



TRANSCRIPT OF PROCEEDINGS

THE HON RONALD SACKVILLE AO QC, Chair
DR RHONDA GALBALLY AC, Commissioner
MS ANDREA MASON OAM, Commissioner

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

PUBLIC HEARING 22

MONDAY, 11 APRIL 2022 AT 10.01 AM (AEDT)

DAY 1

MS KATE EASTMAN SC, Senior Counsel Assisting
MS CATHY DOWSETT Counsel Assisting
MS REBECCA McMAHON, Counsel Assisting
MR ANDREW FRASER, Counsel Assisting

CHAIR: Good morning, everyone. I welcome everyone who is following this hearing, which is the 22nd public hearing of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. This hearing will concentrate on the experiences of people with disability, working within Australian Disability Enterprises, ADEs. We begin, as
5 always, with an Acknowledgment of Country, and I invite Commissioner Mason, who is participating in this hearing from Alice Springs, to make the Acknowledgment of Country today.

COMMISSIONER MASON: Thank you, Chair. Werte. I wish to pay my respects and
10 acknowledge the First Nations people on the land on which the Royal Commission is sitting today.

We acknowledge the Arrernte people, the traditional owners, custodians and family of
15 Mparntwe, also known as Alice Springs.

We recognise the Wurundjeri people of the Kulin Nation where the city of Melbourne is now
situated.

We recognise the Gadigal people of the Eora Nation, the traditional custodians of the land
20 on which the city of Sydney is now located.

We also wish to acknowledge the traditional custodians of the various lands on which you
all virtually attend from, any First Nations people who are participating this session, and
those First Nations peoples with disability, including those who are contributing to
25 workplaces and communities across the country every day. Thank you, Chair.

CHAIR: Thank you very much, Commissioner Mason. As I foreshadowed in closing remarks
at the second part of the recent Public hearing number 17 on 2 April this year, this Public
30 hearing will be conducted virtually. We had originally planned for the hearing on ADEs to take place in the Brisbane hearing room, with witnesses, Counsel Assisting, legal representatives, Commissioners and others appearing in person. Our plans, unhappily, have again been frustrated by a recent outbreak of COVID-19. I again express the hope that future hearings of the Royal Commission will be conducted with witnesses and the public able to attend in person.

There really have been very few Royal Commissions whose work has been so affected by
disruptions caused by events that have been beyond our control: The COVID-19 pandemic
for over a period of two years, the fires, the floods that have affected so many Australians,
and even on one occasion an earthquake in Melbourne during a hearing. I want to express
40 our gratitude, our deep gratitude, and pay tribute to all those that have ensured that, despite the obstacles, the Royal Commission has been able to continue its extremely demanding program of hearings.

Our thanks go to, among others, the staff of every branch of the Royal Commission; to the
45 witnesses who have given evidence and particularly, of course, people with disability, their families and supporters; Counsel Assisting the Royal Commission, who have had to adjust to frequent changes imposed on us by external events; and all the people who have been

responsible for the smooth operation of the hearings that have had to be conducted remotely. We are very grateful to all who have contributed to the process.

5 Public hearing 22, this Public hearing, will now be held over three hearing days, with Commissioners in three locations. As I have indicated, Commissioner Andrea Mason OAM is in Alice Springs. Commissioner Rhonda Galbally AC is participating in this hearing from Melbourne. And I am participating from the Sydney hearing room. Senior Counsel Assisting the Royal Commission, Ms Kate Eastman AM SC, is also in the Sydney hearing room and is joined by Ms Cathy Dowsett and Ms Rebecca McMahon of counsel. Mr Andrew Fraser of
10 counsel will appear at the hearing from the Royal Commission's Brisbane hearing room.

Subject to unforeseen developments, the Royal Commission will hear evidence from about 14 witnesses in all, three witnesses who will appear in person in the Sydney hearing room, one witness who will appear in person in the Brisbane hearing room, two witnesses will give
15 pre-recorded evidence, and eight witnesses will appear at the hearing remotely. A number of parties have been given leave to appear at the hearing. Their legal representatives will appear from remote locations, and I shall ask them to announce their appearances shortly.

20 This Royal Commission, as Ms Eastman has explained on previous occasions, has paid particular attention to the pathways and barriers to open employment for people with disability. This is actually the fourth hearing at which evidence will be given on this important subject. Public hearing 9 considered pathways and barriers to open employment, for people with disability. Public hearing 19 addressed the measures taken by employers and regulators to the systemic barriers to open employment faced by people with disability.
25 And Public hearing 21 heard about the experiences of people with disability engaging with Disability Employment Services, DESs.

Those three public hearings did not focus on the role played by Australian Disability Enterprises, the ADEs, in providing supported employment for people with disability,
30 although the evidence did from time to time refer to the experiences of people with disability employed by ADEs. ADEs have their origins in the sheltered workshops of the 1950s that many people will be familiar with.

35 From 2004 until the rollout of the NDIS began in this country in 2013, the Department of Social Services funded ADEs to provide supported employment opportunities to people with moderate to severe disability through what was then called Disability Employment Assistance Program. As the NDIS has been gradually rolled out across Australia, responsibility for the funding of employment support for NDIS participants has been transferred from the Department of Social Services, DSS, to the NDIS.
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Participants in the NDIS now receive funding through their plans to support them in various employment settings, including, if they choose, ADEs. It is important to appreciate that our examination of the role played by ADEs takes place in the context of a system in transition. The transfer of functions and responsibilities to the NDIS is designed to allow NDIS
45 participants greater choice and control in obtaining the support necessary for them to secure and maintain employment. Since this is only a recent or relatively recent

development, the full consequences of the transfer of responsibilities may not yet be entirely apparent.

5 Another important development that will be referred to in the evidence is that the Fair Work Commission is currently reviewing the Supported Employment Services Award 2020. This is an award that covers employers who support employment services or ADEs. The award permits employers to pay employees with disability a percentage of prescribed minimum rates based upon an assessment using what are described as approved wage assessment tools. These tools are designed, in effect, to measure the productivity of
10 employees with disability when compared with the productivity of employees without disability.

The evidence will suggest that the lowest wage per hour for a supported employee of one large ADE is \$2.27 per hour. The highest hourly rate is \$23.85 per hour, while the average
15 wage of that particular ADE's supported employees is \$6.28 per hour. As the Fair Work Commission has pointed out in its decisions, to receive support of this kind, an employee must be eligible for the Disability Support Pension. Therefore, the employee's income will ordinarily include the pension paid at the appropriate rate.

20 As Ms Mitchell, a Deputy Secretary of DSS, explains in her statement, the Australian Government allocated \$67 million in the 2019-2020 Budget to support ADEs to transition to a new wage assessment model. The DSS will consider the Fair Work Commission's final decision of on its review of the SES Award before determining how to allocate the funds. The Fair Work Commission's decision will take into account a three-month trial which has
25 tested proposed changes to the award, and we may hear something further about that in the evidence.

This hearing will concentrate on a number of important questions concerning the role of ADEs. Do people with disability, as employees of ADEs, have opportunities to progress in
30 their careers and, in particular, to transition into open employment? Are the wages paid to people with disability for their work as employees of ADEs fair and appropriate? Are the wage assessment tools used to determine rates of pay appropriate? Are the oversight mechanisms in place for ADE providers fit for purpose?

35 In the course of our work, the Royal Commissioners received a variety of opinions through submissions and other forms of engagement about the value of ADEs, and whether this form of supported employment should continue. This was an issue that was considered by the Full Bench of the Fair Work Commission in a decision on the Supported Employment Services Award given in December 2019. The Fair Work Commission noted that some
40 organisations had deprecated supported employment and characterised it as segregated employment.

The Fair Work Commission did not agree. The Full Bench of the Fair Work Commission said this:

45 "While we accept that open employment is generally a desirable objective for more severely disabled people, it will not be practicable either at all or at least within the current

framework of government support. Jobs in ADEs represent for such persons the only realistic opportunity for employment they will ever have. Accordingly, a factor foremost in our consideration of the wages structure of the SES award -"

5 That's the award to which I just referred:

" - is to ensure that, subject to requirements of the Fair Work Act, the capacity of ADEs to continue to employ disabled persons is not prejudiced."

10 The Full Court also concluded, on the basis of evidence presented to it, that - and I'm quoting again:

15 "The employment opportunities which the supported employment sector provides to disabled persons is of immense value to Australian society. Disabled persons place great weight upon the companionship, stimulation, independent, learning opportunities and the sense of dignity, achievement and self-worth which supported employment provides them. For the carers and family members of disabled persons employed in ADEs, the support and respite which employment in ADEs provides them and the positive personal effect such employment has on the disabled person is regarded as being of huge worth."

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I refer to these conclusions not to express agreement or disagreement about them, but to make the point that the policy issues relating to the future of ADEs are not necessarily straightforward or easy to resolve. Like the Fair Work Commission, we have to take into account the practical consequences of any recommendations we make, and the views of all people with disability, their families and supporters. I shall now take appearances. Yes, Ms Eastman.

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MS EASTMAN: Thank you. If the Royal Commission pleases, I appear with Mr Andrew Fraser, who is in the Brisbane hearing room, and, with me in the Sydney hearing room, with Ms Cathy Dowsett and Ms Rebecca McMahon.

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CHAIR: Thank you very much, Ms Eastman. I will take appearances from other parties with leave to appear, starting with the Commonwealth of Australia.

35 MR ANDERSON: Thank you, Chair. My name is Anderson. I appear with Ms Courtney Robertson. We are instructed by Gilbert + Tobin and appear for the Commonwealth.

CHAIR: Thank you, Mr Anderson. The appearance for the State of New South Wales.

40 MS FURNESS: Gayle Furness, Chair. I appear for the State of New South Wales.

CHAIR: Thank you, Ms Furness. There is an appearance, I think, for the State of Victoria.

MR CHESTERMAN: Commissioners, Scott Chesterman, appearing for the State of Victoria.

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CHAIR: Thank you, Mr Chesterman. There is an appearance, I think, also for the Bedford Group? I'm sorry, I think your microphone may not be on.

MS VEALE: I apologise, Commissioner. Veale, appearing on behalf of Bedford Industries.

5 CHAIR: Thank you, Ms Veale. There is an appearance, I think, also for National Disability Services? No. Apparently not. And there may be another appearance. Is that to be taken - yes, I think there is another appearance, Ms Healey.

10 MS HEALEY: Yes, Commissioners. Ms Healey. I appear for the witnesses whose pseudonyms are Kaite, which is K-a-i-t-e, and Gert, G-e-r-t.

CHAIR: Thank you very much, Ms Healey.

MS HEALEY: Thank you, Commissioner.

15 CHAIR: Yes, Ms Eastman.

MS EASTMAN: Thank you, Chair. Well, Counsel Assisting in Sydney and Brisbane also acknowledge and pay our respects to the traditional custodians on the various lands we are meeting today. We pay our respects to First Nations Elders past, present and emerging, and also to First Nations people watching this public hearing.

20 We also acknowledge that today is the third anniversary of the establishment of this Royal Commission. While in reviewing the history of the entities described as sheltered workshops, it reveals a wide range of objectives and experiences. Some of the history in Australia takes us back to the period post the Second World War, when entities were developed to provide vocational rehabilitation services.

25 Some of these entities provided training and skills development for people with disability to enable them to enter the open workforce. But for others, sheltered workshops, as they were commonly called, provided an opportunity for people with disability to develop skills to work in community with other people with disability.

30 Sheltered workshops since the 1960s have been exclusively places for people with disability, and for this reason, it's often described as a segregated, congregated or closed setting. Workers were typically paid minimal or no wages, and sometimes paid in the form of training allowances, piecemeal pay rates per work, or productivity bonuses rather than actual salary. Workers traditionally were not employed under contracts of employment, and industrial awards, which commonly set rates of pay for workers, did not apply.

35 For the purpose of these opening remarks, I will not address the extensive regulation and funding arrangements for sheltered workshops or, as they are now described, ADEs. The Royal Commission has published a research report which is fairly extensive, and I would invite anybody who wishes to look at the history of the regulation of ADE employment to have access to our research report.

40 Well, today, workplaces that are operated as ADEs provide a range of different work experiences. Generally, they include packaging, gardening, landscaping, cleaning, laundry

services, and food services. There has been a significant change over the past 18 months, with the transition from a block funding model administered by the Department of Social Services to a different arrangement, which we will explore during the hearing, operated by the National Disability Insurance Agency, the NDIA. ADEs must now register with the NDIA as a service provider in order to claim funding for employment supports delivered to NDIS participants as part of a participant's plan.

As service providers, the ADE must comply with the conditions of registration, including the NDIS Practice Standards and the NDIS Code of Conduct. And we are told that there are presently 161 ADEs registered as NDIS providers. But the ADEs have a dual status as service provider and employer. They support employees and, in this capacity, have obligations with these two hats - service provider and employer. The NDIS pays for disability support and pricing in relation to the supports required for individuals.

The NDIS does not subsidise wages. Rather, the wages are developed and decided through processes set out under the Supported Employment Services Award, and, as the Chair has mentioned, that award is currently under review by the Fair Work Commission. Under that award there are 22 different approved wage assessment tools that can be used to determine a worker's capacity and then their rate of pay.

We know from information provided by the Australian Government that for the financial year 2020 to 2021, there were 17,232 NDIS participants who worked at an ADE. This represents 7 per cent of all NDIS participants. Workers who perform work at ADEs are protected by Australian employment law, including the Fair Work Act and the Disability Discrimination Act. But people who work in an ADE are not paid the minimum adult wage rate in Australia.

The current minimum wage for Australian adults is \$20.33 per hour. Applying the wage assessment tools, it is permissible for workers who work in ADEs to be paid as low as 12.5 per cent of the minimum rate, the \$20.33, and that then constitutes a rate of \$2.54 per hour. As part of the Fair Work Commission's review, the Commission received evidence about the average hourly pay rate for people working in ADEs in 2019, and that average rate was \$7 per hour.

As part of the Fair Work Commission's review, one proposal is to set a minimum wage for people working in ADEs and the proposal is that the minimum wage be \$3.50 per hour. One important development to note is that from 1 January 2021, ADE workers must be paid superannuation at the same rate as the rest of workers, 9.5 per cent of ordinary earnings, or \$15 per week, whichever is the greater. So the Royal Commission has heard that many people who work in an ADE are paid just enough not to affect their disability support pension, and it is the experience of people working in ADEs that there is often a very close link between their rates of pay and the preservation of their Disability Support Pension.

Catherine McAlpine spoke about this, the Commissioners will recall, at Public hearing 9. In summary, if a person who has a Disability Support Pension earns more than \$180 per fortnight, that can affect their pension and their ongoing entitlement to pension over a

particular period of time. We will explore that in a little further detail during the course of this hearing.

5 Well, as I mentioned, this is the third anniversary of the Royal Commission's establishment, and in October 2020, the Royal Commission issued an interim report. Again, it's a fairly extensive document. It is available on the Royal Commission's website. Commissioners, in your interim report you noted this, that:

10 "Australian Governments have a large number of policies and programs related to economic participation and the employment of people with disability."

And you said:

15 "We are interested in how these work together and what changes, if any, need to be made, including to relevant legislation."

You said:

20 "We will also explore the relationship between poverty, unemployment, and underemployment and violence against and abuse, neglect and exploitation of people with disability."

You said:

25 "We will also examine the experiences of people with disability in segregated employment settings."

30 In the interim report, the Royal Commission said that it had heard about the lack of quality or usefulness of work in some ADEs. You heard about the poor workplace conditions and difficulties in transitioning to open or non-segregated employment. You also noted in the interim report that people with disability working in ADEs had described being physically, verbally and sexually abused by colleagues and managers in the workplace, and, in some instances, when these issues were raised with the ADE service providers, those concerns were ignored or not addressed.

35 In addition to the matters set out in the interim report, in March 2021 the Royal Commission published its Overview of responses to the Employment Issues paper. That's also available on the Royal Commission's website. In the Overview of responses, the Royal Commission heard about positive experiences and the benefits to some people with disability working in ADEs. Matters such as social connection, a sense of belonging, support and community were all identified as important benefits of working with an ADE.

45 But the Royal Commission also noted in their Overview of responses that many responses raised concerns about wages paid to people with disability, including the practice of wage assessment, the use of wage subsidies, and the life course impacts of wage inequality, particularly from working fewer hours or being paid lower wages. The Australian Human Rights Commission in its submission, which has also dealt with in the Overview of responses

to the Employment Issues paper, raised its concern that the supported wage system may be discriminatory and provide inadequate wages.

5 It questioned whether it is an effective tool to incentivise employment of people with disability. Some employers said wage assessment processes are complex and require significant administration that may result in errors such as underpayment. In the response to the issues paper, we were told that the segregation of people with disability in employment mostly occurs in ADEs. And respondents identified issues with ADEs about the risk of increased violence, abuse, neglect and exploitation, the lack of social integration, and the use of the wage tools producing low and unequal wages.

10 Some of the responses called for ADEs to be phased out, and a couple of responses said ADEs could not be considered as a stepping stone into open employment, given that the data indicates that less than 1 per cent of ADE employees make this transition successfully. We heard that the Independent Advisory Council to the National Disability Scheme said that it was important to support NDIS participants and their families to build confidence to try open services, and it recommended that ADEs could become services that help people with disability to participate socially and economically and have interactions with people not paid to support them.

15 Some of these matters have been reflected, Commissioners, in the evidence that you've heard to date. For example, at Public hearing 9, you heard from people with disability who worked in ADEs. And you may recall the evidence of Jamie. Jamie was 58 years old. He lived with a vision impairment and an acquired brain injury. He had tertiary qualifications, including a Master of Human Services, a Master of Social Work. He had spent over 20 years volunteering and developing his skills and experiences.

20 However, his opportunities for paid work had been limited and generally involved ADEs. He said during his employment with an ADE, he was paid an hourly rate of \$3.51. He said this was not nearly enough to cover the necessities of life. He said during his employment with various ADEs he was told to - he was told his lower wages were intended to ensure that he would not lose disability support pension and, Commissioners, he said this to you:

25 "A lifetime of unemployment and underemployment has ruined my life and left me welfare-dependent."

30 And he told you he feels exploited. Well, Commissioners, as you are aware, people with a disability have a right to work on an equal basis with others, and this is a core human right. The right to work includes just and favourable conditions of work, and this represents long-standing approaches to human rights. Article 27 of the Convention on the Rights of Persons with Disabilities, the CRPD, recognises the right of persons with disabilities to work on an equal basis with others, and that includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market, and a work environment that is open, inclusive and accessible to persons with disabilities.

