



Royal Commission
into Violence, Abuse, Neglect and Exploitation
of People with Disability

Public Hearing Report

Public hearing 3

The experience of living
in a group home for
people with disability

Melbourne
2-6 December 2019

Report of Public hearing 3: The experience of living in a group home for people with disability

Melbourne Exhibition and Convention Centre

2-6 December 2019

Commissioners

The Honourable Ronald Sackville AO QC

The Honourable Roslyn Atkinson AO

Mr Alastair McEwin AM

Content warnings

This report contains information that may be distressing to readers.

It includes accounts of violence against, and abuse, neglect and exploitation of, people with disability and references to suicide and self-harming behaviour.

In some firsthand accounts of violence, abuse, neglect and exploitation, people have told us of abusive or offensive language they have experienced or witnessed. As a result, some direct quotes in the report contain language that may be offensive to some people.

First Nations readers should be aware that some information in this report has been provided by or refers to First Nations people who have passed away.

If you need support to deal with difficult feelings after reading this report, there are free services available to help you.

Blue Knot Foundation offers specialist counselling support and a referral service for anyone affected by the Disability Royal Commission.

For support please call their national hotline on **1800 421 468** (they are open every day).

In addition to the Blue Knot Foundation, the Australian Government provides support to assist people to engage with the Royal Commission. This support includes:

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Part 1: Introduction

1. The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability was established in April 2019, under Letters Patent issued by the Commonwealth of Australia. Letters Patent is the name of an official document that is used to establish the Royal Commission, appoint the Commissioners and set out the rules for how the Royal Commission will operate. Subsequently, each State Government in Australia issued complementary Letters Patent establishing relevantly identical Royal Commissions (collectively the Royal Commission).¹
2. The Royal Commission's third public hearing was held from 2 December to 6 December 2019 at the Melbourne Convention and Exhibition Centre at 1 Convention Centre Place, South Wharf, Victoria (Public hearing 3). The following Commissioners participated in the hearing:
 - The Hon Ronald Sackville AO QC (Chair)
 - The Hon Roslyn Atkinson AO
 - Mr Alastair McEwin AM
3. Counsel Assisting the Royal Commission were Kate Eastman SC, Malcolm Harding SC and Andrew Fraser. They were instructed by the Office of the Solicitor Assisting the Royal Commission.
4. The Royal Commission heard evidence from 29 witnesses during Public hearing 3. The witnesses included people with direct experience of living with disability in a group home, parents of people with disability, academic experts, the Chief Executive Officer of the service provider Yooralla, disability advocates and government representatives. The witnesses appearing at Public hearing 3 are listed in **Appendix A**.
5. A number of parties were granted leave to appear at the hearing. Those parties and their legal representatives are listed in **Appendix B**.
6. This Report uses a number of acronyms. These are listed in **Appendix C**.

Scope and purpose of Public hearing 3

7. This public hearing was the first hearing of the Royal Commission to inquire into the experience of people with disability living in a group home. The evidence of people with

¹ Copies of the various Letters Patent are available on the [website](https://disability.royalcommission.gov.au/publications/commonwealth-letters-patent-4-april-2019). The Commonwealth Letters Patent are available at <<https://disability.royalcommission.gov.au/publications/commonwealth-letters-patent-4-april-2019>>. The Victorian Letters Patent are available at <<https://disability.royalcommission.gov.au/publications/victoria-letters-patent>>.

disability, their families and advocates highlighted some of the key issues relating to homes and living for people with disability.

8. When opening Public hearing 3, the Honourable Ronald Sackville AO QC, the Chair of the Royal Commission said:

The focus on group homes also acknowledges the arguments that have been made by disability advocacy organisations that group homes create an environment conducive to violence, abuse, neglect or exploitation. It is very important that the Royal Commission examine evidence relevant to those claims...²

9. The Royal Commission decided to undertake this inquiry as one of its early public hearings, because a person's home is the place where they should feel and be safe and secure. A person's home is central to their lives, their dignity, their independence and their wellbeing. The Royal Commission also wanted to examine whether living in a group home creates a greater risk for people with disability to be subjected to violence, abuse, neglect or exploitation.

10. The Royal Commission started its investigation of the relevant issues in Victoria because of specific incidents of violence and sexual abuse of people with disability living in group homes have been the subject of a number of inquiries and investigations in that state.³

11. Public hearing 3 focused on:

- the right of people with disability to choose their place of residence, including where and with whom they live
- how the group home model emerged and its impact on the housing options and living conditions of people with disability in Victoria
- the causes of violence, abuse, neglect and exploitation of residents of group homes in Victoria
- the effectiveness of laws, policies and key government agencies to protect residents with disability in group homes from violence, abuse, neglect and exploitation
- social inclusion options for living independently and alternatives to the group home model.

² Transcript, Commissioner Sackville AO QC, Public hearing 3, 2 December 2019, P-5 [38]-[42].

³ Transcript, Ms Eastman SC, Public hearing 3, 2 December 2019, P-9 [34] -10 [3].

Preparation of this Report

12. This Report provides a summary of the evidence presented at Public hearing 3. It is not an exhaustive summary of all of the evidence, nor does it analyse all of the evidence in detail.
13. As Senior Counsel Assisting said during her opening remarks on 2 December 2019, the Royal Commission has not made findings directed to whether a particular person or service breached the law, committed an offence, or contravened a policy.⁴
14. The Royal Commission acknowledges that the parties with leave to appear at Public hearing 3 had limited time to consider and respond to the evidence prior to the commencement of the hearing. In these circumstances, those parties and service providers in particular were not expected to provide detailed submissions or to present evidence during the hearing.
15. As Senior Counsel Assisting stated in her opening, the Royal Commission is committed to ensuring that any party whose interests are adversely affected by evidence is afforded procedural fairness.⁵ At the conclusion of Public hearing 3, the Chair made directions for witnesses and a number of service providers who wished to do so to provide submissions and any additional material by 28 February 2020. The Department of Health and Human Services and Yooralla were also invited to respond to certain questions on notice.
16. By mid-March 2020, a large volume of submissions and additional material had been received from various individuals and organisations.
17. This document is the Report of the three Commissioners who participated in Public Hearing 3. It has been prepared taking into account the evidence presented at Public hearing 3 and the material referred to in [16] above. The Report does not attempt to provide a comprehensive account of the evidence at the hearing. Nor does it make factual findings in relation to the experiences of individual witnesses or members of their families. It identifies the key themes that emerged from consideration of the totality of evidence and makes general observations based on the evidence.
18. The Royal Commission will need to undertake further investigations and gather more evidence before making final recommendations on issues explored at Public hearing 3. However, this Report identifies issues arising out of the hearing that will be the subject of further inquiry by the Royal Commission, and, in due course, may be the subject of recommendations.

⁴ Transcript, Ms Eastman SC, Public hearing 3, 2 December 2019, P-15 [4]-[8].

⁵ Transcript, Ms Eastman SC, Public hearing 3, 2 December 2019, P-15 [12]-[16].

Terminology

19. For the purposes of Public hearing 3, a reference to ‘group homes’ means accommodation in which services and support are provided, usually to between four and six long-term residents with disability.⁶
20. In Victoria, ‘group home’ is ‘a residential service which is declared to be a group home’ under the *Disability Act 2006* (Vic) (Disability Act). The term ‘residential service’ is defined as residential accommodation –
 - (a) provided by, on behalf of, or by arrangement with, a disability service provider; and
 - (b) provided as accommodation in which residents are provided with disability services; and
 - (c) supported by rostered staff that are provided by a disability service provider; and
 - (d) admission to which is in accordance with a process determined by the Secretary (of the relevant Department of Health and Human Services).
21. Some witnesses used the term ‘Community Residential Units’ (CRUs) instead of the term ‘group homes’.⁷ That term was used in the original version of the Disability Act when it was introduced in 2006. The definition of ‘community residential unit’ was repealed in 2012 and replaced with ‘group home’.
22. The term ‘shared supported accommodation’ was also used to mean group homes.⁸
23. ‘Specialist Disability Accommodation’ (SDA) is the term used in the National Disability Insurance Scheme (NDIS) to refer to ‘accommodation for people who require specialist housing solutions, including to assist with the delivery of supports that cater for their extreme functional impairment or very high support needs. SDA does not refer to the support services, but the homes in which these are delivered.’^{9,10}
24. The term ‘Supported Residential Service’ was also used.¹¹ Supported Residential Services (SRS) are privately operated businesses that provide accommodation and support services. They are regulated by the Victorian Department of Health and

⁶ Transcript, Commissioner Sackville AO QC, Public hearing 3, 2 December 2019, P-4 [28].

⁷ Colin Hiscoe (Transcript, Colin Hiscoe, Public hearing 3, 5 December 2019, P-352 [15]), Alan Robertson (Transcript, Alan Robertson, Public hearing 3, 4 December 2019, P-164 [5]-[7]), Jane Rosengrave (Transcript, Jane Rosengrave, Public hearing 3, 2 December 2019, P-61 [10]-[14]).

⁸ Transcript, Peter Gibilisco, Public hearing 3, 2 December 2019, P-21 [26].

⁹ *National Disability Insurance Scheme (Specialist Disability Accommodation) Rules 2016*, cl 1.1.

¹⁰ The *National Disability Insurance Scheme (Specialist Disability Accommodation) Rules 2016* have been repealed and replaced by the *National Disability Insurance Scheme (Specialist Disability Accommodation) Rules 2020*. The new Rules (r 5) define ‘Specialist Disability Accommodation’ in substantially the same way.

¹¹ Transcript, Colleen Pearce, Public hearing 3, 3 December 2019, P-132 [2].

Human Services under the *Supported Residential Services (Private Proprietors) Act 2010* (Vic). That Act excludes from the definition of a ‘supported residential service’ premises used for residential services within the meaning of the Disability Act and SDA enrolled dwellings.¹² Public hearing 3 did not examine the operation of SRS accommodation in Victoria.

Part 2: Setting the scene in Victoria

25. There are approximately 1.1 million Victorians living with a disability. In 2018-2019, over 5,000 people with disability were living in ‘residential services’ as defined in the *Disability Act*.¹³ 86 per cent of residents living in supported accommodation have an intellectual disability as their primary disability.¹⁴ Group homes are the dominant form of housing chosen for people moving out of large institutions and for people who do not have the choice to live with their family.¹⁵
26. Public hearing 3 was held at a time of significant change in the regulatory framework underpinning the disability sector in Victoria. Before the roll-out of the NDIS in Victoria, the Department of Health and Human Services (DHHS) served a broad range of functions in relation to residential services, as defined under the Disability Act, including delivering residential services, funding those services and acting as a regulator.¹⁶
27. The transition to the NDIS involved a complex process of transferring many of those functions either to non-government organisations or to the Commonwealth. Some of the functions that have remained with the Victorian Government have changed in significant ways.¹⁷
28. Even before the implementation of the NDIS, in recent years the disability sector in Victoria had been the subject of a number of reviews and reforms. Various initiatives were implemented under the *Victorian State Disability Plan 2002-2012* including the conferral of residential rights to people with disability living in supported accommodation and a shift towards individual support packages.¹⁸ In April 2012,

¹² *Supported Residential Services (Private Proprietors) Act 2010* (Vic), s 5(1).

¹³ Exhibit 3-27, ‘Statement of Janine Toomey’, 26 November 2019, at [1].

¹⁴ Exhibit 3-27, ‘Statement of Janine Toomey’, 26 November 2019, at [50].

¹⁵ Transcript, Commissioner Sackville AO QC, Public hearing 3, 2 December 2019, P-5 [31]-[34].

¹⁶ Exhibit 3-27, ‘Statement of Janine Toomey’, 26 November 2019, at [4].

¹⁷ For example, from 1 July 2020, Victoria will continue to operate a worker screening scheme but under different arrangements including a newly established Disability Worker Registration Board and a Disability Worker Commission: Exhibit 3-27, ‘Statement of Janine Toomey’, 26 November 2019, at [350]. While the Disability Worker Commission commenced in July 2020, the scheme's worker registration and screening component will not commence until 1 July 2021.

¹⁸ Exhibit 3-27, ‘Statement of Janine Toomey’, 26 November 2019, at [65].

Victoria implemented a 'No Admission Policy' for Victoria's remaining residential institutions and all residential institutions in Victoria have now closed.¹⁹

29. DHHS accepted that responses to and prevention of abuse in disability services over many years had been inadequate. This was highlighted in the Victorian Parliament Family and Community Development Committee Inquiry into Abuse in Disability Services 2016 (the 2016 Inquiry).²⁰
30. The Victorian government's response to the 2016 Inquiry included amendments to the Disability Act in August 2017, to insert zero tolerance of abuse as a guiding principle for the delivery of disability services and to enhance the Disability Services Commissioner's oversight powers.²¹ It also included DHHS's *Dignity, respect and safer services – Victoria's disability abuse prevention strategy* (the abuse prevention strategy), released in April 2018.²² Among other things, the abuse prevention strategy involved capacity building initiatives for individuals,²³ training programs for service providers²⁴ and the introduction of a requirement for registration that providers declare a commitment to zero tolerance of abuse.²⁵ A Code of Conduct for disability workers was implemented in April 2018.²⁶
31. The Victorian government introduced the Disability Worker Exclusion Scheme in September 2014 to apply to all residential services managed and funded by the DHHS.²⁷ That scheme ensures that people who are found to be unsuitable are placed on the Disability Worker Exclusion List.²⁸ It was expanded on 1 November 2017 to apply to all disability services, consistent with recommendations of the 2016 inquiry.²⁹

Introduction of the National Disability Insurance Scheme

32. A key element of the NDIS was the separation of accommodation (the 'bricks and mortar') and support services.³⁰ Eligible NDIS participants can receive funding for accommodation under the SDA category. Funding for the service component is through the Supported Independent Living (SIL) category.

¹⁹ Exhibit 3-27, 'Statement of Janine Toomey', 26 November 2019, at [69]. The expression 'residential institution' was a defined term in the *Disability Act 2006* (Vic). The definition has now been repealed: see *Disability Services Act 2019* (Vic) s 126(d).

²⁰ Exhibit 3-27, 'Statement of Janine Toomey', 26 November 2019, at [78].

²¹ Exhibit 3-27, 'Statement of Janine Toomey', 26 November 2019, at [273].

²² Exhibit 3-27, 'Statement of Janine Toomey', 26 November 2019, at [79], [260]-[263].

²³ Exhibit 3-27, 'Statement of Janine Toomey', 26 November 2019, at [264].

²⁴ Exhibit 3-27, 'Statement of Janine Toomey', 26 November 2019, at [266], [339], [394].

²⁵ Exhibit 3-27, 'Statement of Janine Toomey', 26 November 2019, at [278].

²⁶ Exhibit 3-27, 'Statement of Janine Toomey', 26 November 2019, at [282], [320]; Exhibit 3-27.30, VIC.0001.0505.1630.

²⁷ Exhibit 3-27, 'Statement of Janine Toomey', 26 November 2019, at [288].

²⁸ Exhibit 3-27, 'Statement of Janine Toomey', 26 November 2019, at [289].

²⁹ Exhibit 3-27, 'Statement of Janine Toomey', 26 November 2019, at [291].

³⁰ Transcript, Janine Toomey, Public hearing 3, 4 December 2019, P-214 [14]-[24].

33. Prior to the commencement of the NDIS, DHHS delivered around half of the supported accommodation residential services in Victoria.³¹ At the end of June 2019, the Department owned 835 dwellings, which is about 70 per cent of the SDA market.³² The transition to the NDIS saw the Victorian government transfer its accommodation service delivery to five non-government service providers between March and October 2019.³³ It progressively enrolled its government owned dwellings as SDA in the NDIS.³⁴
34. While many responsibilities of DHHS have or will transfer to the Commonwealth under the NDIS, the Victorian Government will remain responsible for worker screening. Victoria, along with other jurisdictions, has agreed to operate a worker screening unit for NDIS workers of registered NDIS providers.³⁵ The *Disability Service Safeguards Act 2018* (Vic) establishes the Disability Worker Regulation Scheme (DWRS), commenced on 1 July 2020.³⁶ The DWRS will apply to all disability workers in Victoria and is designed to operate alongside the NDIS Quality and Safeguarding Framework.³⁷ This hearing did not examine the NDIS or the operations of the NDIS Quality and Safeguards Commission (NDIS Commission) in any detail. Nor did the Royal Commission require the NDIA or the NDIS Commission to provide information for or give evidence at Public hearing 3.

Part 3: Witness Evidence

35. This section sets out a brief description of the evidence given by witnesses at Public hearing 3. As has been noted, it does not provide a comprehensive account of the evidence. Each of the witnesses touched on topics not covered in the summaries of their evidence. The absence of a specific reference in this Report to parts of the evidence does not diminish its significance to the work of the Royal Commission. The Royal Commission also acknowledges that there will be a wide range of experiences and accounts about living in group homes across Australia.
36. For ease of reading, the witnesses have been divided into six broad categories:
- direct experience witnesses
 - witnesses from advocacy groups
 - witnesses who discussed alternatives to group homes
 - experts and academics

³¹ Exhibit 3-27, 'Statement of Janine Toomey', 26 November 2019, at [170], [172].
³² Transcript, Janine Toomey, Public hearing 3, 4 December 2019, P-216 [29]-[34].
³³ Exhibit 3-27, 'Statement of Janine Toomey', 26 November 2019, at [20], [179].
³⁴ Exhibit 3-27, 'Statement of Janine Toomey', 26 November 2019, at [176].
³⁵ Exhibit 3-27, 'Statement of Janine Toomey', 26 November 2019, at [38], [199].
³⁶ Exhibit 3-27, 'Statement of Janine Toomey', 26 November 2019, at [346].
³⁷ Exhibit 3-27, 'Statement of Janine Toomey', 26 November 2019, at [355].

- representatives of government and oversight bodies
- service providers

Evidence of direct experience witnesses

Dr Peter Gibilisco

I simply want to live my life as much as I can on my own terms; that is, I'm happy, and even eager to play the best hand with the cards I've been dealt. This is my first priority. If this seems like a cry, it is not a cry for sympathy, but instead for empathy.³⁸

37. Dr Peter Gibilisco provided a written statement.³⁹ He gave oral evidence on 2 December 2019 with the assistance of a communication device and the support of his academic support workers.⁴⁰
38. Dr Gibilisco is an honorary fellow at the University of Melbourne. In 2006, he completed a Doctor of Philosophy (PhD) in Sociology.⁴¹
39. Dr Gibilisco has Friedreichs Ataxia, a rare progressive neurological condition which severely affects his mobility, vision, hearing and speech.⁴² He has used a wheelchair since he was 23 years old. He said he requires assistance in all areas of personal care, and continual assistance from support workers to communicate.⁴³
40. Dr Gibilisco spoke about his experiences moving from an accessible unit, where he lived on his own, to a group home (also called shared supported accommodation) in 2011. Dr Gibilisco said he was not able to continue to live on his own because the Department of Human Services (as it was known at the time)⁴⁴ could not allocate an extra three hours a day of carer support that he needed to work safely and productively in his own residence.⁴⁵ He moved to shared supported accommodation which he said resulted in him experiencing an extreme loss of control in his life, and a loss to his way of life in a personal and social sense.⁴⁶
41. On the issue of supporting an individual's needs in group homes or shared supported accommodation, Dr Gibilisco said that he believes people's individual needs are neglected because of an emphasis by 'management' on standardised practices.⁴⁷

³⁸ Exhibit 3-10, 'Statement of Dr Peter Gibilisco', 24 November 2019, at [38].

³⁹ Exhibit 3-10, 'Statement of Dr Peter Gibilisco', 24 November 2019.

⁴⁰ Transcript, Peter Gibilisco, Public hearing 3, 2 December 2019, P-21-27.

⁴¹ Transcript, Peter Gibilisco, Public hearing 3, 2 December 2019, P-21 [29]-[34]

⁴² Transcript, Peter Gibilisco, Public hearing 3, 2 December 2019, P-21 [29]-[40].

⁴³ Transcript, Peter Gibilisco, Public hearing 3, 2 December 2019, P-21 [38] - 22 [2].

⁴⁴ The Victorian Department of Human Services is now called the Department of Health and Human Services.

⁴⁵ Transcript, Peter Gibilisco, Public hearing 3, 2 December 2019, P-22 [4]-[7].

⁴⁶ Transcript, Peter Gibilisco, Public hearing 3, 2 December 2019, P-22 [7]-[10].

⁴⁷ Transcript, Peter Gibilisco, Public hearing 3, 2 December 2019, P-22 [13]-[15].

Dr Gibilisco provided specific examples to the Royal Commission of incidents that he says he experienced in his group home which he regarded as abuse⁴⁸ or a risk to his safety.⁴⁹

42. On the topic of disability support workers, Dr Gibilisco gave evidence to the Royal Commission about how having a good team of support workers, who spend time with him every day and come to understand his disability, has been highly beneficial. Dr Gibilisco said that the result of his relationship with his support workers can be seen in his achievements, both academic and personal, in recent years. Having informal supports, such as from close friends and family have also helped him to continue pushing for justice in the disability sector.⁵⁰
43. Following the conclusion of the hearing, submissions on behalf of Dr Gibilisco were provided to the Royal Commission that expanded on the evidence given by Dr Gibilisco during the hearing. The service provider also responded in writing. Because the service provider's identity is subject to a non-publication order, it is not appropriate to set out the evidence in a manner that could identify it.

AAI and her daughter, AAH

I wanted a place where my daughter might enjoy an “ordinary life”. To me, that means a life without restrictions. She should have the ability to decide to do things she wants to do, and to take risks if she wants ...⁵¹

44. AAI is the mother of AAH.⁵² AAI provided a statement⁵³ and gave oral evidence on 2 December 2019.
45. AAI gave evidence that AAH she likes to socialise, go sailing, swimming and to the movies. AAH is 34 years old, and loves to have coffee with her friends, and to spend time with her family.⁵⁴ AAH has an intellectual disability and a condition called arthrogryposis, which means her muscles are smaller and do not work like other people's, often pulling her bones out of joint and causing muscle contractions.⁵⁵ AAH does not speak and cannot walk unassisted, and requires support in all areas of daily life such as feeding, going to the toilet and drinking.⁵⁶

⁴⁸ Transcript, Peter Gibilisco, Public hearing 3, 2 December 2019, P-23 [15]-[41].

⁴⁹ Transcript, Peter Gibilisco, Public hearing 3, 2 December 2019, P-22 [41] – 23 [15].

⁵⁰ Transcript, Peter Gibilisco, Public hearing 3, 2 December 2019, P-24 [26]-[28].

⁵¹ Exhibit 3-12, 'Statement of AAI', 27 November 2019, at [8].

⁵² The identities of AAH and AAI are the subject of non-publication directions made by the Royal Commission. They were identified through the use of pseudonyms in the Melbourne Hearing. These pseudonyms will also be used throughout this Report.

⁵³ Exhibit 3-12, 'Statement of AAI', 27 November 2019.

⁵⁴ Exhibit 3-12, 'Statement of AAI', 27 November 2019, at [4]-[5].

⁵⁵ Exhibit 3-12, 'Statement of AAI', 27 November 2019, at [6].

⁵⁶ Exhibit 3-12, 'Statement of AAI', 27 November 2019, at [6].

46. AAI spoke about her daughter's experiences living in a number of group homes, and AAI's efforts advocating for her daughter's care. AAH lived at home with her family until about 2008 when aged 22, she moved into a group home in Echuca, Victoria run by Murray Human Services (now known as VIVID) with five other 'high needs' residents (the Echuca group home).⁵⁷
47. AAI said that ever since her daughter moved into group home accommodation, AAI has 'often felt let down by the support that is provided to her'.⁵⁸ AAI felt that 'unless [she] was checking to ensure [AAH] was being cared for properly and advocating for her to be treated like an ordinary person with her own preferences and views, [AAH] could not receive adequate care'.⁵⁹
48. AAI wanted AAH to move out of the Echuca group home because she was concerned about 'many incidents over the years that had happened there, and because [AAI] wanted [AAH] to be closer to [AAH] in Geelong',⁶⁰ where AAI and her husband lived. AAI said that she was not able to move her daughter to Geelong until after the NDIS became available in her area in 2018, and AAH had an NDIS plan in place.⁶¹
49. AAI's concerns at the Echuca group home related to not being informed when something happened and not being properly involved when it did. AAI talked about specific instances where she said she was not told about incidents that happened to her daughter until after she had noticed something.⁶² For example, four years ago, AAI visited AAH at the Echuca group home and noticed AAH's tooth was broken. When she asked staff about what happened she was told that AAH was 'left unbelted, when she was sitting on the toilet. As a result, she fell and broke her tooth'. AAI 'didn't know about this until [she] visited and noticed [AAH's] tooth'.⁶³
50. AAI said that she was worried about 'making complaints about her [daughter's] treatment' to VIVID because she was concerned that there would be repercussions for her daughter, and because '[AAI] wasn't there, and [AAH] was so isolated'.⁶⁴
51. AAI believes management of group homes 'seem to be very fixed on ticking boxes for compliance'.⁶⁵ While AAI understands that service providers need to look after their staff, she considers that there should be a more balanced approach where the needs of both staff and people with disability are looked at.⁶⁶

⁵⁷ Exhibit 3-12, 'Statement of AAI', 27 November 2019, at [9].

⁵⁸ Exhibit 3-12, 'Statement of AAI', 27 November 2019, at [13].

⁵⁹ Exhibit 3-12, 'Statement of AAI', 27 November 2019, at [13].

⁶⁰ Exhibit 3-12, 'Statement of AAI', 27 November 2019, at [11].

⁶¹ Exhibit 3-12, 'Statement of AAI', 27 November 2019, at [11].

⁶² Exhibit 3-12, 'Statement of AAI', 27 November 2019, at [15].

⁶³ Exhibit 3-12, 'Statement of AAI', 27 November 2019, at [15].

⁶⁴ Transcript, AAI, Public hearing 3, 2 December 2019, P-30 [29]-[31].

⁶⁵ Exhibit 3-12, 'Statement of AAI', 27 November 2019, at [16].

⁶⁶ Exhibit 3-12, 'Statement of AAI', 27 November 2019, at [17].

52. AAH now lives in a family owned group home in Geelong which has five residents, who all require assistance 24 hours a day.⁶⁷ AAI said she has fewer concerns about 'how [AAH] is treated' in the Geelong home than she did with the Echuca group home.⁶⁸ Nevertheless, AAI said that she has been 'struck by the strict application of institutional rules' which limit AAH from doing 'ordinary things as an ordinary person'⁶⁹ and that her view is that people with disability should be 'allowed to take risks' and make decisions about their life.⁷⁰
53. By way of example, AAI spoke about how the service provider for the Geelong group home had a policy that people with disability would not be supported to shave their legs. AAI pointed out to the service provider that they assisted men to shave their faces, but that it still 'took a lot of work' to have the service provider agree to assist her daughter to shave her legs.⁷¹ AAI said, 'it is these small everyday things that make an ordinary life'.⁷²
54. AAI said that she believes group homes 'can work when they treat the needs of the person with a disability as the same needs that everyone else has and if they value the person with a disability'.⁷³ AAI concluded her evidence by saying that 'if you are not given the same opportunities and the same choices as people who do not have a disability, then your life becomes difficult'.⁷⁴

AAG and her daughter, AAF

I am fighting a lifelong battle for her, but I will keep fighting because I want to know that when I am gone, I have done everything I can do to hopefully leave her in a better place.⁷⁵

55. AAG provided a statement to the Royal Commission dated 27 November 2019,⁷⁶ and gave oral evidence on 2 December 2019.
56. AAG is the mother of AAF, who is 51 years old. AAG said that her daughter is a much loved member of the family, and the sort of person who 'lights up' a room.⁷⁷⁷⁸ AAG also

⁶⁷ Exhibit 3-12, 'Statement of AAI', 27 November 2019, at [7].

⁶⁸ Exhibit 3-12, 'Statement of AAI', 27 November 2019, at [23].

⁶⁹ Exhibit 3-12, 'Statement of AAI', 27 November 2019, at [23].

⁷⁰ Exhibit 3-12, 'Statement of AAI', 27 November 2019, at [17]-[18].

⁷¹ Exhibit 3-12, 'Statement of AAI', 27 November 2019, at [19].

⁷² Exhibit 3-12, 'Statement of AAI', 27 November 2019, at [19].

⁷³ Exhibit 3-12, 'Statement of AAI', 27 November 2019, at [16].

⁷⁴ Exhibit 3-12, 'Statement of AAI', 27 November 2019, at [16].

⁷⁵ Exhibit 3-11, 'Statement of AAG', 27 November 2019, at [80].

⁷⁶ Exhibit 3-11, 'Statement of AAG', 27 November 2019.

⁷⁷ The identities of AAF and AAG are the subject of non-publication directions made by the Royal Commission. They were identified through the use of pseudonyms in the Melbourne Hearing.

