



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

TUESDAY, 12 APRIL 2022 AT 10.05 AM (AEDT)

DAY 2

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, everybody, and welcome to the second day of Public hearing 22. We will commence with the Acknowledgment of Country, and I shall ask Commissioner Mason, who is with us in Alice Springs, to make the Acknowledgment of Country.

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

10 We acknowledge the Arrernte people - the traditional custodians and family of Mparntwe, also known as Alice Springs. We recognise the Wurundjeri people of the Kulin Nation where the city of Melbourne is situated. And we recognise today the Gadigal People of the Eora Nation, the traditional custodians of the land on which the city of Sydney is now located.

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

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CHAIR: Thank you very much, Commissioner Mason. Yes, Ms Eastman.

MS EASTMAN: Good morning, Commissioners, and good morning everybody following the hearing today. Our first witness is Mr Gregory Tucker and he has travelled, Commissioners, from Melbourne, to join us in the hearing room in Sydney. So I will just start by introducing Mr Tucker, and I think, Chair, you are going to let Mr Tucker know where everybody is.

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<GREGORY TUCKER, CALLED

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CHAIR: Yes, I am. And thank you, Mr Tucker, for coming from Melbourne to Sydney to participate in this hearing. We very much appreciate you doing that and being in our Sydney hearing room to give evidence. So thank you very much.

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Today we have three Commissioners at the hearing. Commissioner Galbally is in Melbourne, and you can see her, I think, on the screen. She might give a little wave. And Commissioner Mason is in Alice Springs. And she too will give a little wave. And I, of course, am in the same room as you are and as is Ms Eastman, and I will ask Ms Eastman now to ask you some questions. So thank you very much again.

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MR TUCKER: Thank you.

<EXAMINATION BY MS EASTMAN SC

45 MS EASTMAN: So, Mr Tucker, can I start with some introductions, just to confirm you are actually Gregory Tucker.

MR TUCKER: Yes.

50 MS EASTMAN: And you have told the Royal Commission your address.

MR TUCKER: Yes, I have.

5 MS EASTMAN: And what you are going to talk about with me today is about your work and you are going to tell the truth.

MR TUCKER: Yes, I am.

10 MS EASTMAN: So let me start. You live in Melbourne.

MR TUCKER: Yes, I do.

MS EASTMAN: And you have lived there all your life?

15 MR TUCKER: I have.

MS EASTMAN: And this is the second time coming to the Royal Commission.

20 MR TUCKER: Yes.

MS EASTMAN: And you participated with some of your fellow advocates at VALiD, when we had a hearing about the COVID vaccine rollout last year.

25 MR TUCKER: Yes, we did.

MS EASTMAN: Do you remember being in that hearing?

MR TUCKER: I do.

30 MS EASTMAN: And at that hearing, you told us that you were still living with your parents.

MR TUCKER: Yes.

35 MS EASTMAN: And are you still living with mum and dad?

MR TUCKER: Yes, I do.

40 MS EASTMAN: One job you have is that you are training to be an advocate with VALiD. So VALiD is the Victorian Advocacy League for Individuals with Disability. That's a bit of a long name, but it's VALiD. And you're doing some training to be an advocate to go into group homes.

45 MR TUCKER: Yep.

MS EASTMAN: And that's to be able to provide information to people in group homes about their rights.

50 MR TUCKER: That's right.

MS EASTMAN: What would you like to tell the Royal Commission about this work that you do at VALiD and being an advocate for people with disability?

5 MR TUCKER: Well, at the moment, we're just undergoing training at VALiD, like, learning how to use the application for our - on our computers to help manage through our jobs where we do our interviews with the residents in the group homes. The app is almost complete. There are still a few more bugs to work out. And it's also to make it easier to do our reports after we do to the interviews. At the moment, our manager is waiting for approval from the DHHS to enter the group homes, since, as of COVID, a lot of group homes still don't allow visitors. So we're still waiting to await approval so that we can finally get started with our jobs.

15 MS EASTMAN: Okay. So can I start by asking you some questions about when you were at school. Can you remember back to when you were at school?

MR TUCKER: I do. Yes.

MS EASTMAN: All right. So let's start with primary school.

20 MR TUCKER: Yep.

MS EASTMAN: So I think you've told me before that you went to a - what's called a mainstream primary school. What can you remember about being at primary school?

25 MR TUCKER: Yes. I went to a mainstream primary school from grade prep all the way to grade 6. It was actually pretty good. I had plenty of friends and, of course, bullies too, but who doesn't. And I did all the usual stuff, like maths and English, and I also did some sports as well.

30 MS EASTMAN: I hear you're pretty good at basketball: is that right?

MR TUCKER: Yes.

MS EASTMAN: Okay. So did you do basketball at primary school?

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MR TUCKER: Not at primary school, no.

MS EASTMAN: Not at primary school. Okay. And you went on school camps and excursions.

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MR TUCKER: Yes, I went on school camps and excursions as well.

MS EASTMAN: Okay. Now, after primary school you went to high school.

45 MR TUCKER: Yes, I did.

MS EASTMAN: Now, what can you tell us about the high school you went to?

50 MR TUCKER: Yep. The high school I went to was a special school, a special disability school.

MS EASTMAN: And what did you do at school that you liked? Is that where you started the basketball?

5 MR TUCKER: Yep. Yeah. We did a lot of things. We played basketball. We also did rock climbing, also excursions and school camps.

MS EASTMAN: Did you do English and maths and all of those subjects at school?

10 MR TUCKER: Yes. Yeah, there was English, maths, and other subjects, yep.

MS EASTMAN: And what about your friends at school? I think you had a bit of a hard time when you first started. What happened?

15 MR TUCKER: Yeah, to be perfectly honest, I did have a bit of a rough start at my special school. Some of the students didn't really like me, for some reason. I have no idea why. So I then told my teacher and she organised a class meeting on that same afternoon, only three days into my new school year. And ever since then - ever since -- we've all become friends. One of them, I still see up to this very day, so we're pretty good mates. And also,
20 yeah, that's pretty much it.

MS EASTMAN: When you were at school, did you have a sort of part time job or a casual job at all when you worked at - when you were at school?

25 MR TUCKER: No, I didn't.

MS EASTMAN: And when you were at school, did you do any work experience like going out to work in a particular location to see what it was like to work?

30 MR TUCKER: Towards the end of my years, we did visit a to - sorry, (redacted) campus up in Frankston in Melbourne's south. We went there to have a look around and see what they do, but that was pretty much the closest thing we did.

35 MS EASTMAN: When it was close to finishing school, so you were in the last year or so, did you think about what you were going to do after school? Did you think about what you would like to do?

40 MR TUCKER: Yeah. I thought that I would start work straightaway, because my dream job would be to be a train driver. So --

MS EASTMAN: Why is your dream job to be a train driver?

MR TUCKER: Because I am a huge fan of public transport, like, especially our trains.

45 MS EASTMAN: Yes.

MR TUCKER: And just sitting in the driver's seat and taking passengers where they need to go and dropping them off would be really fun.

MS EASTMAN: So when you finished school, you thought your dream job would be a train driver.

MR TUCKER: Yep.

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MS EASTMAN: Did you talk to anybody about actually becoming a train driver and what you would have to do?

MR TUCKER: Yeah, one of my school friends he - one of my school friends' dad, he was a staff member for Metro Trains Melbourne. However, he told me outright that for - to be a train driver would be completely out of reach for me because it would require a lot of health benefits which I don't have.

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MS EASTMAN: Was that disappointing, to be told you couldn't do your dream job?

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MR TUCKER: Yeah, yeah, I was very disappointed. Yes.

MS EASTMAN: Did anyone talk to you about what jobs you might do when you finished school?

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MR TUCKER: Yep. At my day service, which I attended after school, they told me that I could try out to work in a supermarket

MS EASTMAN: And did you do that?

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MR TUCKER: I did. I started there in 2010.

MS EASTMAN: And what did do you at the supermarket?

MR TUCKER: Just walking around the grocery aisles, stacking all the shelves and making sure all the products were in the right shelves and rotating everything. And occasionally I would work in the liquor department, like, stacking up all the alcohol boxes into the freezer room and putting them on to the shelves for the customers. And, yeah --

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MS EASTMAN: Was that hard work to do?

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MR TUCKER: No, no, it was all quite easy work.

MS EASTMAN: And did you have to do any special training to do that work at the supermarket?

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MR TUCKER: I did do a work experience trial with them at first. And, yeah, there was nothing really special I had to do.

MS EASTMAN: Okay. And that job didn't last for too long, did it?

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MR TUCKER: No, I only worked there for two years.

MS EASTMAN: For two years.

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MR TUCKER: So I resigned in 2012.

MS EASTMAN: 2012. You've just mentioned going to a day service.

5 MR TUCKER: Yep.

MS EASTMAN: So am I right in understanding that when you finished school, instead of going into a job, you went to the day service. And you did a lot of activities in the day service, but that was a bit different to actually having a job; is that right?

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MR TUCKER: Yes, it was.

MS EASTMAN: And when you were at the day service, did you do any other type of work? I think you have talked about making pegs.

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MR TUCKER: Yeah.

MS EASTMAN: What was involved in making pegs for clothes lines?

20 MR TUCKER: Yeah. At my day service, once a week, I would spend the whole afternoon in a small warehouse just assembling pegs for clothes lines.

MS EASTMAN: What was that job like?

25 MR TUCKER: It was not too bad. It was a little bit too easy, which is something I don't really like. I like to do hard work. Yeah.

MS EASTMAN: When you talk about "hard work", what do you mean by "hard work."

30 MR TUCKER: Yeah. Like, work which doesn't involve me sitting down in the same spot the whole time, so work which requires me to move to different places, lifting things and moving things like trolleys and stuff, yeah.

MS EASTMAN: Okay. So can I now move to asking you about your current job.

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MR TUCKER: Yep.

MS EASTMAN: So you work in - and we are just going to call it an ADE, an Australian Disability Enterprises. So that's where you work now.

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MR TUCKER: Yes. Yep.

MS EASTMAN: And you started the job in the ADE in, you think, November 2019.

45 MR TUCKER: Yep.

MS EASTMAN: Okay. So how did you actually get the job in the ADE? How did that happen?

MR TUCKER: Yep. Well, at my day service one of the support workers came to visit and took some of us over to the workplace to show us around and do some trials. And after a couple of weeks, he then asked me if I wanted to actually have a job there, which pretty much straight away, I said yes.

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MS EASTMAN: Yes. And was this job not just sitting around a desk, but you were actually doing moving around and --

MR TUCKER: Yeah.

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MS EASTMAN: -- things like that. So you thought that would be a good job to do.

MR TUCKER: Yeah, that would be a great job, yeah.

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MS EASTMAN: So you did the trial and then after the trial you were offered the job?

MR TUCKER: Yep. Yes.

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MS EASTMAN: And you said yes. Okay. Now, tell us about the job. So what do you actually do in this job?

MR TUCKER: Well, we - we actually do a bunch of different jobs, like, we stick labels on to cleaning products. We - packing the bowel cancer kits for (redacted). We also seal nappies for (redacted), and also put together a kit for (redacted).

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MS EASTMAN: And in terms of doing the job, when you first started, you worked two days a week. Is that right?

MR TUCKER: Yep, that's right.

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MS EASTMAN: And when you first started, you started at 10 o'clock in the morning and you worked through to 3 pm?

MR TUCKER: That's right.

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MS EASTMAN: Okay. And to get to your job you have to take public transport?

MR TUCKER: That's right.

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MS EASTMAN: And is it a long way from your house?

MR TUCKER: No. The good thing about my work, it's only a 10-minute train ride from home.

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MS EASTMAN: Right. Then in terms of your job now, you are now up to full-time work?

MR TUCKER: Yes, I am.

MS EASTMAN: Is that right? So when I say full-time, you work three days a week.

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MR TUCKER: Yes.

MS EASTMAN: But full-time hours. So from 8.45 in the morning to about 3.30 in the afternoon.

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MR TUCKER: That's right.

MS EASTMAN: At your job, do you have a supervisor who checks your work or tells you what to do?

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MR TUCKER: Yes, we do. We call them Training Support Officers or TSOs. They wander around what we call the workstations to make sure that everyone's okay and if we have all we need to do our jobs, and they also asked us to help them, like, use a pallet jack or grab some products from the warehouse on to the workstations. Yeah.

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MS EASTMAN: And your job at the moment is to do the sealing of the nappy packs: is that right?

MR TUCKER: Yes, that's pretty much been my only job for the past six months.

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MS EASTMAN: And do you need somebody to show you how to do that job day in or day out, or do you know it pretty well now?

MR TUCKER: I know it pretty well now. So - yeah, when I first started, they did show me how to do it, but after that, I was all set to go.

25

MS EASTMAN: Did you have to have any training to know what to do, to pack and seal the nappy bags?

MR TUCKER: Yep. They've shown me how to use the sealing machine and shown me how to make sure it's all sealed neatly without any strips, as we call them. And also how to put them in the boxes correctly so they're not upside down.

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MS EASTMAN: And you got on top of that pretty quickly --

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MR TUCKER: Yeah, very quickly, yes.

MS EASTMAN: All right. And think about what you do with your day job. What support do you need at work to be able to do that job? What do you need as a - do you need anyone to help with you supports or do you need any equipment to help you do the job?

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MR TUCKER: Well, pretty much the only equipment we need for what I do for my job is the sealing machine, a pair of scissors to cut the strips off, and also a tape gun to seal the boxes once they're packed in. Sometimes they go missing, but I would ask a TSO to grab some for me and, other than that, everything is easily manageable.

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MS EASTMAN: So, during the day, you have some breaks, don't you, for morning tea and lunch?

MR TUCKER: Yes.

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MS EASTMAN: Okay. And have you made friends, new friends at this place? Or what's it like with your work colleagues?

5 MR TUCKER: Yeah, not at first.

MS EASTMAN: Are they your best friends now or is it a little bit different?

10 MR TUCKER: Yeah. Yeah, for the first couple of years I worked there, I wasn't too keen to talk to anyone because --

MS EASTMAN: Well, you wanted - it's your job. You just wanted to go and do the work, didn't you?

15 MR TUCKER: Yeah, exactly. I just wanted to mainly focus on making everybody happy by doing my job properly.

20 MS EASTMAN: But you weren't going there to make a whole lot of new friends. You were going there to do your job; is that right?

MR TUCKER: Yeah, pretty much, yeah.

