the Council chambers.

MS RICHARDSON: And - but Mr Rhodes was the person who was leading the chants at the rally?

15 **MS MORTHEN:** Yes.

MS RICHARDSON: And did you agree with that the night before, through your Facebook group messages, that he would be the person who would do that?

20 **MS MORTHEN:** "Agreed" is the wrong word. I actually told him he had to do it, but yes.

MS RICHARDSON: So you told him he had to do it on behalf -

25 **MS MORTHEN:** To lead the chant. That's not unusual.

MS RICHARDSON: Okay. But that was sorted out the night before, that he would be doing that on behalf of the union the following day.

30 **MS MORTHEN:** Yes. He would be leading the chants.

MS RICHARDSON: On behalf of the union the following day?

35 **MS MORTHEN:** He would be leading - not on behalf of the union. He would be leading the chants at a meeting of members.

MS RICHARDSON: Well, he was there representing the union because you had told him that you wanted him to be up the front, leading the chants. Correct?

40 **MS MORTHEN:** He was leading the chants.

MS RICHARDSON: Well, he wasn't going rogue and doing it on his own behalf, was he?

45 **MS MORTHEN:** No. He was -

MS RICHARDSON: He was a union delegate.

MS MORTHEN: - requested to lead the chants. That doesn't necessarily mean that he was representing the union.

5

MS RICHARDSON: So you were the union organiser and you agreed the night before - that you said to him, "You will lead the chants tomorrow." Correct?

MS MORTHEN: Yes.

10

MS RICHARDSON: And we have the original footage of the chants at the meeting - the rally outside, but I want to suggest to you that Mr Rhodes repeated the phrase - or that someone in the rally audience had said the phrase first.

15

MS MORTHEN: Yes.

MS RICHARDSON: Is that your understanding that they - another person instigated it?

20

MS MORTHEN: Yes.

MS RICHARDSON: And that Mr Rhodes repeated that phrase twice?

MS MORTHEN: Okay, I - my recollection is once. That's my recollection.

25

MS RICHARDSON: And you're aware that Mr Rhodes has previously used the expression, "Put some pork on your fork," and that issue has been raised in the workplace - that he has used that phrase before?

30

MS MORTHEN: I don't know if I'm aware that it was raised - that he in particular had said it. I'm aware that it was raised that some members said it at a rally in 2015.

MS RICHARDSON: And that was a rally outside the mayoral ball for disabled children?

35

MS MORTHEN: Yes.

MS RICHARDSON: I want to suggest to you that he was among the group, holding up a sign saying, "Put some pork on your fork."

40

MS MORTHEN: He was definitely at the rally. But what you asked was had he been in trouble in the workplace before. Like, a rally on a private venue on a Saturday night is not in the workplace.

45

COMMISSIONER: I think what was put to you was that he had used the phrase previously, and I understood you to be saying you're not sure - he had used it previously before -

MS MORTHEN: I'm not - I'm not sure that he -

5 **COMMISSIONER:** Just hang on and let me finish, then you can tell me where I go wrong.

MS MORTHEN: Okay. Sorry.

10 **COMMISSIONER:** That you're - what was put - what I understood to be put to you was that he had used the phrase previously, and your response to that was you're aware that it had been used at a rally in 2015.

MS MORTHEN: Yes.

15 **COMMISSIONER:** But you weren't necessarily aware that - of a suggestion that it was that individual. Have I - is that right?

MS MORTHEN: That's correct.

20 **MS RICHARDSON:** And you're aware that there had been some history at the Council of people using that phrase and that it was a phrase that was highly offensive to Mayor Mannoun as a Muslim?

25 **MS MORTHEN:** I'm aware that he - he had never told me he was offended by it, but I am aware he used the words it upset him, and that was in 2015.

MS RICHARDSON: Isn't it the case, Ms Morthen, that this phrase had been used against Mr Mannoun a number of times and it was well-known that that was something that was highly offensive to him and upset him?

30 **MS MORTHEN:** I'm aware that it was used in a non-union context more times. I can't recollect that it was used by union members more than that one rally.

