



AUSCRIPT AUSTRALASIA PTY LIMITED

ACN 110 028 825

TRANSCRIPT OF PROCEEDINGS

O/N H-1063578

**THE HONOURABLE T. PAGONE QC, Commissioner
MS L.J. BRIGGS AO, Commissioner**

**IN THE MATTER OF THE ROYAL COMMISSION
INTO AGED CARE QUALITY AND SAFETY**

MELBOURNE

9.22 AM, FRIDAY, 18 OCTOBER 2019

Continued from 17.10.19

DAY 60

**MR P. ROZEN QC, counsel assisting, appears with MR P. BOLSTER, MS Z. MAUD,
MS E. BERGIN and MS E. HILL**

**MR G. KENNETT QC appears with MS K. MORGAN SC and MR B. DIGHTON for
the Attorney-General's Department and Department of Health**

COMMISSIONER PAGONE: Yes, Ms Maud.

MS MAUD: Thank you, Commissioners. The first witness this morning is Lavina Luboya, who is already in the witness box.

5

<LAVINA MULEK LUBOYA, SWORN

[9.23 am]

10 <EXAMINATION BY MS MAUD

MS MAUD: Have a seat, Ms Luboya. Can you state your full name for the transcript please.

15

MS LUBOYA: Yes, Lavina Mulek Luboya.

MS MAUD: And have you prepared a statement for the Royal Commission which is dated 10 October 2019?

20

MS LUBOYA: Yes.

MS MAUD: And do you have a copy of it there?

25 MS LUBOYA: Yes.

MS MAUD: Does it have a code in the top right-hand corner, WIT.0551.0001.0001?

30 MS LUBOYA: Yes.

MS MAUD: Have you had an opportunity to read that recently?

35 MS LUBOYA: Yes.

MS MAUD: Yes. Are its contents true and correct?

MS LUBOYA: Yes.

40 MS MAUD: I tender that statement, Commissioners.

COMMISSIONER PAGONE: Yes, the statement of Ms Lavina Luboya of 10 October will be exhibit 11-67.

45

**EXHIBIT #11-67 STATEMENT OF LAVINA LUBOYA OF 10/10/2019
(WIT.0551.0001.0001)**

5 MS MAUD: Thank you. Now, Ms Luboya, can I ask you to read from paragraph 3 of your statement, please.

MS LUBOYA:

10 *My name the Lavina Mulek Luboya, and I'm 21 years old, and I live in Western
Australia. I am currently employed as an assistant in nursing at a residential
aged care facility. I was born in Congo and lived in Zimbabwe for a while. I
speak four different languages, and I spoke a little bit of English before I left
15 the Congo. I took some English lessons while living in Zimbabwe. I came to
Australia in 2007 and I did some more English classes after arriving in
Australia.*

*My path into working in aged care. During my high school, I did work
placements at hospital and an aged care facility. I liked my experience in aged
20 care more than the hospital. Then I completed a cert III in health assistant as
part of my high school diploma. After graduating from high school at the end
of 2014 I started studying nursing.*

*Whilst I was studying nursing I worked as an assistant in nursing. I did not
25 finish my nursing degree and switched to a biomedical science degree. During
university semester breaks, I did a cert III in aged care. I always wanted to
help people, so I thought that aged care would be a good way to begin my
career. In 2018, I took a year off my university studies and worked full-time in
aged care. I haven't gone back to university at this stage.*

*My experience of working in aged care. I started working in aged care at the
beginning of 2018. My first job was casual but I wasn't getting many shifts so I
started working for an agency. In about June or July in 2018, I accepted a
35 casual position as an assistant in nursing with my current employer, who I will
refer to as "the first facility". The first facility is located in suburban Western
Australia and it has five wings, including a dementia wing with 20 beds.*

*There are 68 residents in total at that facility and in about June this year, I
started working at a second facility, which is also in the suburb of Western
40 Australia. This facility has 72 beds including a dementia wing with 16 beds. I
refer to this as the second facility.*

*I am employed as a casual at the first facility and at the second I'm a
permanent part-time and I have eight shifts a fortnight. My minimum
45 contracted hours are 59 per fortnight. Across both facilities, I would normally
work between 60 to 65 hours.*

5 Since I started my second job I usually work morning shift at one facility and
afternoon at the other one. Every day is different. The morning shift starts
around 6 am to 7 am. My role is to be on the floor and help residents with their
activities of daily living, answering bells, and generally assisting with anything
the residents need. Some residents need assistance with feeding, so I will assist
them with breakfast and later with lunch.

10 In the afternoon shift I go through the afternoon routine which involves things
like checking that all the residents are hydrated and repositioned. At the first
facility I also shower residents who prefer an afternoon or an evening shower.
And at dinner time, again, I assist some residents with feeding and then change
the residents into pyjamas and get them ready for bed. The night staff come in
around 10 pm and I do a handover. In both facilities that I work, there are
15 currently three assistants in nursing, one registered nurse on duty across the
facility on the night shift.

20 When I work in the morning shift I feel like there's never enough time and I'm
always on the clock. At the first facility there are 12 assistants in nursing and
three nurses; one enrolled nurse in the dementia unit and a registered nurse
for the whole facility and another enrolled nurse who helps the registered nurse
with the 48 residents who are in the upstairs wing. The second facility has two
nurses on duty; one registered nurse and one enrolled nurse, and 10 assistants
in nursing for morning shift. And the enrolled nurse works in the dementia
unit.

25 During the morning shift at both facilities there isn't enough time to spend with
each resident, and other staff and I spent each around 10 to 15 minutes with the
residents and we're constantly rushing. The afternoon shift at the first facility
is different from the second facility because at the second facility, there is not
30 showering residents in the afternoon but it's still very busy and I feel rushed.

35 Management and rostering. At the first facility, we have a part-time manager
and a clinical manager. The rostering is done by someone in head office and
she isn't onsite. We get the roster sent through on the computer and as a
casual worker, they roster a specific amount of shifts and then I can pick up
any additional shifts I would like to work. Sometimes they don't put me on the
roster and I have to ask for all my hours.

40 At the second facility there are two schedulers who are admin assistants. They
work out the rosters in six-week blocks and they allocate a certain number of
shifts to staff as permanent shifts and they make up the additional staff numbers
by letting people put their names down for any additional shift they want to
work. I do eight shifts per fortnight as permanent shifts and the maximum
amount of shifts per fortnight is 11.

45 The schedulers then approve the additional shift and not all shifts always get
picked up. If nobody puts their name down for the free shift, we just work short

and we are short staffed at the second facility about three to four times a week. At the second facility about 80 per cent of the care staff are permanent part-time so they work the same shifts each week and the other 20 per cent are casuals. At the first facility around 50 per cent of the care staff are part-time workers and the other 50 per cent are casuals or from casual pools. If you are part of the casual pool you work across multiple facilities. Some days when a staff member is sick at the first facility they call someone in from an agency company but sometimes it takes a while for them to arrive.

At other times they ask someone from the next shift to start earlier rather than calling someone from the agency. This means we are sometimes short staffed. At the second facility, they do not use agency so if someone calls in sick the registered nurse has to try to get someone else to replace them but if they can't find someone we just have to work short-staffed. For example, if someone calls in sick for a shift for the next day, it will go through rostering schedulers and they will try to replace the shift. However, if one were to call in sick after 4 pm the schedulers have gone home.

The registered nurse has to call around and try and find someone to come in. If they can't find someone, they just have to work short-staffed the next day because they don't use agency staff at the second facility. When we work short-staffed consideration about safety goes in the bin. Even though management are aware that we are short, it feels like they expect for us to make miracles and safety is not considered. It is really hard working short-staffed in high care as a lot of people who are two-assist, which means they have to use two staff for part of their care needs, in particular you need two people to lift them in or out of the bed or a chair.

At the first facility, the staff are more vocal. They refuse to do two-assist if there's not someone to help them so management will try to find staff to make sure we're not short-staffed because otherwise families will complain. At the second facility, staff are less vocal and they work as a team and help each other so people move between wings to help other staff with double assists when they are short staffed. It is very hard to look after your resident when you have to go to another wing for a good 20 to 40 minutes to help the other staff with a double assist. It means that my residents have to wait and I can't help them, for example, needing to go to the toilet when they want to.

I have raised concerns about staffing numbers multiple times at the first facility, with the clinical manager and the facility manager. I have complained about the issues like being on the floor in what we call the heaviest section which is the wing with more residents that are double assists with no partner to help. Staff come from other wings back and forth to help but would only stay for a few minutes before going back. In my experience, when I've raised this issue, there's always an excuse.

At the second facility a registered nurse told me she has raised issues of understaffing in writing. She later told me that the scheduler had to go back to her and said that we have enough people on. The other issues that affect the staff at both facilities I work is the lack of equipment. We don't have enough
5 equipment or the equipment is faulty. We put tags on the equipment to advise that it's faulty, but it may not be fixed. For example, at the first facility, we only with one hoist that can raise all the residents. We have to run back and forth with the one weight hoist across the facility. There are also problems
10 with the hoists used to transfer the residents. Many of the hoists are old and do not go high enough to get the residents off the bed properly so we still have to lift the resident and it also leads the staff having to pull the resident off the bed into their chair because the right equipment isn't available.

Training. At both facilities we have ongoing training that we do fortnightly or
15 monthly. At the first facility most of the ongoing training has become online involving listening to someone talk in a video and then answering the questions. The training is compulsory, so if you don't do it you won't be included on the roster regardless whether you are part-time or you are a casual. We are supposed to be able to do the training during work hours but
20 often we are too busy. I try to fit the training during quiet times in my shift but if a call bell rings I will stop to go and help the resident. At the first facility there are around two or three compulsory training each year that are run face-to-face.

The manual handling training that we have to do is not useful because it's
25 unrealistic. It does not allow for the fact that some residents weigh over 100 kilos, so in a hoist that is not going high enough you would need three carers to assist and end up pulling the resident. And if someone from head office comes to teach us about manual handling it's based on the books and not on reality.
30 Sometimes they train carers to deliver the manual handling to other facility which is much better as they teach us with the residents and the equipment.

Concluding remarks. Aged care is the end for a lot of residents. Despite that I
35 know that I can make a difference. A lot of the residents don't have family and we're their only families. I gain satisfaction in my job from seeing the residents smile and knowing that I made a difference. I have found that all staff are on the same page with me. My job is different every day and you can never predict what will happen. I really like what I am doing but I'm not sure about
40 the future, and the pay could be a lot better but for now it's okay. I'm considering other options because I'm always exhausted after my shifts. My back and my shoulder are always sore and I worry that if I injury my back while I am young, I won't be able to get a job after that.

A lot of the people I work with are much older than me and they tell me to get
45 out and save my back. If there were more staff and better equipment I might stay in aged care but management refuse to acknowledge that there is a problem. They always just say that they have a budget and it makes me feel

MS MAUD: And have you prepared two witness statements for the Royal Commission?

MS CUSACK: Yes, I have.

5

MS MAUD: Is one of them dated 27 August 2019 with a code in the top right corner, WIT.0389.0001.0001?

MS CUSACK: Yes, that's correct.

10

MS MAUD: And the other statement is dated 17 October 2019 and it has a code WIT.0529.0002.0001.

MS CUSACK: The one I have is not that dated, it's an earlier one dated 11 October.

15

MS MAUD: That 11 October statement was replaced by the 17 October statement; is that right?

MS CUSACK: That's correct, yes.

20

MS MAUD: We are just going to tender the first one and the third one. Do you now have the statement dated 27 August and the statement dated 17 October?

MS CUSACK: That's correct, yes.

25

MS MAUD: Have you had an opportunity to review both of those statements recently?

MS CUSACK: Yes, I have.

30

MS MAUD: Are there any changes that you would wish to make to them?

MS CUSACK: No, there's not. They remain the same.

35 MS MAUD: Are the contents true and correct?

MS CUSACK: They are.

40 MS MAUD: I tender both the statement dated 27 August 2019 and the second statement dated 17 October 2019.

COMMISSIONER PAGONE: And are you intending for them to be the one exhibit?

45 MS MAUD: I think they can be the one exhibit.

COMMISSIONER PAGONE: All right. Well, the two statements will be exhibit 11-68.

5 **EXHIBIT #11-68 STATEMENTS OF KAREN LESLEY CUSACK DATED
27/08/2019 AND 17/10/2019 (WIT.0389.0001.0001 & WIT.0529.0002.0001)**

10 MS MAUD: Thank you, Commissioner. Now, Mr Brown, you are the Queensland Health Ombudsman?

MR BROWN: That's correct, yes.

15 MS MAUD: And you have prepared a witness statement for the Royal Commission dated 30 August 2019.

MR BROWN: Yes, I have.

20 MS MAUD: Have you had an opportunity to review it recently?

MR BROWN: I have.

MS MAUD: Are there any corrections that you wish to make to that statement?

25 MR BROWN: Yes, there is. On page 7 at paragraph 32, there's some data there that is not correct. It states that my office has issued 16 interim prohibition orders and that should be 17. And it says I've taken immediate registration action seven times. That should be six times. And on the last page, paragraph 36, it says 11 practitioner matters – it refers to 11 practitioner matters; that should be 10
30 practitioner matters. There was one matter that we've since identified as not being an aged care matter but it was a high care disability facility.

MS MAUD: Okay.

35 MR BROWN: And that means that where it says "four unregistered practitioners", that should be "three unregistered practitioners".

MS MAUD: All right. Is there anything else?

40 MR BROWN: No, that's all.

MS MAUD: With those corrections, is your statement otherwise true and correct?

45 MR BROWN: Yes, it is.

MS MAUD: Yes. I tender that statement, Commissioners.

COMMISSIONER PAGONE: All right. The statement of Mr Brown with those corrections will be exhibit 11-69.

5 **EXHIBIT #11-69 STATEMENT OF ANDREW JAMES BROWN WITH CORRECTIONS DATED 20/08/2019 (WIT.0385.0001.0001)**

10 MS MAUD: And Ms Reid, you are the executive director, performance education and policy within the aged care complaints resolution group at the Aged Care Quality and Safety Commission.

MS REID: That's right.

15 MS MAUD: Yes. And you have prepared a statement for the Royal Commission that is dated 9 October 2019 and it has a code in the top right, WIT.0528.0001.0001.

MS REID: Yes.

20 MS MAUD: Yes. Have you had an opportunity to review that statement recently?

MS REID: Yes.

25 MS MAUD: Are there any changes that you would wish to make to it?

MS REID: No.

MS MAUD: And its contents are true and correct?

30 MS REID: As far as my knowledge goes, yes.

MS MAUD: Yes.

35 MS REID: Yes.

MS MAUD: I tender that statement also, Commissioners.

COMMISSIONER PAGONE: That is exhibit 11-70.

40 **EXHIBIT #11-70 STATEMENT SHONA LIANNE REID DATED 09/10/2019 (WIT.0528.0001.0001)**

45 MS MAUD: Ms Cusack, starting with you, I'm just going to ask you some questions about the scope of application of the National Code of Conduct in Victoria. You administer the Health Complaints Act 2016 - - -

MS CUSACK: That's correct.

MS MAUD: - - - and your office is established under that Act?

5 MS CUSACK: That's correct.

MS MAUD: Yes. And your office receives complaints about both health care professionals who are registered under the national law - - -

10 MS CUSACK: Yes, that's - - -

MS MAUD: - - - and unregistered.

MS CUSACK: That's correct.

15

MS MAUD: Yes. What kind of complaints in relation to registered health practitioners is your office responsible for?

MS CUSACK: We receive complaints about the provision of health services in
20 Victoria but we're a health complaints entity under the national law which means
that where we receive a complaint about a registered practitioner, we must notify the
Australian Health Practitioner Regulation Agency or AHPRA. We then work with
AHPRA as to which Agency is best placed to deal with the complaint. So we'll
25 notify, and if it's a – the complaint goes to the conduct of the practitioner, we'll refer
the matter to AHPRA. If the complaint is about matters that don't relate to the
registration or the conduct, we will, usually, deal with them within our office.

MS MAUD: What kind of complaints might fall into that second category?

30 MS CUSACK: So where a person is seeking an explanation as to what occurred,
where the – it might be about seeking an apology for something that happened. It
might be a refund of fees. That – those types of complaints can't be dealt with by
AHPRA; so they'll be dealt with within our office, but we must still notify AHPRA
at the outset that we've received that complaint.

35

MS MAUD: Now, a person may complain to your office in relation to a failure to
comply with the code of conduct by a general-health-service provider. The code of
conduct, which is scheduled to the Act under which you're established, is based on
the national code of conduct for healthcare workers. That right?

40

MS CUSACK: That's correct.

MS MAUD: Yes. And whether that code applies to a person working in Victoria
depends on whether they fit within the defined term, "a general-health-service
45 provider"; that right?

MS CUSACK: That's correct.

MS MAUD: Yes, and that, in turn, turns on whether they are providing a health service?

MS CUSACK: Yes.

5

MS MAUD: Yes, and what types of services are caught within that definition?

MS CUSACK: In effect, the general-health-service providers – that code of conduct applies to all health services that aren't regulated by AHPRA. So the 16 professions that AHPRA regulates, such as doctors, nurses, physiotherapists et cetera: everything that falls outside of that fits within the general code of conduct, if there is a provision of a health service. So, for example: massage therapist, cosmetic-providers, a lot of alternative therapies, allied – some allied health services, such as social work, counsellors, that type of thing.

15

MS MAUD: So the work that would, typically, be undertaken by a personal-care assistant in a residential-aged care facility: would that be capable of being a health service?

MS CUSACK: If it goes to the provision of the health service, yes.

MS MAUD: So when your office receives a complaint in relation to the conduct of a general-health-service provider, is the first step for it to decide whether or not to deal with the complaint?

25

MS CUSACK: That's correct.

MS MAUD: Yes, and what would be the criteria by which that decision is made?

MS CUSACK: So the assessment that's made is whether the complaint fits within the jurisdiction of the Health Complaints Act initially and then whether or not the – there is another body that's set up to deal with the complaints. So we have powers to refer matters that relate to a disability service to the disability-services commissioner for example. So if there is another Agency that is established that can deal with the complaint, we won't deal with it, as a general rule.

35

MS MAUD: Okay. So if your office decides that it will deal with a complaint, is the process then to decide whether the complaint will be subject to a complaint-resolution process or an investigation?

40

MS CUSACK: Yes, that's correct. That's – but the bulk of our work and most of the complaints that we receive we deal with through an alternative dispute-resolution process. So very few of the matters that we accept to deal with as a complaint make its way into the investigation space. So there's – we deal with most things through complaint resolution.

45

MS MAUD: What kind of matters would be dealt with by way of an investigation?

MS CUSACK: If we decide to deal with the complaint, we'll assess it, whether it's suitable for a complaint-resolution process. So if it isn't suitable for a number of reasons – it might be the seriousness of the matter. It might be that the – it is a voluntary process, our complaint-resolution process. So if the provider, the health-
5 service provider doesn't engage in that process, we may decide that the – it's still warranted to deal with as an investigation. So we will deal with it straight through into investigation. Some investigations may arise through – as the complaint-resolution process is established. So it can still be then moved into the investigation space. We have different staff doing investigations to the resolutions.