35 40 45 As the Commissioners are aware, the CRPD Committee is currently working on a general comment - General Comment 8. The draft of the General Comment and the consultation

has revealed quite a wide range of responses, including a response provided by the Australian Government. But at its essence, Article 27 requires Australia to safeguard and promote the realisation of the right to work for people with disability.

5 The Commissioners will also be aware in its October 2019 concluding observations on Australia, the CRPD Committee recommended a range of measures that Australia must implement to give effect to its obligations under Article 27. With respect to ADEs, the CRPD Committee recommended that Australia, first, undertake a comprehensive review of ADEs to ensure that they adhere to Article 27 of the CRPD and provide services to enable people
10 with disability to transition from sheltered employment into open, inclusive and accessible employment and also ensuring equal remuneration for work of equal value. And, secondly, to ensure the supported wage system is modified to secure correct assessment of wages of persons in supported employment, including ADEs.

15 Commissioners, some of the concerns raised with the Royal Commission about the impact of segregated employment include the following: First, whether the early placement of young people with an intellectual disability into segregated day programs and sheltered employment options reduces their later opportunities for full economic participation. Secondly, the limited pathways to transition to open employment. Ms Mitra from the NDIA
20 will tell you on Wednesday that in the financial year 2020 to 2021, 295 NDIS participants self-reported as transitioning from an ADE to open employment. That constitutes 1.7 per cent.

25 A third issue is about service providers and their dual role to provide supports, but also to be the employer. And this is particularly the case where the service provider also provides accommodation as well as employment. Commissioners, this is a concern that you raised in your recent Commissioner's Report concerning Public hearing 13 and Sunnyfield Disability Services. In the report that you released last week on 5 April, you noted that Sunnyfield provides employment services for 195 supported employees at three ADEs.

30 And when the Sunnyfield CEO was asked whether the 195 supported employees formed part of the overall workforce, Commissioners, you have recorded that those 195 employees are additional to the 1,174 Sunny employees generally. So, in effect, people in supported employment at Sunnyfield were not treated as Sunnyfield employees.

35 A fourth issue is low wages and welfare dependency, contributing to poverty and exploitation.

40 The fifth is the place of ADEs in changing labour markets. We see in Australia increased casualisation and the onset of the gig economy. The way in which we do work is changing, and the question is whether ADEs are also up for these changes. And if not, what is the impact on people working in ADEs?

45 A further consideration is also the move towards corporate responsibility. And as the Commissioners are aware, there are new laws dealing with modern slavery which brings transparency to supply chains. Many people who work in ADEs are part of supply chains, and so there may be cause to start to think about the issues around corporate responsibility

and transparency in supply chains being applicable to ADEs. There is, of course, the issue of overall accountability and who regulates ADEs.

5 There is an issue about the representation of people with disability as recipients of services, but also employees, being represented on the boards of ADEs and part of the management. There are issues around complaint handling and dispute resolution, including access to legal representation and access to justice through the courts. And, of course, as you have said, Chair, there is the importance of hearing about what has worked and what is positive and not, in any recommendations, to lose what has worked well.

10 But, finally, there is the opportunity to consider alternative models. And the Commissioners will recall Scott Connolly from the ACTU, who gave evidence at Public hearing 19. And he told you about the ACTU's new Disability Policy. That policy deals extensively with supported wages. It advocates for the replacement of wage assessment tools and
15 alternative models. And the ACTU's Disability Policy expressly refers to developments in the United States, including the state of Vermont, which moved away from segregated employment settings and the legalisation of subminimum wages to new models. So there's much for the Royal Commission to consider.

20 But turning to this hearing. Over the next three days, you will hear from a number of people with disability who work or have worked in ADEs. You will very shortly hear from Phillip Shoolman. He will be here in the hearing room in Sydney. He has been a hardworking and dedicated employee over many years. He has worked in the same ADE on two occasions but he's also had work experience in open employment.

25 Mr Shoolman attended a high school for deaf and blind young people, and we expect you will hear that he did not think his school was a good stepping stone to prepare him for work. Mr Shoolman will tell you about his team working at the ADE, and he is generally positive about his time there but has experienced frustration at the lack of interpreters. Mr
30 Shoolman has also enjoyed experiences in open employment, and when considering which employment setting is more suited to him, Mr Shoolman will tell you he prefers the pay in open employment but feels safer in the ADE environment around other people with disability.

35 And later today, we will move to the Brisbane hearing room and you will hear from Mahdi. That's a pseudonym. Mahdi was born in Afghanistan. He travelled to Australia as a refugee. He is blind, and his first language is Dari and he has limited understanding of English. He will give evidence with the assistance of a Dari interpreter, and Mahdi will tell you about his attempts to obtain employment in Australia and his experiences in an ADE, in which he
40 worked for about three months commencing in 2020.

He describes the work that he undertook as being heavy duty, and it included sorting through packaging and recycling. In exchange for that work, he was paid \$3.70 an hour for the first three months. He will talk about his efforts during that period to have his wages
45 increased, only to be told in February 2021 that his wage would only increase to \$10 an hour for the next 12 months, and it might increase to \$15 an hour thereafter. Mahdi subsequently resigned, and he is still searching for a new job.

Today you will also hear from some parents of people who work in ADEs. That's Kaite and Gert. Kaite's daughter Emilee works at an ADE and has done so for the past 17 years. Gert's adult children, Fred and Springer, worked at an ADE for 24 and 23 years respectively, but they no longer work at that ADE. Kaite and Gert will talk about the positive aspects of their children's employment, and both of them acknowledge that the opportunity for their children to work has had a positive impact for the whole of their family. Gert is the mother of five, and she says that having the opportunity for her children to work also provided a form of respite.

However, Kaite and Gert will speak about some of their concerns, including the conditions of the workplace and personal care tasks required to be carried out by Springer and Emilee. Some of the themes that arise for both Kaite and Gert, include inadequate support for their children transitioning from school to work, inadequate opportunities to progress which arise from the repetitive nature of work, but also the limited assistance in transitioning their work from segregated to open employment.

Commissioner, tomorrow you will hear from Gregory Tucker. He currently works in an ADE, but he is also an advocate for VALID, a Victorian advocacy organisation for people with intellectual disability. Commissioners might recall that Mr Tucker gave evidence last year at Public hearing 12 concerning the vaccine rollout. And he will tell you about his work experience and the nature of the work that he is doing at his current ADE. He will also tell you about his ambitions and wishes for the future.

Tomorrow, you will also hear from Marc and from Tay. They are both currently employed with the ADE known as the Bedford Group, and I will just call them Bedford for our present purposes. Marc has worked for Bedford for about 30 years and in Tay's case for around 20 years. Marc started at Bedford within a relatively short period of completing secondary school. The Royal Commission will hear from each of Marc and Tay separately about their employment with Bedford, including their experiences with the individual training plans and wage assessments.

Tay is likely to tell you about their experiences with the changes that have come about as a result of Bedford transitioning to the NDIS, and the NDIS new employment model. They will probably tell you that they have found it confusing and stressful. Some of the key issues that arise from the evidence from Marc and Tay is their perspectives on whether they feel they are paid a fair wage for the work that they perform and their concerns about access to training opportunities in their workplace. Tay wants to get a job in open employment, which they believe they can do with the right type of support.

Then on Wednesday, you will hear from Anthony Reid. He went straight from education in a special school to an ADE and he has worked at the same ADE for 25 years. He enjoys his work at the ADE, but, like Mr Tucker, he is also an advocate with VALID and he too participated in the hearing last year concerning the COVID vaccine rollout. Commissioner, there will be some other witnesses, and during the next three days, you will hear from Catherine McAlpine, the CEO of Inclusion Australia, the national peak body for persons with intellectual disability.

Ms McAlpine gave evidence at Public hearing 9 about the experience of people with intellectual disability generally, and it is expected she will speak this week about the employment of people with intellectual disability in the segregated employment settings in ADEs. She will build upon the evidence she gave at Public hearing 9 to describe how low and stereotyped expectations, the limited availability of independent information for people with disability and their family, and the structured systems and processes established to support people with disability, including intellectual disability, operate together to produce the results seen in a recent NDIA report.

Ms McAlpine will tell you about Inclusion Australia's perspective regarding the differences between open and segregated settings, and the significance of those differences for people with intellectual disability over the course of their life. She will also talk about Inclusion Australia's perspectives on the key considerations for the future.

It is also important, Commissioners, that you have the opportunity to hear from the service providers, and Bedford, the employer of Marc and Tay, will participate in this hearing. Mr Myron Mann, Bedford's present CEO, will give evidence. Bedford has operated since 1945, primarily in South Australia, and it operates over 14 different sites. It is one of Australia's largest employers of people with disability in at ADE setting. It employs - and there's two numbers - either 1,060 or 1,100 people with disability. The majority of the employees, some 630, are people with intellectual disability. And Mr Mann will tell you that 70 per cent of their workers are men. 14 per cent of the workers work full-time and 86 per cent work part time. And the longest serving employee of Bedford has worked at Bedford for 50 years.

In terms of the wages paid to employees with disability at Bedford, Mr Mann says that the lowest paid worker is paid \$2.37 per hour, and the highest paid worker is on an hourly rate of \$23.85. But the median average hourly rate is \$5.48. Bedford employs people with disability to work in packaging, manufacturing, commercial landscaping, and commercial cleaning. For its manufacturing work, which you may hear about - the preparation and development of flat-pack furniture - Bunnings is its largest customer.

Now, Bedford made a submission to the Royal Commission's Issues Paper on Employment, which I've referred to a little earlier, and a copy of Bedford's submission is available on the Bedford website but also the Royal Commission's website. Bedford wanted the Royal Commission to be aware of the issues that arise for service providers in the transition to the NDIS. There are both challenges and positive aspects to the transition.

It raises its concern about unfunded supports, the complexity of wage assessment tools, wages and the relationship with the Disability Support Pension. In his statement, Mr Mann acknowledges that ADEs have not traditionally been established, structured or funded with the primary or formal focus on transitioning to open employment and that Bedford does not have a specific policy dealing with the transitioning of supported employees to open employment.

Bedford is a member of the National Disability Service, NDS and, on Wednesday, you will hear from the CEO, Ms Leigh, and from the head of employment, Ms Langford, of National

Disability Services. It is the peak body for the non-government disability services organisation, and it represents over 1,100 service providers. The NDS members have a presence in every state and territory in Australia, and they will share their perspective of their members who operate ADEs.

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They have a position that supported employment, which is the expression they use to describe work in ADEs, should remain a legitimate and viable option as part of the continuum of employment options for people with disability if they are eligible and they choose to access it. They see ADEs as:

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"An option for those who are unlikely to be able to gain or maintain mainstream employment."

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In relation to the impacts on the NDS members having to pay supported employee wages, NDS has expressed the view that all supported employment services would be forced to cease their current operations if they were to pay their workers full award rates. NDS will tell you that the removal of supported employment could result in a large number of supported employees being marginalised from the labour force, and this consideration, along with other impacts on supported employees and their families, will need to be carefully considered when planning any process of transition. And they will speak to you about the NDS industry vision.

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On Wednesday, you will hear again from Ms Debbie Mitchell from DSS - you will recall she appeared recently at Public hearing 21 - and Ms Gerrie Mitra from the NDIA - and you will recall she participated at Public hearing 19. We propose to examine the transition of ADEs from DSS to the NDIA, and the role of the NDIA funding models, particularly with respect to the protection of the rights of NDIS participants as employees. We will ask the NDIA about its expectations with respect to transition models and some of the matters identified in the responses to the Issues Paper. Importantly, we will focus on the rights and the protection of those rights of people with disability.

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Commissioners, we also received in the preparation of the hearing a statement from Ms Sandra Parker the Fair Work Ombudsman. We will not hear from her in person this week, but you will recall Ms Parker gave evidence at Public Hearing 19. In her statement for this hearing, she said that the Fair Work Ombudsman does not routinely identify whether an organisation is an ADE. But she says that over the past three financial years, the Fair Work Ombudsman has undertaken 43 investigations of ADEs, of which 31 have been in the financial year 2020 to 2021. These investigations have resulted in three enforcement actions and the recovery of over \$24 million in underpayments for 6,477 employees.

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Commissioners, the focus of this hearing is an opportunity to listen and to understand the experience of people with disability. It is not the purpose of this hearing to make any judgment about the choices people with disability or their families may make. Some of the evidence may be distressing, and the Royal Commission encourages those watching, whether by the web stream or in person, to be mindful that the topics may be upsetting, and we encourage those to seek support in that respect. And we have up on the screen the

content warning, together with the telephone numbers for the National Counselling Referral Service, Lifeline and Beyond Blue.

5 Commissioners, for this public hearing, we will not ask the Royal Commission to make any adverse findings with respect to any individual experiences of people with disability who work in ADEs. For this hearing, the Royal Commission will not be making findings as to whether a particular person or employer breached a law or breached a policy. The Royal Commission does not operate as a substitute for the Fair Work Commission, the Fair Work Ombudsman or local complaint processes or conducting internal investigations.

10 However, this public hearing will contribute to the Royal Commission's ongoing work in examining violence, abuse, neglect and exploitation of people with disability in employment and economic participation. So can I conclude with a reminder about the protection of witnesses. There are provisions in the Royal Commission's Act that have a very clear
15 objective of protecting witnesses who give evidence before the Commission.

In particular, I draw attention to section 6M of the Act, which provides that any person who uses, causes or inflicts any violence, punishment, damage, loss or disadvantage to any
20 person on account of the person having appeared as a witness, given evidence, or produced documents to the Royal Commission, that person commits an indictable offence.

But can I make a further reminder, and that is section 6N of the Act. It makes it an offence
25 for any employer who dismisses any employee from his or her employment or prejudices any employee in his or her employment for or on account of the employee having appeared as a witness before the Royal Commission, giving evidence before the Royal Commission, or produce any document or information to the Royal Commission. And with those reminders, I think, Commissioners, we are taking a short break. We will reconstitute the hearing room after morning tea, and you will then hear from Phillip Shoolman.

30 CHAIR: Thank you very much. Shall we adjourn until 11.05, Sydney-Brisbane time. And that's 10.35 Adelaide time.

MS EASTMAN: Thank you.

35 **ADJOURNED 10:54 AM**

RESUMED 11:06 AM

CHAIR: Yes. Ms McMahon.

40 **PHILLIP SHOOLMAN, CALLED**

MS MCMAHON: Thank you, Chair. Good morning, Chair, and good morning, Commissioners. The first witness in this public hearing is Phillip Shoolman. Phillip will be giving evidence
45 today about some aspects of his schooling and work life, with a focus on his experience working at an ADE. Phillip has also worked in open employment. The ADE's area of business include contract packing and assembly work, and Phillip worked at this ADE on two

occasions, on the first occasion for three years, and the second for seven years. Hello, Phillip, and thank you for sharing your experiences at the Royal Commission.

5 CHAIR: Ms McMahon, just before you go on, Mr Shoolman, I would like to thank you on behalf of the Royal Commission for coming to the Royal Commission to give evidence today. We appreciate the assistance you are giving us by sharing your experiences with us. Just to ensure that you know where everybody is - and you probably already know, but just to be sure - we have Commissioner Mason is joining the hearing from the hearing room - from Alice Springs. Commissioner Galbally is joining the hearing from Melbourne and, of course, I am in the same hearing room as you are and then as Ms McMahon. Thank you very much. Yes.

EXAMINATION BY MS McMAHON

15 MS McMAHON: Thank you, Chair. Phillip, I would like to start by asking you about your schooling. You started Primary School at Darlington in Sydney, and then you moved to a school in North Rocks.

20 MR SHOOLMAN: That is correct.

MS McMAHON: Was that a school with children for disabilities at North Rocks.

MR SHOOLMAN: Yes, it was, for people who are deaf.

25 MS McMAHON: And you boarded there, didn't you, Phillip until you were about 16 years old?

MR SHOOLMAN: Yeah, I was boarding there five days a week until I was about 16; that's correct.

30 MS McMAHON: And did you feel supported at school, Phillip?

MR SHOOLMAN: It was okay. The teachers weren't very good, to be honest. They weren't very good educators.

35 MS McMAHON: Did you feel as though your high school prepared you for work?

MR SHOOLMAN: Not really. Look, they were pretty lazy, to be honest. They lazed around. We basically had to fend for ourselves. We had to do everything for ourselves, really.

40 MS McMAHON: And with regards to work, did the teachers help you to decide what sort of work to get into?

45 MR SHOOLMAN: No, not really.

MS McMAHON: What about choosing a particular type of job? Was anything done by the teachers to help you with that?

- 5 MR SHOOLMAN: My mum is the one that sat down and talked with me, the first time I went to - to go get the dole at Centrelink. It was all about - it was all with mum. I was 16. She took me there and we had a discussion and that's how I got my job. It was pretty good - it was only two weeks and there I was.
- 10 MS McMAHON: When you did leave school, Phillip, you had quite a few jobs. But I want to ask you first about your first job. I understand that was in 1972 when you worked in manufacturing.
- MR SHOOLMAN: That is correct.
- MS McMAHON: What did you do in that job?
- 15 MR SHOOLMAN: So I was making Berryman. So furniture, tables, bed, cupboards. All that kind of stuff. So it was manufacturing.
- MS McMAHON: And was that in --
- 20 MR SHOOLMAN: So, you know, just doing, like, band sawing stuff, cutting things to size, circular saws, the door, all those sorts of things. There was a whole lot of stuff to do.
- MS McMAHON: And, Phillip, was that job in open employment?
- 25 MR SHOOLMAN: That was in open employment, yeah, so working with all these hearing people.
- MS McMAHON: And do you recall what your pay rate was in that job?
- 30 MR SHOOLMAN: \$28 a week. \$28 a week - a few years ago, though.
- MS McMAHON: And I understand you left that job, though, because it was a bit too far to travel; is that right?
- 35 MR SHOOLMAN: Yeah, on the bus. It was a long way to go.
- MS McMAHON: And after that job, you did some study at TAFE and obtained a certificate in mechanics?
- 40 MR SHOOLMAN: That's right. A certificate in mechanics. At - down in Wollongong.
- MS McMAHON: Now, I just want to jump ahead a bit and talk to you about the ADE where you worked.
- 45 MR SHOOLMAN: Mmm.

