

# Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability | Public Hearing 5: the impact of the COVID-19 pandemic on people with disability

Life Without Barriers' submissions dated 18 September 2020 in response to Counsel Assisting's supplementary submissions dated 10 September 2020

## Workforce and annual turnover

1. There is a statement in [11] of the Service Provider Submissions that "Life Without Barriers has a workforce of over 7,000 staff and annual turnover of over \$550 million."<sup>1</sup> Life Without Barriers notes that these figures represent its national workforce and turnover for *all* programs (not only those programs relating to disability services) and suggests that it may be appropriate for this to be clarified. Ms Robbs' evidence was that 3,346 of Life Without Barriers' staff support disability service users.<sup>2</sup>

## Community Visitors

2. At [39] of the Service Provider Submissions, the submission is made that it is open to the Royal Commission to recommend that: "service providers ensure that Community Visitor attendances and attendances by advocates are conducted in a way that ensures the privacy and confidentiality of attendances, whether they are conducted by telephone or video calls, or in person." The submissions at [38] suggest that this recommendation is supported by evidence of Ms Robbs and Mr Richardson which is said to be to the effect that they "were not aware of any oversight mechanism to ensure those important channels of communication were protected."<sup>3</sup>
3. Life Without Barriers agrees that maintaining privacy and confidentiality in connection with visits by Community Visitors is important and it supports the [39] recommendation at the level of principle. Indeed, Ms Robbs' evidence was that she agreed with the importance of privacy and confidentiality in this context.<sup>4</sup>
4. Life Without Barriers respectfully submits that the Royal Commission might reconsider whether the [39] recommendation should be made on the basis of Ms Robbs' evidence, as summarised in [38], in circumstances where:

---

<sup>1</sup> Exhibit 5.255, Statement of Claire Robbs, 14 August 2020, STAT.0138.0001.0001, at [12].

<sup>2</sup> Exhibit 5.255, Statement of Claire Robbs, 14 August 2020, STAT.0138.0001.0001, at [108].

<sup>3</sup> Transcript, Claire Robbs, Public hearing 5, 20 August 2020, P-290 [5-10], Andrew Richardson, P-290 [6].

<sup>4</sup> Transcript, Claire Robbs, Public hearing 5, 20 August 2020, P-289 [35-45] and P-290 [1-10].

# Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability | Public Hearing 5: the impact of the COVID-19 pandemic on people with disability

Life Without Barriers' submissions dated 18 September 2020 in response to Counsel Assisting's supplementary submissions dated 10 September 2020

- a) Ms Robbs' evidence was that Life Without Barriers had purchased additional equipment to ensure privacy and confidentiality for Community Visitor 'visits' to the extent that those needed to occur online; and
- b) although she was not aware of the 'specifics', she considered that Life Without Barriers' staff had ensured that those visits took place in a manner that respected the privacy and confidentiality of attendees.<sup>4</sup>

## Pandemic Planning

5. At [78] of the Service Provider Submissions, it is submitted to be open to the Royal Commission to find that Life Without Barriers did not have a "pandemic specific plan in place prior to the COVID-19 pandemic, despite the fact that Australia had experienced the swine flu pandemic in 2009".
6. The current formulation of the recommended finding, particularly the use of the word "despite", suggests, if made, that:
  - a. Life Without Barriers should have developed a pandemic specific response plan following the outbreak of the swine flu pandemic in 2009, and failed to do so; and
  - b. the existence of such a plan would have made a difference to Life Without Barriers' response to COVID-19, although the nature and/or degree of that difference is not articulated.
7. Although Life Without Barriers did not have a pandemic-specific plan in place before the COVID-19 pandemic, it did have an Emergency Management Response Plan, which provided a structure for an organisational response to a range of different emergencies, including health emergencies. The Emergency Management Response Plan was intended as the starting point for an organisational response to a particular emergency, from which a bespoke response plan would be developed to accommodate the specific challenges and requirements of the emergency at hand. In the Service Provider Submissions at [74], Counsel Assisting refers to the evidence of Ms Robbs to the effect

---

<sup>4</sup> Transcript, Claire Robbs, Public hearing 5, 20 August 2020, P-289 [35-45] and P-290 [1-10].