10 MS MAUD: Are you able to give a rough indication of the percentage of complaints that would be dealt with by way of a complaint-resolution process?

MS CUSACK: I can – well, the bulk of them. So for the last annual-reporting year,
15 we had just under – I think my statement says the exact number of complaints we received, but it was just under six and a half thousand, and we did 38 investigations in that time. So it's a very small number, that are actually investigated, as opposed to dealt with through the alternative dispute-resolution process.

20 MS MAUD: And while your office is conducting an investigation, you have the power to make an interim prohibition order for a period up to 12 weeks. What are the circumstances in which you can make an order of that kind?

MS CUSACK: The test is whether there's – I'm satisfied, that there's been a
25 contravention of the code of conduct and that there's a serious risk to the health, safety or welfare of an individual or the public. And so that's the test for that, and we are able to make further interim prohibition orders, if the investigation hasn't been completed within 12 weeks.

30 MS MAUD: And then at the conclusion of the investigation, you have the power to publish either a health-warning statement – what's a statement of that kind? What does that, usually, involve?

MS CUSACK: That is published in a newspaper, broadly-circulating newspaper in
35 Victoria, and on our website. It talks – it can name the health-service provider and the circumstances of the warning. It's – it will talk about the profession and whereabouts – where they practise.

MS MAUD: And the other option is to make a prohibition order.

40 MS CUSACK: That's correct.

MS MAUD: And what would be the effect of a prohibition order?

45 MS CUSACK: A prohibition order can prohibit all or any part of a health service, provision of a health service. It can impose conditions; it can be time-limited or

ongoing. We publish that as well. So that's published in the government gazette in Victoria as well as on our website.

5 MS MAUD: And is the making of an interim prohibition order also published?

MS CUSACK: Yes, it is. That's - - -

MS MAUD: Including the name - - -

10 MS CUSACK: The name of the provider and the type of service and the conditions that are imposed, if anything.

MS MAUD: And when either an interim prohibition order or a final prohibition order is made – it's an offence, to fail to comply with that order.

15 MS CUSACK: That's correct.

MS MAUD: Has your office prosecuted any offences for failure to comply with an order?

20 MS CUSACK: We prosecuted a provider who was banned in another jurisdiction and also providing services in Victoria, but we haven't prosecuted anyone for breaches of a prohibition order.

25 MS MAUD: Made in Victoria.

MS CUSACK: Made in Victoria; that's correct. Yes.

30 MS MAUD: Now, you identify in your statement that, since your office was established on the 1st of February 2017, you've received 67 complaints that were classified as involving a health-related aged care service. Is that right?

MS CUSACK: That's correct.

35 MS MAUD: And your office made a decision to deal with one of those complaints?

MS CUSACK: That's correct.

40 MS MAUD: And so the other 66 – there was a decision to close the complaint without any further involvement from your office.

MS CUSACK: That's correct.

45 MS MAUD: In relation to the 66 complaints that your office decided not to deal with, were they – a number of them closed on the basis that the complainant – it was suggested, that they contact the Aged Care Quality and Safety Commission.

MS CUSACK: Yes; that's correct. That's as part of the assessment of whether we would deal with a complaint or whether there was another Agency more suited to deal with it, and we would assist the complainant with how they went about that.

5 MS MAUD: So you would provide information about the existence and the role of the Aged Care Quality and Safety Commission, but you would not necessarily yourself refer the complaint to that Commonwealth Agency.

10 MS CUSACK: No, that's correct. The Health Complaints Act sets up – it establishes the referral processes for a number of – what's defined as the relevant law, which includes the Disability Act, Mental Health Complaints Act, Privacy and Data Protection Act, and then referrals to the – to AHPRA. There is an ability to share – to actually refer more formally to other agencies in the Health Complaints Act, which is different to the previous legislation that applied before 2017, where
15 there was a broader power to refer to any Agency.

MS MAUD: So just to understand that – your understanding is that the referral power doesn't permit you to formally refer a complaint to the Aged Care Quality and Safety Commission.

20

MS CUSACK: That's correct.

MS MAUD: But can you otherwise share information other than by way of a referral?
25

MS CUSACK: The confidentiality provisions that establish the obligations of confidentiality on my office mean that we can't share identified information more broadly unless there's an exception to that, and there are a number of exceptions within the legislation, and it sets out that, if there is a serious and imminent risk, then
30 we – the obligation of confidentiality is overridden. We can share information more broadly on the written authority of the secretary of the department of health and human services, but – or if there – for legal means. But overarching obligations of confidentiality preclude broader referrals other than those set out in the Act.

35 MS MAUD: Now, turning to you, Mr Brown: Queensland has also enacted the national code of conduct, but it's done so in a slightly different way. Your office is a single point of contact for all health-service complaints. Can you just explain what the role of your office is in relation to registered health practitioners?

40 MR BROWN: Yes. In relation to registered health practitioners, as you said, we're the single point of contact in the first instance for any complaints or notifications about a registered practitioner's health, conduct or performance. When we receive a notification or a complaint, essentially, our role is to determine whether our office should continue to deal with that matter or the matter should be referred to AHPRA.

45

Now, the test for that is that – the office of the health ombudsman will retain the most serious complaints and notifications about registered practitioners, and those

are matters that go to professional misconduct or whether there's another ground, potentially, for suspending or cancelling the practitioner's registration, and professional misconduct is defined as falling substantially below the standard that would be expected of a reasonable practitioner.

5

So we make that assessment, as to whether the matter is likely to be professional misconduct, and we'll retain it, assess it and, potentially, investigate it. Where it doesn't meet that standard, provided we consider it's not frivolous, vexatious, lacking in substance or trivial, we refer it to AHPRA to deal with.

10

MS MAUD: And your office can also receive complaints both in relation to an individual health practitioner and a health service organisation.

MR BROWN: That's correct.

15

MS MAUD: And a health practitioner includes an individual who provides a health service.

MR BROWN: That's correct.

20

MS MAUD: And that definition of "health service" would be broad enough to include the work, generally, typically, performed by a personal-care assistant in an aged care facility.

25

MR BROWN: Yes, that's correct. It's a very broad definition.

MS MAUD: Yes. Yes. Now, your office can – has the power to make an interim prohibition order in relation to an unregistered worker, but in order for a final prohibition order to be made, there must be a proceeding commenced in the Queensland Civil and Administrative Tribunal.

30

MR BROWN: That's correct; yes.

35

MS MAUD: How does the national code of conduct fit within the scheme established by the Health Ombudsman Act?

40

MR BROWN: I guess – in various ways. For our office to take action against an unregistered practitioner, for the matter to be investigated and for an interim prohibition order to be considered, the test is that the practitioner's conduct, health or performance is such that they pose a serious risk to persons and it's necessary, to act to protect the community. That doesn't, necessarily, sit particularly closely with the national code. It's almost a separate test.

45

Certainly, failure to comply with the national code might go into that test, but it's quite separate. So in those serious matters, we will investigate and consider IPOs. Where there are just – merely, I guess, breaches of the national code that don't meet that test, we can deal with them through a local resolution process, through for

example reminding the practitioner of their obligations under the national code, but a mere breach of that code wouldn't necessarily be actionable by our office.

5 MS MAUD: Now, in practice, in the periods since your office was established on the 1st of July 2014 through to the 30th of June this year, your office has received 856 complaints in relation to health-service providers delivering aged care services.

MR BROWN: That's correct.

10 MS MAUD: And 410 of those concerned a health-service organisation.

MR BROWN: Yes.

15 MS MAUD: And 567 concerned health-service practitioners.

MR BROWN: That's right.

20 MS MAUD: So just focussing on that latter category of those: your evidence is that 90 related to unregistered practitioners.

MR BROWN: Correct.

25 MS MAUD: Are you able to say what the roles being performed by those 90 were or at least give a picture of the categories of worker that that's - - -

MR BROWN: Yes. I believe it's broken down in my statement, at paragraph 29. Do you want me to go - - -

30 MS MAUD: So it's 33 in relation to assistants in nursing, 22 in relation to personal carers and nine in relation to aged care health workers.

MR BROWN: That's correct. Yes.

35 MS MAUD: Is there anything technical about those categories? Is it possible, that they might overlap?

MR BROWN: Yes. Yes, it is possible.

40 MS MAUD: Now, since the 1st of July, your office has issued 17 interim prohibition orders, and 12 of those related to unregistered practitioners.

MR BROWN: Yes; that's correct.

45 MS MAUD: In relation to those 12, are you able to tell the Commission the category of the practitioner that the order was made in relation to and the nature of the conduct that was involved?

MR BROWN: Yes. Yes. I can. I have in a table, and if I just go through that table, I guess, case by case – the first one was assistant in nursing, and it related to a health impairment that they had. Another one was a social worker; that related to theft and fraud in relation to an aged care resident. Another assistant in nursing related to a health impairment, substance abuse. Another assistant in nursing – it was illegal conduct, burglary of the resident’s room and stealing their property. Another assistant in nursing related to inappropriate administration of medication, which I understand to be spiking a resident’s drink with un-prescribed medication, a sedative, I believe.

10

Another aged care worker – was an assault of an aged care resident. Another assistant in nursing – was theft and fraud relating to an aged care resident. Another assistant in nursing – it was financial exploitation of an aged care resident and a boundary violation. Another assistant in nursing – it was a substance-abuse-related health impairment. Another assistant in nursing – it was illegal conduct, theft of medication from an aged care resident and the employer. An aged care worker – it was unauthorised administration of medication. I think it was crushing up un-prescribed medication and putting it in their food. Assistant in nursing – assault of an aged care resident.

20

MS MAUD: Did all of the investigations that resulted in the making of those interim prohibition orders arise from complaints made to your office from members of the public?

25

MR BROWN: No. Probably the largest source of information in relation to those matters came from the Queensland Police Service, either notifications from them, from investigating police, or more recently we have – we fund a position in the police information service that does daily checks in relation to practitioners that may be charged with offences or under serious investigation. So that is a source of information for us, and I’m able to make an own-initiative investigation. So that’s, probably, the largest source. The next would be notifications by providers and then finally, probably, notifications from colleagues.

30

35

MS MAUD: Work colleagues of the individual concerned.

MR BROWN: Yes; that’s right.

40

MS MAUD: And apart from the ways that you’ve just mentioned, that your office receives information that then leads to an investigation, are there other ways that your office gathers information that might lead to the exercise of its own motion, investigative power?

45

MR BROWN: Additionally there are complaints from consumers or family members. Occasionally there will be, for example media reporting of a matter that we’re not aware of. So we’ll make inquiries to identify the relevant information.

MS MAUD: So your office will pro-actively monitor matters that might be reported in the paper and will follow those up.

MR BROWN: That's correct. Yes, if we don't already know about it.

5

MS MAUD: Ms Cusack, just ask you about those matters – does your office have an own-motion investigative power?

MS CUSACK: Yes, that's correct. There are three ways in which we can commence an investigation. That's following a complaint, if the Minister for Health refers a matter or on own motion.

MS MAUD: And do you have similar resources and relationship with the Victorian Police in relation to referral of information about matters that they might be investigating?

15

MS CUSACK: We do receive some information from the police but not to the same extent, it seems, as my colleague does. We don't – certainly, don't have a position within Victoria Police. Most of the matters that we have received information from the police in relation to has been around boundary violations in the massage area; so that's where we have received the information from police.

20

MS MAUD: Has your office ever followed up matters that might be reported in the newspaper and - - -

25

MS CUSACK: Yes, we do. But it's safe to say that we are generally aware of the things that have been reported and we will often be asked for comment before a matter is reported, and we don't comment on ongoing investigations or complaint processes. But, yes, we do, if we become aware of something, we will certainly follow it up.

30

MS MAUD: All right. Now, I want to ask you both about evidence that has already been received by the Royal Commission. It involves a complaint made by Ms Holland-Batt and there was evidence given about this given at the Royal Commission's hearing in Brisbane. Could I ask the operator to bring up exhibit 8-28 and could we just turn, please, to page 0008. And if we could just bring forward on the screen paragraphs 49 and 50. I think you've seen this statement before. Are you familiar with the allegations that Ms Holland-Batt made, in particular, the allegations that are set out there in paragraphs 49 and 50?

35
40

MS CUSACK: Yes, certainly aware of them from reading the statement.

MS MAUD: Yes. So Ms Holland-Batt made a complaint to the Aged Care Quality and Safety Commission in relation to her father's treatment at an aged care facility in Queensland. It involved allegations that a carer had been seen leaving her father in a room for hours when he was awake and needed to go to the toilet; that he had deliberately moved her father's wheelchair away from his bed so he could not get up,

45

leaving him immobilised and distressed, that the carer was alleged to have taunted her father and refused to shower him, and there was also an allegation that in the course of showering him, she had neglected an obvious infection in his elbow, which resulted in him being hospitalised.

5

If allegations of that kind were raised in a complaint made to your office in relation to a personal care assistant in Victoria, is that – are they matters that your office would deal with?

10 MS CUSACK: On the face of it, no. We would assess it against the criteria I mentioned before, whether there is another agency that is better suited to deal with it and we would assist the person to contact the Aged Care Quality and Safety Commission. In the case – this is a whistleblower, I understand, that made this
15 whistleblower should lodge a complaint with the Commission although we would say that the Aged Care Quality and Safety Commission was available to them but we might facilitate that and notify them.

20 But as I said earlier, in relation to the obligations of confidentiality, we can't actually refer a matter, but we would suggest that the Aged Care Quality and Safety Commission was better suited to deal with that complaint.

25 MS MAUD: And you understand that the focus of the Aged Care Quality and Safety Commission's regulatory function is the aged care providers themselves.

MS CUSACK: Yes.

30 MS MAUD: And that it does not have any power to make orders in relation to individual workers.

MS CUSACK: Yes, I'm aware of that now, yes. Yes.

35 MS MAUD: But do you nonetheless take the view that your office would not deal with this complaint even though it does raise issues in relation to the conduct of an individual worker?

40 MS CUSACK: If the person is employed within the aged care facility, then that's correct; we would see the responsibility being with the oversight body for the quality and safety standards in aged care.

MS MAUD: Mr Brown, the allegations made by Ms Holland-Batt related to care in a residential facility in Queensland. Has your office received a complaint in relation to these matters?

45 MR BROWN: Yes, we have. Very recently. The background to that was, for the Commission's information, that we first became aware of Ms Holland-Batt's allegations of elder abuse when it was reported in the Australian newspaper, I think,

a few days after she gave evidence before this Commission. A director in my office then made contact with Ms Holland-Batt. She was fairly easy to contact through her work, to advise her of our jurisdiction and to advise her that she would – that she could make a complaint to our organisation if she wished. She had another pressing family issue to deal with. She said she was interested and she would, once she dealt with that issue. Some weeks passed. We hadn't heard from her. We followed her up again and as a result of that contact she has now made a complaint to our office.

MS MAUD: Is that unusual, that your office would take those steps to proactively follow up a matter in that way?

MR BROWN: It doesn't happen a lot but I wouldn't say that it's unusual. Again, it comes back to if we become aware of allegations against a practitioner in our jurisdiction where they may be posing a serious risk, say, through media reporting and we're not aware of it, we will follow that up through various sources. Sometimes it will be through the police because the papers may be reporting on a criminal matter. It may be directly through the newspaper or the news source or it may be through a complainant mentioned in that material. So it doesn't happen a lot but it does happen.

MS MAUD: And I take it the conduct that is described in Ms Holland-Batt's evidence, is that conduct of a kind that you would consider within your jurisdiction to investigate?

MR BROWN: Yes. I mean, the aged care worker is clearly within our jurisdiction. And I sort of speak generally on the basis that the matter is now currently potentially will be under investigation. But taking those allegations at their highest, and if they are capable of being substantiated then I would consider that they may fall within the serious risk category.

MS MAUD: Does that mean there would be potential, subject to the outcome of an investigation or the process of the investigation, that you might make an interim prohibition order in relation to conduct of that general kind.

MR BROWN: Yes. Of that general kind, if it looks like it's capable of being substantiated. Considering, obviously, the submissions that the practitioner would make in any procedural fairness process, including in this case, probably the passage of a significant amount of time and what may have happened in the interim, then it is possible that that would be a basis for some type of interim prohibition order, either a full prohibition or there may be conditions placed on that practitioner's employment.

MS MAUD: Thank you. Yesterday, the Commission heard evidence in relation to the conduct of an employee of Japara who we are referring to as Mr UA. Did you both have an opportunity to listen to or read that evidence?

MS CUSACK: Yes, I did.

MR BROWN: Yes.

MS MAUD: Just very briefly, the allegations included that on 19 March, Mr UA slapped a resident's hand and telling her that she couldn't have a biscuit. On 12
5 January 2016, Mr UA was, in effect, rough whilst assisting a resident to undress. On
3 March 2016, Mr UA was said to have forced food into a resident's mouth after they
had complained it was too hot, and on the same day Mr UA was said to have thrown
a call bell device at a resident's leg. And then, lastly, on 16 April 2016, Mr UA was
10 said to have shouted at a resident, threatened to break her walker, hit the resident on
her face and sworn at her and stomped on her clothes.

Just starting with you, Ms Cusack, if allegations of that kind were made in relation to
an aged care worker in Victoria, would your office take the same view, that it would
not deal with the complaint?

15

MS CUSACK: That's correct, if they were employed by the facility.

MS MAUD: Yes, so again, you would just recommend that the complainant contact
the Aged Care Quality and Safety Commission?

20

MS CUSACK: That's correct yes.

MS MAUD: Mr Brown, allegations of that kind, what would your officers - - -

25 MR BROWN: Yes, it's a slightly different approach. I think, looking at those
allegations in their totality, if we got that all at once and we looked at that course of
conduct, then my view would be that that – if it could be made out, would be likely
to meet the serious risk threshold which would mean the matter would be
investigated by our office and consideration would be given to issuing an interim
30 prohibition order.

MS MAUD: If those complaints weren't to be raised in one go, but were to be made
over a period of time, is there a mechanism within our office to monitor complaints
to see whether there are multiple complaints being made about a single person?

35

MR BROWN: Not necessarily. So if – if they – some of the lower-level
complaints, I guess, if you call it that, in that group of activity, would be around the
showing with cold water without testing it, that the hot food – I mean, they're
extremely concerning but it's not as clear for us as to whether that would meet the
40 threshold. If we just had those – I mean, we have – we keep a record of that material
on our system. So should there be any further complaints being made about that
practitioner, we would – that would be easily accessible by us and it would be
considered in any assessment process should further allegations come in.

45 So those first allegations would take a fair amount of consideration by us as to
whether the threshold was reached. We would look at things like their employment
history and, you know, we would search for any previous conduct on their part. But

certainly, as it progresses to the slapping incidents – I mean, we have and we will take action sometimes on one single incident of slapping a resident and liaise with the QPS as well in relation to whether charges would be laid. But, yes, it's a sort of a case-by-case decision.

5

MS MAUD: But a pattern of conduct can potentially constitute a serious risk.

MR BROWN: Yes, we certainly look for – that's something we look for.