⁷⁸ Transcript, AAG, Public hearing 3, 2 December 2019, P-39 [8]-[10].

spoke about how her daughter is a wonderful contributor to the community. For example, she has collected money for the Royal Children's Hospital for 15 years.⁷⁹

57. At the age of four, AAF was diagnosed with having organic brain damage which resulted in an intellectual disability. AAF also has autism disorder, mood disorder, anxiety disorder and Attention Deficit/Hyperactivity Disorder.⁸⁰ AAF needs 1:1 assistance and supervision in all areas of life, including showering, toileting and going out in the community. While AAF can communicate, she needs assistance to understand what is expected of her.⁸¹
58. AAF has lived in many group homes in Victoria. She first went into care in 1981, at 13 years of age. AAF's first supported residence, in Mt Evelyn in Victoria, was home to about 14 people with disabilities, of different genders and ages (the Mt Evelyn home).⁸² This residence was run by Service Provider A.⁸³ AAG said this group home had 'insufficient' staff, and that a 'lack of training to deal with such a large number of residents resulted in abuse between residents, and neglect, and a diminished quality of life for AAF'.⁸⁴
59. In 1984, AAG moved her daughter to a smaller suburban group home run by Service Provider A, which AAG said was owned by Service Provider B (the first group home).⁸⁵ AAG said that there was no proper supervision at this home. When AAF first came to the first group home, she was one of three female residents. By the time she left, she was the only female living in a house with four males.⁸⁶
60. In 1996, AAG was able to have AAF moved to another house run by Service Provider C (the second group home).⁸⁷ In this home, AAG contends that there was 'neglect and deprivation of [AAF's] rights.'⁸⁸
61. In 1998, AAF was moved into another group home, run by the Victorian Department of Human Services (DHS) (as it was known at the time) (the third group home). AAG said she learned that staff members and parents of other residents at the third group home did not want AAF to live there, and that they went as far as to take the matter to court

⁷⁹ Transcript, AAG, Public hearing 3, 2 December 2019, P-39 [13]-[15].

⁸⁰ Exhibit 3-11, 'Statement of AAG', 27 November 2019, at [4].

⁸¹ Exhibit 3-11, 'Statement of AAG', 27 November 2019, at [5].

⁸² Transcript, AAG, Public hearing 3, 2 December 2019, P-41 [10] - 42 [10].

⁸³ The names of the current service provider and the forerunner service provider that ran the Mt Evelyn home are the subject of a non-publication direction made by the Royal Commission. These service providers are referred to collectively as Service Provider A in this Report.

⁸⁴ Exhibit 3-11, 'Statement of AAG', 27 November 2019, at [13].

⁸⁵ The name of the current service provider and the previous service provider that owned the first group home is the subject of a non-publication direction made by the Royal Commission. These service providers are referred to as Service Provider B in this Report.

⁸⁶ Exhibit 3-11, 'Statement of AAG', 27 November 2019, at [14]-[16].

⁸⁷ The name of the service provider that ran the second group home is the subject of a non-publication direction made by the Royal Commission. This service provider is referred to as Service Provider C in this Report.

⁸⁸ Exhibit 3-11, 'Statement of AAG', 27 November 2019, at [26].

to remove AAF from the residence. While this was unsuccessful, AAG said she felt that the Department of Human Services used pressure to remove her daughter from the third group home and, in the end, offered to move AAF into a house by herself.⁸⁹

62. After spending approximately 21 months in a halfway house with 24 hour care, in November 2000 AAF was moved to a small house run by DHS in Box Hill (the Box Hill group home). AAF has remained in this home for the last 19 years, and DHS continued to run the house until it was privatised in 2019.⁹⁰ While AAF has lived with other residents at this home during the last 19 years, she currently lives alone. AAG said that she believes that her daughter 'functions better' if living on her own.⁹¹
63. AAG spoke about the ways that staff members at AAF's group homes would manage her behaviour. AAG said when AAF is cared for 'properly, and managed consistently with kindness, understanding and positive behaviour strategies', she 'really flourishes'. However, she said that when her daughter's routine is not followed by staff, and consequences for behaviour (for example, by way of a rewards and punishment chart)⁹² are introduced, her daughter 'can't cope'.⁹³ AAG said that she is happy with AAF's situation now. Her daughter is 'looked after by staff who are good to her and who care for her.'⁹⁴
64. AAG's evidence touched on the difficulties she said she has faced throughout her time advocating for her daughter – in terms of engaging with staff, service provider management, the Department of Health and Human Services (DHHS), and other regulatory bodies. She said that she believes that training for staff, greater powers for regulators, transparency and accountability in the reporting of incidents and tougher penalties for staff who commit acts of violence, abuse, neglect or exploitation are needed in relation to group homes and shared supported accommodation.⁹⁵
65. AAG spoke about several incidents that she says occurred during her daughter's time living in a residential institution and in a number of group homes.
66. Submissions on behalf of AAG were provided to the Royal Commission which expanded on the issues and themes explored in the hearing.
67. Each of the service providers referred to above provided the Royal Commission with written responses to AAG's evidence. Some of these responses included comprehensive descriptions about the history, operations and nature of the services provided. Some included copies of policies and practices and explained recent changes to practices. Because these service providers' identities are subject to non-

⁸⁹ Exhibit 3-11, 'Statement of AAG', 27 November 2019, at [36]-[39].

⁹⁰ Exhibit 3-11, 'Statement of AAG', 27 November 2019, at [41].

⁹¹ Transcript, AAG, Public hearing 3, 2 December 2019, P-50 [34] - P-51 [4].

⁹² Exhibit 3-11, 'Statement of AAG', 27 November 2019 at [7].

⁹³ Exhibit 3-11, 'Statement of AAG', 27 November 2019 at [7].

⁹⁴ Exhibit 3-11, 'Statement of AAG', 27 November 2019 at [54].

⁹⁵ Exhibit 3-11, 'Statement of AAG', 27 November 2019 at [68]-[79].

publication orders, it is not appropriate to set out the evidence in a manner that may identify any of them.

68. All of the submissions and information provided by AAG and the service providers have been considered in the preparation of this Report. The Royal Commission accepts there will be differing perspectives, recollections and views about and concerning these events and AAF's treatment in a number of the group homes. As noted above, the Royal Commission will not make factual findings on the basis of the evidence presented at Public hearing 3 that a particular person or service breached the law, committed an offence, or breached a policy.

Jane Rosengrave

*I am free as a bird, I am, and that's the way it's going to be for the rest of my life.*⁹⁶

69. Jane Rosengrave gave a statement to the Royal Commission⁹⁷ and gave oral evidence on 2 December 2019. Ms Rosengrave was supported by her support person when she attended the Royal Commission.⁹⁸
70. Ms Rosengrave is an Indigenous person from the Yorta Yorta tribe.⁹⁹ She has an intellectual disability and works as a self-advocate in a number of roles, including with Reinforce, STAR Victoria, and Action for More Independence and Dignity in Accommodation (AMIDA). She is a board member of First Peoples Disability Network, and a member of Women with Disability Australia (WWDA).¹⁰⁰
71. Ms Rosengrave spoke about her experiences living in institutions, group homes, and eventually moving to supported independent living. She recounted her experiences of family violence.¹⁰¹ She lived for a number of years in Pleasant Creek Training Centre, an institution for people with intellectual disabilities.¹⁰² She later moved to a hostel with about 16 other residents where she said she was trained on how to live in a CRU.¹⁰³ She said that some of the training, like 'intense cleaning', was like 'slave labour'.¹⁰⁴ Ms Rosengrave said that it was at this hostel that she was sexually abused.¹⁰⁵
72. She said that she was not given a choice about moving to CRUs, or who she lived with. These decisions were made by staff without consulting her.¹⁰⁶ She felt that the CRUs

⁹⁶ Transcript, Jane Rosengrave, Public hearing 3, 2 December 2019, P-58 [27]-[28].

⁹⁷ Exhibit 3-20, 'Statement of Jane Rosengrave', 28 November 2019.

⁹⁸ Transcript, Jane Rosengrave, Public hearing 3, 2 December 2019, P-58 [12]-[13].

⁹⁹ Exhibit 3-20, 'Statement of Jane Rosengrave', 28 November 2019, at [4].

¹⁰⁰ Exhibit 3-20, 'Statement of Jane Rosengrave', 28 November 2019, at [5].

¹⁰¹ Transcript, Jane Rosengrave, Public hearing 3, 2 December 2019, P-66 [18]-[29].

¹⁰² Exhibit 3-20, 'Statement of Jane Rosengrave', 28 November 2019, at [6].

¹⁰³ Exhibit 3-20, 'Statement of Jane Rosengrave', 28 November 2019, at [7].

¹⁰⁴ Exhibit 3-20, 'Statement of Jane Rosengrave', 28 November 2019, at [8].

¹⁰⁵ Exhibit 3-20, 'Statement of Jane Rosengrave', 28 November 2019, at [25].

¹⁰⁶ Exhibit 3-20, 'Statement of Jane Rosengrave', 28 November 2019, at [10].

were a 'mini-institution'. For example, there were weekly rosters with allocated jobs around the house for each resident.¹⁰⁷

73. Ms Rosengrave recalled that living at the CRUs made her feel socially isolated. She said that residents were abused in the street by people from the local community, or people would yell abusive things at the house when they walked past. She said about how residents had no one from the community other than staff members to talk to.¹⁰⁸
74. After some time living in CRUs, Ms Rosengrave moved into her own apartment in 1987. She has lived independently since that time.¹⁰⁹
75. Today, Ms Rosengrave receives a disability support pension and rents her own unit. She gets to choose her support workers, who support her in organising and attending medical appointments.¹¹⁰ She said: 'I am free as a bird, I am, and that's the way it's going to be for the rest of my life.'¹¹¹

Sam Petersen

*It's a tone of voice and a tone of voice is so hard to explain, but behind that tone is a misunderstanding of you, a misjudgement of you ... misjudgement can become someone's conclusion about you, which affects their behaviour towards you and they end up not treating you equally.*¹¹²

76. Sam Petersen provided a statement¹¹³ and gave oral evidence, with the assistance of a communication device, on 6 December 2019. She gave evidence about some of the challenges she has faced as a person with disability living in a group home.
77. Ms Petersen said that during her time as a resident of a group home, she perceived an imbalance of power between herself and the support staff.¹¹⁴ She often felt patronised by staff – she was 'talked down to' or was not taken seriously 'as the expert in [her] own support'.¹¹⁵
78. Ms Petersen said that when she gave feedback to support staff, it was met with resistance and raised voices.¹¹⁶ On occasion, due to her 'techno voice' or 'dystonic body language', she believed she was misinterpreted by staff as being hostile.¹¹⁷ She said that staff had called her 'rude, impatient and fussy' and labelled her as 'the angry

¹⁰⁷ Exhibit 3-20, 'Statement of Jane Rosengrave', 28 November 2019, at [15]-[16].

¹⁰⁸ Exhibit 3-20, 'Statement of Jane Rosengrave', 28 November 2019, at [20]-[21].

¹⁰⁹ Exhibit 3-20, 'Statement of Jane Rosengrave', 28 November 2019, at [9].

¹¹⁰ Exhibit 3-20, 'Statement of Jane Rosengrave', 28 November 2019, at [3].

¹¹¹ Transcript, Jane Rosengrave, Public hearing 3, 2 December 2019, P-58 [27]-[28].

¹¹² Exhibit 3-19, 'Statement of Sam Petersen', 27 November 2019, at [21].

¹¹³ Exhibit 3-19, 'Statement of Sam Petersen', 27 November 2019.

¹¹⁴ Exhibit 3-19, 'Statement of Sam Petersen', 27 November 2019, at [8].

¹¹⁵ Exhibit 3-19, 'Statement of Sam Petersen', 27 November 2019, at [8].

¹¹⁶ Exhibit 3-19, 'Statement of Sam Petersen', 27 November 2019, at [11], [14].

¹¹⁷ Exhibit 3-19, 'Statement of Sam Petersen', 27 November 2019, at [14].

one',¹¹⁸ and that this label would ultimately 'impact the support [she] received'.¹¹⁹ Ultimately, Ms Petersen felt that staff were not taking her complaints seriously and 'management seemed to put their heads in the sand'.¹²⁰

79. Ms Petersen spoke to the importance of people with disability being able to choose their support workers.¹²¹
80. Ms Petersen said that she now lives on her own, in a SDA unit, which she says 'isn't perfect', but is 'so, so much better'.¹²² She said that in her new home she is respected and has a say in the people who support her and the time of day that the support is provided.¹²³
81. Ms Petersen said management at her shared supported accommodation were 'always saying, "it's great to complain"' but she felt that staff weren't taking her complaints seriously.¹²⁴ She said that any request she made for more support workers, so that support workers weren't so rushed, was 'met with a no'.¹²⁵

Alan Robertson

*When I was put in an institution, there was no choices. In those days you were given what you were given ... you've got freedom now, and that's how it should be.*¹²⁶

82. Alan Robertson gave oral evidence to the Royal Commission on 4 December 2019, together with his long-time friend and advocate, Kevin Stone. Kevin Stone is the CEO of the Victorian Advocacy League for Individuals with Disability (**VALID**).¹²⁷ Mr Stone's evidence is outlined under the heading 'Representatives from advocacy groups'.
83. Mr Robertson gave evidence about his experiences living as a person with a disability variously in an institution, a hostel, a group home and independently. On living in a group home, Mr Robertson said he 'was pretty glad to get out'.¹²⁸ He spoke about his experience working with Professor Patsie Frawley on research which looked into the extent to which residents of group homes can make choices about things that affect their lives. He said about the significance of giving people choice – for example, having a choice about the colour of paint on their bedroom walls.¹²⁹

¹¹⁸ Exhibit 3-19, 'Statement of Sam Petersen', 27 November 2019, at [14].

¹¹⁹ Exhibit 3-19, 'Statement of Sam Petersen', 27 November 2019, at [14].

¹²⁰ Exhibit 3-19, 'Statement of Sam Petersen', 27 November 2019, at [22], [23].

¹²¹ Exhibit 3-19, 'Statement of Sam Petersen', 27 November 2019, at [9].

¹²² Exhibit 3-19, 'Statement of Sam Petersen', 27 November 2019, at [39].

¹²³ Exhibit 3-19, 'Statement of Sam Petersen', 27 November 2019, at [38].

¹²⁴ Exhibit 3-19, 'Statement of Sam Petersen', 27 November 2019, at [22].

¹²⁵ Exhibit 3-19, 'Statement of Sam Petersen', 27 November 2019, at [22].

¹²⁶ Transcript, Alan Robertson, Public hearing 3, 4 December 2019, P-165 [14]-[16].

¹²⁷ Transcript, Kevin Stone, Public hearing 3, 4 December 2019, P-158 [14]-[16].

¹²⁸ Transcript, Alan Robertson, Public hearing 3, 4 December 2019, P-164 [4]-[5].

¹²⁹ Transcript, Alan Robertson, Public hearing 3, 4 December 2019, P-165 [8]-[10].

84. Living 'in the community' was described by Mr Robertson as 'crucial'.¹³⁰ He said that he 'has a lot of freedom' now that he lives independently with family and community supports, and NDIS funding.¹³¹

Representatives from advocacy groups

Colin Hiscoe, Reinforce

85. Colin Hiscoe is the President of Reinforce, a self-advocacy organisation for people with an intellectual disability.¹³² He provided a statement to the Royal Commission and gave oral evidence on 5 December 2019 as part of a panel of advocates who spoke about the different types of advocacy for people with disability, and their experiences relating to people with disability who live in group homes.
86. Mr Hiscoe said Reinforce 'tries to uphold the rights of all people with an intellectual disability no matter where they are'.¹³³ Reinforce provides training and resources on self-advocacy, lobbies government on behalf of people with intellectual disability and promotes socialising among people with an intellectual disability.¹³⁴
87. Mr Hiscoe began his evidence to the Royal Commission by expressing his view that the Royal Commission needs to directly access people living in group homes. He said, 'the people [in group homes] are going to be really scared ... they're frightened of being in trouble ... of being hit.'¹³⁵ Instead of public hearings, which are intimidating for residents of group homes, Mr Hiscoe suggested that the Royal Commission meet with group home residents in a 'neutral venue' where the Commissioners can 'build up the relationship'.¹³⁶
88. Mr Hiscoe gave evidence about the discrimination experienced by people with disability. He said: 'You're allowed to get married. I might not be because I've got a disability. You're allowed to go to the pub. I'm not, I've got a disability. I'm in a group home. Those get locked at 6 o'clock. You're allowed to have children, I'm not. Why? because I've got a disability. When is it going to end that people with a disability have the same basic human rights as anybody else in this community!'¹³⁷
89. Mr Hiscoe said that he would like to see CRUs, also referred to as group homes, closed altogether because he thinks they are like 'mini institutions'.¹³⁸ He also said that

¹³⁰ Transcript, Alan Robertson, Public hearing 3, 4 December 2019, P-165 [25]-[26].

¹³¹ Transcript, Alan Robertson, Public hearing 3, 4 December 2019, P-158 [4]-[9].

¹³² Exhibit 3-21, 'Statement of Colin Hiscoe', 28 November 2019, at [6].

¹³³ Transcript, Colin Hiscoe, Public hearing 3, 5 December 2019, P-343 [24]-[26].

¹³⁴ Exhibit 3-21, 'Statement of Colin Hiscoe', 28 November 2019, at [9].

¹³⁵ Transcript, Colin Hiscoe, Public hearing 3, 5 December 2019, P-344 [10]-[14].

¹³⁶ Transcript, Colin Hiscoe, Public hearing 3, 5 December 2019, P-344 [13]-[21].

¹³⁷ Transcript, Colin Hiscoe, Public hearing 3, 5 December 2019, P-352 [25]-[30].

¹³⁸ Exhibit 3-21, 'Statement of Colin Hiscoe', 28 November 2019, at [15].

'people with disability should have choice about where they live and who they live with, they should understand their rights and be able to live in the community.'¹³⁹

Nadia Mattiazzo, Women With Disabilities Victoria

90. Nadia Mattiazzo is the acting chief executive officer of Women With Disabilities Victoria (**WWDV**), an organisation representing and providing systemic support to women with disabilities in Victoria.¹⁴⁰ Ms Mattiazzo gave oral evidence on 5 December 2019 as part of a panel of advocates with Colin Hiscoe, Sarah Forbes, Pauline Williams and Naomi Anderson. She attended the hearing with her assistance animal, a seeing eye dog.
91. WWDV runs leadership programs for women with disabilities and also work in the areas of violence prevention and workforce development.¹⁴¹
92. Ms Mattiazzo spoke about the double disadvantage faced by women with disability and said they experience violence at a higher rate, increased severity and for longer periods.¹⁴² She referred to the lack of alternative housing options for women wishing to leave abusive situations and the additional barriers such women face.¹⁴³ For example, a woman who uses a wheelchair cannot seek refuge in a shelter that she cannot access and which lacks appropriately accessible toileting changing facilities.¹⁴⁴ She also referred to her own particular circumstances of having a seeing eye dog, and the difficulty that might present if she needed, for example, to escape a violent situation.¹⁴⁵
93. Ms Mattiazzo said that, in her view, there is a lack of advocacy resourcing for organisations. She recommended providing more support to the Victorian advocacy sector 'to support the rights and the capacity and empower women with disabilities to be able to truly absolutely make their own choices in terms of where they live, who they live with, and how they get out of an unsafe situation.'¹⁴⁶

Sarah Forbes, VALID

94. Sarah Forbes provided a written statement to the Royal Commission,¹⁴⁷ and gave oral evidence on 5 December 2019 alongside a panel of advocates.
95. Ms Forbes is the advocacy manager at VALID, an organisation that has advocated for people with intellectual disability since its inception in 1989.¹⁴⁸ Ms Forbes said each year, VALID's work includes providing individual advocacy services to more than 250 people with intellectual disabilities, self-advocacy networks for more than 300 people,

¹³⁹ Exhibit 3-21, 'Statement of Colin Hiscoe', 28 November 2019, at [15].

¹⁴⁰ Transcript, Nadia Mattiazzo, Public hearing 3, 5 December 2019, P-342 [18]-[24].

¹⁴¹ Transcript, Nadia Mattiazzo, Public hearing 3, 5 December 2019, P-342 [20]-[24].

¹⁴² Transcript, Nadia Mattiazzo, Public hearing 3, 5 December 2019, P-349 [10]-[14].

¹⁴³ Transcript, Nadia Mattiazzo, Public hearing 3, 5 December 2019, P-356 [12] -357 [29].

¹⁴⁴ Transcript, Nadia Mattiazzo, Public hearing 3, 5 December 2019, P-357 [11]-[13].

¹⁴⁵ Transcript, Nadia Mattiazzo, Public hearing 3, 5 December 2019, P-357 [5]-[10].

¹⁴⁶ Transcript, Nadia Mattiazzo, Public hearing 3, 5 December 2019, P-356 [7]-[11].

¹⁴⁷ Exhibit 3-30, 'Statement of Sarah Forbes', 29 November 2019.

¹⁴⁸ Exhibit 3-30, 'Statement of Sarah Forbes', 29 November 2019, at [4], [6].

as well as running training sessions, workshops and the annual Having a Say Conference.¹⁴⁹ Ms Forbes' role is to oversee VALID's systemic advocacy work and to manage the individual advocacy team.¹⁵⁰

96. Ms Forbes said that residents of group homes are prevented from exercising choice and control in fundamental ways. She said they do not get to choose who they live with or, often, where they live.¹⁵¹ She also said that they do not get to choose the staff who come into the home or who sleep overnight or who touch their bodies to provide personal care.¹⁵²
97. Ms Forbes gave evidence about what happens when people who are incompatible are forced to live together. Often, conflict between residents will be met with a 'clinical response' whereby a psychologist will write a behaviour support plan, staff will be required to report on incidents and restrictive practices are used.¹⁵³ Ms Forbes said that she has repeatedly seen behaviours go away when a person moves into their own home.¹⁵⁴ Ms Forbes gave other examples of the ways in which people are denied choice and control including a couple being prevented from being in a same-sex relationship on the basis of a belief that the two people involved lack capacity to consent to that relationship.¹⁵⁵
98. Ms Forbes also talked about the challenges for people with disability accessing advocates. She said information about accessing advocates is often not passed on to residents of group homes.¹⁵⁶ She also described the practical difficulties faced by residents of group homes who may wish to make a complaint or contact an advocate. For example, they may not have a phone that they can use without asking for permission.¹⁵⁷
99. Ms Forbes said VALID was 'wildly under-resourced' for the work it is expected to do and noted that most advocacy organisations she has spoken to in Victoria have had their intake either closed or very limited intake for at least 12 months now.¹⁵⁸

Pauline Williams, AMIDA

100. Pauline Williams provided a written statement to the Royal Commission and gave oral evidence on 5 December 2019 with a panel of advocates.¹⁵⁹

¹⁴⁹ Exhibit 3-30, 'Statement of Sarah Forbes', 29 November 2019, at [6].

¹⁵⁰ Exhibit 3-30, 'Statement of Sarah Forbes', 29 November 2019, at [7].

¹⁵¹ Transcript, Sarah Forbes, Public hearing 3, 5 December 2019, P-345 [33]-[34].

¹⁵² Transcript, Sarah Forbes, Public hearing 3, 5 December 2019, P-345 [34]-[35].

¹⁵³ Transcript, Sarah Forbes, Public hearing 3, 5 December 2019, P-358 [123]-[26].

¹⁵⁴ Transcript, Sarah Forbes, Public hearing 3, 5 December 2019, P-354 [37] -355 [23].

¹⁵⁵ Transcript, Sarah Forbes, Public hearing 3, 5 December 2019, P-351 [42] -352 [12].

¹⁵⁶ Transcript, Sarah Forbes, Public hearing 3, 5 December 2019, P-351 [25]-[28].

¹⁵⁷ Transcript, Sarah Forbes, Public hearing 3, 5 December 2019, P-351 [28]-[29].

¹⁵⁸ Transcript, Sarah Forbes, Public hearing 3, 5 December 2019, P-364 [11]-[15].

¹⁵⁹ Exhibit 3-32, 'Statement of Pauline Williams', 29 November 2019.

101. Ms Williams is the Projects Coordinator of AMIDA.¹⁶⁰ AMIDA is an independent advocacy organisation based in Melbourne, which advocates for good housing for people with disability.¹⁶¹ Ms Williams said that AMIDA acknowledges people with disability have a right to a choice of who they live with and where they live and to live in the community, with access to support to participate and have a good quality of life.¹⁶² Ms Williams said that there are many obstacles to giving people information about their rights.¹⁶³
102. Ms Williams described the impact on residents of group homes of being unable to choose who they live with. Ms Williams observed that residents of public housing are not asked to share their housing with strangers, but this is what many people with disability are asked to do for their whole lives.¹⁶⁴ Ms Williams expressed the view that the group home model is not working and said she ‘despairs’ about new group homes being built.¹⁶⁵ She views the group home model as being ‘inbuilt’ within the NDIS because people are required to share in order to receive funding for SDA.¹⁶⁶
103. Ms Williams also discussed the need for more support for independent advocacy.¹⁶⁷ She said it is frustrating that many NDIS support coordinators are not ‘neutral’ and may work for the same service provider that is providing the support.¹⁶⁸

Naomi Anderson, Villamanta Disability Rights Legal Service

104. Naomi Anderson provided a written statement to the Royal Commission and gave oral evidence on 5 December 2019 with a panel of advocates.¹⁶⁹
105. Ms Anderson is a solicitor at the Villamanta Disability Rights Legal Service, a Victorian state wide community legal centre and disability advocacy provider.¹⁷⁰
106. Ms Anderson gave evidence about how, in a practical sense, the rights of people with disability are not realised.¹⁷¹ She gave the example of a woman in a group home who, after she was sexually assaulted by another resident, her family ‘did all of the right things’, including reporting the matter to the police and the Disability Services Commissioner. Even though ‘all of the complaints mechanisms were brought into play,

¹⁶⁰ Exhibit 3-32, ‘Statement of Pauline Williams’, 29 November 2019, at [3].

¹⁶¹ Exhibit 3-32, ‘Statement of Pauline Williams’, 29 November 2019, at [5].

¹⁶² Exhibit 3-32, ‘Statement of Pauline Williams’, 29 November 2019, at [6].

¹⁶³ Transcript, Pauline Williams, Public hearing 3, 5 December 2019, P-347 [13]-[14].

¹⁶⁴ Transcript, Pauline Williams, Public hearing 3, 5 December 2019, P-361 [29]-[34].

¹⁶⁵ Transcript, Pauline Williams, Public hearing 3, 5 December 2019, P-347 [36]-[38].

¹⁶⁶ Transcript, Pauline Williams, Public hearing 3, 5 December 2019, P-361 [21]-[23].

¹⁶⁷ Transcript, Pauline Williams, Public hearing 3, 5 December 2019, P-362 [37].

¹⁶⁸ Transcript, Pauline Williams, Public hearing 3, 5 December 2019, P-350 [22]-[27].

¹⁶⁹ Exhibit 3-35, ‘Statement of Naomi Anderson’, 4 December 2019.

¹⁷⁰ Exhibit 3-35, ‘Statement of Naomi Anderson’, 4 December 2019, at [3-4].

¹⁷¹ Transcript, Naomi Anderson, Public hearing 3, 5 December 2019, P-348 [4]-[18].

promises were made, agreements were brokered, the two people still live in the same house 18 months on.¹⁷²

107. Ms Anderson said that, for people with disability to be free from violence, abuse, neglect and exploitation, ‘they need to know that the community has their back’ and that they will be protected when people do things that are illegal.¹⁷³
108. Ms Anderson also gave evidence about the importance of residents in group homes being connected to the community and having access to independent advocacy and support.
109. She said ‘When all of the people that you see work for one service provider...that means your support workers, the managers, your support coordinator, your psychologist, your therapists, everybody works for one provider, you are not going to have choice and control and you are not going to be connected to your community because you don’t know who the community is.’¹⁷⁴

Kevin Stone, VALID

110. Kevin Stone’s evidence drew on his more than 30 years’ experience in that role. Mr Stone gave oral evidence on 4 December 2019 with Mr Alan Robertson. He also provided a written statement to the Royal Commission.¹⁷⁵
111. Mr Stone said that 25 per cent of VALID’s individual advocacy cases involve people who are living in a group home.¹⁷⁶ Of those cases, 25 per cent involve client-to-client abuse and 30 per cent involve staff-client abuse.¹⁷⁷ Mr Stone gave some examples of the types of individual advocacy cases which VALID advocates encountered in the preceding 12 months.¹⁷⁸
112. Mr Stone described the violence and abuse that he witnessed throughout his life, including how his first job in 1976 at Kew Cottages, an institution in Victoria, was to hose down with cold water 12 men who were lined up against a brick wall.¹⁷⁹ Mr Stone described how, when he worked at a special developmental school, he saw another teacher grab a girl by the hair, drag her across the floor and lock her in a cupboard.¹⁸⁰ He also said that he had heard support workers describe how they treated a resident of a group home, by ‘[chucking] him in the quiet room, and every few hours we go in there

¹⁷² Transcript, Naomi Anderson, Public hearing 3, 5 December 2019, P-348 [24]-[29].

¹⁷³ Transcript, Naomi Anderson, Public hearing 3, 5 December 2019, P-362 [15]-[18].

¹⁷⁴ Transcript, Naomi Anderson, Public hearing 3, 5 December 2019, P-359 [9]-[13].

¹⁷⁵ Exhibit 3-31, ‘Statement of Kevin Stone’, 29 November 2019.

¹⁷⁶ Transcript, Kevin Stone, Public hearing 3, 4 December 2019, P-161 [21]-[22].

¹⁷⁷ Transcript, Kevin Stone, Public hearing 3, 4 December 2019, P-161 [22]-[23].

¹⁷⁸ Transcript, Kevin Stone, Public hearing 3, 4 December 2019, P-161 [30] - 162 [36].

¹⁷⁹ Transcript, Kevin Stone, Public hearing 3, 4 December 2019, P-166 [2]-[9].