MS EASTMAN: So - but have you made some friends since you've been there?

25 MR TUCKER: I have. I do have - I've got four friends at my job.

MS EASTMAN: Okay. Now, when we spoke to you last year when COVID was on, you - Melbourne was in a really long lockdown, wasn't it?

30 MR TUCKER: Yes. It was. Yeah.

MS EASTMAN: Were you in the lockdown that whole time and not able to go to work?

35 MR TUCKER: Well, I'm happy to say my workplace is also essential, so during the lockdowns, we didn't have to close. The only thing I needed was a workers' permit so that I could come into work. However, because some - so a lot of workers did have a weak immune system, so a lot of them were required to stay home and not come into work. So even though I was able to come in, it was very quiet during the lockdowns.

40 MS EASTMAN: So, were probably about half the people were away from work.

MR TUCKER: Yes.

MS EASTMAN: So, it was a much quieter workplace.

45 MR TUCKER: It was. It was much quiet.

MS EASTMAN: And did you like that?

MR TUCKER: At first, I did because it was very quiet and there was a lot more work for me to do. But after a while, I did start to miss one of my friends, because he was one of them who had to stay home.

5 MS EASTMAN: Okay. Now, I want to check if I can ask you these questions about how much you get paid. Can I ask you about that?

MR TUCKER: Sure.

10 MS EASTMAN: All right.

MR TUCKER: Yeah, I'm okay with answering that, yes.

15 MS EASTMAN: You are okay with answering that. When you first started at your job in about November 2019, how much were you paid per hour?

MR TUCKER: Yeah, for the first three years, so - sorry, two years I was at my work, I was only getting paid \$2.50 an hour.

20 MS EASTMAN: And how long were you on the \$2.50 per hour?

MR TUCKER: Straight from day one to actually just recently. My next pay - my next pay date is my - my new wage.

25 MS EASTMAN: So from November 2019 up to probably next week when you get paid --

MR TUCKER: Yeah.

MS EASTMAN: -- you've been paid \$2.50 an hour.

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MR TUCKER: That's right.

MS EASTMAN: Okay. I think you've told me that you feel you are worth more than \$2.50 at hour: is that right?

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MR TUCKER: Yeah, yeah. Because as I mentioned earlier, I do do a lot of work like sealing and - sorry, sealing and packing and using a pallet jack. And, at the end of the day, I'm always really exhausted and a bit of a sore back, so, yeah, \$2.50 was certainly not enough.

40 MS EASTMAN: Okay. You've now gone up to \$8.13 an hour.

MR TUCKER: Yes, that's right.

MS EASTMAN: Now, your dad has said that's still lower than the minimum wage.

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MR TUCKER: Yeah.

MS EASTMAN: How does that make you feel?

MR TUCKER: Yeah, the moment I told him about my new - my new pay, he pretty much told me straight away that - that the minimum wage is \$15 an hour.

5 MS EASTMAN: So you feel you could at least have the minimum wage?

MR TUCKER: Yes, yeah.

MS EASTMAN: Can I ask you this question.

10 MR TUCKER: Of course.

MS EASTMAN: Have you asked for a pay rise at work?

15 MR TUCKER: Despite asking when I'm expecting my new pay - my new pay to come in, because it did take a while to process, but besides that, no, I never asked for a pay rise.

MS EASTMAN: Why haven't you asked for a pay rise?

20 MR TUCKER: Because I'm a little bit scared to.

MS EASTMAN: You are a bit scared.

MR TUCKER: Yeah.

25 MS EASTMAN: And I think you've told me you would like to even do a different job and have a higher position; is that right?

MR TUCKER: Yeah.

30 MS EASTMAN: And have you ever asked anyone at work whether you could do a higher job?

35 MR TUCKER: No, not yet. But coming up, we have what we call a goals meeting at my job, and that is when I will ask if I can do something higher, like - yeah. Do something in a higher position.

MS EASTMAN: So one of the goals is to have a higher position.

40 MR TUCKER: Yeah.

MS EASTMAN: And to have a higher rate of pay.

MR TUCKER: Yes. That's my goal.

45 MS EASTMAN: That's your goal. Now, can I ask you about superannuation? Have you heard that word?

MR TUCKER: Yep. Yes.

50 MS EASTMAN: And you get superannuation from your job, don't you?

MR TUCKER: Yes.

MS EASTMAN: And has anyone told you about how much superannuation you get?

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MR TUCKER: Actually no, they haven't.

MS EASTMAN: Okay. And you are also on a Disability Support Pension?

10 MR TUCKER: Yes.

MS EASTMAN: Is that right? So when you started work, did anyone talk to you about what having \$2.50 an hour meant for your DSP? And can you tell the Royal Commissioners, what do you understand about how the \$2.50 matches up with the DSP? How does that work?

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MR TUCKER: Well, it didn't affect it too much. Yeah, because the pay was low, I was only getting, like - I think it was 15 to 20 dollars taken out of my Disability Support Pension.

20 MS EASTMAN: And did someone explain how the Disability Support Pension has money taken out?

MR TUCKER: Yes.

25 MS EASTMAN: So how much money comes out and how that's worked out?

MR TUCKER: Yep, they did explain that to me, yes.

MS EASTMAN: Yes. What did you - can you help me understand that?

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MR TUCKER: Of course.

MS EASTMAN: All right. Can you explain that to me?

35 MR TUCKER: Yeah. Yeah.

MS EASTMAN: How does that work?

MR TUCKER: They explained to me that every time I get paid for my - from both my jobs, I would have to report my income to Centrelink every two weeks so that Centrelink can still pay me the right amount.

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MS EASTMAN: Okay. Can I ask you about working at VALiD?

45 MR TUCKER: Yes.

MS EASTMAN: So you work one day a week at VALiD.

MR TUCKER: Yes.

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MS EASTMAN: And your pay for working one day a week at VALiD is about five times the amount that you are paid for one day of work - one day a week's work at the ADE. Is that right?

5 MR TUCKER: Yeah, that's correct.

MS EASTMAN: So pretty much one day at VALiD is the same or - about the same as working three days at the ADE.

10 MR TUCKER: That's right.

MS EASTMAN: Now, at VALiD, you are not putting things on pallets and moving heavy machines and things like that around, are you?

15 MR TUCKER: No.

MS EASTMAN: What do you do - so you have talked about VALiD and the training.

MR TUCKER: Yeah.

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MS EASTMAN: But it's a different type of job, isn't it?

MR TUCKER: Yeah, it is. Yeah.

25 MS EASTMAN: Okay. All right. And how did you get the job at VALiD?

MR TUCKER: This was actually through my day service as well. At my day service, me and a select few started attending what VALiD calls self-advocacy --

30 MS EASTMAN: The Chair has just lost his curtain, but that's all right. Keep going Mr Tucker.

MR TUCKER: What they call self-advocacy meetings.

35 MS EASTMAN: Self-advocacy meetings. And what are they? What do they do?

MR TUCKER: It is where different day services come together with VALiD and they have guests come along to talk about what they do, like, for example, we have guests from Legal Aid, the Cancer Council, and one time I actually came up as a guest to do a little speech.

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MS EASTMAN: You went as a guest to do a speech.

MR TUCKER: Yep.

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MS EASTMAN: What did you talk about? Can you remember?

MR TUCKER: You know what? It was a while ago. I can't quite remember what I spoke about.

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MS EASTMAN: That's okay. That's all right. So let's talk about the self-advocacy. So that's how you got in touch with VALiD.

MR TUCKER: Yep. Yep.

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MS EASTMAN: All right. And how did you get the job with VALiD?

MR TUCKER: Yep. After I did my speech, after the meeting was over, one of the self-advocates who had organised the meeting actually came up to me and asked if I would like a job with VALiD.

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MS EASTMAN: And what did you say?

MR TUCKER: Of course, I was very excited. So I said, yes, I would love to.

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MS EASTMAN: And what is it like working at VALiD?

MR TUCKER: Well, since we are still waiting for annual approvals, we are pretty much just sitting on the desk, checking our emails and having our meetings in the boardroom.

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MS EASTMAN: Getting ready.

MR TUCKER: Also learning how to use - also learning how to use our VALiD app that we're going to use.

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MS EASTMAN: When you are talking about an app, something on the mobile phone?

MR TUCKER: Yep, and also on our computers.

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MS EASTMAN: Yes.

MR TUCKER: Yes.

MS EASTMAN: At VALiD, you work on being an advocate.

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MR TUCKER: Yep.

MS EASTMAN: At your work at the ADE, is there anyone like you at the ADE who is an advocate for the workers?

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MR TUCKER: Yeah, at the moment, not that I know of. No.

MS EASTMAN: Do you think it would be helpful at your work at the ADE to have somebody like you at VALiD to be an advocate for the workers?

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MR TUCKER: Yeah, that would be good. That would be good.

MS EASTMAN: What would you like them to do, if they were an advocate for the workers? What sorts of things would you get them to do?

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MR TUCKER: Maybe just - just walk around the warehouse, making sure that everybody's okay or if they would like to do a different job at the place or if they could - you know --

MS EASTMAN: Do those things.

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MR TUCKER: Yeah. Pretty much, yeah.

MS EASTMAN: The Commissioners might have some questions. But before they ask you some questions, can I ask you about the future. So you've said you would like to have a job with a higher position.

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MR TUCKER: Yep.

MS EASTMAN: And more money.

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MR TUCKER: Yep.

MS EASTMAN: And what do you see you would like to do as a job in the future?

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MR TUCKER: Well, what I'm really hoping to do in the future is to actually - is to actually be a forklift driver with my current job because that would be a lot of fun. And plus I love to work with machines and also helping out our truckies by loading up their trucks and unloading. That would be - that would be a really fun job to do. I am really hoping I get to do that in the future.

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MS EASTMAN: Do you think that you will always work with the same ADE forever? Or there might be other places to work?

MR TUCKER: Yeah, maybe not forever. I'm basically just staying there until a better job comes up.

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MS EASTMAN: How will you find a better job, do you think?

MR TUCKER: Yeah. At the moment, I have no idea how to do that. I - how to - I guess I'm just waiting for the opportunity to come along.

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MS EASTMAN: So you hope an opportunity comes to you that - for a better job?

MR TUCKER: Yeah.

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MS EASTMAN: Yes. You say - sorry, and I haven't asked you this, so if you are not sure let me know. But you're also an NDIS participant?

MR TUCKER: Yes, I am.

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MS EASTMAN: And have - have you talked to anyone about your NDIS plan and your planners about your goals for a job either as a forklift driver or doing other work? Have you talked to anyone about that in the NDIS plan?

50

MR TUCKER: No, I haven't, no. No.

5 MS EASTMAN: All right. Mr Tucker, it is always lovely to talk to you, and thank you for being so generous telling us about your work and what you are doing. Is there anything else you would like to tell the Royal Commissioners while you are here about your work or what you do at VALiD? You don't have to, but if you would like to - if I've forgotten anything that we were going to talk about - I hope I haven't - but please tell the Commissioners what you would like them to know.

10 MR TUCKER: Yeah, no. Well, at VALiD - this will be the last thing I will say. At VALiD, I'm mainly just hoping that everybody does get approved with the DHHS for us to actually get started with our jobs in the group homes as soon as possible, because I have been in training for VALiD for the past two years, and I'm - I'm ready to get started with my job.

15 MS EASTMAN: You're ready. Okay. Mr Tucker, thank you so much. The Commissioners might have some questions for you.

20 CHAIR: Thank you, Ms Eastman, and thank you, Mr Tucker. I shall ask Commissioner Galbally first, from Melbourne, whether she has any questions she would like to ask you. Commissioner Galbally, you're on mute, I think.

25 COMMISSIONER GALBALLY: Thank you very much, Mr Tucker. I would like to ask you whether anyone in the ADE has helped you to think about, you know, jobs you might like to do, like the forklift driving or other jobs, and whether they have offered you any training?

MR TUCKER: Yeah, no one has asked me that. This is my own personal goal that I am working up on my own. So, yeah, no one has really told me anything.

30 COMMISSIONER GALBALLY: Thank you. Thank you very much for coming.

MR TUCKER: That's okay. It's great to be here.

35 CHAIR: Mr Tucker, I will just ask now Commissioner Mason in Alice Springs whether she has any questions for you.

COMMISSIONER MASON: No, Chair, I don't have a question, but I want to say thank you to Mr Tucker for coming today. It's greatly appreciated. Thank you.

40 MR TUCKER: Thank you.

CHAIR: Mr Tucker, you mentioned that you worked at a supermarket for two years.

MR TUCKER: Yes.

45 CHAIR: Would you be able - and don't if you don't want to or you can't remember - but do you remember what you were paid while you were working at the supermarket for two years?

MR TUCKER: Yeah, I don't quite remember the hourly rate, but I do remember I was getting paid for up to - I think it was - \$275 for the whole week. For weekly. Because, yeah, I was only there three days a week.

5 CHAIR: So that was for - the pay for three days per week?

MR TUCKER: Yes.

10 CHAIR: Yes. And then when you finished there, there was a gap until you started at the ADE. Is that right?

MR TUCKER: That's right.

15 CHAIR: Right. Okay. Thank you. And when you started at the ADE, obviously, you were earning much less than --

MR TUCKER: Yes.

20 CHAIR: -- you were at the supermarket. Did you speak to anybody about the reduction in your income because you had moved from your job at the supermarket to the ADE?

MR TUCKER: Yeah. No, I didn't ask any of that because I thought it would be a bit awkward, because - yeah. I wasn't really too keen to bring that up, yeah.

25 CHAIR: I see. I understand.

MR TUCKER: Yeah.

30 CHAIR: Mr Tucker, thank you very much for coming to give evidence, and especially because you've come all the way from Melbourne to do that in our Sydney room. We very much appreciate the evidence you have given and --

MR TUCKER: That's okay.

35 CHAIR: -- the help you have provided to the Royal Commission. So thank you very much.

MR TUCKER: Thank you.

40 **<THE WITNESS WITHDREW**

MS EASTMAN: Thank you, Commissioners. We are going to have a short break. We need just to reconstitute, and we will move to Brisbane. Perhaps if you could give us five to 10 minutes?

45 CHAIR: Shall we take a 10-minute break? It's now 10.45, Sydney/Brisbane time. We will resume at 10.55 Sydney/Brisbane time.

MS EASTMAN: Thank you.

50 **<ADJOURNED 10:43 AM**

<RESUMED 10:55 AM

CHAIR: Yes, Ms Eastman.