35 **MS RICHARDSON:** I'm just asking you about your knowledge that that was a phrase that Mayor Mannoun found deeply offensive. You knew that, didn't you?

MS MORTHEN: And what I've said is what I knew is that it upset him, because he had told me it had upset him.

40 **MS RICHARDSON:** Yes. And it upset him because he found it quite offensive because he was a Muslim. Correct?

MS MORTHEN: He had never relayed that to me.

45 **MS RICHARDSON:** But he relayed to you that he found that upsetting?

MS MORTHEN: Yes.

MS RICHARDSON: And I don't think we need to bring it up, but we brought - counsel assisting brought up for you, when you gave evidence, a Facebook posting of part of the rally, and it had a still of a union member in the bottom left-hand corner holding a toy pig.

MS MORTHEN: Yes.

MS RICHARDSON: What's the name of that person?

MS McDONALD: Sorry, the person holding the pig?

MS RICHARDSON: The person holding the pig.

MS MORTHEN: Yeah, I'm just trying - I think his name is David Taylor.

MS RICHARDSON: I think - could we've that brought up, please?

MS McDONALD: Was it the video, Kate?

COMMISSIONER: NMA.001.001.0008.

MS McDONALD: Yes.

COMMISSIONER: I think this is the video, but there's images superimposed over the top of it. Is that the -

MS RICHARDSON: Yes. There's a person in the bottom left-hand corner. It's a still.

COMMISSIONER: We will just have it brought up. And I think this it. While that is happening, Ms Richardson, did I hear you correctly that you have - we have - or someone has the unedited - or the original I should say - the original footage of this?

MS RICHARDSON: Yes. And we will send that to the inquiry and have it uploaded with a proper number.

COMMISSIONER: I'm grateful. Thank you.

MS RICHARDSON: See the person in the bottom left-hand corner?

MS MORTHEN: Yes.

MS RICHARDSON: Who is that person?

MS MORTHEN: I believe his name is Dave Taylor.

MS RICHARDSON: And he's a union member?

MS MORTHEN: Yes.

5 **MS RICHARDSON:** And do you agree with me that he was there on the day holding a toy pig?

MS MORTHEN: He was holding a number of toys and one was a pig, yes.

10 **MS RICHARDSON:** He was holding that pig there?

MS MORTHEN: Yes.

15 **MS RICHARDSON:** And you understood, didn't you, when you saw that that was designed to be offensive to the mayor, to bring a pig to that rally?

20 **MS MORTHEN:** I actually didn't see him with the pig at the rally. I saw him upstairs in the foyer outside of the Council chambers, and he had - he had, like, the silly hat he's wearing for number 1, and he had, like, two or three - I think it was three, but maybe I'm wrong - dog squeaky toys. One was a pig, one was a dog and one was some other animal, and I told him to put them away. Not because they were offensive, because I thought he'd squeak them during the council meeting and we'd get in trouble. They were like dog squeaky toys.

25 **MS RICHARDSON:** And you were aware that people were chanting at the rally, "Ned's a knob. Save our jobs"?

MS MORTHEN: Yes.

30 **MS RICHARDSON:** And that there were other chants that were aimed at Ned - Mayor Mannoun?

MS MORTHEN: Yes.

35 **MS RICHARDSON:** And you were aware that - was it after this meeting that the union started to deploy a truck with the slogan saying, "Every breath you take, every move you make, we're watching you"?

40 **MS MORTHEN:** The trucks came out before this meeting because one was at this meeting - at this rally. They have a number of signs that we changed during the period. I don't - I can't remember exactly when the eyes came. They were on the back of the truck. So the back has two sides, and then a smaller screen on the back. They were on the back. I'm not sure if we had the eyes now or if they came later.

45 **MS RICHARDSON:** And were you part of the decision-making to create a billboard on the back of a truck to that effect, with the eyes on it and the "Every step you take, we're watching you" slogan?