¹⁸⁰ Transcript, Kevin Stone, Public hearing 3, 4 December 2019, P-166 [10]-[13].

with a length of hose filled with wet sand and beat the shit out of him until he calls us 'sir'.¹⁸¹

113. Mr Stone said many people with disability are not aware that there are people around to look out for them.¹⁸² Often, they 'live in fear' and believe that if they speak up, they will be hurt, either physically, psychologically, or in the opportunities that are denied to them.¹⁸³ He added that people providing disability services can be bullies and that the only strategy he had ever seen that is capable of making a difference is advocacy, particularly self-advocacy because it "empower[s] people to stick up for themselves".¹⁸⁴

Witnesses who spoke about alternatives to group homes

114. The Royal Commission heard evidence from several representatives of various organisations about alternatives to the group home model, and heard about some examples of alternative living arrangements that are either currently in place, in the process of being adopted or implemented, or are currently under development.
115. Whether and how such models could promote the rights of people with disability and safeguard against violence, abuse, neglect and exploitation occurring through the provision of accommodation services was a theme that emerged during Public hearing 3. It has been identified further below as a potential issue for further inquiry in the Royal Commission's future work.

Dr George Taleporos and Dr Dianne Winkler AM – The Summer Foundation

116. Dr George Taleporos and Dr Dianne Winkler AM gave oral evidence on 5 December 2019 and provided a joint written statement to the Royal Commission.¹⁸⁵
117. Dr Taleporos is the Summer Foundation's Policy Manager.¹⁸⁶ Dr Taleporos has over 20 years' experience in the disability field, focused predominantly on advocacy, human rights policy and practice, service development and management.¹⁸⁷ He is a member of various advisory bodies including the Victorian Disability Advisory Council and the Victorian NDIS Implementation Taskforce.¹⁸⁸ Dr Taleporos has a PhD in the field of psychology and has published and peer-reviewed articles in journals.¹⁸⁹

¹⁸¹ Transcript, Kevin Stone, Public hearing 3, 4 December 2019, P-166 [30] -167 [12].

¹⁸² Transcript, Kevin Stone, Public hearing 3, 4 December 2019, P-167 [30]-[31].

¹⁸³ Transcript, Kevin Stone, Public hearing 3, 4 December 2019, P-167 [31]-[33].

¹⁸⁴ Transcript, Kevin Stone, Public hearing 3, 4 December 2019, P-167 [17]-[24].

¹⁸⁵ Exhibit 3-29, 'Joint Statement of Dr George Taleporos and Dr Di Winkler', 28 November 2019.

¹⁸⁶ Exhibit 3-29, 'Joint Statement of Dr George Taleporos and Dr Di Winkler', 28 November 2019, at [8].

¹⁸⁷ Exhibit 3-29, 'Joint Statement of Dr George Taleporos and Dr Di Winkler', 28 November 2019, at [9].

¹⁸⁸ Exhibit 3-29, 'Joint Statement of Dr George Taleporos and Dr Di Winkler', 28 November 2019, at [11].

¹⁸⁹ GT and DW [10]-[11].

118. Dr Winkler is the CEO of the Summer Foundation and leads the Foundation's research and innovation program.¹⁹⁰ She is an occupational therapist who has worked with people with severe brain injury for more than 20 years.¹⁹¹ Dr Winkler completed her PhD through research on young people living in nursing homes.¹⁹²
119. The Summer Foundation is a not-for-profit organisation, established in 2006 in an effort 'to change human service policies and practices related to young people (18-64 years old) living in, or at risk of entering aged care facilities'.¹⁹³ The Summer Foundation has prototyped the '10+1' apartment model, which consists of 10 individual SDA high physical support apartments (located throughout a new multi-apartment development), plus another apartment that is made available for the shared on-site, 24-hour SIL provider whose services are shared by the tenants of each SDA-funded apartment.¹⁹⁴ It has also developed the Housing Hub Website and Tenancy Matching Service, which are designed to allow residents to choose who provides their support and when the support is provided, while allowing them to live independently in the community.¹⁹⁵ These services recognise that providers of SDA find it difficult to identify tenants suitable for the available accommodation and NDIS participants lack information about options for accommodation.¹⁹⁶
120. Dr Winkler explained there is no single solution to the question of disability housing and support and she emphasised the need for a range of contemporary housing options to be made available to enable people with disability to live in the community like anyone else.¹⁹⁷ Dr Taleporos said many people who are abused in group homes or residential aged care facilities are stuck in abusive or neglectful situations because they have no options.¹⁹⁸
121. In their joint statement to the Royal Commission, Dr Winkler and Dr Taleporos called for the Royal Commission to make a number of recommendations.¹⁹⁹ The recommendations were grounded on the following principles: housing promotes community inclusion and connection; choice and control; the separation of housing and

¹⁹⁰ Exhibit 3-29, 'Joint Statement of Dr George Taleporos and Dr Di Winkler', 28 November 2019, at [2].

¹⁹¹ Exhibit 3-29, 'Joint Statement of Dr George Taleporos and Dr Di Winkler', 28 November 2019, at [3].

¹⁹² Exhibit 3-29, 'Joint Statement of Dr George Taleporos and Dr Di Winkler', 28 November 2019, at [6].

¹⁹³ Exhibit 3-29, 'Joint Statement of Dr George Taleporos and Dr Di Winkler', 28 November 2019, at [12].

¹⁹⁴ Exhibit 3-29, 'Joint Statement of Dr George Taleporos and Dr Di Winkler', 28 November 2019, at [16].

¹⁹⁵ Transcript, Dianne Winkler, Public hearing 3, 5 December 2019, P-372 [1]-[16].

¹⁹⁶ GT and DW [27]-[29].

¹⁹⁷ Transcript, Dianne Winkler, Public hearing 3, 5 December 2019, P-369 [11].

¹⁹⁸ Transcript, George Taleporos, Public hearing 3, 5 December 2019, P-369 [14]-[19].

¹⁹⁹ Exhibit 3-29, 'Joint Statement of Dr George Taleporos and Dr Di Winkler', 28 November 2019, at [69]-[81].

support; and regulation promoting life in the community.²⁰⁰ Among other proposals, they called for the Royal Commission to recommend that the Australian Government develop a National Housing Strategy including a specific strategy for people with disability.²⁰¹ The strategy should include a commitment that all new government-funded housing meets minimum accessibility standards.²⁰²

122. The joint statement said that the NDIS has encountered problems in achieving the policy objective of choice and control. Dr Taleporos and Dr Winkler argued that the practice of SIL providers acting as support coordinators creates conflicts of interest, while SDA providers preselecting SIL providers constitutes a common anti-competitive practice.²⁰³ They propose that there should be a separation between the provider delivering accommodation and a provider delivering support to people with disability.²⁰⁴
123. The Royal Commission acknowledges Dr Winkler and Dr Taleporos' care and consideration in formulating these recommendations which will assist the Royal Commission in its ongoing work.

Leanne Pearman, Western Australia's Individualised Services

124. Leanne Pearman prepared a written statement for the Royal Commission and gave oral evidence as part of an expert panel (with Dr Lisa Hamilton and Belinda Epstein-Frisch) on 6 December 2019.²⁰⁵ Ms Pearman is the Co-CEO of Western Australia's Individualised Services (WAIIS), a community organisation working to promote and advance individualised, self-directed supports and services for people living with disability.²⁰⁶
125. Ms Pearman provided a historical overview of the individualised service model in WA and explained the individualised living arrangements available for people with disability in WA.²⁰⁷
126. Ms Pearman adopted the collective term, 'Shared Lives', to refer to individualised living arrangements available in WA and in Australia more broadly.²⁰⁸ Shared Lives refers to a 'range of approaches that support people to live in a home environment in a natural and beneficial way – through real people connecting, supporting and sharing their

²⁰⁰ Exhibit 3-29, 'Joint Statement of Dr George Taleporos and Dr Di Winkler', 28 November 2019, at [65]-[68].

²⁰¹ Exhibit 3-29, 'Joint Statement of Dr George Taleporos and Dr Di Winkler', 28 November 2019, at [70].

²⁰² Exhibit 3-29, 'Joint Statement of Dr George Taleporos and Dr Di Winkler', 28 November 2019, at [70(c)]; Transcript, George Taleporos, Public hearing 3, 5 December 2019, P-374 [5]-[9].

²⁰³ Exhibit 3-29, 'Joint Statement of Dr George Taleporos and Dr Di Winkler', 28 November 2019, at [42].

²⁰⁴ Exhibit 3-29, 'Joint Statement of Dr George Taleporos and Dr Di Winkler', 28 November 2019, at [67].

²⁰⁵ Exhibit 3-18, 'Statement of Leanne Pearman', 26 November 2019.

²⁰⁶ Exhibit 3-18, 'Statement of Leanne Pearman', 26 November 2019, at [3], [7].

²⁰⁷ Exhibit 3-18, 'Statement of Leanne Pearman', 26 November 2019, at [13]-[27], [28]-[41].

²⁰⁸ Exhibit 3-18, 'Statement of Leanne Pearman', 26 November 2019, at [29]-[30].

Lives'.²⁰⁹ While there are 'as many Shared Lives arrangements as there are unique individuals', they often fall within two broad arrangements, being: the person lives in the supporter's home or the supporter lives in the person's home.²¹⁰ Other elements of the arrangement will need to be considered between the parties and will vary from arrangement to arrangement; for example, whether the support person receives benefits from the arrangement including regular financial payment or reduced/subsidised rent, frequency of time of support, the type of assistance an individual may require, duration of arrangement and the number of people who live in the home.²¹¹

127. Ms Pearman said that 'the primary focus is about sharing lives', which means both parties benefit from the arrangement, the people who require support as well as the people offering support.²¹² Both parties have the potential for new opportunities and everyday life experiences they may not have otherwise experienced, while developing reciprocal relationships.²¹³ Ms Pearman emphasised the importance of genuine relationships for keeping people safe, whether or not they have a disability.²¹⁴
128. Ms Pearman said that Shared Lives arrangements require a 'balance between formal support arrangements and informal relationships built on trust, mutual respect and reciprocity'.²¹⁵ The arrangements are also heavily dependent on 'the flexibility with which people are able to use their resources'.²¹⁶

Belinda Epstein-Frisch, disability consultant

129. Belinda Epstein-Frisch prepared a written statement for the Royal Commission and gave oral evidence as part of an expert panel on 6 December 2019.²¹⁷ Ms Epstein-Frisch is a disability consultant and advocate and is currently engaged as a consultant to the Independent Advisory Council of the NDIS.²¹⁸ Ms Epstein-Frisch's evidence focused on alternative models to group homes as housing for people with disability.
130. Ms Epstein-Frisch said that alternate models, such as supported living and shared lives, are desirable in order to reduce risks associated with group home living.²¹⁹ She identified the key elements of alternate models to be: the separation of housing and support; support tailored to each individual's interests and needs; and support provided

²⁰⁹ Exhibit 3-18, 'Statement of Leanne Pearman', 26 November 2019, at [30].

²¹⁰ Exhibit 3-18, 'Statement of Leanne Pearman', 26 November 2019, at [32], [35].

²¹¹ Exhibit 3-18, 'Statement of Leanne Pearman', 26 November 2019, at [36].

²¹² Exhibit 3-18, 'Statement of Leanne Pearman', 26 November 2019, at [38].

²¹³ Exhibit 3-18, 'Statement of Leanne Pearman', 26 November 2019, at [38]-[39].

²¹⁴ Transcript, Leanne Pearman, Public hearing 3, 6 December 2019, P-432 [9]-[15].

²¹⁵ Exhibit 3-18, 'Statement of Leanne Pearman', 26 November 2019, at [41].

²¹⁶ Exhibit 3-18, 'Statement of Leanne Pearman', 26 November 2019, at [41].

²¹⁷ Exhibit 3-25, 'Statement of Belinda Ruth Epstein-Frisch', 28 November 2019.

²¹⁸ Exhibit 3-25, 'Statement of Belinda Ruth Epstein-Frisch', 28 November 2019, at [4]-[6].

²¹⁹ Exhibit 3-25, 'Statement of Belinda Ruth Epstein-Frisch', 28 November 2019, at [9].

through a mix of formal and informal support with an investment in developing informal support.²²⁰

131. In her oral evidence, Ms Epstein-Frisch identified what she saw as ‘barriers’ in the NDIS to the adoption of alternate models of housing and support for people with disability.²²¹ These barriers include: a lack of mechanisms to foster innovation and growth of services skilled at providing contemporary options, for example, block grants; a lack of information about alternate models; and shortage of safe, secure and affordable housing.²²²

Experts and academics

132. The Royal Commission heard evidence from a number of academics and researchers whose research interests and expertise focus on issues relating to people with disability, including in group homes.

Rosemary Kayess

133. Rosemary Kayess is a leading disability advocate and a lecturer, researcher and expert in international human rights law issues for people with disability. She was a co-author of the *United Nations Convention on the Rights of Persons with Disabilities* (CRPD) and successfully lobbied for its ratification in Australia.²²³ Since 2005, she has been a Senior Lecturer in the Faculty of Law at the University of New South Wales.²²⁴ In 2019, she accepted the position of Vice Chairperson of the Committee for the Rights of People with Disabilities (the Committee), established under the CRPD.²²⁵
134. Ms Kayess gave oral evidence on 6 December 2019 and provided a written statement in which she discussed the development and operation of the CRPD and its implementation in Australia. Her evidence focused specifically on Article 19; Living independently and being included in the community.
135. The key points in Ms Kayess’ evidence are discussed later in this Report, in relation to the human rights framework around homes and living for people with disability.

Dr Ilan Wiesel

136. Dr Ilan Wiesel is a senior lecturer in urban geography at the School of Geography, University of Melbourne. His primary research interest and expertise is in issues

²²⁰ Exhibit 3-25, ‘Statement of Belinda Ruth Epstein-Frisch, 28 November 2019, at [10], [16].

²²¹ Transcript, Belinda Epstein-Frisch, Public hearing 3, 6 December 2019, P-429 [4]-[40].

²²² Transcript, Belinda Epstein-Frisch, Public hearing 3, 6 December 2019, P-429 [4]-[40].

²²³ Australian Human Rights Commission, ‘Rosemary Kayess wins 2019 Human Rights Medal’, *Australian Human Rights Commission*, 13 December 2019, <<https://humanrights.gov.au/about/news/media-releases/rosemary-kayess-wins-2019-human-rights-medal>>.

²²⁴ Transcript, Rosemary Kayess, Public hearing 3, 6 December 2019, P-383 [5]-[9].

²²⁵ Exhibit 3-33, ‘Statement of Rosemary Kayess’, 3 December 2019, at [3].

related to social inequality in cities, and specifically the social exclusion of people with disability, with a particular focus on access to affordable adequate housing as an aspect of social inclusion. He gave oral evidence on 3 December 2019. At the time of the hearing, Dr Wiesel was leading a three-year study titled 'The Disability Inclusive City', examining adjustments made by mainstream housing, health, transport and community services to become more inclusive of people with intellectual disability, across four Australian cities.²²⁶

137. Dr Wiesel provided a written statement to the Royal Commission, which gave a historical overview of deinstitutionalisation and its implementation in Australia. Deinstitutionalisation refers to the 'international movement of the closure or downsizing of large institutions since the 1960s, and the shift towards smaller scale and more dispersed community-based housing and support for people with psycho-social and intellectual disabilities'.²²⁷
138. He also spoke to the context in which the group home model for people with disability came about and some of the key disadvantages associated with the model.
139. Accordingly to Dr Wiesel, the overall quality of life and the standard of support in group homes are better than in large scale institutions. Dr Wiesel noted, however, that ultimately outcomes for group home residents are inconsistent and depend on the quality of support staff, the mix of residents and the compatibility between them, as well as other locational and service design factors.²²⁸
140. Dr Wiesel expressed his concern about the 'unmet need of affordable housing' for approximately 100,000 people with disability who are or will become NDIS participants.²²⁹ He emphasised the need for a national program to build at least 100,000 new, affordable homes where the residents don't spend more than 25 per cent of their income on rent.²³⁰

Professor Patricia Frawley

141. Professor Patricia Frawley is an Associate Professor of Disability and Inclusion at Deakin University, where she has worked since January 2015.²³¹ Her qualifications include a PhD and Masters of Special Education.²³² Her professional experience includes working as Senior Research and Policy Officer at the Office of the Public Advocate and as Executive Officer of the Victorian Disability Advisory Council.²³³

²²⁶ Exhibit 3-26, 'Statement of Dr Ilan Wiesel', 28 November 2019, at [8]; Transcript, Ilan Wiesel, Public hearing 3, 3 December 2019, P-73 [25].

²²⁷ Exhibit 3-26, 'Statement of Dr Ilan Wiesel', 28 November 2019, at [13].

²²⁸ Exhibit 3-26, 'Statement of Dr Ilan Wiesel', 28 November 2019, at [36].

²²⁹ Transcript, Ilan Wiesel, Public hearing 3, 3 December 2019, P-81 [13]-[15].

²³⁰ Transcript, Ilan Wiesel, Public hearing 3, 3 December 2019, P-82 [18]-[20].

²³¹ Exhibit 3-23, 'Statement of Patricia Frawley', 27 November 2019, at [3].

²³² Transcript, Patricia Frawley, Public hearing 3, 4 December 2019, P-171 [16]-[17].

²³³ Exhibit 3-23, 'Statement of Patricia Frawley', 27 November 2019, at [4].

Professor Frawley provided a written statement and gave oral evidence on 4 December 2019.

142. Professor Frawley said that she uses an ‘ecological framework and an intersectional lens’ for understanding violence and abuse in the lives of people with disabilities.²³⁴ She said that her research focuses on social inclusion of people with disabilities using a human rights framework.²³⁵ Her specific areas of focus include access to domestic, family and sexual violence services for women with disabilities and sexuality rights of people with intellectual disabilities.²³⁶
143. Professor Frawley said that intersectionality looks at the multiple oppressions that intersect across gender, culture, age, ability and geographic location, impact on experiences of abuse and how systemic change can work to prevent abuse.²³⁷
144. She explained that the ‘ecological framework’ looks beyond biological and psychological characteristics of individuals to looking at social, relational and systemic factors.²³⁸ Citing the work of Canadian researcher Dick Sobsey, Professor Frawley said that an integrated ecological framework challenged the view that people with disabilities and, in particular, people with intellectual disabilities, are inherently vulnerable because of their cognitive impairment.²³⁹ Rather, it looks at what is going on for the person with a disability in relation to their lived experience of disability that is impacting on their being victims of abuse.²⁴⁰
145. Professor Frawley explained how the integrated ecological model has been used to support prevention of abuse of people with disabilities. To illustrate this, Professor Frawley gave the example of ‘Hannah’s story’, a narrative used by peer educators with an intellectual disability in a violence and abuse prevention program named Sexual Lives and Respectful Relationships.²⁴¹ Hannah (not her real name) and her boyfriend lived together in a residential service. The residential service prevented them from having a sexual relationship in the privacy of their own room by removing ‘do not disturb signs’, which led to them deciding to have sex in an unsafe public place.²⁴² Professor Frawley said that this program highlights how issues of power and denial of rights to privacy, for example, rather than impairment characteristics of the people with an intellectual disability, have impacted on experiences of abuse.²⁴³

²³⁴ Exhibit 3-23, ‘Statement of Patricia Frawley’, 27 November 2019, at [9].

²³⁵ Exhibit 3-23, ‘Statement of Patricia Frawley’, 27 November 2019, at [8].

²³⁶ Exhibit 3-23, ‘Statement of Patricia Frawley’, 27 November 2019, at [8].

²³⁷ Exhibit 3-23, ‘Statement of Patricia Frawley’, 27 November 2019, at [17].

²³⁸ Transcript, Patricia Frawley, Public hearing 3, 4 December 2019, P-175 [21]-[35].

²³⁹ Transcript, Patricia Frawley, Public hearing 3, 4 December 2019, P-176 [3]-[7].

²⁴⁰ Transcript, Patricia Frawley, Public hearing 3, 4 December 2019, P-176 [7]-[10].

²⁴¹ Exhibit 3-23, ‘Statement of Patricia Frawley’, 27 November 2019, at [13].

²⁴² Exhibit 3-23, ‘Statement of Patricia Frawley’, 27 November 2019, at [13].

²⁴³ Exhibit 3-23, ‘Statement of Patricia Frawley’, 27 November 2019, at [22].

146. Professor Frawley gave evidence about her research into the homeliness of group homes. That research has shown that a number of factors taken together create an environment that ‘really struggles to be home-like’.²⁴⁴ Those factors include that people could not come and go and decide to leave as they wished, staffing arrangements and their ‘workplace status’.²⁴⁵
147. Professor Frawley described violence, abuse, neglect and exploitation of people with disabilities as ‘pervasive’ in group homes and stated it occurs ‘almost as part of the day-to-day practices in these environments.’²⁴⁶ Professor Frawley said this normalisation of abuse is underpinned by a lack of understanding of key concepts like respect, dignity and human rights.²⁴⁷
148. Professor Frawley gave evidence about the barriers faced by women with disabilities accessing domestic and family violence services. She said that her research had found that a ‘protective regime’ exists around women with disabilities, which acts as a barrier to accessing full range of services.²⁴⁸ This is premised on a view that women with cognitive disabilities and/or complex communication needs are more vulnerable to re-traumatisation through focussing on their abuse.²⁴⁹
149. Professor Frawley identified as a barrier to reporting sexual abuse experienced in group homes the fact that people feel, and have experienced, not being believed.²⁵⁰ Linked to this is a strongly held belief that people with an intellectual disability do not have the cognitive capacity to understand what constitutes sexual abuse.²⁵¹ Professor Frawley highlighted that, while resources have been developed to provide information to people with disabilities on how to report violence, there is often gatekeeping of this kind of information.²⁵² An example of such a resource is the website Tell Someone (www.tellsomeone.org.au), developed by the Southern Metropolitan Integrated Family Violence network.²⁵³
150. Professor Frawley said the use of the term ‘incident’ to describe instances of violence and abuse of people with disabilities in group homes is inadequate and impacts upon the health and justice responses for the victims.²⁵⁴ She said that such ‘incidents’ might or might not be reported and even if reported, reports are often not acted upon and police are generally not involved.²⁵⁵

²⁴⁴ Transcript, Patricia Frawley, Public hearing 3, 4 December 2019, P-182 [18].

²⁴⁵ Exhibit 3-23, ‘Statement of Patricia Frawley’, 27 November 2019, at [25].

²⁴⁶ Exhibit 3-23, ‘Statement of Patricia Frawley’, 27 November 2019, at [26]-[27].

²⁴⁷ Exhibit 3-23, ‘Statement of Patricia Frawley’, 27 November 2019, at [27].

²⁴⁸ Exhibit 3-23, ‘Statement of Patricia Frawley’, 27 November 2019, at [40].

²⁴⁹ Exhibit 3-23, ‘Statement of Patricia Frawley’, 27 November 2019, at [40].

²⁵⁰ Exhibit 3-23, ‘Statement of Patricia Frawley’, 27 November 2019, at [43].

²⁵¹ Exhibit 3-23, ‘Statement of Patricia Frawley’, 27 November 2019, at [43].

²⁵² Exhibit 3-23, ‘Statement of Patricia Frawley’, 27 November 2019, at [39].

²⁵³ Exhibit 3-23, ‘Statement of Patricia Frawley’, 27 November 2019, at [39].

²⁵⁴ Exhibit 3-23, ‘Statement of Patricia Frawley’, 27 November 2019, at [34].

²⁵⁵ Transcript, Patricia Frawley, Public hearing 3, 4 December 2019, P-185 [25]-[29].

151. Professor Frawley said that amendments to the *Family Violence Protection Act 2008* (Vic) which enable a group home to be seen as a ‘family like’ environment, constitute an important legislative shift.²⁵⁶ The reform sends the message that what constitutes violence and abuse is the same for people with disabilities in group homes as for other people experiencing family violence.²⁵⁷

Professor Sally Robinson

152. Professor Sally Robinson is a Professor of Disability and Community Inclusion at Flinders University.²⁵⁸ Her background is in disability research that focusses on abuse prevention and personal safety.²⁵⁹ Professor Robinson prepared a written statement for the Royal Commission and gave oral evidence on 3 December 2019.
153. Professor Robinson prefaced her evidence by saying that abuse against people with disability is multidimensional and includes things that are not typically recognised as abuse, but are everyday practices that make people feel humiliated or ignored.²⁶⁰ In light of that, Professor Robinson described a ‘social ecological approach’ to the issue of violence and abuse in group homes, which means that the experience of abuse is understood on an environmental and structural level as well as a personal one.²⁶¹
154. Professor Robinson referred to her research working with people with disability on safety. She said that the participants developed a model for understanding safety and they shared safety strategies.²⁶² She noted that some strategies gave rise to tension between different elements of the safety model they developed, giving the example of a strategy that ‘keeps you safe from some levels of harassment ... [but] makes you more vulnerable to predatory abuse.’²⁶³ Professor Robinson spoke about the concept of ‘accumulating abuse’, which involves micro-aggressions or everyday experiences that are not recognised, or responded to, as abuse.²⁶⁴
155. Professor Robinson said that her research demonstrated that people with disability experienced abuses “based on predominantly individual interactions”. However, the research indicated that it is much more common for abuse and neglect to be routed in systemic factors such as policy directives, unthinking adherence to rules and humiliating institutional practices.²⁶⁵

²⁵⁶ Exhibit 3-23, ‘Statement of Patricia Frawley’, 27 November 2019, at [38].

²⁵⁷ Transcript, Patricia Frawley, Public hearing 3, 4 December 2019, P-180 [25]-[27].

²⁵⁸ Transcript, Sally Robinson, Public hearing 3, 3 December 2019, P-98 [14-18].

²⁵⁹ Exhibit 3-28, ‘Statement of Sally Antoinette Robinson’, 29 November 2019, at [5]-[7].

²⁶⁰ Exhibit 3-28, ‘Statement of Sally Antoinette Robinson’, 29 November 2019, at [12]-[13].

²⁶¹ Exhibit 3-28, ‘Statement of Sally Antoinette Robinson’, 29 November 2019, at [16]-[22].

²⁶² Transcript, Sally Robinson, Public hearing 3, 3 December 2019, P-101 [22]-[24].

²⁶³ Transcript, Sally Robinson, Public hearing 3, 3 December 2019, P-102 [29]-[31].

²⁶⁴ Transcript, Sally Robinson, Public hearing 3, 3 December 2019, P-104 [10]-[29].

²⁶⁵ Exhibit 3-28, ‘Statement of Sally Antoinette Robinson’, 29 November 2019, at [57]-[58]

156. Professor Robinson spoke about the importance of the relationship between residents and staff in group homes being collaborative, rather than controlling.²⁶⁶ She said that there was a culture of compliance with, and endurance of, subtle forms of violence and abuse in group homes that are obscured as routine parts of service provision.²⁶⁷ Professor Robinson said that in addressing violence and abuse in residential settings, a simple approach like substituting group homes for another model of accommodation would not be sufficient.²⁶⁸ Instead, Professor Robinson said that the issue needs to be approached from ‘a new vantage point’ starting from ‘the evidence about the things that help people to have a flourishing life’.²⁶⁹
157. Professor Robinson spoke about her concerns for people with disability who experience family violence, which she felt was an area that had not been substantially addressed and should be explored by the Royal Commission.²⁷⁰ She also gave evidence about the limits of existing compliance and complaints mechanism,²⁷¹ noting that from her research, safety problems which related to the general community were better resolved than those within disability services.²⁷² Professor Robinson said that a compliance-based approach does not adequately address violence and abuse because it is focussed on policy and procedures rather than their implementation,²⁷³ and that a process of qualitative evaluation involving the perspectives of people with disability should replace the current system of auditing.²⁷⁴

Dr Claire Spivakovsky

158. Dr Claire Spivakovsky is a Senior Lecturer in Criminology in the School of Social and Political Sciences at the University of Melbourne.²⁷⁵ She has a background in policy and research in community and government organisations.²⁷⁶ Dr Spivakovsky prepared a written statement for the Royal Commission,²⁷⁷ and gave oral evidence on 3 December 2019.
159. Dr Spivakovsky noted that the *Disability Act 2006* (Vic) authorises the use of four main forms of restricted practices in certain circumstances:²⁷⁸

²⁶⁶ Transcript, Sally Robinson, Public hearing 3, 3 December 2019, P-106 [1]-[16].

²⁶⁷ Transcript, Sally Robinson, Public hearing 3, 3 December 2019, P-106 [41] -107 [5].

²⁶⁸ Transcript, Sally Robinson, Public hearing 3, 3 December 2019, P-107 [17]-[22].

²⁶⁹ Transcript, Sally Robinson, Public hearing 3, 3 December 2019, P-107 [35] -108 [1].

²⁷⁰ Transcript, Sally Robinson, Public hearing 3, 3 December 2019, P-110 [19]-[40].

²⁷¹ Transcript, Sally Robinson, Public hearing 3, 3 December 2019, P-110 [35] -111 [1].

²⁷² Exhibit 3-28, ‘Statement of Sally Antoinette Robinson’, 29 November 2019, at [66].

²⁷³ Exhibit 3-28, ‘Statement of Sally Antoinette Robinson’, 29 November 2019, at [68].

²⁷⁴ Exhibit 3-28, ‘Statement of Sally Antoinette Robinson’, 29 November 2019, at [69]-[71].

²⁷⁵ Transcript, Claire Spivakovsky, Public hearing 3, 3 December 2019, P-83 [17]-[19].

²⁷⁶ Exhibit 3-22, ‘Statement of Dr Claire Spivakovsky’, 26 November 2019, at [4].

²⁷⁷ Exhibit 3-22, ‘Statement of Dr Claire Spivakovsky’, 26 November 2019.