5

MS EASTMAN: We are going to Mr Fraser.

CHAIR: All right. Thank you. Yes, Mr Fraser.

10 MR FRASER: Thank you. Commissioners, our next witness is Marc, giving evidence under a pseudonym. Marc has prepared a statement dated 1 April 2022. He will be giving evidence via audio visual - sorry, by audio link. And he's present there and I call Marc.

<MARC, CALLED

15

MARC: Present.

CHAIR: Yes. Marc, just to make it clear where everybody is for the purposes of your giving evidence today, we have three Commissioners participating in the hearing. Commissioner Galbally is in Melbourne, Commissioner Mason is in Alice Springs, I am in the Sydney hearing room, and Mr Fraser, who is going to ask you some questions, is in the Brisbane hearing room of the Royal Commission. So we are in four different places. I want to thank you for coming to the Commission, giving a statement and giving evidence today. We very much appreciate your assistance. I will now ask Mr Fraser to ask you some questions.
20 Thank you.
25

<EXAMINATION BY MR FRASER

MR FRASER: Thank you. Marc, may I start by telling the Royal Commission a little bit
30 about you. You are in your late 40s, and you have an intellectual disability.

MARC: That's correct.

MR FRASER: In your statement, you tell the Commissioners that you completed year 12
35 at school, and after school, you started working at Bedford. Is that right?

MARC: That's correct.

MR FRASER: And that was around 30 years ago or so, wasn't it?
40

MARC: That's correct.

MR FRASER: Marc, your first job at Bedford was in the furniture section. Can you tell the
45 Royal Commission about the sort of work did you in that section?

MARC: Yes, I can. In the actual furniture section, I was doing trellises, which is on a machine.

MR FRASER: Okay. And how long - well, after about eight years in furniture, you got a job
50 outside of Bedford. Is that right?

MARC: Correct.

5 MR FRASER: And that was a job when you were working in manufacturing; is that right?

MARC: That's correct.

10 MR FRASER: How did you find that job? If it assists you, I'm at paragraphs 11 and 12 of your statement, which I understand you have in front of you.

MARC: Yes. You mean do you just want me to tell you what I --

15 MR FRASER: Well, tell us a little bit about working in - outside of Bedford in manufacturing. What was that like?

MARC: Working outside in manufacturing, I - I wanted to try something different and it was a - something I, you know, I wanted just to have a look and try to see how I went.

20 MR FRASER: And your job was to use a machine to cut out plastic and that was then used to make moulds to package nails and hammers. That was the sort of work you were doing?

MARC: Correct.

25 MR FRASER: And after that, you worked in that role for around six months or so and then you returned to Bedford. Is that right?

MARC: That's correct.

30 MR FRASER: And you are now at Bedford and you have had several different jobs at Bedford, including around eight years in the storage area? Is that right?

MARC: That's correct.

35 MR FRASER: What sort of work do you do or did you do in the storage area?

MARC: I actually got my forklift licence in the storage area and I used to have invoices and used to get all the products out to put on the trucks and that.

40 MR FRASER: So you got your forklift licence. So were you driving the forklift in the storage area?

MARC: That's correct.

45 MR FRASER: And you were using a forklift to load up the trucks?

MARC: That's correct.

MR FRASER: Now, in your statement, you say that after you were working in storage, you wanted to try something different and you got another job outside of Bedford in a furniture business. Is that right?

5 MARC: That's correct.

MR FRASER: And if it assists you, I am around paragraph 19 of your statement. What sort of work did you do in the new job at the furniture business?

10 MARC: I actually only worked there for about a week. It was virtually - I was outside making trellises and virtually that's what I did.

MR FRASER: And you stayed there for about a week and then after that you returned to Bedford. Is that right?

15 MARC: That's correct.

MR FRASER: And you are still at Bedford. And you are now working in the packaging area. Have I got that right?

20 MARC: That's correct.

MR FRASER: And, again, if it assists you, I'm at around paragraphs 26 and 27 of your statement.

25 MARC: Yes.

MR FRASER: Can you tell the Commission about the sort of work you do in packaging. What's involved there?

30 MARC: In packaging, I did a job that was putting label stickers on packets of pasta and then I actually did another job putting stickers on bottles, which is about 9,000 bottles, on ginger beer.

35 MR FRASER: Right. So you do different jobs depend on what work has to be done: is that right?

MARC: That's correct.

40 MR FRASER: And, for example, a job I think you mentioned - or in your statement you talk about putting label stickers on packets of pasta, and you did that for about 10 days or so: is that right?

45 MARC: That's correct.

MR FRASER: Do you like the work that you do in packaging?

MARC: I do enjoy it, yes.

MR FRASER: I think you say in your statement, some days your work is interesting, but sometimes it depends what job the team is working on?

MARC: Correct.

5

MR FRASER: And I think you say about 85 per cent of the time, you have a good time. Is that right?

MARC: That's correct.

10

MR FRASER: Now, in your statement - and I'm down now at paragraph 65, if that assists you - you say that you've been on the same hourly rate since around 2018. Is that right?

MARC: That's correct.

15

MR FRASER: And one of the issues that you've talked about in your statement is how you feel about your wages, what you are paid for the work that you do. Is it right to say that you feel your wage should be higher because of your ability?

20

MARC: That's correct.

MR FRASER: And, in fact, at paragraph 65 of your statement, you say that you normally do every single task you get told you do well.

25

MARC: That's correct.

MR FRASER: And, in fact, your supervisors at work, they know that because they see you doing the work that they ask you to do; is that right?

30

MARC: That's correct.

MR FRASER: Now, I want to ask you some questions about independent training programs or ITPs that are referred to in your - you have referred to in your statement.

35

MARC: Yes.

MR FRASER: Now, I'm at paragraph 44 of your written statement. You say there that at Bedford there's a yearly assessment that occurs which is called, as I've said, an Independent Training Program or an ITP. Is that right?

40

MARC: That's correct. That's correct.

MR FRASER: And as part of that assessment or that ITP, your supervisor writes down your goals for the coming year? Is that right?

45

MARC: That's correct.

MR FRASER: And if you haven't passed a particular goal for a year, then that goal will stay in your list of goals for the next year. Is that right?

50

MARC: That's correct.

MR FRASER: After you complete an ITP assessment do you usually get given a copy of that document?

5

MARC: Normally, it stays in your folder and we - you can actually ask your - your supervisor or PA if you can have a look at it.

MR FRASER: And have you been given a copy of your ITP assessment before?

10

MARC: No.

MR FRASER: So you haven't been given a copy of your individual training plan before, just to make sure I'm using the right language.

15

MARC: No.

MR FRASER: Now, you also said some more things in your statement about training, and you mentioned before that you obtained a forklift driving licence. That's right, isn't it?

20

MARC: That's correct.

MR FRASER: And you say also in your statement that you did a computer course around seven years ago?

25

MARC: That's correct.

MR FRASER: And was that something that was organised through Bedford?

30

MARC: That's correct.

MR FRASER: And you also talk about, in your statement, that you get training each year in areas such as health and safety; is that right?

35

MARC: That's correct.

MR FRASER: Manual handling?

MARC: Correct.

40

MR FRASER: And cultural diversity. Is that right?

MARC: That's correct.

45 MR FRASER: Now, I'm at around paragraphs 57, 58, 59 of your statement. I just want to ask you some more questions about training and training you've asked to do. You say that in your statement that you have asked staff at Bedford if you could do a Certificate III computer course to get more experience with computers and spreadsheets. Is that right? That's something that you asked that you wanted - you said you wanted to do?

50

MARC: That's definitely correct.

MR FRASER: And you were told in response to that that there was nothing available at that time for you to do. Is that right?

5

MARC: That's correct.

MR FRASER: But then more recently, last year, you were told by Bedford that if you wanted to do any courses, for example in computing, that the government would fund those courses. Have I got that right?

10

MARC: Correct.

MR FRASER: So since you were told that last year, has anyone at Bedford asked you about what further training you would like to do?

15

MARC: No.

MR FRASER: Marc, if you wanted to raise a work issue, so some issues arising at your work at Bedford, who can you speak to at Bedford?

20

MARC: First, it will be our supervisor, and if they can't help you, then it would go to your PA. So you're - there's some steps that you've got to follow.

25

MR FRASER: Thank you. And that's something you've addressed at paragraph 23 of your statement, isn't it?

MARC: That's correct.

30

MR FRASER: Do you know if Bedford has a policy about employees making complaints or raising concerns?

MARC: Yes, there is.

35

MR FRASER: Now, Marc, I want to ask you - to finish - I will start again. Marc, I want to finish by asking you some questions about the future. And you've given some thought, haven't you, about what would be helpful to happen at Bedford in your view. Is that right?

40

MARC: Correct.

MR FRASER: And, in fact, in your statement, you've set out some thoughts, including about wages. And I'm down at paragraph 64 of your statement. Can I ask you to read your ideas and suggestions from your statement at paragraph 64 and paragraph 65?

45

MARC: I can do that. Paragraph 64:

"I would like to see Bedford provide timely and transparent information to all employees, families and supported persons to help employees in their roles and to help employees understand what is happening at the workplace."

50

And what was the other one you asked?

5 MR FRASER: Then at paragraph 65, you talk about wages, which I asked you about before. Can I ask you to read that paragraph out?

MARC: I certainly can:

10 "I think that my wage should be higher because of my ability. I normally do every single task I get told to do well, and the supervisor knowing this because they see me doing a task. I believe that my good work ability is also demonstrated by the fact that I am asked if I would like to become a supervisor."

15 Then it just goes on to - "please refer to 47."

MR FRASER: Thank you. Commissioners, you will find a copy of Marc's statement in Tender Bundle part B at tab 1. I tender this statement into evidence and ask it be marked **Exhibit 22-4**.

20 CHAIR: Yes, Marc's statement will be admitted into evidence and given the marking of 22-4.

<EXHIBIT 22-4 STATEMENT OF MARC DATED 01/04/22

25 MR FRASER: Thank you, Marc, for answering my questions today. I am just going to ask the Commissioners whether they have any questions for you. Commissioners?

30 CHAIR: Yes, thank you very much, Marc. I will start by asking Commissioner Mason whether she has any questions she would like to put to you.

COMMISSIONER MASON: No, thank you, Chair. But thank you to Marc for coming today. Thank you very much. Really appreciated it.

35 CHAIR: And I will now ask Commissioner Galbally if she has any questions. I think you are on mute, Commissioner Galbally.

40 COMMISSIONER GALBALLY: I have got a couple of questions to ask you. The first question is about the individual training plan assessment. Is that an assessment that is also about wages?

MARC: Yes.

45 COMMISSIONER GALBALLY: So you - your statement talks about, you know, meetings being cancelled and you being given notice - short notice so you couldn't bring a support worker. Can you just tell us about that? So you did those meetings without the people you would like to bring to those meetings?

MARC: Yes. Virtually - are you referring to the ITP?

50 COMMISSIONER GALBALLY: Yes, I am.

5 MARC: Virtually, what actually happens is sometimes we get told at the last minute that our ITP is up and we don't normally have that much time to get someone to come in with us. So that's when we - or I do it just by myself. So virtually it's something that we would - if we would like to have someone in there, we can.

COMMISSIONER GALBALLY: But it is too hard to organise at the last minute.

10 MARC: Correct.

COMMISSIONER GALBALLY: Are there union representatives in your workplace? Is there a shop steward in your workplace?

15 MARC: There is.

COMMISSIONER GALBALLY: Would they come to a meeting with you?

20 MARC: I think they do. I'm not utterly sure but that's probably something that might happen, yes.

COMMISSIONER GALBALLY: Thank you. The second set of questions I wanted to ask you about was with regard to training.

25 MARC: Yep.

COMMISSIONER GALBALLY: The Cert III that you would like to do in - a computer course - so there's no suggestion that that could be done or that you could go to TAFE to do that course?

30 MARC: No, we didn't - I think in my statement, we didn't actually have any funding for that Cert III.

35 COMMISSIONER GALBALLY: So you were told that, were you, that there was no funding for you to do a Cert III.

MARC: Yes, that's correct.

40 COMMISSIONER GALBALLY: And in the training that you do that's at Bedford itself, is there a unit around your human rights and your workplace rights? The things that are your absolute rights in the workplace and in life? Is there a human rights training?

MARC: Not off by hand that I know.

45 COMMISSIONER GALBALLY: Thank you. Thank you very much, Marc. Thank you.

50 CHAIR: Marc, if I might ask you a couple of questions - and if you would prefer not to answer any of them, that is fine. You say in your statement that when you first started working at Bedford, you were getting paid \$2 an hour, and after a couple of years - and I assume we are talking about the 1990s - that moved up to about \$6 an hour. That's your recollection of your pay at that time?

MARC: Yes, that's correct.

5 CHAIR: And I think you told us that your pay has not increased since 2018. May I ask you what your current pay is, then, at Bedford?

MARC: Well, my current pay is still the same as what I normally get. My current pay is below what I'm supposed to be getting, which would have been in the statement.

10 CHAIR: I was just trying to find in the statement where you say what the amount is. But that's fine. If you can't remember that, that's okay. I was just interested in what that dollar figure might be.

MARC: Yes.

15

CHAIR: All right. Thank you.

MARC: That's all right.

20 CHAIR: When - you say that in a job that you have had in a manufacturing business - and this is at paragraphs 13 and 14. You had a job to cut plastic and you were paid \$280 a week for three days a week and you say there that you received a supported wage. Could you tell me what you understand by "supported wage"? Again, if you can't remember, that's fine. I just was interested in what that might be.

25

MARC: Okay. My supported wage is a pension that I get.

CHAIR: You mean the Disability Support Pension?

30 MARC: Correct.

CHAIR: I see. All right. Thank you. And you were told, you say in paragraph 16, after six months that there wasn't a job for you anymore. Were you told anything else as to why the job wasn't there for you to continue?

35

MARC: All I got told was that I was no longer needed in that job.

CHAIR: And that's all you were told at the time?

40 MARC: Correct.

CHAIR: Thank you very much. I appreciate your giving those answers. Thank you. Thank you, Marc, very much indeed for giving evidence and also for the statement which, as you have heard, is now part of the evidence of the Royal Commission. And each of the Royal
45 Commissioners will have read that evidence - read that statement and will no doubt do so again. So thank you very much indeed for coming to the Commission. We very much appreciate the assistance you have given to us. Thank you, Marc.

