



TRANSCRIPT OF PROCEEDINGS

THE HON RONALD SACKVILLE AO QC, Chair
DR RHONDA GALBALLY AC, Commissioner
MR ALASTAIR McEWIN AM, Commissioner

**THE ROYAL COMMISSION INTO VIOLENCE, ABUSE, NEGLECT AND
EXPLOITATION OF PEOPLE WITH DISABILITY**

10:01 AM, TUESDAY, 25 MAY 2021

DAY 2

KATE EASTMAN SC, Senior Counsel Assisting

CHAIR: Good morning everybody. Before we commence with the evidence, I wish to acknowledge the Wangal people of the Eora Nation, the traditional custodians of the land upon which this hearing is taking place at Homebush, and we pay our respects to their Elders past, present and emerging.

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We also acknowledge the Wurundjeri people of the Kulin Nation, upon whose lands Commissioner Galbally is presently located. We pay our respects to their Elders past, present and emerging and we also pay our respects to all First Nations people who may be attending the hearing in person today or viewing or following the hearing on the livestream.

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Yes, Ms Eastman.

MS EASTMAN: Thank you, Commissioners. Good morning to everyone following the proceedings on the webcast.

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Commissioners, you will see that Eliza has returned to complete her evidence this morning, so we will start again with Eliza.

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ELIZA, PREVIOUSLY AFFIRMED

CHAIR: Eliza, thank you very much for returning this morning.

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ELIZA: No worries. Good morning.

EXAMINATION-IN-CHIEF BY MS EASTMAN, CONTINUED

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MS EASTMAN: Eliza, you were in the hearing room yesterday when I made some opening remarks to give an overview of the issues that may arise in this hearing in.

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ELIZA: Yes.

MS EASTMAN: You heard me say something about the New South Wales Ombudsman and its internal work, in terms of recruitment practices and probity checks. Do you remember me talking about that?

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ELIZA: Yes.

MS EASTMAN: Do you remember me mentioning the Ombudsman, a probity check in relation to SP2? I'm paraphrasing there.

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ELIZA: Yes. I was horrified.

MS EASTMAN: SP1, sorry.

ELIZA: Yes.

5 MS EASTMAN: Before you heard me say that yesterday morning ---

ELIZA: Yes.

10 MS EASTMAN: Were you aware of the Ombudsman undertaking any inquiry of that kind?

ELIZA: Absolutely not. If I had known, Sunnyfield wouldn't have received 1,500 emails, they would have received 3,000.

15 MS EASTMAN: Did you yourself know anything about SP1's employment history before he commenced at Sunnyfield?

ELIZA: I did.

20 MS EASTMAN: What did you know about his employment history?

ELIZA: In one of the conversations I'd had with him, he referenced an incident he had with the previous service provider that we had just left. And I recall raising this in my conference with Jonathan Swain and Caroline Cuddihy.

25 MS EASTMAN: Just pause there, who is Jonathan Swain?

ELIZA: I think he was the company secretary. He was the person --- when I tried to contact the CEO as per their complaints and feedback guide, saying I could speak to anyone including the CEO, he was the first point of contact. Sorry, I will slow down. He was the first point of contact that I was told, you know, this is the person you have to speak to, to get to the head honcho.

30 MS EASTMAN: What did you understand the company secretary to be? What was his role? What did you understand that to be?

ELIZA: Assistant to the CEO, in layman's terms. I'm not a business person but I figured if he was the person I was being told to speak to, that she was too busy to speak to me herself.

40 MS EASTMAN: Did you ever meet him in person?

ELIZA: I did, yes, when we organised a conference with all the stakeholders around behavioural support. I think it was October 2017, I'd have to double check. But yes, I met him in person then, but we've had several conversations.

MS EASTMAN: Come back to, I think you were answering the question about what

did you know about SP1's employment history.

5 ELIZA: Yes. So I knew he had worked for that previous service provider we had experience with because he told me directly and I can't remember --- I'm sure I've submitted it in evidence because I took notes of that conversation. He was referencing an instance where he used an unauthorised restricted practice on a young man in their service. I can't remember the exact words that he used, but it was to the effect of he didn't give a damn about what management said, he felt it was appropriate and, therefore, he would do it.

10 I recall relaying this directly to Caroline Cuddihy and Jonathan Swain in our teleconference and I recall Ms Cuddihy being shocked because she was not aware. I also --- because I asked the question, how is it that this person has been employed and you guys don't know where he has worked before, and I suggested that there may be a bit of nepotism involved. I remember making that statement because Ms Cuddihy asked me what nepotism meant and Jonathan Swain had to explain it to her. They said they would investigate.

20 Later, when I followed up with Mr Swain, he told me, as I documented in the notes that I sent back to him afterwards just to, you know, make sure that my recollection of his statement to me was correct, that they had approached this provider, who said that they needed to have SP1's consent before giving them any information, and it stopped there.

25 MS EASTMAN: So is your best recollection that these were conversations that may have occurred around September to October 2017?

ELIZA: Yes.

30 MS EASTMAN: Can I take you back to paragraph 44 of your statement and we didn't touch on this directly yesterday. Paragraph 44. Commissioners, just to put this in context, this is part of Eliza's statement where she discusses the various complaints and concerns that she sought to raise during the latter part of 2017, and I didn't --- we touched on the battery matter, which is paragraph 42, but I didn't take you yesterday to each of these matters.

ELIZA: Yes.

40 MS EASTMAN: But I want to draw your attention to paragraph 44.

ELIZA: Yes.

MS EASTMAN: Sorry, let's start with paragraph 43. That was an occasion on 10 October?

45 ELIZA: Yes.

MS EASTMAN: Your mother saw SP1 pick Melissa up while she was naked and remove her from the bathroom during a behaviour. The reference to a behaviour, that's a description of Melissa having ---

5 ELIZA: Self-injurious behaviour, yes.

MS EASTMAN: You say in this statement that you relayed this event to Sunnyfield's company secretary. That is Mr Swain ---

10 ELIZA: Yes.

MS EASTMAN: --- who you just referred to. This is a telephone call on or about 27 October?

15 ELIZA: Yes.

MS EASTMAN: As you say there, you also recall a staff member telling you later in November that staff were using physical restraints and not reporting.

20 ELIZA: Yes.

MS EASTMAN: Due to the fear of getting in trouble.

ELIZA: Yes.

25

MS EASTMAN: We touched upon that yesterday.

ELIZA: Yes.

30 MS EASTMAN: Paragraph 44 is another complaint you made in November 2017, this time about SP1 not following instructions from the general practitioner or acting in accordance with Melissa's Medical Management Form regarding the use of a thermometer and the administration of paracetamol?

35 ELIZA: Yes.

MS EASTMAN: On this occasion, did you have a conversation or some form of communication with the General Manager of Shared Living? That's a different person from Mr Swain; is that right?

40

ELIZA: Yes.

MS EASTMAN: Who is the General Manager of Shared Living that you spoke to?

45 ELIZA: I would have to refer back to my notes to be 100 per cent sure because it was around this time that we went from an Acting General Manager to Jennifer Luff, so I would have to double check to be 100 per cent, but I know that Jennifer Luff was

involved in this particular one.

MS EASTMAN: To the best of your recollection, whether it was Ms Luff or an acting person in that role ---

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ELIZA: Yes.

MS EASTMAN: --- that person advised you that she had discussed your complaint with SP1 but would not provide you with Sunnyfield's view on SP1's conduct in relation to the issue. I will ask to bring up the email which is in of part A, and it is the email that refers to paragraph 44.

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ELIZA: Which tab is it, sorry? Volume 1? Volume 1, tab 27?

15 MS BENNETT: 25.

MS EASTMAN: So the response that you received was the General Manager told you that Sunnyfield:

20 *..... do not consider it necessary or appropriate to be engaging any further regarding staff performance and management.*

So let's go to that email. Looking at this email, does that help you in your recollection as to who you spoke to?

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ELIZA: Are you talking about the one on the page with the top number being 0002?

MS EASTMAN: 0001, so behind tab 25.

30 ELIZA: Yes. This one. Oh, yes, yes. So ---

MS EASTMAN: Does that assist you in your recollection?

ELIZA: It does.

35

MS EASTMAN: Sorry, stay with me. The emails go backwards in a chain.

ELIZA: Yes.

40 MS EASTMAN: We need to go to page 4 first.

ELIZA: Yes.

MS EASTMAN: Following the context, I just want to get the time-frames right on this.

45

ELIZA: Yes.

MS EASTMAN: A complaint was made by you in November 2017.

ELIZA: Yes.

5

MS EASTMAN: Then the advice from the General Manager, which you're referring to there, does it reflect the matters that you set out in your email here of Wednesday, 17 January 2018?

10 ELIZA: I will just take a moment to have a look at it. Yes. It's amazing what I've blocked out of my memory.

MS EASTMAN: Working backwards, you will see that you received a response from Ms Luff on 23 January?

15

ELIZA: Yes.

MS EASTMAN: Again, just read the response to yourself, but you can see the reference is made there to the thermometer? Do you see she says there:

20

It's understandable you have a high level of concern for Melissa and I have empathy for the amount of energy from you that goes into supporting her wellbeing. We are endeavouring to ensure we address the concerns you have raised in the past to make changes to provide the best possible environment for Melissa and a positive working relationship with you. Be assured that discussions are focused on improving the situation.

25

Then comments are made about appreciating you recording and sending the clinician's comments and advice. So you were told on 23 January in this email ---

30

ELIZA: Yes.

MS EASTMAN: --- that it's understandable you have a high level of concern and you were assured that the discussions are focused on improving the situation?

35

ELIZA: Yes.

MS EASTMAN: Then you respond to this email about an hour or so later?

40

ELIZA: Yes. Yes.

MS EASTMAN: So you don't necessarily, can I say, summarising this email, agree with what Ms Luff has told you; is that right?

45

ELIZA: Yes, because the last paragraph of that email she sent me on 23 January was the beginning of them starting to question medical advice.

MS EASTMAN: You comment in your response to her, and I'll just skip over that first paragraph:

5 *In regards to SP1, I note you haven't commented on his conduct in relation to this. I will ask again, can you please confirm do Sunnyfield, as an organisation, stand by SP1's conduct in this matter and if that's the standard, is that the standard you would expect of a house manager? An explanation would be appreciated.*

10 That comes back to the performance management issue.

ELIZA: Yes.

MS EASTMAN: You sent that on 23 January 2018.

15

ELIZA: Yes.

MS EASTMAN: You received a response on 22 March 2018?

20 ELIZA: Yes. You can see why I was asking about what they meant by a timely response.

MS EASTMAN: The response from Ms Luff is on 22 March, so a couple of months after your request.

25

ELIZA: Yes.

MS EASTMAN: She thanks you for your email and apologises for the delayed response and says:

30

With reference to your first concern, I reiterate SP1 and I have discussed your complaints and addressed the steps that need to be followed. We do not consider it necessary or appropriate to be engaging any further regarding staff performance and management. If you have further complaints that need to be addressed, please contact either myself or the feedback line.

35

Then she makes the comment about the clinicians at the bottom right.

ELIZA: Yes.

40

MS EASTMAN: Just in context, that's the detail of paragraph 44 of your statement, but that was around the time that you think you had the conversation with the company secretary.

45 ELIZA: Yes.

MS EASTMAN: And that raised SP1's performance?

ELIZA: Yes.

MS EASTMAN: And any information that you had about his previous employment.

5

ELIZA: Yes.

MS EASTMAN: The information you had about his previous employment was that SP1 had disclosed to you ---

10

ELIZA: Yes.

MS EASTMAN: --- an issue that had arisen in relation to his conduct?

15

ELIZA: Yes.

MS EASTMAN: Did Sunnyfield ever respond to you in relation to what you disclosed to Sunnyfield about SP1's disclosure to you? Did you have a conversation about that?

20

ELIZA: No. I don't recall that getting followed up. I recall some emails saying that they would investigate it and I would have to refer back to my notes, my conversation --- the following conversations. But I do recall getting feedback about my concern where mum had seen SP1 pick up Melissa out of the bathroom, which I'm not sure if you would like me to talk about.

25

MS EASTMAN: So that's the matter that I think we just --- that is just above the paragraph we are referring to, so that's probably 3; is that right? Is that the incident?

30

ELIZA: Yes, that's the one. I remember what he told me about that. Did you want me to explain?

MS EASTMAN: Is that the context in which he told you about ---

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ELIZA: Yes, it was the same --- I think it was the same conversation because it's in the same notes that we took.

MS EASTMAN: All right. Well, what ---

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ELIZA: What did he say?

MS EASTMAN: What did he say, can you remember?

45

ELIZA: Yes. At the time, so this is on 10 October, it was reported to me by our mother that Melissa was having head banging behaviour in the bathroom and that SP1 picked up Melissa while she was naked and physically removed her from the room. Now, I understand that he was concerned, as was mum, about the potential for

harm to come to Melissa from head banging hard surfaces in the bathroom, but we had made the decision at that point that physically restraining her is not only dangerous for everyone but it also could be a contributing factor into the perpetuation of that behaviour. So I recall we were trying to strike a balance between that dignity
5 versus risk equation for Melissa.

They had pads that could be used and, sure, there was a risk that she could hurt herself by head banging tiles or the corner of the bath, or what have you. But what was made explicitly clear was that we were not to get --- we were not to physically
10 lift her, particularly in the home environment.

So when that was raised with Jonathan Swain, I went to great lengths to try and explain to him that it was of concern because I knew, because SP1 had told me explicitly, that it didn't matter what his management said, he would do whatever he
15 thought was right. When I raised that particular incident with Jonathan Swain, I named the witnesses who saw it. There were other staff there.

When I followed up with him to ask, "Did you question anyone else to say what happened?", he said he didn't want --- they made the decision not to interview them
20 because he didn't want to --- again refer to my notes for the better wording, but I recall it was words to the effect of, "We don't want staff to be afraid of" --- you know, they don't want staff to be scared of speaking up or perpetuating this culture of fear and blame. Which I deeply understand because, as I think the General Manager has said in that boiling water/frog email, that's how this sort of stuff happens and gets
25 covered up, when people are afraid. But I should be able to raise --- sorry.

MS EASTMAN: So you think there might be notes that you took at the time?

ELIZA: Oh, yes. I sent them to you, yes.
30

MS EASTMAN: You have provided those to the Royal Commission.

ELIZA: Yes. I can pull them out for you, if you like?

MS EASTMAN: Are you aware whether at this meeting any notes were taken by
35 anyone from Sunnyfield? Do you have any recollection of observing anyone write notes?

ELIZA: Well, because it was over the phone ---
40

MS EASTMAN: You don't know?

ELIZA: I don't know but ---

MS EASTMAN: But you did take some notes and you have provided them to the ---
45

ELIZA: Oh, yes, and I sent them before anyone can say, "That wasn't what was

said." I sent them back to him and asked him, "If I've got this wrong, to feed back," and from memory, there was no corrections that were made.

MS EASTMAN: We will identify those documents.

5

ELIZA: Yes.

MS EASTMAN: And it may be that if we can't do that before you finish this morning, I might need you just to come back after morning tea just to confirm ---

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ELIZA: Of course.

MS EASTMAN: --- the identity of those documents, thank you.

15

ELIZA: No problem.

MS EASTMAN: I'm going to move forward from where we left off yesterday and that's really after the proposed termination of services and Melissa having to leave the home. I think we got up to yesterday that you had a mediation and that Melissa has remained in the home.

20

I want to take you to that part of your statement where you talk about events in 2019 and this is at paragraph 79, so can I take you up to 79. Commissioners, just following along, we are up to paragraph 79.

25

ELIZA: Yes.

MS EASTMAN: You have told the Royal Commission here that in your opinion, things did not improve in the house in 2019. At that stage for you, you were, as you say, really burnt by the eviction process and you stepped back; is that right? You didn't make as many complaints or raise as many issues?

30

ELIZA: That's right. I recall around the time --- so, I was --- when I became Melissa's guardian, I was really trying to set her up to be as independent as possible, so I was really focused on getting everything sorted so that I didn't have to be so involved. Because I think I may have mentioned before, it takes people about a year to really get to know Melissa and what's involved in her care and her circle of supports and all the complexities that come with it.

35

So, I really tried to be as involved as I could, but I was hardly sleeping, I had a newborn at home. I also was --- it was impacting my work. Like, the day that I received that eviction notice, my poor bosses and colleagues, they pulled me in and went, "Mate, you are pinging, what is going on?", and I just burst into tears and I was like, "Guys, I'm trying as hard as I can and I can't fix this for her, she's stuck in the system. I feel like I'm going crazy, I feel like no one believes me." And so when I ---

45

MS EASTMAN: Did you tell anyone at Sunnyfield this is how you're feeling?

ELIZA: I thought it was pretty self-evident in my behaviour, in terms of I expressed my concerns at every opportunity and I didn't feel that they were receptive, I didn't feel like they cared.

5

MS EASTMAN: That was your sense?

ELIZA: That was my sense, and I'd been criticised so heavily for being demanding and frivolous. And, you know, I'm asking for --- I remember asking, "Can you tell me what I've raised that's wasting your time? Can you tell me, what have I raised on behalf of Melissa that is impacting you?" I didn't get that sort of specific feedback, it was just I felt targeted. I felt like I was the problem and that every time I tried to work the system to get the message out there, I was cut down at every opportunity, and so I --- and obviously, having gone externally as well in desperation, because I tried to seek an internal mediator through Sunnyfield, I asked and I think it's even recorded ---

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MS EASTMAN: This is going back at that much earlier stage?

20 ELIZA: Yes.

MS EASTMAN: Early, I think, 2018.

25 ELIZA: Yes.

MS EASTMAN: I want to bring you back to 2019. So at that stage you were back ---

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ELIZA: Yes.

30

MS EASTMAN: Can I ask you whether you told Sunnyfield about how you were feeling at that stage and why you were backing off. But you don't remember?

ELIZA: I don't. I don't recall. I think it was --- I felt it was evident and I'm not allowed to speak about the --- well, unless the solicitor has given me the nod, if I can speak about what was discussed in that confidential meeting I was forced to sign ---

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MS EASTMAN: I don't need to speak about what occurred in a confidential meeting.

40

ELIZA: Yes.