²⁷⁸ Exhibit 3-22, ‘Statement of Dr Claire Spivakovsky’, 26 November 2019, at [11].

- (i) *chemical restraints*, such as tranquillisers or other psychotropic pharmaceuticals used to subdue unwanted behaviour;
- (ii) *mechanical restraints*, such as wrist or leg restraints which limit a person's movement;
- (iii) *physical restraints*, such as a staff member physically restraining the movements of a person with disability; and
- (iv) *seclusion of people with disability*, for example by confining them to a locked room within the premises.²⁷⁹

160. Dr Spivakovsky spoke about her qualitative research into the use of restrictive practices in group homes, which is research she has conducted in the context of her broader interest in the regulation of the lives of people with disability. She said that restrictive practices are 'forms of violence and abuse' against people with disability.²⁸⁰ She said that restrictive practices constitute 'disability-specific lawful violence' because they are permissible under the Disability Act and only apply to people with disability.²⁸¹ She said that this form of violence and abuse is tolerated because 'the law says this is part of what happens to people with disability'.²⁸² She also said that there are societal assumptions about people with disability,²⁸³ and organisational concerns in the group home context, that legitimise restrictive practices.²⁸⁴

161. Dr Spivakovsky said that the strictly regulated environment in group homes gives rise to the 'self-perpetuating fallacy of restrictive practices'.²⁸⁵ She said that in her research she has found that the frustration that residents feel because of their disempowerment is often communicated in forms that are wrongly labelled 'behaviours of concern' or 'challenging behaviours'.²⁸⁶ These behaviours are then used to justify coercive intervention through restrictive practices.²⁸⁷ She also said that there is a connection between this 'self-perpetuating' use of restrictive practices and other forms of violence against people with disability in group homes, because the intrusiveness of restrictive practices 'blurs the line between when violence is permissible more broadly'.²⁸⁸

²⁷⁹ The *Disability Act 2006* (Vic) s 3(1) now defined 'detain' to refer to a type of restrictive practice which includes '(a) physically locking a person in any premises; and (b) constantly supervising or escorting a person to prevent the person from exercising freedom of movement'. This means that some environmental restraints are now considered a form of restrictive practice.

²⁸⁰ Transcript, Claire Spivakovsky, Public hearing 3, 3 December 2019, P-85 [19].

²⁸¹ Transcript, Claire Spivakovsky, Public hearing 3, 3 December 2019, P-85 [18].

²⁸² Transcript, Claire Spivakovsky, Public hearing 3, 3 December 2019, P-85 [24]-[25].

²⁸³ Transcript, Claire Spivakovsky, Public hearing 3, 3 December 2019, P-90 [5]-[25].

²⁸⁴ Transcript, Claire Spivakovsky, Public hearing 3, 3 December 2019, P-93-94.

²⁸⁵ Exhibit 3-22, 'Statement of Dr Claire Spivakovsky', 26 November 2019, at [74]-[78].

²⁸⁶ Exhibit 3-22, 'Statement of Dr Claire Spivakovsky', 26 November 2019, at [35]-[39].

²⁸⁷ Transcript, Claire Spivakovsky, Public hearing 3, 3 December 2019, P-95 [18]-[34].

²⁸⁸ Transcript, Claire Spivakovsky, Public hearing 3, 3 December 2019, P-90 [37]-[38].

162. Dr Spivakovsky said that the strict regulation of group homes, and the lack of choice and control that characterises these settings, is driven by organisational concerns about reputational risk and a ‘complicated deferral to workers’ occupational health and safety concerns’.²⁸⁹ She said that the use of restrictive practices was dependent on changing accommodation environments to reconcile these workplace concerns with the rights of residents to allow them to have ‘proper choice and control’ in their lives.²⁹⁰
163. Dr Spivakovsky also said that there is a lack of data on the prevalence of violence experienced by people with disability, especially those in institutional and residential settings. She attributed the lack of data to deficiencies in reporting measures and limitations in large-scale data collection,²⁹¹ as well as ‘gatekeeping’ practices that prevent public access to residents of group homes.²⁹²

Professor Christine Bigby

164. Professor Christine Bigby provided a written statement²⁹³ and gave oral evidence on 6 December 2019. Professor Bigby is the Director of the Living with Disability Research Centre and Professor of Disability Research and Practice at La Trobe University.²⁹⁴ Professor Bigby has conducted a program of research on group homes since 2000.²⁹⁵ This program has primarily focused on the quality of support in and the effectiveness of group homes and the meaning of social inclusion for people with intellectual disabilities.
165. Professor Bigby pointed out that since de-institutionalisation began in the 1980s, the dominant model for people moving out of institutions has been group homes comprising five or six beds. Professor Bigby noted that it is likely to be many years before other options are available to replace group homes. For that reason it is important to understand how to design and adapt group homes and to provide the necessary support to enable people to have a good quality of life free from violence, abuse, neglect or exploitation.²⁹⁶
166. Professor Bigby noted that research suggests that group homes can have good as well as bad outcomes for people with intellectual disabilities.²⁹⁷ She argued that it is the *quality* of the support, rather than the ‘bricks and mortar’ that makes the difference to an individual’s quality of life.²⁹⁸ Professor Bigby opined that while it may be argued that options alternate to the group home model are preferable, much less research has

²⁸⁹ Transcript, Claire Spivakovsky, Public hearing 3, 3 December 2019, P-94 [27]-[28].

²⁹⁰ Transcript, Claire Spivakovsky, Public hearing 3, 3 December 2019, P-96 [13].

²⁹¹ Transcript, Claire Spivakovsky, Public hearing 3, 3 December 2019, P-92 [7]-[14].

²⁹² Exhibit 3-22, ‘Statement of Dr Claire Spivakovsky’, 26 November 2019 at [22]-[26].

²⁹³ Exhibit 3-24, ‘Statement of Professor Christine Bigby’, 1 December 2019.

²⁹⁴ Exhibit 3-24, ‘Statement of Professor Christine Bigby’, 1 December 2019, at [4].

²⁹⁵ Exhibit 3-24, ‘Statement of Professor Christine Bigby’, 1 December 2019, at [10].

²⁹⁶ Exhibit 3-24, ‘Statement of Professor Christine Bigby’, 1 December 2019, at [12].

²⁹⁷ Transcript, Christine Bigby, Public hearing 3, 6 December 2019, P-400 [11]-[13].

²⁹⁸ Transcript, Christine Bigby, Public hearing 3, 6 December 2019, P-400 [16]-[18].

been done on other models and it will be many years before other options are widely available.²⁹⁹ She argues that ‘it is important to look at the quality of support provided in group homes and understand how to design and adapt group homes and provide support that will enable people to have a good quality of life, free from neglect and abuse.’³⁰⁰

167. Among the particular characteristics of underperforming homes, meaning there were poor outcomes for people with disability, Professor Bigby identified: a misalignment between the values of the staff who held the power in the group home and the mission of the wider organisation responsible for the management of the group home; people with intellectual disabilities were regarded by the staff as ‘other’ and ‘not like us’ and as a result staff used derogatory terms to describe residents; staff perceived their purpose as being to ‘look after people’ rather than supporting the residents to be engaged, build relationships or participate in their community; working practices were staff-centred rather than resident centred, that is, rosters and activities were organised to suit staff needs; a resistance to change and a lack of openness to outsiders or new ideas.³⁰¹
168. Among the particular characteristics of better group homes, Professor Bigby identified: strong leadership and alignment with the mission of the organisation; staff having a positive regard for residents, acknowledging their sameness as part of humanity but also giving attention to their different support needs; staff having a purpose to make a life for each person as they wanted it to be; staff practices that were person centred i.e. attentive, relational, flexible and had moments of fun; an openness to new ideas and outsiders.³⁰²
169. In addition to the quality of support provided, Professor Bigby emphasised the need for people with intellectual disabilities to build connections with people outside of the service system.³⁰³ A long-term relationship with somebody outside the service system, who in fact becomes a de facto family member, can convey to staff, health professionals and other people coming through their lives, what the person’s preferences are and what their history has been.³⁰⁴
170. Professor Bigby emphasised the unreliability of paperwork in the form of records, service policies and procedures as a form of monitoring quality in group homes.³⁰⁵ She argued that a significant part of any quality assurance system used to make judgments about compliance with standards and monitor the quality of group homes services must include structured observation of the group home.³⁰⁶ Professor Bigby reasoned that

²⁹⁹ Exhibit 3-24, ‘Statement of Christine Bigby’, 1 December 2019, at [12].

³⁰⁰ Exhibit 3-24, ‘Statement of Christine Bigby’, 1 December 2019, at [12].

³⁰¹ Exhibit 3-24, ‘Statement of Christine Bigby’, 1 December 2019, at [15].

³⁰² Exhibit 3-24, ‘Statement of Christine Bigby’, 1 December 2019, at [18].

³⁰³ Transcript, Christine Bigby, Public hearing 3, 6 December 2019, P-404 [32] – 405 [13].

³⁰⁴ Transcript, Christine Bigby, Public hearing 3, 6 December 2019, P-405 [6]-[13].

³⁰⁵ Exhibit 3-24, ‘Statement of Professor Christine Bigby’, 1 December 2019, at [36]-[37].

³⁰⁶ Exhibit 3-24, ‘Statement of Professor Christine Bigby’, 1 December 2019, at [36], [39].

this is because many of the people who live in group homes have severe and profound intellectual disabilities and do not have the capacity to tell you what their life is like.³⁰⁷ Additionally, she says, the only way you can find out what staff are doing is to ‘watch and see’.³⁰⁸

171. Professor Bigby urged the Royal Commission to use evidence-based research to make recommendations for improving the quality of day-to-day support for people with disabilities in group homes.³⁰⁹ In her view, training of staff in a program called Active Support, which was developed in the United Kingdom, significantly increases engagement of people with intellectual disability and their choice and control, as well as decreasing the incidence of challenging behaviour.³¹⁰ Active Support has been adopted in Australia but according to Professor Bigby has not been well implemented.³¹¹

Dr Lisa Hamilton

172. Dr Lisa Hamilton gave oral evidence as part of a panel with Belinda Epstein-Frisch and Leanne Pearman on 6 December 2019.
173. Dr Hamilton also provided a written statement to the Royal Commission on 25 November 2019.³¹² Dr Hamilton is a research fellow and officer at the University of Queensland. She was previously a research fellow at the Centre for Disability Studies at the University of Sydney.³¹³ Dr Hamilton has also worked for the Living with Disability Research Centre at La Trobe University, where she worked with disability service organisations to enhance staff practices and embed person-centred active support in their work.³¹⁴ Dr Hamilton has also worked as a disability support worker in group homes.³¹⁵
174. Dr Hamilton’s evidence largely drew upon on her PhD thesis, ‘Within These Walls: An ethnography of home at Lake House’. The objective of Dr Hamilton’s thesis was to explore how people with intellectual disability experience life within a group home setting.³¹⁶ Her research saw her immerse herself in the daily lives and activities of the residents at a group home, ‘Lake House’, over a period of 18 months. Dr Hamilton said that in the research available about group homes, the voices of people with intellectual

³⁰⁷ Transcript, Christine Bigby, Public hearing 3, 6 December 2019, P-399 [4]-[6].

³⁰⁸ Transcript, Christine Bigby, Public hearing 3, 6 December 2019, P-399 [6]-[9].

³⁰⁹ Exhibit 3-24, ‘Statement of Professor Christine Bigby’, 1 December 2019, at [45].

³¹⁰ Exhibit 3-24, ‘Statement of Professor Christine Bigby’, 1 December 2019, at [22].

³¹¹ Exhibit 3-24, ‘Statement of Professor Christine Bigby’, 1 December 2019, at [22]-[35].

³¹² Exhibit 3-17, ‘Statement of Dr Lisa Hamilton’, 25 November 2019.

³¹³ Exhibit 3-17, ‘Statement of Dr Lisa Hamilton’, 25 November 2019, at [2]-[4].

³¹⁴ Exhibit 3-17, ‘Statement of Dr Lisa Hamilton’, 25 November 2019, at [5-8].

³¹⁵ Transcript, Lisa Hamilton, Public hearing 3, 6 December 2019, P-421 [26].

³¹⁶ Exhibit 3-17, ‘Statement of Dr Lisa Hamilton’, 25 November 2019, at [19].

disability living in group homes were seldom heard, even though her experience was that they ‘had a lot to say’.³¹⁷

175. Dr Hamilton’s thesis considered the concept of ‘home’ and ‘how people with intellectual disability who live in a group home understand and experience home’.³¹⁸ Dr Hamilton said that for people with intellectual disability, ‘home’ has often been conflated with service provision.³¹⁹ In contrast, the residents of Lake House did not consider themselves to be ‘customers’ or people ‘consuming a service’. Rather, they considered themselves as living in a house that was their home.³²⁰ Dr Hamilton said that the concept of ‘home’ and what it meant for the housemates ‘was not about receiving services’.³²¹ What was important to the housemates was the relationships with each other, with the disability support workers and ‘having the autonomy to create the home they wanted’.³²²

Representatives of government and oversight bodies

Janine Toomey, Department of Health and Human Services

176. Janine Toomey is the Executive Director, Disability and NDIS in the DHHS. Ms Toomey provided a written statement and gave oral evidence on 4 December 2019.
177. Ms Toomey’s written statement addressed many issues.³²³ It described the various functions of DHHS before and after the roll-out of the NDIS,³²⁴ outlined key regulatory developments in the sector in the past 20 years³²⁵ and made a number of comments about the future implementation of the NDIS.³²⁶
178. Ms Toomey gave evidence about the nature and supply of group homes in Victoria. Ms Toomey said that group homes with capacity for five residents make up nearly 48 per cent of the dwellings that are available to NDIS participants and homes for six residents makes up 14.4 per cent.³²⁷ Ms Toomey described ‘the next step’ as being to have smaller dwellings available for people.³²⁸
179. Ms Toomey acknowledged that the number of group homes is inadequate to meet the demand and that there is a misalignment of the existing stock and NDIS participants’ needs and preferences.³²⁹ Ms Toomey stated that the Productivity Commission

³¹⁷ Transcript, Lisa Hamilton, Public hearing 3, 6 December 2019, P-423 [1]-[4].

³¹⁸ Exhibit 3-17, ‘Statement of Dr Lisa Hamilton’, 25 November 2019, at [25].

³¹⁹ Exhibit 3-17, ‘Statement of Dr Lisa Hamilton’, 25 November 2019, at [16].

³²⁰ Transcript, Lisa Hamilton, Public hearing 3, 6 December 2019, P-423 [22]-[24].

³²¹ Exhibit 3-17, ‘Statement of Dr Lisa Hamilton’, 25 November 2019, at [38].

³²² Exhibit 3-17, ‘Statement of Dr Lisa Hamilton’, 25 November 2019, at [38], [29].

³²³ Exhibit 3-27, ‘Statement of Janine Toomey’, 26 November 2019.

³²⁴ Exhibit 3-27, ‘Statement of Janine Toomey’, 26 November 2019, at [1]-[46].

³²⁵ Exhibit 3-27, ‘Statement of Janine Toomey’, 26 November 2019, at [57]-[86].

³²⁶ Exhibit 3-27, ‘Statement of Janine Toomey’, 26 November 2019, at [87]-[154].

³²⁷ Transcript, Janine Toomey, Public hearing 3, 4 December 2019, P-225 [5]-[7].

³²⁸ Transcript, Janine Toomey, Public hearing 3, 4 December 2019, P-224 [24]-[25].

³²⁹ Exhibit 3-27, ‘Statement of Janine Toomey’, 26 November 2019, at [90].

forecast the number of SDA beds required as being around 6300 but that, in 2018-19, only around 5,000 beds were available.³³⁰ She noted that the transition to the NDIS has not seen growth in the supply of SDA, despite investment, and that there were very few places available.³³¹

180. The purpose of transferring the government operated services to non-government providers was to support the disability sector to innovate and to allow NDIS participants to better exercise choice and control.³³² However, the Royal Commission heard that, for many NDIS participants, there remain practical barriers to exercising real choice. For example, Ms Toomey said that where a resident of a group home is dissatisfied with their SIL provider, they may only change to a different service provider with the agreement of all other residents in their home.³³³
181. Ms Toomey said that the NDIS presents both challenges and opportunities.³³⁴ The challenges identified by Ms Toomey included an inadequate workforce supply³³⁵ and the emergence of service gaps for people with complex needs and challenging behaviours.³³⁶ Ms Toomey noted that work is being undertaken by the Commonwealth and the various jurisdictions aimed at addressing some of these issues, including the national NDIS Workforce Plan³³⁷ and the 'Thin Markets' project.³³⁸
182. Ms Toomey also gave evidence about how the transition to the NDIS has brought about significant change to the ways in which vacant places in disability accommodation services are offered to new residents. Ms Toomey explained that, under the NDIS, the market determines who has access to beds within SDA under a system which focuses on compatibility.³³⁹ Unlike the previous system administered by DHHS, the concept of priority has no role in the allocation of vacancies in group homes.³⁴⁰ Ms Toomey also stated that, in many cases, service gaps emerge for complex clients with challenging behaviours due to many providers' unwillingness to support this cohort at the prices set by the NDIA and in some cases Victoria is supplementing the cost of service delivery to ensure service continuity.³⁴¹ Combined with the undersupply of disability accommodation, these factors have resulted in an

³³⁰ Transcript, Janine Toomey, Public hearing 3, 4 December 2019, P-232 [1]-[4].

³³¹ Transcript, Janine Toomey, Public hearing 3, 4 December 2019, P-231 [40].

³³² Exhibit 3-27, 'Statement of Janine Toomey', 26 November 2019, at [20], [179].

³³³ Transcript, Janine Toomey, Public hearing 3, 4 December 2019, P-224 [16]-[22].

³³⁴ Exhibit 3-27, 'Statement of Janine Toomey', 26 November 2019, at [135].

³³⁵ Exhibit 3-27, 'Statement of Janine Toomey', 26 November 2019, at [136].

³³⁶ Exhibit 3-27, 'Statement of Janine Toomey', 26 November 2019, at [149].

³³⁷ Exhibit 3-27, 'Statement of Janine Toomey', 26 November 2019, at [138].

³³⁸ Exhibit 3-27, 'Statement of Janine Toomey', 26 November 2019, at [150].

³³⁹ Transcript, Janine Toomey, Public hearing 3, 4 December 2019, P-231 [2]-[3].

³⁴⁰ Transcript, Janine Toomey, Public hearing 3, 4 December 2019, P-231 [16]-[18].

³⁴¹ Exhibit 3-27, 'Statement of Janine Toomey', 26 November 2019, at [149].

increase in the number of people in crisis with no place to move to who are staying longer in hospital and in the criminal justice system.³⁴²

183. Ms Toomey said that, in August 2017, the Summer Foundation launched *The Housing Hub* website to connect people with disability to suitable housing vacancies. In 2018, DHHS funded the state-wide expansion of the Housing Hub from the initial pilot area in North East Melbourne.³⁴³ Providers of SDA, including DHHS, list their vacancies on the hub.³⁴⁴
184. As part of the transition to the NDIS, the Victorian government passed legislative amendments to enable tenancy agreements between residents and SDA providers to be governed by the *Residential Tenancies Act 1997* (Vic) and not the Disability Act.³⁴⁵ Ms Toomey said that, despite these amendments, significant distinctions can be drawn between the tenancy arrangements for residents of group homes and mainstream rental agreements.³⁴⁶ For example, existing residents of group homes do not have an active role in the process of deciding who will be offered a vacant place in their home.³⁴⁷ Under the *Offering Residency in Specialist Disability Accommodation and Standards (Victoria)* policy, which governs admission to SDA owned by DHHS, the allocation of vacancies is the result of collaboration between the SDA and SIL providers and not existing residents.³⁴⁸
185. Ms Toomey identified several areas in which reforms should be considered, including the following:³⁴⁹
- (i) The separation of the SDA component from the support and services of the NDIS is acknowledged as a necessary condition for the development of more innovative and tailored services for people with disability.³⁵⁰ Taking this into account the under supply of SDA stock should be addressed by introducing innovative accommodation designs capable of meeting the diverse needs of people with disability and of delivering support services matching individual needs.³⁵¹
 - (ii) Rights and protections for people with disability should be strengthened, particularly the mechanisms provided for participants in the NDIS through the NDIS Quality and Safeguarding Framework.³⁵² Consideration should be given to a national disability abuse prevention strategy.³⁵³

³⁴² Transcript, Janine Toomey, Public hearing 3, 4 December 2019, P-231 [35]-[39].

³⁴³ Exhibit 3-27, 'Statement of Janine Toomey', 26 November 2019, at [473].

³⁴⁴ Exhibit 3-27, 'Statement of Janine Toomey', 26 November 2019, at [474].

³⁴⁵ Transcript, Janine Toomey, Public hearing 3, 4 December 2019, P-214 [21]-[24].

³⁴⁶ Transcript, Janine Toomey, Public hearing 3, 4 December 2019, P-233 [20]-[25].

³⁴⁷ Transcript, Janine Toomey, Public hearing 3, 4 December 2019, P-230 [15].

³⁴⁸ Exhibit 3-27.2, VIC.0001.0505.2639 at 2652.

³⁴⁹ Exhibit 3-27, 'Statement of Janine Toomey', 26 November 2019, at [88].

³⁵⁰ Exhibit 3-27, 'Statement of Janine Toomey', 26 November 2019, at [89].

³⁵¹ Exhibit 3-27, 'Statement of Janine Toomey', 26 November 2019, at [90]-[91].

³⁵² Exhibit 3-27, 'Statement of Janine Toomey', 26 November 2019, at [97]-[104].

³⁵³ Exhibit 3-27, 'Statement of Janine Toomey', 26 November 2019, at [114].

- (iii) Greater investment is needed in advocacy programs and decision-making support for people with disability both within and outside the NDIS.³⁵⁴

Arthur Rogers, Victorian Disability Services Commissioner

186. Arthur Rogers was appointed as Victoria's Disability Services Commissioner on 6 August 2018.³⁵⁵ Mr Rogers provided a written statement and gave oral evidence on 4 December 2019.
187. The office of the Disability Services Commissioner is established under the Disability Act. The Disability Services Commissioner receives, and tries to resolve, complaints about registered disability service providers, reviews critical incidents, and conducts investigations.³⁵⁶ The Disability Services Commissioner's powers only extend to disability services providers who are registered under the Disability Act, under a registration scheme administered by the DHHS.³⁵⁷
188. After 1 July 2019, many disability service providers transitioned to funding under the NDIS and are now subject to the oversight mechanisms of the NDIS Commission. The Disability Services Commissioner has no jurisdiction over NDIS registered service providers. Mr Rogers stated that it was his understanding that the vast majority of people with disability in a residential setting in Victoria will be transitioned fully into the NDIS by the end of 2020.³⁵⁸ While there will be a small number of people in residential services in Victoria that will never transition to the NDIS, the Commissioner's office will cease to exist at the end of 2020 or in early 2021.³⁵⁹
189. Mr Rogers gave evidence about his experiences and observations regarding group homes in Victoria. Mr Rogers said that 41 per cent of complaints received by his office in 2018-2019 were from group homes.³⁶⁰ Violence and other forms of abuse reported to his office most commonly related to people with intellectual disability (58 per cent), autism (32 per cent) and physical impairment (27 per cent).³⁶¹ Mr Rogers stated that the group home model itself is a contributing factor to complaints, incidents and reports of violence, abuse, neglect and exploitation of people with disability in a residential setting.³⁶² The reasons for this include that group homes replicating institutional living arrangements and implementing routines and structures often designed for the group rather than the individual.³⁶³ Moreover, demand has far outstripped supply and vacancies have been offered to families and people with disability who are already in

³⁵⁴ Exhibit 3-27, 'Statement of Janine Toomey', 26 November 2019, at [124]-[134].

³⁵⁵ Exhibit 3-16, 'Statement of Arthur Rogers', 21 November 2019, at [9].

³⁵⁶ Exhibit 3-16, 'Statement of Arthur Rogers', 21 November 2019, at [16].

³⁵⁷ Exhibit 3-16, 'Statement of Arthur Rogers', 21 November 2019, at [20].

³⁵⁸ Exhibit 3-16, 'Statement of Arthur Rogers', 21 November 2019, at [22].

³⁵⁹ Exhibit 3-16, 'Statement of Arthur Rogers', 21 November 2019, at [34].

³⁶⁰ Exhibit 3-16, 'Statement of Arthur Rogers', 21 November 2019, at [66].

³⁶¹ Exhibit 3-16, 'Statement of Arthur Rogers', 21 November 2019, at [72]. The reports may relate to people with more than one disability.

³⁶² Exhibit 3-16, 'Statement of Arthur Rogers', 21 November 2019, at [58].

³⁶³ Exhibit 3-16, 'Statement of Arthur Rogers', 21 November 2019, at [58].

crisis.³⁶⁴ This results in people being forced to live together even if they are incompatible.³⁶⁵ Issues also arise in group homes due to the workforce being dispersed, increasingly casualised, often without sufficient training, and relatively lowly paid.³⁶⁶

190. Mr Rogers said that group homes could be improved if they reflected a share house model where people choose to be housemates.³⁶⁷ He stated that more diverse and individualised SDA options should be made available, with appropriate individualised supports.³⁶⁸ Acknowledging the importance of separating housing and support, Mr Rogers stated that a person with disability should not have to move out of their home in order to change service provider.³⁶⁹
191. Mr Rogers gave evidence about the importance of the regulation and oversight of incident reporting.³⁷⁰ He stated that ‘many human rights abuses occur in closed environments’ and that ‘it is necessary to shine a light on the daily practices of disability service providers’, including formal monitoring (by the NDIS Commission), Community Visitors, advocacy and self-advocacy support and through the development of extended family and social networks.³⁷¹
192. Mr Rogers emphasised the importance of correct categorisation and consistent reporting of incidents, including non-major incidents.³⁷² Unreported non-major incidents can often be a precursor to disability support workers seriously abusing or assaulting clients.³⁷³ Statistics indicate that on average Victorians in receipt of disability services have a life expectancy of 25 to 30 years lower than the general population.
193. Mr Rogers suggested consideration be given to the following:
- (i) Group home models should incorporate design elements providing for privacy and safe spaces for residents in the event of conflict.³⁷⁴
 - (ii) A shared house model should be an available option since it allows people with disability to choose their housemates. Greater attention should be paid to cultural issues when SDA options are formulated and applied.³⁷⁵
 - (iii) Oversight mechanisms are crucial to preventing human rights abuses, particularly in closed environments. However, prevention requires more than complaints

³⁶⁴ Exhibit 3-16, ‘Statement of Arthur Rogers’, 21 November 2019, at [59].

³⁶⁵ Exhibit 3-16, ‘Statement of Arthur Rogers’, 21 November 2019, at [60].

³⁶⁶ Exhibit 3-16, ‘Statement of Arthur Rogers’, 21 November 2019, at [62].

³⁶⁷ Exhibit 3-16, ‘Statement of Arthur Rogers’, 21 November 2019, at [97].

³⁶⁸ Exhibit 3-16, ‘Statement of Arthur Rogers’, 21 November 2019, at [98].

³⁶⁹ Exhibit 3-16, ‘Statement of Arthur Rogers’, 21 November 2019, at [99].

³⁷⁰ Exhibit 3-16, ‘Statement of Arthur Rogers’, 21 November 2019, at [82].

³⁷¹ Exhibit 3-16, ‘Statement of Arthur Rogers’, 21 November 2019, at [100].

³⁷² Exhibit 3-16, ‘Statement of Arthur Rogers’, 21 November 2019, at [80]-[81].

³⁷³ Exhibit 3-16, ‘Statement of Arthur Rogers’, 21 November 2019, at [83].

³⁷⁴ Exhibit 3-16, ‘Statement of Arthur Rogers’, 21 November 2019, at [97].

³⁷⁵ Exhibit 3-16, ‘Statement of Arthur Rogers’, 21 November 2019, at [98].

mechanisms being put in place. Education and training of disability support workers and service providers are integral to developing a culture dedicated to preventing abuse.³⁷⁶

Dr Colleen Pearce, Public Advocate

194. Dr Colleen Pearce is the Public Advocate in Victoria appointed in 2007 under the *Guardianship and Administration Act 1986* (Vic).³⁷⁷ She has a background in social care and health settings.³⁷⁸ Dr Pearce prepared a written statement for the Royal Commission and gave oral evidence on 3 December 2019.
195. Dr Pearce explained the functions, powers and duties of the Public Advocate,³⁷⁹ which she fulfils with the assistance of an office of over 100 staff known as the Office of the Public Advocate (OPA).³⁸⁰ Dr Pearce said that her main role in relation to residential services for people with disability in Victoria is to act as a guardian of last resort.³⁸¹ She is appointed to that role for certain people with disability or mental illness by the Victorian Civil and Administrative Tribunal. She is also responsible for making decisions for those people including decisions about where they will live.³⁸²
196. Dr Pearce explained that the principles stated in section 5 of the Act are consistent with the terms of the CRPD.³⁸³ Accordingly, Dr Pearce and her leadership team endeavour to create a culture within the OPA that fosters a human rights approach informed by the provisions of the CRPD.³⁸⁴ The strategic plan for the OPA articulates that it must work towards a fair and inclusive society that respects and values the dignity and human rights of all people, including, people with disability. This requires the OPA, among other things, to foster supported decision-making procedures that enable people with disability to have the greatest role possible in making the decisions that affect them.³⁸⁵
197. Dr Pearce said that there are guidelines about how decisions are made by her staff, and provided a copy of those guidelines to the Royal Commission.³⁸⁶ She said that decision-makers take a person-centred approach, which means they ‘start with the individual and their unique set of circumstances’ and consider what each individual wants.³⁸⁷ However, the legislation requires her to make decisions that are in the best

³⁷⁶ Exhibit 3-16, ‘Statement of Arthur Rogers’, 21 November 2019, at [102]-[106]

³⁷⁷ Transcript, Colleen Pearce, Public hearing 3, 3 December 2019, P-115 [26].