MS McMAHON: So you - the first time you worked at that ADE was between the years of 2006 and 2009?

MR SHOOLMAN: That is correct.

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MS McMAHON: Phillip, how did you get that job.

MR SHOOLMAN: So I went to TAFE first, and that's when I did all that study and did all the mechanics, did the motor mechanics stuff, so did that for a year. And the boss looked and said, "Look, you're pretty good at this", and that's how I ended up getting the job at work. All these other hearing people, they talk too much. I was always focused on my work, looking at what I was doing. I got taught pretty well then. I really enjoyed it.

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MS McMAHON: Was there someone who identified the role at the ADE for you?

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MR SHOOLMAN: Centrelink, again. Centrelink is the one that told me to go there.

MS McMAHON: And was there anyone within Centrelink in particular who assisted you to get that job?

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MR SHOOLMAN: No, it was always random people just at Centrelink. And they all looked on the computers to see what jobs were available, and that's where we found it.

MS McMAHON: All right. So when you first started working at this ADE, how many hours were you working?

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MR SHOOLMAN: I was earning \$72 a week. So \$72 - sorry, \$72 fortnightly. So I was working eight hours a day - eight hours a day.

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MS McMAHON: Okay.

MR SHOOLMAN: Five days a week.

MS McMAHON: Did you start on five days a week or did you work up to five days?

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MR SHOOLMAN: No, initially, it was three days a week. And that was, like, the 72. And the boss, I think, was testing me to see how I went, and then I went to four days a week. And that was over a couple of months. And then I went to five days a week and then just worked five days a week from then on.

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MS McMAHON: And when you started, Phillip, do you remember what your pay rate was?

MR SHOOLMAN: So, yes, \$72 a fortnight.

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MS McMAHON: And as an hourly rate --

MR SHOOLMAN: And I was still getting my pension too. So I was doing work stuff and then the pension stuff. I think it worked out to be \$5.65 an hour.

5 MS McMAHON: And so, just to be clear, the amount of money that you were earning meant that it did not affect you receiving your DSP; is that right?

MR SHOOLMAN: Yeah, that's right. I asked - I asked Centrelink, if I was earning enough and what -- might do and they said they don't have - there's no tax worries about that whatsoever because it was in the disability employment.

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MS McMAHON: I see and did you get pay increases as you went along?

MR SHOOLMAN: So, for the first three months, it was the same and then it sort of went up almost every three months after that.

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MS McMAHON: And by the time you finished, in that first time at the ADE, do you remember what your hourly pay rate was?

MR SHOOLMAN: Let me think how much was hourly - I'm trying to work it out. So I got 178 - let me think. I think - it worked out to be about maybe \$13 - 13, 14 dollars an hour, thereabouts.

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MS McMAHON: Okay. And what sort of work were you doing at the ADE, Phillip?

MR SHOOLMAN: Just packing. Just doing packing, like all sorts of things in boxes. Like, you can imagine it was - packing Easter, Easter bags at Easter time. All that kind of stuff. So a whole lot of people with disabilities working there. We used to always come to the Royal Easter Show. So it was a couple of weeks there. And then the boss would say, "All right, we're going to do something different." It might be taping, it might be doing stamps, like, you know, big boxes of stamps and taping them up. So you just had a big stack and just working around it.

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MS McMAHON: And did the type of work that you were doing remain similar over the time you were there, the first time you were at the ADE?

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MR SHOOLMAN: Yes, look, it was all the same. It was all good. You know, if things hadn't come over, like, on a ship or whatever it might be - sometimes they ran out of stuff to do, that - so we had to wait. And then once they got delivered, they let me know what I was going to do so I'd have to stop one particular project and go work on something else and do something else and make something - whatever it might have been.

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MS McMAHON: Did you feel as though you got a chance to learn new skills or do different tasks?

MR SHOOLMAN: No, no, it was all good. It was - you know, I was happy to do anything. I was happy to do all sorts of different tasks. There was nothing sort of sameness about it. I know some people - some deaf people I've spoken to said it was really, really boring but I

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was like - I wanted to have a job. I was happy to have a job. And so, like, you know, once I'd finished that project, whatever it might be, I ran out of stuff, I go and ask the boss to do something different.

5 MS McMAHON: So did you like your work there?

MR SHOOLMAN: Yeah, I liked work.

10 MS McMAHON: And I understand you had to leave the ADE the first time because of your cochlear implants.

15 MR SHOOLMAN: Yeah, the cochlear implant caused me to fall. So I fell over three times. I actually got taken to Hospital down in Liverpool and Campbelltown. So going to those hospitals, and they found out there was something to do with their - something to do with the bionic ear. And I've got an appointment tomorrow even now to talk about it, because I want it - I want it gone. I've got to go on a waiting list to hopefully get rid of it. I'm better off without it, I reckon. I'm not happy with it.

20 MS McMAHON: I see. But that was the reason why you had to leave that job; is that right?

MR SHOOLMAN: Yeah, that's right. The cochlear, yeah, made it hard for me to work. So I had some really bad vertigo.

25 MS McMAHON: I see.

MR SHOOLMAN: And that's what caused me to fall. So just all that vertigo, and it's from the cochlear.

30 MS McMAHON: And how did you feel, having to leave the job because of that reason?

MR SHOOLMAN: Look, it was what it was. Look I'm happy in my own little world. I'm an old man now. I'm 67. So, yeah, I'm all right. Age catches up with you, though.

35 MS McMAHON: All right. Well, I would like to talk to you now about one of your next jobs, which was in the panel beating business. And I understand you were in that job for about six months in 2011 / 2012.

MR SHOOLMAN: Yes, six months as a casual. 2012, it was.

40 MS McMAHON: 2012. Now, what did you do in that job, Phillip?

45 MR SHOOLMAN: So I washed cars. I did a car - mechanical stuff. Just helped them out. Put some parts on. Sort of take parts off. You know, if it was a bit dented or whatever it might have been, sort of stretched it out and did what we had to do. So took it off and gave it to the different guys in the shop.

MS McMAHON: And did you enjoy that work?

MR SHOOLMAN: So, yeah, the boss would just tell me where to go. Like, there might be, like, a wreckers -- especially when they were V8s, it was great, and driving them around. They were a bit dented and stuff. Luckily, the police never pulled me over. I just got told to
5 do what I had to do. He had a hearing person follow me, one of the other staff guys, and we'd drop the car off and do whatever we had to do. And then the day after, we'd sort of reheat it and do what we had to do with it. Yeah, that's Revesby, sorry. Thank you.

MS McMAHON: And, Phillip, did --
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MR SHOOLMAN: Yeah, the boss was pretty good there. He was nice. I liked him.

MS McMAHON: And did you enjoy the work itself, Phillip.

15 MR SHOOLMAN: Yeah, I did, but it was cold. It rained. And because it wasn't always in the shelter, I had really cold hands. It was hard work sometimes, especially washing the cars. But, yeah, it was only six months there.

MS MCMACHON: And was that five days a week?
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MR SHOOLMAN: Yes, it was. Yep, five days a week.

MS McMAHON: And do you remember the rate of pay you were receiving?

25 MR SHOOLMAN: Oh, so it was about \$30 an hour.

MS MCMACHON: And that was in open employment?

30 MR SHOOLMAN: Yeah, that's right. Yeah, it was open employment. Yeah, they were - you know, and the colleagues were pretty good. They would tease each other at lunchtime and stuff. They were a good bunch of blokes to work with.

MS MCMACHON: Do you know why that job came to an end, though, Phillip?

35 MR SHOOLMAN: Yeah, I was only there six months as a casual because apparently the boss couldn't afford me anymore. I think he was getting - it was, like, a Centrelink benefit or something to have me work there, but that stopped so he couldn't afford to keep me there.

MS McMAHON: Now, you returned to the ADE in 2012.
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MR SHOOLMAN: Yes, that's right.

MS McMAHON: Were you doing a similar sort of work when you returned the second time?

45 MR SHOOLMAN: It was a bit different. Things had changed a little bit, which I found interesting. It was a bit new to me. You know, change is a change and I still liked to work. When

MS McMAHON: When you returned back the second time in 2012, do you remember what your rate of pay was when you commenced again?

5 MR SHOOLMAN: It basically was what it was before, \$5.65 an hour. And then that's just the way it was.

MS McMAHON: Do you recall any discussions about starting back at the base wage? Or the base rate?

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MR SHOOLMAN: No, they just told me that that's what was going to happen, \$5.65. I said but what about the previous pay -- he said no, it's because you left and then I've come back that I've got to start again.

15 MS McMAHON: I see. Do you recall the highest amount that you were receiving just before you left the ADE?

MR SHOOLMAN: I will try to remember how much it was an hour. It turned out to be maybe \$25 an hour. So it was about \$500, thereabouts, a week. So it was about \$25 an hour. Sorry, 20 \$500 - \$503 a fortnight, it was.

MS McMAHON: A fortnight. Okay.

MR SHOOLMAN: So it built up over the seven years, but then I kept falling over, again, so I 25 was really disappointed. I would have liked to have kept working to get a higher rate.

MS McMAHON: I understand that the highest rate could have been \$12 an hour. Is that correct?

30 MR SHOOLMAN: Yes.

MS McMAHON: Okay. So was it \$25 an hour or \$12 an hour?

MR SHOOLMAN: No, sorry, sorry, no, no. You're right. It was \$12 an hour. I got a bit 35 confused there. You're right. It was \$12 an hour.

MS McMAHON: Phillip do you think you should have been paid more at the ADE?

MR SHOOLMAN: Well, yeah. Well, it all depends on the boss, doesn't it? 40

MS McMAHON: Did the rate of pay that you were receiving make it difficult for you financially?

MR SHOOLMAN: Look, I lived in housing commission. My rent - so rent was pretty cheap. So 45 I wasn't too worried. We managed with food and things like that. Electricity, you know, phone, water rates. You know, Housing Commission did it all for us. They just automatically

did that as a Centrelink deduction, as a direct debit so I didn't have to worry about it. No, there was no problems.

5 MS MCMAHON: What about your appliances, Phillip? Were you able to buy them or did you have to do something else?

MR SHOOLMAN: Yeah, yeah, we had to save up and buy them. Like, even - I mean, last year I bought a new washing machine and dryer and stuff like that. They're all my things. Just the car. I've still got to pay off the car. I've got one more year to go.

10 MS McMAHON: Okay. And when --

MR SHOOLMAN: I can't wait to get rid of that one.

15 MS McMAHON: And when you were working at the ADE, Phillip, did you have to be careful with your money when you went shopping for food?

MR SHOOLMAN: Yeah, and that's what I used to do. I always looked at the cheap stuff and had to really make sure I was in control of my budget. So I'd see what I had and what I needed to buy. I'd write a list down and then just see what I could ever get that was cheap. I managed, yeah, we were okay. I wasn't very blasé with my money at all. I was all very cautious and careful, especially with the bank.

25 MS McMAHON: Okay. And in your work at the ADE, Phillip, do you feel as though your disability was supported?

MR SHOOLMAN: There were two other deaf people there as well. So we would always have a chat at lunch and do that kind of stuff. It was always just really just the three of us and then we'd go work in our separate areas.

30 MS McMAHON: What about the workplace itself? Did it offer you interpreting supports?

MR SHOOLMAN: No. Nothing like that. No. No, the boss wouldn't do it, because he wouldn't want to pay for it. I could just tell, that he just didn't want to - he couldn't be bothered. He didn't want to pay. And so there were a few communication breakdowns sometimes. Everyone would be talking and we'd sit there going, "We don't know what's going on."

40 MS McMAHON: Did that affect you at work meetings?

MR SHOOLMAN: It did, yeah. I felt stuck, really. Like, the three of us. All three of us deaf guys would sit there and go, "We've got no idea what they are talking about." It was a bit boring for us, to be honest

45 MS McMAHON: How did that make you feel, not being able to understand what was going on in work meetings?

MR SHOOLMAN: I mean, we should have got an interpreter in. I would rather know. Because of the fact we are deaf - and we can't talk at all. We were very confused about what was going on. Always communication breakdowns. We wanted the access.

5 MS MCMAHON: But, Phillip, how did you make that feel, if you can remember?

MR SHOOLMAN: A bit frustrated. A bit annoyed. Yeah, just a little bit.

10 MS McMAHON: And what about when you were learning a new skill, for example, or learning a new task? Were there interpreters provided then?

MR SHOOLMAN: No. Like, the boss would come to and write things down, and English isn't - I'm not very fluent. It's a second language for me. I'm not very good at the English. So he'd write things down and even that was confusing sometimes.

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MS McMAHON: And did that create any difficulties for you in doing your tasks?

MR SHOOLMAN: Yeah, it did.

20 MS McMAHON: Apart from the interpreting - sorry.

MR SHOOLMAN: Like, after work and things like that, if we'd run out of a project and -- have to do, and I said, like "I've done - I'm done what I have to do here" and he'd move me off to a different area, and - so, yeah, I'd just go see the boss and he'd just move me on.

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MS McMAHON: Do you think it would be better, had there been interpreters there for you and your colleagues?

30 MR SHOOLMAN: Yeah, definitely. I would much rather have an interpreter in here. Because that way we would know what was going on and we could all communicate. And when they - when they've gone, at least we know what we're doing and we can sort of self-direct what we want to do.

35 MS McMAHON: Is that something you would recommend all workplaces who have people who are deaf working there should have?

MR SHOOLMAN: Definitely, definitely.

40 MS McMAHON: Phillip, was there anything else at the ADE that you found difficult or that you did not like?

MR SHOOLMAN: Yeah, I mean, there are a few things there. There were frustrations that popped up because - mainly because of the lack of interpreting. So we just sort of worked and went about it our own way.

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MS McMAHON: Can you think about what some of those things were?

MR SHOOLMAN: Like, sometimes it was, like, boring at work. Like, we'd work what we were going to do, and they'd talk to us, and there was no one to really communicate with. They wouldn't write things down. Like, some of the other staff people. We felt ignored sometimes.

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MS McMAHON: Phillip, can you tell the Commissioners the sort of things that you did like about working at the ADE?

MR SHOOLMAN: Yeah, I mean, I liked the packing stuff. Yeah, I liked doing the taping up of the boxes and stuff. There was a variety of things to do. Yeah, there was some, you know, wood boxes that we could work with. There was - there were lots of things to do, so that was okay. It was always something different to do. It was a nice big factory and just doing different stuff. Like, we used to do, like, shampoo packing. Like, the bottles and stuff, and the machine used to pick them up and do all that kind of fun staff stuff. So, yeah, there was a lot of stuff - you know, a lot of people working in the factory.

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MS McMAHON: But you had to retire again because of your implants. Is that right, Phillip?

MR SHOOLMAN: Yes, the cochlear - the boss just went in, "No, you're finished." And the hospital said, "No, you need to stop working" and I just had to accept that. I went to my GP and explained that the cochlear was causing me to fall. And the doctor did some reports, wrote some letters and went, "No, no more work for you", unfortunately.

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MS McMAHON: Is it the case that you want to return to work?

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MR SHOOLMAN: Yeah, I wanted to, but it was just too much going on. And then with the vertigo, I think, with the cochlear - I think maybe if I have the cochlear removed that might help, but yeah, I was just getting too dizzy at work, and I had to take too many breaks. I want to get rid of the cochlear.

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MS McMAHON: Do you think when you do have the implant removed that you might be able to return to work?

MR SHOOLMAN: Who knows. I would like to try. Yeah, see how we go. I would like to do it.

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MS McMAHON: Do you think you will return to the ADE or somewhere else?

MR SHOOLMAN: It's hard work. There's a lot of work that has to be done. And it was a bit pushy towards the end there. Like, in open employment. But when you're at the ADE, it's pretty easy. It's light. It's easy for someone of my age. Like, if you go to open employment, they're be a bit stricter and a bit harsher. So the ADE, I was happy there. It was good. It was nice and easy.

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MS McMAHON: Phillip, do you prefer the pay that you receive in open employment compared to the pay that you received at the ADE?

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MR SHOOLMAN: Look, I didn't mind. I was still getting my pension, so I could still work and get my pension so I was pretty happy. It didn't really worry me.

5 MS McMAHON: And if you think about your experiences in open employment, compared to your experience at the ADE, where would you prefer to work?

MR SHOOLMAN: Look, that's hard to know. Like, open employment is good. It's good, but it's hard work. You know, there was a lot of, you know, washing of cars, and I would be out in the rain sometimes, and - so I don't think I would want to go back to that. But at the ADE,
10 it was good. It was sheltered. It was always inside, and there was nothing really to worry about there.

MS McMAHON: Phillip, you have made - I understand you have some recommendations that you would like to share with the Commissioners, particularly in relation to managers interpreting for their staff and learning --
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MR SHOOLMAN: Yes, definitely.

MS McMAHON: -- to sign.
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MR SHOOLMAN: I think the hearing people need to learn to sign too. Some of the people that were there could sign a little bit, and that was good. So there was one deaf person there that was sort of teaching them how to do it. They had a book there and there were sort of practising the signs.
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MS McMAHON: But was it enough to get by and properly understand your work?

MR SHOOLMAN: No, not really. That one deaf person there, that deaf person - who was more hearing impaired than he was deaf, so he sort of helped me. And he would almost interpret a little bit for me, even though he was hearing impaired himself.
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MS McMAHON: Finally, Phillip, can you tell the Commissioners why is it so important that managers and people working with employees who are deaf should learn to sign?

MR SHOOLMAN: It's really hard for us sometimes. Like, hearing people get to talk to each other all the time, and, you know, and a lot of these people have probably never met a deaf person. So they don't really understand what it is. So I think for them to sign would be a better way for them to understand us. Because it goes in one ear and out the other with us, literally. We don't actually see, we don't understand what they're saying.
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MS McMAHON: Thank you, Phillip, and thank you very much for giving evidence at this Royal Commission.

MR SHOOLMAN: No worries. Thank you very much.
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MS McMAHON: The Chair or the other Commissioners might have questions for you.

CHAIR: Mr Shoolman, if it is okay with you, I will ask the Commissioners if they have any questions of you.

MR SHOOLMAN: Yes, of course.

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CHAIR: First, I will ask Commissioner Galbally whether she has any questions for you. I think you're on mute, Commissioner Galbally.

10 COMMISSIONER GALBALLY: Sorry. I wanted to thank you very much for appearing. I don't have any questions. Thank you so much.