50 MARC: Not a problem.

<THE WITNESS WITHDREW

MS EASTMAN: Thank you, Commissioners. Our next witness will be joining us at 11.50. So that --

5

CHAIR: 11.50.

MS EASTMAN: Yes. So that will be a sort of slightly longer morning tea this morning.

10 CHAIR: All right. It's now just after 11.20, I think - about 11.20 Sydney or Brisbane time. We will adjourn, then, for - until 11.50 Sydney/Brisbane time which happens to be 11.20 Adelaide time.

MS EASTMAN: Yes. Thank you.

15

<ADJOURNED 11:19 AM

<RESUMED 11:52 AM

20 CHAIR: Yes, Ms Eastman.

MS EASTMAN: Thank you, Chair. It's to Mr Fraser in Brisbane.

CHAIR: Again. Yes, Mr Fraser.

25

MR FRASER: Thank you, Chair. Our next witness is Tay. Before I introduce Tay further, I will note that Matoula Makris of counsel is appearing for Tay and is present with them, and Ms Makris also represented our last witness, Marc.

30 CHAIR: Yes, thank you. That can be noted. Thank you.

<TAY, CALLED

35 MR FRASER: Tay has prepared a statement dated 5 April 2022. Tay uses the pronouns they and their. They have taken an affirmation. Tay is present with us via audio link. Thank you, Chair.

40 CHAIR: Yes, thank you very much. Tay, thank you very much for coming to the Royal Commission to give evidence. It probably has been explained but, just in case, I shall mention that Commissioner Galbally is participating in the hearing from Melbourne, Commissioner Mason is participating in the hearing from Alice Springs, I am in the hearing room in Sydney, and, of course, Mr Fraser is with you in Brisbane. Thank you very much for coming to the Commission. Thank you very much for giving evidence. We do appreciate your attendance and your assistance to the Royal Commission.

45

I will now ask Mr Fraser to ask you some questions.

<EXAMINATION BY MR FRASER

MR FRASER: Thank you. Tay, I will start by telling the Royal Commission a little bit about you. I hope that's okay. You have a learning disability, and you learn best by doing things repetitively, writing things down, and when things are explained to you. Is that right?

5 TAY: Yes.

MR FRASER: And you find it helps when people are patient and when documents are written in easy language; is that right?

10 TAY: That's correct.

MR FRASER: And to avoid complex words.

TAY: Yes.

15

MR FRASER: You also have a diagnosis of epilepsy, which is managed through medication. Is that right?

TAY: Yes.

20

MR FRASER: Now, you've given a statement to the Royal Commission dated 5 April 2022. Do you have a copy of that with you now?

TAY: Yes.

25

MR FRASER: And are the contents of that statement true and correct, to your knowledge?

TAY: Yes.

30

MR FRASER: Thank you. In your statement, you tell the Commissioners that you completed year 12 at school, and at school you found it difficult to make friendships and, in fact, you were teased because of your learning disability. And after school, you then looked for work. Have I gotten all that right?

35

TAY: Yes, that's correct.

MR FRASER: I want to ask you some questions about your first job, and I'm at paragraph 8 of your statement. Now, your first job was in open employment, as we call it. What can you tell the Commissioners about your first job?

40

TAY: It was in a family-owned business. I struggled to make decisions and I was then put out into the factory after about eight weeks. And then after a total of three months, I was given notice and said that because I was not suitable, I was too slow and unable to make decisions, I was then let go.

45

MR FRASER: So you were put out to the factory floor, but you started in an office role; is that right?

50 TAY: That's correct.

MR FRASER: And so having done some time in the office role, you were having some difficulty making decisions, and then you were told to start work on the factory floor.

5 TAY: Yes.

MR FRASER: And so after - you finished that job after about three months. Now, what - did you get another job in open employment?

10 TAY: Yes, I then had another job in open employment through a colleague and, again, it was as a cleaner. I was - again, it was - I was unable to continue that role because the work was too heavy, I wasn't fast enough, and the work hurt my wrists. And I was unsure how long I remained in the role.

15 MR FRASER: So those are some of your past jobs, but you now work at your current work, which is an Australian Disability Enterprise or an ADE. Have I got that right?

TAY: Yes.

20 MR FRASER: And you've worked with your current employer for about 20 years. Is that right?

TAY: That's correct.

25 MR FRASER: And you've done different things in that 20 years working for that employer, haven't you?

TAY: Yes.

30 MR FRASER: I want to ask you some questions about what you are doing now for that - at work. And I'm at paragraph 17 of your statement. So what is, I suppose in general terms, the sort of work that you are now doing?

35 TAY: I'm currently invoicing, processing data. I work full-time five days a week, and I assist other employees.

MR FRASER: So invoicing and processing data. So you're in an office?

TAY: Yes.

40 MR FRASER: And you've also done some leading hand training, haven't you, at your current employer?

TAY: Yes.

45 MR FRASER: And as part of that, you give assistance to other employees, don't you, about how to do - how they should do their job?

50 TAY: Yes. The leading training I was given - I requested the leading hand training because I was giving a lot of support to the employees, and they were coming to me and asking for

instructions, and I was supporting them for their work and assigning them tasks and helping them. And you do get a small wage for this allowance.

5 MR FRASER: So you get a small allowance for that extra work you do helping other employees?

TAY: Yes.

10 MR FRASER: Now, talking about wages - and you get a small allowance for that. You talk about wages in your statement, and you've said that you feel that your wage is not enough to support yourself and you also rely on the Disability Support Pension. Have I got - that's correct, isn't it?

15 TAY: Yes, that's correct

MR FRASER: And at paragraph 23 in your statement, you say some other things about your wages. You don't feel your wage is fair, do you?

20 TAY: No. I don't feel my wage is fair, because I feel that I do have a big output. I feel that I have demonstrated the skills to earn this amount. I am aware that there are different levels within the independent training program and --

25 MR FRASER: But you have some - you have some difficulties with how your employer explains those different levels to you. Have I got that right?

TAY: Yes.

30 MR FRASER: And have you - have you been told by your employer how long it would be until you get paid the maximum amount for the current level you're on at work?

TAY: Can you repeat that for me, please, Andrew?

35 MR FRASER: I'm at the end of paragraph 23. I think you say there that your employer hasn't told you how long it will be until you can be paid the maximum amount for the role you are currently doing.

TAY: Yes, that's correct. We are unaware of how long it will be as to when we're going to get the next pay increase.

40 MR FRASER: Now, in terms of getting a pay increase, so to go up to a higher wage, as part of that process, you do a review every year; is that right?

TAY: Yes.

45 MR FRASER: I think you talk about this in your statement from around paragraph 30 - sorry, paragraph 25 or thereabouts. Now, you do an annual review, and these reviews are undertaken by your personnel officer. Is that right?

50 TAY: Yes. The personnel officer does the review.

MR FRASER: And what's your understanding of the purpose of the review?

5 TAY: They conduct the review and then, from there, they work out how safely we work, and then they do the sum and work out our calculations. And they base that off of our - with the ITP and the assessment. And they do a speed test every second year, and then they put the two together to work out if we're going to be eligible for a pay increase.

10 MR FRASER: So the review process is - has input into how your wages are worked out. Do they set goals or workplace goals for you for the year's work?

TAY: Yes. We have a set of goals that are set at the review with the personnel officer, each year.

15 MR FRASER: And in terms of your - the goals that have been set for you, you've had some frustrations, haven't you, in being able to reach your goals or the setting of your goals?

20 TAY: Yes. It has taken quite some time to be able to get my goals where they need to be and being able to achieve the goals that they need to be. And making sure that - and getting them to be able to understand and getting the criteria met.

25 MR FRASER: And you've set out these in some detail in your statement from paragraph 29 through to about 35. And you then usefully made some observations about ways you think that the assessment process could be improved. I will ask you some questions about that, if that's okay.

TAY: Yes.

30 MR FRASER: As I say, I'm at paragraph 36. I will take you through these one by one. The first thing you say is that you would like more say in developing and agreeing to what those goals are; is that right?

TAY: Yes.

35 MR FRASER: Because those are the goals that then guide whether you will move up or not, don't they?

TAY: That's correct.

40 MR FRASER: And in terms of when the reviews are conducted - and just in your statement just so we are on the same page, this is what you've called the ITP Review - you would like to get more notice of the time and date that the ITP Review is going to be held. Is that right?

45 TAY: Yes.

MR FRASER: Have you had problems in the past with being sort of told about when that's going to happen, the review?

50 TAY: Yes, there's not been given enough notice that it's going to happen.

MR FRASER: You would also like training to be provided to you with enough time in advance of your next review so that you can learn the skills and demonstrate the skills. Is that right?

5 TAY: Yes, because we have had issues in the past where that's not been happening.

MR FRASER: So am I right that, by that, there has been a goal set in a review, and you think that to be able to reach that goal you need some training so that you can actually meet it, but you haven't been given that training in a timely way so that you can actually
10 achieve the goal. Have I understood that correctly?

TAY: Yes.

MR FRASER: You say you would also like to receive more information about how your
15 employer makes its decisions on the ITP?

TAY: Yes.

MR FRASER: About whether - so is that about whether or not you're going to get a wage
20 increase or whether you're going to move up within your work? Is that what you mean by that?

TAY: Yes, that's what I mean, so that we can determine whether we're going up or down
25 or staying the same. How they get to their decisions.

MR FRASER: And then at F, you say that you would actually like to receive a copy of your
ITP review and the goals that are set out in it. Do you normally get given a copy of the ITP
training document?

30 TAY: No. Currently, we do not receive a copy of this training document, and I feel as - that we should be given a copy of this, as it's our document and it is part of our training, and we need to know what we need to be doing to meet our goals and we should be given our documentation as part of our growth.

35 MR FRASER: And then, finally, at G, you say that you would also like to be notified if, in fact, you won't be getting a promotion or a pay rise.

TAY: Yes.

40 MR FRASER: That's something you would like to be corrected, is it? So are you told if you will be getting a pay rise but not told anything if you are not getting a pay rise: is that right?

TAY: Yes, that's correct. They do notify us if we get a pay rise, but if we don't, we just
45 carry on as if there's no- everything stays the same. There's no notification.

MR FRASER: Thank you for that. I would like to now ask you some questions about some
changes in funding involving the NDIS that you've had some experience with. Now, you're
50 an NDIS participant; you receive the NDIS, don't you?

TAY: Yes.

5 MR FRASER: And, in fact, in your statement - and just to assist you, I'm at paragraph 37, thereabouts, under the heading Changes in Funding. You talk about how in April last year, your personnel officer told you about this thing called the New Employment Model. Do you remember being told about this?

TAY: Yes.

10 MR FRASER: And your current employer had a video for you to watch and they gave you some information, including some frequently asked questions. Do you remember this?

TAY: Yes.

15 MR FRASER: And you were asked to sign a service agreement and you did sign a service agreement in December last year. Is that right?

TAY: That's correct.

20 MR FRASER: And that's a service agreement with your current employer. Is that right?

TAY: That's correct.

25 MR FRASER: Now, you've set out some detail about that and what happened. Is it fair to say that you found all of this new information that you were receiving confusing and stressful?

30 TAY: Yes, I found that extremely confusing and stressful. When this information was put to - put to us, I was questioned why I gave it to my family. I was told if I didn't sign it by 18 December that I would lose my job. I also was asked that - the support people did not know, the Local Area Coordinator didn't know, and were not able to help. It was a mandatory form and the funding had been moved, and it didn't make sense to me. I was in tears. I was confused. The whole process was being focused on signing it, and despite not understanding it, I felt forced to sign it and that was because I didn't want to lose my
35 job.

MR FRASER: And, in fact, this is still causing you some concern, isn't it?

40 TAY: Yes, it is.

MR FRASER: I want to ask you some questions about concerns or if you've got worries at work. If you feel unsafe at work or you want to talk to someone about problems you're having at work, who can you speak to?

45 TAY: We --

MR FRASER: And if it helps, I'm at paragraph --

50 TAY: Yeah.

MR FRASER: Sorry I'm just at paragraph 45 and 46 of your statement if that helps you.

5 TAY: We can talk to the manager or the personnel officer. In the past, I've not had regular contact with the personnel officer. I have spoken to them at an ITP or when I've had to seek them out for training, or if I've had a problem.

MR FRASER: And do you know if your work has a policy about making complaints or raising concerns?

10 TAY: Yes, we have a Step poster for staff and employees to follow. And that makes that a little bit difficult because there has been times where I have had an issue. I have had an issue with a staff member where I have been bullied and gossiped about, and they've now left because of the way that they were jealous and because of my output. I understand the Bedford complaint process, and the person doing the bullying needs to fill
15 out the complaints. I would have asked for help, but I was scared of the repercussions as I had to keep working with that person and I didn't want to make it worse.

MR FRASER: If I can - you've been at your current employer for many years now, and you gave some evidence before about how you had, in fact, worked originally in what we call
20 open employment, in the office role and then as a cleaner. I want to ask you some questions about where you see yourself in the future and moving forward. And, in your statement, you talk about open employment. Is open employment something that you would like to do? So working outside of the ADE that you currently work at?

25 TAY: I worry that I'm not good enough to work in open employment, but sometimes I feel there are no other options. My goal is to get a job in open employment. I believe that it would have to be the right type of employment with the right type of support. About 12 months ago, all employees attended an information session about open employment, but apart from this general information, I have not had any other conversation or received
30 any support in relation to open employment opportunities.

MR FRASER: And that's something that you are still very interested in pursuing, isn't it?

35 TAY: Yes.

MR FRASER: Now, you've given some thought to how things might be able to be improved for employees such as yourself, and you've addressed these at paragraph 53 of your statement. I would like to finish by asking you some questions about these ideas that you've set down. So, for example - and these are things that you think might be helpful to
40 be implemented by your employer, by ADEs or otherwise done by the government. For example, in paragraph A, you say that it would be helpful for there to be recognition within the disability sector of leave accruals such as annual leave, sick leave, and long service leave, as well as a recognition of what level you're at in a particular job when moving between ADEs. So is what you are suggesting there that you be able to - if you
45 move to a different ADE that you can take your leave balance with you, for example?

TAY: Yes, that's correct. Because currently if you go from one ADE at the moment, you have to start at the base level of the new ADE regardless of where you are at the
50 moment.

MR FRASER: And is that a reason why you haven't changed from your current employer to a different employer, because you're going to lose your leave accruals?