## **Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability | Public Hearing 5: the impact of the COVID-19 pandemic on people with disability**

**Life Without Barriers' submissions dated 18 September 2020 in response to Counsel Assisting's supplementary submissions dated 10 September 2020**

that Life Without Barriers developed its pandemic response plan earlier this year using the existing Emergency Management Response Plan as a base.<sup>5</sup>

8. As far as Life Without Barriers is aware, there is no evidence before the Royal Commission of a requirement for service providers to develop a pandemic-specific response plan following the swine flu pandemic (as opposed to, for example, a higher level emergency response plan); or an expectation that providers would develop such a plan. Nor is there evidence that would assist the Royal Commission to determine whether service providers (including but not limited to Life Without Barriers) should reasonably have been expected to develop such a plan following the swine flu pandemic. These were not matters which Ms Robbs or Mr Richardson were asked to comment on.
9. The experience in relation to the COVID-19 pandemic shows that even if Life Without Barriers had prepared a pandemic-specific response plan after the swine flu pandemic in 2009, a plan responsive to that pandemic, or a pandemic more generally, would require extensive revision so as to accommodate the specific features of any future pandemic, including its particular manifestation, the degree of contagion and the manner and speed of infection. A plan of that nature would also need to reflect specific regulatory requirements.
10. In 2020, when confronted with a global pandemic the likes of which, as Counsel Assisting said in the Opening Address for Public hearing 5, had not been experienced since the Spanish Flu in 1918,<sup>6</sup> Life Without Barriers took steps to put in place measures directed to ensuring that it was ready at all levels of the organisation to respond to a COVID-19 infection or outbreak. By 20 March 2020 Life Without Barriers had established a National Emergency Management Team (which met daily) and a COVID-19 specific Emergency Response Pandemic Plan in place, together with an organisational structure to administer that Plan and a suite of other plans and procedures to facilitate it.<sup>7</sup>

---

<sup>5</sup> Exhibit 5.255, Statement of Claire Robbs, 14 August 2020, STAT.0138.0001.0001, at [24], [155].

<sup>6</sup> Opening Address Senior Counsel Assisting – Kate Eastman SC, Public hearing 5, 18 August 2020, P-1.

<sup>7</sup> Exhibit 5.255, Statement of Claire Robbs, 14 August 2020, STAT.0138.0001.0001, at [16], [24-25], [48], [66], [74], [115]. See in particular the following plans and procedures exhibited to the Statement of Claire Robbs, 14 August 2020: Exhibit 5.255.1 Life Without Barriers' Tactical Plan, LWB.2000.0001.0051; Exhibit 5.255.2, Life Without Barriers' Pandemic Plan, LWB.2000.0001.0058; Exhibit 5.255.3 Life Without Barriers' COVID-19 Communication Plan, LWB.2000.0001.0070; Exhibit 5.255.11, Life Without Barriers' COVID-19

# Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability | Public Hearing 5: the impact of the COVID-19 pandemic on people with disability

## Life Without Barriers' submissions dated 18 September 2020 in response to Counsel Assisting's supplementary submissions dated 10 September 2020

11. To the extent that the proposed finding at [78] of the Service Provider Submissions is intended to suggest that the existence of a pandemic-specific plan place before the outbreak of COVID-19 would have made a positive difference to Life Without Barriers' response (or, conversely, that the absence of a pandemic-specific plan negatively affected its response in some way), Life Without Barriers submits that the nature of the difference would need to be articulated before any such inference could be drawn. Having regard to the circumstances and the detail that Life Without Barriers has provided in relation to its response to the COVID-19 pandemic, caution should attend the drawing of any such inference.

### Number of infections

12. There is a submission in [79] of the Service Provider Submissions that in Ms Robbs' oral evidence, she confirmed that between the date of the commencement of the pandemic and 20 August 2020, a total of 37 clients or staff members returned positive test results for COVID-19.<sup>8</sup>
13. Ms Robbs' evidence was to the effect that a total number of 25 individuals (staff and clients) had been identified as having returned positive COVID-19 tests as at the time of provision of her second statement to the Royal Commission, on 19 August 2020.<sup>9</sup>
14. At the time Ms Robbs provided her second statement, several clients were in the process of being tested for COVID-19. Subsequent to the provision of Ms Robbs' second statement, two clients returned positive COVID-19 tests; meaning that the total number of Life Without Barriers' clients and staff infected with COVID-19 between the commencement of the pandemic and 20 August 2020 is now known to be 27.