MR SHOOLMAN: You're very welcome.

CHAIR: Thank you. Commissioner Mason?

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COMMISSIONER MASON: Thank you, Chair. I just have one question. Thank you very much, Phillip, for your evidence today. When you were talking about your housing arrangements and paying rent, you said "we." So I just wanted to know if you were supporting a person --

20 MR SHOOLMAN: I was married. I've now got an ex-wife. So when I say "we", I was talking about me and my wife. So if we were separated there, we'd get lesser pension. So, yeah, I get the house to myself now. I pay less. But when we were together, I had to pay more rent.

25 COMMISSIONER MASON: Okay. Thank you. Did that provide some financial pressure in the work that you were doing at the time at the ADE in being able to cover all your living expenses?

30 MR SHOOLMAN: I mean, we were pretty flexible. We were pretty easy. We managed okay. We sort of went halves in food and did all that kind of stuff, my ex-wife and I. We - the electricity - we didn't really have too many problems. But then she ditched me and now I'm on my own. Anyway. That happened last year.

COMMISSIONER MASON: Thank you very much.

35 CHAIR: I would also like to thank you for giving evidence today. Your evidence has been very helpful and extremely interesting, if I might say so. So thank you very much for coming to the Commission. I would also like to --

40 MR SHOOLMAN: Thank you very much for listening and thank you very much for what you're doing.

CHAIR: The only thing I would add to your evidence is 67 is not old. You need to wait a few years before you consider yourself old.

45 MR SHOOLMAN: No, look, if you flip the numbers, I'm 76, and that does make me old.

CHAIR: I would also like to thank the translator for a very lively translation, perhaps reflecting your personality, Phillip. It was a very lively translation. Thank you very much to both of you. Thank you.

5 MR SHOOLMAN: No worries. Thank you very much, your Honour.

THE WITNESS WITHDREW

MS McMAHON: Thank you. Is now a convenient time for a short break?

10

CHAIR: Yes, how long should we break for?

MS McMAHON: 10 minutes or so, if that's convenient.

15 CHAIR: All right. Well, it is now 11.35, more or less, Sydney-Brisbane time. Let's resume at 11.50, Sydney-Brisbane time, which would be 11.20 Adelaide time. Thank you.

ADJOURNED 11:34 AM

20 **RESUMED 11:52 AM**

CHAIR: Yes, Mr Fraser.

MAHDI, CALLED

25

MR FRASER: Commissioners, the next witness is giving evidence under the pseudonym Mahdi. As Mahdi's first language is Dari, an accredited translator and interpreter is here to interpret the proceedings, which I ask that he do now.

30 CHAIR: Yes, thank you. I understand that the interpreter and Mahdi have both been sworn or affirmed, as the case may be.

MR FRASER: Yes, that's so.

35 CHAIR: All right. Could I explain to Mahdi, although it may already have been explained, first of all, thank you very much for coming to the Royal Commission in Brisbane in order to give your evidence. We greatly appreciate your assistance. There are three Commissioners who are sitting on this hearing. We are in different locations. First, we have Commissioner Galbally, who is in Melbourne, and we have Commissioner Mason, who is joining the
40 hearing from Alice Springs. I am in the Brisbane hearing room. Mr Fraser, of course, is with you in the Brisbane hearing room. So thank you very much again. Yes, Mr Fraser.

MR FRASER: I will allow the interpreter to interpret that. Thank you, Chair.

45 MAHDI: You are most welcome, Chair.

CHAIR: Thank you.

EXAMINATION BY MR FRASER

MR FRASER: Mahdi's statement dated 1 April 2022 is in English, and it was read out to Mahdi in Dari by an interpreter. Mahdi confirmed that the contents of the statement were true and correct, and that is recorded on the last page of the statement.

MAHDI: Yes.

MR FRASER: With the assistance of the interpreter, Mahdi is going to read his statement. Can we start at paragraph 2, at the heading Background. I will ask the interpreter to read paragraphs 2 to 7 in Dari and then in English.

MAHDI: I will read it in Dari first. I will read the statement now in English. Paragraph 2 to 7.
Paragraph 2:

"I was born in Afghanistan in 1979. My first language is Dari."

Paragraph 3:

"I arrived in Australia in 2014 with the assistance through the UNHCR, which is the United Nations High Commission for Refugees. My mother and sister also moved to Australia at the same time."

Paragraph 4:

"Since childhood, I have had vision impairment. I am blind."

Paragraph 5:

"I had limited education before coming to Australia. I completed year 7 in Iran. In about 2005, I went back to Afghanistan, and there was no opportunity for me to continue school."

Paragraph 6:

"In Afghanistan, when I was an adult, I studied literacy and numeracy course and attended English language classes for a short period of time. I stopped due to the economic situation. I started a business with a few others, selling fruit in the market. I ran that business with my business partners for a few years."

Paragraph 7:

"I heard the situation was better in Pakistan, so after a few years, I moved from Afghanistan to Pakistan. I opened and managed my own fruit business in Pakistan from about the end of 2011 until about early 2014, when I came to Australia."

MR FRASER: Thank you. I think we can dispense with the paragraph numbers. The next section in the statement addresses how Mahdi came to find a job at an Australian Disability

Enterprise, which is referred to as the ADE. I ask that the interpreter read paragraphs 8 to 15 in Dari and then in English.

5 MAHDI: Finding a job at ADE. When I arrived in Australia, life was very difficult because my mother, sister and I did not speak English. We also did not have a car, so it was hard to get around. In Australia, I spent about three years studying an English language course which I did not complete. I can now understand English speakers to some extent, but I cannot speak English well.

10 I receive a Disability Support Pension, through Centrelink. It is very difficult to provide for my family on the DSP. I am a National Disability Insurance Scheme participant. I have had numerous support workers from my NDIS registered provider assisted me - assist me. After arriving in Australia, I enrolled in the JobActive program through Centrelink and was connected with a job network provider for people with disability. I did not find a job through
15 that provider.

In about early 2020 my support worker helped me look for jobs for about six months. I found out about the job at the ADE through my support worker. In about October 2020 I went to the ADE and had a job interview.

20

MR FRASER: In the next section of the statement, at paragraphs 16 to 20, Mahdi recounts his experience on his first day of work at the ADE. Can those paragraphs please be interpreted.

25 MAHDI: In about October 2020, about one week after the interview, I started working at the ADE. I was employed on a permanent ongoing basis. I worked about 21, 21.5 hours per week over three days. I cannot drive because of my disability. I arranged for a support worker to drive me and come with the ADE on my first day. On my first day at the ADE, my support worker came in with me. On the first day of work at the ADE, I had a meeting with
30 two ADE staff, including my supervisor.

One staff member read my employment contract to me in English. My support worker interpreted that - what was said into Dari. I found out when the contract was being read to me that I would get a wage of about \$3.70 an hour for a period of about three months. I
35 thought that must be a probation period. I believed the contract also referred to an amount of \$21.10 per hour. I remember that amount being mentioned when the contract was read to me aloud - read out aloud.

40 Based on that figure, I thought that after a few months, I would get this rate. I also remember the ADE staff said, "When your work improves, your wage can go up to \$21 an hour" but they did not say when. I was asked to sign a contract, and I did. On my first day working at the ADE, I was taken to the factory floor, and one of the ADE staff gave me instructions in English on what to do and how to do things.

45 MR FRASER: At paragraphs 21 to 23, Mahdi addresses the type of work he did at the ADE. Can those paragraphs be interpreted?

5 MAHDI: My work at the ADE included packaging and recycling. It was heavy duty work. One of my tasks at the ADE was to open a pallet and unpack boxes and sort those boxes into groups. I recognised objects by touch or through other senses. I removed plastic cups and metal from the boxes and placed the plastic cups and metals in a different box. I would sort from one to five pallets per day, depending on the pallets.

10 Because I'm able to count numbers, I also worked in the packaging area of the ADE on the other side of the factory. Only workers who can count work in that area. In that area, my task was to put 22 ice packs, like the ones used in lunch boxes, in a tray.

MR FRASER: At paragraphs 24 to 26, Mahdi talks about the support he received at the ADE. Can that be interpreted, please?

15 MAHDI: If I had questions about my work, I could ask ADE staff. This included a manager; however, the manager did not come to the factory floor very often. This also included two staff who worked on the factory floor supervising workers with disability. I would have to ask my question in English and be able to respond in English. I did not have any problems or issues with the majority of my work. However, because I have a vision impairment, I cannot see colours. To help me unpack boxes from pallets and sort those boxes correctly, the ADE
20 staff usually provided goods or boxes of the same colour for me to unpack, which meant it was easier for me to do the work.

MR FRASER: At paragraphs 27 to 40 of the statement, Mahdi has addressed wage assessments and his concerns about his wage assessment. Can those paragraphs be
25 interpreted?

MAHDI: I asked the ADE staff many times, including the manager and my supervisor, "When will you increase my pay rate?" On about 17 November 2020, my support worker emailed the ADE manager, asking when my wage assessment could be conducted. On about 18
30 November 2020, the ADE manager told my support worker by email that the ADE was waiting for the assessor to make contact. On about 1 December 2020, my support worker emailed the ADE manager again, requesting that my wage assessment be conducted and explaining my wife and child were soon coming to Australia from Afghanistan.

35 I do not know if the ADE manager emailed back. At this time, I thought that I was working hard and completing my work faster than some of the other workers. I would finish sorting my pallet and then help the workers next to me with his pallet. Also, I would fill up the cage with the recycling faster than some of the other workers. In mid-February 2021, my supervisor said that I would have a wage assessment in one week.

40 In about late February 2021 I had my wage assessment. Someone came to the ADE factory to assess my work. They watched me work. I do not think they timed how long it took me to do my work. On the day of my assessment, the person assessing my work told me that my hourly wage would increase to \$10. I said, "\$10 is not enough for me because I have a family
45 to support." I said, "I have a wife and a child." I asked for at least \$21 an hour.

5 I was told something like, "No, we cannot pay you \$21 an hour." I asked the ADE staff what wage I might get next time my work was assessed. I was told next time, in about 12 months, I might get \$15 an hour. I asked why and was told something like, "If we pay you more, you will lose your Centrelink payments." I think that information is incorrect because my DSP is the blind pension and is not impacted by my income.

10 Later in the day my wages assessments - after my wage assessment, I said to the ADE staff, "I am not working here any longer." One of the ADE staff members told me to go home. After that, I organised an appointment with the ADE manager. During our discussion I asked again if they would increase my hourly rate to \$21. The ADE manager said something like, "It's not my decision. That decision is made in the main office." Because I felt that the wage offered to me was unfair, I resigned from my job at the ADE in about late February 2021.

15 After I resigned, on 1 March 2021, the ADE sent an email to my support worker asking if I would return to work. My support worker sent an email back on 3 March 2021 saying I was not interested in continuing with the ADE, that I willing to work as long as I would be paid better, and that my support worker was still searching for work for me. I was not offered any support or assistance from the ADE in finding a new job.

20 After leaving the ADE I tried to manage a restaurant. That was not successful, and I stopped after 12 days. I'm not working now. Currently, without a job, I feel hopeless. I feel that no one will offer me a job with a fair wage because of my disability.

25 MR FRASER: Commissioners, we now turn to the final section in the statement at paragraphs 41 to 45, where Mahdi wants to tell you about the future. Can those paragraphs be interpreted?

30 MAHDI: I am capable of working for myself and for my family. Mentally, I'm bright and switched on. I do not like the idea of not working and just getting the DSP. I feel that the policy of the ADE is exploitation of workers with disability, and this is unfair. A wage of \$10 an hour is nothing, in my opinion. I believe the low wages earned by people with disability who work at the ADE is some kind of discrimination and that I was discriminated against. I would like to see Australia monitor all these businesses or companies to ensure everyone is - everyone in employment is treated fairly.

35 I think people who have disability should be helped by the government. For me, life has been tough - tough with my disability and not being able to see. There should be more support for us. For example, I think the government should make it easier for people with disability to start a business and to obtain loans without interest. If I start a restaurant, for
40 example, I need a licence, which costs money. So an interest-free loan would help me set up my business. I would like to see positive changes in Australia for people with disability.

45 MR FRASER: That's the end of the statement. Commissioners, you will find a copy of the English version of Mahdi's statement in Tender Bundle part A at tab 1, and the Dari version of the statement at tab 1A. I tender these statements into evidence and ask they be marked as **Exhibit 22-0** and **Exhibit 22-1**.

CHAIR: Yes. Both of those documents can be admitted into evidence with the markings you have indicated, Mr Fraser.

EXHIBIT 22-0 ENGLISH VERSION OF MADHI'S STATEMENT

5

EXHIBIT 22-1 DARI VERSION OF MAHDI'S STATEMENT

MAHDI: Thank you.

10 MR FRASER: Chair, subject to any questions that the Commissioners may have, that is the evidence of this witness.

CHAIR: Yes, thank you very much. Mahdi, I shall ask my colleagues whether they have any questions of you. First, I shall ask Commissioner Mason. Yes, please do translate.

15

MAHDI: Thank you very much, Chair.

20 COMMISSIONER MASON: Thank you, Mahdi, for your evidence today. I actually had one question. If you have met other people who are blind here in Australia who do run their own businesses, if that has been facilitated for you? Thank you.

MAHDI: I do not have any contacts with anyone, and I do not know if anyone is running a business. I do not know. I don't have any contacts.

25 COMMISSIONER MASON: If you were able to have those conversations, would that be of assistance to give you some understanding of opportunities available in Australia?

MAHDI: 100 per cent, yes.

30 COMMISSIONER MASON: Mahdi, I just wanted to say that the location of Central Australia has had people from Afghanistan coming for a very, very long time, and people from Afghanistan in Central Australia have had a wonderful relationship with First Nations people. I just want to acknowledge that history and also acknowledge your deep
35 commitment and desire to make a contribution, but also to provide for your family. But, again, thank you for coming today and giving your evidence.

MAHDI: Thank you very much.

40 COMMISSIONER MASON: Thank you, Chair.

CHAIR: Thank you, Commissioner Mason. Mahdi, I shall now ask Commissioner Galbally whether she has any questions for you.

45 COMMISSIONER GALBALLY: Thank you, Mahdi. I appreciated your evidence, and I wanted to ask you, with the interest-free loan proposal to set up businesses for people with disabilities, you would imagine paying that loan back over a period of time once the

business got going? That's a question. I assume you would. But I'm asking that as a question. Thank you.

5 MAHDI: Yes. Thank you very much. Yes, my intentions is also to repay back the loan. Loan without interest. If there's a loan that you don't have to pay back, I think - maybe I think that will make people lazy. That's - my thinking is a loan without interest, and, yes, that should be repaid.

10 COMMISSIONER GALBALLY: Thank you. Thank you very much.

CHAIR: Thank you, Commissioner.

MAHDI: Thank you.

15 CHAIR: Mahdi, I can see from your statement that has been read today that you are very keen to work for yourself and to support yourself and your family. I am wondering what kind of training, if any, you think would be helpful to you to obtain a job or perhaps to set up your own business? What sort of training would you like to have available to you?

20 MAHDI: Yes, I like the idea of learning more. I like that. However, I think the best business now is food, providing food. So that's - that has got very good income, as far as my finding shows.

25 SPEAKER: Training --

THE INTERPRETER: Chair, may I just - I will just - what his support worker said, shall I --

30 CHAIR: Yes, I understand the support worker was asking you what sort of training, if any training was available, you would like to help you in order to get a job or to set up a business. So, by all means, if there is something you would like to say about the training you would like to receive, please do tell us.

MAHDI: 100 per cent. Yes.

35 CHAIR: All right. Thank you very much. Mahdi, I can do no better, I think, than endorsing what Commissioner Mason and Commissioner Galbally have said about your coming to us and giving evidence. We are very grateful to you. We appreciate your telling us about your story, and I am sure, on behalf of my colleagues, they would wish to join me in wishing you all the best for your future and to hope that you will be able to get the employment or to
40 start a business as you wish and, again, thank you so much for sharing your experiences.

45 MAHDI: Yes, I would like to thank the Commission for what it's doing to make an improvement in the society. This is a very good thing, and if there are positive changes brought about, that's a very good thing for all of us. Thank you very much.

CHAIR: Thank you very much, Mahdi, and thank you for those comments. Thank you.

MAHDI: Many thanks. Thank you.

THE WITNESS WITHDREW

5 CHAIR: Ms Eastman, should we now adjourn for lunch?

MS EASTMAN: Yes. If we can, Commissioners.

CHAIR: We will resume, then at 1.30 Sydney time/Brisbane time and 1 pm Adelaide time.

10

MS EASTMAN: Yes. Thank you, Chair.

CHAIR: Thank you.

15 **ADJOURNED 12:35 PM**

RESUMED 1:33 PM

CHAIR: Yes, Ms McMahon.

20

MS McMAHON: Thank you, Chair. The Royal Commission will now hear from Gert, who is generously sharing the experiences of her children at an ADE and her experience as their mother, supporting them in their schooling and work life. Commissioners, you will be aware that Gert's name and that of her children have not been - sorry, are pseudonyms and their actual names have been the subject of a non-publication order. You will also note the ADE has not been identified either.

25

Gert has made a statement, and you will find that at volume A, tab 3, and, for your convenience, a transcript of this pre-record is at tab 5 of that same volume. This pre-recording will last just over 10 minutes. Thank you, Chair.

30

CHAIR: Thank you very much. Yes.

RECORDING PLAYED

35

MS McMAHON: Gert is giving pre-recorded evidence from her home to the Royal Commission in a region area of Australia. Gert has five children, two of which worked in an ADE: Frederic, who is 43, and Springer, who is 50. Her children worked at this ADE for 24 and 23 years respectively, and they no longer work there. Gert, you made a statement to the Royal Commission dated 31 March 2022. Is that right?

40

GERT: Yes, that's right.

MS McMAHON: And is the contents of that statement true and correct?

45

GERT: Correct.

MS McMAHON: And in relation to all of the matters that we will talk about today in your evidence, do you agree to tell the truth?

GERT: Yes, I do.

5 MS McMAHON: Now, you stated that Frederic went to a mainstream school until he was 10 and then moved to a school with a special education unit; is that right?

GERT: Yes, that's correct.

10 MS McMAHON: And Springer went to a mainstream school too but then moved to a local special school for about a year. But you've stated that you've moved her to a boarding school because you weren't so happy with the opportunities that she was being given at the local school; is that right?