10 MS MAUD: Ms Reid, to bring you into the conversation – I'm sorry to have ignored you – the focus of the complaints resolution group's complaints handling function is to deal with complaints in relation to approved providers; that's right, isn't it?

15 MS REID: Yes, in relation to approved providers. That's right.

MS MAUD: Yes. And so it's correct that you don't have power in relation to individual workers in aged care facilities?

20 MS REID: That's correct.

MS MAUD: The evidence that you've previously given to the Royal Commission is that the Commission, in the 2018 financial year, received 7828 complaints.

25 MS REID: Yes.

MS MAUD: Would the number be similar for the 2019 year?

30 MS REID: Yes, it's tracking along – it's tracking that way and I'd just also add that each complaint consists of about three or four different issues. So last financial year we dealt with over 18,000 separate issues.

35 MS MAUD: And, typically, is it right that about 30 per cent of the complaints to your office are considered to be out of scope, so matters that you would not deal with?

MS REID: That's correct. We do deal with them by referring to, where we can, the appropriate body.

40 MS MAUD: Right.

MS REID: Yes.

45 MS MAUD: Does your office maintain data about the number of complaints that involve allegations about the conduct of individual, either registered or unregistered, health care professionals?

MS REID: Our system records topics or issues, and there are – there is one key – sub-key word. I will just say that we are reliant on our complaints officers putting these – ticking the right key word, I guess, for the particular issue. There was one issue that was about personnel and behaviour. So we can run a – we can run a – a report against that particular key word.

MS MAUD: Is it likely that a significant proportion of the complaints to your office would involve allegations about the conduct of an individual working in an aged care facility? Do you have a sense of how often that happens?

MS REID: Yes, I think there was over 300 but I can't tell you exactly that sub-key word but I can get that for you - - -

MS MAUD: Over 300 in one year or - - -

MS REID: Yes, one financial year.

MS MAUD: Which year would that have been?

MS REID: I think it's last – not last financial year, the one before. That particular key word issue came up in the top five. Last financial year, that particular key word didn't come up in the top five.

MS MAUD: Right. And your office has arrangements in place with the various state health complaints entities for the sharing of information. At the moment those arrangements take the form of an exchange of letters between your office or the predecessor agency and the various state entities; is that right?

MS REID: Currently, the previous Complaints Commissioner did have an exchange of letters. Since 1 January when we became the Commission, we have an MOU signed and in place with the New South Wales entity and we have a draft MOU that we're working on with Queensland and we intend to do so with each entity.

MS MAUD: And broadly what will those MOUs provide for; what will be the arrangement for sharing of information?

MS REID: Okay. So they are an understanding, so a memorandum of understanding, and that will enable our staff and the staff of that entity to be able to have discussions and – have discussions about what might be within their jurisdiction and what might not be each time. So those kinds of informal discussions. It will mean that we can meet and talk about our own types of issues that are across the sector. It doesn't mean, though – it also describes, if we were to share information, it would be within their legislative framework and our legislative framework.

MS MAUD: In the course of the letters of exchange with the Victorian Health Complaints Commissioner, and I think in fact it was the predecessor agency - - -

MS REID: That's right.

MS MAUD: - - - were you aware before today that the Victorian Health Complaints Commissioner takes the view that complaints about the conduct of an individual in an aged care setting are matters that should be dealt with by your agency, not by the office of the Health Complaints Commissioner?

MS REID: I probably – I became aware once I – in the lead-up to this Commission. Before that I didn't.

MS MAUD: Is the consequence of that view that there's a gap in relation to the regulation of unregistered health care professionals in the aged care setting, at least in Victoria?

MS REID: Well, we do take a number of actions, as you know, when we become aware, which is to advise the police or to ensure that the police are advised either by us or by the complainant or by the service provider, and the service provider ensuring that they make a mandatory report. And we will make referrals to our quality and monitoring group who will also look into matters, as you know, around human resource standards. And then it is open to us to also then refer to the entities as well. Sorry, what was your question?

MS MAUD: My question is just in relation to regulation of the professional conduct of the worker, at least in Victoria, it would seem there's a gap because it's not a matter that can be dealt with by your office and the Victorian Health Complaints Commissioner doesn't deal with those matters.

MS REID: That's right. That's right. So in Victoria we would need to rely on the service provider taking disciplinary action or taking some action against their employee, yes.

MS MAUD: Now, complaints that are received by your office, are they regarded as protected information under the Act that establishes the Commission?

MS REID: Yes, we collect a lot of personal information.

MS MAUD: Yes. Is the consequence of being protected information that your ability to disclose that information is restricted?

MS REID: Yes. We can share that information in the public interest. So if we felt that, again, it was about the safety or the risk of residents, then we can share that information under the Act.

MS MAUD: Does your office consider whether it's able to share information with a State-based health complaints entity relating to the conduct of an individual worker, if that's raised in a matter?

MS REID: Yes.

MS MAUD: Yes. Does your office do that on every occasion where a complaint raises allegations in relation to the conduct of an individual?

5

MS REID: I would say that more often we would advise the complainant to go to the appropriate body for unregistered worker conduct and we would provide them with the information, phone numbers and describe the National Code of Conduct to the complainant.

10

MS MAUD: Do you accept that it's possible that a complainant in that circumstance might not follow up with the State-based complaints entity?

MS REID: Yes. If they do sound reluctant or say, "No, I can't do that or I feel uncomfortable" or whatever, we would think about getting an advocate to help them do so and we can refer them to an advocate to do so and we would do a warm transfer to an advocate or we would consider doing it ourselves depending on the risk, how high the risk is.

20 MS MAUD: Pardon me, depending on the risk?

MS REID: We would consider doing that ourselves. Yes.

MS MAUD: So consideration is not always in every case given to exercising the power yourself to disclose that information?

25

MS REID: That's right.

MS MAUD: It depends on an assessment of the approach that might be taken by the complainant?

30

MS REID: It depends on sort of a lot of factors and on the individual case, and the risk. As I said before, our first thinking is, if it is high risk, to ensure that the police have been advised, that a mandatory report has been made. We would question the provider about what action they're taking to make sure people are safe in the facility. And that would be things usually like we've terminated the employment of the person or we've moved them away or we've suspended them and they're under investigation. That would satisfy that immediate risk, and we would also make a referral to our quality and monitoring group. Then I think, lastly, yes, we would start to think about referring to the State entity ourselves.

35

40

MS MAUD: The assessment of whether or not you are permitted to share protected information with a body such as a State-based health complaints entity, it turns on whether or not there's reasonable grounds to believe that the person's conduct breaches the standard of professional conduct of a profession to which the person relates, and whether the person should be reported to that body. Is that the test?

45

MS REID: Yes, it is, with a registered care worker there is a clear code of conduct and clear parameters around referring a registered practitioner.

5 MS MAUD: And do you accept that some matters that might involve a breach of the national code might not necessarily be matters of the kind that would warrant a report to the police but nonetheless they might indicate conduct that has breached the National Code of Conduct?

10 MS REID: Yes, they may not be a criminal matter.

MS MAUD: Yes. And so in that circumstance, your office would have authority to share that information with the Health Complaints Commissioner.

15 MS REID: Yes.

MS MAUD: But as I understand it your evidence is that you would not necessarily do that, it would depend on consideration of a range of factors?

20 MS REID: Yes.

MS MAUD: Earlier this week, we heard evidence in relation to conduct of a number of people working at an aged care facility here in Victoria in suburban Melbourne. Those matters were the subject of a complaint to the Aged Care Quality and Safety Commission. Could we bring up, please, tab 48 of the Menarock tender bundle. Well, perhaps it's not necessary to bring up the document. I've not sure if you have had an opportunity to familiarise yourself with the evidence from Tuesday.

MS REID: I did watch it, yes.

30 MS MAUD: One of the allegations made in a complaint to the commission was that a personal care assistant had forced an elderly person into a manual lifting machine where it was noted that he needed – he was a two-person assist and in the course of attempting to get him to stand up in the machine, the allegation was that he had had a stroke and partially collapsed and the person had then laid him back down in bed and, in effect, left him. That complaint, as I said, was the subject of a complaint to your office. Do you know whether any referral has been made in relation to that complaint to the Victorian Health Complaints Commissioner?

40 MS REID: No, it hasn't.

MS MAUD: Do you accept that the allegations appear to at least suggest a breach of the obligation in the general code of conduct, in particular, the obligation on a general health service provider to provide health services in a safe and ethical manner?

45 MS REID: Yes.

MS MAUD: Yes. Are you able to explain why that wouldn't then be referred to the Victorian Health Complaints Commissioner?

5 MS REID: I know in that case there was a police report made. It was a police
matter. I know about the disciplinary action from the service. I also know that we
made a type 2 referral because we were – we understood the risk of that immediately
and that type 2 referral to our quality monitoring group resulted in sanctions, as you
know. It was open to us as well to make a referral to the Victorian entity. However,
10 it wasn't – it wasn't done. I said in my statement that I need to go back and look at
our guidance material and information, and really find out – try and clarify the
differences around the country and maybe make it a bit clearer.

MS MAUD: Clearer for your complaints officers?

15 MS REID: Clearer for our complaints officers to know that they can do so. I know
we are certainly clear in Queensland. Not as clear in Victoria. New South Wales,
we're clear. South Australia, I think we're clear. The other territories and states
don't – don't – haven't implemented the code of conduct.

20 MS MAUD: Now, when you say you're clear about what the position would be
with Queensland and New South Wales, is that to say that you would – if the conduct
had related to an aged care facility in Queensland, you would have referred those
matters to the Queensland Health Ombudsman?

25 MS REID: As I said before, that's the other area we have – our practice is to advise
the complainant to do so. But in the case that you are just talking about, we didn't do
that either. The advice – and that is on the thinking that it's first-hand information
that's provided to the entity. So, for example, in the case of Ms Holland-Batt, her
actual first-hand advice to the Queensland Ombudsman, and our view would have
30 been better than us doing that third-hand, and she was very happy to do that, we
thought. That way she could get feedback from any investigation that was
undertaken.

MS MAUD: Yes, but even if your office was to make the referral, further inquiries
35 would then follow, which would probably necessarily involve engagement with the
individual.

MS REID: Yes, you've heard – that's what would happen.

40 MS MAUD: Yes. So, really, once your office has sufficient information to suggest
that it is able to disclose the information, whether that information is coming from
you or from the complainant directly, is not really going to make any difference to
what the health complaints entity might do, is it?

45 MS REID: You might have to ask them that.

MS MAUD: Well, I'm just asking you because you seem to think there's a distinction - - -

MS REID: Yes.

5

MS MAUD: - - - and that it's better that the information comes from the complainant directly. I'm just trying to understand why that is the case?

MS REID: Yes. Our understanding is that if there was an investigation undertaken, much more information about that investigation would be able to be shared directly with the person who has made the complaint. That's what I'm meaning.

10

MS MAUD: Yes, but the referral would just prompt further inquiries, in effect.

MS REID: Yes, yes, if that person became the complainant in any investigation that might be undertaken.

15

MS MAUD: Yes, that's right but a referral from your office would be sufficient then, perhaps, to give rise to further inquiries with the complainant directly.

20

MS REID: Yes. Yes, not from us, but yes.

MS MAUD: Commissioners, I have no further questions for these witnesses.

COMMISSIONER PAGONE: Ms Reid, I wonder whether I could ask you this question. First of all, thank you for the information that you have given us. It's helpful and I should indicate that I am going to ask the others something a bit like the question I will ask Ms Reid. You've been in the position for a bit, and you've seen the way complaints get dealt with; some that come to you and some that go to other bodies. What do you think could be done better as an institutional thing? I don't mean by you, I mean – how will the industry and the country be better served?

30

MS REID: Okay, my own personal view based on - - -

COMMISSIONER PAGONE: That's all I can ask.

35

MS REID: - - - those circumstances that you said how long I have been doing this role. I think it would be an improvement to have some sort of unregistered carer register, national register. I think that would help service providers be able to screen people that they employ to ensure that they are getting good quality staff.

40

COMMISSIONER PAGONE: And should it be, do you think – what role do you think there would be for state-based organisations in what you have just described?

MS REID: I guess for them to be able to share it to some national register. I don't have a view on who would do that but there would need to be some oversight body.

45

COMMISSIONER PAGONE: And what about the standards generally, do you think that they're identified with sufficient clarity and precision for the work to be undertaken?

5 MS REID: Do you mean the National Code of Conduct?

COMMISSIONER PAGONE: For example.

10 MS REID: It is very general and it's not very specific when we look at some of the areas of abuse that we've been talking. For example, verbal abuse would fit within quite a general area of that National Code of Conduct. So for complaints officers to be able to understand that and see where that all fits, I think, is not an easy task.

15 COMMISSIONER PAGONE: Now, you were asked some questions about sharing of information, and I think a lot of them, the questions might have been upon – or you might have understood them as being upon the assumption that it was thought to be a good thing. But I wonder whether, in your experience, there are difficulties about the sharing of information?

20 MS REID: We have to be very aware and understand that on really reasonable grounds – and we have had experience with this with registered practitioners – to ensure that we have a reasonable – that it is on reasonable grounds that we refer that medical practitioner or a registered practitioner to AHPRA. There can be obvious consequences if we don't have good reasonable grounds for that.

25 COMMISSIONER PAGONE: And what do you think your strike rate is like; do you get it basically right or basically wrong?

30 MS REID: I think we get it right referring. We haven't had feedback that we haven't referred well, but I can't comment on how many investigations AHPRA actually end up – or what actions they end up taking.

COMMISSIONER PAGONE: Does it mean that you are basically conservative or basically adventurous?

35

MS REID: I wouldn't say we are adventurous.

40 COMMISSIONER PAGONE: All right. Well, I might come back to you in a minute to ask you what you think the main problems are but I'll give you a minute to think about that and ask the other two about the matters that I've just been raising with Ms Reid. Your bits of the national system; how do you think it is all fitting together? Let's do it alphabetically; B for Brown comes first.

45 MR BROWN: Okay. There's no question that when you look at the whole system it's complicated and I think that - - -

COMMISSIONER PAGONE: When you say complicated, do you mean fragmented?

5 MR BROWN: Yes, fragmented. And I think that it's essential that both the various
players in that fragmented environment understand each other's jurisdictions, the
limits of their jurisdictions. I think it's essential that there's good information-
sharing between them and I think it's also important that the general public, that the
service providers, that employees also have access to information that explains that
10 fragmented system. I think it can work, and I think in Queensland in relation to the
aged care space, and certainly more recently, it works fairly well because we have a
fairly close working relationship with the Aged Care Quality and Safety
Commission. We speak to them quite regularly both at officer level and at more
senior levels and we think we have a good understanding of each other's jurisdiction.

15 COMMISSIONER PAGONE: So sometimes fragmentation is a result of different
policy considerations. So, for example, in the information-sharing space, it may be
that you've got some philosophy within the state that you ought not to reveal
information too willingly or that kind of thing. And it may partly be based upon the
experiences so that in one place you might have just had an experience that brought
20 to light something so you've acted upon it immediately and implemented it
immediately. So fragmentation can be caused by all sorts of things, and sometimes
you end up with best practices emerging which others then can pick up. Does that
suggest that we should put our faith in fragmentation or should we say no, no, it's
much better to have a unified national system and hope for the best that way?

25 MR BROWN: I think that's a difficult public policy question to answer.

COMMISSIONER PAGONE: That's why I'm asking you.

30 MR BROWN: And I think there are – you know, there are – we work in a system of
federation and there are different, you know, constitutional limitations on the ability
of either the Commonwealth or the State. So I think it's a product of the system that
we have. And it gets back to my point that I think fragmentation, if you call it that,
can work if there's good cooperation and clear understanding of how it works. And I
35 think that that's really – I think we are stuck to some degree because of the system
we work in, with a level of fragmentation and it's about trying to make that work.

COMMISSIONER PAGONE: Well, the last question then to you before we go to C
is, but from the point of view, as it were, a practitioner where you are the – you as
40 the Ombudsman, do you think you would get a better system or a worse system if we
changed it in the way that we have just been talking about?

MR BROWN: I guess it sounds like I'm dodging the question, but I think it's very
hard to answer because I think there are pros and cons to both. I think there are
45 national systems that are just going to be too big and too cumbersome to work
properly.

COMMISSIONER PAGONE: That's a fair answer.

MR BROWN: So I think it's difficult.

5 COMMISSIONER PAGONE: C is not very far down the alphabet but far enough for these purposes.

MS CUSACK: Look, I think the different regulatory schemes that do apply, if I can sort of talk broadly about the health system, work well and I think I endorse what
10 Andrew has said in relation to working together. I think that is critical to having, where you have a number of regulatory agencies dealing with different aspects of a service and a sector more broadly, and that is really important and key. Things like memoranda of understanding can assist with the understanding what the roles and responsibilities are of each different agency. But at the end of the day, we have to
15 work well together because that fragmentation can potentially lead to people slipping through the cracks and that's what we want to avoid at all costs.

COMMISSIONER PAGONE: Thank you. Ms Reid?

20 MS REID: I would just have to say that, as a national body, it does make it difficult to understand the different laws that are around the country to be able to think about referring.

COMMISSIONER PAGONE: But you would like it sort of all brought into
25 harmony together?

MS REID: Yes, harmonised laws would be very nice, from my own personal perspective.

30 COMMISSIONER PAGONE: Any final comments about how the system is working or not working?

MR BROWN: No.

35 MS REID: Not from my perspective, thank you.

MS CUSACK: No, thank you.

COMMISSIONER PAGONE: Well, I think you've probably earned yourselves a
40 cup of tea. Shall we adjourn until 11 o'clock.

MS MAUD: Thank you, Commissioner.

45 <THE WITNESSES WITHDREW

ADJOURNED

[10.43 am]

RESUMED

[11.05 am]

5

COMMISSIONER PAGONE: Mr Rozen.

10 MR ROZEN: Commissioners, before I formally call the next two witnesses, who are both senior officers with the Commonwealth Department of Health, Ms Morgan, who represents the Commonwealth, wishes to raise a matter briefly that she's discussed with me.

15 COMMISSIONER PAGONE: Yes, Ms Morgan.

20 MS MORGAN: On Monday, Commissioners, a matter was raised by Professor Pollaers in relation to communication with the Minister's office; both counsel assisting and yourself, Commissioner Pagone, raised some disquiet in relation to his evidence. I've provided documents to counsel assisting, and they're now on the system. And if I could call up CTH.1000.0003.5889 – this, commissioners, is a two-page letter dated the 21st of September 2008 from Minister Wyatt to Professor Pollaers. In that one of the issues the Minister raises is an offer to Professor Pollaers to continue in a role and be paid for that role by the Government. As it happens, Professor Pollaers did not take up that opportunity, and I don't need to take that any
25 further.