---

Incident Response Coordination Guide, LWB.2000.0001.0001; Exhibit 5.255.12 Life Without Barriers' Infectious Disease COVID-19 Response Procedure, LWB.2000.0001.0036.

<sup>8</sup> Transcript, Claire Robbs, Public hearing 5, 20 August 2020, P-281 [33-42]; Exhibit 5.255, Statement of Claire Robbs, 14 August 2020, STAT.0138.0001.0001; Exhibit 5.256 Life Without Barriers response, 22 June 2020 LWB.1003.0002.0013.

<sup>9</sup> Transcript, Claire Robbs, Public hearing 5, 20 August 2020, P-281 [33-42]; Exhibit 5.255, Statement of Claire Robbs, 14 August 2020, STAT.0138.0001.0001; Exhibit 5.256 Life Without Barriers response, 22 June 2020 LWB.1003.0002.0013; Exhibit 5.270, Second statement of Claire Robbs, 19 August 2020, STAT.0141.0001.0001.

# Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability | Public Hearing 5: the impact of the COVID-19 pandemic on people with disability

Life Without Barriers' submissions dated 18 September 2020 in response to Counsel Assisting's supplementary submissions dated 10 September 2020

## Oversight to ensure restrictions are not more severe than appropriate

15. In the Service Provider Submissions at [93], the issue of whether restrictions being imposed by service providers are more severe than what is appropriate is described a topic worthy of further investigation by the Royal Commission. This submission relies on the submission at [92] that:

*Both Ms Robbs and Mr Richardson gave evidence about how their respective organisations imposed any restrictions on the lives of people with disability living in group homes, confirming that while both organisations endeavoured to respect clients' choices by not imposing greater restrictions than would apply to the community more broadly, they also agreed that there was no particular oversight mechanism (other than internal oversight) to ensure that more severe restrictions were not imposed.<sup>10</sup>*

16. Life Without Barriers recognises that an inquiry into restrictions imposed by service providers is a legitimate and important avenue for the Royal Commission. However, Life Without Barriers is concerned that, as currently framed, the submissions at [92] and [93] convey that Life Without Barriers imposed restrictions that were more severe than was appropriate and that an oversight mechanism was not in place and should have been in place to prevent this occurring.
17. The evidence of Ms Robbs to the Royal Commission was that Life Without Barriers only applied restrictions in line with the Public Health Orders and stay at home directives applicable from time to time in the relevant State or Territory. Life Without Barriers did not otherwise place restrictions on the group homes it operated or otherwise place restrictions on the clients to whom it provided services.<sup>11</sup> It was only in limited circumstances, and only after consultation and agreement with clients and family, that

---

<sup>10</sup> Exhibit 5.255, Statement of Claire Robbs, 14 August 2020, STAT.0138.0001.0001 at [21-23]; Transcript, Claire Robbs, Public hearing 5, 20 August 2020, P-282 [40-45], P-283 [5-35]; Exhibit 5.250, Statement of Andrew Richardson, 16 August 2020 at [11-20]; Transcript, Andrew Richardson, Public hearing 5, 20 August 2020, P-283 [40-45], P-284 [5-20].

<sup>11</sup> Exhibit 5.255, Statement of Claire Robbs, 14 August 2020, at [21-23].

**Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability | Public Hearing 5: the impact of the COVID-19 pandemic on people with disability**

**Life Without Barriers' submissions dated 18 September 2020 in response to Counsel Assisting's supplementary submissions dated 10 September 2020**

some additional restrictions were introduced at particular residences to reflect and support individual client health concerns.<sup>12</sup>

**18 September 2020**

**Anna Mitchelmore**

**Counsel for Life Without Barriers**

---

<sup>12</sup> Transcript, Claire Robbs, Public hearing 5, 20 August 2020, P-283 [20] to P-285 [35].