GERT: That's correct.

15

MS McMAHON: Can you tell the Royal Commission how Frederic came to work at the ADE?

20 GERT: Frederic wasn't given any help at school to look for any work experience, and I knew a member of the board and I asked them if he could volunteer for a couple of weeks just to give it a go.

MS McMAHON: And Springer started a year later. How did she get the job there?

25 GERT: I was at a meeting at the ADE and I just asked if Springer could come and trial there because she was unhappy at the place where she was working.

MS McMAHON: I see. And did Frederic enjoy his work there?

30 GERT: Yes. Definitely.

MS McMAHON: What did he like about it?

35 GERT: The companionship, the fact that he had to get up and go to work just like his siblings.

MS McMAHON: And what about Springer? Did she enjoy her work at the ADE?

40 GERT: Yes, she did.

MS McMAHON: And what did she like about it, Gert?

45 GERT: The same thing, kind of thing. The getting up and going somewhere. Having a purpose in life.

MS McMAHON: And what about for you as her - their mother and the family? Was it important for you and the family that they worked?

50 GERT: Yes, it gave me a little bit of respite and time to myself.

MS McMAHON: So I understand that the main sort of work that they - your children did at the ADE was packaging type work; is that right?

GERT: Yes, that's correct.

5

MS McMAHON: And except for towards the end, the work was fairly consistent in terms of the sort of work they did; is that true?

GERT: Yes, it just depended on what was around, what businesses needed work done.

10

MS McMAHON: I see. So it was the type of product that might change, not the work itself; is that right?

GERT: Exactly. That's right.

15

MS McMAHON: Now, you've stated in your statement that you did try, at times, to get Springer into open employment. Did that work out?

GERT: No, it definitely didn't, because I always tried through an employment agency and got nowhere.

20

MS McMAHON: And did the ADE do anything to assist Springer to get into open employment?

GERT: No. Definitely not.

25

MS McMAHON: And what about Fred - Frederic, did he - did you ever try to get him into open employment?

GERT: No, I didn't try because he - his disability was far greater than (Redacted) - from Springer and if she couldn't get anything, I knew Frederic couldn't get anything.

30

MS McMAHON: In your statement, you have expressed some concerns about some of the personal care tasks that Springer was doing for other supported employees, such as making tea and coffee, taking people to the toilet and sometimes feeding. What has Springer told you about why she was doing this work?

35

GERT: Well, they were just expected to do it, kind of thing, as part of their job. And she was a willing person, I suppose, because some of them were her friends. She would just do it. But I didn't think it was fair that the supervisors expected the more capable employees to do this kind of work.

40

MS McMAHON: So you didn't think she should have been doing it?

GERT: No. Maybe occasionally, if something, you know, was necessary, but it was just all the time.

45

MS McMAHON: I see. If I could just talk about pay, for a moment, that your children received. Could you please tell us - perhaps towards the end of their time at the ADE - what their pay rates were?

50

GERT: Springer's pay rate was just over \$4 and Frederic's was under - between 3 and 4.

5 MS McMAHON: I see. And is it the case that it would, from when they started, increase over time, depending upon annual reviews. Is that how it worked?

GERT: Yes, that's how it worked.

10 MS McMAHON: And would you attend those reviews?

GERT: Yes, definitely.

MS McMAHON: Was it important for you to attend the reviews?

15 GERT: Yes, I felt it was - that was part of my job, was to keep an eye on things and make sure that they were learning new tasks and being made feel beneficial to the organisation.

20 MS McMAHON: Something else that you've spoken about, Gert, is the importance of communication, and you've indicated that there was a bit of a decline in the quality of communication over the years. Could you please give the Royal Commission an example of what you considered poor communication?

25 GERT: Poor communication, I felt, was because they put signs up on the walls and expected the supported employees to read them and then be able to take the information home to their parents. And, in some cases - and, well, a lot of cases - they can't read. So how could that information be given to the parents? And the other thing --

30 MS McMAHON: Was that - no, please continue, Gert.

GERT: And the other thing, when we spoke to the - the committee and the CEO and brought this to their attention, we were told that everything was on Facebook. Well, not everyone is on Facebook. So how - you know, that was a big thing.

35 MS McMAHON: I see. And you spoke about signs being posted up for supported employees to gain information. Did Frederic have issues with his reading?

GERT: Frederic couldn't read at all.

40 MS McMAHON: I see. Now, you've told us that Frederic was made redundant from the ADE shortly after 2020 and that Springer was offered reduced hours but decided to leave. How did Springer feel when she was offered the reduced hours but Frederic was told that he was no longer - no longer had a job there?

45 GERT: Can you repeat that question?

MS McMAHON: Sorry, how did Springer feel when she was offered reduced hours but Frederic no longer had a job, was made redundant?

GERT: Springer was upset. She didn't feel it was - it was good for her to be given work and Frederic wasn't offered any work, when he'd actually been there 12 months longer than she had

5 MS McMAHON: I see. And what about Frederic? Did he express how he felt about losing his job after so long?

GERT: He couldn't understand, kind of thing, why - why his sister was allowed to continue at work and he wasn't offered any.

10

MS McMAHON: What about now, Gert? What is Springer doing?

GERT: She's working at another ADE.

15 MS McMAHON: And does she like her new work?

GERT: Loves it.

MS McMAHON: Does she?

20

GERT: Loves it.

MS McMAHON: Why?

25 GERT: They're kind, considerate, and they listen to her, and she's been offered lots of opportunities to learn new skills.

MS McMAHON: And what about Frederic? Is he working now?

30 GERT: Yes, he is. And he's at a different ADE, which makes it very awkward for me. One's at one, one's at other and there are different days, kind of thing, trying to get them all organised

MS McMAHON: Are you managing?

35

GERT: Yes, slowly.

MS McMAHON: Gert, we have read in your statement, and so will the Commissioners, the recommendations that you've made in your statement. And I'm sure that the
40 Commissioners will take those into account. But I just wanted to thank you very much for giving evidence today that will be played next week at the Royal Commission. Thank you very much.

GERT: Thank you. Thanks for giving me the opportunity.

45

RECORDING STOPPED

CHAIR: Yes, Ms McMahan.

MS McMAHON: Chair, I seek to tender three documents. The first is the statement of Gert dated 31 March 2022, which could be marked 22-2. The second is the pre-record of Gert's evidence dated 4 April 2022, to be marked 22-2.1. And the third is the transcript of that pre-record of Gert's evidence from 4 April 2022, to be marked 22-2.2.

5

CHAIR: Yes. Those three documents will be admitted into evidence and given the markings that have just been indicated.

EXHIBIT 22-2 STATEMENT OF GERT DATED 31/03/22

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EXHIBIT 22-2.1 PRE-RECORDED EVIDENCE OF GERT DATED 04/04/22

EXHIBIT 22-2.2 TRANSCRIPT OF PRE-RECORDED EVIDENCE OF GERT DATED 04/04/22

15

MS McMAHON: Thank you, Chair. Perhaps if we could just have a very short break and Ms Dowsett will return to take the evidence and --

CHAIR: Yes. All right. We will have a short break to reconstitute. Thank you.

20

ADJOURNED 1:44 PM

RESUMED 1:48 PM

CHAIR: Yes, Ms Dowsett.

25

MS DOWSETT: Thank you, Chair. The next witness that you will hear from is Ms Catherine McAlpine. Ms McAlpine is the CEO of Inclusion Australia. Is she in the room? Do we have Ms McAlpine? She's coming, Chair.

30

CATHERINE McALPINE, CALLED

CHAIR: Yes. I think we have Ms McAlpine on screen. Thank you very much, Ms McAlpine, for coming, as it were, to give evidence to the Royal Commission. I think you probably are aware where everybody is, but, just in case, I shall let you know, or go over it again.

35

Commissioner Galbally joins us from Melbourne, and I hope you can see her on a screen. Commissioner Mason is in Alice Springs. I am in the Sydney hearing room along with Ms Dowsett, who I shall ask to ask you some questions, and I understand you have taken the oath or affirmation, as the case may be, already. Thank you.

40

EXAMINATION BY MS DOWSETT

MS DOWSETT: Now, Ms McAlpine, I understand that you are having just an issue with your voice today so you may sound a little scratchy, but you want the Royal Commission to hear your evidence, so we are going to press on; is that correct?

45

MS McALPINE: That's correct. Thank you.

MS DOWSETT: Thank you very much for making yourself available. Now, you gave evidence to the Royal Commission in Public hearing 9?

50

MS McALPINE: That's correct.

5 MS DOWSETT: And at that time, Commissioners, the exhibits included a detailed statement from Ms McAlpine, a copy of her CV, an extract from the omnibus submission prepared by Inclusion Australia, and a report entitled *Fostering employment for people with intellectual disability: The evidence to date*. I mention all that by way of background, because we are not going to do the usual introduction of Ms McAlpine. Her background material is already before the Commission already.

10 So with that introduction, I propose to step straight into the evidence. Now, Ms McAlpine, in your evidence in Public hearing 9, you introduced us to the language of the "polished pathway", which, as I understand it, reflects a life course that Inclusion Australia sees from segregated education through to segregated employment, and it's contributed to by the availability and sources of information and support to people with
15 intellectual disability and their family. And also --

CHAIR: Sorry, is this a - is this a question or a soliloquy? If there is a question, I suggest you put it to Ms McAlpine. Perhaps Ms McAlpine will be able to tell us herself what she means by a polished pathway. That might be better.

20 MS DOWSETT: If you could, Ms McAlpine.

MS McALPINE: Thank you, yes. So, in previous evidence, I have talked about the polished pathway and exactly as Counsel Assisting mentioned, that is about particularly
25 segregation from a very early age into segregated education and the way the systems all work together to make it easy to stay in those systems and to move from school into segregated - to other segregated settings, including segregated employment.

30 CHAIR: Thank you.

MS DOWSETT: Thank you, Chair. And can I ask you next, please, Ms McAlpine, to explain to the Royal Commission just some terminology that we will be using in evidence today and, first, "open employment ". What do you understand that to be?

35 MS McALPINE: So we mean - in "open employment", we are talking about the regular employment market where people with and without disability work together for - for what we would call proper wages. So the normal awards that are equal to or above the minimum wage.

40 MS DOWSETT: And Australian Disability Enterprises: What do you understand that to be?

MS McALPINE: So an Australian Disability Enterprise is a type of employment support, or it's supposed to be a type of employment support for people with disability. The
45 Australian Disability Enterprises - which we'll all call ADEs, I assume, for the rest of the session - are settings that mainly - that are attended mainly by people with an intellectual disability. You've heard some evidence this morning from people with other disabilities, but, in fact, more than 80 per cent of people in ADEs are people with an intellectual disability. So we see them very much as segregated environments where the - where the
50 people with intellectual disability are sent to work and where pay rates are very low.

MS DOWSETT: And is it correct that the terminology "supported employment" could also be used to describe ADEs?

5 MS McALPINE: This is where it gets complex. Overseas, "supported employment" is usually referred to as people in open employment receiving supports, but in Australia the term "supported employment" tends to mean working in an ADE. So sometimes when you read the research and other documents, you've got to really understand which definition of "supported employment" is in place.

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MS DOWSETT: And the final terminology I would like you to explain the Inclusion Australia definition of today, is "social enterprise."

15 MS McALPINE: So a social enterprise is generally regarded as the place where people with and without disability or people with or without disadvantage work together. We believe that terminology is being co-opted, because our understanding of "social enterprise" is that's where - a place where people are paid properly, so where people are paid at least the minimum wage. And we see the language of "social enterprises" as being co-opted by Australian Disability Enterprises because people with disability and people
20 without disability do work together, but not as equals.

One of the things that's even come up again this morning is that an ADE is supposed to be an employment support, but you keep hearing the people without disability being described as "supervisors". The supervisors who are in charge. Not the supporters who
25 are helping me work.

MS DOWSETT: So am I correct to understand that "social enterprises", then is not a label that Inclusion Australia uses?

30 MS McALPINE: Not in regard to ADEs, except in the very rare occasion where people are, in fact, earning the minimum wage, in which case we would think that was a fair enough description.

35 MS DOWSETT: If I could ask you now to provide to the Royal Commission Inclusion Australia's perspectives of the differences between open employment as you've just described it and segregated employment. Now, I appreciate that's a really big question, so can we start with income levels and the wages and the differences in the two environments?

40 MS McALPINE: So, in open employment, people are - would earn the relevant - would earn the salary according to their experience and expertise and the relevant award. In an ADE - and it's one of the reasons that we're using the term "minimum wage" rather than awards, because, in ADEs, it is legal to pay people against one of the two awards. So we've heard already about the SES award where people can earn as little as \$3.50 an
45 hour, or the - through the Supported Wage System that allows people to be paid as little as \$2.54 an hour.

50 So when we talk about open employment, we're talking about people who actually earn the right money. The other thing that we would talk about is that's where job customisation has happened. So for a person with intellectual - well, particularly for a

person with intellectual disability, working in open employment, they will have chosen a job according to their skills and interests. In an ADE, basically you go to the local ADE and whatever the business is, that's what happens.

5 If I could just refer very briefly back to Article 27 of the UN Convention that was talked about in the openings, the problems with ADEs is that people do not get to work on an equal basis with others. They don't have the opportunity to earn a living. They don't freely choose their work, and they don't have an open inclusive work environment. So all of the elements of Article 27 are not met in an ADE setting but are met in an open
10 employment setting.

MS DOWSETT: And are you able to describe for the Royal Commission what is the impact of that difference in terms of economic participation?

15 MS McALPINE: Well, jobs and income set up our - our lives of independence. We think we - we have always thought, at Inclusion Australia, that employment is central to an independent and dignified life. It's the way that we pay our bills. So if we - if we have a very low income, that means people can't afford to live anywhere else except possibly a group home or in very unstable accommodation.

20 So we have this ongoing effect that if you don't have an income, you are completely reliant on the pension, you are completely reliant on the jobs that the ADE tell you that you have to do, and then there's this ongoing impact that you're more likely to live a totally segregated life because you're more likely to only be able to afford in to live in a group home or can only get the supports you need in a group home.

25 You are more likely to get all of the supports from the same provider because you've just heard about a parent talking about, you know, how difficult it is when people are in different places and you've got to juggle different service agreements and the rest of it. So the life admin for the family is very high. And so with all of those systems working effectively against you, the easiest thing to do is to be in a segregated life in the - with the support of a single provider, completely reliant on the - on the Disability Support Pension or a tiny bit of income and to not actually have much choice and control in any area of your life.

35 MS DOWSETT: You have spoken about the supported wage system and the SES Award and the rates of pay that can be paid lawfully under those systems. Can you talk to the Royal Commission about Inclusion Australia's perspective on the relevance of job customisation, as you spoke about it before, and productivity and how that links to a wage assessment?

40 MS McALPINE: Yeah, well, there's a couple of dint things there. The SES Award is about competency. So it's not actually about productivity. So it sort of puts a different level of judgment on the employee that's not applied to any other employee. Then the Supported Wage System is about productivity. So it's saying, "Are you as productive as other people?"

45 The problem is that in - those situations in ADEs are applied to people who are given - who come into an ADE, the ADE says, "This is the business that we do. This is the job that you have to do." There is no matching of the skill and interest to see whether the
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people actually have the right skills and interests and can be developed accordingly to be more productive. And - and it's a system that's not applied to anyone else in our work settings.

5 Like, I would even say, you know, when I first left university, I was put on a graduate program, and I had a whole lot of learning. I wasn't that productive for that organisation for quite a while. I had a lot to learn. But I still got paid my professional income all the time I was doing that learning. That doesn't happen for people in ADEs.

10 MS DOWSETT: Later in the hearing, the Royal Commission will hear from two representatives from NDS, and in their statement, they say most, if not all, supported employment services would be forced to cease their current operations if they were to pay full award wages. Are you, on behalf of Inclusion Australia, able to comment on that proposition and do you agree with the concern?

15 MS McALPINE: Well, yes, I am absolutely, on behalf of Inclusion Australia, able to comment on that proposition. First of all, that's very one-dimensional. Basically, it says, "With the income that we have at the moment, we can't afford to pay anyone any better." They do not make the same statement about the other employees that are
20 there. Secondly, an ADE is an employment support. Its purpose is to support people with disability into employment.

Its purpose is not to provide all the other people with jobs. And so it has to stick to its purpose. And we're not - there's no acknowledgment there of the conflict of interest
25 between both being an - a provider of employment supports and an employer. The other thing, in terms of it being one-dimensional, is it assumes that the income that the ADE receives is static. It assumes that the price that they're charging is - can't be changed.

Now, many, many ADEs actually get their business because they charge - they - their
30 prices are lower than other businesses, and the reason that their prices are lower is because they don't pay the people with disability fair wages. The second thing is, a lot of those contracts are government contracts. Now, we already have a precedent. When the SCHADS Award was acknowledged as basically underpaying women, that the SCHADS Award was too low, there was the equal remuneration order, where there was the
35 five-year - eight-year period where the SCHADS Award was advanced faster than the other awards.

And all the government contracts that involved people paid under the SCHADS Award were increased to accommodate that. So we already have a precedent that says, actually,
40 if there are government contracts and other types of contracts, there are mechanisms to increase prices to enable people to be paid properly. So it doesn't look - it doesn't look at that either.

And the third thing is, there are multiple ways to fix the problem. So one of the things
45 that we would say really strongly is that there's no reason for governments at the moment, in the short-term, to pick up the difference. That the biggest issue - one of the biggest issues in terms of the exploitation of people with an intellectual disability or with disability in ADEs is that they are not paid a fair wage. There is an opportunity for governments to subsidise that.

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By our calculations, the difference between someone who is receiving the Disability Support Pension and receiving a low wage in - receiving, for instance, the \$2.54 in an ADE, and receiving the minimum wage is about \$9,000 a year. So we think that the considerable consideration should be given to just topping that up that, that governments should top that up, and then, over a period of a transition period, there needs to be a transition where the wages paid by employers actually pick up appropriately and in a - in a structured manner and the amount that needs to be subsidised by government would decrease.

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MS DOWSETT: I want to move now to a second potential point of difference between open employment and segregated employment, and that is the question of transparency around workplace terms and conditions. Are you able to comment upon the difference between open employment and segregated employment in that context?