MS EASTMAN: But I accept that the Royal Commission knows that you had a mediation.

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ELIZA: Yes.

MS EASTMAN: I accept that you talked about a lot of things in the mediation.

ELIZA: Yes.

5 MS EASTMAN: But all we can ---

ELIZA: Can ask for?

10 MS EASTMAN: --- ask you about is what came out of that mediation in terms of the agreement.

15 ELIZA: Yes, and --- yes. And it's true in my statement, after that I went, okay, instead of being available all the time, which I still am and always will be for Melissa in the event of an emergency, the day-to-day administration and running and, like, chasing things was more --- I just picked a day of the week and went "Right". I turned off the notifications for my emails because every time I had that Pavlov response over ---

20 MS EASTMAN: The bing?

25 ELIZA: The bing, yes. And I still get an adrenaline response from it. So I have confined it strictly to one day and there is going to need to be some changes, you know, even so more next year when I return to work full-time because I will have a rotating roster and I won't have that exact same day, but I will make a schedule and give them as much advance notice as I like and those will be the days that I ---

MS EASTMAN: All right.

30 ELIZA: Yes.

MS EASTMAN: I want to bring you back. In about mid-2019 you heard that Sunnyfield had engaged an independent external investigator or just an external investigator?

35 ELIZA: External investigator.

MS EASTMAN: Her name was Jennie Piaud?

40 ELIZA: Yes.

MS EASTMAN: You were told that she was looking into things that had happened in the house involving SP1 and SP2 and that was in relation to their conduct toward Chen and Carl, but at that stage not Melissa; is that right?

45 ELIZA: Yes.

MS EASTMAN: You were contacted by Ms Piaud in about August 2019?

ELIZA: Yes.

MS EASTMAN: You met with her?

5

ELIZA: Yes.

MS EASTMAN: She asked you about some of your experiences with SP1.

10 ELIZA: Yes.

MS EASTMAN: And SP2?

ELIZA: Yes.

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MS EASTMAN: After that interview, later in August, around 19 August, you received a letter from Sunnyfield advising of allegations of misconduct involving physical abuse by two male staff, that's SP1 and SP2; is that right?

20 ELIZA: Yes.

MS EASTMAN: Towards two male residents and that was Carl and Chen?

ELIZA: Yes.

25

MS EASTMAN: It had come to management's attention in late June 2019 due to a complaint to the NDIS Quality and Safeguards Commission; is that right?

ELIZA: Yes.

30

MS EASTMAN: The letter also advised that staff members had been suspended, so SP1 and SP2 have been suspended, and the matter reported to the police?

ELIZA: Yes.

35

MS EASTMAN: But the letter didn't disclose it was SP1 and SP2?

ELIZA: No.

40 MS EASTMAN: But it was pretty easy to work out, was it?

ELIZA: Oh, yes. They all of a sudden went on extended leave and you go, "Oh yes, about time".

45 MS EASTMAN: You say in paragraph 83 that it was in the course of the police investigation and other investigations in relation to SP1 and SP2 that an incident came to light which was said to have occurred around the end of May 2019.

ELIZA: Yes.

MS EASTMAN: That was an incident in relation to Melissa?

5

ELIZA: Yes.

MS EASTMAN: You had heard nothing about that incident at the time it was alleged to have occurred, I think it was late May or early June, right?

10

ELIZA: Correct.

MS EASTMAN: When were you first told about the incident? Did that come up through contact from Jennie Piaud or did it come up through a contact with Sunnyfield?

15

ELIZA: I would have to refer back to my notes. Yes, I would have to refer back. I don't know who it was at that stage.

MS EASTMAN: But somebody told you that. From subsequent investigations, your understanding is that Melissa was having a behaviour ---

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ELIZA: Yes.

MS EASTMAN: --- and SP2 was on duty with another support worker?

25

ELIZA: Yes.

MS EASTMAN: The other support worker told the police that she witnessed SP2 drag Melissa by her wrists ---

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ELIZA: Yes.

MS EASTMAN: --- down the hallway to her bedroom while she was naked?

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ELIZA: Yes.

MS EASTMAN: That's what you were told?

40

ELIZA: Yes.

MS EASTMAN: You have no firsthand knowledge of this incident?

ELIZA: Correct.

45

MS EASTMAN: Your knowledge about the incident is based on what you were told that somebody else reported; is that right?

ELIZA: Yes.

MS EASTMAN: As lawyers, we might say there are levels of hearsay in that.

5

ELIZA: Yes.

MS EASTMAN: But you were told about an incident that would be investigated by Jennie Piaud; is that right?

10

ELIZA: Yes.

MS EASTMAN: I want to look at your paragraph 84, where you say the support worker said to you that she did not report it earlier as she was scared and did not know what the right thing to do was.

15

ELIZA: Yes.

MS EASTMAN: Focus on that conversation.

20

ELIZA: Yes.

MS EASTMAN: Is that a conversation you had with the support worker after you learnt about these investigations? So were you able to work out who the support worker was and make contact with that person?

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ELIZA: Yes, I physically saw her. But that theme of that conversation I had with several staff as early --- early on, and I think when we go and find those notes, my conversation with Mr Swain and Ms Cuddihy ---

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MS EASTMAN: The conversation with Mr Swain and the conversation we have looked at earlier is about SP1 dragging Melissa.

ELIZA: But the fear that she refers to and the concern of the systemic cultural issue within Sunnyfield around when things like this happened, people were afraid to go to management. Like, people were afraid to even go around SP1 because they felt, and had expressed to me, that they wouldn't be believed either. And I refer in my notes to a conversation with both Mr Swain and Ms Cuddihy, that that dynamic exists and that people aren't speaking up because they are afraid. And the exact reason why this beautiful support worker, who is still there today, who I think is fantastic and I know that Melissa loves her dearly, that the culture that I believe starts from the top has contributed to the very reason this staff member didn't say anything at the time. There were other side issues around, you know, she was quite junior and issues around training, and whatever, but that theme of she was scared and didn't know what to do.

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45

I recall telling Ms Cuddihy and Mr Swain that the staff, when I spoke to them on the

ground, didn't know who the oversight body was, they didn't know about Stopline, they didn't know about these things. So yes, like, that --- when we talk about why that wasn't reported earlier, they knew why.

5 MS EASTMAN: When you're talking about what you told Ms Cuddihy and Mr Swain, that was at the earlier point in time?

ELIZA: Yes, yes.

10 MS EASTMAN: But coming back to the latter part of 2019 ---

ELIZA: Yes.

MS EASTMAN: --- you had been told about this incident involving SP2?

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ELIZA: Yes.

MS EASTMAN: And you separately had the conversation with the support worker. That's paragraph 84 of --

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ELIZA: Yes, that's right.

MS EASTMAN: Other than the conversation with the support worker, did Ms Cuddihy or Mr Swain contact you to tell you about this incident and what Sunnyfield was doing with respect to both reporting it to the police and also conducting its own investigation? Do you have a memory of that?

25

ELIZA: Mr Swain was not there. By the time this incident occurred, he had left the organisation, I understand. Ms Cuddihy certainly didn't contact me. I believe there was someone in the response team that had told me something and I just --- without my notes specifically referring exactly, I do recall something about it being referred to Mrs Piaud and the police, but there was no --- there was no even acknowledgement that actually happened, it was more like, yes, someone said this and we have passed it over and they will be in contact, pretty much. I'm sure there's an email about it.

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35

MS EASTMAN: But just off the top of your head, you can't remember whether you ---

40 ELIZA: No.

MS EASTMAN: --- had any direct contact about those things. When you became aware that the allegation of SP2's conduct was the subject of a police investigation and then an internal Sunnyfield investigation, and by internal I mean that's the Jennie Piaud one ---

45

ELIZA: Yes.

MS EASTMAN: --- did anyone offer you any support or counselling?

ELIZA: No.

5

MS EASTMAN: Do you know if anyone offered Melissa any support or to the extent counselling would have assisted her, in an appropriate format? Are you aware whether that was ever offered to Melissa?

10 ELIZA: No, not at all.

MS EASTMAN: In paragraph 85 you say you then became aware that SP2 was charged with assault of Melissa, as well as some offences alleged in relation to Carl and Chen.

15

ELIZA: Yes.

MS EASTMAN: You have said in paragraph 85 the police did not seek a statement from, or ask you how to communicate best with, Melissa. I want to ask you a few questions about that.

20

ELIZA: Yes.

MS EASTMAN: First of all, did you have any direct contact with the New South Wales police in relation to the charge with respect to SP2 and the alleged assault of Melissa?

25

ELIZA: I did. So in relation to this specific incident, because there had been a few engagements with police prior to this, I did make contact with the detective who was investigating this and I found her to be outstanding and unlike any of the police that had been there previously. I know that in all likelihood, because of Melissa's capacity to understand the situation, there wouldn't have been a great deal of merit in any sort of direct discussion. I believe a meet --- she did get to see her, and I felt a great deal of trust that this cop got it, like, this cop understands there is something more happening here. But if I'm allowed to make a comment about the previous engagement with police?

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MS EASTMAN: Can I keep you on this topic rather than going back?

40 ELIZA: Okay.

MS EASTMAN: It might be suggested ---

ELIZA: Yes.

45

MS EASTMAN: --- that the police should have spoken to Melissa directly. As her guardian, do you have a view, first of all, on whether that would be appropriate in the

circumstances and, secondly, what or how could that be done, if it was appropriate?

5 ELIZA: Well, because you can't have a back and forth conversation with Melissa and because her ability to express herself is so --- what's the word? She can't --- she wouldn't be able to answer any questions that would be able to provide anything particularly useful. The way that you could possibly assess her feelings about this particular support worker would be to observe her behaviour around SP2 and also whether or not she asks for him when he's not around. You can get a sense of Melissa's fondness for a person by those sorts of behaviours.

10 I didn't have any indication from anyone I spoke to that there was a concern with SP2, but I also noted he certainly wasn't her favourite because I made every effort where I saw there was a connection through other, obviously, information, that I tried to pass that information on to Sunnyfield that these are Melissa's preferred staff.
15 Because if she is showing signs that she likes a person and doesn't feel afraid in their company, I will speak up because I feel like if that was me, that would be my way of saying, yes, put me with such and such.

20 So in relation to your question of whether it was appropriate for police to speak to her directly, apart from I believe they did see --- the detective did see her, I don't know what else they could have done that would have been useful in the proceedings.

25 What I do know, more so in my experience previously, was next time I will attempt to either be there or have someone trusted by Melissa to be there to maybe act as a bit of a --- you know, not a translator because it's not as simple as that, but give a reliable account of what her interactions and demeanour and behaviour might mean. Does that make sense?

30 MS EASTMAN: It does. Coming back to some of your evidence yesterday about CCTV, do you have a view about the allegations in this incident and whether or not CCTV would have been of assistance or irrelevant to address this particular allegation?

35 ELIZA: Absolutely. I think if everyone could see what he did, I think it would have changed the outcome. I note he doesn't deny doing it, but part of me --- and I will just be speculating around why he --- his defence chose the defence they did.

40 MS EASTMAN: I don't want you to speculate on that.

ELIZA: I do think CCTV would have made a difference, yes.

45 MS EASTMAN: Can I put this to you: if there wasn't CCTV and Sunnyfield formed a view that was not appropriate in the house, then what would be your expectation about the record keeping and the content of an incident report with respect to an incident of this kind? What would you have expected to have seen in those records?

ELIZA: I would have expected --- if he did it honestly, feeling like he had done nothing wrong, I would have expected him to say, "Yes, I did it and I did it for these reasons." But he was aware that there was a behavioural support plan in place that made a provision for what to do, that didn't involve dragging her naked by the wrists, what was it, 4 to 6 metres between the kitchen and her bedroom. You could have grabbed the mats. Yes, she might have contacted the door a few times but at the end of the day, like, who would do that? Again, it boggles my mind that someone would think that dragging someone across the floor would be appropriate.

5

10 MS EASTMAN: You are aware that there was a criminal justice process ---

ELIZA: Yes.

MS EASTMAN: --- that lasted until mid-2020?

15 ELIZA: Yes.

MS EASTMAN: And that SP2 was required to appear in a local court?

20 ELIZA: Yes.

MS EASTMAN: And that the Magistrate dismissed the charges against him?

ELIZA: Yes.

25 MS EASTMAN: Now, at any time following SP2's --- I think you've described it as an acquittal in your statement, did Sunnyfield acknowledge its responsibility for what had occurred?

30 ELIZA: Not at all.

MS EASTMAN: At any time did Sunnyfield raise with you whether an application, for example, could be considered in making a victim's compensation claim ---

35 ELIZA: No.

MS EASTMAN: --- on behalf of Melissa?

ELIZA: No.

40 MS EASTMAN: There were no inquiries about that at all?

ELIZA: Nothing.

45 MS EASTMAN: At any time were you or Melissa offered any compensation as to what had occurred?

ELIZA: No.

MS EASTMAN: Were you offered any counselling?

5 ELIZA: No, no. Radio silence.

MS EASTMAN: Were you offered an opportunity to have a meeting with Sunnyfield to talk about what had occurred?

10 ELIZA: No.

MS EASTMAN: Well, what happened with Sunnyfield? I've asked you a few questions.

15 ELIZA: Yes, yes.

MS EASTMAN: You would think there would have been --- what actually was done?

20 ELIZA: Oh, buried their head in the sand, radio silence, ignore it, didn't happen. I remember I had a brief conversation with Regional Manager 2 about how we address some of the systemic issues that led to this particular incident, in particular his defence statement basically saying that, well, he felt he was on his own and he had to do something, as a valiant saviour. I said, well, could this be addressed by making
25 sure she has two-to-one in the home, so that's two staff to one client, to ensure there is never another circumstance upon which someone can use "I was by myself" as a reason for doing such a thing. I recall there was some support from regional manager 2 in relation to that one.

30 I spoke a bit about the fact that it was my view that SP1 had done and got away with a lot more than SP2 and I think her attitude was basically, oh no, she wouldn't comment or she wouldn't acknowledge that he did anything wrong. And I respect --- I've got a deep respect for regional manager 2. I think out of anyone in Sunnyfield, she's probably the best. And I know that we can differ in opinion and
35 still have a conversation. I know, at least on my side, there's no ill-will because I know she gives a damn about Melissa and the other guys in the house. But, yes, that's the only conversations I've ever had about it because there's this real culture of close ranks, we don't acknowledge failings, we don't acknowledge faults.

40 Regional manager 2 is the only person that I have experienced within Sunnyfield that actually doesn't get defensive when I raise a concern. She listens. Like, when, obviously I'm given an opportunity to speak to her, she listens to the issue and she tries to address the issue, as opposed to just deny it ever happened. And, like, there is still obviously concerns there around evidence gathering and making sure that they
45 do act on concerns, regardless of whether I can prove it or not.

MS EASTMAN: You were aware also of the criminal proceeding involving SP1?

ELIZA: Yes.

5 MS EASTMAN: You are aware, aren't you, that the charges with respect to him were dismissed?

ELIZA: Yes, yes.

10 MS EASTMAN: You also understand that Sunnyfield terminated both the employment of SP1 and SP2. You're aware of that?

ELIZA: Yes.

15 MS EASTMAN: But in terms of any actions that Sunnyfield has taken in response to those incidents, you say in paragraph 91 that you're not aware of any action they've taken in response to what happened?

ELIZA: No.

20 MS EASTMAN: But you have read Ms Cuddihy's statement that she's prepared for these proceedings?

ELIZA: Yes.

25 MS EASTMAN: You have read that part of her statement that she will tell the Royal Commission what has changed and what improvements have been made since that time. Now, you've read those parts and I'm not going to ask you to comment on them. But from your perspective, in terms of what you have seen, have you seen any changes that have occurred since SP1 and SP2 have ceased working at the house?

30 ELIZA: Yes. When they stopped working, I could see --- like, we had another person come in, another house manager, Service Co-ordinator 2, he was outstanding. He was just real, like, a straight shooter. When I raised issues with him, again, he would deal with the issues, and so --- and I felt believed.

35 MS EASTMAN: Can I ask you to pause there. You have said that you have a good relationship with Regional Manager 2, I think?

ELIZA: Yes.

40 MS EASTMAN: This is Support Co-ordinator 2. Even your facial expression changes when you talk about them. What difference does it make to you when you have people who clearly you can engage with?

45 ELIZA: Yes.

MS EASTMAN: What's the difference to you in terms of discharging your duties as

a guardian for Melissa, in the sense of actually being heard?

ELIZA: Oh, relief, overwhelming relief and just this trust. Like, when these two were involved, so Service Co-ordinator 2 and Regional Manager 2, Melissa
5 had --- we had the darkest day in my life. So, our mother called me one evening and said, "Eliza, Melissa's head is squishy", and I went --- forgive my language --- "Oh, shit, get me on Facetime right now, show me what you're talking about." I could see that Melissa appeared to have a boggy mass over her frontal temporal region or forehead, rather. And I went, "Oh, no, has she cracked her skull?" And, like, this is
10 really serious. But I asked all the head injury questions and there was nothing else that was ringing alarm bells, in terms of when someone has an injury. Sorry, I'm getting back to --- I'll get back to my relationship.

MS EASTMAN: Can I just ask you this: in terms of you knowing what questions to
15 ask about head injuries ---

ELIZA: Yes.

MS EASTMAN: --- is the nature of your job and what you do on a
20 day-to-day-basis ---

ELIZA: Yes.

MS EASTMAN: --- all about being able to ask those sorts of questions in an
25 emergency? Is that right?

ELIZA: That's right.

MS EASTMAN: So you know what questions to ask in an emergency.
30

ELIZA: That's right.

MS EASTMAN: I'll come back to you were concerned that there may be a fracture
35 to her skull.

ELIZA: Yes.

MS EASTMAN: What happens from there?

40 ELIZA: I called --- and I'll have to refer back to my notes, but I remember I got the on-call doctor out and the on-call doctor went, "I think I can feel a stepwise fracture, you need to take her to the hospital." But the clinical picture was not going together that said to me we've got a life-threatening emergency here, in the sense that she didn't have any nausea, there was no change in her behaviour, she didn't appear to be
45 distressed. Sorry, I'll slow down. There was no changes to her speech. There was nothing else apart from this soft mass on her forehead.