5 TAY: Yes. And I also will have to start everything from my - the financial impact as well, because your dollar value for your wages will also be lowered, your bottom lower. You will be on a lower level for your income for your wages.

10 MR FRASER: You also set out some other useful points from paragraph B onwards. I will invite you to tell the Commission about those.

TAY: So I've put that employees to be given clear, concise, consistent information in a timely manner. Explanation of how and why the ITP process works for each employee. Information to be given to the family and support person in a timely manner. Ensure employees are given adequate time and sufficient information to understand everything that they are asked to sign. Treat people with a disability as equal with open, honest and upfront communication.

20 Better record-keeping processes, in particular in relation to Human Services. Have a complaint process that does not require a mandatory step that the victim confronts the perpetrator. As someone with a learning disability, this is very daunting and not something that I feel comfortable or safe to do. And allow those with a disability to have - to have a support person or PO or someone similar to be able to make a complaint on their behalf and support them through the process.

25 MR FRASER: Thank you very much, Tay. Commissioners, you will find a copy of Tay's statement in Tender Bundle Part B at tab 28. I tender this statement into evidence and ask it be marked as **Exhibit 22-5**.

30 CHAIR: Yes. Tay's statement will be admitted into evidence and given the marking of **Exhibit 22-5**.

<EXHIBIT 22-5 STATEMENT OF TAY DATED 05/04/22

35 MR FRASER: Thank you. Tay, thank you very much for answering my questions today. I'm just going to ask the Commissioners whether there's anything that they would like to ask you about, and I will pass over to the Chair.

40 CHAIR: Thank you, Mr Fraser, and thank you, Tay, for your evidence. If it is all right with you, I will first ask Commissioner Galbally in Melbourne whether she has any questions she would like to put to you.

45 COMMISSIONER GALBALLY: Thank you very much, Tay, for your evidence. I would like to ask you whether there is any opportunity for you to appeal or challenge the ITP decisions? Is there a process to do that?

TAY: You can speak to the personnel officers, as such, but as far as I'm aware, I don't know if there is one, as such.

50 COMMISSIONER GALBALLY: Right. And there is still no training to you that has been given to you to meet the goals in your new ITP?

TAY: Not on a regular basis, no.

5 COMMISSIONER GALBALLY: No. I would like to ask you about the New Employment Model for the NDIS. You say in paragraph 42 that your supports in employment increased by three times than was in your NDIS supports for employment in 2020 - by three times the amount.

10 TAY: Yes.

COMMISSIONER GALBALLY: Is that correct? Yes.

TAY: That's correct.

15 COMMISSIONER GALBALLY: And in paragraph 43, you say you were told the increase is paid for behind the scenes services, you know, in explaining things to you and giving you extra support but that you don't believe you get any more support since you signed the new agreement, compared with the old agreement?

20 TAY: Yes. I'm not seeing any changes. Nothing - there is no - I'm not seeing any changes or any extra - there has been no - everything seems the same as before I signed the new agreement.

25 COMMISSIONER GALBALLY: So the amounts increased by three times, but not to you.

TAY: Correct.

30 COMMISSIONER GALBALLY: It doesn't seem to benefit you. And in paragraph 44, you say and now you get less to go to gym, to a dietitian and to psychology, which you very much miss, which was really important for you.

TAY: Yes.

35 COMMISSIONER GALBALLY: So that has been decreased, and it seems to you that has been decreased to pay for the three times more amount.

TAY: That's correct.

40 COMMISSIONER GALBALLY: Yes. Thank you very much, Tay.

CHAIR: Yes, thank you, Commissioner Galbally. Commissioner Mason, do you have any questions you would like to put to Tay?

45 COMMISSIONER MASON: Thank you, Chair. And, Tay, yes, thank you for your evidence today. I had - looking at your statement, you mentioned completing year 12 by way of a negotiated curriculum and that you didn't receive help from your school to find work experience. I just wanted to know, because there's - I can see there's a real interest with you in terms of learning and developing and training, the training that you have received during your time there in Bedford, has the training, when it has been provided, been
50 in-house and not in an open training program such as through TAFE?

TAY: I - there has been - the majority of it has been in-house. There has been some training that they used to do at - through TAFE but they don't do any training off-site through TAFE anymore. It doesn't happen.

5

COMMISSIONER MASON: Thank you. And just one more question. During your time working in ADEs, has it been your experience that in senior positions or positions that are more senior to the roles you've had, that there have been people with disabilities in those roles, such as the POs that you've talked about through your statement and any other roles. Is there - we have heard that phrase, "Nothing about us without us" and I am just interested in your work experience, if there has been people above you with disabilities providing support and guidance and in your workplaces?

10

TAY: I think they're all staff-type roles above us. I don't think there are disability supported employee roles. I think they're all staff-type roles above us.

15

COMMISSIONER MASON: Thank you.

CHAIR: Thank you, Commissioner Mason. Tay, thank you very much for giving your evidence and for your statement, which we have read. We very much appreciate the help that you have given the Royal Commission. And we are grateful to you for sharing your experiences with us. So thank you very much.

20

TAY: Thank you.

25

<THE WITNESS WITHDREW

MS EASTMAN: Commissioners, I think we are now adjourned for lunch and return at 1.30 Sydney time.

30

CHAIR: Yes. All right. Well, we will adjourn now until 1.30 Sydney/Brisbane time, 1 o'clock Adelaide time. Thank you very much.

<ADJOURNED 12:27 PM

35

<RESUMED 1:31 PM

MS EASTMAN: So Mr Mann is our next witness, and he is currently the Chief Executive Officer of Bedford.

40

<MYRON TENNYSON MANN, CALLED

CHAIR: Yes, Mr Mann, thank you for coming to the Royal Commission to give evidence. I would just like to explain, if you are not aware already, where everybody is. We have three Commissioners participating in hearing. Commissioner Galbally is in Brisbane, and I - in Melbourne, I'm sorry, and I assume you can see her on the screen. Commissioner Mason is in Alice Springs. I am in the Sydney hearing room of the Royal Commission, as is Ms Eastman, and I shall now ask Ms Eastman to ask you some questions. Thank you.

45

<EXAMINATION BY MS EASTMAN SC

50

DISABILITY ROYAL COMMISSION 12.04.2022

MS EASTMAN: Thank you. So, Mr Mann, can I start by confirming you are Myron Tennyson Mann.

5 MR MANN: That's correct.

MS EASTMAN: And you are presently the CEO of Bedford, which is the shorthand expression for the Bedford Group Limited, and Bedford Phoenix Inc; is that right?

10 MR MANN: That's correct.

MS EASTMAN: You provided a statement to the Royal Commission dated 4 April this year and, Commissioners, you will find that in tab 2 in Volume B of the Tender Bundle. And, Mr Mann, that submission or statement was prepared in response to a notice from the Royal Commission: is that right?

MR MANN: That's correct, yes.

MS EASTMAN: Have you got a copy of the statement with you?

20

MR MANN: I do.

MS EASTMAN: Have you had an opportunity to read it?

25 MR MANN: Yes, I have.

MS EASTMAN: Are there any amendments that you wish to make to the statement?

MR MANN: No, not at this time.

30

MS EASTMAN: And are its contents true and correct?

MR MANN: Yes.

35 MS EASTMAN: Thank you. Now, Mr Mann, in the statement, you make a reference to a voluntary submission. You're aware, aren't you, that the voluntary submission is a response Bedford provided to the Royal Commission on 30 October 2020, and that was a response to the Royal Commission's Issues Paper on employment. You're aware of that?

40 MR MANN: Yes, I am.

MS EASTMAN: Have you got a copy of that submission?

MR MANN: I do.

45

MS EASTMAN: And I don't think you were the author of this submission, were you?

MR MANN: No, I wasn't; it was my predecessor.

MS EASTMAN: But you've had an opportunity to read over that submission in preparation for your evidence today?

MR MANN: I have. Yes.

5

MS EASTMAN: And Commissioners will find a copy of the submission at tab 27A in Volume B. So, Mr Mann, I want to start by just introducing you. So you've held the role of the CEO of Bedford since February this year?

10 MR MANN: Since 28 February; that's correct.

MS EASTMAN: And prior to that, you were the Chief Operating Officer for Bedford and you held that position from August 2021 up to assuming the CEO's role. Is that right?

15 MR MANN: That's correct.

MS EASTMAN: And prior to taking on the role of COO and now CEO of Bedford, you've had experience in a range of organisations at the CEO level; is that right? And I'm looking at paragraph 18 of your statement.

20

MR MANN: That's correct.

MS EASTMAN: Now, in the statement, you say that in addition to your employment with Bedford, you hold two other positions. The first is Founder and Partner of Balcony View Investments. Can you tell the Royal Commission what that is?

25

MR MANN: It's a company that holds shares in an online retail business that I have shares in.

30 MS EASTMAN: And is the retail - online retail business connected in any way to the operations of Bedford?

MR MANN: No, they're not.

35 MS EASTMAN: Okay. And second is, as a Founder and Partner of Lumin Consulting. Can you tell the Royal Commission what that is?

MR MANN: That's a family business that my wife and I use to consult previously. I'm not involved in it currently in terms of any consulting work because I'm at Bedford full time.

40

MS EASTMAN: And that's not in any way related to your duties at Bedford; is that right?

MR MANN: No, it's not.

45 MS EASTMAN: All right. Can I ask you now about the history of Bedford. I take it that you're familiar with Bedford's history?

MR MANN: To a degree, yes.

MS EASTMAN: You're aware, aren't you, that Bedford commenced in around 1945 as the South Australian Tuberculosis Association Incorporated.

MR MANN: Yes.

5

MS EASTMAN: And the name changed to Bedford Industries at around 1945: is that right?

MR MANN: Yes.

10

MS EASTMAN: And the nature of the entity at that stage was a small workshop assisting in the rehabilitation of people affected by tuberculosis?

MR MANN: Correct.

15

MS EASTMAN: And its employees were former patients who were recovering from tuberculosis, and part of the opportunities that they had at Bedford Industries was a form of rehabilitation to enable the patients to return to work but to work in conditions that ensured that they didn't have the strain of what was described as outside employment. Does that accord with your knowledge?

20

MR MANN: Yes. It does.

MS EASTMAN: Over the past 77 years, Bedford has grown significantly?

25

MR MANN: Correct.

MS EASTMAN: And if we look at Bedford's annual report for the 2020-2021 financial year, we would be right in understanding that Bedford's revenue for that financial year was \$94.1 million?

30

MR MANN: Yes. That's correct.

MS EASTMAN: And that revenue is comprised of sales in the order of \$60 million; is that right?

35

MR MANN: Correct.

MS EASTMAN: And these are - when you talk about sales, we are talking about the products as a result of manufacturing or sales in relation to services that Bedford provide: is that right?

40

MR MANN: Correct.

MS EASTMAN: And are we right in understanding that, in terms of sales, Bunnings is Bedford's largest customer?

45

MR MANN: Yes. That's - in terms of commercial sales, yes.

MS EASTMAN: And Bedford has had a relationship with Bunnings since 2002. That's right, isn't it?

MR MANN: Correct.

5

MS EASTMAN: And, last year, the contract with Bunnings was worth \$17 million to Bedford. That's right, isn't it?

MR MANN: The sales were \$17 million. There's no actual contract.

10

MS EASTMAN: There's no contract between Bedford and Bunnings?

MR MANN: No, there's a supply agreement, but there's not an actual contract.

15

MS EASTMAN: Right. Just coming back to the financial year, 2020-2021, the annual report records an increase in overall revenue of \$4.8 million: is that right?

MR MANN: That's correct.

20

MS EASTMAN: But the operating costs of the business are something in the order of \$95.7 million. I'm rounding that down. Would you agree with that?

CHAIR: I take it you are looking at the consolidated statement of profit or loss and other comprehensive income?

25

MS EASTMAN: No, I'm looking, Chair, at the annual report which is publicly available.

CHAIR: I'm looking at the statement which seems to have slightly different figures than you are citing.

30

MS EASTMAN: I'm working on the annual report.

MR MANN: Yes, so the - you're correct on the annual report.

35

MS EASTMAN: And so that puts Bedford at an overall loss in the financial year 2020 to 2021 of 1.6 million. Is that right?

MR MANN: That's correct.

40

MS EASTMAN: Now, I want to move, then, to ask you some questions about how Bedford operates so the Royal Commission has an understanding about the relevant corporate structure, your employees and staff, and then we will get to the questions of the way in which the supported employees are supported.

45

MR MANN: Sure.

MS EASTMAN: But before I do that, I want to just ask you some questions arising from the submission to the Royal Commission on 30 October 2020. So if you've got a copy of that there.

50

MR MANN: I do.

MS EASTMAN: In that submission - and if you want to turn to page 5, paragraph 7.1 - Bedford tells the Royal Commission that:

5

"People with disability have experienced violence, abuse, neglect and exploitation in Bedford's workplaces as victims, as perpetrators and as witnesses."

That's right?

10

MR MANN: That's my - that's my understanding, yes. This is - precedes my time, yes.

MS EASTMAN: And:

15

"Instances of violence, abuse, neglect and exploitation occurring in workplace towards people with disability can occur between people with a disability, as well as being perpetrated by staff members without a disability."

And then the submission goes on to detail some of those matters. Do you see that?

20

MR MANN: Yes, I do. That's correct.

MS EASTMAN: Now, what you told the Royal Commission in October 2020 is that:

25

"The most common instances of violence, abuse, neglect and exploitation occurring between employees with disability in the workplace involved conduct such as yelling, verbal abuse, physical abuse such as slapping, and inappropriate sexual conduct."

The sexual conduct is described as "unwanted kissing and touching". Do you see that?

30

MR MANN: Yes, I do.

MS EASTMAN: You would agree with me that if there are instances of yelling but also instances of physical abuse and what might constitute inappropriate sexual conduct or sexual harassment, that they are extremely serious matters?

35

MR MANN: I would agree, yes.

MS EASTMAN: And do you know - and if you don't, please tell me - but do you know whether or not Bedford have kept any records of the prevalence of the violence, abuse, and neglect and exploitation described in paragraph 7.3? And by prevalence, I mean the numbers.

40

MR MANN: I - I don't know.

45

MS EASTMAN: Would you have any records indicating the percentage of employees with disability at Bedford who have been subjected to yelling, verbal taunts, physical abuse, or inappropriate sexual conduct?

MR MANN: I wouldn't, but if Bedford had those records, I'm happy to take it on notice and provide it.