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MS McALPINE: Well, historically, for example, people in segregated employment never got superannuation. So that is - that has recently been changed, but even now, as you will know from Counsel Assisting's opening statement, it's \$15 or the relevant superannuation, whichever is the higher. \$15 a week is not going to pay for someone's retirement. So there is an issue that people don't get - you know, aren't set up for retirement in the same way and aren't set up for independence in the same way that the rest of the community is when they go to work.

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We also heard that, for example, in the Sunnyfield case that the people who worked in the ADE were not actually classed as employees. They were classed as clients. So they're not treated as employees. They're treated as clients. There's a whole attitudinal issue which I think has come out a bit this morning, but one of the things that we hear a lot is people are just shouted at a lot at work. That the people who are supposedly their employment supports actually are just shouting at them about productivity or telling them what to do next.

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That does not sound like employment support to me. And in terms of just wages and conditions - I've just lost my thought.

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CHAIR: That's all right. Counsel Assisting will prompt you, I'm sure.

MS McALPINE: Yes, that would be fine - that would be helpful. Thank you.

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MS DOWSETT: As part of the four-yearly review of the SES Award, the Full Bench of the Fair Work Commission did insert into the 2010 version of the award and now into the 2020 version of the award its clause 32, which is a rights at work for supported employees provision and, firstly, are you familiar with that clause that's gone in?

MS McALPINE: Could you repeat it, please?

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MS DOWSETT: So this is the rights at work for supported employees. It was a clause that was inserted into the SES Award as part of the four-yearly review.

MS McALPINE: Yes.

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MS DOWSETT: And it's about ensuring - clause 32.1 provides:

"When dealing with employment matters affecting supported employees, the employer shall take all reasonable steps to provide such employees with the information they require to exercise their workplace rights."

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Are you familiar with the clause there I'm talking about?

MS McALPINE: Yes. Thank you.

10 MS DOWSETT: And that clause took effect on 1 March 2020. Are you able to make any comment about whether the introduction of this clause has made any difference for the people that Inclusion Australia represents?

15 MS McALPINE: We've not heard anything to that effect. Again, the absence of independent information for people about even making the choice to go and work in an ADE is astonishing in that if you go to Centrelink and you are manifestly eligible for the DSP, which people with an intellectual disability are, you're not provided any information there. We don't see information being provided in Easy Read for people. We don't see an acknowledgment that Easy Read is to be - Easy Read materials are to be read with
20 support. And so people need help supporting them.

We just heard in the previous evidence that notices are put on the - on the wall and people are expected to just take that information in and report it or understand what it means. So the lack of information in accessible formats continues to be an ongoing
25 problem.

MS DOWSETT: Another of the areas of potential - or of difference between open employment and segregated employment - and you have already touched on this - is of the potential increased risk of abuse and violence towards supported employees. You spoke about employees reported being shouted at. Are there any other - is there
30 anything else you would like to tell the Royal Commission on that topic of difference?

MS McALPINE: Well, certainly, neglect and exploitation are big issues in - in ADEs. There's just this recurring theme about how people ask about their wage. We ask about how can we increase it. People are told, "Oh, we will reassess it at the end of the year." People go for an assessment thinking that the assessment might end up in higher wages, and it just doesn't. But having said that, the other thing is, segregated settings are very unsafe. One of the rationales for sheltered workshops when they were started in the 1950s and through the decades has been that people are safer over there.
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But, in fact they're not. What they do is provide settings where support workers can exploit people, where people can be - you know, experience violence and abuse, and that it's just hidden because the ability and processes for a person with an intellectual disability to complain are almost non-existent. Now, when I say "non-existent", it doesn't mean that there might not be complaint mechanisms, again, up on the walls. But people are routinely not listened to.
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They're routinely not taken seriously, and they're - and then when they are, no action is taken because, as one person said in - I think it's in our omnibus submission - they talk about how low the bar is. That basically everything is okay - in that environment,
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basically, what happens is whatever you do is good enough. Who cares? As long as you don't get beaten, raped or have your money stolen, that's all that matters. Again, a pretty low floor of involvement. I haven't seen much evidence that it's better anywhere else.

5 So as long as the really, really diabolical things aren't happening, we can just ignore all of the low level of abuse and violence that happens apart from that.

MS DOWSETT: From - from that evidence, it - it's apparent that Inclusion Australia has some knowledge of some adverse practices, but do you also have any knowledge - have you been told about any positive experiences in ADEs?

MS McALPINE: This is where it gets - again, it's very complex. There are certainly plenty of stories where, as we've heard this morning, people feel valued. They feel valued about getting up in the morning, putting on a uniform or getting into their work clothes and doing all the other things that everyone else does when they go to work. One of the issues is if you have an intellectual disability and people - and people - say to you, "This is what everyone else does" but it's not made clear that no one else goes and does it for \$2.50 an hour, it's actually not the same.

20 So certainly there are plenty of examples of people being treated nicely at work, where people are talked to kindly, where people value the camaraderie of the ADE, where people value getting out of the house and having relationships with other people. All those things are true, but they're also true of every other employment environment. The critical difference is - or the two critical differences are, first of all, other people are being paid an income, and that income actually sets up their independent life.

And, secondly, other people are not made to feel like they don't belong. So this thing where people with intellectual disability from very young ages are treated with such a lack of respect by the rest of the community that they need to be over there, that the difference makes people so uncomfortable that it's better, "Oh, you need the specialist supports over there", and we don't think about people as contributors. You know, people are framed as a burden and not contributors.

They're framed as learners and not teachers. They're framed as cost and not benefits. There are all these assumptions made that have been in place for decades that haven't changed, you know, effectively since the 1950s. That one of the reasons that we need people with intellectual disability to be in an ADE is respite for families. It's very unfair to categorise it that way. I have three children. I would like all of them to be out of the house working.

40 I don't want any of them at home; it's got nothing to do with whether or not a person has an intellectual disability or not. It's got to the point that actually people should live independent lives, including independent from their families. So there are certainly very many positive stories. And the positive stories are mainly about relationships. And one of the things about ADEs, in the same way as special schools, is the people that choose to work in an ADE or choose to work in a special school often are the people who want to work with people with an intellectual disability.

They're full of good intent, and that is all great and it can lead to some really heart-warming stories in terms of relationships, but it doesn't resolve the issue of employment.

Employment is about where we give our time and we are paid for that, and that money is then used to be able to buy the things in the rest of our lives. That's what employment is.

CHAIR: Okay. I think we - we understand that.

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MS McALPINE: Okay. I'm on my soapbox. Sorry, Chair.

CHAIR: Okay. Just stay on the soapbox but wait for the next question, and then you can continue on the soapbox - for a limited period.

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MS McALPINE: Yes, sir.

MS DOWSETT: Acknowledging the differences that you have spoken about and the answer that you've just given about what employment itself means, does Inclusion Australia accept that, at least in the short to medium term, there is a continuing role for ADEs as employment for people with permanent and significant disability, for people for whom open employment is not a viable option until the barriers to that employment are addressed?

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MS McALPINE: We don't accept that we should do it until the barriers to employment are addressed. There was a vision - there was a vision document put out by the Australian Government, you know, for ADEs from 2012 to 2022. And that vision said that by 2022 things will be a lot different. And they're not. We actually have to flip it on its head and make the changes - for instance, increasing wages - and then bring everything along to it. As long as we say that the changes need to wait until everything else is fixed, we are not going to see any action.

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On the other hand, we do think that there's lots of skills and expertise in ADEs. We know that ADEs do know about task analysis. We know that they do know how to be respectful towards people. We know that they do know how to support people. There's a whole lot of skills and expertise that could be good - put to good use. What we wouldn't agree with, is that we just maintain the status quo until some perfect time in the future.

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We have to move on now and say, there needs to be change, and we do accept absolutely that there is a role for organisations, that there needs to be a transition period, and that there is no reason, necessarily, for ADEs to cease to exist, but they might look very different in the future in terms of the way that they support people, the money that's paid and their role in a local community.

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MS DOWSETT: Thinking about how ADEs might look different, are you familiar with the concept of reverse integration?

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MS McALPINE: Well, in general, the - yes, I've heard it described.

MS DOWSETT: Right. And could you tell the Royal Commission what it means to you?

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MS McALPINE: Reverse integration often means bringing the community to you rather than taking you to the community. I have some concerns about what that might mean in a geographical setting, that bringing the community in is actually not the same as people

being in the community. But some of the other practices that go around it are certainly quite reasonable.

5 MS DOWSETT: Is the concept of reverse integration, is that perhaps a way that ADEs as we currently see them could be transformed more, perhaps, into social enterprises as you've described them, where people with disability and people without disability work together as colleagues?

10 MS McALPINE: I'm concerned about the - the framing of bringing the people into the ADEs. The whole point about employment is that we all work in places that provide goods or services. So if you're - if it's an actual workplace, then it needs to be providing a good or service that's needed by the community. It shouldn't just be making up employment as a pretend thing. Having - being an ADE where you have a food van in your driveway where the people with disability serve the rest of the staff the food is not real
15 employment.

You know, you need to be out in the community doing that. So I'm concerned that the premise of reverse - reverse integration would do that. There are also many ADEs that don't provide a good or service, but the skills they have are very useful. So they could be
20 community hub in terms of employment expertise to support people employed out in the community. I don't agree with the premise that we need the community brought to the people with disability. The premise is that the people with disability need to be out in the community. So assuming that that's just a terminology issue and the intent is to have people out in the community, that would be fine. But if it's not a terminology -- and it's
25 basically saying just bring more people in, it's not really inclusion.

MS DOWSETT: If the ADE is one of those that you've described that actually do produce a good or service, so it's a business in that sense and presently its employees are supported
30 employees, people with disability, co-mingling that workforce or making it not just people with disability, is that - does that fit - sorry, I withdraw that and start again. I'm talking about bringing people into a business that is actually making a good or service, so people with disability and people without disability work together to produce something that's of value to the community. Or to the company.

35 MS McALPINE: That would be - that would be perfectly acceptable. Particularly, of course, as long as people are paid the same wage for the same role. Absolutely.

MS DOWSETT: And are you aware of any instances, for example, research or pilot
40 programs, where this has been trialled?

MS McALPINE: I believe in - overseas it has been trialled successfully, that it is absolutely possible to bring people together. We have no problem with people with disability working with other people with disability. The answer to congregation and segregation is not for everyone to be just one person with disability, with no other people around them.
45 It's absolutely fine for there to be different combinations of people with and without disability working together. And certainly we've seen overseas that that's been successful.

MS DOWSETT: But you're not aware of any Australian examples.

MS McALPINE: I think there's been a couple of pilot projects. The problem with pilot projects is they haven't demonstrated their long-term sustainability yet. But certainly it's the sort of work that we would support.

5 MS DOWSETT: I want to change tack a little now and ask you some questions about ADEs and First Nations people. And, firstly, are you aware of any data that shows the representation of First Nations people amongst supported employees?

10 MS McALPINE: I'm not specifically aware. I have the - it will take me too long to look up. I do have the NDIS information about people with an intellectual disability here but I can't recite that data off the top of my head.

15 MS DOWSETT: That's quite all right. It wasn't supposed to be a "who can find it in the document first". I'm just wondering if it was something you knew. We can ask the NDIS people about that. Is the area of First Nations people with intellectual disability something that Inclusion Australia has done any specific work with that cohort of people?

20 MS McALPINE: We have just recently expanded into the Northern Territory. We have a project in the Northern Territory that we are doing in partnership with First Peoples Disability Network and NEDA, the National Ethnic Disability Alliance, and CYDA, the Children and Young People Australia, and certainly we have learned a lot in a relatively short time. There are real barriers to First Nations people with disability, particularly because intellectual disability is not always, you know, diagnosed or even seen so much - you know, identified as a - as a separate issue.

25 And so the systems that support people with an intellectual disability such as Centrelink, where you have to have an IQ test, such as how you get put into an ADE, such as what sort of supports are made available to you, become even more complex if you don't have a diagnosis or if your diagnosis is right on the fringe. So there's a whole lot of extra complexity around how people who might not identify as having an intellectual disability, but who have similar support needs as people with an intellectual disability, are properly supported, how they're supported in community, and what employment options are available.

30 So certainly I would not claim to be an expert in this area. The First Peoples Disability Network are the peak that lead that work. But certainly we have a growing understanding of the complexity, still trying to get our heads around what some of the solutions might be.

35 COMMISSIONER MASON: Ms Dowsett, can I ask a question?

MS DOWSETT: Certainly, Commissioner.

40 COMMISSIONER MASON: Thank you. I just wanted to know when that project started.

45 MS McALPINE: It is an actually - it's an NDIS Quality and Safeguards Commission project and it's about rights training for people with intellectual disability in services. So technically it started on 1 July last year but, of course, we only had - got boots on the ground in the Territory a couple of months later. And we're doing a lot of work on the

resources at the moment to make sure they're culturally appropriate before we actually start the rollout.

5 But certainly FPDN have told us that going and running workshops in the traditional sense might not be the best way to go about it and to really think about how we get the message about rights and standing up for yourself and being able to have choice and control in your service to get those themes out to all people with intellectual disability, particularly in remote and very remote communities.

10 COMMISSIONER MASON: Thank you.

MS DOWSETT: Ms McAlpine, you used a phrase in your answer to me a little while ago that I just would like to tease out a little bit. You spoke about being "put into an ADE" if my note is correct. What do you mean by being put into? How does it happen that you
15 become employed in an ADE?

MS McALPINE: ADEs are distributed around Australia, basically on a geographical basis. So what happens is that when you get referred to an ADE, for instance by Centrelink or by any other method, is that the first thing done is you are given the people in the local - in
20 the local area. Secondly, it's driven, as are group homes, by vacancies. So if a ADE has vacancy and is looking for someone, they find people with intellectual disability and put them in.

25 So it's not a person-centred approach. It doesn't say to the person with disability, what are your skills, and interests, what sort of training have you done, what would you like to do for work? What it says is, "Here is a job that fits a person with an intellectual disability. You're a person with an intellectual disability", and you're referred across straightaway.

30 MS DOWSETT: You referred to the NDIS data, and you had, no doubt, the printed report in your hand when you were talking about it. And in some of your evidence in Public hearing 9 and some of Inclusion Australia's material, you have commented on the way NDIS asks questions to capture information about people participating in paid employment. Can you tell the Royal Commission what your concern with the question is?
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MS McALPINE: So in the long-term survey, the NDIS asked people "Are you in paid employment?" And basically, if you are in one hour a week, earning \$1 an hour, the answer would be yes. So we end up having a situation where the NDIS quite admirably is saying that it's looking for high employment rates of people with disability, but those
40 statistics are being propped up by the 20,000-odd people who are in an ADE and that's been called "paid employment". So there's no - except in their deep dive where there is a bit more data, but in the standard data that's provided by the NDIA, there is no delineation made whether a person is in open employment or sheltered employment, whether people are earning a wage that actually gives them independence or just \$2.54
45 an hour.

MS DOWSETT: I would like to ask now some more specific questions about the NDIS and participant plans which are provided for in section 33 of the National Disability Insurance Scheme Act. Before I leap into the detail of the questions, are you familiar with
50 participant plans? Is that something you can answer questions about?

MS McALPINE: Absolutely.

5 MS DOWSETT: So participant plans, it's correct to say, have two parts. There's the participant of state - participant's statement of goals and aspirations, which is prepared by the participant.

MS McALPINE: Yes, that's correct.

10 MS DOWSETT: And then there's the statement of participant's supports which is prepared with the participant and approved by the CEO or delegate.

MS McALPINE: That's correct.

15 MS DOWSETT: So if we can start with the first part, the goals and aspirations, or what might be called goal-setting, are you able to comment on the information or support that's available to NDIS participants, to assist them in preparing their statement of goals and aspirations?

20 MS McALPINE: Well, the NDIS puts out a whole lot of documents, and some of those things are in Easy Read, about preparing for your planning meeting. But it doesn't really explain what things mean, like what the difference between an ADE might be compared to open employment. It doesn't really talk about what type of evidence that you might - well, yes, what you might want to do. So it - and it doesn't make an assumption
25 that all people of working age should be offered employment support. So it doesn't necessarily routinely always say to people in planning meetings, "Do you want a job? What would you like to do?"

30 MS DOWSETT: To your knowledge, is there someone whose responsibility it is or could be to identify a supported employee working in an ADE setting who might have the capacity or might be able to develop the capacity to work in a different setting?

35 MS McALPINE: Well, the closest thing would be a Local Area Coordinator or a Support Coordinator that people theoretically, you know, when they have their plans renewed would come into contact with both or either of those people. And that - that questions could be asked. LACs don't necessarily have a lot of expertise, particularly in intellectual disability or in how to frame the questions or how to support people, but certainly they are a person that interacts with the person in a position to ask some of the critical
40 questions.

45 MS DOWSETT: I'm interested to explore how you might, as an NDIS participant - how you get into your statement of goals and aspirations "I would like to try open employment" or "I would like to try self-employment." Are you able to comment on how that might happen?

50 MS McALPINE: It's not that hard to get it into your plan. I mean, sorry, to get it into your statement of goals. It's not that hard to say, "I would like to work" or "I would like to be self-employed." What's really hard is trying to get supports in your plan. It's quite easy to get - so you are probably going to ask me some questions about that in a minute. Maybe I should stop.

MS DOWSETT: Yes.

5 MS McALPINE: It's not that hard to say it in your objectives. What is hard is to have that fulfilled.

10 MS DOWSETT: Right. Well, before we move on to the Statement of Participant Support, just one last question on the goal setting. Are you aware of any examples of good practice in relation to the identification of the supported employee in an ADE who might have capacity to work in a different setting?

MS McALPINE: No.

15 MS DOWSETT: Right. So moving on to Statement of Participant Support. And this is, if I might be blunt, where the money is. Is that correct?

MS McALPINE: That's absolutely correct.

20 MS DOWSETT: Right. And so you were explaining that it's hard to get supports into a plan.

25 MS McALPINE: It's very hard to get supports into a plan. And so one of the things that's really hard is if you don't have - is the agency's approach to non-registered providers versus registered providers. So the easiest way --

MS DOWSETT: Well, just pause there.

MS McALPINE: Yes.