So, obviously I've got a professional experience in what happens when someone goes to the hospital and I've also got my personal experience of Melissa's engagement with the health system and it is fraught with danger, both in an environmental sense --- like, she doesn't understand and she finds it difficult to wait and there's a lot of waiting in an emergency department, particularly if you don't meet emergency criteria. So there was a real risk to herself, to others in the community and to the property around them. You know, she could rip machinery off the wall and ---

MS EASTMAN: I will just jump in.

ELIZA: Yes. Sorry.

MS EASTMAN: Can I get you to bring it back to the question I was asking you about the difference when you have somebody ---

ELIZA: Yes, that understands.

MS EASTMAN: --- who is connected to the house and who understands. What's the difference and what happens in that circumstance, in terms of somebody who you could engage with with a degree of trust?

ELIZA: Yes.

MS EASTMAN: What was the difference?

ELIZA: It was great because it went from an adversarial blame thing to, like, oh my God, we have a real problem here and we need to work together. So I collaborated --- I felt like it was a genuine collaboration between these guys and myself and the doctors and the staff, because the logistics involved in getting Melissa to the hospital is not as simple as call an ambulance and off she goes and she will be taken care of. No. Like, she needs to have the right supports with her in order to make that trip a success.

I had to make the hardest decision, and I consulted with as many people as I could before I made it, that night, to go: the staff are exhausted, the family is exhausted, as in my mother and I can't remember if my other sister was there at the time, they are too tired at this time of night to go to the hospital safely. So, together, I made the call that she would have --- and again, collaboratively with these beautiful people, that they got an extra person overnight to watch her. I said if you see any changes, she's not breathing, she's not rousable, anything that you are even mildly concerned about, ring triple zero. But if that doesn't happen, let's do it planned. We'll get an ambulance in in the morning and we'll have mum back here and we'll go together.

So I had the scariest drive, because it was late obviously and it was a six-hour drive for me, and I was determined to be there. So we made arrangements and I was sick with worry and I was on the phone to everyone on my way up to Sydney to be with her and I was trying to co-ordinate and make sure that --- like, I was anticipating

issues in terms of I was playing out the worst case scenario, and my relationship in particular with Regional Manager 2, because she had more of the administrative authority to --- sorry. I keep getting tapped when I'm going too fast.

5 CHAIR: Ms Eastman, I wonder if we could go back to the question.

MS EASTMAN: Yes.

ELIZA: Yes. Sorry.

10

MS EASTMAN: Can I summarise the events and ---

ELIZA: Yes, yes.

15 MS EASTMAN: --- please tell me if I'm doing it fairly. That is, that in a crisis situation ---

ELIZA: Yes.

20 MS EASTMAN: --- and the crisis that you have described as one of your the darkest days.

ELIZA: Yes.

25 MS EASTMAN: In a crisis situation, where you and the family are filled with fear ---

ELIZA: Yes.

30 MS EASTMAN: --- to have somebody at the house who gives you reliable information ---

ELIZA: Yes.

35 MS EASTMAN: --- support, who you trust ---

ELIZA: Yes.

MS EASTMAN: ---- makes all the difference?

40

ELIZA: It does, and that communication ---

MS EASTMAN: So the answer is yes?

45 ELIZA: Yes.

MS EASTMAN: I will put a hypothetical. Does that stand in contrast to your

experience with SP1, and if SP1 had been your contact person in that crisis scenario, that would have been a very different experience for you?

ELIZA: Definitely.

5

MS EASTMAN: Because you would not have had the trust?

ELIZA: Yes.

10 MS EASTMAN: You would not have been confident you received reliable information?

ELIZA: Yes.

15 MS EASTMAN: You would not have had that support?

ELIZA: Yes.

20 MS EASTMAN: And, indeed, probably not the degree of care and empathy that was needed in a crisis situation.

ELIZA: That's right.

MS EASTMAN: Is that a fair comment?

25

ELIZA: Yes.

MS EASTMAN: I need to deal with one more incident in relation to Melissa and this is what you have described in paragraph 92.

30

ELIZA: Yes.

MS EASTMAN: This is another incident where Melissa was observed to have bruising around her eyes. The Commissioners have in their material a photograph that demonstrates the puffiness and the bruising around the eyes.

35

ELIZA: Yes.

MS EASTMAN: You were aware that issue was raised with the police?

40

ELIZA: Yes.

MS EASTMAN: There was also an investigation in relation to the ambulance response to that incident; you're aware of that?

45

ELIZA: Yes, raised by me because I was there.

MS EASTMAN: There were inconsistencies between people's accounts about ---

ELIZA: Yes.

5 MS EASTMAN: --- what or how Melissa had incurred the bruising to her eyes?

ELIZA: Yes.

10 MS EASTMAN: You are aware, aren't you, that Jennie Piaud did an investigation in relation to that incident?

ELIZA: Yes.

15 MS EASTMAN: She had two reports, I think, one saying it wasn't clear how the bruising had occurred?

ELIZA: Yes.

20 MS EASTMAN: The second was a report covering the different accounts of what happened on the day?

ELIZA: Yes.

25 MS EASTMAN: So you were aware of that?

ELIZA: Yes.

30 MS EASTMAN: Were you given a copy of those reports when Ms Piaud had completed her investigation?

ELIZA: No, I was just told it was inconclusive and when I objected because the staff member that was ---

35 MS EASTMAN: You didn't get the reports?

ELIZA: No, that's right.

40 MS EASTMAN: I want to conclude your evidence because the next part of your statement deals with systemic issues of concern. Looking through the issues that you've set out in some detail in the statement, we've touched on a lot of those over the course of yesterday and today.

ELIZA: Yes.

45 MS EASTMAN: So I want to just come back to Melissa ---

ELIZA: Yes.

MS EASTMAN: --- and end where we started, to just talk about what your hopes are for her, the quality of life that you wish to have for her and matters you talk about in your statement from paragraphs 115 and following around greater advocacy support.

5 Is it the case that you are Melissa's primary advocate as well as being her sister and her guardian?

ELIZA: Yes.

10 MS EASTMAN: One observation you have made about the burden on you --- and you are not paid to do any of this.

ELIZA: No.

15 MS EASTMAN: Is that you have almost stepped into the role of what a case manager used to do in the system prior to the NDIS; is that right?

ELIZA: Yes.

20 MS EASTMAN: One of the systemic issues that you have identified is the importance of having strong advocates around a person with complex and high needs?

ELIZA: Yes.

25 MS EASTMAN: And the need for there to be an advocate who can also be a co-ordinator?

ELIZA: Yes.

30 MS EASTMAN: You have raised in your statement a concern about the absence of the case management system and the consequence for families having to step in and fill the gaps?

35 ELIZA: Definitely, yes.

MS EASTMAN: That's one issue you would like the Royal Commission to address?

ELIZA: Yes.

40 MS EASTMAN: And to assist families who have to do this to be able to navigate the NDIS system and the engagement with service providers, in the absence of having a dedicated case manager; is that right?

45 ELIZA: Yes, yes.

MS EASTMAN: I want to bring you to the conclusion, and you can read this if you

want to, paragraphs 129 and 131. It might be helpful, Eliza, if we end on you reading these paragraphs because I think you really have captured what your wishes are for Melissa and her future. Do you want to read paragraphs 129 to 131?

5 ELIZA: Yes. Am I allowed to make a brief comment about the advocacy?

MS EASTMAN: Yes, sure.

10 ELIZA: Just because I've tried to actually raise this with the government before, in relation to the fact that we no longer have case management for people this complex. I kept getting told, oh, but we find advocacy services. They don't seem to understand the practical difficulties of engaging an advocate for people as complex as Melissa, because it's not as simple as grabbing that advocate, giving them a brief rundown of
15 the situation and then they're immediately effective advocates. It's a very long process and most organisations will only deal with the real --- once it gets to this crisis situation, they won't assist in the smaller things that lead up to that point.

So I just wanted to say that to you guys because the government, I felt, was very dismissive when I raised it as an issue because, no, we fund advocacy. But it's
20 useless for us. We really need someone either as a case manager or an advocate who is a permanent person to raise issues with, if it can't be raised direct. So that was my only comment on that.

MS EASTMAN: I am going to divert now and ask you this question: were you
25 aware of any community visitors?

ELIZA: Yes.

MS EASTMAN: Did you have any engagement yourself with any community
30 visitors coming into the house?

ELIZA: Yes. I tried to reach out because I was concerned about a systemic oversight issue with the NDIS Quality and Safeguards Commission and, before that, the Ombudsman, that the reporting process of issues would go from the provider or
35 SP1 and the oversight body and back. It was a closed loop and an honesty system, where we were not being consulted. So when I asked if I could speak to the community visitor, I was allowed to tell her things but I wasn't allowed to hear any outcomes.

40 MS EASTMAN: I am asking you that in the context of whether you had a view that the community visitors were also part of the advocacy on behalf of the residents in the house, including Melissa?

ELIZA: Yes. The benefit was limited because also she can't have an intimate
45 knowledge of Melissa's support needs without speaking to me or without, obviously, having access to all her information, because some of the things that I raised objections with were really subtle but important. The issues of, you know, the fact

that SP1 refused to lock the office door until there were several incidents where Melissa "choked" a staff member because she came up behind them while they were playing on the computer. And that's a theme that has been repeated through Melissa's life, yes.

5

MS EASTMAN: Can I take you back to paragraph 129.

ELIZA: Yes.

10 MS EASTMAN: And just ask you to read in concluding your evidence those three paragraphs.

ELIZA: So what Melissa would like and what I would like is for her to have an ordinary life that is safe, predictable and enjoyable for her. To have genuine choice and control over the things that matter to her such as being able to go to the pool or visit family for more than two hours at a time or even choose what she wants to eat or drink.

15
20 And I just want to preface that statement by saying because of her Prader-Willi, it's not as simple as giving her any old choice. I'm talking about choice in a very structured and safe, clinically recommended format, and to be able to communicate successfully with people as much as she's able to. The model that would facilitate this wonderful ordinary life would involve a small group of highly trained and committed individuals focused on Melissa and helping each other to support her. I think the current staff mix at Sunnyfield stand the best chance she's ever had of coming close to this goal but she's not there yet.

25
30 In my view, without a massive injection of behavioural support funds Sunnyfield staff generally do not have the training or oversight framework to achieve it. With the right support I hope that Melissa can be both the cheeky and happy sister who I love and the young woman with her own safe, caring and fulfilling home life. She needs people around her that always have her best interests in mind and a system that works properly. This should surely be possible with funding from the NDIS.

35 MS EASTMAN: Eliza, you've been giving evidence for a very long time and we're very grateful for the time and the care and time that you've spent in preparing your statement. We haven't covered everything in your statement but I think we've touched on most of the issues. We will check these documents, I will check with you and then we will provide a copy to the parties with leave and to the Commissioners. So, Commissioners, that concludes Eliza's evidence subject to any questions. I understand that any questions that the parties with leave wish to ask have been resolved but I'm happy to double check with them.

40
45 CHAIR: Well, what I suggest is that we shall assume that this finishes your evidence for the moment subject to what Ms Eastman has said. But if in any discussions during the adjournment there is an issue as to whether anybody else wants to ask questions, Ms Eastman will keep you informed and when we return we will sort that

out. So subject to that, we will adjourn.

But I too want to thank you on behalf of the Commission for coming to give evidence for the very detailed statement that you've given and for the detail you've
5 gone into over the last day and a bit really. We are very grateful for your contribution to the work of the commission. We know that it's not an easy task.

ELIZA: Thank you.

10 CHAIR: To come and talk in a public environment like this and we appreciate it.

ELIZA: Thank you so much.

CHAIR: Thank you to your husband, too, who shall remain nameless, but possibly
15 only for the rest of the day.

MS EASTMAN: Could we adjourn for half an hour just to check if there is any particular issues that we may need to sort out.

20 CHAIR: And you will keep Eliza informed of what is going on. All right. We will adjourn until 11.45.

25 **ADJOURNED** [11.12 AM]

RESUMED [11.49 AM]

30 CHAIR: Yes, Ms Eastman.

MS EASTMAN: Thank you, Commissioners. Can I give you an update on our progress?

35 CHAIR: Please do.

MS EASTMAN: As the Royal Commission may be aware, there are many thousands of documents that have been produced to the Royal Commission, so we are just making our way through to check that we have identified the correct
40 documents. I don't think we need to trouble Eliza to return in relation to those documents. Once we have identified the correct documents and we have copies for the parties and we have uploaded them onto our systems, then I will give you a further update at that time.

45 CHAIR: At this stage, I take it, no party wishes to ask Eliza a question?

MS EASTMAN: No, but I might need you, Chair, to double check with my

colleagues that that is the case, but before the morning tea adjournment there were none.

5 CHAIR: I shall assume a party does not wish to ask Eliza a question unless the representative pops up and says they do. Is anybody popping up? Nobody is popping up, so that means nobody wishes to ask Eliza any questions. Thank you.

10 **THE WITNESS WITHDREW**

CHAIR: What do we do now, Ms Eastman?

15 MS EASTMAN: Commissioners, you will see our next witness Sophia is present in the hearing room. The first thing we need to do is to take Sophia's oath.

20 CHAIR: Sophia, thank you very much for coming to the Royal Commission to give evidence today. We will ask you now to follow the instructions of my associate who will administer the oath to you.

SOPHIA, SWORN

25 CHAIR: Thank you, Sophia. If you would be good enough to listen to Ms Eastman, she will now ask you questions.

30 MS EASTMAN: You are using the pseudonym Sophia but you have given your full name and address to the Royal Commission. We might need you to keep your voice up a little bit, so we can hear you.

SOPHIA: Okay. Is that all right?

35 MS EASTMAN: You are an accountant and a carer?

SOPHIA: Yes.

40 MS EASTMAN: You have made a statement for the Royal Commission on 29 April and you have had a chance to read over the statement?

SOPHIA: Yes.

MS EASTMAN: What you have said in the statement is true?

45 SOPHIA: Yes.

MS EASTMAN: You are married and you have two children?

SOPHIA: Yes.

5 MS EASTMAN: You live in Western Sydney with your husband and your daughter?

SOPHIA: Yes.

10 MS EASTMAN: Your daughter is here today?

SOPHIA: That's right, yes.

15 MS EASTMAN: Your son is part of your family and we are going to refer to him as Carl today.

SOPHIA: That's right, yes.

MS EASTMAN: Your family is originally from Lebanon?

20 SOPHIA: Yes, yes.

MS EASTMAN: You have lived in Australia since 1998?

25 SOPHIA: Yes.

MS EASTMAN: You don't have a huge family around you in Australia?

SOPHIA: No.

30 MS EASTMAN: It's really the four of you, isn't it?

SOPHIA: That's right.

35 MS EASTMAN: You are a very tight-knit family, you're very close, aren't you?

40 SOPHIA: Yes. We just have each other. Yes, we originally --- my family originally came from Lebanon in 1977 to live in New Zealand, so all my family live there. When I got married, we got married in Lebanon and we lived there for two and a half years. It was 18 years after we lived in New Zealand, so it was a big culture shock going there.

CHAIR: That was in the mid 1990s?

45 SOPHIA: Yes, 1995, and we had Carl in Lebanon. We were very happy we had a beautiful boy. And I missed my family very much, so before I was about to give birth to our daughter, we went --- I went back to New Zealand, a three-day journey, to give birth to her in New Zealand and be surrounded by my family because by then

we had found out that Carl had ---

MS EASTMAN: We will refer to "Carl".

5 SOPHIA: Oh, sorry.

MS EASTMAN: I will just give you that reminder. That's fine.

CHAIR: That's all right. We are on delay, so it's not a major concern.

10

SOPHIA: Yes.

MS EASTMAN: It's a bit tricky for us to get into the habit of referring to him as Carl, but let's try our best to do that.

15

SOPHIA: Sorry, I'm a bit nervous here.

CHAIR: That's fine.

20 SOPHIA: So my husband came to be with us for the birth of our daughter in New Zealand and the plan was to go back to Lebanon to continue our life there, but we decided to wait and test our daughter for the same condition that our son has and that meant waiting for five weeks, for the first five weeks of her life to pass. When she was tested, she too showed that she had the same condition that Carl had as far as
25 blindness is concerned.

At that time we made the decision not to go back to Lebanon because all I could see was a future that wasn't going to be so bright for both my children over there. We decided to stay back but instead of living in New Zealand, we decided to come to
30 Sydney because it just had more work opportunities for my husband. And ever since then, we've been going back and forth to visit the family. Carl's last visit was when he was 10 years old, when I couldn't take him anymore because of his ---

35 MS EASTMAN: I want to ask you some questions about that. I want to introduce the Royal Commission to Carl. He is now 24 years old.

SOPHIA: Yes.

40 MS EASTMAN: He loves dancing, he loves music and he loves being with his family.

SOPHIA: Yes.

45 MS EASTMAN: He also likes the trampoline and the swings.

SOPHIA: Yes.

MS EASTMAN: He likes being outside, doesn't he, at the park, he likes going on drives and he likes being in water?

SOPHIA: That's right.

5

MS EASTMAN: Swimming.

SOPHIA: Yes.

10 MS EASTMAN: As you said, both Carl and his younger sister were born blind.

SOPHIA: Yes.

15 MS EASTMAN: When Carl was about four years old, you and your husband noticed that his cognitive behaviour and motor skills had not developed as quickly as your daughter?

SOPHIA: That's right, yes.

20 MS EASTMAN: At first you were not sure what the delay might be, whether it was connected to his blindness, but you did get some specialist assessments and that led you to understand that Carl lives with autism and he was what you describe as a severe intellectual disability. You have provided the Royal Commission with a video about Carl.

25

SOPHIA: Yes.

30 MS EASTMAN: This was Carl's way of wanting to give his account of his life for the Royal Commission. This is a video that was prepared, and you're in the video, to help his support workers understand him.

SOPHIA: That's right.

35 MS EASTMAN: Understand what he likes, understand if there's challenges for him, what those challenges might be. We thought we might play that video, if you're still agreeable to that.

SOPHIA: Yes, that's fine.