³⁷⁸ Transcript, Colleen Pearce, Public hearing 3, 3 December 2019, P-116 [12].

³⁷⁹ Transcript, Colleen Pearce, Public hearing 3, 3 December 2019, P-116 [36] -117 [13]; Exhibit 3-13, ‘Statement of Dr Colleen Pearce’, 25 November 2019, at [9].

³⁸⁰ Transcript, Colleen Pearce, Public hearing 3, 3 December 2019, P-116 [36]-[37].

³⁸¹ Transcript, Colleen Pearce, Public hearing 3, 3 December 2019, P-116 [4]-[13].

³⁸² Exhibit 3-13, ‘Statement of Dr Colleen Pearce’, 25 November 2019, at [12].

³⁸³ Exhibit 3-13, ‘Statement of Dr Colleen Pearce’, 25 November 2019, at [39].

³⁸⁴ Exhibit 3-13, ‘Statement of Dr Colleen Pearce’, 25 November 2019, at [28].

³⁸⁵ Exhibit 3-13, ‘Statement of Dr Colleen Pearce’, 25 November 2019, at [31].

³⁸⁶ Exhibit 3-13.7, OPA.0001.0001.0104.

³⁸⁷ Transcript, Colleen Pearce, Public hearing 3, 3 December 2019, P-119 [4]-[7].

interest of the individual, which sometimes means that the decision goes against their wishes.³⁸⁸ Dr Pearce noted that the main difficulty in making person-centred decisions is that there is a lack of options available to suit each individual.³⁸⁹ She spoke about the connection between this and violence and abuse in circumstances where lack of accommodation options heightens vulnerability.³⁹⁰

198. Dr Pearce said that violence and abuse of people with disabilities is widespread and is not confined to group homes.³⁹¹ She said that the problem with group homes is the ‘one size fits all’ approach which doesn’t give people choice and control over their lives and becomes a source of disempowerment and frustration.³⁹² Dr Pearce said that this approach is the function of cultural, governance and workforce issues.³⁹³ She said that service providers needed to ‘find the balance’ between organising a group home as a workplace and as a home,³⁹⁴ pointing out that the tension between those two things is not only relevant to group homes and ‘will be inherent in other models where people require support’.³⁹⁵
199. Dr Pearce also said that service providers were not taking a person-centred approach to individualised planning.³⁹⁶ Dr Pearce said that it was important to hold boards of not-for-profit service providers to account for violence and abuse within their services, as well as empower residents by involving them in the governance of those organisations.³⁹⁷
200. Dr Pearce identified four main factors contributing to violence against people with disability in institutional and residential settings:
- (i) inappropriate placements particularly a lack of alternative accommodation;
 - (ii) work force issues, such as lack of training, insufficient staff, casualised staff and an absence of leadership;
 - (iii) cultural issues, particularly tacit acceptance and normalisation of violence and bullying;
 - (iv) the physical environment such as poorly planned shared spaces that facilitate disputes around usage and noise.³⁹⁸

³⁸⁸ Transcript, Colleen Pearce, Public hearing 3, 3 December 2019, P-119.

³⁸⁹ Transcript, Colleen Pearce, Public hearing 3, 3 December 2019, P-119 [17]-[31].

³⁹⁰ Transcript, Colleen Pearce, Public hearing 3, 3 December 2019, P-130 [3]-[22].

³⁹¹ Transcript, Colleen Pearce, Public hearing 3, 3 December 2019, P-125 [17]-[18].

³⁹² Transcript, Colleen Pearce, Public hearing 3, 3 December 2019, P-125 [27]-[36].

³⁹³ Transcript, Colleen Pearce, Public hearing 3, 3 December 2019, P-125 [37]-[40].

³⁹⁴ Transcript, Colleen Pearce, Public hearing 3, 3 December 2019, P-126 [17]-[20].

³⁹⁵ Transcript, Colleen Pearce, Public hearing 3, 3 December 2019, P-126 [20].

³⁹⁶ Transcript, Colleen Pearce, Public hearing 3, 3 December 2019, P-126 [25]-[29].

³⁹⁷ Transcript, Colleen Pearce, Public hearing 3, 3 December 2019, P-128 [31] -129 [3].

³⁹⁸ Exhibit 3-13, ‘Statement of Dr Colleen Pearce’, 25 November 2019, at [54], [55].

201. Dr Pearce also spoke about the Community Visitors scheme, which involves volunteers entering group homes and other closed environments to speak with residents and staff, look at records and the conditions of the premises, and audit the use of restraints.³⁹⁹
202. Dr Pearce suggested a number of measures that could be taken to prevent violence, abuse, neglect and exploitation of people with disability in residential settings. Her suggestions included:
- (i) issuing enforceable standards holding the governing bodies of disability service providers responsible for safe and high quality care to people with disability;⁴⁰⁰
 - (ii) fostering by better education and training a culture within organisations that ensures that people with disability feel respected, valued and safe;⁴⁰¹ and
 - (iii) providing greater choice and control for people with disability through funding for supported decision-making, peer support and individual advocacy.⁴⁰²

Cindy Masterson and David Roche – Victorian Community Visitors

203. Cindy Masterson and David Roche are Community Visitors. Mr Roche has been a Community Visitor for 15 years, and visits group homes for people with disability in Gippsland and the surrounding area.⁴⁰³ He is also a member of the Community Visitors Board.⁴⁰⁴ Ms Masterson has been a Community Visitor for three years, visiting homes in the Western Metro region of Melbourne.⁴⁰⁵
204. Ms Masterson and Mr Roche spoke about the role of Community Visitors in Victoria.⁴⁰⁶ Mr Roche said that their role is to ‘go into group homes to inquire and observe what’s happening’, which includes accessing information held by the service provider.⁴⁰⁷ He said that he approaches these duties with a ‘personal’ perspective, asking the question: ‘would I actually like to live ... in that home?’⁴⁰⁸ Ms Masterson said that her approach is based on whether the residents of a group home are being granted ‘the same rights, access, choices that I would have as a member of the general community’.⁴⁰⁹
205. Both witnesses described the process for becoming a Community Visitor, which involves an application and interview followed by induction training and 10 hours of

³⁹⁹ Transcript, Colleen Pearce, Public hearing 3, 3 December 2019, P-133 [1] -135 [23].

⁴⁰⁰ Exhibit 3-13, ‘Statement of Dr Colleen Pearce’, 25 November 2019, at [107].

⁴⁰¹ Exhibit 3-13, ‘Statement of Dr Colleen Pearce’, 25 November 2019, at [111].

⁴⁰² Exhibit 3-13, ‘Statement of Dr Colleen Pearce’, 25 November 2019, at [115].

⁴⁰³ Transcript, David Roche, Public hearing 3, 3 December 2019, P-140 [23]-[36].

⁴⁰⁴ Exhibit 3-14, ‘Statement of David Roche’, 25 November 2019, at [1.3].

⁴⁰⁵ Transcript, Cindy Masterson, Public hearing 3, 3 December 2019, P-141 [7]-[11].

⁴⁰⁶ Exhibit 3-14, ‘Statement of David Roche’, 25 November 2019, at [2.1]; Exhibit 3-15, ‘Statement of Cindy Masterson’, 26 November 2019, at [5].

⁴⁰⁷ Transcript, David Roche, Public hearing 3, 3 December 2019, P-141 [20]-[24].

⁴⁰⁸ Transcript, David Roche, Public hearing 3, 3 December 2019, P-141 [23]-[25].

⁴⁰⁹ Transcript, Cindy Masterson, Public hearing 3, 3 December 2019, P-141 [31]-[35].

visiting with a trained Community Visitor.⁴¹⁰ They also said that there are opportunities for ongoing training and education that they are encouraged to attend.⁴¹¹

206. Ms Masterson and Mr Roche said that they had identified trends in the group homes they had visited that they thought contributed to the neglect of the residents. Ms Masterson also spoke about the inappropriate housing that she had seen, including one house where a resident did not have access to a stove for over two years.⁴¹² She said that insufficient maintenance and poorly planned renovations were also a feature of some group homes.⁴¹³ In his statement, Mr Roche identified particular challenges for group homes in rural areas, including difficulty accessing staff, health care and recreational activities.⁴¹⁴
207. Ms Masterson and Mr Roche said that consistency of staffing in group homes is a systemic issue that they had identified in their work as Community Visitors. Ms Masterson said that training and inductions for staff were often inadequate.⁴¹⁵ Mr Roche said that from the homes he had visited, he had identified a correlation between 'consistent and stable staffing' and the quality of care provided to residents, as well as levels of violence and abuse.⁴¹⁶ Mr Roche said that unlike permanent staff, casual staff are not in a position to form an understanding of a resident's needs and preferences, which was detrimental to the resident's enjoyment of choice and control over their life.⁴¹⁷ Ms Masterson pointed out that staff are responsible for helping with personal care and hygiene, and that residents would be more comfortable with staff they were familiar with rather than 'some stranger'.⁴¹⁸ Mr Roche said that he thought that the growing involvement of private accommodation service providers, and the limited availability of resources, were the reasons for the casualisation of the workforce in group homes.⁴¹⁹
208. Ms Masterson and Mr Roche gave evidence about the importance of incident reporting to proper oversight of group homes.⁴²⁰ Ms Masterson said that incident reports should include 'anything that could harm or could cause harm to somebody'.⁴²¹ Mr Roche said

⁴¹⁰ Transcript, Cindy Masterson and David Roche, Public hearing 3, 3 December 2019, P-142.

⁴¹¹ Transcript, David Roche, Public hearing 3, 3 December 2019, P-142 [6-10]; Transcript, Cindy Masterson, Public hearing 3, 3 December 2019, P-142 [21]-[27].

⁴¹² Exhibit 3-15, 'Statement of Cindy Masterson', 26 November 2019, at [7].

⁴¹³ Exhibit 3-15, 'Statement of Cindy Masterson', 26 November 2019, at [8]-[12]; Transcript, Cindy Masterson, Public hearing 3, 3 December 2019, P-148 [5]-[30].

⁴¹⁴ Exhibit 3-14, 'Statement of David Roche', 25 November 2019, at [10.4].

⁴¹⁵ Transcript, Cindy Masterson, Public hearing 3, 3 December 2019, P-145 [37]-[39]; Exhibit 3-15, 'Statement of Cindy Masterson', 26 November 2019, at [25]-[27].

⁴¹⁶ Exhibit 3-14, 'Statement of David Roche', 25 November 2019, at [7.3].

⁴¹⁷ Transcript, David Roche, Public hearing 3, 3 December 2019, P-145 [34]-[36].

⁴¹⁸ Transcript, Cindy Masterson, Public hearing 3, 3 December 2019, P-145 [37]-146 [3].

⁴¹⁹ Transcript, David Roche, Public hearing 3, 3 December 2019, P-147 [22]-[28].

⁴²⁰ Exhibit 3-14, 'Statement of David Roche', 25 November 2019, at [8.1]-[8.6]; Exhibit 3-15, 'Statement of Cindy Masterson', 26 November 2019, at [21]-[24].

⁴²¹ Transcript, Cindy Masterson, Public hearing 3, 3 December 2019, P-143 [18]-[29].

that care providers are now less reluctant to report incidents,⁴²² but both he and Ms Masterson said that they felt that incidents were sometimes not reported when they should be.⁴²³ Both witnesses said that they had visited homes where residents had told them about incidents that were not recorded in incident reports.⁴²⁴

209. Ms Masterson said that the absence of a standardised system for incident reporting, and the move towards computerised systems, makes access to incident reports difficult for Community Visitors.⁴²⁵ They said that incident reports are sent from the reporting staff member to management, and cannot be accessed by other staff members, which Ms Masterson felt was ‘a little bit flawed’ because it prevented staff identifying and resolving issues in the group home.⁴²⁶ She said that she felt that management does not take incident reporting seriously enough.⁴²⁷ Mr Roche also felt that incident reporting, along with the Community Visitors system in general, is ‘not held in terribly high regard by some of the managers’ of group homes and that this was reflective of commonly held attitudes by managers of group homes.⁴²⁸
210. Ms Masterson and Mr Roche both spoke about the importance of independent oversight to preventing violence, abuse, neglect and exploitation in group homes.⁴²⁹ However, they felt that oversight was insufficient and that their supervisory role limited their capacity to address specific instances of violence and neglect. Mr Roche said that Community Visitors are ‘the identifiers of problems and the reporters of problems’ but are not in a position to be ‘the solvers of the problem’.⁴³⁰ He said that the Office of the Public Advocate is not resourced or empowered ‘to have an issue escalated to a point where it might be satisfactorily resolved’.⁴³¹

Service providers operating group homes in Victoria

211. At Public hearing 3, a number of witnesses spoke about their experiences, or the experiences of their family members with disability, of living in group homes in Victoria, in some cases over decades. The Royal Commission did not hear from the staff or management of those service providers of those group homes about these experiences during Public hearing 3. These service providers, with the exception of

⁴²² Exhibit 3-14, ‘Statement of David Roche’, 25 November 2019, at [7.2].

⁴²³ Transcript, David Roche, Public hearing 3, 3 December 2019, P-143 [4]-[9]; Transcript, Cindy Masterson, Public hearing 3, 3 December 2019, P-143 [23]-[29].

⁴²⁴ Transcript, David Roche, Public hearing 3, 3 December 2019, P-143 [4]-[9]; Transcript, Cindy Masterson, Public hearing 3, 3 December 2019, P-143 [19]-[29].

⁴²⁵ Transcript, Cindy Masterson, Public hearing 3, 3 December 2019, P-143 [30]-[37].

⁴²⁶ Transcript, David Roche, Public hearing 3, 3 December 2019, P-143 [10]-[12]; Transcript, Cindy Masterson, Public hearing 3, 3 December 2019, P-143 [38] - 144 [4].

⁴²⁷ Transcript, Cindy Masterson, Public hearing 3, 3 December 2019, P-144 [11]-[15].

⁴²⁸ Transcript, David Roche, Public hearing 3, 3 December 2019, P-146 [17]-[23].

⁴²⁹ Transcript, Cindy Masterson and David Roche, Public hearing 3, 3 December 2019, P-150 [14]-[27].

⁴³⁰ Transcript, David Roche, Public hearing 3, 3 December 2019, P-149 [17]-[19].

⁴³¹ Transcript, David Roche, Public hearing 3, 3 December 2019, P-149 [24]-[26].

one service provider named in the evidence of AAI, were not named during Public hearing 3 as a result of non-publication orders made by the Royal Commission.⁴³²

212. The Chair of the Royal Commission said in his opening remarks at ceremonial sitting of the Royal Commission on 16 September 2019, in Brisbane, that ‘behind every Royal Commission is a story’. As the Chair explained:

Calls for a Royal Commission into violence and abuse against people with disability have been made for a long time in this country. The proposal received support in 2012 when disability advocates called for a Royal Commission into widespread allegations of abuse of people with disability who were living in care. A Four Corners report on television in November 2014 alleged abuse at one of Australia’s largest service providers, and led to a petition calling for an immediate national inquiry to address the violence and abuse experienced by people with disability.⁴³³

213. The Four Corners report to which the Chair referred concerned abuse which was committed by staff at Yooralla, one of Victoria’s largest disability service providers.⁴³⁴ Between 2011 and 2014, serious sexual crimes were perpetrated against people with disability who lived in Yooralla group homes. In 2012, Vinod Johnny Kumar was charged with multiple counts of rape and other sexual offences on three women and one man with disability who were in his care in group homes provided by Yooralla. When Mr Kumar was confronted with the conduct, he initially denied any wrongdoing. However, he eventually pleaded guilty to 12 offences and in November 2013 he was sentenced to 18 years’ imprisonment with a non-parole period of 15 years.⁴³⁵

214. In her sentencing remarks, Judge Hampel SC said that all four people who were victims of Mr Kumar’s sexual crimes had severe levels of physical or intellectual impairment and that they all required assistance with basic activities of daily living.⁴³⁶ They all lived in supported accommodation with 24 hour care provided by Yooralla. Three of the four victims lived together in a house which accommodated a total of six residents, and the other victim lived in a house nearby which also had six residents. Judge Hampel SC described Mr Kumar’s horrendous crimes in detail. Mr Kumar’s criminal conduct was and remains shocking, and his ability to engage in the conduct undetected is disturbing.

215. In her sentencing remarks, her Honour said:

52. This is offending of the greatest order and greatest gravity. It was a gross breach of trust. You were employed as a carer for these people whose vulnerability was increased because of the physical and intellectual disabilities they suffered. They were powerless to defend themselves or to physically remonstrate with you.

⁴³² The non-publication orders were made following applications by a number of service providers who had received ‘procedural fairness’ letters from the Solicitor Assisting the Royal Commission.

⁴³³ Transcript, Public hearing 1, 6 December 2019, P-7 [34]-[40].

⁴³⁴ ABC Four Corners report, *In Our Care*, 24 November 2014, Transcript located at: <https://www.abc.net.au/4corners/in-our-care/5916148>.

⁴³⁵ Exhibit 3-6, DRC.9999.0005.0007 at 0024-0025.

⁴³⁶ Exhibit 3-6, DRC.9999.0005.0007 at 0010.

...

56 No civilised community can countenance such abuse of the disabled for whom the whole community has a responsibility to care. Disabled people are entitled to have their dignity respected, to feel safe in their homes and safe with those who are entrusted with their care. The people who have had to take responsibility for making the decisions to place them in care, or to assist the disabled people to make such a decision, should be able to trust that they are safe and that they will be safe in care. The parents, families and friends of your disabled victims and of disabled people generally should be able to feel that they are safe and will be treated at all times with dignity and respect. Those who breach that trust in the manner that you have must understand that their conduct will be condemned, and that they will be sternly punished.⁴³⁷

216. In addition to Mr Kumar, other Yooralla employees have been convicted of criminal offences against people with disability. Some of these offences did not occur in the context of a group home. In December 2014, Colin Hoyle was sentenced to a term of imprisonment for five years and nine months for sexually abusing a 29 year old woman with intellectual disability who was attending day services provided by Yooralla.
217. In June 2015, Timothy Hampson was sentenced to a term of imprisonment for four years with a non-parole period of two and a half years.⁴³⁸ Mr Hampson had been employed by Yooralla for about 12 years. His offending was in relation to a woman with autism. She was sexually assaulted in Mr Hampson's office, and at the time of his offending some of the incidents were captured on video.
218. In a statement provided by Yooralla to the Royal Commission for Public hearing 3, Yooralla told the Royal Commission that in January 2012 another former Yooralla employee had inappropriately touched two Yooralla customers. That employee was convicted and sentenced to a two-year community-based order, 200 hours of community service, and for a period of 15 years placed on the Victorian Sex Offenders Register.⁴³⁹
219. These events resulted in significant external inquiries and investigations in Victoria, as well as reviews and investigation by Yooralla. The Royal Commission's role is not to replicate those inquiries,⁴⁴⁰ or to make specific findings about these events, but to seek to understand how this could happen and what has changed since these events took place, with a particular focus on violence against, and abuse, neglect and exploitation of, people with disability.
220. In October 2019, Yooralla provided a submission to the Royal Commission. It was one of the first disability service providers to do so. Yooralla explained in its submission the

⁴³⁷ Exhibit 3-6, DRC.9999.0005.0007 at 0020-0021.

⁴³⁸ Exhibit 3-7, DRC.9999.0005.000.

⁴³⁹ Exhibit 3-34, 'Statement of Dr Sherene Devanesen', 28 November 2019, at [189]-[190].

⁴⁴⁰ The Letters Patent establishing the Commission expressly direct it to have regard to "the findings and recommendations of previous relevant reports and inquiries".

steps that it has taken to address its failings and to implement systems to better protect people with disability in its care following the violence and abuse perpetrated by Kumar, Hoyle and Hampson.

221. While Yooralla described the offences and events relating to Mr Kumar, Mr Hoyle and Mr Hampson as ‘historic’, their victims’ hurt continues and the scars remain. Yooralla acknowledged the tragic impact that abuse has on people with disability, and expressed that it deeply regrets the abuse of people in its care. . Yooralla said it understood the pain and trauma this abuse caused their customers and families. Yooralla apologised for these failures⁴⁴¹.

Dr Sherene Devanesen, CEO, Yooralla

222. The Royal Commission called the CEO of Yooralla, Dr Sherene Devanesen, to give evidence at Public hearing 3. Her evidence provided the opportunity for the Royal Commission to hear further as to how Yooralla has supported victims, and also to hear how it has addressed its policies, practices and procedures to prevent violence, abuse, neglect and exploitation of people with disability in Yooralla’s care.
223. Yooralla is a not-for-profit⁴⁴² disability service provider which provides care to more than 4,000 Victorians living with disability. It employs nearly 2,000 staff working in people’s homes, in the community and across 100 sites in Victoria.⁴⁴³ Yooralla operates accommodation in residential facilities including group homes, individual units and transitional accommodation. Yooralla’s residential services operate across six geographic areas in Victoria.
224. Dr Devanesen provided a written statement⁴⁴⁴ to the Royal Commission and gave oral evidence on 5 December 2019. Yooralla had earlier provided a lengthy written submission to the Royal Commission in October 2019.⁴⁴⁵
225. Dr Devanesen became Chief Executive of Yooralla in February 2015 and has served in this role to the current time.⁴⁴⁶ Prior to this, she served as Chief Operating Officer and Acting Chief Executive Officer of Yooralla. Before joining Yooralla, Dr Devanesen was

⁴⁴¹ Exhibit 3-34, ‘Statement of Dr Sherene Devanesen’, 28 November 2019, at [166]

⁴⁴² Exhibit 3-34, ‘Statement of Dr Sherene Devanesen’, 28 November 2019, at [5].

⁴⁴³ Exhibit 3-34, ‘Statement of Dr Sherene Devanesen’, 28 November 2019, at [5]; Transcript, Sherene Devanesen, Public hearing 3, 5 December 2019, P-259 [27]-[29].

⁴⁴⁴ Exhibit 3-34, ‘Statement of Dr Sherene Devanesen’, 28 November 2019.

⁴⁴⁵ Exhibit 3-34.1, YPL.9999.0001.0001, adopted in Exhibit 3-34, ‘Statement of Dr Sherene Devanesen’, 28 November 2019, at [10]; Transcript, Sherene Devanesen, Public hearing 3, 5 December 2019, P-257.

⁴⁴⁶ Exhibit 3-34, ‘Statement of Dr Sherene Devanesen’, 28 November 2019, at [2].

the Chief Executive Officer of Peninsula Health.⁴⁴⁷ She has over 30 years' experience in the management of health services and medical administration.⁴⁴⁸

226. Yooralla has advised that in 2018-2019, its total operating revenue was around \$117 million. In 2018-2019, Yooralla's operating budget surplus was \$800,000, which part of an overall surplus of \$2.2 million.
227. Dr Devanesen explained that Yooralla describes its residents and other people who receive services from Yooralla as 'customers'. Yooralla had discussions about appropriate terminology, which included the views of people supported by Yooralla, and the majority believed that the term 'customer' was acceptable.⁴⁴⁹ Yooralla has 302 residential customers, including 249 residential customers living in 48 group homes. On average five or six residents live in each of Yooralla's group homes but some group homes have up to nine residents.
228. Dr Devanesen's witness statement and Yooralla's submission gave more detailed information about Yooralla's residential accommodation services and Yooralla's systems, reporting procedures and policies. Dr Devanesen gave evidence about the average duration of a customer's stay in a Yooralla group home.⁴⁵⁰ Dr Devanesen was asked about how Yooralla assists people with disability to make transitions to independent living, and how the organisation's policy on transition planning covered this aspect.⁴⁵¹ Dr Devanesen said that the policy acknowledges that people, from time to time, might choose to leave or no longer require Yooralla's services but Yooralla does not have a stand-alone policy to review and develop alternatives to the group home model. Dr Devanesen agreed that this was something Yooralla should look into.⁴⁵²
229. Dr Devanesen spoke about the representation of people with disability on Yooralla's Board of Directors,⁴⁵³ the training of the board in human rights and the CRPD, and the operation of Yooralla's Community Partnership and Advisory Committee (YCPAC). The terms of reference for the YCPAC indicate that its members sign non-disclosure agreements. Yooralla advised that as a matter of practice it has not required any YCPAC members to sign such non-disclosure agreements and is not aware of any YCPAC member doing so. Dr Devanesen said that there had never been an occasion on which Yooralla had asked YCPAC members to keep anything particular confidential or not disclose it to others.⁴⁵⁴

447 Exhibit 3-34, 'Statement of Dr Sherene Devanesen', 28 November 2019, at [3].

448 Exhibit 3-34, 'Statement of Dr Sherene Devanesen', 28 November 2019, at [3].

449 Transcript, Sherene Devanesen, Public hearing 3, 5 December 2019, P-261 [3]-[10].

450 Transcript, Sherene Devanesen, Public hearing 3, 5 December 2019, P-339.

451 Transcript, Sherene Devanesen, Public hearing 3, 5 December 2019, P-340.

452 Transcript, Sherene Devanesen, Public hearing 3, 5 December 2019, P-340 [29].

453 Transcript, Sherene Devanesen, Public hearing 3, 5 December 2019, P-268 [32]-[34].

454 Transcript, Sherene Devanesen, Public hearing 3, 5 December 2019, P-275 [30] – 276 [5].

230. Dr Devanesen also gave evidence about Yooralla’s approach to the rights of people with disability who use its services, including the application of the Victorian Charter of Human Rights and Responsibilities.⁴⁵⁵
231. Dr Devanesen spoke about the policies and strategies of Yooralla for protecting people from abuse.⁴⁵⁶ Dr Devanesen was asked about practical examples of how these strategies have been implemented.⁴⁵⁷
232. Dr Devanesen gave evidence about Yooralla’s response to sexual crimes committed by staff members against people with disability who were and remain Yooralla’s residential customers and employees, including the nature of any redress offered and/or provided to the victims and their access to independent advocacy and advice. Dr Devanesen gave evidence about what Yooralla did in response to the sexual crimes of Kumar, Hoyle and Hampson. Dr Devanesen also gave evidence about other cases of sexual crimes and incidents of sexual and physical abuse which have been investigated by Yooralla’s internal investigator, and evidence about how the internal investigator operates.⁴⁵⁸
233. In taking the step of providing a voluntary submission to the Royal Commission, Yooralla acknowledged that the Royal Commission presents a unique opportunity to significantly improve the lives of people with disability, their families and carers and to pursue its objective of achieving transformational change.⁴⁵⁹
234. During Public hearing 3, the Royal Commission examined how Yooralla confronted and responded to the incidents of violence and abuse of people with disability in its care. Dr Devanesen frankly acknowledged there were further steps Yooralla would consider.⁴⁶⁰ She said Yooralla has realised there were failures and significant shortcomings. Dr Devanesen said Yooralla had embarked upon ‘a path of reform and change’.⁴⁶¹
235. Even with the reviews and inquiries undertaken into violence against and abuse of people with disability in Victoria, there remain significant areas of concern.
236. The issues explored with Dr Devanesen on behalf of Yooralla at Public hearing 3 will inform the Royal Commission about the issues it will seek to explore with other service providers. In its future work the Royal Commission will continue to examine closely how service providers work to prevent, and to investigate, report and respond to, violence against, and abuse, neglect and exploitation of, people with disability who use

⁴⁵⁵ Transcript, Sherene Devanesen, Public hearing 3, 5 December 2019, P-272; Exhibit 3-34, ‘Statement of Dr Sherene Devanesen’, at [137]-[139].

⁴⁵⁶ Transcript, Sherene Devanesen, Public hearing 3, 5 December 2019, P-336 [12] - 338 [24]; Exhibit 3-34, ‘Statement of Dr Sherene Devanesen’, 28 November 2019, at [215].

⁴⁵⁷ Transcript, Sherene Devanesen, Public hearing 3, 5 December 2019, P-337 [16] – 338 [24].

⁴⁵⁸ Transcript, Sherene Devanesen, Public hearing 3, 5 December 2019, P-318 [28] – 336 [11].

⁴⁵⁹ Exhibit 3-34.1, YPL.9999.0001.0001 at 00160016.

⁴⁶⁰ Transcript, Sherene Devanesen, Public hearing 3, 5 December 2019, P-309 [9]-[14].

⁴⁶¹ Transcript, Sherene Devanesen, Public hearing 3, 5 December 2019, P-308 [34]-[35], P309 [5].

their services. This is likely to include how service providers provide information to people with disability about the process for handling allegations, available forms of redress, and how service providers manage the risk of conflicts of interest.

237. The Royal Commission will also examine how service providers' policies and practices have been affected by new regulatory regimes such as the NDIS Quality and Safeguarding Framework overseen by the NDIS Commission.