30 MS DOWSETT: Non-registered providers, these are people who are not registered with the NDIS.

35 MS McALPINE: That's correct. So, a lot of small, innovative providers or people that have some expertise in providing really personalised service for a person to transition into open employment are not registered – having gone through the registration process. Typically, the very big providers who provide – an ADE provider must be registered and if you provide a support – called support – it's about to change, but school leavers' employment supports, you have to be a registered provider. So the things that end up sort of becoming programs - which are not necessarily intended to be but do - are usually provided by big registered providers. And the NDIS has ended up a bias towards registered providers, that if you have a quote from a big well-known registered provider, you are more likely to get supports in your plan but the supports you're likely to get are more likely to be group supports such as an ADE or a SLES program that's not tailored to you.

45 It's actually very, very hard to get individual employment supports in your plan, it's very hard to get employment supports for self-employment, and it's very hard to get more than a few hours a week of individual support - employment supports in your plan other than, as I said, an ADE.

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MS DOWSETT: In her statement, Ms Mitra, who will give evidence on behalf of the NDIA later in the hearing, says the new pricing framework this is a quote:

"Actively encourages participants to consider and take up new opportunities."

5

Are you able to comment on that proposition?

MS McALPINE: I am - to answer that question, I'm just going to take off my hat slightly of the CEO of Inclusion Australia and put on my mother of a young man with an intellectual disability hat and say my personal experience is, in our recent plan, that my son said very clearly he wanted to work, he wanted to work in open employment, and when the plan came back there was not a single dollar for employment supports. He got four hours a week of individual skill building, and he did not get the 12 hours a week he asked to work in his micro-enterprise and also to try - also to try open employment.

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So I know at a very deep and personal level that explicitly asking - having an employment goal in your plan and explicitly asking for employment supports will not give you a single particular of employment support. Put my CEO hat back on, and to say that we hear this more generally. What we see is that people who have quotes from big providers can get supports but then those providers - the conflict of interest - to talk again about the polished pathways, the conflict of interest against helping someone into open employment versus channelling someone into an ADE where they have an established business, or into a day program, is so high that we just don't see people moving into open employment.

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MS DOWSETT: Part of the underlying policy with the change of the NDIS and the new pricing framework has been about breaking down the nexus between being an employer and being a provider of employment supports. Now, although the transition is now finished, it's only a relatively new - we are all in the new model now - but are you able to comment upon whether that breaking of the nexus has made any difference, practically speaking, on the ground with the kinds of issues you are just talking about, about getting a - getting a plan, getting what you want moving forward?

30

MS McALPINE: We haven't seen a groundswell. We certainly support the agency in making those changes, like, we certainly would agree that they are looking to try to break that nexus and help providers understand the difference between being an employer and a provider of supports. What we're seeing is what - is similar - what we are seeing is more similar to what you saw in the DES hearing, where there was the issue of the related entity, where you have one - an organisation that does one thing sort of referring to related entities.

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It's not quite the same, but we're seeing an increase in providers providing sort of employment scenarios in their own businesses and calling that employment, where it's still - arguably, in a very short-term, it could be described as building skills, you know, putting someone in a food caravan out the back of your - out the back of your provider location and having someone work there for six months or so could be described as building capacity and learning how to use a cash register and all the rest of it.

45

The thing that we're not seeing is people moving from that into another environment in open employment. We're not seeing that bridge - that gap bridged yet. But I would agree that the pricing mechanisms are more helpful than they were.

5 MS DOWSETT: Is that next step, that bridge that you are talking about, is that potentially the next part of the participant's plan, their supports, that you've done your training in your food van and now you need another plan that moves into the next scenario?

10 MS McALPINE: Well, the problem for people with an intellectual disability is we keep - your plans keep happening in group scenarios. So the pricing structure and the availability of the support is all predicated on you being in groups. So we continually see providers send people down to Woolies in groups of three or four to do their work experience, to do all these other things. It's impossible for me to tell whether it's providers not doing what they should be doing or whether the price limits aren't okay.
15 Like, I - it's very hard for us to tell.

What we do know, from the perspective of a person with an intellectual disability, is you can't get any individual support. You can't get a support that looks at you and says, "You have done this, and you need to go and do this individual thing." Arguably that's what the
20 DES program is supposed to provide, but it just doesn't happen. In between the DES program or the NDIS, we are not seeing people move from learning - we're not seeing place in train put in place, that a person is put into a job and then they learn about work in a real working environment.

25 MS DOWSETT: Is that not part of choice and control? If you've got X number of dollars in your plan, can you as the NDIS participant choose to spend those dollars in a group scenario or in an individual supported scenario?

30 MS McALPINE: Not for the stated support such as an ADE or a School Leavers Employment Supports. It is my understanding that that might change on 1 July this year, that the NDIS is working on that at the moment. That's something that, unsurprisingly, we have mentioned many times. And so I do believe that change is in the wind. But, no, for the supports that are called stated supports, you can't basically get a collective amount of money and then spend it - like on a per hour rate.

35 You can do it in your core supports. You know, they will - in your core supports, they will determine the budget, basically, made on the group rates but you can spend it at an, like clearly, fewer hours, but you can spend it to purchase individual supports. It's - that's not really available in supports such as getting support from an ADE or the School Leaver
40 Employment Support as it currently stands.

MS DOWSETT: I want to move on now to recommendations and considerations for the future. And so I would like to invite you to tell the Royal Commission what it is that you would like to see the Royal Commission thinking about when it's framing its
45 recommendations about this aspect - about ADEs.

MS McALPINE: I would like the Royal Commission to first of all think about wages, to say that, in fact, it's not okay to pay any Australian citizen less than a minimum wage. That there will need to be considerations around some people with very high support needs,
50 and that maybe things like a government subsidy, you know, wage subsidy might be

needed. Certainly, in the short-term, we believe very strongly that the - that, you know, this \$9,000 a year gap needs to be - needs to be filled by government.

5 So we're talking up to about \$180 million a year for 20,000 - if there's 20,000 people with disability in ADEs, but, of course, not all of them work full-time. And not all of them earn \$2.54 an hour. So it would be less than that. So addressing the wage disparity quickly would be a very big consideration. Secondly - sorry.

10 MS DOWSETT: I understand that you would also like to see specific reference to people with intellectual disability in government plans, policies and strategies?

15 MS McALPINE: Yes. And then there's a whole lot of interface with other systems that need to change. So, at the moment, the Australian Public Service has - has an aim of getting 7 per cent people with disability into the workforce. It doesn't talk about people with an intellectual disability, which means that there's actually a risk that if people with sensory and physical disability are - if the employment strategies of the Australian Public Service and other organisations are pitched at people with sensory and physical disabilities that people with an intellectual disability will miss out completely. So having specific quotas for people with an intellectual disability is really important.

20 We also need to see the interface, for instance with wage tapering. That at the moment the way that the wage - if you're on the Disability Support Pension and you earn more than the threshold, that you lose 50 cents in the dollar, the consideration about how to change the wage tapering systems such that earning more than the threshold is not a disincentive for work but becomes an incentive to work, and - do you want me to keep going about the details in terms of the other systems?

25 MS DOWSETT: No, I think I might ask you to stop there. I'm just very conscious of the time, and I do want to give the Chair and the other Commissioners an opportunity to ask any questions they may have. So without going into the detail of the systems, were there other key recommendations you wish to flag?

30 MS McALPINE: Yes, well, certainly fixing Disability Employment Services so that people can get proper support to - people with intellectual disability can get the support they need that's evidence-based and individual is imperative. Employment quotas, as we've mentioned. Transition from segregated employment. So understanding that segregation in and of itself does not solve any problems. Saying that people with intellectual disability belong over there does not acknowledge - is not respectful and does not acknowledge their contribution.

35 40 What we are seeing is even though we are seeing a change in attitudes towards people with disability more generally, and we're talking - you know, we've seen a change in advertising, we're seeing - we are seeing some community change with the NDIS. There is still this acceptance that, yes, that's all true, except for people with an intellectual disability. And so actually changing that mindset and saying, no, they're entitled to be part of the community as well is really critical.

45 50 And then removing the barriers. So at the moment, as I've said, all of the systems, the way that things are priced, the way they're set up, the interfaces with Centrelink and Centrelink reporting, all are smoothed out if you're in segregated employment and

they're all multiple barriers if you're in open employment. So really looking at smoothing out the systemic barriers is critical to opening up that -- you know, so that the polished pathway becomes towards open employment and not towards segregation.

5 MS DOWSETT: Thank you very much, Ms McAlpine. Thank you, Chair.

CHAIR: Thank you, Ms Dowsett. Pardon me. I will ask, first, Commissioner Mason, do you have any questions of Ms McAlpine?

10 COMMISSIONER MASON: Ms McAlpine, thank you very much for your evidence this afternoon. I had a question - and this particular document has been front of mind as I've been a Commissioner here on this Commission, which is to do with the *Closing the Gap National Agreement*. And this might be something you might take on notice because of the evidence you've given today around people with disabilities - with intellectual
15 disabilities, and I would be really interested in those who are First Nations, around more inclusion.

That national agreement has a really strong emphasis on cultural wellbeing, language, cultural practices, cultural communications as a core foundation of that document. And if
20 that is absent for First Nations people with disabilities in the settings that we have been talking about today, where they aren't provided a culturally safe environment where they are working now, it seems that there's already a gap in what's happening in the mainstream for First Nations people through that *Closing the Gap National Agreement*.

25 And for those who are in different settings, I'm really interested to know how that gap can be closed in a sense that that - it's intra-First Nation people communities, as in First Nations people with disability - intellectual disability and that closing the gap framework which is - there is disability mentioned in it but it's very much a national framework - how that gap can be closed, be more inclusive in - where people are today but also into the
30 future. Does that make sense?

MS McALPINE: I think so. I think that there's a lot to be learnt from the closing the gap process as much as anything else, that the way the First Peoples community has been resourced and brought together to really address the really thorny problems has been
35 really important. The more we work with FPDN, the more we understand the relationship - the alignment between the disadvantage of people - First Nations people and people with an intellectual disability in terms of life outcomes, in terms of preventable deaths, in terms of overrepresentation in jails; all those things.

40 They're true for people with an intellectual disability and for First Peoples, and if you have both in terms of the compounding disadvantage, then there is a lot to be done. I can't say that I have got any particular expertise in what some of those solutions would be, but the longer that we work together, we understand that the approach to the closing the gap has - the recent approach has been very positive for - FPDN talk about that very positively
45 and say there should be a similar approach around intellectual disability and people with disability and that bringing those two processes together would be a very good idea.

COMMISSIONER MASON: Thank you.

50 CHAIR: Yes, thank you. Commissioner Galbally.

5 COMMISSIONER GALBALLY: Thank you, Ms McAlpine, for your evidence. I would like to ask you about the whole issue of aspiration and really low expectations that becomes almost a bigotry in various settings, and I wondered about your views about that in employment, about just no aspiration or low aspiration. And, yes, the really low expectations.

10 MS McALPINE: Yes, it's really difficult for people with an intellectual disability and for families. You know, as early as early childhood, early intervention, you start being told to be realistic, and no one tells you when you're a family member and you're only a parent of a 2-year-old or 3-year-old - you hear about low expectations, but you don't realise that low expectations actually are reflected back to you as, "Be realistic." And these expectations of what people can do or can't do are so old.

15 You know, when people with intellectual disability were at institutions with low healthcare, no education, no -- no opportunities, you looked at someone who lived almost on a bed or could barely speak and you thought, "Well, that person is not a very - can't offer the community a lot." That was in the 1950s. You know, we're now in 2022. So what's happened is that the culture of expectation hasn't changed. This expectation that people with disability, including people with intellectual disability, can do far more and that you don't have to just "be realistic", that they won't be able to read or won't be able to work or anything like that.

25 I know that siblings of people with intellectual disability can tell you if they can conquer very complex audio-visual systems, if they can use the same devices that everyone else can and figure that out for themselves, they can do a lot. They can think about things in interesting ways. There are just so many things that people can do. So it is really problematic that we have such low expectations of people with an intellectual disability and that very long-term, very old stereotypes are still used as excuses to keep people in the same settings.

30 Even when you look at the Fair Work Commission comments, it shows a real lack of understanding of what people with an intellectual disability are capable of and can do. It's very - it's a very old thing to think that people really have nothing to offer.

35 COMMISSIONER GALBALLY: And so you are saying in application to work, that it really condemns people to stay in the same - you know, to getting put into ADEs and other places and the Fair Work Commission has collaborated in that. Is that what you are saying?

40 MS McALPINE: I think it's unintentional but it's when - whether the experts in the room are the providers and the experts aren't people with disability and their families, then you get a completely different view on what's possible. And when you're talking about people, for instance, historically who might be in their 50s or 60s, who were put into institutions when they were children and who haven't had all the other advantages, that if you look at what was - the supports that were put about them, it's completely different to someone who was born in the year 2000 or 2010 in terms of the advantages they have and the abilities that they will be able to bring to the workforce. Like, it's - the judgments are not straightforward and they're unconscious bias. It's not deliberate, but absolutely it ends up being basically systemic collusion and systemic neglect.

COMMISSIONER GALBALLY: Thank you.

5 CHAIR: Did Inclusion Australia give evidence before the Fair Work Commission on the case?

MS McALPINE: We did, Chair. It's very sad. My predecessor, the late Paul Kane, was an absolute expert in employment and he unfortunately passed away in 2018. And he was the one that was the expert witness at those hearings. And he was one of the key
10 witnesses for supporting the people with intellectual disability in the case. Yes.

CHAIR: And his evidence would have been to the same effect as your evidence today, I take it?

15 MS McALPINE: Absolutely.

CHAIR: Why do you say the Fair Work Commission has collaborated in rejecting the evidence that the expert gave from your organisation and other evidence? Were they not doing what they are meant to do, that is, assessing the evidence and making
20 determinations based on that evidence?

MS McALPINE: Well, there's some underlying assumptions there that I don't think were explored. There's some underlying assumptions about what the productivity of people is and how that can change. There's some underlying expectations that people with
25 intellectual disability should be in the congregated and collective setting. So it's sort of - the judgment that the Fair Work Commission is making is taking all those things already as sort of fact and not actually looking deeper and saying, "Could it be different? How would it work?"

30 And certainly without making sure that all the systems work together, you would be in a situation if you just said unilaterally as the Fair Work Commission, "Okay, everyone at an ADE has to be paid \$20.33 an hour", we would see all the ADEs close. That's not to anyone's benefit. It is not to the benefit of people - you know.

35 CHAIR: No, I understand that. I'm just trying to work out why it is that you say that the Fair Work Commission got it so comprehensively wrong after taking, as I understand it, evidence from many sources over quite a long period.

MS McALPINE: Because - because it's one system. Because it's just talking about the
40 wage system. And for things to improve, the Disability Support Pension - sorry, the disability support system has to change, the Disability Support Pension interface would need to change, the way the people are supported into employment need to change. They're just setting wages, and making that one change unilaterally without the other systems changing with it would - could cause harm. Like, that is absolutely true.

45 So collusion maybe is a very strong word to use, and so I'm happy to wind that back a bit, but it is saying that because each system only takes itself into consideration when it makes its decisions, the way those systems work together are to keep people in poverty and in segregated environments, that it's absolutely critical that the systems are all
50 changed simultaneously or are - or that there's some government mechanism to make

sure that the way that the interfaces happen with each other support people differently, then we're never going to see any difference because each of those systems has to only look at its own role and the impact of behaving unilaterally.

5 CHAIR: I understand your criticisms of the existing system. What I'm not entirely clear about is what you are going to put in its place. How are you going to bridge the gap? Isn't that the hard part? And what do you say can be done to bridge the gap? And, as I understand it, bridging the gap is of moving people or allowing people who are in supported employment in ADEs or perhaps similar organisations to get into open
10 employment. That's the trick, isn't it?

MS McALPINE: It is. And there are two answers to that. And one is very long-term and one's shorter term. The long-term answer is --

15 CHAIR: Start with the short term, and then you can go on to the long term.

MS McALPINE: Well, the short term - well, I think the short-term answer is, instead of throwing money at ADEs and the organisations to change, we actually say we're going to put the money into wages. That we're going to increase the wages of people, that
20 governments can do that. Because that will drive its own change. Because once people expect to get the higher wages and have the higher wages, we will see some of the other changes that will come with independence.

CHAIR: Can I just pause there, because I am afraid I don't understand that from an
25 economic point of view. I just don't follow how that is going to work. If you say that - let me take another starting point. Your proposition was equal pay for equal work. I don't think anybody is going to dispute that. But implicit in equal pay for equal work is unequal pay if the work is not equal.

30 So that implies, does it not, that you accept that there would have to be an assessment made of the - and I don't - there may be different ways of describing it - some would say the productive capacity of an individual worker or what an individual worker is worth compared to a worker who does not have a relevant disability and is doing the job. So, presumably, you accept that some kind of assessment has to be made? Is that right?
35

MS McALPINE: Yes, and those - and that happens in the rest of our work. You know, some of us get paid more than others, depending on skills, experience and all the rest of it. But we would say there is a threshold, that, in fact, there's a threshold that - you know, like, a minimum wage threshold that can't be crossed.
40

CHAIR: That has long been established in Australia with the Harvester judgment and the basic wage. There is nothing novel about that. What I don't understand is how increasing the wages to a specified minimum is going to ease the pathway into open employment. That's the part I don't follow.
45

MS McALPINE: It resolves one of the critical issues at the moment, but at the same time, the pathway to inclusive employment needs to be - this is the fear of employers. Employers say if we employ a person with a disability, particularly an intellectual disability, then we won't get the productivity that we need. And so what we don't see are
50 systems that work together to resolve that.

One of the ways to resolve it is for the government to actually take up the gap in the productivity - you know, in the wage so that the person experiences a full wage, but that the employer doesn't have the full burden of it, particularly at the time when someone might be being trained, when the job capacity work is being done. So we would see that the wage subsidy resolves some of the issues from the perspective of the person with disability and, at the same time, buys some time for the other transitions that need to happen from the employer's perspective.

5 CHAIR: I think you referred to a \$9,000 gap in order to ensure that people with disability now working in ADEs at reduced wages would be able to get a minimum - the equivalent of the minimum wage. Can you explain that \$9,000 gap, how that is calculated and whether there is a document that explains the figure of \$180 million to which you referred in your evidence?

15 MS McALPINE: We'd be able to - we would have to take that question on notice but, basically, it's a spreadsheet that we - you know, it's a spreadsheet that says if you get this much income, it has to - it's a complex spreadsheet because you've got to take all the wage - you know, the tapering arrangements with the Disability Support Pension. But it's our calculations on - on the difference between what people can earn in that environment and what the minimum wage is of 20 - you know, about \$40,000 a year. So that \$20.33 an hour.