40 MS EASTMAN: Commissioners, in this video, because of the various pseudonyms we are using in this hearing, you will see some people with pixilation and so it may look a bit unusual but we have pixilated the individuals, not to disclose their identities. Also, we are trying to manage the names of people. You will hear a beep and it might sound a little loud, but the purpose of the beep is not to keep everybody
45 awake but to ensure that we have not disclosed anybody's name. So the video takes a few minutes and we'll play that now.

[VIDEO RECORDING PLAYED]

5 **[VIDEO RECORDING ENDED]**

MS EASTMAN: Sophia, thank you for sharing that video. We could hear your
10 husband, yourself and your daughter in the video and also a number of the support
workers who work with Carl?

SOPHIA: That's right.

MS EASTMAN: You wanted to share this video with us, so the Royal
15 Commissioners could have some understanding about Carl's day-to-day life, the
things he enjoys doing, but also to help the Royal Commission to understand what
Carl's needs might be in the sense that the combination of his autism, his intellectual
disability and his blindness enforces the importance of somebody who knows him
20 well, who will take the time to explain things, particularly where he can't see what
might be happening, to take that time to explain and talk to him is really important.

SOPHIA: Yes, that's right. The role that the support workers play is key to him
having a good day or a bad day. So, if they spend time with him, interact with him,
25 try and understand what he's saying, then Carl will feel like he is being heard and that
somebody is listening to him and somebody cares. But if he is ignored, then most
likely behaviours will occur.

MS EASTMAN: As you say in your statement, if he is distressed or having a
30 behaviour, that may be for him a form of communication?

SOPHIA: That's right, yes.

MS EASTMAN: It sometimes can involve lashing out?

35 SOPHIA: Yes.

MS EASTMAN: And you have been hurt, but it's accidental, it's not ---

SOPHIA: Yes. When he lashes out, it's a way of communicating. He doesn't have
40 the words to use to say what he needs, so we usually give him several options. You
know, do you want to go outside, do you want to have a shower, are you hungry?
You know, you try and work out which one it is that he --- he's turning towards you.
His body language will say, you know --- if he can repeat a word, for example "Go
45 outside", then you'll know that that's what he actually wants. You might have
noticed that he would have said several words, "Go for a drive", "Change nappy",
"Chippy". Those are pretty much --- he can say a few more words but for a support
worker who knows him, they can --- they might act on that. Chippy doesn't always

mean having a chippy. It could mean that he might be hungry and he needs --- you know, wants to have something to eat. So, yes, you just need to spend a bit of time with him to understand what he wants.

5 MS EASTMAN: I want to ask you a little bit about where Carl has lived over the years. You tell the Royal Commission in your statement that his behaviours became more challenging and when he was 11, as a family you made the decision that he would live at a boarding school?

10 SOPHIA: Yes.

MS EASTMAN: That was a boarding school for children with profound disability; is that right?

15 SOPHIA: That's right.

MS EASTMAN: That was a very difficult decision to make and it meant that Carl lived at the school from Monday to Friday, but he came home on the weekends. Now, the school closed down and Carl would have had a couple more years in high
20 school but at that stage he was almost an adult. We've seen he is a big boy, as you say in the video, but you didn't think it was going to be possible for him to live at home?

25 SOPHIA: No.

MS EASTMAN: So you made a decision that he would move into a residential property operated by a service provider in New South Wales?

30 SOPHIA: That's right.

MS EASTMAN: Four years later, he moved to a house that was built for him and other young people with disability and that's the house where he currently lives?

35 SOPHIA: That's right.

MS EASTMAN: And the house is not so far away from your home?

SOPHIA: No.

40 MS EASTMAN: What, you are about a 10-minute drive away, subject to traffic in Sydney.

SOPHIA: Yes.

45 MS EASTMAN: But about a 10-minute drive away from the house?

SOPHIA: That's right.

MS EASTMAN: In terms of where Carl lives now, you visit the house around three times a week and you may go with your husband, but the family remains close to Carl?

5

SOPHIA: That's right, yes. We are very much involved in his life. We visit him three times a week, usually Sunday, Wednesday, Friday. We try and take him for a drive on Sundays and we spend the rest of the night with him. We give him dinner, we spend a bit of time and then tuck him in and he goes to sleep and we leave, yes. Sometimes our daughter will come with us. We do have some issues about our daughter going to the group home sometimes because there are other residents there and because she's blind, she can't always navigate her way around. Incidents do happen.

15 MS EASTMAN: Carl has a lot of medical issues that he has to deal with as well and you attend all his medical appointments and you have attended all of the hospitalisations, if he has had to be admitted to hospital. You have that role of being the chief communicator with his clinicians and the allied health professionals?

20 SOPHIA: Yes.

CHAIR: Can I just ask a question going back a little?

SOPHIA: Yes.

25

CHAIR: You said that Carl lived in a boarding school for some years, was that?

SOPHIA: Sorry?

30 CHAIR: For some years did he live in a boarding school?

SOPHIA: He attended there from when he was 11 until he was 15. He would go there Monday to Friday, we would bring him home on Friday afternoon, spend the weekend and drop him back in on Monday morning.

35

CHAIR: Who conducted the boarding school? Was that a State institution?

SOPHIA: It was an Anglicare operated school called [REDACTED], which has since closed down due to funding after the GFC came about and the care partners couldn't provide the funds that they were looking for. Sadly, they decided to close it down.

40

CHAIR: Then you mentioned, I think, that Carl went to high school for a couple of years?

45

SOPHIA: Yes.

CHAIR: Where was that?

SOPHIA: [REDACTED] in Epping, where he did Years 11 and 12.

5 CHAIR: Was that a special school?

SOPHIA: Yes, yes. I mean, vary --- special, with varying needs. His day pretty much looked like, you know, turning up to class, maybe sitting down on a beanbag, going out on the trampoline, much like a day program but they try and tailor the curriculum to his needs, yes.
10

CHAIR: Thank you.

MS EASTMAN: In May 2016, the families of the residents in the house, and that includes Chen, who the Royal Commission has heard about, and Melissa, who the Royal Commission has heard about over the last day, the families got together and decided that you wanted a new service provider?
15

SOPHIA: Yes.
20

MS EASTMAN: There was some negotiation which resulted in Sunnyfield Disability Services becoming the new operator of the home and also providing services in the home. You had to sign some contracts and make some agreements with Sunnyfield, and you remember doing all of that?
25

SOPHIA: Yes. Yes.

MS EASTMAN: When the transition occurred, were you aware that Sunnyfield found the house in a little bit of a state of disrepair? There were repairs that had to be done? There were some issues about not having full records that had been left by the previous service provider? Were you aware of those matters?
30

SOPHIA: No, because we --- well, yes and no. When we brought Sunnyfield in, obviously we had spoken to the previous service provider about the fact that Sunnyfield were coming in to manage the house and so, yes, they were aware from that point of view. The transition pretty much took place over one day. Sunnyfield walked in, all previous staff handed over --- identified who the different clients were and then pretty much by the end of the day, those staff walked out and the Sunnyfield staff stayed in. As the days went on, they were discovering that there weren't much documentation that they left behind and they had to start setting files all over again.
35
40

MS EASTMAN: I want to bring you forward a little bit to June 2017. You say at paragraph 18 of your statement that SP1 began working as the new house manager, also called service co-ordinator. You remember SP1 was physically quite stocky?
45

SOPHIA: Yes.

MS EASTMAN: He thought he might be able to manage Carl if Carl had any behaviours; is that right?

5 SOPHIA: Yes. My first impressions were that --- Carl likes --- he relates well to males, strong people around him, and bringing SP1 into the home, I thought he showed lots of promise, he was very promising, a can-do sort of a person, he would say yes to everything and we thought that was great, they'd finally found somebody. Because the person that they engaged to run the home before didn't work out so well. She was a slight lady, which --- I think she had every intention of doing the right
10 thing, but Carl didn't really take to her and behaviours still kept erupting, and so, yes, SP1 ---

MS EASTMAN: SP1, you thought, was going to be a good fit?

15 SOPHIA: Yes.

MS EASTMAN: You remember SP1 told you he was your first port of call ---

20 SOPHIA: Yes.

MS EASTMAN: --- if you had any issues or questions?

SOPHIA: Yes.

25 MS EASTMAN: During those first few months, it looked like it was working well. But you tell the Royal Commission, paragraph 19, after a few months you began to have some concerns and you remember feeling that SP1 was brushing you off ---

30 SOPHIA: Yes.

MS EASTMAN: --- when your husband and you raised issues about Carl's care or behaviours. So you sent some emails to SP1 and you copied a regional manager of Sunnyfield into those emails. Why did you do that? Was it because you wanted to notify SP1's supervisor?
35

SOPHIA: Yes, because we would hear lots of, "Yes, I'll do this, I'll do that, we'll meet, we'll have family meetings by phone or in person", and a lot of these promises never really came to fruition. Later on, we would --- if we had some concerns, I might send an email and I wouldn't hear back from him. So I started copying in the regional manager who I thought was his supervisor, so I thought that if I don't hear
40 from him, then maybe the supervisor can give us --- can reply or might ask him to reply to us.

MS EASTMAN: You say at paragraph 20 of your statement you rarely, if ever,
45 heard back ---

SOPHIA: Yes.

MS EASTMAN: --- from the regional manager on any of the correspondence, even if it had been directed to her. Did that cause you any concern that she hadn't responded?

5

SOPHIA: Yes. I hadn't even met her until we actually --- we took our concerns to head office and we met with Jennifer Luff about our concerns. Yes, it was --- you would wait to hear back and every now and again we would get an email that "we are going to follow this up" and "going to", but I guess it felt like when is this going to happen, when are we going to get any answers. So we had a sense of frustration happening all the time and we're asking for answers and they don't come quickly enough.

10

MS EASTMAN: There are a number of support workers in this home.

15

SOPHIA: Yes.

MS EASTMAN: But you also remember SP2 and he was hired to work in the house in early 2018. And do you remember SP1 telling you that SP2 was a mate, when you were first introduced to SP2? You didn't have any particular concerns about SP2 during 2018 but you saw on a couple of occasions he did not seem to connect with Carl or be able to engage with Carl in the same way as other support workers. So what was the nature of those observations?

20

SOPHIA: He was there, he would turn up to work. Yes, he would take Carl for drives. He would go --- the times I witnessed him going to music therapy with us, because I would go with them for those sessions, he would go. But I would always feel that Carl was somewhat shying away from --- it just felt a little bit uncomfortable. I never could pinpoint it, you know. I would always say --- it was hard for me as a mum because I'm kind of observing things but I've got nothing concrete to go on. I do notice every now and again he likes this support worker or he's not getting along well with that one.

25

30

And there were also times, you know, when we would go to visit, on our many visits, SP2 would be in the house but he would just never come out of the office. And I'm thinking, he's not really there, he's not supporting Carl all that much. I remember once, you know, he had just changed him and he still had --- you know, wasn't cleaned up properly and we had to do it, we cleaned him up. And times when that worker will come into the room, Carl would snuggle more into me. And, you know, I didn't really want to make too much of it. But, yes, I just noticed a few things here and there.

35

40

MS EASTMAN: So I'm going to now come to the early part around March to May 2019. So we're going to touch on some matters that you've set out in your statement that I know caused you great distress and are traumatic. So if you need a break at all or you need me to slow down, let me know.

45

SOPHIA: Okay.

MS EASTMAN: Now, you were frequently at the house and you got to know the support workers and your impression in the house was that the staff were often stressed. But you wanted them to do their job professionally and you didn't want to pry and you didn't want to gossip and you just really observed, rather than ask people what was going on?

SOPHIA: Yes.

MS EASTMAN: But one of the support workers had a conversation with you one day, and you've referred to him in paragraph 24 as Utsav, and this support worker had a really good relationship with Carl. And that support worker was resigning and you were concerned that he was resigning because of Carl. And he said to you, "No, it's definitely not because of Carl." But he said he was having some issues with SP1 and SP2; is that right?

SOPHIA: That's right.

MS EASTMAN: And you've set that out in paragraph 24. Now, after this support worker had left, SP1 spoke to you and suggested that maybe Carl's behaviour was the reason for that support worker leaving. Now, that caused you some concern because you had spoken to the support worker and then SP1 had a different account. So at this stage you were starting to perhaps question some of what SP1 was telling you?

SOPHIA: That's right.

MS EASTMAN: Is that fair enough?

SOPHIA: I might add, up to that stage as well, I was being told that some support workers were not wanting --- I think a few were leaving around that time and, yes, it was they didn't want to work with Carl. And that's why I asked Utsav, you know, "Why are you leaving?" And he said, "It's not because ---" I said, "Is it because of Carl?" I wanted to know because up until that stage I thought he worked really well with our son, you know.

And when SP1 told me that, I was just --- you know, that was just an outright lie because I was told from the person concerned that it wasn't to do with him at all.

MS EASTMAN: So that caused you to sort of question your trust; is that correct?

SOPHIA: Yes.

MS EASTMAN: And that started to cause you concern because Carl, unlike the other residents, doesn't have a day program and he is supposed to be doing activities in the house, as advised by his occupational therapist, and that requires a two-to-one support. So you were concerned at that stage about whether Carl was getting the

support that he needed in the house and you were also starting to hear some accounts of SP2 not being there or SP1 not being there. And I think you were told SP1 would come to work some days and then leave and go fishing and come back at the end of the day. So you were starting to hear things from the other support staff workers; is that right?
5

SOPHIA: That's right.

MS EASTMAN: It comes to the point where the description you've been given about Carl and being anxious with SP2, you started to notice that more and more in that early part of 2019. Is that right?
10

SOPHIA: Yes.

MS EASTMAN: Now, things came to a head in June 2019.
15

SOPHIA: I might say also that, prior to that, because I noticed that, I did ask SP1 that I didn't want SP2 to work with Carl because I felt that he was a bit uncomfortable with him. But time and time again I've turned up and SP2 was supporting Carl.
20

MS EASTMAN: So there was an incident in June 2019 where you were told that Carl had a behaviour on an outing in the van?

SOPHIA: Yes.
25

MS EASTMAN: And Carl had returned back to the house and the van had blood in it and Carl was also bleeding; right?

SOPHIA: That's right, yes.
30

MS EASTMAN: And one of the support workers spoke to you to express her concern about Carl at that time and she in the course of conversations, either at that time or around that time, told you about an incident that she was concerned about from March 2019. This is paragraph 33.
35

.... the support worker told me that when the Christchurch mosque shootings had happened [that was March 2019], a news segment about the shooting was on the television at the house. The worker told me that SP1 said [words to the following effect], "If it was up to me I would have shot them all," and made a comment about the victims being Middle Eastern. The worker said that she responded to SP1 with words to the effect of, "How can you say that? Carl is Middle Eastern," and SP1 had replied, "I don't care."
40

You said in your statement that was absolutely shocking to you?
45

SOPHIA: Yes. It still shakes me because, you know, when we gave our son to the

support, you know, support providers, we were trusting them with his life. We trust them with his care. We are doing our part as parents. They are our hands, our minds, they are there to protect them, to look after them, to care for them. And how can something like this come up from the mouth of the person who leads the team and in front of the team? I still don't understand how somebody can say that. They might have private, you know, opinions and express them privately. But to say them outright like that, you know, it made me feel very insecure.

As a parent, I felt like, what am I doing? How can I leave --- then what can I do? I'm helpless. I can't bring him home, I can't --- what can I do? You know, I can't care for him at home. I haven't got the facilities. I haven't got anything that I can help with. So you just try and hope that it might have just been a passing comment or something like that. But, you know, we're working, we have to carry on with our daily lives. It just confuses you and it throws you --- throws all your trust out.

CHAIR: Did you tell anybody else about what you had been told about SP1?

SOPHIA: No. I kept that to myself because whatever --- whoever I heard that from, I'm not discussing anything with anyone because I don't want to influence anyone's -- - influence anyone in the house, you know, and the way they care for him and how they relate to other --- to colleagues and everything. So, yes.

MS EASTMAN: But notwithstanding you knew this account of the conversation --- and, of course, you weren't there, you don't know what SP1 actually said so you are relying on what you were told?

SOPHIA: Yes.

MS EASTMAN: But you still had to deal with SP1 in relation to some incidents that occurred with Carl and that included the behaviour in the van and the injury?

SOPHIA: Yes.

MS EASTMAN: And you wanted to know from SP1 what had happened. So you've set this out at paragraph 35 of your statement. And you wanted to know what Carl had been eating during the outing because some foods can be a trigger for him.

SOPHIA: Yes.

MS EASTMAN: And you were told that Carl had eaten from McDonald's and that included a fizzy drink. And a fizzy drink is something that Carl shouldn't have.

SOPHIA: Yes.

MS EASTMAN: Now, SP1 told you it was a Diet Coke.

SOPHIA: Yes.

MS EASTMAN: Can I just ask, do you mean that was the difference between a fizzy drink or not fizzy?

5 SOPHIA: Sugary foods. So this came about after, you know, when I had asked SP1 to utilise the two-to-one funding that he has, that Carl has --- sorry --- SP1 to utilise the two-to-one funding that Carl has, on the particular days that he has them, and take them out, take Carl out to community --- you know, and get him out of the house, go for a walk, go to a park. He loves swings.

10 And so SP1, I was told by a care worker that after the revelation about the Christchurch mosque shooting and what SP1 had said, that he had instructed carers to take Carl out, get him out of the van, take a picture of Carl that he's out of the van and out in the community, put him back in, bring him back home and then tell me
15 that he had a behaviour, so that I don't get to ask --- you know, so that I become a bit insecure about getting him out into the community because he's having behaviours.

And the only motivation, I think, he has for that is that he wanted staff to remain in the house. Later we found that from --- what we found out later is that obviously he
20 needed Carl's two-to-one supports to be in the home because that gave an extra pair of hands to be around the house to care for some of the other residents that were in the house. So that --- because evidently he wasn't --- he himself wasn't in the house, he would be coming in, clocking on, leaving for the day and coming back at the end of the day and clocking off.

25 MS EASTMAN: This incident that occurred on the outing and then Carl's injury on the way home ---

SOPHIA: Yes.