5 MS EASTMAN: Thank you. The report then suggests that in Bedford's experience, these instances, as they are described, tend to be - albeit but not always - occur as a result of the perpetrator experiencing a significant emotion in the moment, and, in that moment, they are not able to regulate their behavioural choices. Do you see that?

10 MR MANN: Yes, I do.

MS EASTMAN: Was that - and, again, if you don't know, please tell me, but was that intended to try to explain away the behaviour?

15 MR MANN: I don't - I don't know, but I don't think it was intended. I've spoken to the author of the - this particular document, and I don't think it's intended to explain away the behaviour. I think it was intended just to highlight the circumstances in which this frequently happens.

20 MS EASTMAN: When you say "frequently happens", is it still occurring at Bedford?

MR MANN: Yes, it could and would occur at Bedford. Yes, it could and would.

25 MS EASTMAN: Okay. What has Bedford done, since telling the Royal Commission about this in October 2020, to address the experiences of violence, abuse, neglect and exploitation of Bedford's workplaces?

30 MR MANN: If I could refer you to paragraph 7.5.3 in that statement, there is a list of things that Bedford has done. I have since followed up behind this to ensure that these points are active and still in work. So Bedford has taken a number of steps to both reduce the incidents and also investigate the incidents as they occur.

MS EASTMAN: In terms of reducing the incidents, are you able to assist the Royal Commissioners as to what specific steps have been taken?

35 MR MANN: Probably more around the increase in training with staff and clients more than anything. And we also have a document management system that we use, the program called Skytrust, that records all the incidents which allows us to then ensure that the investigations are followed through.

40 MS EASTMAN: In terms of investigation, are the investigations conducted internally by a member of staff, or are they investigations conducted by an external investigator?

MR MANN: They would be internal.

45 MS EASTMAN: When you say "internal", what - would it be a member of the HR team who might conduct the investigations?

50 MR MANN: It depends on the level of the incident. It could be conducted by the supervisor and the personnel officer who's the person responsible for supporting the employee. If it's a significant incident or if it gets to a point where it requires additional

investigation, we have a Safeguarding Team which has trained investigators as part of that Safeguarding Team. So they can conduct a full-fledged investigation.

5 MS EASTMAN: Are the investigations undertaken because somebody has made a complaint? Is that the way in which an investigation would occur?

MR MANN: I'm only hesitating because a complaint would certainly trigger an investigation. It could occur as a result of someone observing something.

10 MS EASTMAN: All right. And are any matters referred or reported to the police for investigation?

MR MANN: If deemed necessary, yes.

15 MS EASTMAN: In terms of what has happened at Bedford since this report was provided to the Royal Commission, have there been any developments in relation to policies and practices to support people who are the victims of violence, abuse, neglect or exploitation?

20 MR MANN: I couldn't answer specifically because of the time I've been in this particular role, but I would be happy to come back and advise you what has happened.

MS EASTMAN: Just looking at paragraph 7.3.6, you tell the Royal Commission back in October 2020 that:

25 "Bedford's current approach is rights-based, with our response determined by the nature, impact and circumstances of the abuse, the needs of the impacted person including their expressed wishes, as well as ensuring we meet legal and compliance obligations and our policies, procedures and process, the paramount consideration always being to ensure
30 the safety and wellbeing of our employees and clients."

So that's why I asked the earlier question, just to understand what steps Bedford has taken.

35 MR MANN: Every - in every case at Bedford, the client would be considered the absolute top priority. So any steps we would have taken around policies, around procedures, around investigative procedures in terms of hiring additional staff to train and to safeguard employees would always put the client at the top. So - and, in that case, I'm
40 using client and employee interchangeably.

MS EASTMAN: All right. But one of the factors also takes into account meeting legal and compliance obligations. Is that right?

MR MANN: Yes, that's correct.

45 MS EASTMAN: Do you know whether Bedford has undertaken a full sort of branch and root review of work health and safety procedures in its various sites?

50 MR MANN: It's my understanding that it has. I would not be able to talk of the detail at this point.

MS EASTMAN: Right. I want to ask you just about one other matter on this topic in the submission to the Royal Commission. And that is described as staff-to-employee violence abuse, neglect and exploitation. So the distinction between staff and employee is this:
5 "Staff" are employed by Bedford, and they are staff members who do not have disability. And the expression "employee" is used to describe people with disability who are employed by Bedford and are supported employees. Is that the distinction between staff and employee?

10 MR MANN: Yes. So an employee is a - is a person that has disability and would have an NDIS plan. A staff member does not have a disability or does not have any supported NDIS plan.

MS EASTMAN: All right. So if there are instances of staff-to-employee violence, abuse,
15 neglect or exploitation --

MR MANN: Yes.

MS EASTMAN: -- you say Bedford has a zero tolerance towards staff members
20 perpetrating violence or abuse towards clients. Is that right?

MR MANN: That's correct.

MS EASTMAN: And how is that zero tolerance approach manifested?
25

MR MANN: In terms of allowing a staff member to continue to be employed by Bedford, we would have a zero tolerance if we were able to - if we determined that there was some form of violence, abuse, neglect or exploitation of an employee. We just simply
30 would terminate that employment.

MS EASTMAN: And the submission records that:

"The majority of - but not only - issues of abuse perpetrated by staff members without a
35 disability relate to the inappropriate use of language, such that the person with disability may feel intimidated or threatened. And Bedford's approach to dealing with staff has changed in many respects over the years in line with current standards and expectations of the time."

Right. So can you help me with this a little bit. When you say, "inappropriate use of
40 language that may cause a person to feel intimidated or threatened", what type of abuse are you actually talking about there?

MR MANN: I would think it would be primarily swearing.

MS EASTMAN: So swearing at a supported employee?
45

MR MANN: Correct.

CHAIR: Can I ask a question, Mr Mann. I'm getting the impression that you don't have a lot of detailed knowledge about these matters because you have only been at the organisation for six months. Is that - is that right?

5 MR MANN: That's - that's correct. I don't have in terms of when this report was prepared in 2020.

CHAIR: But do you have now detailed knowledge of the matters about which Ms Eastman is asking you?

10

MR MANN: In some cases I would, but in some cases I wouldn't be over the - 100 per cent of the detail.

CHAIR: Who is in command of these matters within your organisation, do you think?

15

MR MANN: It would generally flow through one of two executives in Bedford, through our executive in charge of human resources or our executive in charge of client services, depending on whether it's a staff or an employee.

20 CHAIR: Would you agree with me that when we look at paragraph 7.5.3, about which Ms Eastman is asking you, it reads like a public relations exercise, doesn't it? You are doing all sorts of lovely things like enhancing more transparent and consistent policies and procedures and processes, etcetera, but not telling us about what they actually are.

25 MR MANN: No, I couldn't tell you exactly what these particular items are referring to. So I would have - I would be happy to take it on notice and provide that information to you.

CHAIR: Yes, all right.

30 MS EASTMAN: Mr Mann, you may not know this, but do you know whether or not the submission to the Royal Commission of 30 October 2020 was approved by the board?

MR MANN: I don't know that.

35 MS EASTMAN: All right. Well, I might ask you some questions, then, about the board and I will come back to this 30 October 2020 submission a little later. So the two entities, the Bedford Group Limited, that's a company limited by guarantee. And there is also Bedford Phoenix Incorporated. And both entities have the same board members. Is that right?

40 MR MANN: That's correct.

MS EASTMAN: And there are eight members of the board. Is that right?

MR MANN: Correct.

45

MS EASTMAN: And you report to the board, I take it?

MR MANN: Yes, I do.

MS EASTMAN: And do you know whether there's any document in the form of a constitutional procedure that sets out qualifications of the board members?

5 MR MANN: I know there is a skills matrix that details out the skills of the various board members.

MS EASTMAN: All right. Looking at their profiles in the annual report, the eight board members have a very sort of business-focused experience. There's accountants, lawyers and business people; is that right?

10 MR MANN: That's correct.

MS EASTMAN: And are you aware as to whether any of the current members of the board are people with disability?

15 MR MANN: To my knowledge, none of the members of the board have a disability. We do have a member on our board who has a lived experience through a sibling with disability.

20 MS EASTMAN: And do you know if - and, again, I appreciate you are only new in this role, but do you know if there has ever been a person with disability serving as a member of the board?

25 MR MANN: No, I couldn't answer that in - in terms of previous board members.

MS EASTMAN: Do you know whether there has ever been any consideration of board members being people with disability?

30 MR MANN: I have not been involved in any criteria around the selection of directors, no.

MS EASTMAN: When you talk about a skills matrix, does that matrix include having experience in working in a disability organisation?

35 MR MANN: I'm just trying to recall - because I've looked at it a couple of times. I'm trying to recall if that particular box is on there. I think it will be best if I forwarded you the matrix as opposed to guessing at that.

40 MS EASTMAN: And do you know whether the - any of the board members have had to have experience with violence, abuse, or neglect or exploitation in relation to people with disability?

MR MANN: I wouldn't know. No.

45 MS EASTMAN: And do you know whether any members of the board have to have had training or experience in understanding human rights for people with disability, particularly the *Convention on the Rights of Persons with Disabilities*. Are you aware of that?

MR MANN: No, given my time in this particular role, I would not be aware of what previous training they may have had. I know they do undergo, you know, a number of different types of training modules, but I couldn't speak directly to them.

5 MS EASTMAN: Right. There appears to be some subcommittees of the board, in particular, a governance committee and an investment committee. Are there any other subcommittees of the board?

MR MANN: There's an audit and risk committee.

10

MS EASTMAN: And do they have any sort of particular functions in relation to monitoring Bedford's performance in addressing violence, abuse, neglect and exploitation of employees working for Bedford? Do you know that?

15 MR MANN: There is certainly in the service and governance, they would cover off a number of those concerns.

MS EASTMAN: Now, can I turn, then, to the senior executive team. And I think you've provided as an annexure to your statement the direct reports as at April 2022. And so if I can summarise it this way: you have a number of direct reports. There is currently the Chief Operating Officer role that's vacant. That's your previous position.

20

MR MANN: That's correct.

25 MS EASTMAN: There's a Chief Financial Officer.

MR MANN: Correct.

MS EASTMAN: Executive manager of client services?

30

MR MANN: Correct.

MS EASTMAN: And an executive manager of people, communications strategy and quality. Is that right?

35

MR MANN: That's correct.

MS EASTMAN: And then the four senior managers then have a team reporting to those managers. And they then all in turn report up and to you; is that right?

40

MR MANN: That's correct. And there's one other executive manager who's responsible for transformation.

MS EASTMAN: Transformation. So is that a new position - sorry, that hasn't got a line. So that's Mr Pons - is that right - the executive manager, transformation.

45

MR MANN: That's correct. Correct.

MS EASTMAN: Okay. So in terms of the senior managers, just looking at your organisational chart, are you able to tell the Royal Commission how many of the senior managers who are direct reports to you are people with disability?

5 MR MANN: To my knowledge, none of them have a disability.

MS EASTMAN: Looking at the whole of the management team, are you aware whether any of the whole of that senior management team are people who have disability?

10 MR MANN: By "senior management team", I think you're referring to those lighter blue boxes that sit underneath them; is that correct?

MS EASTMAN: That's right. That's right.

15 MR MANN: I'm not - I'm not aware that any of them would have a disability.

MS EASTMAN: And I think you've said in your submission that of the employees who are described as staff - making the distinction between supported employees - there's about 519 non-supported staff. Is that right?

20

MR MANN: That's correct.

MS EASTMAN: And do you know, with respect to the 519 non-supported staff, whether any of those staff have disability?

25

MR MANN: In order to be accurate, I would have to say no.

MS EASTMAN: No.

30 MR MANN: I will be happy to provide that particular --

MS EASTMAN: Right. Now, in - we've seen that in is a committee called the Employee Consultative Committee. You are aware of that committee, aren't you?

35 MR MANN: Yes.

MS EASTMAN: And what is the role of that committee? Does that report to the board or does that report to you? Or into that senior management structure that we just --

40 MR MANN: No, that - it reports - it reports into that - or works through that senior management structure. So that --

MS EASTMAN: Do you - sorry.

45 MR MANN: -- consultive committee would meet and discuss anything that was important to employees and that they wanted to raise and have discussion on. So it could vary, anything from topics around negotiations around enterprise agreement to policies and procedures, and so those get discussed at that level and then referred up to the appropriate senior executive for consideration.

50

MS EASTMAN: Now, the committee consists of employee representatives --

MR MANN: Correct.

5 MS EASTMAN: -- who are nominated or elected by the employees from the various work groups. Is that right?

MR MANN: Correct. That's my understanding, yes.

10 MS EASTMAN: And also a minimum of three employer representatives chosen by Bedford. Is that right?

MR MANN: Correct.

15 MS EASTMAN: And the purpose of this committee is to look at issues around safety and job security, efficiency, quality and productivity of Bedford, its products and services. Is that right?

20 MR MANN: In the main, that's - that's correct. I don't think this committee is limited to that, but it would certainly be the main.

MS EASTMAN: It also looks at equal opportunity for all employees to learn and develop skills that will be of benefit to them at Bedford. Is that right?

25 MR MANN: Yes, correct.

MS EASTMAN: And also to encourage and enhance consultation and communication between employees and management. To give everyone a chance to have their say, give their points of view and contribute to decision-making. Is that right?

30

MR MANN: That's correct.

MS EASTMAN: And can you tell us, how does the work of the committee enhance the consultation and communication between the employees and management?

35

MR MANN: It's an opportunity for employees to come into a forum where they have the opportunity to speak and talk about anything they really want to discuss. There's nothing there that would inhibit them from talking about whatever they want to talk about. So we try to allow that forum to be a place where their voices can be heard, and it can be heard around any particular subject. The people that they work with from the actual staff of Bedford are trained in working through these.

40

They have specific training in terms of dealing with people with intellectual disability, so they can encourage them to speak up or encourage them to go further in talking about it. So it's just a forum that Bedford wants to use to hear what people have to say, because it's not always easy in the employment environment for people to have a voice and be heard. So we are trying to make it a way that people can be heard.

45

MS EASTMAN: In terms of people being heard, do the outcomes of the committee make their way up to you for action? Do you act on any advice from the committee?

50

MR MANN: They do, and I have already, in the short time, seen and acted on one particular issue.

5 MS EASTMAN: And do you go to that committee to seek advice and assistance?

MR MANN: I don't personally because it - it might inhibit the discussion, but I certainly would have a lot of confidence in the people that are there to promote the opportunity for people to speak up.