30 The next document I'd like to show you, which will be formally tendered by counsel for the Commission, is CTH1000.0003.4922. This is an email chain that travels over five pages, and if I could ask the operator to go to 5924 – it commences here with Mr Nicholas Hartland, who was then the chief of staff for Minister Wyatt, who communicated with Professor Pollaers in early January, following a conversation they'd had, going through – on the advice of the department of health – the various strategic actions and what was occurring in relation to those strategic actions. Professor Pollaers replies to that on the 9th of January – which is the previous page,
35 5923. And as you will see there, Professor – at about point 6 of the page – Professor Pollaers there says:

40 *Whilst is it appreciated, I think the department hasn't done justice to the brief they were given.*

45 This may be consistent with what Professor Pollaers was saying in the witness box; in response, Nicholas Hartland responds to Professor Pollaers, and the rest of the email chain travelling on to 5922 is an attempt for a continued dialogue with Professor Pollaers in relation to the matters he raises. That was all I wanted to raise.

COMMISSIONER PAGONE: Well, thank you for that, I think. What is the message that, you think, this establishes? I mean I can see the words on the bits of paper, but what do you think it goes - - -

5 MS MORGAN: Commissioner, I was concerned in court on Monday.

COMMISSIONER PAGONE: Yes.

10 MS MORGAN: There was a suggestion of disappointment and discouragement expressed by the Commission and counsel assisting.

COMMISSIONER PAGONE: Yes. I think I used the word “discouraging” in response to his word - - -

15 MS MORGAN: Disappointment.

COMMISSIONER PAGONE: Disappointment. Yes.

20 MS MORGAN: Yes. So I used both. So this is addressing that. We profoundly – somebody said “profoundly”. I think it was you. No. So this is to address that. It was the - - -

25 COMMISSIONER PAGONE: But does it show that there should be no disappointment?

MS MORGAN: In relation to the specific matter raised by Professor Pollaers, which – I had understood, commissioner, that was what you had expressed concern about.

30 COMMISSIONER PAGONE: Yes.

MS MORGAN: Because – the way it was put was that the Minister’s office had not responded to Professor Pollaers continued request.

35 COMMISSIONER PAGONE: I see. I see. I think – yes. I think I, probably, took it broader than just the nonresponse. I thought it was a matter of – that not enough was being done. But I - - -

40 MS MORGAN: I understand the Commission is looking at that as an issue, and the evidence now will address that issue, and there are many documents, we say, which also addresses that issue at a much broader level.

45 COMMISSIONER PAGONE: But you are quite right. At one stage he did say that he’d sent an email or – and there was no response at all.

MS MORGAN: That’s correct.

COMMISSIONER PAGONE: And this is what, you're saying, is – shows there was in fact a response.

MS MORGAN: That's correct.

5

COMMISSIONER PAGONE: I see. Thank you for that. That's helpful; thank you.

MS MORGAN: Thank you.

10

MR ROZEN: Two things, commissioners: I understood from what was just said that there was an expectation that counsel assisting would tender the email chain. I'm quite content for it to be part of the evidence before the Royal Commission, and it'll be added to the general tender bundle in due course, along with the
15 correspondence in the form of the letter of the 21st of September 2018. Without wanting to take up too much time at this point – this all arose in the transcript at pages 5812 to 5813, and you will recall, Commissioner Pagone, that you asked – and this is line 40 on 5012; you asked Professor Pollaers:

20

When you say that you haven't had a response to your letter, do you mean by that that there's not even been an acknowledgement of receipt of your letter?

And the answer to that was at line 44:

25

So I got an email response, that it was all of the past programs of Government. I went back and said "Look. That isn't sufficient. I'm asking for a step-by-step response". I didn't get a response to that email.

30

You said "at all?", to which Professor Pollaers said "at all". And it was at that point, that I said that has got to be profoundly disappointing, as had been indicated by my learned friend Ms Morgan. So the state of the evidence is perhaps a little bit unsatisfactory in that – and this is no criticism of anyone, because these things happen very quickly, but Professor Pollaers never had an opportunity to see these documents and to respond to them. Perhaps the best way forward would be that the
35 solicitors for the Royal Commission provide these to him, give him an opportunity to make any further written response that he wants, and then that would, I think, close the loop in the circumstances.

40

COMMISSIONER PAGONE: Well, you might want to think about what you want to do with it. It may be, that the first thing is to look at the bits that you've just read out, because on one view what you just read and what we've just been told by the documents that Ms Morgan showed us are entirely consistent.

45

MR ROZEN: Indeed.

COMMISSIONER PAGONE: If that be so, then the disappointing and/or discouragement may still exist, but once you've had a careful look at it, you'll work out whether you need to go any further or not.

5 MR ROZEN: We'll do that, and we'll keep the Commonwealth lawyers apprised of what we do.

COMMISSIONER PAGONE: Well, careful what you promise.

10 MR ROZEN: I always am, commissioner, especially on transcript.

COMMISSIONER PAGONE: Well, Mr Rozen - - -

MR ROZEN: With that slight distraction out – sorry, commissioner.

15

COMMISSIONER PAGONE: Let's proceed.

MR ROZEN: We'll proceed. I formally call Glenys Beauchamp.

20

<GLENYS ANN BEAUCHAMP, AFFIRMED [11.13 am]

25

<CHARLES SAMUEL WANN, SWORN [11.13 am]

COMMISSIONER PAGONE: Mr Rozen, just on house-keeping: because the last two witnesses appeared pursuant to a subpoena, I think I, possibly, should on record formally excuse them so that they are not the subject of action for failing to be in the hearing. So they're formally excused.

30

MR ROZEN: They'd have what would be very close to a defence, because I did that on your behalf, but perhaps not technically a defence.

35 COMMISSIONER PAGONE: Thank – it's not technically a defence, Mr Rozen, but nonetheless we've done it formally. Thank you.

MR ROZEN: I accept that. Thank you, commissioner. Thank you. We'll do this alphabetically. Ms Beauchamp, can I start with you, please? Could you state for the purposes of the transcript your full name.

40

MS BEAUCHAMP: Glenys Ann Beauchamp.

MR ROZEN: And, Ms Beauchamp, you're the Secretary of the Department of Health that is the Commonwealth Department of Health?

45

MS BEAUCHAMP: Yes.

MR ROZEN: And it's a position you've held since 2017?

MS BEAUCHAMP: Yes.

5 MR ROZEN: In a previous statement you've provided to the Royal Commission dated the 4th of February 2019, which is exhibit 1–23, you've set out details of your personal and professional background?

MS BEAUCHAMP: I have.

10

MR ROZEN: And you've also explained the structure of the Department of Health so far as it applies to aged care to the Royal Commission.

MS BEAUCHAMP: That's correct.

15

MR ROZEN: I won't ask you to repeat that evidence; it's already before the Commission, but you can take it, that that is understood. To the extent that you need to go over any of that in the course of your evidence today, then please do so, and if you'd be assisted by that statement appearing on the screen, which, I see, it just has done – if there's anything you'd like to take us to, then of course indicate to me, and we'll organise for that to be done.

20

MS BEAUCHAMP: Thank you.

25 MR ROZEN: For the purposes of this particular hearing, which is examining workforce matters, you have provided us a further witness statement, the code of which is WIT.0379.0002.0001, a statement dated the 20th of September 2019; is that right?

30 MS BEAUCHAMP: That's correct.

MR ROZEN: And before I seek to tender that – are there two typographical errors in it that you would like to correct at this point?

35 MS BEAUCHAMP: Yes. Thank you.

MR ROZEN: The first, as I understand it, is on page 5, in the table which appears halfway down the page. In the first cell in row 9, rather than the figure 4 appearing, it should say "APS4"; is that right?

40

MS BEAUCHAMP: That's correct.

MR ROZEN: You'd seek to make that correction?

45 MS BEAUCHAMP: Yes. Thanks.

MR ROZEN: Thank you. And at paragraph 21, which is on page 0004, the reference to – in the first line, the reference to 583FTE should read “584FTE”?

MS BEAUCHAMP: That’s correct.

5

MR ROZEN: And you’d seek to make that change at this point as well?

MS BEAUCHAMP: Yes, please.

10 MR ROZEN: Other than that, are the contents of your statement true and correct?

MS BEAUCHAMP: Yes, they are.

15 MR ROZEN: I tender the statement of Glenys Beauchamp dated the 20th of September 2019, commissioners.

COMMISSIONER PAGONE: Yes; that’ll be exhibit 11–71.

20 **EXHIBIT #11–71 THE STATEMENT OF GLENYS BEAUCHAMP DATED 20/09/2019**

25 MR ROZEN: Mr Wann, could you please state for the transcript your full name?

MR WANN: Charles Samuel Wann.

30 MR ROZEN: And you are the First Assistant Secretary – Aged Care Reform and Compliance – in the Department of Health.

MR WANN: Aged Care Reform and Compliance Division. Yes.

35 MR ROZEN: Division. Thank you. I wasn’t quite sure what the word was at the end there. Division in the Department of Health, and do you answer directly to Ms Beauchamp?

MR WANN: I answer to Dave Hallinan, Deputy Secretary for the Aged Care Group.

40 MR ROZEN: Yes. Thank you. He in turn answers to Ms Beauchamp?

MR WANN: Absolutely.

45 MR ROZEN: Absolutely. Okay. Thank you. And you have made a witness statement for the purposes of the Royal Commission, which is WIT.0379.0001.0001; is that right?

MR WANN: Yes.

MR ROZEN: And your statement dated the 20th of September 2019 also contains some minor typographical errors; is that right?

5

MR WANN: Yes.

MR ROZEN: Is the first of those at paragraph 60 on page 11?

10 MR WANN: Yes.

MR ROZEN: And the error is in the designation of the exhibit number in the second-last line?

15 MR WANN: Yes.

MR ROZEN: Instead of being GAB2-5, it should be CW1?

MR WANN: Yes.

20

MR ROZEN: Thank you. And you'd seek to make that change?

MR WANN: Yes.

25 MR ROZEN: The second is on the following page, page 12. 62A1 instead – it's, once again, the exhibit number. GAB26 should be CW1.

MR WANN: That's correct.

30 MR ROZEN: The third is on that same page. In 62A(ii) "GAB27" should be "CW1"; that right?

MR WANN: That's correct.

35 MR ROZEN: And finally, in appendix A to the statement, actually annexure A – to be more accurate – in relation to strategic action 13, which is on page .0039, in the third column there should be a – the word "high" should appear; is that right?

MR WANN: That's correct.

40

MR ROZEN: That is the priority for that strategic action is high.

MR WANN: That's right.

45 MR ROZEN: Thank you. With those changes being made, is your statement – are the contents of your statement true and correct?

MR WANN: Yes.

MR ROZEN: Tender the statement of Charles Wann also dated the 20th of September 2019, commissioners.

5

COMMISSIONER PAGONE: That'll be exhibit 11–72.

10 **EXHIBIT #11–72 THE STATEMENT OF CHARLES WANN ALSO DATED 20/09/2019**

MR ROZEN: Now, if I can address you in the first instance, Ms Beauchamp, and ask you to confirm that – you and Mr Wann are jointly giving evidence in response to a notice to give information that was served by the Royal Commission on the Department of Health?

15

MS BEAUCHAMP: That's correct.

MR ROZEN: And for completeness: the notice to give is numbered 0–379, and in your statements, you have divided up the task of answering the questions that we asked in that notice to give; is that right?

20

MS BEAUCHAMP: That's correct.

25

MR ROZEN: In broad summary: you, Ms Beauchamp, have responded to questions that were directed to the Department about its own aged care workforce – if I can call it that? Firstly that's – they're questions that you've answered; is that right?

30

MS BEAUCHAMP: Yes, that's correct.

MR ROZEN: And you've also answered questions whether there should be a registration or conduct scheme for the aged care workforce; that right?

35

MS BEAUCHAMP: Yes.

MR ROZEN: And, Mr Wann, you have responded to the remaining questions that were asked in the notice, most of which relate to broader questions of workforce planning for the aged care sector.

40

MR WANN: That's correct.

MR ROZEN: Yes. Can I start – and I'll direct this question initially at you, Ms Beauchamp, and I should indicate to both of you that I'll be directing my questions at one or the other of you, but the one to whom the question has not been directed shouldn't feel shy, and if you've got something to add, then we invite you to do so.

45

So with those rules in place, if I can start with you, Ms Beauchamp – I want to ask you some questions about leadership and stewardship of the aged care workforce. So I think I can, without fear of contradiction, indicate to you that one of the themes that’s run through the evidence this week, and I should ask you, I know you haven’t
5 been in the hearing-room during the week, but have you followed the evidence that’s been given by other witnesses during the course of the hearing?

MS BEAUCHAMP: Most of it; yes.

10 MR ROZEN: And can I ask how that – how you’ve done that; have you been following it on the website, or have summaries been provided to you by your officers?

MS BEAUCHAMP: Primarily sitting at my desk, doing my work and having
15 meetings, with the Royal Commission on my web stream.

MR ROZEN: Right. Okay. And you’ll have seen, then, that a number of witnesses have been asked questions about their views about the role of the Commonwealth in respect of workforce planning, remuneration and so on. And we’ve heard from a
20 number of witnesses, both this week and earlier, that there is a need for a strong Commonwealth leadership and stewardship of the aged care workforce. So I’d ask you to accept that proposition, and I’d also ask you to accept that we’ve heard that from representatives of approved providers. We’ve heard it from representatives of unions who have coverage of workers that are working in the sector and we’ve also
25 heard it from academics and commentators who’ve given evidence during the course of the hearing.

I’d like to read out to you some small extracts of the transcript just to give you an indication of what it is that has been said. Firstly, I’d like to refer you to the
30 evidence of Professor Pollaers. This is transcript page 5812, at line 10. And Professor Pollaers was asked this by counsel assisting. “You’ve identified the five” – that is five strategic actions in his taskforce report –

which fall into that category in the right-hand column of your statement there. And we note you say that you are yet to hear the Government’s response in relation to those five, and perhaps we could list them.

35

And then, without reading the rest of that – the five strategic actions are read out, and – at line 20 – counsel assisting asked Professor Pollaers:

Do you mean by that there’s been no formal announcement about the Government’s implementation of those strategic actions?

40

And his answer was:
45

Yes. In fact, there's been no detailed response at all to each of those recommendations but for a pre-election commitment to fund the Aged Care Centre for Growth and Translational Research.

5 I will leave the reading of that at that point. In addition, we have heard evidence from the Acting Chairman of the Aged Care Workforce Industry Council, that is, the body that has been established to oversee the implementation of the strategic actions in the Pollaers Taskforce Report. And Mr McCoy, who holds that position, told the Commission of his dealings with the Department and expressed concerns about the
10 Department's response to his overtures to seek funding from the Department to assist the Council in the work that it's doing. So I guess from all that, my initial question of you, Ms Beauchamp, is what's your perception of the Department's role in relation to leadership of aged care workforce reform matters?

15 MS BEAUCHAMP: Thank you. I think we do absolutely have a leadership role in terms of workforce matters in the aged care system. And if I could add to that it's not just the Department; it's across the Commonwealth more broadly. And we do have a strong role to play on a number of fronts.

20 MR ROZEN: A couple of things arising out of that; what other parts of the Commonwealth would you consider have a role in relation to leadership?

MS BEAUCHAMP: In relation to leadership?

25 MR ROZEN: Yes. You said it's not just the Department of Health, other aspects.

MS BEAUCHAMP: I think when we are talking about leadership of the workforce and the Commonwealth's role, there are a number of agencies involved in workforce matters and do, indeed, play a leadership role. For example, the Department of
30 Education around higher education, particularly for the professional streams in health, when you're talking of nurses, physios, doctors and the like. There's also the Department of Employment and Small Business – Family and Small Business, that do take a role in establishing vocational education and training system, and skills for job-seekers, and matching up available jobs with job-seekers, and do actually take a
35 leadership role in ensuring that vocational education and training system and the competencies that go with that meet the needs of industry, and there has been, as we have heard this week, the set-up of the committee under the Department of Employment.

40 There's also the Department of Immigration that provides workforce, fills workforce gaps and shortages through the skilled migration program for us and we work closely with the Department of Home Affairs as well on that. And, of course, us in the Department of Health have a very big role to play to ensure we've got the skills and competency and attitude of workers to support the needs of clients in care, whether
45 it's residential aged care facilities, home care or other elderly people accessing the system. So there's a lot of areas of the Commonwealth that do take a leadership role.

How do we bring that together and I think that's important in terms of leadership, if I can just expand on that.

MR ROZEN: Please.

5

MS BEAUCHAMP: So I chair what we call a social policy committee with the Department of Social Services Secretary, that looks at a range of matters impacting across health, disability, social services, employment and a range of other matters impacting on social services. And within that context, there's work we're doing to look at workforce needs going forward, particularly in the social services area, and in particular looking at the care workforce, whether it's across disability, whether it's across aged care or, indeed, other social services. So there's a piece of work going on under the social policy committee. So that's an opportunity to bring us all together to address these issues.

15

MR ROZEN: Thank you. I'll see if I can unpack that a little bit. Professor Pollaers, when he gave evidence on Monday, indicated to the Royal Commission that based on his conversations with then Minister Wyatt in respect of setting up the taskforce report, his understanding from Minister Wyatt was that the Taskforce was intended to be a different process to the various government reports that had previously been released. And when I say government reports, I'm talking about the Productivity Commission which has reported on the aged care workforce; the Australian Law Reform Commission has reported on matters to do with the aged care workforce as have various Parliamentary Committees.

25

His evidence was the Taskforce Report was to be different; it was to be more practically oriented and able to be implemented by industry and government working together. That's what he told us. Is that also your understanding of the intention behind the setting up of the taskforce?

30

MS BEAUCHAMP: Yes, it is.

MR ROZEN: It was established at the time when you were Secretary of the department?

35

MS BEAUCHAMP: Yes.

MR ROZEN: It was a key reform by the government in 2018, was it not, the establishment of the Taskforce?

40

MS BEAUCHAMP: Yes, it was.

MR ROZEN: And the Taskforce, of course, reported, outlined 14 strategic actions and Professor Pollaers' evidence, which I've just read out to you, is that he had not received, as at Monday of this week, he had not received any formal response from the government to the report and the 14 strategic actions. You understand that's the evidence he gave us?

45

MS BEAUCHAMP: Yes. And I think Ms Morgan has just updated and provided further evidence to show that the government did broadly support the recommendations or the findings of the taskforce and the strategic actions and in that following email, I think it was separately identified what the specific responses were
5 from the Department conveyed to Professor Pollaers.

MR ROZEN: But you know what a formal response by government is to a report like that is, don't you? It's a publicly produced document setting out the government's response to recommendations or, in this case, strategic actions. That's
10 a formal response by government to a report of that nature, isn't it?

MS BEAUCHAMP: A formal response can take many forms.

MR ROZEN: Yes.
15

MS BEAUCHAMP: Indeed, we have provided input into providing a response to each of those recommendations, and I think probably actions speak louder than words in actually doing things and taking action on a number of the strategic items that have been identified, of which we've been engaging Professor Pollaers in that,
20 and going through the normal government processes to make sure we can implement the taskforce recommendations where it is our responsibility and where Minister Wyatt had already said on behalf of government they broadly support the taskforce findings.

MR ROZEN: Ms Beauchamp, is your evidence that the email which was tendered this morning by me but at the request of the Commonwealth, constitutes a formal response to the Pollaers Taskforce Report?
25

MS MORGAN: Commissioner, can I just interrupt for one moment?
30

MR ROZEN: Well, I think the witness should answer the question.