30 MS EASTMAN: --- was a reason why you decided this time to make a complaint; is that right?

SOPHIA: So, yes. So on this particular outing it was both SP1 and SP2. By then
35 they were --- you know, they were both, you know, kind of --- we knew about their collaboration, if you like, that, you know, SP1 is out of the house and SP2 is doing the work for him. They're working together, sort of thing. And on that particular day when they took Carl out, and sure enough I got the call and they said that he had had a behaviour. So I asked how did it happen. He said, "Oh, we were at the --- we
40 were just driving and at a traffic light, it was the red traffic light and he must have just not felt like, you know, just waiting at the red traffic light." Carl has been on drives many, many times and been on red traffic lights and green. I didn't --- I found that that was a little bit hard to believe, that it was a red light that might have triggered it.

45 But anyway he said that he had the behaviour. I asked, "What did he have for lunch, what did you give him?" He said, "He had McDonald's and a Diet Coke." That

word "Diet Coke" stuck with me. First of all, he's not supposed to have fizzy drinks and, secondly, sugary drinks. So he picked his word "diet" because he knew he wasn't supposed to have sugary drinks.

5 However, when I went back later on and we were at the house and I checked the petty cash receipts, because they keep petty cash receipts, we provide the cash, the receipt said "Coke", not "Diet Coke". That was a bit of a problem for me because he had specifically said "Diet Coke" and there's a difference because there is a lot of sugar content and ---

10 MS EASTMAN: Did that cause you a lot of concern about whether he was telling you the truth?

SOPHIA: Yes. Yes.

15 MS EASTMAN: Is that part of the reason why you thought you needed to make a complaint?

20 SOPHIA: That was the reason why I felt like that that was the tip of the iceberg for me was because after hearing --- after knowing what he had said about Middle Eastern people, after knowing that he had specifically asked staff to take Carl out and come back and say he had a behaviour, and then for him to actually have a behaviour while he was on an outing with SP1 and SP2, I felt like I couldn't trust him with those two any longer. And I was fearful for his life. I was fearful that I didn't know
25 what is going to come next.

MS EASTMAN: You decided not to make a complaint to the Sunnyfield complaint protocol but you went straight to the NDIS Quality and Safeguards Commission with your complaint.

30 SOPHIA: Yes.

MS EASTMAN: Now, a few days after, on the 24th of June you received a phone call from the house. Carl had had a major behaviour and had split his eyelid open.
35 You arrived at the house before the ambulance. So you got there quickly, I assume?

SOPHIA: Yes.

40 MS EASTMAN: And you could see Carl's injury. It looked terrible, it was still bleeding. When the ambulance arrived you went with Carl in the ambulance to the hospital.

SOPHIA: Yes.

45 MS EASTMAN: Now, while you were in the ambulance, did you get a call from the Quality and Safeguards Commission about the complaint you had made a few days before?

SOPHIA: Yes. Yes.

5 MS EASTMAN: And during the course of a conversation with somebody from the Commission, you provided details to them about the events that had occurred in the previous week, including the incident in the van and what had happened that morning?

10 SOPHIA: Yes.

MS EASTMAN: Is that right? Now, you're aware, aren't you, that this disclosure to the Quality and Safeguards Commission then set off a chain of events? You're aware of that?

15 SOPHIA: Yes.

MS EASTMAN: Are you aware that the Quality and Safeguards Commission contacted Sunnyfield?

20 SOPHIA: Yes.

MS EASTMAN: And you later became aware that there had also been an anonymous complaint around the same time?

25 SOPHIA: Yes.

MS EASTMAN: You became aware that Sunnyfield had stood down SP1 and SP2?

SOPHIA: Yes, because they didn't turn up to the house after, yes.

30 MS EASTMAN: And you then became aware that the matters had been referred to an investigator hired by Sunnyfield?

SOPHIA: Yes.

35 MS EASTMAN: We will come to that in a moment. But also that the issues had been referred to the police?

SOPHIA: Yes.

40 MS EASTMAN: Now, when I say "issues", you were not given all of the detail ---

ELIZA: No.

45 MS EASTMAN: --- about what had been referred, who was it referred to and what was happening but you generally knew something was going on.

ELIZA: Yes.

MS EASTMAN: Is that a fair sort of summary ---

5 SOPHIA: Yes.

MS EASTMAN: --- of where you were at at the end of June and the early part of July?

10 SOPHIA: Yes, that's right.

MS EASTMAN: Now, you did speak to the investigator Jennifer Piaud and you remember speaking to her in July 2019?

15 SOPHIA: Yes.

MS EASTMAN: And did she explain to you that she was conducting an investigation?

20 SOPHIA: That's right, yes.

MS EASTMAN: And she asked you some questions about what you knew in relation to what happened. But did she also ask you some questions about what was happening in the house generally and any of your observations about the support
25 workers and making --- raising concerns and complaints? Did you share your observations with her?

SOPHIA: Yes, I did. I pretty much mentioned all of these points that I've mentioned in my statement, about the racist comments; the advising carers to take him out and
30 have him --- you know, bring him back and say he had a behaviour, even though he didn't; and about obviously about the incident that he had in the van with himself and SP2.

MS EASTMAN: Now, you were overseas towards the end of July and while you
35 were overseas you remember receiving a telephone call from one of the police officers ---

SOPHIA: Yes.

40 MS EASTMAN: --- at the Castle Hill police station. And she told you that charges had been laid against SP2 in relation to an incident of alleged abuse of Carl. And she told you that they would be in touch in relation to a date for the hearing of the charges.

45 SOPHIA: Yes.

MS EASTMAN: Were you interviewed by the police?

SOPHIA: No.

5 MS EASTMAN: And do you know --- I won't ask you that question. So you can't remember being interviewed by the police?

SOPHIA: I was advised that they were carrying out investigations, but I didn't have an actual interview with the constable.

10 MS EASTMAN: Now, around this period of time, so if we take around the last couple of weeks of June through to the end of July, did any of the senior managers or the top people in Sunnyfield contact you to talk to you about what had happened?

15 SOPHIA: I think I might have received a letter saying that they have --- that they are carrying out their investigation. And I think, yes, Jennifer Luff did contact me to say if there was anything I need or that I can talk with her or contact her, yes.

20 MS EASTMAN: Now, you attended the court hearings at a Local Court in relation to SP2. And the first court hearing was in November 2019 and then there was another hearing in March 2020. So you just went, you didn't have to give evidence in that court case.

SOPHIA: No.

25 MS EASTMAN: But you went along to watch what was happening?

SOPHIA: Yes.

30 MS EASTMAN: And there were some delays in that case, wasn't there, because of COVID?

35 SOPHIA: COVID, yes. I think there was a hearing in April which obviously didn't go ahead. And then another one in June which we all turned up to but SP2 had a runny nose so they couldn't do the case on that day, the hearing, so that was postponed again until November.

MS EASTMAN: So you remember going to court in October last year and SP2 gave evidence at that time? This is paragraph 49 of your statement.

40 SOPHIA: Yes.

45 MS EASTMAN: And you tell the Royal Commission that the judge found that there wasn't enough evidence to prove the charges against SP2. And it was your understanding that for every incident that was alleged, it was only one support worker who had witnessed it and it was their word against SP2's as to what happened?

SOPHIA: Yes.

MS EASTMAN: Now, when you were attending the court hearing, you found out about some other allegations that had been the subject of charges ---

5

SOPHIA: Yes.

MS EASTMAN: --- of SP2 that you hadn't been told about before, is that right?

10 SOPHIA: No.

MS EASTMAN: Now, these are some of the charges that the judge dismissed the case against SP2.

15 SOPHIA: Yes.

MS EASTMAN: So they are allegations and you've set out those allegations in paragraph 50.

20 SOPHIA: Yes.

MS EASTMAN: They are very confronting matters, aren't they?

25 SOPHIA: Yes. I mean, being in the courtroom at the same time as SP2 and hearing what the witnesses were saying was probably the hardest thing I could have done because I wanted to get up and say something. Hearing that he has punched Carl; he has kicked him; he has dragged him; he's pushed a chair over so that Carl can fall off the chair deliberately, a lounge chair, so it would have taken a bit of force; pulling his hair back, like forcefully, to force medication down.

30

I can only imagine how Carl would have --- I mean, how he would have felt in those moments when any of this was happening, when there's no mum and dad, no one else in sight to see what's happening and who he can call out to, you know, to defend him, you know.

35

There was a lot of anxiety, he was starting to display a lot of anxiety and rightfully, you know, knowing after that what he had been through for the last year-and-a-half. I don't know --- those were the reported ones --- I don't know what happened in the times that there were no witnesses.

40

MS EASTMAN: Did anyone ever give you a copy of Jennie Piaud's reports at all?

SOPHIA: I don't have one.

45 MS EASTMAN: Did anyone from Sunnyfield talk to you after the court case concluded about what had occurred or what supports you needed at that time?

SOPHIA: The Client Safeguarding Manager was there and she did chat with me afterwards to ask if there was anything, you know, they could do. I said I would love it if we could have CCTV cameras installed because that would have saved --- that would have saved all of this from happening. That would have saved a lot of
5 heartache, a lot of work, a lot of investigations, a lot of emails to and from, a lot of time that could have been used otherwise.

Because it was so distressing that after hearing what all the allegations were and it was only SP1's word against the support workers' word, Carl can't speak up. He can't
10 say anything. He can't say, "Yes, this happened to me, he did that. "

MS EASTMAN: Can I ask you, has anyone from Sunnyfield apologised to you in person ---

15 SOPHIA: No.

MS EASTMAN: --- about what occurred?

20 SOPHIA: No, no. No.

MS EASTMAN: Now, SP1 and SP2 are gone?

SOPHIA: Yes.

25 MS EASTMAN: And I want to conclude by asking you about what the current situation is. You've told the Royal Commission at paragraph 53 that the situation in the house is now much improved.

30 SOPHIA: Yes.

MS EASTMAN: When you visit, the mood seems better and there are a lot more smiles. And if the staff are happier, you say it definitely has an impact on Carl. As you say, Carl has a great sense of intuition and he can tell if something's wrong.

35 SOPHIA: Yes.

MS EASTMAN: But you say in paragraph 54 that you remain concerned that things could change for the worse again and you don't have a lot of confidence that there are systems in place to prevent the same kind of abuse happening again in the future.
40 Some of your concerns are stability in the house in terms of a house manager who will be there for the long-term ---

SOPHIA: Yes, yes.

45 MS EASTMAN: --- to have the right NDIS support coordinators. And you say in paragraph 58 you are concerned about the assistance available to families of people like Carl who have complex support needs. You're his mother, his guardian and you

coordinate all the funding for his supports, medical appointments, behaviour support and other therapists. And one of the issues for you is that you've had to step in and almost become the case manager ---

5 SOPHIA: Yes.

MS EASTMAN: --- for Carl, is that right?

SOPHIA: Yes.

10

MS EASTMAN: That concerns you, what if you're not there?

SOPHIA: Yes.

15 MS EASTMAN: I think you've told us, what if other people don't have mums and families like Carl?

SOPHIA: Yes.

20 MS EASTMAN: You've raised those concerns.

ELIZA: Yes.

25 MS EASTMAN: So you would like to see something where you don't feel that you, in doing all of this, are making complaints or looking like you are making trouble. That concerns you. I'm just paraphrasing and summarising what you're saying there.

30 SOPHIA: Yes. I have to say, I'm tired, I'm concerned. I am --- every day I know that he is subjected to some new incident that could have possibly been prevented. I can think of one that happened only last week.

MS EASTMAN: Do you want to talk about it? If you don't want to talk about what happened last week, that's fine. If you do, take your time.

35 SOPHIA: Just saying, you know, incidents happen with Carl on an ongoing basis. Some can be prevented, some can be --- if the right direction of staff, the right direction is given to staff then maybe they can be. There are staff that work really well with Carl and then there are staff that might make decisions that don't --- that might not be the right ones.

40

We spend a lot of money on behaviour support plans that sometimes it makes me wonder whether they've been read or not. I think the house currently is under-supported because up until last week we thought that it didn't have a house manager because there was a team leader who was supposed to be acting as a house manager. After the incident that happened last week, the regional manager that I spoke of before said that she is now acting as the acting manager and that all queries should go through her.

45

I don't know why the house doesn't have a --- didn't have an assigned house manager from the beginning of this year when the last house manager was moved to another house. They had asked a couple of staff to take over the admin, some of the admin
5 responsibilities and I think they were struggling in their own way with keeping, you know, their roles on the floor and in the office. So to this day I don't know why there is no one supporting them there. And it seems like a lot of these rules are made on the go, reactive to when incidents occur.

10 You know, there are things that should be very obvious to support workers or people around them. For example, in last week's incident, Carl --- it was in the van and the plastic things that cover the seatbelts, the buckles were exposed and underneath that there are very sharp metal bits that if he's waving his hand around or his body, as he does when he is having a behaviour, he could cause serious injury. Like, it could cut
15 an artery if he's waving a hand in that direction.

It was almost a week after that incident happened and it was me who turned up for music therapy on that morning and saw that all this was exposed. And it is mentioned in the incident report that the plastic coverings did come off at the time of
20 the incident. Now, why weren't they addressed at the time? Why did it take a week for me to come and see, "Oh, these are dangerous, this is a risk here, let's do something about it." And we got tape to tape it together so that he can go for a drive on that day. And to this moment we are debating who is going to pay for the cost of that.

25 MS EASTMAN: Sorry to interrupt you. These are the sorts of things that have just --- it looks like things are improving.

SOPHIA: Yes.

30 MS EASTMAN: But you still have that concern and when incidents occur you still remain concerned?

SOPHIA: Yes, yes.

35 MS EASTMAN: Do you have trust in Sunnyfield at the moment?

SOPHIA: I feel it's a culture of cover-up, I'm sorry to say, because we get told stories that are smoothed over so that we don't react as badly. I think we don't really
40 know the truth and that's the thing that concerns me. I think last week's incident was very serious but it was played down, as many incidents are if they need to cover up something. And that's the thing that concerns me.

MS EASTMAN: You said in your statement that you believe there needs to be more
45 accountability ---

SOPHIA: Yes.

MS EASTMAN: --- of disability service providers and that can take the form of spot checks or record keeping, as you say, so nothing slips between the gaps.

5 SOPHIA: Yes.

MS EASTMAN: You have also expressed in paragraph 60 that you think CCTV might make a difference.

10 SOPHIA: Yes.

MS EASTMAN: But you've been told in January last year that cameras cannot be installed in the house because it impinged on the privacy of support workers and residents. But your view is cameras should be installed because Carl and the other
15 residents are extremely vulnerable to abuse and cannot speak up for themselves?

SOPHIA: Yes, and I believe that all us parents and guardians are in agreement of installing CCTV cameras in the house, it's just Sunnyfield is the party that's opposing it and that is something that we don't understand why. We're surrounded by cameras
20 everywhere we go, in parks, in restaurants and elevators. Wherever we go, we're surrounded by cameras. I'm not interested in watching the movements of every resident in the house moving in and out, whether they're coming --- I think the reasoning was what if they were coming out of a shower or --- you know, I'm not interesting in tracking every single move or having a camera in my house or
25 anywhere in my reach.

But what I would like to see is if a CCTV camera is kept in Sunnyfield, or a third party, that if an incident does happen, we can go to that day and time of the incident that can tell us exactly what happened and there we have it, you know, that's the
30 truth. Why go around spending so much time and getting to this point when something so simple can be --- it can be solved very, very easily. I don't understand why.

MS EASTMAN: Can I finally ask you, what is your hope for Carl and what is your
35 hope about his opportunities in the future and the life that you would like him to lead?

SOPHIA: I just want Carl to be safe, that's all. I want him to be safe and happy. Well, safe first, because this is the thing that concerns me the most, every day, every
40 day. When my phone rings, I look at the phone. If it says it's from Carl's house, I'm just --- I don't know what I'm going to hear, what I'm going to --- what it is I'm going to hear. It's like a second takes a thousand --- it's so long to know what it is that they're going to be telling me. Yes, his safety is the most important thing.

45 We are dealing with very serious levels of behaviour that he can actually harm himself. We need to have staff that are prepped for --- you know, to support him and not be there thinking we're just here to watch him. They've got to be a bit more

proactive. Some staff are and I commend them for that and I thank God that they are there. But I just fear that he might not be as safe as I hope he is.

5 MS EASTMAN: You have told us that coming to the Royal Commission and speaking publicly, as you have today, is a very big step for you.

SOPHIA: Yes.

10 MS EASTMAN: And that you remain concerned that speaking about what's happened to Carl is --- that you want to be assured that no harm can come to him by speaking about what has occurred, and that's a very important concern for you; is that right?

15 SOPHIA: Yes, I am --- I was scared of coming forward. Sunnyfield still care for him and I don't want to jeopardise anything that --- you know, or to fuel any anger towards me for speaking up and, therefore, translated to Carl's care. But this is a risk I had to take because this is the only opportunity I have to speak in Carl's voice. This is him, this is for him, and this is him saying "Help me" and "Help keep me safe". So this is all I'm asking, this is why I'm here.

20 We left our country, we left Lebanon, we left our families there, we left a life, and thank God we did because of the current circumstances in Lebanon at the moment, but I left there to give them a better life and I'm thankful for Australia and I'm thankful for the facilities that we have here and I'm thankful that our daughter has progressed and become --- you know, becoming who --- achieving her goals and everything.

30 For Carl, he is still at a place where we're trying to figure out how he fits, or what --- and how he fits in a system that can support him and we don't have to keep worrying every day about what's going on behind those doors. Yes, that's my only thing, that's the only --- my major concern in life because now, as I'm over 50, I mean, I think it's a natural thing that happens, you just plan --- you think --- I've known people around us who have just fallen over, like, died in the last few weeks. I don't know if that will happen to me any time soon, but if I'm planning for the future, 35 I want to plan that I can --- he can be in a safe place and that has the right support systems that will see him through life, you know.

40 We don't have family here. He's got his sister. She's got her things to deal with, her own disability and I'm hoping that she will be there for him. But we've got a lot to sort out. We've got to start with the trust in our support providers that are out there and work our way through it. We can't live with not having that trust every day and fighting battles every day and living minute to minute and not knowing where we are.

45 I'm hoping to --- I need to get a job to live, to be able to work and live and I can't at the moment because every day it's like a full-time job. From 8.30 until 5 until midnight sometimes, I'm responding to emails to do with all his therapy work, with

consultants, with the home. I'm an integral part of his care but I don't get paid for it and, yes, I don't want to be paid as a mum but it has an impact on us at the end of the day, you know.