10

MS EASTMAN: Would you, for example, go to that committee to seek advice about how Bedford is responding to the violence, abuse, neglect and exploitation described in the submission to the Royal Commission in October 2020?

15 MR MANN: I couldn't answer if that was done.

MS EASTMAN: Are there - other than this particular committee, what other fora are there for the supported employees to be able to be heard or involved in any decision-making at Bedford?

20

MR MANN: So there are a number of different ways. We have - I think you would have heard through other evidence we have personnel officers who are available to support and discuss anything with an employee and to listen to any information they wish to provide. We have a significant number of different types of communications through social media. We use an internal - we've just launched an internal version of Facebook in Bedford called Workplace, which is used at quite a number of Australian companies, which - it allows communication around all sorts of subjects.

25

Different groups are formed and they can discuss anything they'd like in terms of using that social media platform. And then obviously we have all the other social media platforms that are there. We also have our executives and our senior management visiting all 14 sites on a regular routine basis to ensure that there's access to senior management, not only in the metro areas of Adelaide but in the regions of South Australia. And we have also have the ability, if someone feels they are not actually being heard by management, to go directly to the board.

30

35

MS EASTMAN: Do you know if any of the supported employees have gone directly to the board to raise any concerns or issues that they may have?

40 MR MANN: I'm aware of one in my time, yes.

MS EASTMAN: One. I want to ask you now about the employees. So I think you've told the Royal Commission Bedford is the second-largest employer of people with disability in Australia. And the number of supported employees will be somewhere over 1,000. So it might be 1,100 or it might be 1,300. Depends on - I suppose there's different counts, I see, in the different documents.

45

MR MANN: Yes, probably from a supported employee standpoint, there is somewhere between around 1,060 up to 1,100 but that could vary just depending on when you

actually take the head count. We distinguish between a client which may receive other services from Bedford, that they are not actually employees or supported employees.

5 MS EASTMAN: So if you had 1300 clients they may be people attending day programs or receiving accommodation services or other services. Is that right? But not working for Bedford.

MR MANN: That's correct.

10 MS EASTMAN: So that expression "supported employee" or "employee" is to identify people who are in paid employment with Bedford. Is that right?

MR MANN: That's correct.

15 MS EASTMAN: Okay. So in terms of Bedford's operations, you have had some operations interstate for a time in Victoria and New South Wales, but are we right in understanding that, primarily, Bedford's focus is in South Australia and you've got 14 sites - is that right - where work is performed?

20 MR MANN: That's correct. We no longer have any sites in - outside of South Australia.

MS EASTMAN: And some of the sites are in regional parts of South Australia. Is that right?

25 MR MANN: That's correct.

MS EASTMAN: And in those places - and I don't need to you go into it in any detail - but, in summary, would it be fair to say that in some of the regional areas, you might be the only organisation or entity providing employment to people with disability. Is that right?

30

MS EASTMAN: Yes, that could be correct.

MS EASTMAN: Now, of the supported employees, you have provided to the Royal Commission, as far as the internal records disclose, an overview of the nature and scope of the employees with disability. Would it be fair to say that the majority of the employees are people with intellectual disability?

35

MR MANN: That's correct.

40 MS EASTMAN: And the records of Bedford also will identify if the person has multiple disabilities, and you grade them by primary, secondary or other; is that right?

MR MANN: That's correct.

45 MS EASTMAN: Then, just taking a snapshot of the employees, 70 per cent of employees are men. Is that right?

MR MANN: Yes. That's right.

MS EASTMAN: And - and in terms of the breakdown of employees who work full time, versus the employees who might work part time, 14 per cent of the employees work on a full-time basis; is that right?

5 MR MANN: That's correct.

MS EASTMAN: And for the employees who otherwise work part time, they might be working one, up to four days a week. Would that be a way of understanding what a part time arrangement would be?

10

MR MANN: Yes. That's correct.

MS EASTMAN: And the nature of the work that people might do across Bedford might include packaging work?

15

MR MANN: Yes.

MS EASTMAN: So they might be using 3D printing, labelling, packing food, medical products, filling products, wrapping products, and general assembly; is that right?

20

MR MANN: That's right.

MS EASTMAN: They may also be involved in manufacturing, in particular, the flat pack furniture; is that right?

25

MR MANN: Correct.

MS EASTMAN: And it's this flat pack furniture which make their way to Bunnings: is that right?

30

MR MANN: That's right, yes.

MS EASTMAN: And I think in the annual report that there has been - it was quite a good year for the manufacturing group, was it not, in it the 20 to-2021 financial year?

35

MR MANN: It was. Certainly just aligned itself with the - with the growth in Bunnings with all the lockdowns on the east coast.

MS EASTMAN: Right. So one benefit of the COVID was more people doing DIY at Bunnings and more demand for your products. Is that right?

40

MR MANN: Correct. Correct.

MS EASTMAN: I think the annual report says that there was some significant growth and increased sales in the second half of 2020 and January-March 2021, and that was really around the assembly of shelves and garden beds and matters of that kind. Is that right?

45

MR MANN: That's correct, yes.

MS EASTMAN: And that manufacturing work has expanded now to do some stainless steel outdoor kitchens and high-end assembled products which are, if they haven't already, soon to hit the Harvey Norman stores; is that right?

5 MR MANN: That's correct.

MS EASTMAN: Now, there's a reference in the annual report to something called the Social Supply Chain Point of View. Is that a new initiative in terms of manufacturing or a different approach to the way in which the products might be sold?

10

MR MANN: No, that's a new approach to - to the way that Bedford is trying to transition from the old model of pre-NDIS block funding to the new NDIS funding model. We talk about a Bedford social supply chain, and what we mean by that is there is an actual supply chain that goes from start to finish and we look - we are looking now at those businesses that actually participate across our entire supply chain. If you look at our flat back business with Bunnings, you will find that we start with design, and we go all the way to answering a phone call from Bunnings customer or consumer before how to help them put the furniture together. So that - we cover off the entire supply chain across that particular business unit.

15

20

The reason for that, and I think it's probably helpful to understand, is when you look at the old block funding that was in place pre-NDIS, that funding was all about the more jobs you created, the more money you received in terms of government funding. So that meant that most ADEs across Australia went into what we would call low value add jobs. There were very few barriers to entry into that, and they were high volume jobs. So you created more jobs; you got more money.

25

That changed with the NDIS. The NDIS no longer subsidises wages. The NDIS essentially is a professional services model, it allows us to invoice clients on the basis of supports that we provide. So we're trying to change our business model from one that's all about jobs and any kind of a job - we're trying to create a business model that creates a true social enterprise which stands up on its own two feet and it's supported in the NDIS by the supports we provide to our employees. So it's a bit long-winded answer to your question, but that's what we mean by the Bedford Social Supply Chain.

30

35

MS EASTMAN: No. No. I do - I do want to go into detail about the transition to the NDIS model and then just work through the three different forms of support. But I will get to that in a moment.

40

MR MANN: Sure.

MS EASTMAN: If I just stick on the services and where people who are employees may work. They may also work in part of the business on commercial landscaping and grounds maintenance. So that's all aspects of horticulture, landscaping, re-vegetation, fencing, weed control and even concreting; is that right?

45

MR MANN: That's correct.

MS EASTMAN: Would the work that the employees do in that area be work that is performed alongside workers without disability doing the same type of work?

50

5 MR MANN: They would be doing similar type work. In some cases, we might have a supported employee who's driving a tipper or a backhoe. And, in other cases, they could be supported employees that - that are doing tasks more around things like landscape watering systems, irrigation systems; those sorts of things. So it would vary a little bit. But we have very high functioning clients in that - in that particular landscape, construction, as well as more medium.

10 MS EASTMAN: The description of the commercial landscape and grounds maintenance would suggest that the employees will have had to have undertaken a particular level of training to be able to perform the functions that are described. Fencing, weed control, concreting. They are not just things you pick up without training, wouldn't they?

15 MR MANN: No. No, they are not. But, yes, they would undergo extensive training in other areas.

MS EASTMAN: There is also the area of maintenance and commercial cleaning. Can you help us understand a little bit more what the nature of that work involves?

20 MR MANN: Most of that is internal. We don't do any external cleaning any longer. We did at one point. So it would be cleaning the facilities that Bedford operates. So we have our own internal cleaning team and we have our own internal maintenance team.

25 MS EASTMAN: Hospitality is another area, and are we right in understanding that this work involves food preparation, storage, handling, cash management, customer service, coffee making, placing orders, doing deliveries from suppliers and the like. Is that right?

MR MANN: Yes, it covers all of those; that's correct.

30 MS EASTMAN: Does Bedford operate a café in the city?

MR MANN: No. We - it - again, that, at the moment, is all internal. So we would operate hospitality and cafés in our Panorama site, our Torrensville, and our Elizabeth site.

35 MS EASTMAN: So, in effect, it's hospitality within the relevant Bedford setting rather than to external customers. Is that right?

MR MANN: That's correct. Yes.

40 MS EASTMAN: Then one of the other areas you have got commercial laundry, administration roles and the embroidery. So does that cover the span of the areas where the employees might work?

45 MR MANN: Yes, the only one that's - that's probably included in the manufacturing that is not specifically broken out is in (Redacted) we have a timber processing business where we take off-cuts from and waste cuts from the two main timber producers in (Redacted) and turn them into pickets for picket fencing and decking.

50 MS EASTMAN: Now, the longest serving employee has worked for Bedford for 52 years. Is that right?

MR MANN: That's right.

MS EASTMAN: And that's, what, 52 years continuously?

5

MR MANN: Yes. I believe it is. His name is (redacted), and I - I've met him.

MS EASTMAN: Now, for the supported employees, the terms and conditions of their employment are covered by a contract of employment. Is that right?

10

MR MANN: Correct.

MS EASTMAN: And their terms and conditions are also set out in an Enterprise Agreement; is that right?

15

MR MANN: That's correct.

MS EASTMAN: Now, in terms of the contract of employment, is that a written contract of employment?

20

MR MANN: It is.

MS EASTMAN: And is that a standard form contract that all supported employees receive?

25

MR MANN: In the main, it's standard, yes.

MS EASTMAN: Are they able to negotiate the terms and conditions of their employment at all?

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MR MANN: They do, in terms of hours worked or days they particularly want to work. Or times of days that they want to work.

MS EASTMAN: Are they able to negotiate the starting wage?

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MR MANN: The starting wage would be determined by the Wage Assessment Tool.

MS EASTMAN: But if an employee said to you, "Look, I'm coming over - I would like to start at Bedford, but I've actually already got 20 years in the industry", could they negotiate a starting wage for their particular employment that doesn't require them to start at the bottom classification?

40

MR MANN: They would be put through a wage assessment which has three parts: One dealing with safety and wellbeing, the other with competency, and the third one is productivity. And they would be - their starting wage will be determined as to how they rated in that particular assessment. So they would all go through the assessment tool, from a fairness standpoint.

45

MS EASTMAN: Is there any capacity at all for an employee to negotiate a pay rate that is outside the classification set out in the Enterprise Agreement?

50

MR MANN: I'm not aware of it, but I would be happy to come back to you on that to see. So I - rather than just say an absolute no, I would - I would certainly take it on notice and provide you an answer.

5

MS EASTMAN: Okay. Are you familiar with the Bedford Employee Enterprise Agreement?

MR MANN: I'm aware of it, yes.

10 MS EASTMAN: Well, you're aware of it. Are you familiar with it? Have you read it?

MR MANN: I have read it, yes.

15 MS EASTMAN: And do you feel that you've got a confident working knowledge about how the enterprise agreement works?

MR MANN: Yes, I would say a working knowledge of it.

20 MS EASTMAN: In terms of understanding for a new employee coming into the organisation, step one in working out how much they are going to be paid depends upon how they are classified under the enterprise agreement; is that right?

MR MANN: Correct.

25 MS EASTMAN: And you've got, I think, in the material a copy of the Enterprise Agreement. And, Commissioners, we've just, for convenience, included it in the Tender Bundle behind 27B. It's a publicly available document. Mr Mann, there's no pagination on the version, but if you turn to - if you look at the top of the page you might have some numbers in the top right-hand corner. It will say BED.99999.002. And I want you to turn
30 to the page number which is 0032 and this is Wages, part E of the Agreement Clause 42. And, Commissioners, I don't mean to put this up on the screen. And I will take this evidence in a way that I hope will make sense. It's more for Mr Mann to have a copy of it to follow along. All right. Have you got that, Mr Mann?

35 MR MANN: No, I'm just trying to find - you're saying it's in - I'm just trying to make sure I'm looking at the same one you are. Section B, you said?

MS EASTMAN: So the Royal Commission has got some Tender Bundle documents.

40 MR MANN: Yes, I've got that.

MS EASTMAN: They've got tab numbers.

MR MANN: Yes.

45

MS EASTMAN: And there's a tab 27B. And that should be the enterprise agreement.

MR MANN: Sorry. I know it's here somewhere. I'm just looking to find it.

5 MS VEALE: Chair, I don't mean to interrupt unnecessarily. As you are aware, my name is Veale and I act on behalf of the Bedford Group. We have some concerns on our end that Mr Mann's brief itself may not have been updated to include 27B. We can arrange for a copy of the enterprise bargaining agreement to be provided to him if he doesn't already have one in his possession. But we just wanted to raise that, that if he's looking in the documents currently that we have provided him with, we don't think that there is a copy in there.

10 MS EASTMAN: All right. Thank you for that. We might do it this way. Mr Mann, can I ask you just to put those documents aside and go to your statement. To page 64 - page 11 paragraph 64.

MR MANN: Okay --

15 MS EASTMAN: And you've got a table there referring to the classifications and it says "EC" and then levels 1 through to 5. Do you see that?

MR MANN: Yes.

20 MS EASTMAN: All right. To understand what "EC" through to level 5 actually means, will you accept what I'm about to put to you. The enterprise agreement at paragraph 42.2 describes the levels as follows:

25 "EC is commencement level. Level 1 is single-step tasks or skills. Level 2 is simple routine tasks, skills. Level 3, tasks involving some precision. Level 4, more complex tasks, some judgments needed. And level 5, tasks with judgments and initiatives."

30 That's how the levels are described in the agreement. Do you see that? Do you accept that?

MR MANN: That's correct and I have - I have found a copy of the agreement.

35 MS EASTMAN: Okay. So when - if we look at the number of employees working at Bedford, it would be fair to say by far the majority are at the level 2, which is people performing simple routine tasks or skills. You agree with that?