5 **MS MORTHEN:** It was - if you're saying was I involved in the creation, yes. I'm not the decision-maker who decides what goes on the truck. But we would have done up, with our comms team, a whole lot of artwork, and then the managers of the union would decide which ones went on.

MS RICHARDSON: But you were part of that team that put that creative together. Correct?

10 **MS MORTHEN:** Yes.

MS RICHARDSON: You agree with me that it had eyes - sort of foreboding eyes that hung over the top of the slogan?

15 **MS MORTHEN:** They were eyes. I don't know if I personally would call them foreboding, but they were eyes.

MS RICHARDSON: Well, they had some dark khol or rings around the eyes so that they were - do you recall the artwork on them?

20 **MS MORTHEN:** I just recall eyes.

MS RICHARDSON: Have you heard the evidence that Mayor Mannoun's children found those billboards scary because they were seeing their father's name being mentioned?

MS MORTHEN: And as soon as he -

MS RICHARDSON: Just wait for my question.

30 **MS MORTHEN:** Sorry, I thought you were finished.

MS RICHARDSON: With dark eyes saying, "We're watching you." Do you accept that characterisation that it's a scary billboard to have going around?

35 **MS MORTHEN:** I accept that he said that.

MS RICHARDSON: Do you see that as valid feedback from him that it's something scary for his children have to see, driving around the streets of Liverpool?

40 **MS MORTHEN:** I accept that that's how he felt and we agreed the day he raised that to to take the trucks out of Liverpool.

MS RICHARDSON: Now, you were interviewed as part of the, we're calling it the Weir investigation by Mr Harvey?

45 **MS MORTHEN:** I wasn't interviewed. I was present at the interview.

MS RICHARDSON: Sorry, you were there as a representative. Correct?

MS MORTHEN: Yes.

5

MS RICHARDSON: And you gave evidence this morning that at the meeting on 24 April that Mr Ajaka was, in effect, put on a type of special leave and there was a resolution about having an investigation into relevant circumstances. Correct?

10 **MS MORTHEN:** Yes.

MS RICHARDSON: And so you understood that when you came to be - to represent Mr Ajaka when he was being interviewed, that the focus of that interview was partly the swearing meeting and the circumstances of the swearing meeting.
15 Correct?

MS MORTHEN: Yes.

20 **MS RICHARDSON:** And also the things that had happened after the swearing meeting. For example, the 150 job loss rumour and the union meetings, culminating in the council meeting and the police, that that was all part of what the Weir investigation was looking at. Correct?

MS MORTHEN: Yes.

25

MS RICHARDSON: And you understood that a key aspect of what the Weir investigators were looking at was the source of the 150 job loss information. Correct?

30 **MS MORTHEN:** I don't actually recall if that was in the list of accusations or issues to be discussed that were given to John. I was surprised that it wasn't asked. I was not surprised it was asked but I don't remember if it was actually part of the core brief of the investigation.

35 **MS RICHARDSON:** But, I'll take you to it, you are aware that during the interview that the interviewer repeatedly came back to that topic -

MS MORTHEN: Yes.

40 **MS RICHARDSON:** - with Mr Ajaka. Now, it was apparent to you, wasn't it, that given the scope of the Weir investigation, that when you went along to be the representative of Mr Ajaka, that that might put you in a difficult position because you knew that he was the source of the 150 job loss information. Correct?

45 **MS MORTHEN:** Yes.

MS RICHARDSON: So you knew before you went into that interview that were you in a difficult position?

MS MORTHEN: Yes.

5

MS RICHARDSON: Did you raise that with Mr Ajaka, that you were in a difficult position in terms of representing him because you knew the truth about the source of the 150 job loss proposal?

10 **MS MORTHEN:** No.

MS RICHARDSON: You didn't raise that with him?

MS MORTHEN: Nope.

15

MS RICHARDSON: So you felt uncomfortable about it but you didn't talk to him about it?

MS MORTHEN: Correct.

20

MS RICHARDSON: You agree with me that someone else could have gone and been his union representative that day given the difficult position you were in?