5 His level of care needs is beyond the normal or --- maybe it shouldn't be that way if the protocols are followed, if support, the right support, is there, if there's proper guidance for the support workers, which we are hoping that --- we're having involvement with the behaviour support specialists at the moment.

10 MS EASTMAN: So you have some hope for the future?

SOPHIA: Yes.

15 MS EASTMAN: But that has to be balanced against those ongoing concerns that you've so eloquently told the Royal Commission about today.

SOPHIA: Yes.

20 MS EASTMAN: Can I thank you on behalf of the Royal Commission and also to thank [redacted] and your support person ---

SOPHIA: Thank you.

25 MS EASTMAN: --- for coming to the Royal Commission. We appreciate it has been a very big decision for you to speak publicly about these events. Thank you for sharing Carl with us and sharing your story with us.

30 SOPHIA: I just want to backtrack a little bit, going back to asking me if somebody did speak to me afterwards, after the court case. I have to name that the Client Service Improvement Officer was a very good support at the time. She did say if you need anything, she was there. And the Client Safeguarding Manager, as I said, that she did say, you know, if there's anything we can do. But, you know, all we can do is just give me some trust to go on with and install some cameras, that we can have some truth to what goes on. Anyway, thank you very much.

35

MS EASTMAN: Thank you.

40 CHAIR: Sophia, on behalf of the Commissioners, I echo the comments that Ms Eastman has made. We know how big a step it is to come and give evidence at a public hearing. We thank you for doing that. We thank you for providing Carl's voice to us.

SOPHIA: Thank you.

45 CHAIR: Thank you.

MS EASTMAN: Commissioners, unless there are any questions, and I don't

understand from the parties with leave that there are any questions for Sophia, could we adjourn until 20 past two?

5 CHAIR: Yes. Well, on the assumption there are no questions to be asked by any of the legal representatives present, we will adjourn from now until 2.20.

MS EASTMAN: Thank you.

10 **THE WITNESS WITHDREW**

ADJOURNED [1.17 PM]

15 **RESUMED** [2.21 PM]

20 CHAIR: Yes, Ms Eastman.

MS EASTMAN: Thank you, Commissioners. You will see our next witness is here in the hearing room. I would now like to take Ms Jennifer Piaud's evidence.

25 CHAIR: Thank you very much for coming to the Royal Commission and if you would be good enough to follow the instructions of my associate and we will administer the oath. Thank you very much.

30 **JENNIFER MERLE PIAUD, SWORN**

CHAIR: Thank you very much. Now Ms Eastwood will ask you some questions.

35 **EXAMINATION-IN-CHIEF BY MS EASTMAN**

MS EASTMAN: Your full name is Jennifer Merle Piaud?

40 MS PIAUD: That's correct.

MS EASTMAN: You have provided your address to the Royal Commission?

45 MS PIAUD: Yes.

MS EASTMAN: Your occupation, amongst other things, is an investigator?

MS PIAUD: That's correct.

MS EASTMAN: You have prepared a statement for the Royal Commission dated 6 April this year. Do you have a copy with you?

5

MS PIAUD: Yes, I do.

MS EASTMAN: Have you had a chance to read the statement recently?

10 MS PIAUD: Yes.

MS EASTMAN: Is the statement true?

MS PIAUD: Yes.

15

MS EASTMAN: I want to ask you some questions about some investigations you undertook for Sunnyfield. Before we get to the investigations and the report, can I ask you a little bit about your qualifications. You have set out in your statement that you have a Certificate in Personnel Administration from TAFE back in 1984. Tell us what has happened since 1984 in terms of your professional roles and experience?

20

MS PIAUD: Essentially, I started out my career in a cadetship with the Bank of New South Wales, studying in personnel administration at the same time as working. I've remained in human resources ever since 1980. I've worked in various industries, so I've worked in banking and finance, professional services, communications, building and construction, and most recently in the social welfare sector.

25

MS EASTMAN: You tell the Royal Commission in your statement that your work experience has included being in a senior role in a social welfare sector organisation from 2012 to 2016; is that right?

30

MS PIAUD: That's correct.

MS EASTMAN: The nature of that role meant that you had to have responsibility in a human resources position; is that right?

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MS PIAUD: That's correct.

MS EASTMAN: That covered children's services.

40

MS PIAUD: Yes.

MS EASTMAN: Disability services.

45 MS PIAUD: Yes.

MS EASTMAN: Out-of-home care services.

MS PIAUD: Yes.

MS EASTMAN: Foster care services.

5

MS PIAUD: Yes.

MS EASTMAN: And a range of family and community services.

10 MS PIAUD: Yes.

MS EASTMAN: You also are qualified under the Australian Human Resources Institute and you have the status of a Certified Practitioner Human Resources. That's a qualification you obtained in August 2017; is that right?

15

MS PIAUD: That's correct.

CHAIR: What is the Australian Human Resources Institute? I assume everybody in this room is one of Australia's human resources.

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MS PIAUD: It's the professional body for those employed in human resource work.

CHAIR: What does the Institute actually do?

25 MS PIAUD: Well, to maintain my membership, I have to maintain 60 CPE, continuing professional education, points every year and to get the post-nominals of a certified practitioner in HR, I had to provide them with a case study of my work experience, the type of work I've done and the outcomes that I achieved in human resources.

30

CHAIR: Does that include some kind of training in investigation?

MS PIAUD: Not everybody who works in human resources would do investigation, so ---

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CHAIR: How does one become an investigator?

MS PIAUD: In my role in --- from 2012 onwards, the role was split into two components. So half of my role was pure human resources, looking after the resources as per the operations of the organisation. The other half of the role was what we call investigation and incident coordination. So because we were looking after child protection, disabilities, et cetera, there were any work health and safety, any allegations against employees, any child protection matters, conduct, disciplinary matters, all came through to me and weekly I monitored that they were being investigated, results were being provided. But things were moving along, so I coordinated all the investigations and I had people doing investigations so I would, sort of, monitor their work.

45

CHAIR: I assume you don't have to be a member of the Australian Human Resources Institute to be an investigator?

5 MS PIAUD: No.

CHAIR: Is there any qualification process specifically to become an investigator or is this the product of experience in a particular role?

10 MS PIAUD: It's the product of experience but also in the sector I did some courses through the Ombudsman, particularly around child protection, the child protection legislation, investigating matters through the Ombudsman. I've also done, as part of my continuing professional education, some legal seminars on investigative work, procedural fairness, et cetera.

15

CHAIR: Thank you.

MS EASTMAN: Can I turn then to the topic of investigations. When you are asked by an organisation to undertake an investigation, what is the methodology and the process that you use if you're asked to undertake an investigation? I accept, obviously, each investigation will be fact-specific or a particular scenario or circumstance. I'm interested in what the general methodology and approach is. Can you help us with that?

20

25 MS PIAUD: Yes. Essentially, the first thing that happens is I'm contacted and I'm explained that there's an incident or a complaint. I'm provided with the scope of the matter. This sometimes comes directly from the employer and sometimes via a lawyer.

30 What I do at this initial stage is, I might look at the scope but look at some of the risk components of the matter. So has an employee been stood down pending an investigation, what risk mitigation strategies might be in place and just to find out who the employer wants me to speak with. So they might say there's two or three people involved or there could be, you know, multiple people involved.

35

The employer will give me a list of contact details of who they need me to contact. In my work, I prefer that the employer contacts the employees involved to let them know that there is an investigation and they will be contacted by me and to set out the ground rules around confidentiality and support and EAP. It also helps me to have any correspondence if an employee has been stood down, so that I know exactly who is stood down and when that happened.

40

My first part of the investigation is to make contact with the complainant, so the person who has lodged the complaint or the grievance, and to get them to really --- I interview them, and to get them to really explain to me what it is their complaint is. It might be a couple of words or one paragraph as an initial complaint but I ask them to expand that and to tell me --- to try and make it factual, what did they see, what

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did they hear, are there any witnesses who can attest to what happened.

5 That interview, I make notes. I ask them to --- so I will type that up. I ask them to please review the notes and to make changes, in track changes on a Word document, if there's anything I have misconstrued, anything I didn't understand, or in some cases people think of something afterwards, so I ask them to add in afterwards anything that I might have missed.

10 MS EASTMAN: Can I pause there and ask you a few questions about this part of the methodology. So, you might be contacted by the employer or a lawyer. In what circumstances would a lawyer contact you? What have been your experiences with that?

15 MS PIAUD: Generally if a lawyer contacts me, it's because the employer who has had the complaint will take it to their legal representative and the legal representative will then contact me as an independent external person to the organisation to look at the complaint, so that it's impartial.

20 MS EASTMAN: And if a lawyer engages you to do the investigation, does the lawyer then become the contact point for information or contact details for employees, et cetera?

25 MS PIAUD: Not generally. They will give me the legal brief, so the scope of the investigation, and then I essentially go away and do that. I may make contact with them at various points during the investigation to tell them how it's progressing. I might contact them if, for example, I'm having trouble getting in contact with some people and I can't get the employer to make contact; whether we progress without interviewing that person, you know, like that. But, essentially, I don't have any contact with them until I prepare my report and submit my report.

30 MS EASTMAN: When you are briefed, on some occasions are you given terms of reference that set out quite specifically what it is that you have to investigate?

35 MS PIAUD: In most cases it gives me quite prescribed details of what it is to look at.

40 MS EASTMAN: When you are asked to do an investigation, it's not, for example, Jennie, come and have a look at everything and tell us what you think. It's not that type of investigation?

MS PIAUD: No. In most cases they are quite prescriptive. It's in relation to the complaint of X lodged by such and such a person, to establish the details of the complaint, to interview any witnesses and to come up with a factual finding.

45 MS EASTMAN: If there's allegations that somebody has engaged in misconduct or a breach of policies, will you be given --- and, again, I know each one is going to be different, but will you be given a series of allegations, or is part of your role in

interviewing a complainant to actually identify what the allegations are?

MS PIAUD: In most cases that comes after I interview the complainant. I would then frame up or particularise the allegations to be put back to the respondent.

5

MS EASTMAN: In terms of what you are asked to do, you appreciate sometimes there can be a distinction between investigating facts, so what happened, and then investigating whether or not those facts, as found, also might result in a breach of a policy or a breach of a law or a breach of something? So do you understand that distinction between finding facts and finding consequences?

10

MS PIAUD: Yes. So I often have the two parts. One is finding out whether I can sustain an allegation or not sustain the allegation. The second part is, if a sustained allegation, then breaches of policy, procedure or legislative body. So I make the two findings.

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MS EASTMAN: So it would depend on the particular investigation as to whether you are just asked to investigate the facts and tell, for example, an employer this is what I found has happened?

20

MS PIAUD: That's right.

MS EASTMAN: But if you were to go further than the fact finding, you might be asked to also express a view on whether there's a breach and also what might be recommendations based on those factual findings; is that right?

25

MS PIAUD: Sometimes. It's less often I get asked for recommendations, but I do occasionally get asked to make recommendations to my findings.

CHAIR: You mentioned a little earlier that you present a report. To whom do you ordinarily present a report?

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MS EASTMAN: Chair, could I interrupt there? I will get to that point.

CHAIR: I would just like to know generally, if you don't mind. Generally, who do you provide a report to?

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MS PIAUD: Whoever provides me with the brief. If it comes directly from the employer, I provide the report to the employer. If it comes via the legal representative, it will go back to the legal representative.

40

CHAIR: Thank you. Yes?

MS EASTMAN: In terms of the approach that you take to identifying those allegations, is the first step in your investigation always to speak to the complainant, the person who has brought the grievance?

45

MS PIAUD: Yes. I can't think of any variation to that.

5 MS EASTMAN: You mentioned a moment ago confidentiality. Is the question of confidentiality something that you impose on your investigations or is confidentiality something that will be part of your instructions and a request from the relevant organisation engaging you to do the investigation?

10 MS PIAUD: I would request the organisation to include confidentiality. They may or they may not, as part of their normal course of other investigations. I like to ensure that there's confidentiality so that we're not getting contaminated witnesses where the complainant is telling witnesses their story, so that I'm hearing things for the first time from the person when I speak with them.

15 MS EASTMAN: Once you have spoken to the complainant and I think you just said you do an interview, for the most part that's face-to-face? I suppose COVID might have changed that.

MS PIAUD: Prior to COVID it was always face-to-face.

20 MS EASTMAN: Do you record those interviews or do you take notes?

MS PIAUD: I don't record, I take notes.

25 MS EASTMAN: After that meeting --- that might take, what, hours in some cases; is that right?

MS PIAUD: Some interviews have gone for three hours.

30 MS EASTMAN: Then you would review your notes and type up what you distill from those notes as the allegations?

35 MS PIAUD: No. The next step would be, after I've taken the notes, I actually type those up as a statement and I provide them back to the complainant, the witness or the PSO, the respondent, to verify, so that I am always working from a statement that has been verified by the person who gave it.

40 MS EASTMAN: Is the next step --- and feel free to explain your next steps but is the next step, after you have identified the allegations and spoken to a complainant, to go and speak to the person about whom the complaint is made or do you make inquiries of other witnesses or collect documents?

45 MS PIAUD: I generally go to the complainant, verify their statement, the witnesses that they might put forward. So they might say three people can verify or have witnessed their side of the story. I will then interview those people and ask them not leading questions but ask them about the event, did they see it, did they hear it, where were they, et cetera. I do the same with them, I do statements to get them to verify. It's only once I've got those two components done that I will actually frame up an

allegation.

MS EASTMAN: In terms of then interviewing the person about whom the complaint is played, so the person who is the subject of the allegations, what's your approach to engaging with that person? What do you do?
5

MS PIAUD: Again, I would ask the employer, firstly, to make sure that the respondent is written to and advised who I am and that I will be contacting them. I would normally write a letter on my own letterhead then, stating who I am and that I've been engaged by the employer. I would list out the allegations. I would provide the opportunity for them to respond. I would normally say in there, "I would like to meet with you in X number of days' time at such and such a venue where you can respond to the allegations". I also offer them the opportunity to respond in writing because not everybody wants to come and meet me. I talk about confidentiality again and if the organisation has any AP program, I will do that. I offer them to bring a support person to any meetings with me.
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15

MS EASTMAN: What happens if that person says, "I'm not prepared to participate in this investigation and I don't want to talk to you"? What happens at that point in your investigation?
20

MS PIAUD: Okay, this does happen fairly regularly. I give people several opportunities to engage. After probably three attempts, I may write to them and say, "I will proceed with the investigation without your further input".
25

MS EASTMAN: How do you navigate these questions of procedural fairness in those circumstances?

MS PIAUD: For me, I think it's --- I provide them with the allegations, I provide them with opportunity to respond and up to three times the opportunity to respond to those. So if they don't meet the first cut-off, it's not like that's it, it's all over. I will ask them to re-engage. Sometimes this goes through their lawyer, so I might be liaising with their lawyer, requesting a response. But there is a point where I have to continue with the investigation, even if it means that they didn't respond.
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MS EASTMAN: If that respondent, I think you've used that description, does respond and provides you an account, what's the next step? You have collected all of the witness accounts, the complainant's account, the respondent's account. What process do you use then in analysing or thinking or working on the material that you have collected?
40

MS PIAUD: Sometimes a respondent will also have witnesses, so I will interview those people as well. The next part of how I analyse the data is I would go back through and verify timings using rosters, payroll records, to make sure that if someone said they were on shift, they definitely worked that day. If people are talking about a witness, I will verify that a witness was at the same time on shift. I might look at training records or any sort of data on a file. So if someone lodged a
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complaint, I might be able to go back and ask human resources whether there has been a complaint lodged previously. I have looked into exit interview records, recruitment records, reference checking. Whatever data I can check, I will request and review.

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MS EASTMAN: I would imagine sometimes when you're doing an investigation you get conflicting accounts of what occurred.

MS PIAUD: Mm-hmm.

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MS EASTMAN: What's your approach and how do you reconcile facts that might be conflicting, where you've got two people telling you different things about what occurred? What approach do you take? I've seen in your reports you refer to a legal case called Briginshaw, but I'm interested in what approach you take and how you go about working out, well, whose version are you going to believe or not, or how do you approach that?

15

MS PIAUD: It's a little bit of a process of how credible a person at interview is. So I'll often ask --- during an interview, I'll ask a set of questions at one point, leave it and then revisit the questions later on in the interview. Sometimes that shows me some disparity between answers, sometimes you get quite congruent responses, so I put a lot of weight on the congruency of people's responses. I put a lot of weight on the background checking. If someone is talking about restrictive practices and yet during the interview if I ask them about restrictive practices and their answers are not congruent with restrictive practices, then that adds less weight to their evidence. So I go through a process of weighting the evidence that I've got. Also, in line with Briginshaw, it depends on the nature of the allegation as to I'm looking for more weight the more serious the allegation is.

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MS EASTMAN: If the allegation is particularly serious and might indicate that there is criminal conduct involved, what approach do you take in those circumstances?

MS PIAUD: Well, obviously I take it very seriously, but when there's a criminal element to it, it goes to the police and then I wait for my instructions from the police. So I would discontinue any line of questioning around that matter until the police give the go-ahead to resume. If there is a criminal element, I'm not investigating it as a criminal matter, I'm investigating it as a workplace civil matter. So I'm still looking for that balance of probabilities whether it more than likely happened, but I am looking for far more evidence to weight it to a sustained finding.

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MS EASTMAN: Many of the matters I think you would have worked on when you've worked in children's, disability services, out-of-home care services, you often are dealing with complainants and witnesses who have experienced a lot of trauma. Have you done any specific training on trauma-informed approaches on interviewing and analysing evidence?

45

MS PIAUD: In my previous employer, because we worked within trauma-informed

programs, yes, I've done inhouse training on trauma-informed care.

5 MS EASTMAN: For some people with disabilities, their communication skills may be limited. What approach do you take if you have to interview somebody or obtain an account of what occurred from somebody with disability who has more limited communication skills? How do you approach that?

10 MS PIAUD: With patience, I think, and with respect. I just find that you have identify how that person communicates and then work within their capacity to communicate. Often I have a family member who would be present to assist with communication.