MS MORGAN: Could I just speak to my friend before I say anything further?

COMMISSIONER PAGONE: Yes, I think you should go offline and speak to him.
35

MS MORGAN: Thank you.

MR ROZEN: Ms Beauchamp, I'm asking you whether there has been a formal response by the government to the Pollaers Taskforce Report. This arises from evidence that Professor Pollaers gave, and I will re-read it for the benefit of everyone here. He was asked line 20, page 5812:
40

Do you mean by that there has been no formal announcement about the government's implementation of those strategic actions?
45

And his answer was:

Yes. In fact, there has been no detailed response at all to each of those recommendations but for a pre-election commitment to fund the Aged Care Centre for Growth and Translational Research.

5 He then went on in his evidence to refer to correspondence with the Minister. I'm not asking you about that. I understand that the documents that have been tendered go to that second point; that is communication between Professor Pollaers and the Minister. For the moment, I'm confining myself to questions of you about whether the government has made a formal response. Do you understand that?

10 MS BEAUCHAMP: Yes, I do understand that, and if I can just comment, you've made two comments whether there has been formal announcements or a formal response.

15 MR ROZEN: Yes.

MS BEAUCHAMP: And I just wanted to clarify that there has been a number of government announcements about accepting – broadly accepting the findings of the taskforce.

20 MR ROZEN: Yes, and they are announcements that have been made, that were made by Minister Wyatt.

MS BEAUCHAMP: Yes. And there have also been announcements made about particular strategic actions contained in the Taskforce Report, about, for example, the establishment of the Workforce Industry Council, the establishment and announcement of the Workforce Industry Committee within the Department of Employment, the announcement around the establishment of the Growth Centre, for example, which I think you commented on in the transcript. So there have been a number of announcements related to the taskforce recommendations.

MR ROZEN: I want to ask you about one of the documents that has been provided to the Royal Commission in relation to this question of whether or not a formal response should be made to the taskforce. It's tab 226 of the general tender bundle; if that could please be brought up on the screen? This document is headed Ministerial Information Request addressed to Minister Wyatt, copied to Minister Hunt; Issue: Government Response to the Aged Care Workforce Strategy. Can you tell the Commission what this document is; is this a briefing note prepared by the department for the Ministers, Ms Beauchamp?

40 MS BEAUCHAMP: Yes, it looks like a briefing note prepared by the Department.

MR ROZEN: Okay. Have you seen this before?

45 MS BEAUCHAMP: Only in – only for preparation for today's appearance.

MR ROZEN: Okay. If it assists you at all, I will ask that the fourth page be brought up, which is 5210. You will see there that a contact officer is identified, Tana Browne and a clearance officer, Anthony Speed. Does that assist you at all in explaining to the Commission the nature of the document or have you sufficiently explained to us what it is?

MS BEAUCHAMP: I think I've confirmed that's a document from the Department signed off by two employees.

MR ROZEN: Right. You said you had seen it in preparation to give evidence today. Does that mean you hadn't seen it at the time that it was conveyed to the Ministers?

MS BEAUCHAMP: That's correct.

MR ROZEN: Okay. If we can go back to page 1 for the moment, you will see that there's a heading Background: Government Response to the Aged Care Workforce Strategy. Do you see that about a third of the way down the page?

MS BEAUCHAMP: Yes, I do.

MR ROZEN: And it's noted there that the strategy was released on 13 September 2018. And then the author of the document has written:

The strategy was developed by an industry-led taskforce and identified actions for industry to implement. It was not a review developed for government and consequently does not require a formal government response.

Do you see that?

MS BEAUCHAMP: Yes, I do.

MR ROZEN: And it's right, isn't it, that the briefing note was a document which was telling the Ministers why it was not necessary for the government to respond to the Pollaers report. Is that a fair characterisation of this document, Ms Beauchamp?

MS BEAUCHAMP: Counsel, can I just clarify the question. I think you said that this was a document about not responding to the report.

MR ROZEN: Yes.

MS BEAUCHAMP: And, indeed, we have taken a number of actions to respond to actions in the report. I think you are talking about a formal public written response, are you?

MR ROZEN: Well, I'm just reading the document, Ms Beauchamp. But it would seem to refer to a formal public government response, yes. Do you want me to repeat the question?

5 MS BEAUCHAMP: So I think it does and it's not – it's not probably the words I would have used but I think it's saying that because Professor Pollaers was very focused on such a report being industry led and being independent of government, that it wasn't necessarily important or critical to provide a formal public response to each of the strategic items.

10 MR ROZEN: Well, I suggest to you that's not the reason why the briefing note says that a formal response was not required. If you go to the second page, you will see that the departmental officer who wrote it – and Mr Speed is a senior officer within the Department, is he not?

15 MS BEAUCHAMP: That's correct.

MR ROZEN: What's his position?

20 MS BEAUCHAMP: He's the Assistant Secretary, and if I can just refer to my statement. –

MR ROZEN: Certainly.

25 MS BEAUCHAMP: Apologies. He heads up one of our branches, but I just want to get you the right - - -

MR WANN: Can I?

30 MR ROZEN: Mr Wann, I think, can assist us.

MR WANN: He now works for me.

MR ROZEN: I see.

35 MR WANN: I'm not – I don't know what his role was in that context, but he is currently the Assistant Secretary of Compliance, Aged Care Compliance Operations Branch.

40 MR ROZEN: All right. Thank you. Ms Beauchamp, if I can draw your attention to the first complete paragraph on the second page of this document. Do you see it says:

45 *Release of a formal response to the strategy would carry several risks for government.*

Do you see that?

MS BEAUCHAMP: I can see that, yes.

MR ROZEN: Including the following, and there's four dot points set out. I don't want to take you through each of them, but I would like to – and you read them all if you need to to answer this question. It's said that:

10 *One of the risks to government would be that it would invite renewed criticism of the absence of similar responses to other aged care review reports including the Legislated Review of Aged Care and the Review of National Aged Care Quality Regulatory Processes.*

Do you see that?

15 MS BEAUCHAMP: Yes, I do.

MR ROZEN: And perhaps for completeness, the third dot point, it said that:

20 *A further risk for government is that a formal government response will invite public statements by key stakeholder groups drawing renewed attention to sensitive matters such as staff ratios, aged care funding, access to health services for older Australians and service quality.*

Do you see that?

25 MS BEAUCHAMP: Yes, I do.

MR ROZEN: So it's not saying, is it, that we don't need to respond because this was an industry-led process; that's not the reason behind the advice not to respond, is it?

30 MS BEAUCHAMP: This was a view of officers at the time. I probably wouldn't have couched it in those terms myself.

MR ROZEN: But nonetheless, it is the formal advice that was provided to the Ministers by the Department, isn't it, on this question?

MS BEAUCHAMP: Yes, it is.

40 MR ROZEN: Yes. And I suggest to you that the advice is, "Technically we don't need to respond to this report because it's not a formal government report"; do you agree with that?

MS BEAUCHAMP: I'm just pausing because I'm not sure what a formal government report is. Professor Pollaers was very clear in terms of the approach around the taskforce that he wanted to ensure that he took industry players with him in this and responsibility for implementation of the taskforce. As you have said, it

was joint between both the government and industry players. So he – he took that attitude that he was really trying to mobilise momentum across the industry sector.

5 MR ROZEN: Ms Beauchamp, I will ask you please to try and answer my question, if you can. I suggest to you that the advice – the formal advice that was provided to the Ministers on this topic, on the question of whether there should be a formal response to the Pollaers report was, to use the words of the document, it's not a review developed for government and, therefore, doesn't require a formal government response. That, I suggest to you, is a rather technical point to be making. What do you say to that?
10

MS BEAUCHAMP: Yes, that's correct, how it's written.

15 MR ROZEN: Yes, and what's more, the detailed reasoning for why it's not appropriate to make a response suggests that if a response was made it could cause some embarrassment to the government because it hasn't responded to other reports. Do you agree with that?

20 MS MORGAN: Could I just object to that statement on two bases? One is Mr Rozen is chopping and changing between page 1 and page 2. The witness does not have the document in the witness box. The witness has page 2 highlighted and an extract. So if Mr Rozen is going to refer to other parts of the document, could you please have it up on the screen? But more specifically, he is describing, he is conflating the concept of risk and whether or not a response is necessary. And I think those two things are clear on the face of the document. It should be kept clear in the question to the Secretary.
25

30 COMMISSIONER PAGONE: Mr Rozen, it seemed to me, the question was perfectly all right. But you've been invited to fix it up.

MR ROZEN: Can I deal with the first objection. We'll have both pages put up on the screen firstly, as a matter of fairness to the witness.

35 COMMISSIONER PAGONE: Yes.

MR ROZEN: In relation to the second – in my submission, I'm not conflating anything. I'm drawing the witness's attention to two parts of the document. Firstly, advice that - - -

40 COMMISSIONER PAGONE: You can ask the question, Mr Rozen. The objection seemed to have been that there were two issues involved in the question, and there are no doubt two issues involved in the question. And you are entitled to ask the question, and now that the pages are both up there, you can perhaps just identify more precisely where on the page the question of risk arises, and indeed, the word
45 "embarrassment" might've been a better word to use than "risk", but that's a matter of personal preference.

MR ROZEN: If the Commission pleases. Ms Beauchamp, you now have both pages highlighted in front of you?

MS BEAUCHAMP: Yes.

5

MR ROZEN: And just to clarify: on page 1, under the heading “Background”, there is advice, that because it wasn’t a review developed for Government, it doesn’t require a formal Government response, and I think you’ve agreed with me, that that was a rather technical bit of advice to be providing the Minister, and you said as much, that you wouldn’t have used those words yourself; is that right?

10

MS MORGAN: No. That’s not what the evidence was, Commissioners.

MS BEAUCHAMP: I’m just commenting, whether that was the actual paragraph you were referring to, when you asked me to respond, whether it was technical or not.

15

MR ROZEN: That was the paragraph where – I asked you if it was technical. Yes.

20

MS BEAUCHAMP: Yes.

MR ROZEN: And what do you say to that, Ms Beauchamp?

MS BEAUCHAMP: I say that that was, clearly, knowing the background to the whole Taskforce Report – the intent of Professor Pollaers was that implementation of the recommendations contained in the Taskforce Report were primarily the responsibility of industry.

25

MR ROZEN: And then I asked you some questions about page 2, which you’ll see on the right-hand side.

30

MS BEAUCHAMP: Yes.

MR ROZEN: What are described as risks for the Government – and to pick up Commissioner Pagone’s words: the advice there is that it could be embarrassing for the Government, to put out a formal response. That’s the gist of the advice that’s been given on page 2, isn’t it, Ms Beauchamp?

35

MS BEAUCHAMP: I don’t think it talks about embarrassment as such. It just – it states, to me, the obvious, really, and it’s just highlighting that there would be inviting criticism and the like. So I – it’s just, for me, stating facts.

40

MR ROZEN: It’s true, it doesn’t say “embarrassment”, but that’s the gist of it, isn’t it, Ms Beauchamp? “If we put out a formal response, then we’ll invite all these criticisms that we haven’t done so in relation to other reports, and it will raise concerns about related matters such as staff ratios, aged care funding and so on.” That was the advice?

45

MS BEAUCHAMP: I agree, that this is not absolutely fantastic wording and wording that I would use. I think it's trying to raise issues that are – I think, are quite obvious but also not wanting to pre-empt any substantial outcomes of taking some of the strategic action items forward by both, either and, industry and Government.

5

MR ROZEN: It's not just a matter of infelicitous language, Ms Beauchamp. I suggest to you that this speaks of a Department that is advising a Minister from the point of view of political risk, rather than embracing and supporting publicly the work of the taskforce. What do you say?

10

MS BEAUCHAMP: So I think it's very clear, the Government has come out in broad support of the recommendations of the taskforce.

MR ROZEN: I don't think you're answering my question, Ms Beauchamp. The advice is concerned with political risk, rather than embracing publicly, in a formal way, the outcome of the taskforce that the Government itself set up. What do you say?

15

MS BEAUCHAMP: So if – I can just say that the Department doesn't embrace things publicly when there have been reports made to Government. Our role is to support implementation and delivery, and it wasn't our place, to embrace it or not. It was really providing, as you said, advice to – this is one piece of advice provided to the Minister, along with a range of other advices we provide to the Minister.

20

MR ROZEN: Ms Beauchamp, I didn't say anything to you about the Department embracing it publicly. I said the Department was advising the Government of political risks and potential embarrassment rather than advising the Government that it ought to be publicly embracing the outcome of the Taskforce Report. What do you say to that that?

25

30

MS BEAUCHAMP: On this particular occasion, yes, but – if I could just add – we provide a range of advice to the Minister. This is one piece of advice.

MR ROZEN: I see. Is there other advice that is different to this and advises the Government to make a formal response to the Pollaers report?

35

MS BEAUCHAMP: We have provided advice – and I've had conversations personally with Minister Wyatt – to embrace the recommendations; yes.

MR ROZEN: Ms Beauchamp, this is not leadership. Is it?

40

MS BEAUCHAMP: This is one piece of advice in a range of advices that go to Ministers.

MR ROZEN: I suggest to you that this is advice that will just – “Better off, we just keep our heads in the sand, rather than be seen to be publicly embracing this report,

45

because there could be political embarrassment associated with us not having done similar things in relation to other reports.”

5 MS BEAUCHAMP: I would, certainly, not like the impression that the Department and, indeed, the Commonwealth hasn't shown leadership in embracing the Pollaers report, and that's been confirmed publicly. This is one piece of advice that has gone up by, as you say, a senior officer to Minister Wyatt, but in the context of getting things done and actually delivering against the strategic actions – I think that's, probably, more important to focus on, in terms of representing leadership.

10 MR ROZEN: Now, you know, Ms Beauchamp, that an Aged Care Workforce Industry Council was established subsequent to the Pollaers Taskforce Report, don't you?

15 MS BEAUCHAMP: Yes.

MR ROZEN: And you know that its task is to implement the 14 strategic actions in the Pollaers Taskforce Report?

20 MS BEAUCHAMP: Yes.

MR ROZEN: Do you, in the ordinary course, receive the minutes of the workforce industry council's monthly meetings?

25 MS BEAUCHAMP: I do not personally receive them. No.

MR ROZEN: Is there an officer in your Department who is charged with receiving and evaluating what is in those minutes? Do you know?

30 MS BEAUCHAMP: Yes, there is.

MR ROZEN: There is? And who's that?

35 MS BEAUCHAMP: I think I can recall – I'll ask Mr Wann – Ms Kate McCauley.

MR ROZEN: She's an officer who reports to you, is she not, Mr Wann?

MR WANN: She does; yes.

40 MR ROZEN: Yes. And is that right? Is part of her role to receive the minutes of the workforce-industry-council meetings?

45 MR WANN: Her role is as a contact point for the industry council. At this stage there's no requirement or expectation that the minutes of the meetings are provided to us. That's something that we would clarify in the context of an MOU.

MR ROZEN: My question's not so much whether there's an arrangement for it to happen but whether it happens.

MR WANN: No.

5

MR ROZEN: Do you know? Does she get them?

MR WANN: My – I don't know if she gets them.

10 MR ROZEN: You do know that she has dialled into a couple of the meetings?

MR WANN: Yes.

15 COMMISSIONER PAGONE: Mr Wann, I wonder whether I might ask you to sit a bit closer to the microphone, only because the answer that you gave a moment ago – I thought you said, "There was no expectation that the minutes of the meetings be provided to us." The transcript actually has typed up "expectation that the Minister's meetings are provided to us". So I think we – there's a risk that we might miscapture what you're saying.

20

MR WANN: That's a very important point.

MR ROZEN: The word should be "minutes", shouldn't it?

25 MR WANN: Yes.

MR ROZEN: Yes. Indeed. Thank you, Commissioner. I want to ask you about one set of the minutes that've been provided to the Royal Commission, and could I ask, please, that tab 140 of the general tender bundle please be displayed on the screen – and, in particular, page 0019, second page of that document. And just for your understanding, Ms Beauchamp: this is the meeting of the 15th of August 2019 of the council. And you'll see that in the left-hand column there's an item 3.1 and then there's a heading, "Matter for decision, funding for the council". Do you see that? Ms Beauchamp, is that clear there?

35

MS BEAUCHAMP: Yes. Yes; sorry, counsel.

MR ROZEN: You'll see there's a series of dot points then in the third column, and I want to ask you about the fifth of those. Do you see it starts "There was discussion about whether"? It's about halfway down the page.

40

There was discussion about whether to engage with the Minister on the funding-issue.

45 And if I just pause there – Mr McCoy's evidence was the funding-issue was Government funding for the work of the council. And then returning to the document:

A number of directors had already met with the Minister in relation to their specific aged care issues. Feedback from those meetings was that the Minister did not necessarily agree with the commitment on aged care from the previous Minister.

5

I just pause there in the reading. Is that difference of views between the current Minister and his predecessor something that you're familiar with as the secretary of the department?

10 MS BEAUCHAMP: I don't think I'm in a position to respond to what conversations may or may not happen between ministers.

MR ROZEN: Well, I'm not asking you anything about conversations with ministers. I'm asking you whether you, as secretary to each of these ministers
15 consecutively, is aware that they have a different view, apparently, about commitments on aged care that were made by Minister Wyatt. The Minister Colbeck takes a different view. Is that something you're aware of?

MS BEAUCHAMP: It's not something I'm aware of.
20

MR ROZEN: Returning to the document: it says the Minister – and this is Minister Colbeck now – was aware of the council but thought it had started in January 2019 and had not done much, this misinformation was, apparently, supplied by the
25 department. Do you see that is stated in the minutes?

MS BEAUCHAMP: I can see that.
30

MR ROZEN: Does it concern you, that the council, which is established to give effect to the actions in the Pollaers report, which itself was set up by the federal
30 Government, is, apparently, of the view that misinformation is being provided by the department to the Minister?

MS BEAUCHAMP: I think the words say this misinformation was, apparently,
35 supplied by the department.

MR ROZEN: Yes.

MS BEAUCHAMP: And I am not in a position to say what that's referring to.

40 MR ROZEN: No, and I'm not asking you to say what it is referring to. I'm asking you whether you're concerned, that that's recorded in the minutes of this council?

MS BEAUCHAMP: Yes. I am concerned.

45 MR ROZEN: I should say for completeness that, when I asked Mr McCoy about that on Monday, he said that that accurately reflected the view of the council, that

there was apparent misinformation being provided by the department to the Minister; that equally would concern you.

5 MS BEAUCHAMP: That would very much concern me, if we're providing misinformation to the Minister; yes.

10 MR ROZEN: Can I go back to you on this topic, Mr Wann. Why hasn't an officer of the department attended in person any of the meetings of this workforce industry council, which has now met six times, as we understand it?

MR WANN: An offer has been made – to attend in person.

15 MR ROZEN: What do you mean by that? That the department's offered to have someone attend the meetings.

MR WANN: The more recent meetings; yes.

20 MR ROZEN: The minutes record that the department has declined to attend at least one meeting. Is that not right?

MR WANN: I'm not aware of that invitation.