25 **MR NADAN:** In theory, yes, but in practice no. Our team's not built like that. We don't have the manpower to do that. Liverpool is my job.

MS RICHARDSON: Liverpool what, sorry?

MS MORTHEN: Is my job. So if something happens at Liverpool it's my job.

30

MS RICHARDSON: So the date, I can tell you that the date that Mr Ajaka was interviewed by Mr Harvey and were you there as a union rep was 22 May, and you will know from the dates that he had not yet been terminated. So he was still an employee at that point. Correct?

35

MS MORTHEN: I'm - I'm assuming that you're correct. So, yes.

MS RICHARDSON: I'm telling you the dates are correct.

40 **MS MORTHEN:** Yes.

MS RICHARDSON: So at that point you were working on the basis that he was an employee and that his employment, in effect, might be saved depending on the outcome of the investigation. Correct?

45

MS MORTHEN: Correct.

MS RICHARDSON: And were you there seeking to protect him as a union member?

MS MORTHEN: Yes.

5

MS RICHARDSON: So you understood that this was an independent investigation into these issues that Mr Harvey and Weir were independent of Council?

MS MORTHEN: Yes.

10

MS RICHARDSON: So you understood there was a level of seriousness about the investigation because it had been directed to be conducted by an independent outsider?

15

MS MORTHEN: To be perfectly honest, the majority of investigations at Liverpool Council and - like most big councils, are done externally. It's not that unusual.

MS RICHARDSON: But it did have that level of formality that it had been escalated to an outsider to engage in fact-finding. Correct?

20

MS MORTHEN: Yes, but that was not special.

MS RICHARDSON: And just by way of interest, did you get a copy of the final report that Weir produced?

25

MS MORTHEN: No.

MS RICHARDSON: And - perhaps could we bring up this transcript, please. It's LCC.008.001.0022. So if we see there the line just before the bottom of the screen, where you say:

30

"Yeah I understand my role."

MS MORTHEN: Yes.

35

MS RICHARDSON: So you said you understood your role. What was your understanding of your role there?

MS MORTHEN: My role is to represent but not to answer questions for the member.

40

MS RICHARDSON: So by represent - and given you understand your role is not to answer questions, do you mean that if you wanted to talk to them you take a break and you go outside and give them some advice?

45

MS MORTHEN: Sometimes we do this. Sometimes I'll ask the investigator if they mind if I prompt or ask a question.

MS RICHARDSON: But you let the investigator take the lead, do you?

MS MORTHEN: Yes.

5

MS RICHARDSON: So if we could just go to page 13, please. Sorry. Sorry, ignore that. So - sorry, if we could go to page 21, please. And if we could see the paragraph saying:

10 "So it has upset me a little bit."

MS MORTHEN: Yes.

15 **MS RICHARDSON:** I can tell you that's Mr Ajaka speaking. And it seems under that you say:

"You're a USU member, not a delegate."

20 So are you correcting the language being used by Mr Ajaka there.

MS MORTHEN: Yes.

MS RICHARDSON: But if we just look in the paragraph starting:

25 "So it's upset me a little bit that he seems to think I'm the one who went out there."

You were hearing Mr Ajaka, in effect, express upset that he was being blamed for being the source of the 150 job proposition. Correct?

30 **MS MORTHEN:** Correct.

MS RICHARDSON: So you knew he was lying when he was giving that evidence?

35 **MS MORTHEN:** Or had forgotten, but yes.

MS RICHARDSON: You knew that evidence was incorrect?

MS MORTHEN: Yes.

40 **MS RICHARDSON:** And this was about four weeks after you had had that conversation with him; correct?

MS MORTHEN: Yes.

45 **MS RICHARDSON:** And then if we could scroll down a bit, please. Mr Harvey says - could you read that passage starting, "Yeah, I mean" - do you see that?

MS MORTHEN: Yes.

MS RICHARDSON: Just let me know when you've read that.

5 **MS MORTHEN:** I've finished. I've read it.