15 MS EASTMAN: I think the Chair has asked you a question about who do you give your report to. But before we get to who you give the report to, what process do you then use in writing up the findings that you have made or the recommendations that you make. What's your approach in terms of writing up a report?

20 MS PIAUD: I generally start by outlining the purpose of the report and the scope, so the legal brief I was given. I will list what the --- so I start off at the very beginning, so what was the complaint and who made the complaint, when it was made, et cetera. I do a section on the background to add context to the organisation that the report is for. I then come into analysing each allegation. So each allegation will be listed. All of the responses from the complainant, the witnesses and the respondent I list out and from that I analyse whether I believe that it can be sustained or not sustained.

25 MS EASTMAN: What do those words mean? What do they mean to you? How do you use those words?

30 MS EASTMAN: I give four outcomes. One could be sustained, sustained with mitigating circumstances, not sustained or unable to make a finding.

MS EASTMAN: I think I've seen some of your reports, "partially sustained". Is that ---

35 MS PIAUD: For partially sustained, sometimes there will actually be two elements to an allegation. So I might say that part 1, I can sustain that, but the second part of it, there was no substance. So that would be a partially sustained, although it would then go into detail of which part was sustained and which wasn't.

40 For me to sustain something, I have to feel that the weight of evidence leans towards it most likely happened. So either I can absolutely prove it or I most likely believe that it happened, based on the evidence.

45 "With mitigating circumstances" would be, yes, it most likely happened but there is another element to the response that shows that even though it happened, there was a reason why it happened or there could be something that needs to be taken into consideration.

5 "Unsustained" doesn't mean that it didn't happen, it just means I have not been able to gather the weight of evidence to sustain it. Sometimes I just can't find anything either way, so you just can't find enough evidence to say one way or the other, so that's unable to sustain.

10 MS EASTMAN: And then the report --- do you provide draft reports before you finalise the report? And in that respect, if you do, does anybody have a role in suggesting what your findings might be?

15 MS PIAUD: Normally if I provide the report to the lawyer, they like it to be in draft form. They never make any changes to the content of the report. They may suggest moving a section; you know, that actually doesn't belong there, you can put that down in a different category. They pick me up on spelling or grammar. That's about it.

MS EASTMAN: Have you had an experience where somebody has wanted you to change a finding that you have made?

20 MS PIAUD: Sometimes one of the lawyers will ask me to provide more detail on a finding, so it might be that seems to be wishy-washy, could you be more decisive. It gives me that opportunity to go back in and, I suppose, think about it and really add some more content to it. I find it's good to actually have someone read them because I can get so engrossed in them that I read my finding and go yes, that makes sense,
25 but when the lawyer reads it, they're like, well, that's not strong enough.

30 MS EASTMAN: Have you ever had an occasion where you felt pressure to make particular findings because the organisation that has engaged you wants you to make a finding of a particular kind? Have you ever had that sort of pressure?

MS PIAUD: No, I've never felt pressured to make a finding. I think a lot of my findings are probably not what employers want sometimes, but I make an honest finding.

35 MS EASTMAN: Thank you for answering those questions about your methodology. I now want to turn to the eight reports you prepared in relation to Melissa, Carl and Chen's house and what happened to them. You have dealt with them in your report but can I step back from them and put them into four categories, if that's helpful, and then we might look at each of those reports.

40 The first series of reports is one on 29 July 2019, then 1 November 2019 and 19 December 2019. We will look at each of these three reports in a moment, but these first three reports concerned an allegation of abuse, assault and neglect made by SP1, and you have the pseudonyms there, and SP2. It came to Sunnyfield's attention from
45 the NDIS Quality and Safeguards Commission. So you're aware of that?

MS PIAUD: Yes.

MS EASTMAN: That's the first set of reports, the first three. The second set are two reports provided on 2 September 2019 and these two reports address specific aspects of the NDIS complaint concerned with the workplace processes in Sunnyfield for its employment and performance management of SP1 and SP2, and that included the recruitment of SP1.

MS PIAUD: Yes.

MS EASTMAN: The next two reports of 13 September 2019 and 24 November 2019 were reports about an incident involving unexplained injuries to Melissa in about August 2019.

MS PIAUD: That's correct.

MS EASTMAN: The final report, which is 27 May 2020, was a report in relation to a further allegation of assault against SP2 which had been made by an employee of Sunnyfield to the Sunnyfield response team in about October 2019, but it wasn't investigated until May 2020 because of a police matter and that involved an issue concerning Melissa as well.

MS PIAUD: That's correct.

MS EASTMAN: Does that, sort of, broadly cover them?

MS PIAUD: Yes.

MS EASTMAN: Commissioners, I want to turn to the reports. Ms Piaud has a copy, but you will find copies of the reports in Tender Bundle part A starting at volume 4. Commissioners, if you turn to the first report, which you will find behind tab 135.

CHAIR: Thank you.

MS EASTMAN: Ms Piaud, do you have that? It's a report dated 29 July 2019.

MS PIAUD: Yes.

MS EASTMAN: In your statement you have set out what, in effect, your terms of reference were and what you were asked to investigate. In your statement you have also assisted the Royal Commission in understanding what material and information was provided to you in relation to the report and the preparation of that report, and that included some photographs, didn't it?

MS PIAUD: The photographs were provided by one of the client's mothers.

MS EASTMAN: So the documents that the Commissioners have behind tab 135 is a report of 56 pages. Do you have that one?

MS PIAUD: Yes.

MS EASTMAN: Do you remember undertaking this report?

5

MS PIAUD: Yes.

MS EASTMAN: The purpose of this report was to review the anonymous complaint received by Sunnyfield from the NDIS Quality and Safeguards Commission, verbally reported to the Commission on 21 June and received in writing by the Commission on 25 June, and it was also to review the information provided by way of a complaint lodged by Sophia, the mother of Carl.

10
15 You were asked to consider information provided during the investigation interviews conducted with the mothers of two of the clients at the house, those two clients being Carl and Chen. You also spoke to the staff at the house and you were asked to prepare a report of your findings. So that's the purpose?

MS PIAUD: That's correct.

20

MS EASTMAN: On page 1 you set out the process that you undertook for this particular investigation. In terms of what you have described earlier about your usual method for investigation, there was one issue that arose here in relation to a police investigation occurring at the same time as your investigation. So what impact did that have on what you investigated and also how you did the investigation? Can you remember that?

MS PIAUD: I was requested to continue investigating the other allegations that had come up from the interviews. There were other issues to do with conduct within the house, timing of being at work and not being at work, et cetera. So I continued on with interviewing along those lines, but everything to do with the physical assault had to come to a halt until the police gave the go-ahead.

MS EASTMAN: Can I summarise it this way: was it the case that while the assault might have been the trigger for the investigation, you put the assault investigation to one side, continued to speak to the mothers and speak to the staff and out of those conversations and interviews, out came other things?

MS PIAUD: That's correct.

40

MS EASTMAN: Sunnyfield asked you to examine the other things that arose?

MS PIAUD: That's correct.

MS EASTMAN: And to provide Sunnyfield, as you say on page 1, with specific insights, observations and recommendations of any systemic findings which may assist Sunnyfield to improve systems, policies and processes.

Based on the approach that you took, much of the first part of the report is setting out the factual accounts about the allegations and you have recorded what the particular allegations are and drawn together the information that you have collected. One of
5 the issues that you identified from this process, if you turn to page 20, was the reason for nonreporting by staff. I don't want to go behind what you found and why, but just so we understand your report, the nonreporting of staff, was that an issue that came out when you were doing the interviews that you thought might reflect on the systemic questions that Sunnyfield was asking you to give some recommendations
10 about?

MS PIAUD: In early discussions with Client Safeguarding Manager from Sunnyfield, we decided that it would be a good exercise to ask the staff what they understood by mandatory reporting, incident reporting, what they understood of the
15 response team, because there was clearly an issue that incidents were not being reported.

MS EASTMAN: So the matters you have set out on pages 20 through to 22 are your observations on the reasons for nonreporting, the work of the response team and that
20 distinction between mandatory and incidental reporting; is that right?

MS PIAUD: These are the actual responses from staff that were interviewed and it's their response to their understanding of what mandatory reporting is, incident reporting, because I wanted to try and gather some intelligence as to what people
25 really understood.

MS EASTMAN: So this part of your report doesn't really express any concluded views on it, you are just saying this is what I was told on these topics.

30 MS PIAUD: That's correct.

MS EASTMAN: Over the page, that's the same for the behaviour support plan.

MS PIAUD: That's correct.
35

MS EASTMAN: Over the page, again, the same for restrictive practices?

MS PIAUD: That's correct.

40 MS EASTMAN: On page 26, the medication policies?

MS PIAUD: That's correct.

MS EASTMAN: When we get to page 27, paragraph 11, "Insights, Observations
45 and Recommendations", this part is your opinion and ---

MS PIAUD: That's correct.

MS EASTMAN: --- your observations?

MS PIAUD: That's my observations.

5

MS EASTMAN: The first thing you identify there is culture, and you say:

The culture at the house has become disjointed and distrusting. The team has become segregated based on ethnicity.

10

I won't read everything there but I have just read the introduction to it. The culture in the house was something you thought you needed to bring to Sunnyfield's attention; is that right?

15 MS PIAUD: Yes.

MS EASTMAN: Over the page, you also express some opinions and views on the policies and procedures, firstly with respect to medication, and you say:

20 *The understanding of the medications policy was quite high with all staff understanding the need for medications to be checked by two staff to ensure the meds were correct for the client and the date, dosage and time was correct.*

25 But you recommended that a review of the medications policy be done to ensure it is robust and easily understandable for staff to read and comprehend. So, I think your concern was that when it was really busy, the busyness might lead to staff feeling that they were cutting corners, and you identified that as a risk for Sunnyfield? Is that a fair paraphrase of what you say?

30 MS PIAUD: That's fair.

MS EASTMAN: Then in terms of the area of preventing and responding to abuse, assault and neglect, you said:

35 *The understanding of staff within the house was mixed when it came to their understanding of what constitutes abuse, assault and neglect. Whilst they could recite the terms when asked, there has been a lack of understanding of the importance of reporting to the response team their concerns in regard to incidents witnessed in relation to Carl and Chen.*

40

You make this observation on page 29:

45 *While staff reported feeling uncomfortable to confide in their manager, they also report feeling uncomfortable going above him by reporting to the response team. Most staff felt intimidated by their manager SP1 and are concerned for their job security, many staff citing being single mothers and requiring this job for survival.*

So that's a conclusion you could draw just on the interviews from the staff?

MS PIAUD: Yes.

5

MS EASTMAN: Did you speak to SP1 about this at the time?

MS PIAUD: I didn't speak to SP1 until after the police had cleared.

10 MS EASTMAN: You make some other observations but the report was essentially focused on these areas where you thought the systemic issues could be addressed; is that right? Is that the sum result of this report and is there anything else you would like to add?

15 MS PIAUD: I think that was the outcome for this, was to really provide Sunnyfield with my observations of having the opportunity to speak with the majority of staff working in that particular house and, on reflection, the fact that they were quite open and quite honest with me about being scared.

20 CHAIR: Why, if I may ask, did you not make any finding about the attitudes reported to you by staff about, for example, the reasons for nonreporting? You have just reported what they have said without comment?

MS PIAUD: Because I'm not asked to make a comment on this, other than to report
25 to them the information that I gathered. I wasn't being asked to make a finding on whether staff should be, you know, disciplined for not reporting or ---

CHAIR: No. I'm wondering why there is no conclusion as to whether you thought
30 that they have a justification for the views they were expressing?

MS PIAUD: Well, at this stage I haven't been able to interview SP2, so I had no
other ---

CHAIR: Just reading this quickly, this is the first time I have seen it, you seem to
35 have been inhibited in the conclusions you could draw because you hadn't spoken to either SP1 or SP2?

MS PIAUD: I do feel that way. I feel a bit --- I wanted to make sure that there was
40 procedural fairness.

CHAIR: I understand that, but you felt because you couldn't speak to them or hadn't
spoken to them ---

MS PIAUD: Well, I had no response from them, in terms of ---

45

CHAIR: Yes. But as I read this quickly, it rather suggests to me that you felt somewhat inhibited as to what you could conclude because, in your view, by not

speaking to them, they didn't have the opportunity or whether they did or not, there wasn't in fact procedural fairness given to them or couldn't be given to them in those circumstances? Is that a fair assessment?

5 MS PIAUD: That's correct, yes.

CHAIR: Thank you.

10 MS EASTMAN: Turning to the second report, Commissioners, you will find a copy of this report behind tab 136. That's a report dated 1 November 2019.

CHAIR: I do apologise, but I want to go back to something because I don't quite understand it. If you go back to the report we have just been looking at, page 5, you have a heading "Established Allegations". Do you see that?

15

MS PIAUD: Yes.

CHAIR: You say:

20 *Following interviews [and so on], the following allegations have been established.*

Then you set out a series of particular allegations. Do I read that as meaning those are the allegations that you regarded as established on the facts?

25

MS PIAUD: No, not established on the facts, established on the basis of having interviewed the parents of the two clients and the staff. Also based on what came through from the NDIS.

30 CHAIR: I'm not so much interested in the reasoning process, I'm trying to understand what it is you intended to convey by saying that the following allegations have been established. I'm just at the moment ---

MS PIAUD: Some people wanted to know what the allegations were.

35

CHAIR: That's not what it says, it says "the following allegations". Did you mean by that, these are the allegations that have been made?

MS PIAUD: These are the allegations that have been made but they have not been put to the two respondents.

40

CHAIR: I see. That is not the way I read it initially, but thank you for clarifying that.

45 MS EASTMAN: The second report is the one dated 1 November 2019. Commissioners, this is behind tab 136. The purpose of this report was to consider information provided during the investigation interviews conducted with the staff at

the house and interviews conducted with the family members and, for the purpose of this report, as you say, to consider the responses to those allegations provided by SP1 during both an interview on 4 October 2019 and in writing on 4 October 2019, and the report was to make findings in relation to the allegations about SP1.

5

Picking up from what the Chair just said, step one was to identify the allegations.

MS PIAUD: That's correct.

10 MS EASTMAN: This report put those allegations to SP1.

MS PIAUD: That's right. If the allegation was relating to SP1, it was put to him.

15 MS EASTMAN: This is a report, I think, of 69 pages and the summary of the outcomes are set out on page 41 and what's at page 41 is a summary of everything that comes before. You have taken each allegation, you have set out the facts as you understand them and SP1's response, and your assessment of whether or not you accepted his account and then how you analysed any conflicting evidence?

20 MS PIAUD: That's correct.

MS EASTMAN: Is it fair to say that SP1's view was that he didn't engage in any misconduct at all, but he did provide you an account of what he had done? Would that be a fair --- I'm trying to summarise.

25

MS PIAUD: Yes.

MS EASTMAN: If you want to, go back and look at anything in particular.

30 MS PIAUD: Okay.

35 MS EASTMAN: Looking at the outcomes on page 41, you've divided them up into the allegations and a lot of the allegations were not sustained. There were 25 in total and I think you sustained six of the allegations, two are partially sustained and the balance were not sustained. How did you reach those conclusions in this case? You have told us earlier about your methodology but is there anything you want to comment on in terms of those findings, as far as the conclusions that you reached?

40 MS PIAUD: I found with a lot of the allegations, there was only one witness and SP1, so I really didn't have a lot to go on in terms of weighting, whether something was more likely or not to have happened. Over the course of the investigation, there did seem to be a pattern emerging that a lot of these things were similar, but the actual allegation itself I just felt could not be sustained because I just didn't have enough weight either way.

45

CHAIR: Why did you not, in those circumstances, say "Can't resolve"?

MS PIAUD: Can't resolve it?

5 CHAIR: That was the fourth category you said. Just to explain what I have in my
mind, can you go to page seven, please. There's an allegation that SP1 did certain
things to one of the residents and there is a staff member who is designated, whose
initials I won't repeat, who describes what has happened. Then SP1 advises you that
10 he has been advised by his lawyer that he cannot comment. You say "not sustained"
because you cannot determine the events that led up to the alleged, what appears to
be on the allegation, assault. There seems to be a shoe-print pattern, and so on. It is
the staff member's word against SP1, but you haven't heard from SP1?

MS PIAUD: No, I have at this stage because I've interviewed him.

15 CHAIR: You don't say that.

MS EASTMAN: Chair, you will recall when I introduced the report from 1
November, on page one the purpose of this report was, in the second paragraph, to
consider the responses to the allegations provided by SP1 during both the interview
on 4 October and a written response on 4 October. So this is the second report that is
20 looking at those allegations where SP1 has participated in an interview and also
provided a written response. Is that right, Ms Piaud? I don't want there to be any
confusion about ---

25 MS PIAUD: That's correct. I have interviewed SP1 at this stage and he has also
provided me with a written statement.

CHAIR: Sorry, I want to make sure I understand it because it's difficult to follow
some of this at short notice. You had interviewed SP1 about the specific allegations?

30 MS PIAUD: That's correct.

CHAIR: That is on page seven?

35 MS PIAUD: That's correct.

CHAIR: And you had interviewed him some weeks before?

MS PIAUD: It will say on the front page when I interviewed him.

40 CHAIR: You seem to say 4 October on page one.

MS PIAUD: Yes, 4 October.

45 CHAIR: I see. I think I understand now, thank you.

MS EASTMAN: You have made an assessment, based on your view about the
available information, and that's how you reached the conclusion about what was

sustained, partially sustained or not sustained.

5 But you also dealt with some systemic issues in this report as well and they appear at page 43, so can I draw your attention to page 43. You come back to the theme of culture, noting that interviews with Sophia and Chen's mother indicated a lack of trust in the management of the house where their sons reside. You say:

10 *This lack of trust manifests into the parents feeling that need to continually check up on staff and processes.*

You go on to say:

15 *Interviews with the staff at the house indicate that they are aware of this lack of trust and therefore that places additional stresses on the carers on a daily basis. They indicate they are scared of repercussions should anything happen with a client on their shift.*

You make this observation:

20 *This type of culture can lead to either nonreporting of incidents or misrepresented reporting to cover for another staff member.*

25 These are quite serious findings to make about the culture of the house. Was it your view that the house at this time was in a crisis, from a culture perspective?

MS PIAUD: Yes.