Part 4: Relevance of a human rights approach

An overview of the human rights framework

Convention on the Rights of Persons with Disabilities

238. The Royal Commission's Terms of Reference expressly refer to Australia's obligations to promote the human rights of people with disability under the CRPD.
239. Public hearing 3 provided the Royal Commission with the opportunity to hear evidence about the CRPD, the human rights set out in the CRPD and its relevance to Australia. As the Chair of the Royal Commission noted at Public hearing 3, the express recognition of Australia's obligations under the UN Convention means that the Royal Commission must have a rights-based focus, taking as a starting point the human rights under international law that Australia is required to recognise and protect.⁴⁶²
240. The CRPD is the first binding international human rights instrument to explicitly address disability. The nation states that agree to be bound by the CRPD (State Parties) are required to 'promote, protect and ensure the full enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and promote respect for their inherent dignity'.⁴⁶³
241. While the Australian government has international legal obligations to comply with the CRPD, the rights in the CRPD do not automatically become part of Australian law in the sense the CRPD rights can be enforced by Australian courts and tribunals.
242. As noted previously, Ms Kayess gave evidence at Public hearing 3 on 6 December 2019. She also provided a written expert statement to the Royal Commission which discussed the development and operation of the CRPD and its implementation in Australia.⁴⁶⁴
243. Ms Kayess provided a detailed overview of the CRPD. She explained the CRPD 'has its genesis in the fact that whilst people with disabilities had coverage under international human rights law, there was not a process to act'.⁴⁶⁵ People with

⁴⁶² Transcript, Commissioner Sackville AO QC, Public hearing 3, 2 December 2019, P-4 [10]-[16].

⁴⁶³ *Convention on the Rights of Persons with Disabilities*, opened for signature 30 March 2007, 999 UNTS 3 (entered into force 3 May 2008), art 1.

⁴⁶⁴ Exhibit 3-33, 'Statement of Rosemary Kayess', 3 December 2019.

⁴⁶⁵ Transcript, Rosemary Kayess, Public hearing 3, 6 December 2019, P-384 [8]-[10].

disabilities 'continued to be highly represented' in the world population living in poverty and 'significant human rights violations against people with disability' were coming before the United Nations.⁴⁶⁶ In response, the United Nations developed a thematic Convention,⁴⁶⁷ which 'translated all the existing human rights into the context of disability'.⁴⁶⁸ The CRPD did not create new rights – rather, it consolidated existing international human rights obligations and clarified the application of these rights to people with disabilities.

244. The CRPD is intended to function as a human rights instrument with 'an explicit, social development dimension', recognising people with disability 'as rights bearers, not passive recipients of care and protection, and provides for the removal of barriers, including discrimination placing obligations on State Parties ... to respect, protect and fulfil the human rights and fundamental freedoms of all people with disability'.⁴⁶⁹

Committee for the Rights of People with Disability

245. The CRPD establishes the Committee, a quasi-judicial body of independent experts which monitors the implementation of the CRPD by State Parties.⁴⁷⁰ All State Parties must submit to the Committee periodic reports outlining how the provisions of the CRPD are being implemented.⁴⁷¹ The Committee meets twice a year to consider the reports submitted by State Parties and make suggestions and general recommendations to guide a State Party to better implement the CRPD in their country.⁴⁷²
246. The Committee also publishes General Comments. Ms Kayess said the General Comments are developed by the Committee in consultation with State Parties, civil society and other key stakeholders and may address matters such as the

⁴⁶⁶ Transcript, Rosemary Kayess, Public hearing 3, 6 December 2019, P-384 [10]-[12].

⁴⁶⁷ Thematic Conventions are those that might be specific to particular issues, such as the *Convention on the Elimination of All Forms of Discrimination against Women*, opened for signature 18 December 1979, 1249 UNTS 13 (entered into force 3 September 1981); Transcript, Rosemary Kayess, Public hearing 3, 6 December 2019, P-384 [27]-[28].

⁴⁶⁸ Transcript, Rosemary Kayess, Public hearing 3, 6 December 2019, P-384 [16]; By 'existing human rights' Ms Kayess referred to the *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, UNTS171 (entered into force 23 March 1976); *International Covenant on Economic, Social and Cultural Rights*, opened for signature 16 December 1966, 993 UNTS 3 (entered into force 3 January 1976); *Convention on the Elimination of All Forms of Discrimination against Women*, opened for signature 18 December 1979, 1249 UNTS 13 (entered into force 3 September 1981); *Convention on the Rights of the Child*, opened for signature 20 November 1987, 1577 UNTS 3 (entered into force 2 September 1990).

⁴⁶⁹ Exhibit 3-33, 'Statement of Rosemary Kayess', 3 December 2019, at [29].

⁴⁷⁰ *Convention on the Rights of Persons with Disabilities*, opened for signature 30 March 2007, 999 UNTS 3 (entered into force 3 May 2008), art 34.

⁴⁷¹ *Convention on the Rights of Persons with Disabilities*, opened for signature 30 March 2007, 999 UNTS 3 (entered into force 3 May 2008), art 35.

⁴⁷² Exhibit 3-33, 'Statement of Rosemary Kayess', 3 December 2019, at [18].

implementation of the CPRD and the reporting duties of State Parties.⁴⁷³ The General Comments provide guidance on the nature and the scope of the rights in the CRPD.

247. The Committee may also receive and consider complaints (called ‘communications’) from or on behalf of individuals or groups of individuals who claim their human rights have been violated by a State Party and they cannot access a remedy in their legal system.⁴⁷⁴ There have been a number of communications made by Australians with disability.⁴⁷⁵

The equal right of all persons with disability to live in the community with choice equal to others

248. Article 19 of the CRPD requires all State Parties to:

recognise the equal right of all persons with disability to live in the community with choice equal to others.

249. Article 19 of the CRPD recognises the right of all people with disability to live independently and be included in the community. In General Comment No 5, the Committee defined living independently in the community as living in settings ‘outside residential institutions of all kinds’.⁴⁷⁶ The Committee said that to live independently, people with disability must have ‘all necessary means to enable them to exercise choice and control over their own lives’, including in relation to ‘personal lifestyle and daily activities’.⁴⁷⁷
250. Article 19 outlines specific obligations on State Parties to fulfil this right, including ensuring people with disabilities have the opportunity to choose their place of residence and are not obliged to live in a particular living arrangement and access to a range of in-home, residential and other community support services and facilities.⁴⁷⁸

⁴⁷³ In her statement to the Royal Commission, Rosemary Kayess gave evidence of her opinion that ‘General Comments are considered jurisprudence of the Committee. They are recognised as an accurate reflection of international law as it pertains to the matters that are the subject of the comment. General Comments are developed by the Committee in consultation with State Parties, civil society and other key stakeholders and may address matters such as the implementation of the CPRD and the reporting duties of state parties’: Exhibit 3-33, ‘Statement of Rosemary Kayess’, 3 December 2019, at [50].

⁴⁷⁴ *Optional Protocol to the Convention on the Rights of Persons with Disabilities*, opened for signature 30 March 2007, 2518 UNTS 283 (entered into force 3 May 2008), art 1.

⁴⁷⁵ See Australian Government, Attorney-General’s Department, ‘Human Rights Communications’, website.
<www.ag.gov.au/RightsAndProtections/HumanRights/Pages/Humanrightscommunications.aspx>.

⁴⁷⁶ Committee on the Rights of Persons with Disabilities, *General Comment No. 5 (2017) on living independently and being included in the community*, UN Doc CRPD/C/GC/5 (27 October 2017), [16(c)].

⁴⁷⁷ Committee on the Rights of Persons with Disabilities, *General Comment No. 5 (2017) on living independently and being included in the community*, UN Doc CRPD/C/GC/5 (27 October 2017), [16(a)].

⁴⁷⁸ *Convention on the Rights of Persons with Disabilities*, opened for signature 30 March 2007, 999 UNTS 3 (entered into force 3 May 2008), art 19.

251. Ms Kayess said that Article 19 is intended to be ‘broader than just housing’.⁴⁷⁹ In her opinion, Article 19 is about choice and support; that is, ‘the purpose of Article 19 is to break the nexus between housing and support – people with disability should be able to choose where they live with the knowledge that support services will be available wherever that may be’.⁴⁸⁰
252. Ms Kayess described Article 19 as a ‘hybrid article’, meaning it consists of both civil and political rights and social, economic and cultural rights.⁴⁸¹ Article 19 is a translation of Article 12 of the International Covenant on Civil and Political Rights; the right to liberty of movement and freedom to choose residence.⁴⁸² At the same time, Article 19 includes themes of social and economic development that appear throughout the Convention such as choice, control, decision-making and self-determination.⁴⁸³ These themes were explored throughout the course of the public hearing and were the subject of many witnesses’ evidence.

Implementing Article 19 in Australia

253. Ms Kayess said that, practically speaking, implementing Article 19 requires a coordinated, cross-government national strategy, such as the National Disability Strategy (NDS).⁴⁸⁴ Ms Kayess said that the practical implementation of Article 19 requires a coordinated national approach, incorporating a national plan for deinstitutionalisation, and a mechanism such as the NDIS where supports are individualised and not tied to particular accommodation models.⁴⁸⁵ She expressed her view that ‘deinstitutionalisation requires not only the closure of institutions, including group homes, but also structural reforms to create accessibility within the community and to raise awareness among all people in society about inclusion for people with disability’.⁴⁸⁶
254. Ms Kayess emphasised that any measures implemented under the NDS should be underpinned by a comprehensive understanding of the interrelationship between the provisions of the CRPD.⁴⁸⁷ She said that living independently and being included in the community requires implementation of all individual rights in the CRPD⁴⁸⁸ as well as an

⁴⁷⁹ Exhibit 3-33, ‘Statement of Rosemary Kayess’, 3 December 2019, at [33].

⁴⁸⁰ Exhibit 3-33, ‘Statement of Rosemary Kayess’, 3 December 2019, at [37].

⁴⁸¹ Transcript, Rosemary Kayess, Public hearing 3, 6 December 2019, P-390 [14].

⁴⁸² Exhibit 3-33, ‘Statement of Rosemary Kayess’, 3 December 2019, at [80]; *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, UNTS 171 (entered into force 23 March 1976), art 12.

⁴⁸³ Transcript, Kate Eastman SC and Rosemary Kayess, Public hearing 3, 6 December 2019, P-391 [3]-[7].

⁴⁸⁴ Exhibit 3-33, ‘Statement of Rosemary Kayess’, 3 December 2019, at [39].

⁴⁸⁵ Exhibit 3-33, ‘Statement of Rosemary Kayess’, 3 December 2019, at [39]-[40].

⁴⁸⁶ Exhibit 3-33, ‘Statement of Rosemary Kayess’, 3 December 2019, at [41].

⁴⁸⁷ Exhibit 3-33, ‘Statement of Rosemary Kayess’, 3 December 2019, at [49].

⁴⁸⁸ Ms Kayess said that ‘having decent work in the open labour market, accessible public transport, universal housing design, access to inclusive education, access to good healthcare, access to social protection, being able to make one’s own decisions, being able to participate in cultural life

understanding of how the other articles⁴⁸⁹ ‘operate as cross-cutting facilitation articles’ to ensure effective implementation.⁴⁹⁰

The Committee’s observations on Australia’s compliance with the CRPD

255. The Committee’s most recent report on Australia’s progress in implementing the CRPD was delivered in September 2019.⁴⁹¹ The Committee recommended that Australia ‘develop a national framework aimed at closing all disability-specific residential institutions’.⁴⁹² In general, the Committee was concerned that Australia had been slow to implement the provisions of the CRPD and the Committee’s concluding observations from Australia’s 2013 periodic review.⁴⁹³ The Committee’s concluding observations in 2013 expressed concern that, despite policy to close large residential centres, new initiatives, such as group homes, ‘replicate institutional living arrangements’, and people with disability ‘are still obliged to live in residential institutions in order to receive disability support’.⁴⁹⁴
256. The Committee encouraged Australia to ‘develop and implement a national framework for the closure of residential institutions and to allocate the resources necessary for support services that would enable persons with disabilities to live in their communities’.⁴⁹⁵

Using the CRPD in advocacy

257. At Public hearing 3, the Royal Commissioners had the opportunity to hear testimony from witnesses and to review documents relating to the human rights of people with disability living in group homes in Victoria, and whether persons and entities with responsibility to provide services and enforce standards operate consistently with those rights.
258. Over the course of Public hearing 3, the Royal Commission heard that the CRPD can be a valuable tool for practising advocacy. During their oral evidence, disability

etc. are all critical elements of living independently and being included in the community’ (Exhibit 3-33, ‘Statement of Rosemary Kayess’, 3 December 2019, at [49]); *Convention on the Rights of Persons with Disabilities*, opened for signature 30 March 2007, 999 UNTS 3 (entered into force 3 May 2008), arts 5, 10, 12, 14-19, 21-25, and 27-30.

⁴⁸⁹ *Convention on the Rights of Persons with Disabilities*, opened for signature 30 March 2007, 999 UNTS 3 (entered into force 3 May 2008) arts 3-9, 11, 13, 20, 26, and 31.

⁴⁹⁰ Exhibit 3-33, ‘Statement of Rosemary Kayess’, 3 December 2019, at [49].

⁴⁹¹ Committee on the Rights of Persons with Disabilities, *Concluding observations on the second and third periodic reports of Australia*, 22nd sess, UN Doc CRPD/C/AUS/CO/2-3 (15 October 2019).

⁴⁹² Committee on the Rights of Persons with Disabilities, *Concluding observations on the second and third periodic reports of Australia*, 22nd sess, UN Doc CRPD/C/AUS/CO/2-3 (15 October 2019), [37]-[38].

⁴⁹³ Committee on the Rights of Persons with Disabilities, *Concluding observations on the second and third periodic reports of Australia*, 22nd sess, UN Doc CRPD/C/AUS/CO/2-3 (15 October 2019), [5].

⁴⁹⁴ Committee on the Rights of Persons with Disabilities, *Concluding observations on the initial report of Australia*, 10th sess, UN Doc CRPD/c/AUS/CO/1 (21 October 2013), [41].

⁴⁹⁵ Committee on the Rights of Persons with Disabilities, *Concluding observations on the initial report of Australia*, 10th sess, UN Doc CRPD/c/AUS/CO/1 (21 October 2013), [42].

advocates Colin Hiscoe, Nadia Mattiazzo, Kevin Stone, Sarah Forbes, and Pauline Williams expressed concern for the lack of understanding among people living in group homes about their human rights.⁴⁹⁶

259. Ms Forbes stated that residents of group homes not only 'have rights that they don't know about and ... don't exercise' but also 'have experiences of attempting to exercise their rights and not being respected or in fact being retaliated against for doing that'.⁴⁹⁷ Ms Forbes said that the group home environment in particular makes it difficult for residents to exercise their human rights:

You don't choose who you live with, you don't choose often where you live, you don't choose the staff who come into your home or who sleep overnight or who touch your body to provide you with personal care. Those are fundamental choices that allow people to exercise their rights. So while people may have a right under the UN Convention to choose who they live with, to choose where they live and to not be obliged to live in a place in order to receive support, that's not the reality for most people living in group homes.⁴⁹⁸

Victorian Charter of Human Rights

260. The Victorian Disability Services Commissioner, Arthur Rogers, gave evidence about the effect of Victoria's *Charter of Human Rights and Responsibilities Act 2006* (Vic) (the Charter).⁴⁹⁹ The Charter requires Victorian public authorities, including public officials, government agencies and contractors delivering services on behalf of government,⁵⁰⁰ to consider and act in compliance with human rights when creating legislation, implementing policies or delivering services.⁵⁰¹
261. While Mr Rogers observed that, in his experience, people with disability and their carers only engage with the Charter to a minimal extent, Mr Rogers said that he believes that the Charter has had a positive impact on the promotion and protection of human rights of people with disability, including in residential settings.⁵⁰² We note that Public hearing 3 did not turn its attention to specific issues about the operation or application of the Charter to people with disability in residential settings.

⁴⁹⁶ Transcript, Kevin Stone, Public hearing 3, 4 December 2019, P-168 [40]-[41]; Transcript, Nadia Mattiazzo, Public hearing 3, 5 December 2019, P-349 [25]-[28]; Transcript, Pauline Williams, Public hearing 3, 5 December 2019, P-346 [30]-[32]; Transcript, Colin Hiscoe, Public hearing 3, 5 December 2019, P-352 [22]-[31].

⁴⁹⁷ Transcript, Sarah Forbes, Public hearing 3, 5 December 2019, P-346 [5]-[9].

⁴⁹⁸ Transcript, Sarah Forbes, Public hearing 3, 5 December 2019, P-345 [33] -346 [2].

⁴⁹⁹ *Charter of Human Rights and Responsibilities Act 2006* (Vic); Exhibit 3-16, 'Statement of Arthur Rogers', 21 November 2019, at [112]-[123].

⁵⁰⁰ *Charter of Human Rights and Responsibilities Act 2006* (Vic), s 4.

⁵⁰¹ *Charter of Human Rights and Responsibilities Act 2006* (Vic), s 1(2)(c).

⁵⁰² Exhibit 3-16, 'Statement of Arthur Rogers', 21 November 2019, at [123].

262. The Public Advocate in Victoria, Dr Colleen Pearce, also noted that the Office of the Public Advocate is a government authority that is bound by the Charter.⁵⁰³
263. Dr Pearce said that, in relation to the work of the Office of the Public Advocate, the Charter has been ‘very significant’ in ‘[shifting] the discussion from a situation where people ... with disabilities were managed and were to be protected to one where we see people as holders of rights’.⁵⁰⁴ Dr Pearce said that the Charter ‘ensures that ... decisions that limit a person’s rights ... are reasonable, justified and proportionate’.⁵⁰⁵
264. Dr Pearce said that she advocates strongly for a human rights approach in her work to respect the dignity of people with disability.⁵⁰⁶ She said that the Office of the Public Advocate is bound by the Charter⁵⁰⁷ and that they need to take the CRPD into account.⁵⁰⁸ Dr Pearce said that from 1 March 2020, the Office of the Public Advocate will have the new function of protecting and promoting the human rights of people with disability.⁵⁰⁹
265. Dr Pearce spoke about the dialogue model of human rights and said that, while this model was driving change within the public sector through the Charter and the CRPD, she felt that there was no evidence of commitment to the human rights approach in the private sector.⁵¹⁰ She said that this was particularly concerning because group homes are closed environments which can be ‘a breeding ground for human rights abuses’.⁵¹¹

Part 5: Key issues and themes emerging from Public hearing 3

266. The key issues and themes set out below do not cover all aspects of the witness and documentary evidence presented to the Royal Commission during Public hearing 3. This part of the report addresses the themes that emerged in the evidence of multiple witnesses, many of which overlap and intersect. Some of these issues and themes relate to the ways in which lack of choice and control may lead to violence, abuse, neglect and exploitation in group homes and may also prevent people with disability leaving abusive or neglectful living situations. Others relate to areas of work to be done or initiatives to enable people with disability to have meaningful choice and control in relation to where they live and who they live with.

⁵⁰³ Transcript, Colleen Pearce, Public hearing 3, 3 December 2019, P-120 [24]-[25].

⁵⁰⁴ Transcript, Colleen Pearce, Public hearing 3, 3 December 2019, P-121 [18]-[22].

⁵⁰⁵ Transcript, Colleen Pearce, Public hearing 3, 3 December 2019, P-121 [24]-[26].

⁵⁰⁶ Transcript, Colleen Pearce, Public hearing 3, 3 December 2019, P-120 [22]-[29].

⁵⁰⁷ Transcript, Colleen Pearce, Public hearing 3, 3 December 2019, P-120 [24]-[25].

⁵⁰⁸ Transcript, Colleen Pearce, Public hearing 3, 3 December 2019, P-122 [16]-[17].

⁵⁰⁹ Transcript, Colleen Pearce, Public hearing 3, 3 December 2019, P-120 [14]-[23].

⁵¹⁰ Transcript, Colleen Pearce, Public hearing 3, 3 December 2019, P-124 [15]-[25].

⁵¹¹ Transcript, Colleen Pearce, Public hearing 3, 3 December 2019, P-126 [36]-[37].

Deinstitutionalisation and the emergence of the group home model

267. The Royal Commission considered when and why the group home model emerged. It heard evidence that group homes emerged as the alternative to institutionalisation as this form of accommodation fell into disfavour from the 1960s.
268. Institutionalisation of people with intellectual and psycho-social disability began in the 17th century in Europe. People with disability were accommodated in large segregated facilities principally operated in Australia by state governments. This became known as institutionalisation.
269. The Royal Commission heard evidence from a number of witnesses regarding the living conditions in some Victorian institutions that have now closed.
270. Mr Robertson said that when he lived in institutions, notably Kew Cottages, Melbourne, and in Stawell, Victoria,⁵¹² he had ‘no choices’.⁵¹³ As a child, living in an institution was ‘hell’.⁵¹⁴ He said that ‘staff could do what they liked’. He was punished for misbehaving, including by being bashed by staff.⁵¹⁵ Mr Robertson described the closure of institutions as a good thing.⁵¹⁶
271. Mr Kevin Stone gave an emotional and distressing description of his first day on student placement at Kew Cottages. He said his first job was to hose down with cold water 12 men who were lined up against a brick wall.⁵¹⁷ He also said that in 1976, when the Minister was coming to Kew Cottages to open the children’s buildings, he ‘had to herd all the people with complex behaviours into one room’, and that ‘on the floor in that room was newspaper just torn up to soak up the piss and shit and we had to herd them in and lock them away from the public eye.’⁵¹⁸
272. Mr Stone recounted an incident which occurred when he operated a respite farm in Cobram, which hosted groups of people with disability who lived in institutions and the staff that cared for them:

I notice there was one man standing over in the corner just rocking by himself. And I said, “So what’s up with him? Why isn’t he participating?” And the two staff looked at each other and sniggered. They said, “Don’t worry about him; we’ve got him sorted”. I said, “What do you mean? Like what’s – what’s going on?” And he said, “He’s only new. He’s only come to us new. Both of his parents got killed in a car accident. They were

⁵¹² Dr Wiesel noted that Kew Cottages was ‘the largest institution in Victoria’. Transcript, Ilan Wiesel, Public hearing 3, 3 December 2019, P-77 [31].

⁵¹³ Transcript, Alan Robertson, Public hearing 3, 4 December 2019, P-165 [14].

⁵¹⁴ Transcript, Alan Robertson, Public hearing 3, 4 December 2019, P-157 [13].

⁵¹⁵ Transcript, Alan Robertson, Public hearing 3, 4 December 2019, P-157 [13]-[14].

⁵¹⁶ Transcript, Alan Robertson, Public hearing 3, 4 December 2019, P-164 [2].

⁵¹⁷ Transcript, Kevin Stone, Public hearing 3, 4 December 2019, P-166 [2]-[4].

⁵¹⁸ Transcript, Kevin Stone, Public hearing 3, 4 December 2019, P-166 [6]-[9].

rich, so he thinks his shit don't stink." "Well, what do you mean?" "He thinks he's better. He's come here with a new" – and I think it was called a ghetto blaster or a CD player – "and he thinks he's better than everybody else but we will sort him out." "What do you mean by that?" "We chuck him in the quiet room, and every few hours we go in there with a length of hose filled with wet sand and beat the shit out of him until he calls us 'sir'. We will sort him out."⁵¹⁹

273. Professor Patsie Frawley described her experience working as an emergency teacher at Kew Cottages, which operated a form of school within the institution.⁵²⁰ She said that the staff were 'pretty unsupportive' of the residents having an education⁵²¹ and that the teachers were required to go into the units in the morning to support the residents to finish their breakfast and to take them to the education program. She described the breakfast they were given as essentially 'porridge with Senokot granules, which are a laxative, all in a cup of Milo with toast dunked in it.'⁵²² Professor Frawley said:

I remember one morning going to accompany half a dozen people over to the school program. And there was a number of women in my group that I was going to accompany. They were in the breakfast room with no underwear on, no underpants on, sitting on a large sheet because they were menstruating. In that same mode there were people who had been given laxatives so they would have bowel motions before they went to school. They were being given their breakfast as they were sitting on a commode chair.⁵²³

274. Jane Rosengrave said that when she lived at an institution at Pleasant Creek, she had 'no privacy' and 'there was some staff watching us getting undressed, having a shower'.⁵²⁴ She also said she was sexually abused by a bus driver from the institution for three years.⁵²⁵

275. In his statement to the Commission, Dr Wiesel identified the combined factors that drove deinstitutionalisation⁵²⁶ in Australia, including:

- mounting evidence, including government reports and academic work published in Australia and internationally, of the overcrowding, disease, abuse, neglect and restriction of individual freedoms that were taking place in the large institutions;
- the disability rights movement in the 1960s;

⁵¹⁹ Transcript, Kevin Stone, Public hearing 3, 4 December 2019, P-166 [37]-[46]; P-167 [1]-[2].

⁵²⁰ Transcript, Patricia Frawley, Public hearing 3, 4 December 2019, P-173 [33]-[47].

⁵²¹ Transcript, Patricia Frawley, Public hearing 3, 4 December 2019, P-174 [11].

⁵²² Transcript, Patricia Frawley, Public hearing 3, 4 December 2019, P-174 [22]-[24].

⁵²³ Transcript, Patricia Frawley, Public hearing 3, 4 December 2019, P-174 [14]-[20].

⁵²⁴ Transcript, Jane Rosengrave, Public hearing 3, 2 December 2019, P-60 [11]-[12].

⁵²⁵ Transcript, Jane Rosengrave, Public hearing 3, 2 December 2019, P-64 [8].

⁵²⁶ See, Report, [137].

- the ideology of normalisation – the idea that people with disability should have opportunities for life as close as possible to an ordinary life that other members of the community enjoy;
- broader reforms in the delivery of human services by governments and the general shift away from segregated services; and
- medical advancements, primarily related to treatment of psychosocial disability.⁵²⁷

276. Dr Wiesel pointed out that de-institutionalisation in Australia coincided with a dramatic increase in the number of people with disability who were homeless or incarcerated in prisons. Community care services were inadequate to provide accommodation for people with disability, particularly those with cognitive disabilities or who experienced mental illness.⁵²⁸ This is one significant reason why, despite the closure of large state-run institutions, many people ‘continue to live in other types of institutional and congregate settings’ for example, aged-care nursing homes or ‘clustered’ smaller facilities.⁵²⁹
277. Dr Wiesel said that approximately 5,000 Australians continue to live in accommodation facilities that are larger than group homes.⁵³⁰ In respect of Kew Cottages, Dr Wiesel noted that when the institution was closed down in 2008, the majority of its residents were rehoused in group homes dispersed across Victoria, however, about 100 residents were rehoused in 20 group homes on the original institution site, ‘clustered together in the same area’ instead of being dispersed in the neighbourhood.⁵³¹
278. Dr Wiesel also said that the group home model was a ‘direct response’ to deinstitutionalisation – people with disability were moved out of institutions and needed a place to live.⁵³² Dr Wiesel said that the main rationale for group homes was ‘economies of scale’.⁵³³ That is, it is cheaper for the state to provide support to five or six residents, requiring one or two staff members at a time, rather than provide one on one support for residents living on their own.⁵³⁴
279. Professor Christine Bigby referred to her research which looked at quality of life outcomes for residents moving from Kew Cottages into group homes managed by the Victorian Department of Human Services.⁵³⁵ The study included a large pre and post survey of residents and used ethnographic methods and action research to investigate staff practice and quality of life for residents in group homes. It found that, while the

⁵²⁷ Exhibit 3-26, ‘Statement of Ilan Wiesel’, 28 November 2019, at [14].

⁵²⁸ Exhibit 3-26, ‘Statement of Ilan Wiesel’, 28 November 2019, at [30].

⁵²⁹ Exhibit 3-26, ‘Statement of Ilan Wiesel’, 28 November 2019, at [27]-[29].

⁵³⁰ Exhibit 3-26, ‘Statement of Ilan Wiesel’, 28 November 2019, at [26].

⁵³¹ Transcript, Ilan Wiesel, Public hearing 3, 3 December 2019, P-77 [31]-[38].

⁵³² Exhibit 3-26, ‘Statement of Ilan Wiesel’, 28 November 2019, at [32].

⁵³³ Transcript, Ilan Wiesel, Public hearing 3, 3 December 2019, P-78 [21]-[26].

⁵³⁴ Transcript, Ilan Wiesel, Public hearing 3, 3 December 2019, P-78 [23]-[24].

⁵³⁵ Exhibit 3-24, ‘Statement of Professor Christine Bigby’, 1 December 2019, at [14].

culture in the group homes was quite different from that found in large institutions, the group homes in the study failed ‘on many accounts’ to ‘deliver the quality of life that had been expected from small group homes’.⁵³⁶

280. Professor Bigby’s evidence addressed the culture of underperforming group homes. She said such cultures were characterised as a ‘misalignment between the values of staff who held the power in the group home and mission of the wider organisation responsible for management of the home’.⁵³⁷ Professor Bigby said:⁵³⁸

the organisation was very clear that these were houses that were supposed to support social inclusion, social participation, and yet the staff who were in there who were in control ... didn’t see those values as being things that they could actually implement. They didn’t understand those values and they didn’t think they were realistic.

281. Amongst staff there was ‘a resistance to change and ... lack of openness to outsiders or to the new ideas that were formulated in policies at that time.’⁵³⁹
282. Professor Frawley described research she conducted with Alan Robertson about the homeliness of group homes, where Mr Robertson likened many of the homes they looked at to institutions. She said ‘Alan would walk in and he would go, “That’s like an institution. That’s like an institution. Smells like an institution. You know, it’s a house in a street but this is how it feels to me”’.⁵⁴⁰

Autonomy for people with disability

Choice about where and with whom to live

283. An overwhelming theme emerging from Public hearing 3 was choice and control, including very significantly, choice about where or with whom a person with disability lives, empowering them to have control.⁵⁴¹
284. Dr Gibilisco said that he moved from living independently in his own accessible unit to shared supported accommodation because DHHS could not allocate the extra three hours of support he required a day to continue working safely and productively in his own residence. He said the move into shared supported accommodation resulted in extreme loss of control of his life.⁵⁴²

⁵³⁶ Exhibit 3-24, ‘Statement of Professor Christine Bigby’, 1 December 2019, at [14].