MS RICHARDSON: So what Mr Harvey is doing here is - do you understand what he was dealing with here? Is he was specifically trying to get to the bottom of where the 150 came from. Correct?

10

MS MORTHEN: Yes.

MS RICHARDSON: So he calls it the causational link, which is - he says:

15 "You guys are having a meeting about potential cuts."

I think we would interpret that - that's the swearing meeting about some cuts of some sort, and suddenly there's a meeting with - indecipherable - with you - with the union, and then suddenly it's out there. There's this 150 cut. So you knew, when you
20 heard that that, in fact, Mr Harvey had hit the nail on the head, which was that there was a meeting with you of the union on the 22nd, and suddenly it's out there, there's 150 - like, you knew he'd hit upon the exactly correct thesis. Correct?

25

MS MORTHEN: Yes.

MS RICHARDSON: And then he said:

"So the causational link is in my head, or I think it's been the upsetting part because then that led to what happened in the meeting."

30

Etcetera. So he's trying to get to the causational link which is - he seems to know there was some type of meeting between you and Ajaka. Suddenly 150 is immediately out there in the public domain/ and then we have a council meeting that has been, I think you would agree, a very contentious meeting. Correct?

35

MS MORTHEN: Correct.

MS RICHARDSON: With a rally and so on. So you agree with me that when you heard that evidence you understood that Mr Harvey was exactly correct in terms of
40 identifying the causational link?

MS MORTHEN: Yes.

MS RICHARDSON: And then you heard Mr Ajaka give the evidence which is at
45 the bottom of the page:

"So at no time did I ring the USU to them them what had happened. They rang me."

You heard him say that?

5 **MS MORTHEN:** I don't, but - I don't recall it but obviously he did, I accept that he did.

MS RICHARDSON: You accept that he did?

10 **MS MORTHEN:** Yes.

MS RICHARDSON: You agree with me when you heard that, you must have thought that's not correct?

15 **MS MORTHEN:** Potentially. I mean, I don't know if I was even thinking what I was thinking but it stands to reason that I would think that that was not the truth.

MS RICHARDSON: Well, Ms Morthen, you've given that before you went into this meeting you knew you were in an awkward position.

20 **MS MORTHEN:** Yes.

MS RICHARDSON: Because one of the things that would be explored was the source of the 150 job loss information and you knew that it was John Ajaka. Correct?

25 **MS MORTHEN:** That's correct.

MS RICHARDSON: You knew that that had, in fact, been concealed to date?

30 **MS MORTHEN:** Correct.

MS RICHARDSON: So isn't it the case that when you heard Mr Ajaka saying, in effect, that he didn't contact the union, that you contacted him, you knew that was wrong?

35 **MS MORTHEN:** I can't recall what I thought but I am saying to you that, yes, I can see that that is wrong now, yeah.

MS RICHARDSON: And you must have thought it at the time.

40 **MS MORTHEN:** Reasonably thinking that - I can't remember.

MS RICHARDSON: Because it was wrong, wasn't it?

45 **MS MORTHEN:** It was wrong.

MS RICHARDSON: And in fact, you hadn't rung him at all to instigate this. He had rung you on the Friday and said, "I need a meeting with you." Correct?

MS MORTHEN: Yes. Correct.

5 **MS RICHARDSON:** And then if we go over the page, please. You hear Mr Ajaka accounting:

"When I asked them, 'How do you even know about this?' That's when they said to me, 'The email,' and I said, 'What email?'"

10 And so on. And then the next paragraph starts:

"So at no time have" -

15 it must be a spelling mistake -

"..have I ever said the 150. The USU came up with that."

20 So your evidence is that that's false, the USU did not come up with that number. Correct?

MS MORTHEN: The USU did not create that number.

MS RICHARDSON: Mr Ajaka created that number, didn't he?

25 **MS MORTHEN:** Mr Ajaka told me that number.

MS RICHARDSON: That's right. And so when you heard him giving that evidence to Mr Weir, you knew that was not correct?

30 **MS MORTHEN:** Yes.

MS RICHARDSON: In fact, you knew it was false?