20 CHAIR: The minimum wage is now about \$36,000 a year. If someone is getting \$4 an hour, as some people working in ADEs are, that's - that, on my calculation, is \$7,000 a year and that suggests a \$29,000 gap. I'm just not sure how you get to \$9,000 out of that.

25 MS McALPINE: Because we also included the Disability Support Pension as part of the income.

30 CHAIR: And the Disability Support Pension at the maximum rate is what?

MS McALPINE: It's - well, it's different for different people.

35 CHAIR: Don't if you don't have it at hand. That's fine. We can work that out.

MS McALPINE: Yes.

40 CHAIR: All right. Well, I would invite you, at some stage, that if this is something that you think is workable, it would be helpful to have the calculations, the analysis, that explains how it is we are going to get to the destination you want to reach.

45 MS McALPINE: Absolutely. But I would also say, everyone needs to be in the room - like, we completely agree that everyone needs to be in the room. ADE providers, people with intellectual disability, families, employers. That this is a very complex problem to solve, and so one of the reasons for a transition plan is to allow the time for some of the really complex issues to be sorted out.

50 What I do know is that some of those things have been sorted out for First Peoples, that there are particular wage subsidies in place for people in remote communities who are

training, who haven't had access to the same work experience and experience opportunities along the way. So I know that people with economic credentials - who are able to add to that environment. We are, as the organisation, suggesting that this might be a starting point. But what's really clear is that just waiting for some perfect time in the future before the change is made has not worked for the last 30 years and is unlikely to work for the next.

CHAIR: Yes. Thank you very much. Now, thank you. I assume that there are no Counsel that wish to ask Ms McAlpine any questions. And if that is the case, Ms McAlpine, thank you very much for coming to the Royal Commission and giving your evidence, if I may say so, so passionately. It is of great assistance to the Royal Commission. Thank you.

MS McALPINE: Thank you for the opportunity to be part of these conversations. They're important ones for the community to be having.

15

THE WITNESS WITHDREW

CHAIR: Thank you. Yes, Ms Dowsett, what do we do now?

MS DOWSETT: Thank you, Chair. We are going to just have a quick tag team. I am going to swap spots with Ms McMahan, and she is going to introduce the next witness.

CHAIR: Very good. We don't need to adjourn, that will happen instantaneously.

MS DOWSETT: Instantaneous.

CHAIR: Excellent. Seamlessly.

MS McMAHON: Thank you, Chair. Our final witness today is Kaite. Kaite, like Gert who you heard from earlier, is a parent of a - a parent whose daughter, Emilee, is working in an ADE where she has worked for the past 17 years. Kaite and Emilee are pseudonyms and are subject to non-publication orders, and the ADE is also not identified.

Commissioners, the statement of Kaite can be found at volume A, tab 17, and the transcript of this pre-recorded evidence is at tab 19 of that volume. The pre-record goes for about 25 minutes. If that could please be played.

CHAIR: Yes, please do. Thank you.

RECORDING PLAYED

MS McMAHON: So the Royal Commission is joined by Kaite from her home, and Kaite's daughter Emilee works at an ADE in a regional area. Welcome to you, Kaite.

KAITE: Thank you.

MS McMAHON: Kaite, you have made a statement for the Royal Commission dated 30 March 2022. You have a copy of that statement with you today?

KAITE: I do.

MS McMAHON: And I understand there's two minor amendments that you wish to make to that statement.

5 KAITE: Yes.

MS McMAHON: Is that right? The first one is at paragraph 13 of your statement on page 3. And on the final sentence, I understand that it should read "one year" rather than "two." Would you like to make that amendment?

10 KAITE: Yes, please.

MS McMAHON: And the second amendment is at paragraph 23, referring to Emilee's work hours. The fifth sentence should read, "3.30" as her finishing time as opposed to "3.20." Is that right?

15 KAITE: Yes.

MS McMAHON: Now that those minor amendments have been made, is your statement true and correct?

20 KAITE: Yes.

MS McMAHON: I want to confirm with you that in relation to the matters that we are going to speak about today, that you agree to tell the truth?

25 KAITE: I do.

MS McMAHON: And what we are doing today is pre-recording your evidence to play at the Royal Commission at Public hearing 22. You understand that, don't you?

30 KAITE: I do.

MS McMAHON: So how long has Emilee been working at the ADE?

35 KAITE: 17 years.

MS McMAHON: All right. And I would like to start by talking about Emilee's schooling. You have told us in your statement that Emilee went to a mainstream school, and attended special education classes. Was Emilee's disability supported in her special ed classes?

40 KAITE: Yes.

45 MS McMAHON: In what way would you say her disability was supported?

KAITE: They adjusted the learning. They slowed the pace of learning down to suit the individual, and they identified areas of weakness and worked with that.

MS McMAHON: And when Emilee was preparing to move from high school to work, you said that you remembered that there was either a careers advisor or a social worker helping her. Do you remember how that advisor or worker helped Emilee?

5 KAITE: By organising some work experience.

MS McMAHON: And you've told us that she did some work experience, in your statement, at a pet shop.

10 KAITE: Yes.

MS McMAHON: And that was because she loved animals; is that right?

KAITE: Yes.

15

MS McMAHON: And do you recall if she did work experience at any other place?

KAITE: Yes.

20 MS McMAHON: And where was that, Kaite?

KAITE: It was at a nursing home.

25 MS McMAHON: Now, can you remember if anyone from the school ever talked to you about Emilee's transition from school to work?

KAITE: No, they didn't.

30 MS McMAHON: Did Emilee ever express to you any dreams or goals that she had for her career?

KAITE: Yes, she did.

35 MS McMAHON: And what were they?

KAITE: She wanted to work in childcare.

40 MS McMAHON: And did she have any opportunities to explore that goal while she was at work or soon after she finished - sorry, while she was at school or soon after she finished school?

KAITE: No, she didn't.

45 MS McMAHON: I understand, though, from your statement that she has recently had some experience in a childcare centre. Is that right?

KAITE: Yes.

50 MS McMAHON: How did that experience come about?

5 KAITE: Through the NDIS funding, Emilee was allocated somebody to assist her with different things, and this lady found out what Emilee wanted to do, and, in her own time, she sought to identify, contact people that could help or offer her some work experience. She also organised for Emilee to sit her First Aid Certificate that would enable her to have the work experience in a childcare there.

MS McMAHON: Did you feel as though Emilee had that level of support in her later years of school?

10 KAITE: No, she didn't.

MS McMAHON: Do you think she would have benefitted from that sort of support?

15 KAITE: Absolutely.

MS McMAHON: So, Kaite, after Emilee finished school, you've told us in your statement that she started working in a supermarket chain. How did that job come about?

20 KAITE: The school organised that.

MS McMAHON: And how long did she work there for?

KAITE: About three months.

25 MS McMAHON: And I understand she resigned from that position, but soon after, you also moved to a regional area; is that right?

KAITE: Yes.

30 MS McMAHON: And how long after you moved to the regional area did Emilee start working at the ADE?

KAITE: About 12 months.

35 MS McMAHON: And how did that job come about?

KAITE: Through myself contacting the ADE directly.

40 MS McMAHON: How did you find out about the ADE?

KAITE: Other parents with special needs family members let me know there were these places around.

45 MS McMAHON: And Emilee got the job?

KAITE: She did.

MS McMAHON: And how did she feel about that when she started working there?

50 KAITE: Over the moon. Very excited. Very enthusiastic. We all were.

MS McMAHON: And why was she feeling that way? What did she like about it?

5 KAITE: She got to go to work every day like everybody else, and, at work, she had a whole new set of friends.

MS McMAHON: And did you think it was a good fit for her, where she was working?

10 KAITE: Absolutely. Absolutely.

MS McMAHON: And why, Kaite?

15 KAITE: Because they were holistic. They looked after any of their emotional needs. They were there to counsel them or guide them if they needed. They guided them and stepped them through any of the tasks they were going to be performing, and they supported them through that. And they listened to them if they - and they respected them, and they communicated really well to the families.

20 MS McMAHON: And I understand that you also had a chance to volunteer at the factory a few times to help out.

KAITE: I have, yes.

25 MS McMAHON: And you would have had a chance to observe the workplace - is that right - when you did that?

KAITE: Yes. Yes.

30 MS McMAHON: In your statement you expressed some concerns about the conditions of the workplace that you observed. What were those concerns?

KAITE: Mainly the heat and the cold.

35 MS McMAHON: And in relation to the heat, can you just describe that a bit more?

KAITE: In the summer, it's very, very hot in there. And they still work through it, through the heat. And the same thing for during the winter, it gets very cold in there, and they still work in there.

40 MS McMAHON: So were you there during the hot months?

KAITE: I was.

45 MS McMAHON: And was there an air conditioner, for example, where you were working?

KAITE: No.

50 MS McMAHON: All right. So you would have seen Emilee working when you were volunteering. How would you describe what sort of worker Emilee is?

KAITE: She's very hardworking. She takes her job very seriously. She puts everything into it. And she's really enthusiastic and proud of what she does.

MS McMAHON: You must be very proud.

5

KAITE: I am.

MS McMAHON: You have gone to the trouble, Kaite, at paragraph 36 of your statement, of setting out a table of the pay rates that Emilee has had over the years. I might just walk through that and if you can let me know if it is correct. You have indicated that in October 10 2005, Emilee received \$1.32 per hour. In December 2018, that increased - some years later - to \$5.75. 1 July 2019, \$6.34. 9 November 2020, \$6.63. And the last record that you have indicated was 30 September 2021, at \$8.37. Are those figures correct?

15 KAITE: Yes.

MS McMAHON: Now, you have indicated that her pay would increase by yearly review. How were those reviews conducted?

20 KAITE: In the past, there was her immediate supervisor, another supervisor or staff member, Emilee herself. We were invited to attend, and we would go through a list of skills or tasks, and her immediate supervisor would indicate whether - how competent at those tasks she was.

25 MS McMAHON: And when was the last time you attended one of those meetings?

KAITE: Three or four years ago. It was pre-COVID. Way before COVID.

MS McMAHON: And was it important for you to attend those meetings?

30

KAITE: Absolutely.

MS McMAHON: And why haven't you attended those meetings?

35 KAITE: I've not been invited, nor was I aware they were taking place.

MS McMAHON: Okay. And why is it important that you attend? Or do you think it was important that you did attend, I should ask?

40 KAITE: Yes.

MS McMAHON: And why is that, Kaite?

45 KAITE: So we understood what Emilee was doing, how she was going at work, and to - to - just to check that she was being treated correctly.

MS McMAHON: Okay. Now, has there ever been opportunities for Emilee, since starting at the ADE, to work in open employment?

50 KAITE: No, not that I'm aware of, no.

MS McMAHON: Are you aware of any conversations or steps that might have been taken by the ADE to assist with any transition to open employment for Emilee?

5 KAITE: No.

MS McMAHON: Okay. Now, just if I could talk about what Emilee did day-to-day at the ADE, you have indicated in your statement that originally she was doing some packing and picking-type of jobs. Has Emilee's work or tasks changed over the 17 years that she
10 has worked at this ADE?

KAITE: Not really, no.

MS McMAHON: Can you identify any ways in which her days could be different in terms
15 of the tasks that she does?

KAITE: The difference would be the products that she works with.

MS McMAHON: Can you explain that a little bit further for us?
20

KAITE: So it's still packing and picking, but it will be packing and picking a different product for a different company.

MS McMAHON: I see.
25

KAITE: So the way you pack the product would be different.

MS McMAHON: I see. And have you spoken to Emilee about how she feels about the fact
30 that the tasks that she would do hasn't changed all that much over the years?

KAITE: Yes.

MS McMAHON: And what does she say about that?

35 KAITE: It gets boring.

MS McMAHON: Okay. Now, you have also stated that you have not seen Emilee's job
40 description. But you have expressed some concerns about, at times, Emilee doing some personal care tasks.

KAITE: Mmm.

MS McMAHON: Could you please tell the Commissioners what tasks Emilee has told you
45 that she has done in that regard?

KAITE: She's had to assist other - a particular worker who is reliant on a mobility walker. She's had to help her toilet. She's had to help her get tea and coffee, warm up her food at mealtimes or prepare something for her. And, yeah, just generally assist her with getting
50 to and from her workstation and the toilets or the kitchen.

MS McMAHON: I see. And has Emilee ever had any training for those sorts of personal care tasks?

KAITE: No, she hasn't.

5

MS McMAHON: Has she talked to you about why she has been doing that sort of thing?

KAITE: Yes.

10 MS McMAHON: And what has she said?

KAITE: That she does it because nobody else will help her.

15 MS McMAHON: Okay. Now, Kaite, I understand from your statement that you have become aware of some behaviour of a senior manager at the ADE where Emilee works that is unacceptable. How is it that you've become aware of this behaviour?

KAITE: Emilee told me.

20 MS McMAHON: And can you please tell the Commissioners what Emilee has told you about the senior manager's behaviour?

25 KAITE: She told me that he came out to see why a certain person was laughing, and that the person tried to explain to him that he was still working while he was laughing with his co-worker --

MS McMAHON: Kaite, can I just interrupt you for one moment. When you are talking about a person, are you talking about a supported employee, a person with a disability?

30 KAITE: Yes, yes.

MS McMAHON: Okay.

KAITE: Yes.

35

MS McMAHON: Sorry to interrupt you. If you could please continue.

40 KAITE: Yes. So the supported employee tried to explain to the manager that he was still working while he was laughing. The supported employer - employee has a really bad stutter and he was trying to - he was stuttering as he was explaining his - what he was doing. And the manager, over the top of the stuttering person, over the top of him, he pointed with his finger and mimicked him. He imitated him and he was going, "de de de" at him in front of everybody.

45 MS McMAHON: And did Emilee tell you how this made her feel?

KAITE: Yes. She felt uncomfortable, she felt a bit humiliated on behalf of the person, and she thought it was absolutely rude. She was really upset.

MS McMAHON: And, Kaite, has Emilee told you anything else that has been concerning to you?

5 KAITE: She said he's done it to two other people who also stutter, and he picks on the lower functioning people and he also does not show any females respect.

MS McMAHON: When you say he hasn't - doesn't show females respect, has Emilee ever experienced anything personally?

10 KAITE: Yes, she has.

MS McMAHON: And can you tell us about that?

15 KAITE: Working in one section, she was in what they call the clean room, and there were two people in there, Emilee and a co-worker who is male. This particular staff member came in, greeted the male only, ignored her, then proceeded to have a conversation with the male - only the male. He only addressed the male and then completely ignored her and walked out the room.

20 MS McMAHON: And has Emilee told you how she feels about this sort of behaviour?

KAITE: Yes. She feels really uncomfortable. She feels he's rude.

25 MS McMAHON: Okay. Kaite, I want to ask you now about your hopes for Emilee's future. Can you tell us what those hopes are?

KAITE: I hope she - she has a safe, comfortable, and caring future, whether that's in a workplace, at home, that sort of thing.

30 MS McMAHON: And what about in relation to her work life specifically?

KAITE: That she has a safe, comfortable work environment. Something that she enjoys, that she looks forward to doing and feels comfortable in.

35 MS McMAHON: Thank you. Now, just moving into the last part of this session, Kaite, I just want to ask you about some of the really helpful recommendations that you have made in your statement. The first recommendations relate to young people transitioning from school to work. And you stated that young people with disability would benefit from a support worker specialising in employment in their later years of schooling. What
40 benefits can you see from young people having this sort of support in the later years of their schooling?

45 KAITE: It would motivate them to get employment. It would identify what that person is interested in and therefore more likely to succeed in. Yeah, they would be able to get some work experience, decide whether that's going to work for them, that they like it or not. Yes.

50 MS McMAHON: And do you think that could look something like the support that Emilee received when she got the childcare experience?

KAITE: It should look exactly like that.

5 MS McMAHON: All right. And, Kaite, you have also made three recommendations as - in relation to the ADE. The first was - well, one of them, rather, is that parents and carers should be on the board of directors. You have also recommended that there be volunteer opportunities, like you did, for the parents and carers. But you have also made a recommendation that the ADE has better communication with parents and carers. Why is this so important?

10 KAITE: Communication for the family or the carers of somebody with special needs is extremely important because although they are adults, they're essentially children, and we have to look after them and care for them and check that they're being treated properly, not exploited, not bullied, and we need to know that they're okay. And we need - the only way we can do that is having open communication. And it's extremely
15 important because it's so - it's comforting. It's just an essential. We just need to know they're okay.

MS McMAHON: And can you think of any ideas as to how communication could be improved or what good communication looks like?

20 KAITE: A regular newsletter, copies of the board of director meetings so we know what - any issues with the organisation would be, and having opportunities to have maybe, I don't know, social interactions where we could see firsthand both staff and employees, and also opportunities or invitations, for those that would like to and can, to
25 go and volunteer or spend a little bit of time at the site so we can, yeah, see with our own eyes and hear with our own ears and know that everything is good.

MS McMAHON: Thank you so much for giving evidence today, Kaite, at the Royal Commission.

30 KAITE: You're welcome.

RECORDING STOPPED

35 MS McMAHON: Chair, may I tender, please, the statement of Kaite --

CHAIR: Yes.

40 MS McMAHON: -- dated 30 March as **Exhibit 22-3**, her pre-recorded evidence on 1 April 2022 as **22-3.1** and, finally, the transcript of that pre-recorded evidence dated 1 April 2022 and **Exhibit 22-3.2**. And, Chair and Commissioners, that concludes the evidence for today.

45 CHAIR: Yes, all right. Those documents to which you have referred will be admitted into evidence given the markings you have indicated. Thank you.

EXHIBIT 22-3 STATEMENT OF KAITE DATED 30/03/22

50 **EXHIBIT 22-3.1 PRE-RECORDED EVIDENCE OF KAITE DATED 01/04/22**

EXHIBIT 22-3.2 TRANSCRIPT OF PRE-RECORDED EVIDENCE OF KAITE DATED 01/04/22

CHAIR: And if that concludes the proceeding for today, we shall adjourn now until 10 am Sydney/Brisbane time tomorrow morning, Tuesday, and that's 9.30 am Adelaide time.

5 Thank you very much.

ADJOURNED 3:28 PM UNTIL TUESDAY, 12 APRIL 2022 AT 10 AM

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