⁵³⁷ Exhibit 3-24, ‘Statement of Professor Christine Bigby’, 1 December 2019, at [15].

⁵³⁸ Transcript, Christine Bigby, Public hearing 3, 6 December 2019, P-406 [25-32].

⁵³⁹ Exhibit 3-24, ‘Statement of Professor Christine Bigby’, 1 December 2019, at [15].

⁵⁴⁰ Transcript, Patricia Frawley, Public hearing 3, 4 December 2019, P-181 [32]-[34].

⁵⁴¹ See for example, Transcript, Sarah Forbes, Public hearing 3, 5 December 2019, P-345 [33]; Transcript, Ilan Wiesel, Public hearing 3, 3 December 2019, P-79 [20]; Transcript, Naomi Anderson, Public hearing 3, 5 December 2019, P-348 [32].

⁵⁴² Transcript, Peter Gibilisco, Public hearing 3, 2 December 2019, P-22 [3]-[11].

285. Rosemary Kayess attributed the lack of choice about where to live, in part, to the lack of stock of accessible and affordable housing.⁵⁴³ Janine Toomey of DHHS said that the Productivity Commission had forecast the number of SDA beds required in Victoria as being around 6,300 but that, in 2018-19, only around 5,000 beds were available.⁵⁴⁴ Dr Wiesel stated that the unmet demand for supported accommodation resulted in a long waiting list to enter group homes, places only being offered to people in extreme need and a crisis-driven approach to how vacancies were allocated.⁵⁴⁵ He said:

what I would like to see from the Royal Commission is a ... very strong push ... for governments to come up with plans to address unmet need, and to provide a supply of housing that is affordable for people with disability that gives them choice about where they live, that is suitable for people in terms of design, the management of their homes, that is well located, that is not segregated.⁵⁴⁶

286. Dr Colleen Pearce said that there is 'no engagement of people who are living in [group] houses around who their co-residents might be'.⁵⁴⁷ She said:

One size fits all is the wrong paradigm. And often if I'm in a group of people, I will number you off 1, 2, 3, 4, 5. Now, the five of you are going to live together. You're going to share the one bathroom. You've going to have meals at the same time. You're going to go to bed at the same time. You're going to eat the same kinds of food. Well, I mean, how is that reflective of human dignity and choice? So it's the one size fits all model that is one of the contributing factors to violence and abuse in group homes. I mean, wouldn't you be frustrated? I would really struggle with that, not to have choice about what kinds of food I ate, who I lived with, when I could use the bathroom, when I could go to bed.⁵⁴⁸

287. The Disability Services Commissioner, Arthur Rogers said that the shortage of supply of housing and the desperate situation of people being offered a place meant that 'there were compromises about who they lived with and the compatibility of residents in those homes.'⁵⁴⁹ Sarah Forbes described how conflict arises when people who 'cannot stand each other' are living together and how those circumstances are often met with a 'clinical response', including behaviour support plans.⁵⁵⁰

288. Dr Pearce stated that the lack of choice and limited availability of accommodation meant that perpetrators of violence can remain living in the same house as a victim. She posed the question 'under what other circumstances would anyone here in this room think that was appropriate?'⁵⁵¹ Naomi Anderson described one such situation

543 Transcript, Rosemary Kayess, Public hearing 3, 6 December 2019, P-395 [20]-[21].

544 Transcript, Janine Toomey, Public hearing 3, 4 December 2019, P-232 [2]-[4].

545 Transcript, Ilan Wiesel, Public hearing 3, 3 December 2019, P-79 [34].

546 Transcript, Ilan Wiesel, Public hearing 3, 3 December 2019, P-81 [14]-[19].

547 Transcript, Colleen Pearce, Public hearing 3, 3 December 2019, P-130 [13]-[14].

548 Transcript, Colleen Pearce, Public hearing 3, 3 December 2019, P-125 [28]-[36].

549 Transcript, Arthur Rogers, Public hearing 3, 4 December 2019, P-195 [32]-[33].

550 Transcript, Sarah Forbes, Public hearing 3, 5 December 2019, P-358 [10]-[11].

551 Transcript, Colleen Pearce, Public hearing 3, 3 December 2019, P-130 [19]-[20].

where a woman was sexually assaulted by another resident and, despite reporting the incident to the police and the Disability Services Commissioner, the two people were still living in the same house 18 months later.⁵⁵²

289. When asked about the 'ideal' accommodation for people with disability, Dr Wiesel said 'I think the ideal is where people have a choice about where they are housed and with who they live – and I don't believe most people would have chosen to live in group homes.'⁵⁵³

Choice of service provider

290. Both Ms Petersen and Dr Taleporos gave evidence about the importance of people with disability having a choice about who provides support services. Ms Petersen emphasised that the resident and support worker relationship is important to get right 'because in most cases they are doing really intimate support'.⁵⁵⁴
291. Dr Taleporos argued against the introduction of mandatory qualifications for all support workers stating '[a]s a person with disability, I should have the right to decide who supports me, whether that's someone with a Cert IV or a PhD, that choice should be up to me'.⁵⁵⁵
292. Dr Wiesel and Ms Kayess both said that most residents entering a group home have no choice about the provider of support services. Dr Wiesel observed that once a person enters a group home, if their support provider is both their landlord and also their support provider, this 'creates a power dynamic that is – is very much against the residents'⁵⁵⁶ and where support providers 'have quite significant control over your life.'⁵⁵⁷ Ms Kayess stated that 'if somebody else moves into [a] group home and wants a different agency, nine times out of 10 they won't get that choice because it's not administratively possible because the service is being provided by another agency.'⁵⁵⁸

Control over service delivery

Standardised care

293. Dr Gibilisco said that the standardisation of care leads to neglect of individualistic care needs.⁵⁵⁹ He stated:

Services such as assistance with showering, toileting, mobility, clothing and so on are provided through standardised practices which can be stipulated by management at my supported accommodation. This leaves no room for individual

⁵⁵² Transcript, Naomi Anderson, Public hearing 3, 5 December 2019, P-348 [28]-[29].

⁵⁵³ Transcript, Ilan Wiesel, Public hearing 3, 3 December 2019, P-78 [34]-[38].

⁵⁵⁴ Exhibit 3-19, 'Statement of Sam Petersen', 27 November 2019, at [9].

⁵⁵⁵ Transcript, George Taleporos, Public hearing 3, 5 December 2019, P-375 [22]-[23].

⁵⁵⁶ Transcript, Ilan Wiesel, Public hearing 3, 3 December 2019, P-80 [6]-[7].

⁵⁵⁷ Transcript, Ilan Wiesel, Public hearing 3, 3 December 2019, P-80 [10]-[11].

⁵⁵⁸ Transcript, Rosemary Kayess, Public hearing 3, 6 December 2019, P-395 [17]-[18].

⁵⁵⁹ Transcript, Peter Gibilisco, Public hearing 3, 2 December 2019, P-22 [11]-[12].

support needs. From my point of view my disability is vastly different from the other residents living in my group home. There is no doubt that I need different methods of communicating and technologies to alert staff. Despite this I do not feel that these differences of disability have been considered by the managers when implementing their care.⁵⁶⁰

294. An example of individual needs not being catered for was given by Dr Gibilisco, who described the buzzer system he uses to indicate that he requires assistance. He said that all residents in his group home are given a buzzer, which is a white box with a triangular green button. When the button is pressed, a small red LED light flashes, but no noise is emitted. Dr Gibilisco's increasing blindness means he is unable to see the white box with the green button so, because no noise is emitted when the button is pressed, he has no way of knowing if he has pressed the buzzer or not. Dr Gibilisco accepted that it is easier for all residents to use the same buzzer system but asked 'What if the buzzer itself is not compatible with him?' He said this issue has resulted in risks to his safety.⁵⁶¹
295. Dr Gibilisco described his experience of an ambulance officer who did not understand what he was trying to say to her, who proceeded to explain to him and his carers that his call 'was obviously due to a mental impairment.'⁵⁶² He said 'Just because I cannot adequately communicate does not mean that I have an intellectual disability ... "Me" is actually ignored or overlooked.'⁵⁶³
296. Dr Colleen Pearce stated that a 'one size fits all' model, where people have no choice about the food they eat, when they can use the bathroom and go to bed, is a contributing factor to violence and abuse in group homes.⁵⁶⁴ In his evidence Arthur Rogers, the Victorian Disability Services Commissioner, said that his office often sees complaints about the routine of the home being prioritised over a person's own individual needs.⁵⁶⁵ He stated:

an example of this is where one person has an eating disorder and requires restricted access to food, resulting in all residents being subjected to the same, and for the residents, unnecessary restrictions. People with disabilities have a right to receive individualised support services that are flexible and adaptable to the person, and not the other way around.⁵⁶⁶

⁵⁶⁰ Transcript, Peter Gibilisco, Public hearing 3, 2 December 2019, P-22 [12]-[20].

⁵⁶¹ Transcript, Peter Gibilisco, Public hearing 3, 2 December 2019, P-22 [41]. The relevant service provider has provided the Royal Commission with written responses in relation to these issues. As noted above, the service provider's identity is subject to a non-publication order. It is therefore not appropriate to set out its evidence in a way that may identify it.

⁵⁶² Transcript, Peter Gibilisco, Public hearing 3, 2 December 2019, P-26 [5].

⁵⁶³ Transcript, Peter Gibilisco, Public hearing 3, 2 December 2019, P-26 [9].

⁵⁶⁴ Transcript, Colleen Pearce, Public hearing 3, 3 December 2019, P-130 [19].

⁵⁶⁵ Transcript, Arthur Rogers, Public hearing 3, 4 December 2019, P-199 [33]-[34].

⁵⁶⁶ Exhibit 3-16, 'Statement of Arthur Rogers', 21 November 2019, at [58].

Staff-centred and person-centred work practices

297. Professor Bigby said that one of the characteristics of underperforming group homes is where working practices were staff centred rather than resident centred, and where rosters and activities were organised around the staff and to support staff needs.⁵⁶⁷ She gave the example of a discussion among staff about whether a Greek resident of a group home could attend a Greek community church in which one staff member said 'you won't get me doing that. I don't go to church.'⁵⁶⁸
298. Ms Petersen spoke about her experience of having three workers supporting her at once to ensure she was dressed within a specific timeframe.⁵⁶⁹ She stated that:
- They saw it as being efficient but I saw it as taking my say away ... one support worker was putting my catheter bag on and then another support worker was putting my bra on and I was indicating "wait, the bra straps have come loose" and the one putting my catheter bag on would be saying in an angry voice, "You need to concentrate on me."⁵⁷⁰
299. The Royal Commission heard a significant number of examples of the ways in which choice is denied to residents of group homes across a range of areas of life. Dr Hamilton described how a woman who moved into Lake House after her mother died and who wanted to have a rose garden (because her mother had one), but was told that was not permitted.⁵⁷¹ AAI described the many ways that her daughter was denied choices in her life, including when to go to bed or whether she would prefer tea or coffee.⁵⁷²
300. AAI said that 'support workers need to take the time to learn how to communicate with [her daughter, AAH] and understand her preferences'.⁵⁷³ Professor Bigby also spoke about the need to spend time with and observe people with intellectual disabilities, particularly people with severe and profound intellectual disabilities, to work out their preferences.⁵⁷⁴
301. Dr Gibilisco said that having a good team of support workers who have spent time with him every day and come to understand his disability has been highly beneficial. He said that the result of his relationships with his support workers can be seen in his achievements, both academic and personal in recent years.⁵⁷⁵ He noted that choice and control needs to be exercised by a person who is being assisted by one who understands what adequate care means and the individual's needs.⁵⁷⁶

⁵⁶⁷ Transcript, Christine Bigby, Public hearing 3, 6 December 2019, P-407 [14].

⁵⁶⁸ Transcript, Christine Bigby, Public hearing 3, 6 December 2019, P-407 [21].

⁵⁶⁹ Transcript, Sam Petersen, Public hearing 3, 6 December 2019, P-436 [28]-[30].

⁵⁷⁰ Transcript, Sam Petersen, Public hearing 3, 6 December 2019, P-436 [33].

⁵⁷¹ Transcript, Lisa Hamilton, Public hearing 3, 6 December 2019, P-430 [17].

⁵⁷² Transcript, AAI, Public hearing 3, 2 December 2019, P-31 [25].

⁵⁷³ Transcript, AAI, Public hearing 3, 2 December 2019, P-31 [26]-[27].

⁵⁷⁴ Transcript, Christine Bigby, Public hearing 3, 6 December 2019, P-401 [19]-[20].

⁵⁷⁵ Transcript, Peter Gibilisco, Public hearing 3, 2 December 2019, P-24 [20]-[21].

⁵⁷⁶ Transcript, Peter Gibilisco, Public hearing 3, 2 December 2019, P-26 [32]-[33].

Safety in group homes

302. The Royal Commission heard evidence about the factors contributing to a lack of safety or diminution of safeguards for people with disability against violence, abuse, neglect and exploitation.

Punitive cultures

303. A number of witnesses gave evidence about the impact of the culture of group homes on the experiences of its residents. Ms Rosengrave described being punished for having a fit in the bath by being sent ‘back down to the institution’ to stay in the ward, not the hostel, for two months.⁵⁷⁷
304. AAG described the ‘punitive’ culture in one of the group homes her daughter, AAF, lived.⁵⁷⁸ AAG described a ‘punishment chart’ which recorded where AAF had not behaved pursuant to the rules or a request and there was a documented punishment that would be imposed on her.⁵⁷⁹ She said:

There was no way she could win because what would happen was the staff that was on first thing in the morning if my daughter didn’t behave, then there was – there was a consequence of that which might have meant she wasn’t allowed to have her meals with the other residents, etcetera. And it was a cumulative thing. When the next person came on duty, they added to that. Then the next person came on duty; they added to that. So by the time she got to the end of the day, she was defeated.⁵⁸⁰

305. AAG contrasted that punitive approach with her daughter’s current service provider. She described the house supervisor as ‘wonderful’ and said she feels like she and her daughter are being treated with respect.⁵⁸¹
306. Ms Forbes spoke about the need for greater investment in frontline staff as a person’s experience in their home typically depends on ‘the quality of staff that are coming in and out of [their] house’ and also ‘on how well those staff are supported by an organisation with a strong culture.’⁵⁸² Ms Forbes emphasised the importance of disability support workers understanding the role they have in supporting people to speak up for themselves, and the need to protect staff in coming forward to say something wrong is happening to a person.⁵⁸³

⁵⁷⁷ Transcript, Jane Rosengrave, Public hearing 3, 2 December 2019, P-61 [30]-[31]

⁵⁷⁸ Transcript, AAG, Public hearing 3, 2 December 2019, P-45 [16].

⁵⁷⁹ Transcript, AAG, Public hearing 3, 2 December 2019, P-45 [30].

⁵⁸⁰ Transcript, AAG, Public hearing 3, 2 December 2019, P-47 [13]-[19].

⁵⁸¹ Exhibit 3-11, ‘Statement of AAG’, 27 November 2019, at [56].

⁵⁸² Transcript, Sarah Forbes, Public hearing 3, 5 December 2019, P-363 [34].

⁵⁸³ Transcript, Sarah Forbes, Public hearing 3, 5 December 2019, P-364 [5].

307. Professor Bigby described the five domains of culture that her research identified in ‘underperforming’ group homes:
- (1) a misalignment between the values of the staff in the house who held power in that house with the mission of the wider organisation – ‘[DHHS] was very clear that these were houses that were supposed to support social inclusion, social participation, and yet the staff who were in there who were in control ... didn’t see those values as being things that they could actually implement’⁵⁸⁴
 - (2) staff regarding people with intellectual disabilities were as being ‘other’, and as being ‘not like us’, for example where staff used derogatory terms for the residents and or kept separate crockery and cutlery for staff, and separate crockery and cutlery for residents⁵⁸⁵
 - (3) staff perceived their purpose for being there as being to look after people, as opposed to supporting people to be engaged in their own homes and to build relationships and participate in the community⁵⁸⁶
 - (4) the working practices were staff-centred and were organised around the staff and to support staff needs⁵⁸⁷
 - (5) resistance to change and a lack of openness to outsiders and new ideas.⁵⁸⁸

Casualisation of the workforce

308. Dr Gibilisco stated that people entering his room without his permission or knowledge makes him feel unsafe.⁵⁸⁹
309. Professor Robinson observed that it’s ‘very difficult to feel safe when you don’t know who’s coming through the door’ and that it’s ‘not okay to have 30 people go through someone’s house in a week’. She said that our benchmarking for what is okay for a person with disability needs to be what’s okay for a person ‘in an ordinary house in an ordinary street in an ordinary family’.⁵⁹⁰
310. Several witnesses said casualisation of staff reduces safety for residents of group homes. The Disability Services Commissioner observed that increasing casualisation of the workforce has been part of the system for some time, both before and after the transition to the NDIS.⁵⁹¹ AAG described the casualisation of staff as a ‘recipe for

⁵⁸⁴ Transcript, Christine Bigby, Public hearing 3, 6 December 2019, P-406 [27]-[31].

⁵⁸⁵ Transcript, Christine Bigby, Public hearing 3, 6 December 2019, P-406 [33]-[35].

⁵⁸⁶ Transcript, Christine Bigby, Public hearing 3, 6 December 2019, P-407 [5]-[6].

⁵⁸⁷ Transcript, Christine Bigby, Public hearing 3, 6 December 2019, P-407 [14]-[15].

⁵⁸⁸ Transcript, Christine Bigby, Public hearing 3, 6 December 2019, P-407 [24]-[25].

⁵⁸⁹ Transcript, Peter Gibilisco, Public hearing 3, 2 December 2019, P-24 [7]-[11].

⁵⁹⁰ Transcript, Sally Robinson, Public hearing 3, 3 December 2019, P-113 [5].

⁵⁹¹ Transcript, Arthur Rogers, Public hearing 3, 4 December 2019, P-202 [32]-[35].

disaster'.⁵⁹² She said that, between 2014 and 2019, 1,340 shifts were worked by casual staff in her daughter's group home. AAG's daughter has autism and struggles particularly with casual staff turning up who do not know her. AAI also said that 'small everyday things are missed by support workers because they're constantly busy or because of staff turnover.'⁵⁹³

311. AAG also called for a national register of staff working in the disability sector, where staff who have had adverse findings made against them are flagged and identified.⁵⁹⁴

Safety strategies

312. Professor Robinson discussed her research into what people with disability do to be safe and what they do when they do not feel safe.⁵⁹⁵ She stated that, for people with disability, being safe means being physically safe, being emotionally safe, feeling capable and having their access needs met.⁵⁹⁶ She said people have 'some really good strategies' and 'some great ideas' about what helps them to be safe.⁵⁹⁷ She said that to be physically safe, research participants identified strategies around having a safe place to be, sticking together and not being mistreated.⁵⁹⁸
313. In relation to being emotionally safe, strategies identified were around being known and understood, having trusted relationships, having a feeling of comfort and being respected. In terms of feeling capable, participants wanted to feel supported, that they were listened to and that they had influence over what happened in their lives.⁵⁹⁹ She said that access needs should be conceived of broadly as including feeling welcome. She quoted a participant of her research who said 'if people perceive a wheelchair or crutches as an inconvenience, then you're not going to feel like you want to be there and therefore the place becomes inaccessible to you.'⁶⁰⁰
314. Professor Robinson gave evidence that 'people come with their histories' and people who had safe backgrounds had different strategies and confidence in using their strategies to people who had been abused.⁶⁰¹ She stated:

One of the things that I found saddest about this research ... was that some of the strategies that people talked about were things like keeping a low profile, dressing in non-descript ways, crossing the road when somebody was coming towards you,

592 Transcript, AAG, Public hearing 3, 2 December 2019, P-56 [23].

593 Transcript, AAI, Public hearing 3, 2 December 2019, P-31 [18].

594 Transcript, AAG, Public hearing 3, 2 December 2019, P-54 [14]-[24].

595 Transcript, Sally Robinson, Public hearing 3, 3 December 2019, P-101 [13].

596 Transcript, Sally Robinson, Public hearing 3, 3 December 2019, P-101 [25]-[26].

597 Transcript, Sally Robinson, Public hearing 3, 3 December 2019, P-101 [29]-[30].

598 Transcript, Sally Robinson, Public hearing 3, 3 December 2019, P-101 [31]-[32].

599 Transcript, Sally Robinson, Public hearing 3, 3 December 2019, P-101 [39].

600 Transcript, Sally Robinson, Public hearing 3, 3 December 2019, P-102 [4]-[5].

601 Transcript, Sally Robinson, Public hearing 3, 3 December 2019, P-102 [15]-[19].

being hyper vigilant about keeping the door locked all the time ... a set of strategies that effectively make you less visible in the world. And for young people to do that is really sad because it's about diminishing who you are in the world and making yourself less visible. Young people shouldn't be feeling like that.⁶⁰²

315. Ms Kayess said it is important for people with disability to be able to access all aspects of the broader community.⁶⁰³ She said that by accessing the community, people with disability can build trusting relationships with a variety of people.⁶⁰⁴ For people with disability living in closed environments such as group homes, their relationships are limited to service providers and other people in that environment.⁶⁰⁵ Ms Kayess expressed her view that 'it is access to the community at large that reduces the risks for exploitation, violence and abuse'.⁶⁰⁶
316. In favour of alternative models such as supported living and 'Shared Lives' arrangements, Ms Epstein-Frisch discussed the benefit for people with disability to receive support through a mix of formal and informal support with an investment in developing informal support.⁶⁰⁷ This, she said, is necessary, in order to reduce risks associated with group home living.⁶⁰⁸ Similarly, Ms Pearman emphasised the importance of genuine relationships for keeping people safe, whether or not they have a disability.⁶⁰⁹

Advocacy

317. Advocacy – particularly self-advocacy – emerged as a key factor in promoting the safety of people with disability in group homes, through awareness of and exercising rights. Kevin Stone said that 'the only strategy I've ever seen capable of making a difference is advocacy and self-advocacy, particularly self-advocacy, empowering people to stick up for themselves'.⁶¹⁰ Mr Stone explained that VALID's primary strategy for maximising use of their limited funds was to focus on supporting self-advocacy groups and networks.⁶¹¹ Pauline Williams from AMIDA added that people should be given a way out of violent and abusive situations, and that there should be more support for independent advocacy. Ms Williams noted that advocates should be given the opportunity to come together and share information often as this would help their efforts.⁶¹²

⁶⁰² Transcript, Sally Robinson, Public hearing 3, 3 December 2019, P-102 [27].

⁶⁰³ Exhibit 3-33, 'Statement of Rosemary Kayess', 3 December 2019, at [57].

⁶⁰⁴ Exhibit 3-33, 'Statement of Rosemary Kayess', 3 December 2019, at [57].

⁶⁰⁵ Exhibit 3-33, 'Statement of Rosemary Kayess', 3 December 2019, at [58].

⁶⁰⁶ Exhibit 3-33, 'Statement of Rosemary Kayess', 3 December 2019, at [58].

⁶⁰⁷ Exhibit 3-25, 'Statement of Belinda Epstein-Frisch, 28 November 2019, at [10], [16].

⁶⁰⁸ Exhibit 3-25, 'Statement of Belinda Epstein-Frisch, 28 November 2019, at [9].

⁶⁰⁹ Transcript, Leanne Pearman, Public hearing 3, 6 December 2019, P-424 [7]-[11].

⁶¹⁰ Transcript, Kevin Stone, Public hearing 3, 5 December 2019, P-167 [21].

⁶¹¹ Transcript, Kevin Stone, Public hearing 3, 5 December 2019, P-159 [4]-[5].

⁶¹² Transcript, Pauline Williams, Public hearing 3, 5 December 2019, P-363 [1]-[3].

318. Several witnesses talked about the value of family members as advocates for people with disability as a safety strategy. Mr Stone said that VALID recognises the importance of families as advocates for people with disability. He said that when families are equipped with the right skills, they can be a ‘phenomenal force’ but, unfortunately, they are ‘spurned and dismissed’ too readily.⁶¹³ AAG told the Royal Commission that she ‘tried hundreds of times to get [AAF] better care in the disability housing system,⁶¹⁴ including going to the Australian Human Rights Commission, the Disability Services Commissioner, the police, DHHS, politicians, sometimes at the expense of her own reputation and trauma.⁶¹⁵

Reporting incidents of violence, abuse, neglect and exploitation

319. Mr Rogers, the Victorian Disability Services Commissioner, said that the regulation and oversight of incident reporting is critical to activating sector responses to abuse, neglect, violence and exploitation of people with disability, particularly given the closed nature of many group homes.⁶¹⁶

320. DHHS has responsibility for oversight and compliance with client incident reporting for providers registered under the *Disability Act*.⁶¹⁷

321. Victoria’s incident reporting scheme was the subject of reviews by the Victorian Ombudsman in October 2015⁶¹⁸ and KPMG in 2014.⁶¹⁹ As a result of those reviews, a new incident reporting system known as the Client Incident Management System (CIMS) was developed. The new system introduced a categorisation of incidents as either major or non-major impact.⁶²⁰

322. CIMS was implemented in all government funded services, Victorian NDIS service providers and some DHHS delivered services not in scope for the NDIS from 15 January 2018.⁶²¹ DHHS managed disability accommodation and respite services continue to use the pre-existing system known as the Critical Client Incident Management Instruction Technical Update 2014. Those services will transition to the jurisdiction of the NDIS Commission progressively from 1 July 2020 to 31 December 2020.⁶²²

⁶¹³ Transcript, Kevin Stone, Public hearing 3, 4 December 2019, P-160 [30].

⁶¹⁴ Exhibit 3-11, ‘Statement of AAG’, 27 November 2019, at [65].

⁶¹⁵ Transcript, AAG, Public hearing 3, 2 December 2019, P-54 [1]; Exhibit 3-11, ‘Statement of AAG’, 27 November 2019, at [65]-[67].

⁶¹⁶ Exhibit 3-16, ‘Statement of Arthur Rogers’, 21 November 2019, at [82].

⁶¹⁷ Exhibit 3-27, ‘Statement of Janine Toomey’, 26 November 2019, at [186.5].

⁶¹⁸ Victorian Ombudsman, *Reporting and investigation of allegations of abuse in the disability sector: Phase 2 – incident reporting*, December 2015.

⁶¹⁹ Exhibit 3-27.34, ‘Independent review of DHS critical incident response and management approach’, 29 December 2014.

⁶²⁰ Exhibit 3-27, ‘Statement of Janine Toomey’, 26 November 2019, at [368].

⁶²¹ Exhibit 3-27, ‘Statement of Janine Toomey’, 26 November 2019, at [369].

⁶²² Exhibit 3-27, ‘Statement of Janine Toomey’, 26 November 2019, at [370].

323. All incident reports are sent to DHHS. All ‘category one’ and ‘major impact’ incidents (as defined by DHHS) relating to assault, injury and poor quality of care are referred to the Disability Services Commissioner for review and, if appropriate, investigation.⁶²³ The Disability Services Commissioner expressed concerns about the introduction of the major and non-major impact categorisation under CIMS, noting that his office saw a 35 per cent reduction in incident reporting from those services that moved into the new system.⁶²⁴ Mr Rogers stated that there is a lack of oversight of non-major incidents and that management and staff of service providers are not best placed to make the subjective decision about the impact of an incident.⁶²⁵
324. Both Professor Robinson and Professor Bigby spoke about the limits of a compliance-based approach to measuring quality in the delivery of disability services. Professor Robinson stated that a ‘compliance-based approach may be unlikely to uncover the more subtle abuses which appear in people’s everyday lives, due to its concentration on the measurement of policy and procedure more than implementation and engagement’.⁶²⁶ Professor Bigby spoke about the unreliability of paperwork and staff self-reporting as a way of monitoring quality and the importance of any quality assurance system including observation of practice by well-trained auditors.⁶²⁷

Alternatives to living in a group home

325. The Royal Commission heard evidence about alternatives to group homes, and explored how such models might promote the rights of people with disability and safeguard against violence, abuse, neglect and exploitation occurring through the provision of accommodation services. The importance of having alternatives to group homes was underscored by the experience of witnesses who had lived in group homes and in other accommodation settings.
326. An alternative to the group home model is living independently by owning or renting one’s own home. At least four witnesses spoke about their personal experience of moving from an institution or group home to independent living. The Royal Commission heard how important the opportunity to live in their own house or unit is to them.⁶²⁸

⁶²³ Exhibit 3-16.2, ‘Ministerial referral letter’, 28 June 2019.

⁶²⁴ Transcript, Arthur Rogers, Public hearing 3, 4 December 2019, P-198 [35]-[36].

⁶²⁵ Exhibit 3-16, ‘Statement of Arthur Rogers’, 21 November 2019, at [80].

⁶²⁶ Exhibit 3-28, ‘Statement of Sally Antoinette Robinson’, 29 November 2019, at [68].

⁶²⁷ Exhibit 3-24, ‘Statement of Professor Christine Bigby’, 1 December 2019, at [37]-[39].

⁶²⁸ Transcript, Alan Robertson, Public hearing 3, 4 December 2019, P-158 [1]-[6]; Transcript, Sam Petersen, Public hearing 3, 6 December 2019, P-438 [40-41]; Transcript, Jane Rosengrave, Public hearing 3, 2 December 2019, P-65 [18]-[23]; Transcript, Peter Gibilisco, Public hearing 3, 2 December 2019, P-22 [3]-[10].