35 **MS MORTHEN:** Yes.

MS RICHARDSON: And you knew that Mr Ajaka knew it was false because he was the one who'd told you, correct?

40 **MS MORTHEN:** Yes.

MS RICHARDSON: And then if we go down to the next paragraph which starts:

"So I've never mentioned the 150."

45 Do you see that?

MS MORTHEN: Sorry, the second paragraph or the third paragraph? They start -

MS RICHARDSON: Sorry, it's the second full paragraph.

MS MORTHEN: Yes.

5

MS RICHARDSON: Which starts:

"Do I never mentioned the 150."

10

Do you see that?

MS MORTHEN: Yes.

15

MS RICHARDSON: So when you heard that, you knew that was false evidence he was giving to Mr Harvey?

MS MORTHEN: Yes.

20

MS RICHARDSON: And he said:

"As I said, I never spoke to anyone."

25

You also knew that was false because he had, in fact, told you in a meeting that he had called with you for that express purpose. Correct?

MS MORTHEN: Correct.

MS RICHARDSON: And then in the middle of that paragraph he says:

30

"So at no time have I ever said 150. That's the USU."

Do you see that?

35

MS MORTHEN: Yes.

MS RICHARDSON:

"I shouldn't be dragged into that and I shouldn't be blamed for that any more."

40

And so on. Do you see that?

MS MORTHEN: Yes.

45

MS RICHARDSON: So when you heard that, you also knew that that was false evidence he was giving to Mr Harvey?

MS MORTHEN: Yes.

MS RICHARDSON: So he was seeking to, in effect, lay it at your feet, or the USU feet, and put people off the scent that it was him?

5 **MS MORTHEN:** Yes.

MS RICHARDSON: At this point did you think, "I need an adjournment because I'm a witness of fact on this and I know he's giving false evidence to an independent investigator"?

10

MS MORTHEN: No.

MS RICHARDSON: You didn't think that?

15 **MS MORTHEN:** Not from my recollection.

MS RICHARDSON: Well, we can see from the transcript you didn't seek an adjournment -

20 **MS MORTHEN:** Yes.

MS RICHARDSON: - to have a side bar with Mr Ajaka saying, "What are you doing giving false evidence to Mr Harvey?"

25 **MS MORTHEN:** That's correct, I did not.

MS RICHARDSON: And if we go - move down a bit on that page, we see Mr Harvey saying:

30 "So, again, part of my understanding of what he was reflecting back to me..."

I think we interpolate here "of what the mayor was reflecting to Mr Harvey" -

"..is looking at causational..."

35

Do you see that? It's not very clear, the transcript, but do you agree with me that Mr Harvey put - came back to this topic a number of times, "What's the causational link of where this 150 has come from?"

40 **MS MORTHEN:** I agree.

MS RICHARDSON: And that if Mr Harvey relied on the false evidence that Mr Ajaka gave him that he was not the source of the 150, Mr Harvey would be misled?

45

MS MORTHEN: Yes.

MS RICHARDSON: And that - if that was then put into the Weir report that Mr Harvey compiled, that report would be incorrect and misleading as to the correct position. Correct?

5 **MS MORTHEN:** If that was put into a report, yes.

MS RICHARDSON: And then if we go down to the - were you concerned that someone you were representing was giving false evidence to an independent investigator that you knew to be false?

10

MS MORTHEN: I'm sorry, I'm just thinking of my answer because I want to be honest with you. I - I would think that I was probably angry that it appeared that we were being thrown under the bus, and by "we", more me. I would like to say that everyone is honest when they sit through an interview with an investigator, and
15 they're not, so I probably - it's probably normal that there's some times what's said to an investigator might not be exactly what happened. So I don't think this is the only time I've ever sat through a meeting like that.

MS RICHARDSON: Isn't it the case that sometimes as a representative - and we've
20 all been representatives at some times - someone is giving evidence and you think, "That doesn't really have the ring of truth about it" but you don't really know one way or other. Correct?

MS MORTHEN: Correct.