MS EASTMAN: You felt it was in a crisis. You conclude:

30 *The overall culture of the house seemed distrustful and divisive.*

In the course of making the --- in your work over many years, had you ever come across a culture in a setting of this kind that was in such a crisis?

35 MS PIAUD: This would have to be one of the more dysfunctional workplaces.

40 MS EASTMAN: You comment on the management and leadership and you say that Carl and Chen's parents did not have confidence in the management of the house. That was, essentially, the management by SP1 or was management, to the best of your recollection, someone else somewhere else?

MS PIAUD: Predominantly SP1.

45 MS EASTMAN: Over the page, you deal with recruitment and selection and you say:

SP1 was asked to confirm whether he had previously worked for another

organisation. He has not responded to this question which has been put to him twice in writing. SP1 also requested any questions in relation to this investigation be put to him in writing, on legal advice. For this reason, I posed the question of his previous employment in writing and have not had a response, despite SP1 responding to other emails. The organisation is not listed on SP1's resume provided to Sunnyfield at the time of recruitment. SP1's resume displayed several significant breaks in employment continuity which appear not to have been followed up during the recruitment phase.

10 This sets out a finding about how you conducted the investigation and the lack of response, but you also looked at SP1's resume; is that right?

MS PIAUD: That would be correct.

15 MS EASTMAN: From your review of SP1's resume, was it obvious to you that there were several significant breaks in the employment continuity?

MS PIAUD: Yes.

20 MS EASTMAN: You do make the observation on page 44 at 7.1, that SP1 presented well at his interview on Friday, 4 October and that interview with him lasted over three hours, he was polite, responsive, animated and positive throughout. But ultimately you say towards the bottom of that part, you recommend Sunnyfield obtain legal advice on taking disciplinary action against SP1 in relation to the allegations that have been sustained, and then you make some conclusions of breaches.

30 Do you remember I asked you earlier about fact finding and then consequential findings as to whether it's a breach of a policy or a law. In this case were you asked to make findings in relation to breaches of a code of conduct, breaches of the NDIS Code of Conduct, breach of incident management procedure, a breach of medication management work instruction? Those, you were asked to make findings about; is that right?

35 MS PIAUD: That's correct.

MS EASTMAN: Let's go to the third report.

40 CHAIR: Before we do that, I'm sorry, I want to understand, what is allegation number one that he didn't respond to?

MS PIAUD: The allegation he didn't respond to?

45 CHAIR: Yes.

MS PIAUD: There was mention of him having worked for a previous organisation.

CHAI

R: Yes.

MS PIAUD: It was not listed on his resume and twice I asked him in writing if he could confirm whether he had worked for this organisation and I had no response.

5

CHAIR: Is that particular allegation in this document somewhere?

MS PIAUD: It's not an allegation, but it did come up as a point that Sunnyfield wanted clarified and I was unable to clarify it.

10

CHAIR: Okay. Thank you.

MS EASTMAN: You did a separate report in relation to SP2. Commissioners, you will find a copy of that report in the next volume, volume five at tab 137. This is a report of six pages. Looking at page one, it's the case, isn't it, in terms of the investigation for SP2, you didn't interview SP2 but you relied on the correspondence from his lawyer. So this is an example of the information from SP2 coming in writing through his lawyer; that right?

15

20 MS PIAUD: That's correct.

MS EASTMAN: In relation to SP2, if we turn to page 32, you set out at pages 32 and 33 a summary of the outcomes. Three of the 20 allegations were not sustained, one of the allegations had two parts to it and one part was not sustained, but the balance were sustained. The ones that were sustained you have described as intentionally inflicting unjustified use of physical force against a client, in one case violation of NDIS mechanical and physical restraint, not seeking medical attention for self-harm injuries per Carl's behaviour support plan. Then a number of allegations were sustained with respect to the use of name calling, shouting, insulting, intimidating, threatening, shaming, demeaning or derogatory language, et cetera.

25

30

This report also makes some recommendations in relation to systemic issues. That's at page 34 and through to page 35. Your recommendations appear on page 35 at paragraph seven. You make a recommendation that Sunnyfield obtain legal advice on taking disciplinary action against SP2 in relation to the allegations that have been sustained. So I have summarised that. Is that a fair summary of the findings?

35

MS PIAUD: That's correct.

40

MS EASTMAN: That's the first of a series of three reports which deal with SP1 and SP2. The second set of reports, if we can turn to that, are two reports provided to Sunnyfield or --- sorry, I withdraw that. There are two reports dated 2 September 2019, but may have been provided to Sunnyfield on or around that date. Can I ask you to turn, Commissioners, to the document behind tab 138.

45

CHAIR: Yes.

MS EASTMAN: This report, Ms Piaud, picked up that question about SP1's employment history; is that right?

5 MS PIAUD: Correct.

MS EASTMAN: Is it the case that you were asked --- after you had prepared the first report about SP1's employment history with a particular organisation, is it the case that a law firm then asked you, on behalf of Sunnyfield, to do a review of the personnel files for SP1 and SP2, and I think a third person who is not relevant, to give to the law firm so it, in turn, could give advice to Sunnyfield?

10

MS PIAUD: That's correct.

MS EASTMAN: That's the report. For this report, you went through documents; is that right?

15

MS PIAUD: That's correct.

MS EASTMAN: This wasn't a report where you were really required to interview people at all?

20

MS PIAUD: I didn't interview anyone. I think the only person I interviewed was the learning and development manager who conducted the phone exit interviews.

25

MS EASTMAN: Then the second report that you prepared on the same date --- Commissioners, you will find this behind tab 139 --- was examining Sunnyfield's compliance with reference, background, checking procedures when hiring SP1 and SP2 and learnings for future practices arising from the first report; is that right?

30

MS PIAUD: Correct.

MS EASTMAN: So that's page 1. You make some recommendations for learnings in the future and they are set out at page 7. On page 8 you make some recommendations around checking resumes and applications for gaps in employment. You also identify, on the following page, reference checking and then you make an observation here about Working with Children checking. You say:

35

The Office of the Children's Guardian clearly states that an employer must keep records of Working with Children check numbers, the full name of the worker/volunteer, the worker or volunteer's date of birth, the date the number expires and the date the employer verified the details. A checklist may be helpful when establishing a new employee file or setup to ensure all areas such as a Working with Children check is completed correctly without missing any steps.

40

45

Can I ask why did you include the Working with Children checking process in this report? Was there something that came to your attention that caused you any concern about that?

5 MS PIAUD: Because I'm not sure if it was SP1 or SP2 but in one of the files, the Working with Children check had not been verified. My understanding is, as per the Office of the Children's Guardian, that it's not okay just to know a person has a Working With Children check, you need to go online, log in, put the number in and you get a verification and you can print that out and that is your verification that you
10 have checked the validity of the Working with Children check.

MS EASTMAN: You had noticed that hadn't been done ---

15 MS PIAUD: That had not been done.

MS EASTMAN: --- in this case. That's reports number 4 and 5. Then we get to three reports which involve Melissa and these reports you have provided on 13 September, 24 November and then a later one in May.

20 Let's start with the report on 13 September. Commissioners, you will find that at tab 140. This is the puffy eye report, if I can call it that. You were briefed by the solicitors for Sunnyfield on or about 22 August 2019 to investigate and report to the solicitors your findings under legal professional privilege in relation to the unexplained injuries sustained by Melissa at the house, which were evident initially
25 as puffy eyes, firstly, in the morning of Wednesday, 14 August. This is a report of 16 pages and Commissioners will see there are a number of photographs of Melissa on pages 12 and 16. Were those photographs provided to you by someone, can you remember?

30 MS PIAUD: I can't recall whether it was by Melissa's guardian or it was by Sunnyfield.

35 MS EASTMAN: On page 1 you have set out the process you undertook for conducting this investigation and that included an interview with Eliza, who is Melissa's sister and guardian. You remember that?

MS PIAUD: That's correct.

40 MS EASTMAN: Your task was to try to find out what had happened and what might be the cause of the injuries; is that right?

MS PIAUD: That's correct.

45 MS EASTMAN: In terms of your conclusions, if we turn to page 9, your conclusion was that the cause of any injury or injuries was inconclusive, but you say:

However, I have not been provided with any evidence that suggests any staff

members or other persons are responsible for the injuries. All staff interviewed have no knowledge of any trauma occurring to Melissa other than the incident reported on the 12th of August.

5 You've then summarised the material that was provided to you, which included Melissa being seen by her GP; is that right?

MS PIAUD: There was information provided by the ambulance who attended. There was a local medical officer who attended the house. There was also her own
10 GP who she made a visit to.

MS EASTMAN: You did, though, express some areas of concern in this report on page 11. And you identified the lack of shift progress notes for Monday, the 12th of August that covered the times between six pm and ten pm. You make some
15 observations about what was recorded on shift progress notes, that's 5.3.2. And at 5.3.3 you say one of the areas of concern were that there was no buckle guard for Melissa, meaning she could not legally be transported using the van at the house.

To mitigate the concerns surrounding having no buckle guard, the staff did consult
20 with their manager and a regional manager to authorise calling an ambulance should the need arise for transport. However, the question needs to be asked as to why there was no buckle guard for Melissa as this would mean she could not be legally transported for any purpose by the staff at the house using the staff van. Had you been asked to comment on that or is that something that ---

25 MS PIAUD: That was an observation that came up.

MS EASTMAN: Okay. The next report, Commissioners, you will find at tab 141. This is a report dated the 24th of November 2019 and can I summarise this report.
30 You were asked by the solicitors to do some follow-up of that puffy eye report and that was because there was some conflict between some of the records and you were asked to review the records. Is that right?

MS PIAUD: There was a difference between the ambulance, medical and police
35 reports.

MS EASTMAN: And were you able to make any particular findings about this? Can I just draw your attention to page seven. I paraphrase it, it was a little difficult to work out exactly what had happened on looking at this material in terms of the
40 records that were available to you?

MS PIAUD: In terms of coming to a conclusion for this, I could find no understanding of how the police report differed so drastically from the ambulance report and the medical reports. The police report had suggested that there was
45 breathing difficulties but the ambulance report had stated that at no time was there any obstruction or breathing difficulties.

MS E

ASTMAN: And you weren't asked to go beyond just trying to work out from the available material what might be an explanation for this. You didn't go that far, did you?

5 MS PIAUD: No. I think it was to talk to the staff that were on shift at the time that the police made their wellness check, to see whether those staff had inadvertently provided information that may have been incorrect.

10 MS EASTMAN: The final report that's relevant for this Royal Commission's inquiry is a report from last year, 27 May. Commissioners, you will find a copy of that report behind tab 142 in volume five. And the solicitors again briefed you to prepare this report and you were asked to investigate an alleged incident of physical assault by SP2 against Melissa. And you were told that this is an allegation reported by a support worker on the 25th of October. I think that was 2019; is that right? And you were to provide a report. Now, it's the case, isn't it, that this is one of the matters that had been subject of some of the police charges as well? Did that have a bearing on the timing of this report?

20 MS PIAUD: Yes, it did. There was some police involvement in this one.

MS EASTMAN: And by this stage SP2 had been dismissed so he was no longer working?

25 MS PIAUD: That is my understanding.

MS EASTMAN: Okay. In terms of your findings, if I can ask you to have a look at page six and page seven. You've set out your findings there. Now, on page seven towards the bottom of the page you've got some dot points and the second dot point says:

30 *Having weighed up the evidence available to me, my finding on the balance of probabilities is that the incidents did occur.*

35 So that's your finding?

MS PIAUD: Yes.

40 MS EASTMAN: And you also addressed the systemic issues and those systemic issues continued to be this fear of reporting, and I'm paraphrasing and summarising here. There was a visible lack of trust in the house management, SP1. This environment led to staff being wary of management and each other and there was a culture of blame. And you then made some recommendations about addressing culture, improving training and to ensure that they understand their requirement in relation to reporting incidents. Is that a fair summary of your findings?

45 MS PIAUD: Yes.

MS EASTMAN: And I think that then covers all of the reports that you were asked to prepare by Sunnyfield in relation to the house concerning Melissa, Chen and Carl; is that right?

5 MS PIAUD: That's correct.

MS EASTMAN: Now, looking at all of those reports that we have worked our way through, can you tell the Royal Commission that the approach that you took in each of these investigations was one that you sought to fairly review all of the evidence?

10

MS PIAUD: Absolutely.

MS EASTMAN: And that you sought to bring an independent assessment to that evidence?

15

MS PIAUD: Yes.

MS EASTMAN: And that the findings that are recorded in these reports are your findings?

20

MS PIAUD: Yes.

MS EASTMAN: And not findings that anyone else asked you to make; is that right?

25

MS PIAUD: That's correct.

MS EASTMAN: Commissioners, they're the only questions I need to ask Ms Piaud. Thank you.

30

CHAIR: Thank you very much. I will inquire whether any other party wishes to ask any questions of Ms Piaud. Yes?

MR DUGGAN: Commissioners, I appear for Sunnyfield. I seek leave to ask a couple of questions.

35

MS EASTMAN: Mr Duggan hasn't consulted with me about any questions that he wants to ask.

MR DUGGAN: I'm happy to do that. One of the matters arises out of evidence but I have no difficulty ---

40

CHAIR: Well, I think perhaps given the time and so on, the best thing might be to hear what the first question is and then if there's a difficulty, Ms Eastman, you can indicate. Yes.

45

MR DUGGAN: Thank you, Chair.

CHAIR: Are you near a microphone by any chance?

MR DUGGAN: I am. I've been adequately amplified. Apologies.

5

CROSS-EXAMINATION BY MR DUGGAN

MR DUGGAN: Ms Piaud, can I take you to ---

10

CHAIR: I should explain --- it's Mr Duggan, isn't it? No, it's not Mr Duggan it's ---

MR DUGGAN: Duggan, yes.

15

CHAIR: Mr Duggan represents Sunnyfield. He is going to ask you a couple of questions.

MR DUGGAN: Ms Piaud, can I take you to your first report which is tab 135 of the bundle. You have that, I take it? Can I take you to the first page and I understand this report, you were asked to investigate allegations arising out of events in 2019?

20

MS PIAUD: Yes.

MR DUGGAN: And the police became involved and conducted their own investigations and in fact laid some charges?

25

MS PIAUD: As I understand, yes.

MR DUGGAN: Just on page one of that report, you've got some bullet points and it's the second-last bullet point I want to take you to. You see there that you write in your report:

30

Client Safeguarding Manager ---

35 Who is from Sunnyfield obviously ---

....advised that the investigation reporting ensured Sunnyfield know all the allegations against the PSOAs including physical and verbal abuse as well as any other allegations that have come to light during the investigations.

40

Do you see that?

MS PIAUD: Yes.

45 MR DUGGAN: Can I ask you this question, did Sunnyfield during the course of your investigations prevent access to any documents?

MS PIAUD: Not that I'm aware of.

CHAIR: Do you mean any documents that Ms Piaud sought?

5 MR DUGGAN: Yes.

CHAIR: Is that what you mean?

MR DUGGAN: Yes.

10

MS PIAUD: Not that I'm aware of, no.

MR DUGGAN: Did they seek to hinder your investigations in any way?

15 MS PIAUD: No.

MR DUGGAN: Did they prevent access to any employees you wished to interview?

MS PIAUD: No.

20

MR DUGGAN: Is it fair to say that they were open to your investigations and any recommendations you might make?

MS PIAUD: Yes.

25

MR DUGGAN: Thank you, that's dealing with that report. Can I take you to your last report please, which is at tab 142 of the bundle. And in particular to pages eight and nine of this report, and Ms Eastman has just taken you to some of this material. You have a heading there on page eight "House Staff Dynamics". Do you see that?

30

MS PIAUD: Yes.

MR DUGGAN: Apologies. I didn't understand that I couldn't use the name. It says there that during interviewing the staff there was a lack of trust in the house management and there's a reference to SP1:

35

All staff interviewed said they would be hesitant or not report any issues to SP1.

40 Do you see that?

MS PIAUD: Yes.

MR DUGGAN: Then over the page:

45

The environment led staff to be wary of management and each other.

And there was a cultural blame. Do you see that?

MS PIAUD: Yes.

5 MR DUGGAN: And then the next paragraph:

On interviewing the five staff for this investigation, the interviewer perceives there is now a far more stable environment and a feeling of staff unity.

10 Do you see that?

MS PIAUD: Yes.

MR DUGGAN: You started your investigations in mid 2019; is that correct? June
15 2019, does that sound ---

MS PIAUD: Yes, that sounds correct.

MR DUGGAN: And for the purposes of this report, is it fair to say that you're
20 referring to interviews you conducted in May 2020?

MS PIAUD: That's correct.

MR DUGGAN: And that's confirmed on page one of that report?
25

MS PIAUD: Yes.

MR DUGGAN: Now you initially --- not initially, but you described the culture in
30 the house as dysfunctional a moment ago?

MS PIAUD: That's right.

MR DUGGAN: Is it fair to say that by the time of this report, so almost 12 months
35 after you started your investigations, the culture in the house had improved considerably?

MS PIAUD: Yes.

MR DUGGAN: And over that period or soon after you became engaged in
40 mid-2019, you were aware that SP1 and SP2 had been suspended?

MS PIAUD: Yes. I knew they had been stood down.

MR DUGGAN: And they didn't return to the house?
45

MS PIAUD: Yes.

MR DUGGAN: No further questions.

CHAIR: Thank you. Anybody else?

5 SPEAKER: No thank you, Commissioner.

CHAIR: Ms Eastman.

10 MS EASTMAN: Could Ms Piaud be excused and I thank you on behalf of the Royal Commission for coming today to give your evidence.

CHAIR: Yes. Thank you very much for coming to give evidence and for the material you've provided to the Royal Commission. Thank you. Ms Eastman.

15

THE WITNESS WITHDREW

20 MS EASTMAN: Commissioners, it's 10 to 4. Can I suggest we perhaps have an early mark today rather than start and deal with any more witnesses and resume at 10 o'clock tomorrow.

CHAIR: We will take an early mark, all nine minutes of it. Alright, we shall adjourn until 10 o'clock tomorrow.

25

**HEARING ADJOURNED AT 3.50 PM UNTIL WEDNESDAY, 26 MAY 2021
AT 10.00 AM**

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