MR ROZEN: Have you spoken - - -

25 MR WANN: Could I see the relevant - - -

MR ROZEN: Sure. If I could ask that tab 140, please, be put up on the screen – and just for your understanding: this is the same meeting, 15th of August – page .0023. Do you see the bottom entry there, “4.6.2, Department of Health First Assistant Secretary Charles Wann and Jaye Smith”? And then the minutes record the departmental representative declined the invitation to attend the council meeting. Do you see that?

30

35 MR WANN: Yes.

MR ROZEN: And do you say that's not accurate, that there was no declining by the department to attend a council meeting?

40 MR WANN: That's my understanding.

MR ROZEN: I see. So your evidence is that – what? You've personally offered, have you? To attend a meeting and they haven't let you come: is that what you are telling us?

45 MR WANN: No.

MR ROZEN: What is your evidence?

MR WANN: That for the September and October meetings, as far as I'm aware – that Kate McCauley was invited to attend and she offered, on one occasion, to attend personally and they said that's not necessary.

5 MR ROZEN: I see. But she's attended both of those meetings by telephone.

MR WANN: Yes, for parts of the meeting.

10 MR ROZEN: Mr Wann, this council is doing a very important job – isn't it – of trying to implement the 14 strategic actions in the Pollaers report?

MR WANN: Very much so.

15 MR ROZEN: This is the principal bit of work that is going on in Australia to address the range of issues that arise in the context of the aged care workforce?

MR WANN: Exactly.

20 MR ROZEN: And it's work that was initiated by the Government when it set up the Pollaers taskforce?

MR WANN: Yes.

25 MR ROZEN: It's – I can't for the life of me understand why the department wouldn't be doing everything it can to support the work of this council. Do you think the department is doing everything it can to support the work of this council?

MR WANN: Yes. We can do more.

30 MR ROZEN: Well, you can't be doing everything you can and be able to do more, can you, Mr Wann?

35 MR WANN: Well, every project goes through phases, and the council, at present, needs to do its work in terms of establishing – well, to work out its thinking in terms of establishing an implementation plan, engagement strategy, communication strategy, scheduling, prioritising, and that's work that they have been, as I understand, intensely involved in. And they are coming to a position where they're ready to engage with the department to work out in a more comprehensive way how we can work in partnership going forward and be very clear about their roles, our roles, the role of industry, the role of the department of employment, for example, 40 basically, the various players.

45 And I think we're getting pretty close to that, and I met with the secretariat recently and asked for a meeting in early November so that we could consider their plans and what they saw where the priorities and the roles of stakeholders going forward, including us. And we would work out, going forward through an MOU, how we

would operate going forward in that context, because it's an enormous piece of working spanning a number of years and we have to get the early parts right.

5 MR ROZEN: Mr McCoy, who is the chairman of the council has provided a statement to the Royal Commission, and he is responding, and I'd ask that this be brought up; Mr McCoy's statement is exhibit 11-4, and I'm looking at page 10 of that document. Paragraph 65 towards the bottom of the page, do you see that, Mr Wann?

10 MR WANN: Yes.

MR ROZEN: The question, how is the council funded. He said:

15 *The government's funding commitment to the council of \$2.6 million (see the budget announcement at attachment 8) is yet to result in a direct funding agreement other than as explained at paragraph 70 below.*

And at paragraph 70 on the following page, Mr McCoy said:

20 *The council's secretariat function is currently funded by the Department of Health until 30 June.*

I won't read the bit in the brackets:

25 *I understand this forms part of the government's commitment as mentioned in paragraph 65 above.*

And he also said at paragraph 68 at the top of that page:

30 *Otherwise the council is acting with no funding other than as set out above and it does not have any insight into when funding is expected. The council will need government funding support particularly in the earlier years to drive the changes recommended in the taskforce report with the speed required by the sector.*

35

I'll just pause there in the reading; the Pollaers taskforce report timeframe is that these strategic actions will be implemented within one to three years. You are aware of that?

40 MR WANN: Yes.

MR ROZEN: And I suggest to you that's entirely consistent with the urgency of these issues that are also being examined by the Royal Commission. Do you agree with that?

45

MR WANN: Yes.

MR ROZEN: So it's concerning, I suggest, that Mr McCoy is informing the Royal Commission that the council, which is the body set up to implement these functions, is well into its life, I suggest to you, some six months into the existence of this council, acting with no funding. What do you say to that?

5

MR WANN: Can you repeat the question?

MR ROZEN: Yes. My question is: it's concerning, is it not, that Mr McCoy is telling the Royal Commission that his council is operating with no funding.

10

MR WANN: I agree that is concerning he is saying that.

MR ROZEN: What is the government doing about that, Mr Wann?

15 MR WANN: Just by way of context, if I may, in terms of funding arrangements for – for the body, I think it was made clear and the council accepts that some money has been put aside for the implementation of the strategy. In an early discussion that I had with the former interim chair, when I called them to introduce myself, and part of that discussion went to funding; at that discussion I made it clear that what was
20 currently available for funding for the commission had been identified in the '19-20 budget. It was – and part of that funding – and there's other bits of funding, but relevantly here, the 2.6 million for that implementation.

I indicated at that time that components of that would go to – for '19-20, would go to
25 secretariat support, the development of online training modules and the development of an evaluation strategy framework; that going forward as part of normal government processes, once they've – the council has had time to think through what it needed to do, and there were areas where they thought additional funding was
30 required, then they should come back to us and we would work with them to develop proposals which could be considered and put to government.

MR ROZEN: Do I understand that to mean that the ball is in their court as far as indicating to the government what funding they need and for what purpose?

35 MR WANN: In their court, in terms of – how this works out is we will inevitably be in a partnership context, but they've been tasked with taking the lead in implementation. We are a very important part of that but they – and part of the requirements in any case of the work orders was that they produce an implementation plan. And in the evidence that I've seen, they've actually done a pretty good job at
40 that, and I presume that's something that will come to me to have a look at and we will meet and work through and identify with them where they think they need additional funding.

MR ROZEN: If I can go to a different topic and address a question back to you, Ms
45 Beauchamp. In your statement, your most recent statement to us, you were asked to provide information about the structure of the aged care division of the Department of Health.

MS BEAUCHAMP: I was asked to comment on not just one division but a number of divisions in relation to the delivery of aged care.

5 MR ROZEN: Okay. I will be more specific. If we can go to page 2 of your statement, you were asked two questions which appear helpfully in the grey shaded box at the top of the page, about the effect of the structural changes that have occurred in recent years with the move of the aged care function of the Federal Government from the Department of Health to the Department of Social Services in 10 2013.

MS BEAUCHAMP: Yes.

MR ROZEN: And you were also asked about the effect of the administrative arrangements when the function moved back to the Department of Health in 2015.

15 MS BEAUCHAMP: That's correct.

MR ROZEN: That's right. And you've helpfully provided us with some numbers about the full-time equivalent numbers of employees of the department performing functions in relation to the aged care portfolio in those various moves. Is that right?

MS BEAUCHAMP: That's correct.

MR ROZEN: All right. I will ask you a general question first and then we will go to the detail if we need to, but was the net effect of those changes, that is, the function going from the Department of Health to the Department of Social Services in 25 2013 and then coming back initially in a large group of employees in 2015 and then some further employees involved in My Aged Care IT functions more recently in 2018 and 2019; is the effect of that that there was a significant reduction in the number of full-time employees doing aged care work for the Commonwealth?

30 MS BEAUCHAMP: To answer that generally, I don't think it's – it's certainly a reduction but whether it's a significant reduction, I probably would contest that, because when we do look at the toing and froing of functions, when there's changes in machinery of government, some of the functions that return back to the department, there was still aged care functions that remained within the Department of Social Services.

MR ROZEN: Yes.

40 MS BEAUCHAMP: So, in terms of a net effect, I probably wouldn't say significant.

MR ROZEN: Okay. Our calculations here, I will be clear to you, are that 1270 full-time equivalent employees went across in 2013, that is, went from the department of Social Security to the Department of Health – sorry, went from the Department of Health to the Department of Social Services in 2013 and then when one takes into

account the various numbers you have informed the Commission about that came back between 2015 and 2019 that there was a loss of 262 full-time equivalent employees or approximately 20 per cent. Do you take issue with those numbers, Ms Beauchamp?

5

MS BEAUCHAMP: I do, on the face of it, yes.

MR ROZEN: Okay. In fairness to you, I should give you the opportunity or rather give the Commonwealth the opportunity to make a more detailed response to that, if you would like to. That's an invitation that is open to you, if you are not in a position to deal now specifically with the numbers.

10

MS BEAUCHAMP: I could go through my statement where I've gone through some of the details and the movements of staff, but if you want more detailed information than I've provided then I'm happy to take that away and come back with that.

15

MR ROZEN: I think that would be preferable, if I could ask you to do that.

COMMISSIONER BRIGGS: Yes, what might help, Ms Beauchamp, for our purposes is start with the aggregate number that counsel just referred to, 1270, and then take off the movements of staff who went to other bodies so it's clearly documented in the table. Thank you.

20

MS BEAUCHAMP: Commissioner, is that the way it has been presented, because I have gone through in some detail of where the numbers have gone in transfers and including footnotes I agree, but perhaps it could be represented differently. Is that what you are asking for?

25

COMMISSIONER BRIGGS: Yes, I think a table showing those movements directly would be very helpful and then we can all agree where we stand.

30

MS BEAUCHAMP: Okay. Thank you.

COMMISSIONER BRIGGS: Thank you.

35

MR ROZEN: I should indicate for completeness, Ms Beauchamp, I have not taken into account in those numbers the significant movement of staff that went from the Department of Health to the Aged Care Quality and Safety Commission in 2019, so that's obviously a separate reduction.

40

MS BEAUCHAMP: Yes.

MR ROZEN: But I should indicate to you as a matter of fairness that on our assessment of your figures, it looks to be a significant reduction in the region of 20 per cent that has occurred over that period of time – and I know you are going to respond to that – but you've agreed that there has been a reduction.

45

MS BEAUCHAMP: Yes, I agree there has been a reduction, yes.

MR ROZEN: And that reduction has occurred at a time when the sector itself has been growing considerably, hasn't it?

5

MS BEAUCHAMP: The sector has been growing, yes.

MR ROZEN: Yes. And putting aside my characterisation of the reduction as substantial or otherwise, we can just ignore that for the moment, a reduction in the number of Commonwealth employees involved in policy, operational and regulatory functions at a time when the sector is growing, necessarily means that the Commonwealth's ability to carry out those functions has been reduced during that period. Do you agree with that?

15 MS BEAUCHAMP: No, I don't.

MR ROZEN: And why is that?

MS BEAUCHAMP: I think this is only looking at one area in terms of full-time equivalents. In terms of resourcing the functions that we undertake, we do that through a couple of means. One is through staffing. One is through contractors. One is through the use of consultants to give us that flexibility. And, indeed, commissioning other parts of the department to assist with certain things like data analytics, research and the like. So I think that's certainly, on the face of it, I would not say there has been a diminution of departmental effort going into our aged care functions.

MR ROZEN: In your statement, you indicate to the Commission in relation to a few policy areas that consultants have been engaged to provide advice to the department in relation, for example, to the serious incident response scheme and Mr Wann details the engagement of AlphaBeta in relation to the census. Is that an indication of an increase in spending on consultancies during the period that I've been asking you about?

MS BEAUCHAMP: I can't recall the exact number in terms of the expenditure on consultancies but the use of consultancies is not uncommon. For example, Professor Eagar, we did ask her to do a piece of consultancy work over an 18-month period, and I think it's drawing on the expertise of people like her and other clinicians that help supplement our workforce.

40

MR ROZEN: And I should say in fairness to you, Ms Beauchamp, that Professor Eagar's work has been very useful for the Royal Commission, of course. Now, can I change to another topic, which is the serious incident response scheme that you refer to in your statement, Ms Beauchamp, at page 19; if that could be shown on the screen. And a little bit of context for this. This was in the context of the Commission asking you about whether or not there should be a registration or

45

conduct scheme for the aged care workforce. You understand that that's the topic we're interested in.

MS BEAUCHAMP: Yes.

5

MR ROZEN: Yes. And we have had evidence both from you back in February and more recently from Ms Laffan about the development of the serious incident response scheme and I don't want to go into that in detail again here, but I do want to ask you about some of the evidence that we have heard in the Commission since you gave evidence in February, and I particularly want to ask you about evidence that was given by Mr Peter O'Brien, an officer of the department in the Brisbane hearings on 6 and 7 August. Are you familiar with the evidence that Mr O'Brien gave about the department's processes for responding to mandatory reports that are made by approved providers?

10
15

MS BEAUCHAMP: Yes, I am.

MR ROZEN: Mr O'Brien gave evidence that he was the manager and team leader of the compulsory reporting part of the department and his evidence was that he did that work from his office in Tasmania. My question is, is it part of – from your perspective as the head of the department, is it part of that role to investigate reported incidents, that is, incidents that are reported to the department as required under section 63 of the Aged Care Act, for example, that there has been an allegation of a resident being assaulted by a staff member? Is it part of his function, as far as you are concerned, to investigate such reports?

20
25

MS BEAUCHAMP: I would couch it as part of his function is to provide an initial assessment, whether it does warrant further investigation or not.

MR ROZEN: His evidence – and I hope I'm characterising it fairly, his evidence was that the department had a limited ability within the systems that he oversaw to be able to cross-match where a report came in about a particular employee in circumstances where there had been an earlier report about that employee engaging in misconduct. Do you understand what I'm asking you?

30
35

MS BEAUCHAMP: Yes, I do.

MR ROZEN: We heard evidence just before this panel from Mr Brown at the Queensland Health Ombudsman who was asked, essentially, that question; whether his office had the ability to track such information. And his evidence was that that information was easily accessible to his staff. Now, Mr O'Brien's evidence, on the other hand, was that that information was not easily accessible and relied on an officer being able to recall that a name had been the subject of an earlier report. Do you understand that was the evidence that he gave?

40
45

MS BEAUCHAMP: I do understand that, and I think there was further follow up in terms of what has been done to ensure that those names of both aggressors and victims are highlighted within our systems now.

5 MR ROZEN: So do you say the position now is that, as is the case in the Queensland Health Ombudsman, that that information is easily accessible?

MS BEAUCHAMP: That information is accessible from here on in.

10 MR ROZEN: If I can just ask a follow-up question about that. Does the current reporting form require a provider to inform the department if the worker that is the subject of that report has previously been the subject of a report?

MS BEAUCHAMP: Sorry, can you ask that again, sorry.

15

MR ROZEN: Yes. That's all right. When an approved provider puts in a report and says that, "This is an allegation of a report by employee A at our facility", is there a provision on the reporting form that requires the provider to tell the department if they've previously made a report concerning employee A?

20

MS BEAUCHAMP: I'm not sure exactly what is on the form. I would have to get advice on that.

25 MR ROZEN: Okay. I would ask you to do that, please, and through the Commonwealth lawyers inform us of that, if you could. Going back to the serious incident response scheme what, as you understand it, is the relationship between the proposed scheme and the registration of personal care attendants?

30 MS BEAUCHAMP: The serious incident response scheme, and I think we have had much work done on it, is about ensuring that we have good information on who is affected by reportable assaults and other requirements. I think as – in terms of going forward, the relationship between the serious incident response scheme and the idea of a screening or registration scheme are certainly related. The form of that screening register or registration scheme will provide us with an extra avenue to
35 ensure that where we have the ability to track workers through the aged care system.

MR ROZEN: The initial recommendation to set up a serious incident response scheme was made by the Australian Law Reform Commission back in its elder abuse report in June 2017. Is that right?

40

MS BEAUCHAMP: Yes.

MR ROZEN: And it's now October 2019. And, as I read your statement, you can't
45 inform the Royal Commission of a date by which such a scheme is likely to be in place. Am I reading your evidence correctly?

MS BEAUCHAMP: That's correct. I think we're looking at – and I think it has been said publicly that we're looking to have something in place over the next 12 months, assuming that we can get legislation through Parliament and a range of other things done.

5

MR ROZEN: Professor Paterson, who was one of the co-authors of the Carnell-Paterson report in October 2017 that emphasised the need for such a scheme in a recommendation in that report, his evidence in Brisbane was:

10 *The delay in implementing this recommendation is hard to understand and means that there continues to be inadequate protection of the welfare of aged care recipients.*

15 He's right, isn't he, the existing regulatory regime inadequately protects the welfare of aged care recipients, partly because of the gaps between the various state schemes that we heard evidence about earlier today.

MS BEAUCHAMP: If you are specifically talking about workforce issues in terms of protecting residents - - -

20

MR ROZEN: Yes.

MS BEAUCHAMP: - - - indeed, the introduction of a screening register and a registration scheme, whatever form that might take, would assist.

25

MR ROZEN: There doesn't seem to be any urgency on the part of the government, Ms Beauchamp, in relation to this matter. What do you say to that?

30 MS BEAUCHAMP: I think we're working as hard as we possibly can to look at what occurs in other jurisdictions, other countries, and making sure that we are well-aligned with other workforces that do provide support for our most vulnerable. For example, I have been talking to Graeme Head who is the regulator for the NDIA and looking at, well, what has he put in place, and he's working on a scheme which he is hoping to have operational in July 2020. So I don't think we're too far behind in
35 looking at a scheme that might be well-aligned with other social service regulatory arrangements and is consistent across the Commonwealth.

40 And, indeed, as you've pointed out, Mr Rozen, getting States and Territories and working through the complexity of what will be required in the development of such a scheme, whether it can go from screening, codes of conduct, a full registration scheme, will require a lot of effort across jurisdictions, a lot of effort across the Commonwealth and, indeed, making sure that we have got the systems and support and a sector who can also operationalise it. So I think, to answer your question bluntly, is I think we are going as fast as we possibly can and aligning ourselves with
45 what else is happening.

MR ROZEN: And in fairness to you, Ms Beauchamp, you do, in your statement, set out a number of steps that have been taken by the department and the government more generally in consulting about the establishment of such a scheme.

5 MS BEAUCHAMP: Yes.

MR ROZEN: Yes. Now, can I turn to the question of staffing numbers in residential aged care facilities which has been the subject of a good deal of evidence this week. I would ask you to – well, I withdraw that. Do you accept, Ms
10 Beauchamp, that there is a link between poor staffing levels and substandard care in residential aged care facilities?

MS BEAUCHAMP: I think there's a link between numbers and quality of staff.

15 MR ROZEN: Numbers and quality of staff?

MS BEAUCHAMP: Yes.

MR ROZEN: What about numbers and quality of care?
20

MS BEAUCHAMP: Quality of care - - -

MR ROZEN: Yes.

25 MS BEAUCHAMP: - - - is – in terms of the workforce, to support quality of care outcomes, I think it's critical.

MR ROZEN: Yes. So if I am understanding you correctly, there's a link between numbers, quality of staff and because quality of staff is relevant to quality of care,
30 there's a link between all three?

MS BEAUCHAMP: Yes.