25

MS RICHARDSON: And it's a matter for them whether they are telling the truth or not?

MS MORTHEN: Correct.

30

MS RICHARDSON: Do you agree with me that you were in a different position because you knew the evidence he was giving was false?

MS MORTHEN: 100 per cent.

35

MS RICHARDSON: So you were in quite a different position?

MS MORTHEN: Yeah, and I regret - as I said this morning, I regret that it happened that way but I can't go back and change it now.

40

MS RICHARDSON: And down the bottom of that page, then we see - so firstly, just before that, Mr Harvey says, you see down the bottom:

"Yeah, just while this (inaudible) but the other side was around about - it's not very
45 clear. Why didn't you - you can communicate strongly to staff and to others that there is no such number as 150. That's one part of this..."

Of his, I guess, feelings:

"I'd picked up from him that that was one of his strong feelings."

- 5 So you understood that to be mean part of the mayor's strong feelings was why didn't Mr Ajaka strongly communicate to staff that there's no such number as 150. That was the gist of what Mr Harvey was saying?

10 **MS MORTHEN:** I think we can infer that.

MS RICHARDSON: And you knew the clear reason why Mr Ajaka wouldn't communicate to staff to that effect because he was the source of the false rumour. Correct?

- 15 **MS MORTHEN:** Well, I don't know if that's why he wouldn't communicate, but I do agree that he was the source of the information.

MS RICHARDSON: That's right. I mean, you agree with me as a matter of the practicality he is unlikely to correct it when he's the one who set the hare running.
20 Correct?

MS MORTHEN: I - I - you would have to ask him, I don't know, sorry.

- MS RICHARDSON:** And you then become involved we see down the bottom:
25 "Do you mind if I say something."

And then you say:

- 30 "As someone who was intimately involved in this, we started talking about the 150 jobs on Monday. By Wednesday 2 o'clock he was stood down, right, so he literally had less than 48 hours in which to make a statement."

MS MORTHEN: Correct.
35

MS RICHARDSON: So you were seeking to defend your union member about his conduct in not issuing a public communication to disavow the rumour. Correct?

MS MORTHEN: Yes.
40

MS RICHARDSON: And so then, if we go down to the middle of the page, please - page 23. So we see, in the middle of the page, Mr Ajaka is saying:

- 45 "So again, by the time it got to the stage where the 150 went out, it was literally less than a day in real time for me."

Do you see that?

MS MORTHEN: Yes.

MS RICHARDSON: And then Mr Harvey says:

5

"So I'm - just to clarify with the 150 then, that was something that the union - you were saying, sorry - and I could bring you into this because you were mentioned, but that was discussed. Who brought that figure up?"

10 So do you understand at that point that the interview has, in effect, changed character and you're no longer there as, in effect, a mute representative or just - you understood that your - I'll start again. You understood at the outset that your role was to not answer questions. Correct?

15 **MS MORTHEN:** On behalf of my member, yes.

MS RICHARDSON: That's right. But now you're becoming a witness of fact in the interview, that the character of the interview has changed. Correct?

20 **MR MORTHEN:** Well, I -

MS RICHARDSON: You're not playing a role of a representative here. You're actually giving primary evidence of facts to the investigator?

25 **MS MORTHEN:** Well, I think that's how it turned out.

MS RICHARDSON: Yes.

30 **MS MORTHEN:** But that's not necessarily how I saw it at the time.

MS RICHARDSON: Well, you weren't actually answering questions on behalf of Mr Ajaka. You were saying, in effect, "I've got something to say on this topic because I was there." Correct?

35 **MS MORTHEN:** In hindsight, I can see that that's what it was. But what I am saying is that at the time that's not how I viewed it. At the time I was still feeling that I was representing him.

40 **MS RICHARDSON:** But it's the case, isn't it, we saw at the bottom of the previous page, that the questions and answers were going to and fro between Mr Harvey and Mr Ajaka, and then you said, "Do you mind if I say something?"

MS MORTHEN: Yes.