327. Alan Robertson said that after living in institutions and group homes for many years, he now lives in his own unit and has ‘a lot more freedom’.⁶²⁹
328. Sam Petersen said that she lives on her own in a SDA unit, and that ‘the support actually is set up for me and it’s a place of my own’.⁶³⁰ Ms Petersen said that the service provider still manages the support staff, but she has control over which staff members help her and when they come.⁶³¹ Ms Petersen explained that she pays her rent out of her disability pension and her NDIS package pays for her support workers.⁶³²
329. The Royal Commission heard evidence about how the NDIS had contributed to the development of new models for accommodation services. For some witnesses, NDIS funding had supported them to make their own choices and live on their own.⁶³³ The Royal Commission also heard about the development of the SIL model during transition to the NDIS. However, as noted above, this hearing was not inquiring to the NDIS and no findings are made with respect to the NDIS. The matters raised by witnesses will be examined by the Royal Commission in its ongoing work, including through public hearings.
330. Dr Peter Gibilisco said that from his experience, while the NDIS had for the most part given him greater choice and control in his life, the SIL model had diminished it because the funding is ‘a lump-sum of money ... [that] cannot be broken up and distributed amongst alternative service providers’.⁶³⁴
331. Dr Colleen Pearce raised different concerns about the transparency of SIL services, telling the Royal Commission that independent oversight through the Community Visitors scheme is excluded in some SIL settings.⁶³⁵ Pauline Williams stated that in her view, the NDIS had not driven the development of alternative models. She told the Royal Commission that ‘even with the NDIS coming in ... 450 group homes are being built’,⁶³⁶ and ‘the group home model is inbuilt within this new NDIS’.⁶³⁷
332. The Royal Commission heard about the importance of considering a range of approaches to providing accommodation services for people with disability. Dr Taleporos and Dr Winkler spoke about the ‘10+1’ accommodation model that the Summer Foundation has developed. This model is organised by purchasing 10

⁶²⁹ Transcript, Alan Robertson, Public hearing 3, 4 December 2019, P-158 [1]-[6].

⁶³⁰ Exhibit 3-19, ‘Statement of Sam Petersen’, 27 November 2019, at [39].

⁶³¹ Exhibit 3-19, ‘Statement of Sam Petersen’, 27 November 2019, at [38].

⁶³² Exhibit 3-19, ‘Statement of Sam Petersen’, 27 November 2019, at [37].

⁶³³ Exhibit 3-19, ‘Statement of Sam Petersen’, 27 November 2019, at [37]; Exhibit 3-10; ‘Statement of Dr Peter Gibilisco’, 2 December 2019, at [44]; Exhibit 3-10.1, IND.0003.0001.0001.

⁶³⁴ Exhibit 3-10, ‘Statement of Dr Peter Gibilisco’, 2 December 2019 at [44]; Exhibit 3-10.1, IND.0003.0001.0001 at 0003.

⁶³⁵ Transcript, Colleen Pearce, Public hearing 3, 3 December 2019, P-131 [3]-[7].

⁶³⁶ Transcript, Pauline Williams, Public hearing 3, 5 December 2019, P-347 [34]-[38].

⁶³⁷ Transcript, Pauline Williams, Public hearing 3, 5 December 2019, P-361 [21].

apartments in a larger development, redesigning them for accessibility, and purchasing an additional apartment as a base for support workers.⁶³⁸ Dr Winkler explained that this model ‘gives [the residents] a little more flexibility in terms of being able to share support’, because it gives them more choice as to who provides them support and when, while allowing them to live independently within a community.⁶³⁹ Dr Winkler also spoke about the Housing Hub initiative, which provides a platform for people seeking accommodation to list their needs and preferences and notifies them when suitable vacancies arise.⁶⁴⁰

333. The Royal Commission heard from a number of witnesses that the group home model was designed to support people to transition from institutions to living independently in the community, rather than providing a permanent solution to the housing needs of people with disability.⁶⁴¹ Kevin Stone said that group homes were meant to fit into the process of deinstitutionalisation as ‘a point along the way’ rather than ‘an end point’,⁶⁴² but that they have now become ‘containment services’ that isolate residents from the community.⁶⁴³ Alan Robertson said that living in the community, rather than in a group home, is ‘crucial’, but ‘it’s got to be more ... it can’t stop here’.⁶⁴⁴
334. Dr Devanesen said that Yooralla has assisted people to move into independent accommodation in the community through ‘transition facilities’, but there are not enough alternate options available for Yooralla to assist everyone who might want to move out of a group home.⁶⁴⁵
335. The Royal Commission heard that the importance of alternative models to group homes is that they provide people with a choice about where and how they live, as well as who they live with.⁶⁴⁶ Professor Robinson said that:

We can’t force people to live together. That’s not right. But we can’t isolate people either. So we can’t force people to live separately either.⁶⁴⁷

336. Professor Bigby said that for people to have meaningful choice about where they live, they need the opportunity to experience living in different accommodation settings.⁶⁴⁸

⁶³⁸ Transcript, Dianne Winkler, Public hearing 3, 5 December 2019, P-369 [32]-[36].

⁶³⁹ Transcript, Dianne Winkler, Public hearing 3, 5 December 2019, P-369 [36]-[40].

⁶⁴⁰ Transcript, Dianne Winkler, Public hearing 3, 5 December 2019, P-371 [8]-[24].

⁶⁴¹ Transcript, Alan Robertson, Public hearing 3, 5 December 2019, P-164 [4]-[8]; Transcript, Kevin Stone, Public hearing 3, 5 December 2019, P-164 [12]-[24].

⁶⁴² Transcript, Kevin Stone, Public hearing 3, 5 December 2019, P-164 [14].

⁶⁴³ Transcript, Kevin Stone, Public hearing 3, 5 December 2019, P-164 [22]-[24].

⁶⁴⁴ Transcript, Alan Robertson, Public hearing 3, 4 December 2019, P-165 [26]-[27].

⁶⁴⁵ Transcript, Sherene Devanesen, Public hearing 3, 5 December 2019, P-339 [27] - 340 [4].

⁶⁴⁶ Transcript, Ilan Wiesel, Public hearing 3, 3 December 2019, P-78 [34-38], P-81 [20]-[21].

⁶⁴⁷ Transcript, Professor Sally Robinson, Public hearing 3, 3 December 2019, P-107 [33]-[35].

⁶⁴⁸ Transcript, Professor Christine Bigby, Public hearing 3, 6 December 2019, P-401 [22]-[25].

337. At least six witnesses said that there is currently a lack of choices available outside group homes.⁶⁴⁹ Professor Bigby said that while there may be alternative models to group homes, ‘there is much less research on other models, and the reality is that it will be years before other options replace group homes’.⁶⁵⁰

Redress for people with disability who experience violence, abuse, neglect and exploitation

338. Public hearing 3 was the first opportunity the Royal Commission had to hear from a disability service provider in a public hearing about matters such as the extent of assistance, advice, compensation and redress given to people with disability who experience violence, abuse, neglect or exploitation in connection with the provision of disability services. It is a topic which the Royal Commission is likely to examine with other service providers and governments in future hearings.
339. Dr Devanesen of Yooralla gave evidence⁶⁵¹ that residents of group homes accounted for about 80 per cent of Yooralla’s residential customers.⁶⁵² Yooralla’s 2,000 staff, approximately 900 were employed as disability support workers in group homes.
340. Most of the disability support workers employed by Yooralla in group homes were permanent members of staff (78 per cent), but not all of these were full time employees. Dr Devanesen said that Yooralla had a high rate of staff turnover. In particular, casual staff recruited and trained as disability support workers had a turnover of 37 per cent per annum.
341. Dr Devanesen gave evidence about Yooralla’s response to multiple serious sexual assaults committed by staff members between 2011 and 2014. The abuse by Mr Kumar occurred in a group home environment. The abuse by Mr Hoyle occurred at the victim’s home and a local motel. The abuse by Mr Hampson occurred at a day service hub. Ultimately four members of Yooralla’s staff were convicted of serious criminal offences and three were sentenced to terms of imprisonment ranging from 4 to 18 years.
342. Dr Devanesen was asked about the types of support and assistance given to residents of group homes provided by Yooralla who had been the victims of sexual crimes. The

⁶⁴⁹ Transcript, Sherene Devanesen, Public hearing 3, 5 December 2019, P-341 [4]-[13]; Transcript, Pauline Williams, Public hearing 3, 5 December 2019, P-347 [24]-[33]; Transcript, Nadia Mattiazzo, Public hearing 3, 5 December 2019, P-356 [12]-[19]; Transcript, Dr Ilan Wiesel, Public hearing 3, 3 December 2019, P-78 [34]-[38]; Transcript, Colleen Pearce, Public hearing 3, 3 December 2019, P-130 [15]-[16]; Transcript, Christine Bigby, Public hearing 3, 6 December 2019, P-401 [12]-[13].

⁶⁵⁰ Exhibit 3-24, ‘Statement of Professor Christine Bigby’, 1 December 2019, at [12].

⁶⁵¹ See, Report [223]-[227].

⁶⁵² Transcript, Sherene Devanesen, Public hearing 3, 5 December 2019, P-262.

support and assistance included therapeutic counselling,⁶⁵³ a personal apology (given after the perpetrator of the crimes was sentenced),⁶⁵⁴ support from the Centre for Sexual Assault⁶⁵⁵ and, in some cases only, support from an external advocate to apply for criminal compensation as a victim of crime⁶⁵⁶ and the payment of civil compensation by Yooralla where legal proceedings had been initiated by the victim.⁶⁵⁷ The evidence heard by the Royal Commission at Public hearing 3 suggests that there were considerable disparities as to:

- whether a complaint was made or legal proceedings were commenced by or on behalf of the victim
- how victims are supported in making a complaint and referral of matters to police for criminal investigation
- the outcome or resolution of any complaint or legal proceedings
- any support, compensation or other forms of redress provided to the person with disability.

343. In at least one instance, a victim of serious sexual crimes received neither independent legal advice nor compensation from Yooralla nor any other compensation as a victim of crime, despite there being no dispute that they had suffered serious harm in consequence of the criminal acts committed by the perpetrators. Accordingly, the redress obtained by people with cognitive disability in the care of Yooralla was vastly different, notwithstanding the severity of the harm sustained by each of the victims and the similarity of the circumstances in which the assaults occurred.

Future Directions

344. The Royal Commission does not intend to make formal findings or formal recommendations based on the evidence presented at the Group Homes hearing. Nonetheless the evidence is sufficiently clear to permit the Commission to identify factors that can lead to violence against and abuse, neglect and exploitation of people with disability living in group homes and other forms of supported accommodation. The identification of these factors and the proposals for addressing them put forward at the hearing will guide the future work of the Royal Commission.

⁶⁵³ Transcript, Sherene Devanesen, Public hearing 3, 5 December 2019, P-286 [5]-[8].

⁶⁵⁴ Transcript, Sherene Devanesen, Public hearing 3, 5 December 2019, P-283 [11]-[21].

⁶⁵⁵ Transcript, Sherene Devanesen, Public hearing 3, 5 December 2019, P-285 [24] – P-286 [4].

⁶⁵⁶ Transcript, Sherene Devanesen, Public hearing 3, 5 December 2019, P-287 [1]-[10].

⁶⁵⁷ Transcript, Sherene Devanesen, Public hearing 3, 5 December 2019, P-287–289.

Autonomy

345. The movement towards de-institutionalisation of people with severe disability from the 1970s onwards was an attempt to address serious systemic problems. These included overcrowding, abuse and neglect of people with disability and restrictions on the freedom of people forced to live within institutional settings.⁶⁵⁸ The emergence of group homes provided an alternative to large-scale institutions for people with disability who otherwise may have faced homelessness or been left to their own devices to obtain suitable accommodation.
346. The evidence of this hearing has shown that reforms and innovations designed to overcome systemic abuse, such as that occurring in large institutions can produce unintended adverse consequences. Group homes were seen as a significant improvement on the degrading conditions often experienced by people with disability living in large institutions. In some respects so it has proved. But it is clear that the advent of group homes has not eliminated institutional forms of violence, abuse, neglect and exploitation experienced by people with disability, particularly those with serious intellectual disabilities.
347. People with disability have the right to autonomy – that is, the right to control their own lives, to make their own decisions and to exercise choice.⁶⁵⁹ The evidence at this hearing indicates that although the experiences of people with disability in group homes is not uniform, far too many people are denied autonomy. People lack choice about the accommodation allocated to them. They often cannot choose their co-residents or those who care for them. Perpetrators of violence or abuse, whether service providers or co-residents are allowed to continue in the same accommodation as the victims. Reporting mechanisms and oversight of disability support service providers are often inadequate.
348. The evidence suggests that group homes sometimes employ practices insufficiently different to those used by large institutions for people with severe disabilities in an earlier era. We have heard evidence of wide spread practices that prevent the needs and preferences of individual residents in group homes being respected, leading to a diminished quality of life and, too often, to neglect and abuse. Group homes, we have also been told, often employ practices that are staff-centred and not resident-centred, with predictable consequences.⁶⁶⁰

Further Inquiries

⁶⁵⁸ Report [277].

⁶⁵⁹ *Convention on the Rights of Persons with Disabilities*, opened for signature 30 March 2007, 999 UNTS 3 (entered into force 3 May 2008) art 3.

⁶⁶⁰ See, Report [181]-[185].

349. The Royal Commission will explore potential reform of laws, policies and practices that will enable people with disability who reside in group homes or other forms of supported accommodation to exercise and enjoy their right to autonomy.

Consideration will be given to:

- mechanisms for increasing the stock of suitable accommodation, thereby opening up opportunities for choice by people with disability;
- providing people with disability with the support services and individual advocacy necessary to enable them to express their preferences and, so far as possible, to obtain accommodation that matches their preferences
- whether people with disability living in supported accommodation should receive greater protection, for example under legislation governing residential tenancies;
- allowing people with disability choice in selecting co-residents;
- ensuring the separation between providers of accommodation and providers of support services for people with disability residing in group homes; and
- identifying best practice for providers of group homes and disability services to establish models to be emulated.

Culture

350. We have referred to evidence from people with disability and their immediate families about the punitive culture that sometimes exists within group homes and among service providers.⁶⁶¹ Professor Bigby explained the 'domains of culture' that characterise what she described as 'underperforming' group homes.⁶⁶² She explained by way of contrast the key characteristics of better group homes that foster choice and control and thereby minimise the risk of violence, abuse, neglect or exploitation.⁶⁶³

Further inquiries

351. The Royal Commission intends to examine measures that might be taken to improve the culture of providers of accommodation and disability services. The aim is to eliminate, so far as possible, violence against or abuse, neglect and exploitation of people with disability residing in group homes or other supported accommodation. Issues to be considered include:

- codifying the legal responsibilities of providers of accommodation and disability support services to promote practices and cultures that accord priority to the

⁶⁶¹ Report [303]-[304].

⁶⁶² Report [167], [297].

⁶⁶³ See, Report [168].

needs and desires of residents and maximises their opportunities for choice and control;

- requiring providers of accommodation and disability support services to articulate clear objectives and report on progress towards achieving those objectives;
- refining of standards to be used in evaluating the success of providers of accommodation and disability support services in achieving their objectives; and
- implementing sound design principles in the construction and configuration of group homes so as to enhance the dignity and quality of life of residents.

Qualifications and experience of support staff

352. The evidence indicates that a group home or any other form of supported accommodation for people with severe disabilities cannot function safely and effectively unless support staff are well-trained and the organisation providing services adopts and implements a strong culture. These objectives are difficult to achieve if the workforce is largely casualised. Witnesses spoke of residents in group homes feeling unsafe if they are forced to rely on a series of different disability support workers over a short period. These feelings can be particularly acute when residents may never have previously had contact with casual staff. There have also been suggestions that a highly casualised workforce increases the incidence of violence against and abuse, neglect, and exploitation of people with disability in group homes and other supported accommodation.
353. The evidence indicates that there are service providers with well-trained and dedicated staff who provide high standards of support care for residents within group homes.⁶⁶⁴ But many witnesses stressed the need for better training and monitoring of support staff in group homes to minimise the risk of violence, abuse, neglect or exploitation. These proposals raise issues that go beyond training and monitoring of staff and extend to terms of employment including remuneration. Disability support workers have very important responsibilities to discharge that can be both challenging and demanding.

Further inquiries

354. The Royal Commission intends to investigate the means by which disability support workers in group homes and other forms of supported accommodation can better meet the needs and wishes of people with disability for whom they have responsibility. The Royal Commission will consider:
- measures required to ensure that disability support workers receive the training and acquire the experience necessary for them to earn the trust of people with

⁶⁶⁴ See, Report [302].

disability and to engage with them in a manner that promotes choice, control and safety for residents;

- training programs for disability support workers that claim success in promoting choice, control and safety among residents of group homes and other supported accommodation;
- incentives or other steps to encourage service providers to reduce reliance on casual disability support workers;
- more effective screening of disability support workers and others providing services to people with disability in group homes and other supported accommodation;⁶⁶⁵
- policies and procedures monitor more closely the quality of services provided to residents of group homes and other forms of supported accommodation, including continuing training programs; and
- identifying examples of best practice in Australia and elsewhere that, if adopted, would enhance the quality of life enjoyed by residents of group homes and other forms of accommodation for people with disability.

Enhancing Safety

355. We referred to a number of measures that witnesses have said will enhance the safety of people with disability residing in group homes or in other supported accommodation. The evidence suggests that other measures could also be effective in limiting the incidence of violence against and abuse, neglect and exploitation of such people.
356. Professor Robinson pointed out that being safe involves more than the absence of physical violence or abuse. For people with disability in group homes it includes feeling emotionally safe and respected, as well as having their needs met with appropriate support.⁶⁶⁶ Ms Kayess invoked article 19 of the CRPD which requires State Parties to recognise the equal right of all persons to live in the community with choice equal to others. She argued that article 19 requires structural reforms to ensure that people with disability can interact with members of the wider community and build relationships of trust.⁶⁶⁷ Other witnesses identified informal support networks involving people outside a group home environment as an important means for keeping residents safe and enhancing choice and control.⁶⁶⁸
357. The importance of independent advocacy and self-advocacy for people with disability has been a constant theme at all hearings held by the Royal Commission to date, as well as in submissions and responses to Issues Papers. In Public hearing 3, for example, Ms Williams, the Projects Co-ordinator for an independent advocacy organisation, stressed the importance of independent advocacy and self-advocacy in

⁶⁶⁵ See, for example, the *Disability Services and other legislation (Worker screening) Amendment Bill 2020* (Qld), proposing amendments to the *Disability Services Act 2006* (Qld).

⁶⁶⁶ Report [315].

⁶⁶⁷ Report [315].

⁶⁶⁸ Report [316].

identifying and preventing abuse of people with disability in group homes and supported accommodation.⁶⁶⁹ Her view was strongly supported by other witnesses, such as Mr Stone, who have long and extensive experience as advocates.⁶⁷⁰

358. Some expert witnesses expressed reservations about the effectiveness of reporting and compliance regimes as a means of curbing abuse of people with disability living in group homes or supported accommodation. Regulators took a different approach, arguing that oversight and reporting mechanisms are central to exposing violence against and abuse, neglect and exploitation of people with disability, particularly those who live in closed environments.⁶⁷¹

Further Inquiries

359. The Royal Commission will consider:

- the measures, including increased funding, needed to ensure that all residents of group homes and other supported accommodation have access to independent advocates;
- programs to develop the capacity of residents of group homes and supported accommodation to act as self advocates;
- whether existing systems at Commonwealth, State and Territory levels for identifying, reporting, investigating and responding to cases of alleged violence against and abuse, neglect and exploitation of people with disability in group homes and supported accommodation are adequate and, if not, how the systems can be improved; and
- in particular whether the approach of the NDIS Commission to identifying, reporting, investigating and responding to cases of violence against and abuse, neglect and exploitation of people with disability living in group homes or supported accommodation requires improvement.

Alternatives to group homes

360. Some evidence at Public hearing 3 suggests that people with disability are never able to exercise effective choice and control in a segregated environment such as a group home. Witnesses who have experienced living in group homes gave powerful evidence of the benefits of transitioning to living in accommodation of their own choice, usually with the support of NDIS funding.⁶⁷² Other witnesses described alternative accommodation models for people with severe disability. Dr Taleporos and Dr Winkler, for example, outlined the 10+1 model developed by the Summer Foundation, which is

⁶⁶⁹ Exhibit 3-32, 'Statement of Pauline Williams', 29 November 2019, at [8].

⁶⁷⁰ Report, [110], [113].

⁶⁷¹ Report [316].

⁶⁷² Report [323]-[326].

designed to provide flexibility and choice to people with disability who wish to live independently within the community.

361. The Royal Commission is conscious that any consideration of alternatives to group homes must take into account the lessons from the de-institutionalisation process that encouraged the emergence of the group homes model. Well-intentioned reforms do not necessarily achieve all the desired outcomes and can produce serious unforeseen adverse consequences. Even reforms that are almost universally acclaimed, such as providing support to people with disability who choose to live alone, may not guarantee that they will be safe from violence, abuse, neglect or exploitation. Unless reforms are accompanied by rigorously enforced safeguards and standards of service tragedy can result.

Further Inquiries

362. The Royal Commission will consider:
- whether the group homes model can ever provide sufficient choice and control to residents sufficient to give practical effect to their right to autonomy;
 - alternatives to group homes for people with severe physical or intellectual disability;
 - the benefits and risks associated with encouraging alternative forms of accommodation;
 - how people with disability can be supported in the transition to alternative forms of accommodation
 - the safeguards necessary to ensure that alternative forms of accommodation do not expose people with disability to violence, abuse, neglect and exploitation.

Redress

363. The purposes of Public hearing 3 do not include making findings about the adequacy or otherwise of Yooralla's responses to the serious sexual assaults perpetrated on people with disability who were in Yooralla's care during the period 2011 to 2015. However, the evidence raises some policy questions.

Further Inquiries

364. The Royal Commission proposes to investigate:
- the forms of redress available to people with disability who are subjected to violence, abuse, neglect or exploitation while residing in group homes or supported accommodation;

- measures that should be taken to ensure that such people receive independent advice and support to enable them to pursue the remedies that are available to them; and
- whether it is feasible to establish a scheme to provide compensation to people with disability who have sustained serious harm as a consequence of violence, abuse, neglect or exploitation in circumstances where no other redress is available.

Accessibility of the Royal Commission

365. Colin Hiscoe spoke passionately about the Royal Commission needing to get to the people that really matter, people in group homes.⁶⁷³ Mr Hiscoe asked the Royal Commission: *'please don't forget about them.'*⁶⁷⁴
366. Some witnesses also spoke about the accessibility of the Royal Commission itself to people with disability. Kevin Stone said that some legal processes can be intimidating, and that the Royal Commission's processes themselves need to demonstrate strongly that people with disability have rights.⁶⁷⁵ Reflecting this, Colin Hiscoe said that some people with disability are 'scared' to engage with the Royal Commission.
367. Naomi Anderson said that people with disability need to know the Royal Commission 'has their back. They need to know that when people do things that are unlawful or illegal they will be protected and action will be taken so that it doesn't happen again.'⁶⁷⁶ Ms Anderson also offered that the community and service providers need to take steps so that people who are in closest contact with people with disability cannot make comments 'meant to reduce the confidence of the person who is planning to come [to the Royal Commission]'.⁶⁷⁷
368. The Royal Commission welcomed all the suggestions and is committed to ensuring that its processes are accessible for people with disability and the community can fully engage in all its processes.

Other matters for further inquiry in homes and living

369. Public hearing 3 was the beginning of the Royal Commission's inquiry into issues relating to homes and living.
370. Public hearing 3 did not look into, for example, the systems in each state and territory for providing housing for people with disability, or how each state and territory has managed the transition away from institutional living arrangements for people with disability. A number of witnesses raised several issues that impact on the ability of

⁶⁷³ Transcript, Colin Hiscoe, Public hearing 3, 5 December 2019, P-364 [37]-[41].

⁶⁷⁴ Transcript, Colin Hiscoe, Public hearing 3, 5 December 2019, P-364 [37]-[41].

⁶⁷⁵ Transcript, Kevin Stone, Public hearing 3, 5 December 2019, P-168 [20]-[41].

⁶⁷⁶ Transcript, Naomi Anderson, Public hearing 3, 5 December 2019, P-362 [16]-[25].

⁶⁷⁷ Transcript, Naomi Anderson, Public hearing 3, 5 December 2019, P-362 [30]-[33].

people with disability to exercise choice and control over where and with whom they live.

371. The role of the NDIS in the supply of housing for people with disability (including SDA) or the coordination of support services for people with disability (SIL) was also an issue that was raised in the evidence from several witnesses, but this was not an issue that was within the capacity of Public hearing 3 to explore in detail. A number of such issues were raised by several witnesses as significant for them as people with disability in supported accommodation. The Royal Commission will examine the role and responsibilities of the NDIS and the NDIS Commission in relation to quality and safeguards in its future work.
372. For example, Kevin Stone of VALID outlined what he perceives to be two ‘critical’ issues relating to support for people with disability who live in group homes:
- (1) the right to support for decision-making; and
 - (2) the need for there to be ‘independent’ support coordination.⁶⁷⁸

Mr Stone said that people with disability remain essentially ‘captive’ to service providers and to group homes if they do not have ‘funded support to assist them in developing their [NDIS] plans’, or if their support coordinators are not independent of the service provider. Mr Stone described the lack of independence of support coordinators as a ‘conflict of interest’ for service providers, and suggested that the NDIS does not do enough to assist people with disability in knowing ‘what’s beyond ... their immediate horizon’. Independent support coordination, as an essential aspect of exercising choice and control, is an emerging area of inquiry in relation to the NDIS and the role of service providers under that scheme.

Concluding remarks

373. The Royal Commission acknowledges and thanks the witnesses, their advocates and legal representatives for their participation in Public hearing 3 and the additional submissions and material provided after the hearing.
374. The Royal Commission will continue to investigate the themes and issues that emerged in Public hearing 3. It will do this in a number of ways – through research and policy work, community forums, private sessions, and information provided in submissions in response to the Group Homes Issues.
375. The Royal Commission will conduct further public hearings that will explore, in greater detail, some of the specific issues that emerged from Public hearing 3 and the practices of service providers more broadly. Future public hearings will enable the Royal Commission to make findings with respect to particular practices and conduct

⁶⁷⁸ Transcript, Kevin Stone, Public hearing 3, 5 December 2019, P-169 [17]-[35].

causing violence, abuse, neglect and exploitation of people with disability and to formulate final recommendations.

APPENDIX A: Witness List

Witness	Date of appearance
Peter Gibilisco	2 December
AAG	2 December
AAI	2 December
Jane Rosengrave	2 December
Ilan Wiesel	3 December
Claire Spivakovsky	3 December
Sally Robinson	3 December
Colleen Pearce	3 December
David Roche Cindy Masterson	3 December
Alan Robertson Kevin Stone	4 December
Patsie Frawley	4 December
Arthur Rogers	4 December
Janine Toomey	4 December
Sherene Devanesen	5 December
Naomi Anderson Colin Hiscoe Sarah Forbes Pauline Williams	5 December
George Taleporos Di Winkler	5 December
Rosemary Kayess	6 December
Christine Bigby	6 December

Witness	Date of appearance
Lisa Hamilton	6 December
Belinda Epstein-Frisch	
Leanne Pearman	
Sam Petersen	6 December

APPENDIX B: Parties with Leave to Appear

	Parties
Leave to appear	<p>Commonwealth of Australia</p> <p>State of Victoria</p> <p>Victorian Disability Services Commissioner, Mr Arthur Rogers</p> <p>Victorian Public Advocate, Ms Colleen Pearce</p> <p>Dr Peter Gibilisco</p> <p>AAG</p> <p>Yooralla</p>
Legal representatives	<p>K Eastman SC with M Harding SC and A Fraser, instructed by the Office of the Solicitor Assisting the Royal Commission, appearing as Counsel Assisting the Royal Commission</p> <p>A Munro, instructed by A Floro, appearing for the Commonwealth of Australia</p> <p>C Harris QC, instructed by R Bedford and S Chesterman, appearing for the State of Victoria</p> <p>P Harris, appearing for the Victorian Disability Services Commissioner</p> <p>P Grano, appearing for the Victorian Public Advocate</p> <p>M Fitzgerald, instructed by A George, appearing for Dr Peter Gibilisco</p> <p>M Brennan, instructed by E Turnbull and M Carroll, appearing for AAG</p> <p>J Firkin QC and C McDermott, instructed by J Heath, appearing for Yooralla</p>

APPENDIX C: Acronyms used in the report

Acronym	Definition
CRPD	UN Convention on the Rights of Persons with Disabilities, opened for signature 30 March 2007, 999 UNTS 3 (entered into force 3 May 2008)
CRU	Community Residential Unit
DHHS	Department of Health and Human Services (Victoria)
DWRS	Disability Worker Regulation Scheme
NDIA	National Disability Insurance Agency
NDIS	National Disability Insurance Scheme
NDIS Commission	National Disability Insurance Scheme Quality and Safeguards Commission
NDS	National Disability Strategy
SDA	Specialist Disability Accommodation
SIL	Supported Independent Living
VALID	Victorian Advocacy League for Individuals with Disability
WaiS	Western Australia's Individualised Services
WWDA	Women with Disability Australia
WWDV	Women with Disability Victoria
YCPAC	Yooralla Community Partnership and Advisory Committee



Royal Commission
into Violence, Abuse, Neglect and
Exploitation of People with Disability