MR ROZEN: Yes. As you will be well aware, we have a statutory requirement in section 54 of the Aged Care Act that approved providers, I'm paraphrasing – have a sufficient number of staff to address the care needs of residents. Do you agree with that?
35

MS BEAUCHAMP: Correct, yes.
40

MR ROZEN: And we also have standards that sit under the Act which make similar provision. As against that, we've got the evidence this week from Professor Eagar from the University of Wollongong, who you referred to earlier, who has informed the Commission that more than half of residential aged care facilities in Australia, in
45 her opinion, are understaffed by comparison with relevant international benchmarks, and she specifically refers us to United States. Are you aware that that is the evidence she has given to the Commission this week?

MS BEAUCHAMP: I'm aware of that evidence, yes.

MR ROZEN: How do you respond to that evidence, Ms Beauchamp?

5 MS BEAUCHAMP: On the face of it, I'm absolutely very disappointed but I think
we need to look at what actually sits behind it. There's a great deal of respect in the
department for Professor Eagar, and she has done and has drawn on specific work
that we've also done in the Department using Professor Eagar, and I would
absolutely like to better understand the rating system and how she has drawn on that
10 evidence and how that can be mapped in the Australian context, because there are a
number of different variables and quality indicators between – that are different
between Australia and the United States.

15 But she has had a look at all of that but I would really like to better understand some
of the assumptions and how that would map to the Australian context, so much so
that as we look at a case mix model in Australia and trialling that over the next little
while with 10,000 care recipients, I would like to actually see if we can apply the
methodology in actually using that in the Australian system.

20 MR ROZEN: When you made the reference to the trial of the 10,000, that's 10,000
residents, isn't it? That's the trial of the AN-ACC replacement of ACFI; is that
right?

25 MS BEAUCHAMP: Yes.

MR ROZEN: Yes. This is Professor Eagar's new case mix funding model. Where
is it being trialled?

30 MS BEAUCHAMP: So if I can just give a bit of context, and I'm also very
impressed with the acronyms but I think we're looking at – the work that Professor
Eagar has done for us over the past 18 months has looked at a case mix model which
might support better funding and support arrangements based on actual needs of care
of our care recipients in residential aged care facilities. So there has been a lot of
work to look at a case mix model.

35 What we're in the process now of doing – and it hasn't yet been put to government to
actually implement, is trialling that work that Professor Eagar has done through the
Australian national classification system. So using that case mix model. The 10,000
that you refer to, we've – just about to start the trial which will run until April and
40 how we've selected those 10,000, we went out seeking expressions of interest from
providers and care recipients and I think we had 60,000 applications.

45 And so there's certainly a desire to look at this model which may better reflect the
requirements around support for our residents in aged care facilities. So we're
working through now exactly where those 10,000 residents will be and, of course,
from my point of view I do want to see a mix of metro, rural, Aboriginal and Torres

Strait Islander residential facilities, some of the multi-purpose services, the range of services that we have got and see its applicability.

5 COMMISSIONER PAGONE: What was the timing of this model?

MS BEAUCHAMP: Sorry, Commissioner?

COMMISSIONER PAGONE: What's the timing of your work?

10 MS BEAUCHAMP: The timing is we are just about to embark on the trial which will go to April next year.

COMMISSIONER PAGONE: So when might details become accessible, potentially, to us?

15 MS BEAUCHAMP: On the trial? Probably within the next week or so.

MR ROZEN: That's about the commencement of the trial.

20 MS BEAUCHAMP: Yes.

MR ROZEN: I think Commissioner Pagone's question might be more about the outcome of the trial beyond April.

25 MS BEAUCHAMP: Well, we would have to do that work, obviously, to find out what the outcomes were but working, in this instance, with Professor Eagar's team, not her herself, in terms of helping us with the trial. But there's a lot of work to do in terms of seeing whether the application of this case mix model is going to work and even getting advice up to government is going to take some time as well before it's
30 introduced.

COMMISSIONER PAGONE: It would seem to be some work that would be of potentially enormous significance to what we're doing. It would be a great pity if it were not available to us.

35 MS BEAUCHAMP: I'm happy to make any information available to the Commission, as we have been and, indeed, if any of your officers want to be involved in looking at how this might work, because it does get down to the care needs of people in residential aged care facilities and what's required in terms of
40 staffing mixes and support to meet their needs.

COMMISSIONER PAGONE: And did I understand your answer earlier on to Mr Rozen's questions about the report of Professor Eagar's recently, that you are, in fact, going to look at what her modelling and the assumption that she has made or
45 merely that you would like to look at it?

MS BEAUCHAMP: I would like people in my organisation both on the clinical side and the aged care side to better understand what sits behind it.

5 COMMISSIONER PAGONE: They are the words you used that you would like, which is a bit like the expression of a wish; is the wish going to be translated into directions to somebody to look at it and model it and understand it, and if so, what's the timing of that?

10 MS BEAUCHAMP: The work was actually commissioned by the Royal Commission. I would like to seek permission for us to work closely with Professor Eagar in better understanding and mapping that work to the Australian context, yes.

COMMISSIONER PAGONE: I see.

15 COMMISSIONER BRIGGS: Might I ask a follow-up question. Are you looking more broadly at the extension of the sorts of work that Professor Eagar's organisation has been doing to the home care sector and I am not sure, but I don't think it covers allied health but I could be wrong, Ms Beauchamp.

20 MS BEAUCHAMP: The case mix model specifically is being designed for residential, but in parallel to that, we're also looking at how do we differentiate and publicise performance standards in both home care and residential care.

25 COMMISSIONER BRIGGS: Thank you.

MR ROZEN: You may have partly answered this and you can refer me to your earlier answer if you have, but my question is: is there a place for a star rating along the lines of Professor Eagar's proposal? Is there a place for that in Australia, Ms Beauchamp?

30 MS BEAUCHAMP: I think there is a place for a star rating system on the performance of aged care services, and I think it needs to incorporate not just staffing but a range of other factors.

35 MR ROZEN: Yes. There are four domains – sorry, three are included in the US star rating system.

MS BEAUCHAMP: Yes.

40 MR ROZEN: Staffing, regulatory performance, and - - -

MS BEAUCHAMP: Quality.

45 MR ROZEN: - - - quality of care, yes. And Professor Eagar's suggestion was that added to that should be resident experience.

MS BEAUCHAMP: And allied health.

MR ROZEN: And allied health she also referred to. Sitting there now, are there matters that go beyond that that you think ought to be part of any Australian star rating system?

5 MS BEAUCHAMP: I think it's really mapping to the Australian system and making sure that we pick up, as you have said, customer experience and not just looking at the numbers but what sits behind the numbers in how services are being delivered.

10 MR ROZEN: Going back to my questions about existing staffing-levels in aged care facilities: if Professor Eagar is right, that would suggest that there's a very high level of noncompliance with the legal requirement to have adequate staffing-levels. Do you agree with that?

15 MS BEAUCHAMP: I don't think I could directly make that correlation based on the work that Professor Eagar's done.

MR ROZEN: Why shouldn't there be publicly available information about staffing-levels at particular residential aged care homes?

20

MS BEAUCHAMP: I think that's something we're looking at and which I have referred to previously, and indeed, the more transparency as a principle around the system, I think, the better off we all are as consumers.

25 MR ROZEN: One final question – and it also relates to staffing-numbers and workforce planning. I'm sure you're very well aware of the various reports which indicate the need for a very significant increase in the overall aged care workforce in the next 20 or 30 years, to correspond to the boom in numbers, expected boom in numbers of Australians who will be entering the residential aged care sector and also
30 needing home care. Are you confident, that we have in place the workforce-planning mechanisms and settings to ensure that we're going to be able to achieve that significant increase in numbers?

35 MS BEAUCHAMP: I think we need more information in terms of the workforce planning, and I think we need to do, as a Commonwealth, across all of those other Agencies I mentioned earlier, a much better effort around workforce planning, particularly if we're looking at getting – “a million workers”, I think I've said previously in my statement – by 2050, and I think that is a challenge for us all in attracting and retaining good-quality staff to the industry.

40

MR ROZEN: Commissioners, they're the questions that I have of Ms Beauchamp and Mr Wann.

COMMISSIONER PAGONE: Thank you.

45

MS MORGAN: Excuse me, Commissioners. I just have one question. I will just check with Mr Rozen first.

COMMISSIONER PAGONE: Sure.

MS MORGAN: My question is to Mr Wann. Mr Wann, you referred, when you were talking about the council's work – that in the evidence, you have seen the
5 development of that work from their perspective. Do you recall giving that evidence?

MR WANN: Yes.

10 MS MORGAN: If I could just have two documents brought up on the screen, tab 48 from the general tender bundle – you'll see that is the – for the Commission's understanding: this is a document attached to the statement of Mr McCoy, who gave evidence for the council, and this is – if we could, go to the second page; this is discussion paper 3, and you'll see there it says it's the approach to implementation.
15 Is that the implementation plan you referred to?

MR WANN: Yes, and it's accompanied by other documents; yes.

MS MORGAN: And if I could, go to tab 47, please, operator, and page – the next
20 page just to see the title, please. That says "engagement plan". Do you see that?

MR WANN: Yes.

MS MORGAN: And the first time you had seen those documents was in the
25 evidence-preparing for today; is that right?

MR WANN: Yes.

MS MORGAN: And is your understanding, the department hasn't yet been
30 provided with those documents that've been tendered by the Commission?

MR WANN: Yes.

MS MORGAN: No further questions.
35

COMMISSIONER PAGONE: Yes. Thank you. I just want to ask one question, if I
– or at least a topic that goes back to that ministerial information request, I'm afraid, which – if it can be brought back up, that would be good; if not, I'll just rely upon
40 - - -

MR ROZEN: It's tab 226, Commissioner – operator, rather.

COMMISSIONER PAGONE: And on the second page of that document – you'll recall that you were asked questions about the bit that's really the beginning of the
45 fourth line. So – the release of a formal response to the strategy. And then Mr Rozen asked you questions about what then followed, which talks about – "would carry several risks for Government". And then he went through some of the dot

points. The end result seems to be that there is not what might have been understood by the author of that as a formal response to the strategy.

5 Now, if I – if there is a formal response to the strategy or if what we’ve got is the response to the strategy, then please say so, but if there isn’t a formal response to the strategy, then – it would seem to me, that it would be very useful to our work on the Commission, to have a formal response to the strategy, because, to some extent, what we are doing overlaps the work of the strategy.

10 And it would, I must say, be very good, to know what the Commission – the Government’s response to the strategy is, so that we could take that on board ourselves and think about what it is, that we should do that might be different. So can I ask you whether there is likely to be a formal response, whether there has been a formal response or whether we just need to sit and wait.

15 MS BEAUCHAMP: Could I say in terms of responding – and I think I mentioned previously there’ve already been a number of actions and deliverables.

20 COMMISSIONER PAGONE: I have heard that.

MS BEAUCHAMP: And so in providing the Government’s response in a more formal way, written – I can, certainly, do that and provide that to the Commission. But I’m just wondering if I can also add what’s actually been done against each of the strategic actions.

25 COMMISSIONER PAGONE: I know that you said, earlier on, that there had been a number of things that had been done and that there had been a number of, as it were responses. That’s why I began this by saying that that which the author thought of as a formal response may not have happened. But should I assume that all of the things
30 that you have referred to, the responses thus far and the actions which, you said, speak louder than words – that they are to be regarded as the sum total of the response and that there is to be nothing further?

35 MS BEAUCHAMP: From the Government’s point of view the Minister has said that they’ve – on behalf of Government they broadly accept the recommendations, the findings. So that’s in a sense a formal response. What – and is said to me, the previous Minister, “Just get on and do it and get on with actually working on the action items.”

40 COMMISSIONER PAGONE: Well, if there’s any more-detailed response that, the Government thinks, might be useful, it would be of help to us.

MS BEAUCHAMP: I’m absolutely happy to provide a very detailed response to what we are doing against each of the action items.

45 COMMISSIONER PAGONE: I think you might regard that as snap. We will happily receive it.

COMMISSIONER BRIGGS: Might I add to that. Clearly, there's another document that's been prepared, which is a work plan, and I think we'd like to know the Government's response to that work plan. But in addition to that, we heard evidence yesterday in a panel of CEOs, where – they were saying that, in order to do
5 this work, they need a strong partnership with Government because it's the main funder, main regulator and so on, main everything else, really, except provider of care services. They also said that they thought there was a need for CEO in their organisation to actually drive this reform and that goes beyond the support that has been given by – is it Miles Morgan? That's right. And I think we'd absolutely hear
10 – like to hear the Government's views on the suggestions that were made yesterday, in that CEOs discussion, if that's possible, please.

MS BEAUCHAMP: Now?

15 COMMISSIONER BRIGGS: No. I'm – no; in the response you're going to – I wouldn't want to do that to you now; that'd be a bit unfair.

MS BEAUCHAMP: Thanks. Thanks, Commissioner. Certainly. I take that.

20 COMMISSIONER PAGONE: Obviously we don't want to write out an impossible utopia as the recommendations, and one way or another, we are asked by the Commonwealth or at least the Governor General in right of the Commonwealth or the Crown to embark upon this inquiry, and the Commonwealth is an intimate player, if not the overwhelming intimate player in the exercise. So that degree of detail that
25 you can give us on these issues will be not only of benefit to the entire Australian community but practically speaking of benefit to those who must implement it on behalf of the Commonwealth.

MS BEAUCHAMP: Can I make a comment, Commissioner?
30

COMMISSIONER PAGONE: Yes, please.

MS BEAUCHAMP: And thank you. There's no doubt about the work that's going on and the leadership that's being shown both – by industry, the Commonwealth and
35 a number of other parties involved. And I don't want to leave the impression that nothing's being done because there hasn't been a formal written response. I really want to re-iterate that – and I will get the details to you – that whilst even Professor Pollaers has pointed to a few of the recommendations that are responsibility for Government, I would contend that there are many more recommendations where the
40 Commonwealth's actively involved now. So I'd like to be able to put that to you, and I just wanted to say perhaps we haven't communicated well publicly about what's actually going on. And I'll take that on board as well.

COMMISSIONER PAGONE: Well, I'm pleased that you have said that, and I'm
45 sure that that is a good message that needs to be stated. I think, though, the reality is that there is an impression that there has not been a response and speaking for me at

the moment: that's the impression that I partly have. So I would be delighted to be disabused of that impression and delighted by the offer that you will do so.

5 COMMISSIONER BRIGGS: I might say, Ms Beauchamp, part of the challenge –
and I know you appreciate this – is that you're moving to do things at the same time
we're considering things more generally. So we know you're looking at combining
assessment processes. We know you're looking at combining the arrangements
around home care, the two different layers. It's quite challenging, for a Royal
10 Commission to find a steady state here. So anything that takes up your earlier offer
that you made, when Mr Commissioner Tracey and I were in the chair, to provide
regular updates on those kinds of developments will help our work enormously, if
that were possible, please.

15 MS BEAUCHAMP: I would be delighted, and if I – can I make another comment.

COMMISSIONER BRIGGS: Yes.

20 MS BEAUCHAMP: Because – there's been a number of remarks about not just the
leadership that counsel's point out, about the Department and the Government and a
range of other portfolios, but we have – and comments about tardiness and delays
and things. And yet you're saying there's so much going on, it's hard to keep up.
That's what it also feels like from us. There is a lot going on. I've got an absolutely
wonderfully dedicated workforce and committed workforce. The reform agenda has
been quite ambitious, and the Prime Minister has said, "Do not stop while the Royal
25 Commission is going on". Absolutely happy to provide, in whatever form the
commissioners would like, a regular update.

30 COMMISSIONER BRIGGS: I accept that, and I fully appreciate that the work
that's required to provide information to this Royal Commission is quite substantial
as well.

35 MR ROZEN: Before Ms Beauchamp and Mr Wann are excused, could I just place
on record as a matter of fairness – and I'm indebted to my learned friend Ms Morgan
for reminding me of this; there is an annexure to Mr Wann's statement. Perhaps if
page 0029 could just be briefly brought up on the screen – it's annexure A, although
I think I'm right in saying it's the only annexure; yes. Annexure A, and it does quite
helpfully set out in relation to each of the 14 strategic actions some information
about the Commonwealth's activities in relation to them. I dare not use the phrase
"formal response" again, but it does provide information in relation to each of the
40 actions.

45 COMMISSIONER PAGONE: Well, if that's to be regarded as the formal response,
then it'll be a short document to reproduce and give as the formal response. If,
however – and then it fixes it.

MR ROZEN: Yes.

COMMISSIONER PAGONE: If it's only bit of a wider thing, then we can get something that incorporates it.

MR ROZEN: Thank you, Commissioner.

5

MS BEAUCHAMP: Yes. Thanks.

MS MORGAN: We will do the latter, Commissioner. We just wanted to make clear that we hadn't been asked to do it and that Mr Wann had gone through this very, very difficult process to identify all the recommendations and what was being done as of the date of his statement and we will prepare a more thorough version of that for the Commission.

10

COMMISSIONER BRIGGS: Yes, and we were very aware of that. Even at the beginning of the discussion with Mr Wann, we corrected typos. So I think we're there.

15

MS MORGAN: Thank you, Commissioner.

20

COMMISSIONER PAGONE: We're to excuse the witnesses, are we?

MR ROZEN: I'm quite content with that, Commissioner. Yes.

25

COMMISSIONER PAGONE: Thank you both for coming. I've already said how important the – our understanding of the Commonwealth position is, and – in large part because, really, the work that we do is going to have an enormous impact on the Commonwealth or at least, ideally, will have enormous impact on the Commonwealth, and there's a need for us to try and create something which is – that can be picked up, implemented and used so that – we are grateful for your comments, and thank you.

30

MS BEAUCHAMP: Thank you very much.

COMMISSIONER PAGONE: Otherwise excused further attendance.

35

<THE WITNESSES WITHDREW

[12.56 pm]

40

COMMISSIONER PAGONE: 2 o'clock?

MR ROZEN: Thank you.

45

ADJOURNED

[12.56 pm]

COMMISSIONER PAGONE: Mr Rozen.

5

MR ROZEN: Commissioners, your first term of reference requires you to inquire into the quality of aged care services in Australia, the extent to which those services meet the needs of older Australians, the extent of substandard care being provided, including mistreatment and all forms of abuse, the causes of any systemic failures, and any actions that should be taken in response. The evidence this Commission has heard since it commenced establishes a clear link between the numbers and quality of aged care workers and the quality and safety of aged care services. That evidence demonstrates that the aged care sector is struggling to attract, train and retain its workforce.

15

Aged care recipients must receive quality care and must be protected from harm. Their wellbeing must be ensured, their quality of life supported. Older Australians deserve respect and dignity. The aged care workforce is critical to ensuring that these basic rights are met. The workforce is too small. The bare minimum has become the norm. It is unsustainable. Further, the current workforce does not have the right skills mix. The evidence suggests skills deficits across the sector, exacerbated by time-poor staff and threadbare rostering practices. Inadequate education and training has limited workforce capability to deliver quality clinical care.