45 **MS RICHARDSON:** And you said that you were, in effect, saying something "because I'm someone who was intimately involved."

MS MORTHEN: Yes, but I was saying it in defence of him, like, to assist his answer.

5 **MS RICHARDSON:** So you were seeking to defend your member by getting involved in the interview. Correct?

MS MORTHEN: Yes.

10 **MS RICHARDSON:** So you then say - Mr Harvey then asks the question of you:
"Who brought that figure up, the 150 up?"

15 And you recall he's already had a series of questions about the causational link and he's trying to get to the bottom of the source of the 150 number, correct, and he puts that question directly to you?

MS MORTHEN: I don't know if - from memory, if he put the question directly to me, but I can see that he put the question and I answered it.

20 **MS RICHARDSON:** And so you then said:

"Yeah, but we're being very firm that we'll only discuss that when we're in court, but I can tell you that person's not in this room."

25 **MS MORTHEN:** Yes.

MS RICHARDSON: So do you agree with me that the evidence that you gave to the investigator that, "The person's not in this room," was false?

30 **MS MORTHEN:** As I agreed this morning, I do.

MS RICHARDSON: And so then Mr Harvey responds:

35 "So that's probably what I need to confirm. I don't need to know the major details involved, but if that person isn't John, then that's what I need to know."

And so isn't it the case that you understood then that the issue of who was the source of the 150 was a matter of some significance to Mr Harvey?

40 **MS MORTHEN:** Yes.

MS RICHARDSON: And he was, in effect, saying, "Well, you have told me, Ms Morthen, that it's not Ajaka and that's what I need to know."

45 **MS MORTHEN:** Yes.

MS RICHARDSON: And wasn't it apparent then that Mr Weir would put some emphasis or import - he would believe you in the evidence you gave that it wasn't John Ajaka?

5 **MS MORTHEN:** Yes.

MS RICHARDSON: And that you then knew that you had given evidence on a false matter to Mr Harvey and it was a matter about which he was going to place reliance?

10

MS MORTHEN: I - I can see that now. I don't know if that was my thought process at the time.

MS RICHARDSON: But isn't it obvious when he says, in effect, "I don't need to know any more. I just need to know whether it's John Ajaka."

15

MS MORTHEN: It's obviously - it's obvious, 12 months later, reading the transcript. I don't know if in that moment that was my thought.

20 **MS RICHARDSON:** Well, just have a look at the transcript. Isn't it the case that there had been a significant number of questions about the source of the 150 number and you actually changed the character of this interview and started actually giving evidence of primary facts. Correct?

25 **MS MORTHEN:** Yes.

MS RICHARDSON: Because you were seeking to defend Mr Ajaka?

MS MORTHEN: Yes.

30

MS RICHARDSON: And you understood that if he was identified as the source of the 150 job loss proposition, that his job would be at risk?

MS MORTHEN: Yes.

35

MS RICHARDSON: And you were prepared to give false evidence to Mr Harvey in order to protect your union member, Mr Ajaka? Correct?

MS MORTHEN: Yes.

40

MS RICHARDSON: I note the time. I'm not -

COMMISSIONER: Have inquiries been -

45 **MS McDONALD:** I've made inquiries -

COMMISSIONER: Yes.

MS McDONALD: - of the witness and she is available tomorrow morning.

5 **COMMISSIONER:** All right. Okay. Well, Ms Morthen, we'll continue your evidence - is 10 o'clock sufficient or should we -

MS McDONALD: No, I think 10 will be fine.

10 **COMMISSIONER:** All right. We will resume at 10 am. If you wouldn't mind being back here shortly before then, I'd be most grateful.

MS MORTHEN: Yes.

15 **COMMISSIONER:** Thank you for your attendance and your assistance so far. You are free to go today. We will see you tomorrow.

<THE WITNESS WITHDREW

20 **COMMISSIONER:** Is there anything to do this afternoon? All right. Thank you, everybody. I'll adjourn until 10 am tomorrow.

<THE HEARING ADJOURNED AT 4.05 PM