25

On current trends, the entire system is under serious threat, and without fundamental change we're concerned the system will fail. Nurses and personal care workers, doctors, allied health professionals and allied health assistants must work in integrated care teams to ensure that those receiving aged care are looked after and do not come to harm. Together, they must ensure that people are well cared for and their quality of life and their wellbeing is supported and enhanced. An integrated care team which is skilled, knowledgeable, educated and trained in age-related conditions and illnesses is necessary for the provision of both quality and safe care. Integrated care teams must be diligently supported by rigorous governance structures and effective leadership by industry and government.

30

35

There's a debate about whether aged care is primarily about clinical care or whether it is about delivering holistic care in a home-like environment. The issue is fundamental to aged care reform. It's also fundamental to the type of aged care workforce we need now and into the future. Professor John Pollaers and Professor Kathy Eagar highlighted this issue in their evidence this week. Professor Eagar said that aged care:

40

45

...residents have a right and it is possible to provide both an environmentally friendly place for people to receive care, socially engaged and clinically competent care at the same time.

She pointed to compelling evidence that shows the majority of residents are very frail and have significant care needs. Professor Eagar proposed a focus on clinical care in response to those needs. She said:

5 *When people describe residential aged care as a person's home, it is somehow
implying that it's a lifestyle choice rather than people are going into residential
aged care now because they're so frail or have other significant care needs
that they can no longer be at home. The population currently in care needs
more clinical skills, not less.*

10

Professor Pollaers was critical of a few aspects of Professor Eagar's report. He said in part that the report is premised around a clinically based institutionalised government approach to delivering aged care services. He contends the need is for the workforce to be able to respond to clinical care needs but also to deliver a holistic care model. He described the five elements of a care plan as clinical needs, functional health needs, cognitive health needs, cultural and linguistic needs and living well aspirations. We submit that the evidence about the level of frailty of those currently in residential aged care facilities is powerful and should be acknowledged in system design.

20

However, aged care must deliver both quality of life and quality clinical care. The two are not mutually exclusive. Unfortunately, the current system appears to be failing on both fronts. We know from the evidence this week and in earlier hearings that in order to provide quality and safe care, we need more staff in residential aged care facilities and a better mix of staff. The decline in the employment of nurses in aged care must be addressed and reversed. In both residential and home care, staff must be allowed the time to engage with those they care for and to undertake their duties properly and compassionately. This will help to ensure that high quality and safe care is delivered.

30

In Professor Eagar's judgment, 58 per cent of all Australian aged care residents receive unacceptable care hours. For all residents to receive at least three-star care hours there would have to be a 37 per cent increase in total care staffing in those facilities currently rated at either one or two stars, on her analysis. That would equate to an overall increase of 20 per cent in total care staffing across Australia. This shortage of staff must be addressed. More staff will go some way to improving the quality and safety of care. It will improve the safety of workers, ensuring that workers are able to work in a safe environment. In turn, this should improve attraction and retention of staff.

40

As Ms Peake's evidence indicated, workers are more likely to want to stay in safe and supportive workplaces where they are able to perform their work to a high standard and where they feel valued. You heard evidence this week about some options to improve staffing numbers. You heard about methods for calculating staff numbers and staff mix. In particular, you heard about work undertaken by Flinders University on behalf of the Australian Nursing and Midwifery Federation, and work by the University of Wollongong, conducted for this Royal Commission. You have

45

heard calls for mandatory minimum staffing levels and a need for greater transparency around staffing numbers. This could include publication of staffing numbers or a star rating type system as proposed by Professor Eagar. There may be other options, however, one thing is clear, the status quo is unacceptable.

5

We submit that there's a strong argument for introducing a methodology to determine appropriate staffing numbers and mix of skills and for any methodology to be transparent. The models explained at this hearing are sophisticated and cannot be fairly described as blunt instruments. Most organisations currently use some method to determine the number of staff they require. As Mr Gilbert of the ANMF said, the current approach used by some employers of relying on aged care industry data to benchmark staffing numbers could not be more blunt. That approach might be regarded as a race to the bottom.

10

We also heard about the importance of enforcing existing standards around the workforce. In the context of the Menarock case study it became apparent that aged care standards and the current assessment processes may not be adequate to ensure that residential aged care facilities are staffed appropriately. Ms Ann Wunsch contended that the Aged Care Quality and Safety Commission provides aged care providers with sufficient guidance on how to meet accreditation standards relating to human resources, however, she stated it does not provide its own assessors with guidance in relation to a range of care staff to resident ratios that might be considered an appropriate range to provide adequate care.

20

The Commission also does not provide guidance to assessors about the nurse hours per day that might be regarded as reasonable to provide care. On the evidence before you, such guidance is clearly available to be provided. It should be. Commissioners, it is reasonable to conclude that change is required to ensure compliance with the requirement in section 54 of the Aged Care Act that approved providers maintain an adequate number of appropriately skilled staff to ensure that the care needs of recipients are met. As we heard from Mr Bonner, there is no clear standard or benchmark against which compliance with this provision can be measured. There's no objective measure of whether or not the staffing numbers and mix are appropriate for the needs of the care recipient.

25

30

35

This uncertainty serves no one's interests, not the regulator, not providers, not workers, and certainly not the residents and their families. In addition to having the right numbers of workers we need to do more to ensure that we have the right type of workers in aged care. Carers must have empathy for those they look after. The Japara case study we examined yesterday demonstrated that this is not always the case. Structural reform is needed, perhaps by way of a registration scheme to exclude unsuitable workers. This morning you heard from a panel of witnesses about gaps in the current arrangements to oversee unregistered personal care workers.

40

45

This included that the Aged Care Quality and Safety Commission does not have powers in relation to those workers and there are a number of differences between the oversight provided by states and territories. Ms Reid of the Commission said:

5 *As a national body it does make it difficult to understand the difference laws that are around the country to be able to think about referring.*

This evidence of a fragmented system is troubling. Perhaps it's a reason why, on Ms Reid's assessment, the Aged Care Quality and Safety Commission was conservative in its referring practices. Ms Reid's personal view was that it would be an improvement to have some carer register, a national register. The issue of staffing numbers and mix is a complex one that is inextricably linked with the funding of the aged care system. Funding is an issue that we will consider in detail as the work of the Royal Commission continues into 2020. The vocational and educational training or VET sector is a crucial part of workforce reform and is itself in transition following the 2019 Joyce review Strengthening Skills.

We are not confident that the reforms outlined in the Joyce review will bring about necessary reform in the immediate term. Much will depend on how quickly the Council of Australian Governments embraces and accelerates action on the recommendations. Mr Bonner described the Joyce review as another example of:

25 *... rearranging the deck chairs of the system but failing to address the fundamental problem of what the qualification looks like.*

Ms Nadine Williams from the Department of Employment, Skills, Small and Family Business stated that:

30 *The Commonwealth and State and Territory governments have joint responsibility for the VET system. The Commonwealth is responsible for providing funding contributions to the States and Territories to support their training systems and operates a number of programs aimed at supporting key priorities such as apprenticeships and literacy and numeracy.*

35 We expect there will be a significant role for that department in helping the vocational education sector gear up to meet current and future demand in the aged care sector. This work must include consideration of curriculum design, assessment and quality control. A National Skills Commission is to be established by 1 July 2020. That Commission will play a role in monitoring the supply of workers into areas with identified skills shortages. The aged care sector should be identified as an area of critical skill shortage. There needs to be a greater focus on preparing graduates to be work-ready in aged care. There need to be opportunities for greater interconnections between undergraduates and industry including appropriately supported clinical placements.

45 In the medical professions, traditional undergraduate curricula have been slow to deliver graduates that have the skills required to treat the ever-growing cohort of

geriatric patients. The current practice of leaving it to clinical placements in geriatrics which is either not mandatory or in other cases, not even offered, must be questioned. Undergraduate medical nursing training must embrace geriatric training as core business. As the demand for aged care increases, more geriatricians will be required. Coordination of geriatric training must be considered at a Council of Australian Governments level and the Commonwealth needs to be engaged in addressing the likely skill shortage in the same way that it prioritises rural and regional health.

5
10
15
20
More immediately, access to geriatric review and assessment and maintenance of the role of geriatricians in the aged care assessment team process, as outlined yesterday in the evidence of Dr Maddison, should be priorities. There is simply no public health benefit in any reduction of access to geriatric services. These services matter to people in residential aged care. We are aware of work being undertaken by the Aged Services Industry Reference Committee. However, changing curricula, course content, and delivery mechanisms, both in the VET and higher education sectors, can take considerable time. You will need to consider options to fast-track this work. The need for minimum education and training qualifications to work in aged care and a requirement for ongoing professional development while employed in the sector will need to be carefully considered.

25
30
You have heard there could be merit in a registration scheme for aged care workers that, in addition to excluding unsuitable workers, requires the workers in the system to undertake training provided by particular accredited institutions. This already happens in nursing where the Australian Nursing and Midwifery Accreditation Council approves education providers for a program leading to enrolled nursing registration. It could add to the status of personal care work thus making it more attractive as a career option. We urge you, Commissioners, to consider a registration scheme for personal care workers. Such a regime should include requirements around training and continuing professional development of that workforce.

35
40
The true value of work in aged care is not reflected in terms and conditions of employment including remuneration and job classification. You have heard evidence of significant differences in remuneration between aged care and other comparable sectors including health care and disability services. These differentials must be addressed to ensure that workers with aptitude, skills and training are attracted to and remain within the aged care sector. The sector must become an employer of choice. Professor Sara Charlesworth considered that a significant factor which contributes to the undervaluing of aged care work is that caring is seen as what women do innately and for free at home.

45
Consequently, care work is not valued. It's viewed as not requiring any degree of skill when the opposite is true and it's poorly remunerated with poor working conditions. An example of this is home care workers who are not paid travel time. They're required to travel between clients' homes but they are not remunerated for this time. As the primary funder and head of the supply chain, an expression used by Professor Charlesworth, the Commonwealth must have a more active role in

addressing the remuneration of aged care workers. It was concerning to hear from Mr Paul Gilbert that in his lifetime:

5 *...there have been three times that the Commonwealth Government has increased taxpayer subsidies to aged care to improve wages and not once did that deliver a dollar in improved wages.*

Commissioners, we expect you will need to make recommendations to address low remuneration in the aged care sector. The issue is complex because wage levels in
10 Australia are primarily set through enterprise bargaining, a system that favours those with bargaining power. As the union panellists explained to the Royal Commission this week, aged care workers don't have much bargaining power. Helpful suggestions have been made during the week: legislative reform in industrial relations is one. Proactive involvement by the Commonwealth in enterprise
15 bargaining is another. These and other mechanisms require further consideration.

Yesterday we heard from a panel of Chief Executive Officers that good governance, leadership and business management will help attract the qualified people to work in aged care roles. Leadership in the sector is crucial. Aged care needs business
20 leaders who can plan and develop an aged care workforce. Management boards need to be composed of people of mix of skills including people with clinical expertise. They need to be held accountable. They are responsible for delivering services that are largely paid for by taxpayers. In the Royal Commission's case studies, both this week and in earlier hearings, we have seen how disastrous poor management and
25 governance can be for the safety of residents.

Better governance and leadership within the industry could be supported by a regulatory framework that places appropriate emphasis on leadership and governance capability, but regulation alone will not be effective without cultural change in the
30 industry. Commissioners, the Commonwealth appears on the evidence you have heard to be missing in action. It needs to demonstrate leadership and commit the resources necessary to build industry competence and to ensure delivery of an aged care system that meets community standards and it needs to act quickly. There appears to be a lack of leadership and expertise about aged care within the
35 Department of Health.

As recommended by Professor Pollaers in strategic action 10 of the taskforce report, A Matter of Care, there is a need to rebuild the Commonwealth's own aged care workforce and leadership. Mr McCoy, the acting chair of the Aged Care Workforce
40 Council, a body charged with implementing the taskforce's 14 strategic actions, outlined a story of poor engagement from the government with that body. He confirmed that without more government support, the capacity to implement the strategic actions of the workforce strategy is poor. This observation was supported by another council member, Ms Hills of Benetas.
45

While there is a key role for industry in workforce planning, the Commonwealth also needs to be active. Funding from its aged care workforce programs has been

stripped. Important data and information on what the industry needs is not captured. The Commonwealth's failure to lead in aged care has contributed to the distressing outcomes for care recipients, their families and workers that you continue to hear evidence about. You have heard about the aged care workforce census which is
5 conducted every four years. Commissioners, we don't think this is sufficient for a workforce that is experiencing significant change.

The aged and disability sector is expected to grow by approximately 17.8 per cent in the next five years and will account for at least 10.9 per cent of all new jobs created
10 in the Australian economy. We need better data about the workforce to facilitate workforce planning as well as appropriate benchmarking and other transparency and accountability measures. There should be regular publication of this data so that industry can use it for planning purposes, and this more regular data collection
15 should be supplemented with a detailed five-yearly census on a wider range of variables. The Commonwealth must step forward and take positive responsibility for the aged care workforce in partnership with the sector. This is a large and important part of our community and of our economy.

There are projections of significant future demand. The sector provides care to
20 vulnerable old people and is largely funded and regulated by the Commonwealth. The time has come for action. In conclusion, Commissioners, there's a lot of discussion about reform in aged care. There have been many reviews, many papers have been written. What is lacking is sustained and coordinated action. There doesn't appear to be any sense of urgency. The report of the Aged Care Workforce
25 Taskforce published last year, A Matter of Care, is comprehensive. We consider that the 14 strategic actions that Professor Pollaers and his taskforce announced a year ago are broadly on the right track. The blueprint is available.

However, the actions are not being implemented; where they are being
30 implemented, we're concerned, the structures established to drive reform will be ineffective without assistance. For example: the workforce industry council is struggling to build momentum. It lacks the resourcing and imprimatur of the broader industry and of the Commonwealth. We submit to you that, based on the current
35 progress and the structures in place for implementation, there must be real concerns about whether the strategic actions can be achieved in the three-year time-frame set down by Professor Pollaers.

Workforce reform as contemplated by Professor Pollaers requires more than band-aid solutions and selective and limited refinements in improvements to the way the
40 current system works. The strategic actions are designed to be implemented together to achieve an appropriate and effective aged care workforce in the medium and longer term.

Commissioners, these are all important issues. The challenge now is for this Royal
45 Commission to start focussing on solutions. To this end, we call for written submissions on policy issues relating to the following areas: methods for determining appropriate staffing-levels and the appropriate skills mix for aged care,

ideas for transforming aged care training and education, a registration scheme for personal-care workers, options to resolve low remuneration and poor working-conditions, governance, leadership and workforce culture and the respective role of the Commonwealth and the aged care industry in relation to the aged care workforce.

5

Details of how these submissions may be made will be published early next week on the Royal Commission's website. We may also seek to refine the above questions at that time. Submissions must be provided to the Royal Commission by 6 December 2019, and we anticipate these submissions will be published on the website.

10

However, the Royal Commission reserves the right not to publish submissions or to redact information in submissions before publication.

Finally, Commissioners, a word about the Interim Report: As has already been stated publicly, the text of the Interim Report prepared by the late Commissioner Tracey and Commission Briggs was settled at the end of September. This was necessary to meet publication deadlines for delivery to the Governor General by the end of this month. The Interim Report will include information about Commissioner Tracey's and Commission Briggs's overall impressions about the aged care system and more-detailed analysis about a limited number of topics. The interim report will include reflections on the aged care workforce, given that the issue has permeated all of our hearings and work to date. However, it will not reflect the evidence received at this week's hearing.

Commissioners, we had a sobering start this week, honouring the life of our esteemed colleague – the Honourable Richard Tracy, AM RFD QC. We reflected on our time with and memories of Commissioner Tracey. In closing this hearing, with particular relevance to our examination of workforce issues, we reflect on the words of Commissioner Tracey following evidence that was given by four aged care workers in the second Adelaide hearing. At that time, the conclusion of their evidence, Commissioner Tracey said – and I quote:

30

We're enormously grateful to you for bringing us stories from the coalface and giving us a better understanding of what it is like, to provide quality care to the aged in this community. And the dedication that you display on a day-to-day basis is something this community must be exceedingly grateful for.

35

We've heard in this Commission about the challenges facing the aged care sector, but as a community, we ought follow Commissioner Tracey's lead and be exceedingly grateful for the dedication that so many aged care workers display on a day-to-day basis. However, we submit that gratitude needs to mean something in real terms. It needs to mean a safe place to work. It needs to mean respect for that work. It needs to mean that the work is properly valued, if the Commissioners please.

40

COMMISSIONER PAGONE: Mr Rozen, thank you for those closing remarks. They are very helpful to enable us to focus on what we've been doing this last week, and I do thank you. I also want to thank the staff particularly this week. As Mr

Rozen has said, the week began for the staff in a very bleak way, with waking up to learn of the passing of the chair, Richard Tracey, a personal friend of some of us and a friend who developed for many people here. It has been a difficult week, and you've performed the week very, very well. Thank you very much for your efforts.

5

I must also thank the staff of the Commonwealth law building for having made us welcome, and I think more or less everything has run perfectly smoothly, except for one incident a moment ago, when the duress button was accidentally triggered by one of the more ably qualified of the lawyers. That was not the fault of the staff, though. So thank you to the Commonwealth law offices – building and also in particular to the Chief Justice of the Family Court, who has made us welcome and provided facilities for us on the – throughout the building, which has enabled us to do a great deal of work, both in the hearing room and also at other hours. So thanks all around for all of that. Now – my duty to adjourn the Royal Commission to Mudgee on the 4th of November 2019. Thank you.

10

15

MATTER ADJOURNED at 2.26 pm UNTIL MONDAY, 4 NOVEMBER 2019

Index of Witness Events

LAVINA MULEK LUBOYA, SWORN	P-6220
EXAMINATION BY MS MAUD	P-6220
THE WITNESS WITHDREW	P-6225
SHONA LIANNE REID, SWORN	P-6225
ANDREW JAMES BROWN, SWORN	P-6225
KAREN LESLEY CUSACK, AFFIRMED	P-6225
THE WITNESSES WITHDREW	P-6250
GLENYS ANN BEAUCHAMP, AFFIRMED	P-6254
CHARLES SAMUEL WANN, SWORN	P-6254
THE WITNESSES WITHDREW	P-6292

Index of Exhibits and MFIs

EXHIBIT #11-67 STATEMENT OF LAVINA LUBOYA OF 10/10/2019 (WIT.0551.0001.0001)	P-6221
EXHIBIT #11-68 STATEMENTS OF KAREN LESLEY CUSACK DATED 27/08/2019 AND 17/10/2019 (WIT.0389.0001.0001 & WIT.0529.0002.0001)	P-6227
EXHIBIT #11-69 STATEMENT OF ANDREW JAMES BROWN WITH CORRECTIONS DATED 20/08/2019 (WIT.0385.0001.0001)	P-6228
EXHIBIT #11-70 STATEMENT SHONA LIANNE REID DATED 09/10/2019 (WIT.0528.0001.0001)	P-6228
EXHIBIT #11-71 THE STATEMENT OF GLENYS BEAUCHAMP DATED 20/09/2019	P-6256
EXHIBIT #11-72 THE STATEMENT OF CHARLES WANN ALSO DATED 20/09/2019	P-6258