MR MANN: Yes, I would.

40 MS EASTMAN: There is only seven at the entry level, and is the reason for that is that an employee who starts with Bedford might start at the entry level but only remain on that level for a short period of time?

MR MANN: That's correct. They might move within three months or something.

45 MS EASTMAN: Right. And when you say at paragraph 68 of the statement that:

"The current lowest wage per hour for a Bedford supported employee is \$2.37 an hour."

50 That is for the seven people who would be in the EC, the commencement level group. Is that right?

MR MANN: Yes.

5 MS EASTMAN: In terms of, then, the next levels up, that - the enterprise agreement then sets out what the percentage of pay rate is by reference to each level. And you are aware of that?

MR MANN: Yes, I am.

10 MS EASTMAN: Can I summarise it this way. And if you have found your enterprise agreement, it's the assessed wage part at paragraph 42.8.

MR MANN: Yes.

15 MS EASTMAN: EC level received 10 per cent - their wages 10 per cent of what the total wage amount would be. Level 1 is 20 per cent. Level 2, 30 per cent. Level 3, 50 per cent. Level 4, 75 per cent, and the level 5, 100 per cent - would be someone who is earning the equivalent to the minimum wage under awards generally. Is that your understanding?

20 MR MANN: That's my understanding, yes.

MS EASTMAN: Now, you've said in paragraph 67 that the highest - the current highest hourly rate received by a Bedford supported employee is \$23.85, and would that be a person at level 5?

25 MR MANN: Yes.

MS EASTMAN: Okay. And coming back to my question, is there any capacity for any employee to negotiate a wage arrangement outside these levels and outside the way in which the percentages operate in the enterprise agreement to determine the value of the wage?

30 MR MANN: I would suggest that they are only paid at these level, but I would prefer that I actually give you an accurate response and come back to you. Yes.

35 MS EASTMAN: Check on that. All right. Now --

CHAIR: Can I ask this question.

40 MR MANN: I am only hesitating --

CHAIR: Sorry. I just like to make sure I understand these levels.

45 MR MANN: Sure.

CHAIR: At level 5, it's 100 per cent of something. That something is the minimum wage, is it? The minimum wage for all employees in Australia?

50 MR MANN: It would be the award rate, I believe

CHAIR: And that's the minimum award rate, around about \$36,000 a year, if you multiply 23.85 by the number of hours per week.

MR MANN: Yes, that's correct.

5

CHAIR: Thank you. I understand.

MR MANN: Yes. I just wanted to explain to Counsel Assisting I'm only hesitating because I do not know if there are any exceptions. And so rather than just answer it 100 per cent that they're at these levels - I just don't know if there are any exceptions. I'm happy to take that on board.

10

MS EASTMAN: Thank you. And if you need to clarify it, let us know.

MR MANN: Sure.

15

MS EASTMAN: I just want to understand this part of your statement, which is paragraphs 64 to following. So I think we have now covered the different classifications from EC up to level 5. In terms of paragraph 65 and 66, you've done some calculations to work out the mean average wage and the median average wage.

20

MR MANN: Yes.

MS EASTMAN: And the mean average wage is \$6.28 per hour, but the median average wage is \$5.48 per hour. Do we take it that that exercise in working out the mean and the median average looks at all of the classifications collectively and works out the averages against who's in the different classifications and what the rate is by reference to those percentages in clause 42.8? I'm sorry for people following this.

25

MR MANN: Yes, so the mean average wage would be the - taking all --

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CHAIR: The mean is the average. The median is not the average.

MR MANN: That's correct. The median is the middle.

35

CHAIR: Correct.

MS EASTMAN: So the average is - so that's how you've worked it out.

MR MANN: Yes.

40

MS EASTMAN: You've taken just a mathematical approach to it.

MR MANN: Yes.

45

MS EASTMAN: All right. And looking at those numbers, that doesn't give you any indication about any employees being outside any of the categories. Is that right?

MR MANN: No.

50

MS EASTMAN: Okay. In terms of, then, how an employee finds themselves on the entry level up to level 5, the process of working out those levels is set out in the enterprise agreement. And can I ask you, in summary, there are four groups of competencies against which an employee's work performance is assessed. Is that right?

5

MR MANN: That's correct.

MS EASTMAN: And the four competencies are safety - or four groups - safety, communications, support needs and work habits.

10

MR MANN: Correct.

MS EASTMAN: And in those areas, you are looking at a person following workplace safety procedures?

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MR MANN: Correct.

MS EASTMAN: Completing daily work tasks.

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MR MANN: Yes.

MS EASTMAN: Apply basic communication skills and prepare for work.

MR MANN: Yes.

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MS EASTMAN: And would it be fair to say - and I don't know if you've done this exercise - but what's required is an exercise of a matrix in assigning a point value to how an employee performs in these - in each of these areas: safety, communication, support needs and work habits. Is that right?

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MR MANN: That's correct.

MS EASTMAN: And an assessor undertakes the task of making an assessment for each of the areas and, collectively, you can achieve 25 points in each of the four areas to get to 100; is that right?

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MR MANN: Yes, that's correct.

MS EASTMAN: All right. So if you wanted to be a level 5 and to achieve 100 per cent of the minimum wage, you would have to get 100 per cent in all of these areas of competency. Is that right?

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MR MANN: I'm not sure if the 100 per cent level kicks in at anything below 100 per cent. So, again, I would have to take that on board to accurately answer that, because you're talking about the use of the Wage Assessment Tool.

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MS EASTMAN: The Wage Assessment Tool does require careful attention by the assessor for each of these four areas.

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MR MANN: Correct.

5 MS EASTMAN: Now, would you accept that, depending on the type of work that somebody might be doing, that there's likely to be differences between - between somebody in the hospitality area versus somebody in manufacturing, or somebody in the commercial landscaping - that you are going to have difference, aren't you, depending on the areas?

MR MANN: You would, yes.

10 MS EASTMAN: And in terms of - coming back to your table at paragraph 64, with the various classifications, are you able to tell the Royal Commission that, with respect to the employees in the different parts of the Bedford business, where are the level 5s coming in? Are they in administration? Are they in the landscaping? Are they in the manufacturing?

15 MR MANN: The majority of the level 5s would be in the landscape construction side of the business, the manufacturing - potentially in manufacturing, and potentially in timber processing.

20 MS EASTMAN: In your experience, somebody who's working at level 5 in an ADE, would they not have all of the competencies to work in open employment?

MR MANN: I would say generally they could.

25 MS EASTMAN: And what about level 4? Looking at level 4, it's a 75 per cent of the full grading. Would the level 4s not also have the competency in the areas of workplace safety, performing daily tasks, basic communication skills or preparing for work to also have the competency to work in open employment?

30 MR MANN: I would suggest that they would, yes.

MS EASTMAN: And do you know, of the 143 employees in level 4 and level 5 at Bedford, whether any of those individuals have been encouraged or assisted to move to open employment?

35 MR MANN: Yes, I'm aware of a couple of examples where we have assisted employees to move into open employment. We have one in our (redacted) commercial laundry operation who actually is a team leader in the gardening area, and he's been recently offered an opportunity to go to work for the council. And so we are working with him to get him prepared for that potential move. We have another employee in our timber processing operation in (Redacted) that I'm aware of has recently moved to open employment.

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45 And we assisted him by encouraging him to go and work through a six-month probation period with his new employer on the basis that we would hold his job and pay open for those six months while he went through probation so if in the event he was unsuccessful or he determined he wanted to come back to Bedford, he wouldn't have to go back through the process again.

MS EASTMAN: If you look to your statement, page 17, and it's part of the table described in paragraph 99, that --

MR MANN: Yes.

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MS EASTMAN: So 17 is the table at the top of the page. Have you got that?

MR MANN: Yes, I have.

10 MS EASTMAN: So looking at the last financial year, only four of the employees transitioned to open employment. So that's less than 1 per cent. Is that right?

MR MANN: That's correct

15 MS EASTMAN: And, from your knowledge, are those four - were those four employees at a level 4 or level 5?

MR MANN: I would not know that.

20 MS EASTMAN: Okay. Now, I think you've said in your statement, if you turn back to page 15, paragraph 86, that --

MR MANN: Yes.

25 MS EASTMAN:

"Bedford has not traditionally been established, structured or funded with a primary or formal focus on transitioning to open employment."

30 Do you see that?

MR MANN: Yes, I do.

35 MS EASTMAN: And you have also said that Bedford does not - this is 88 - "have a specific policy dealing with transitioning of supported employees to open employment." Do you see that?

MR MANN: Yes, I do.

40 MS EASTMAN: If I can take you back to the enterprise agreement, just to the clause 42 and in particular clause 42.1. The enterprise agreement says:

45 "It is recognised that Bedford does not operate purely commercial operations but also provides a range of additional vocational and non-vocational services in relation to support, training, and assistance in securing open or community-based employment."

So, Mr Mann, I want to ask you this: You've said in your statement, "We're not really in the business of transitioning people to open employment", but the enterprise agreement approved by the Fair Work Commission seems to suggest that that is what your business

is and that the wage and rates of pay are premised on providing support, training, assistance in securing open and community-based employment. Do you agree with that?

5 MR MANN: No, I wouldn't agree that the enterprise agreement is suggesting that we have a - a procedure or a policy or that we are actually promoting - training the employees to move into open employment. Where an employee identifies they want to move into open employment, we certainly would assist them in any way we possibly could, even though that's not a funded support. It would just be because we care, basically.

10 So we have - you know, I'm aware of examples of people that have talked to us about it and have transitioned into open employment where we have spent time with them making sure that they fully understand what open employment is going to be about. And we can talk more about the transition to open employment and the NDIS when we get to that. But the --

15 MS EASTMAN: Yes. We will get to that.

20 MR MANN: But I wouldn't suggest that the enterprise agreement is attempting to say that we are a vocational service that is actually set up to transition people from ADE to open employment.

25 MS EASTMAN: Well, has the model in relation to the employees been to actually keep them in employment at the ADE rather than train them up, provide the skills and then assist them to transition to open employment? Is that right?

30 MR MANN: Yeah, I will answer this because it's in transition. So if you went, again, back to the former block funding model, there would have been no Terms of Reference around open employment and there would have been even very little incentive to transition people out, because our income was driven by funding for jobs. So you can see that it wouldn't be a lot of activity in that area. So as we've transitioned to the NDIS, there is no funding in the NDIS for training or for transitioning to open employment.

35 So we can discuss that in - when we get to that section. But - so, again, ADEs in general, I would suggest - and in specifically Bedford - have not had a - have not had established policies and procedures in training employees to move to open employment. Where an employee identifies it or where we are aware that someone would like to move into open employment, we generally assisted them in help to do that.

40 MS EASTMAN: Commissioners I'm aware that I've been asking Mr Mann some questions for a period of time. And I just wonder whether that might be convenient to everybody's comfort just to have a short break of 10 minutes. And then I've got some more questions which will probably take me until about 10 to 4. So that's Sydney time.

45 CHAIR: All right. It's now nearly 10 to 3 Sydney/Brisbane time. Let's resume at 4.05 pm

MS EASTMAN: Thank you.

<ADJOURNED 2:47 PM

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<RESUMED 3:05 PM

CHAIR: Yes, Ms Eastman.

5 MS EASTMAN: Thank you. Thanks, Mr Mann. And I hope I won't take longer than about half an hour or so. I've got a few more questions on this wage assessment. Then I want to ask you a few questions in terms of how people come to be employed by Bedford, and then I want to come to the NDIS transition. So those are the three areas.

10 So just finishing up in terms of the wage issues, the Royal Commission has heard from employees of Bedford that they have to undertake what is called an ITP, an individual training performance assessment; is that right? Is that an annual thing? I think you're on mute, Mr Mann.

15 MR MANN: Apologies. Yes, it's an annual review where the employee has an opportunity to discuss what goals they'd like to set and also, with Bedford, what goals we might recommend for them to set. And then there is a review on the - every second year in regards to productivity.

20 MS EASTMAN: So each year they do an exercise of setting goals about what they wish to do in their employment, the types of jobs or work they might wish to do. Can they set goals about leaving Bedford and transitioning out?

MR MANN: They could. I'm not aware of anyone who has, but there could have been.

25

MS EASTMAN: And then does that annual assessment have any role to play in making the assessment of the general competencies that we looked at a little earlier in the enterprise agreement for the purpose of working out somebody's wage rate?

30 MR MANN: So it would be the starting point for a conversation between the personnel officer, and then there is actually a Wage Assessment Tool, which is what you partly referred to in terms of the breakdown of that - and then that - they could be re-evaluated under that Wage Assessment Tool to determine whether their wage would go up based on what they may have achieved over the previous 12 months.

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MS EASTMAN: And the enterprise agreement requires wage reviews to be undertaken at least every 24 months or if a significant change in productivity or skill warrants such.

MR MANN: Correct.

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MS EASTMAN: You are aware of that?

MR MANN: I am, yes.

45 MS EASTMAN: So if, for example, somebody in their annual performance review demonstrated a significant change in their productivity or skills, that would justify a review of that person's wage on an annual basis; is that right?

MR MANN: Yes, that would be correct.

50

MS EASTMAN: And do you know whether Bedford has a policy that enables annual wage reviews to be undertaken by reference to significant change in productivity or skills?

5 MR MANN: There is an annual individual training plan that you've referred to, which would be the trigger for that.

MS EASTMAN: Right. And if the individual plan didn't trigger that, then an employee could expect the wage review to be done every 24 months. Is that an expectation that a person's wage would increase every 24 months? They would go up a level, for example?

10 MR MANN: There's maybe an expectation they could go up. There's not an expectation that they actually would, because it would depend on whether their - their assessment had increased.

15 MS EASTMAN: Right. Do the employees receive copies of their ITPs and the wage assessment documentation? So the work done by the assessors. Do they get copies of that?

MR MANN: My understanding is they can have a copy. I have - I am certainly aware of the statements that have been made, and I would think that that's something Bedford should look at in terms of perhaps maybe having an opt-out if you don't want a copy, instead of an opt-in if you do want a copy.

MS EASTMAN: That would be something you would look at doing?

25 MR MANN: Yes, because I don't think there's any reason not to give anyone a copy.

MS EASTMAN: Now, we have heard from the Fair Work Ombudsman that some ADEs have undertaken a review of their payments to their employees and detected some underpayments and then self-reported to the Fair Work Ombudsman. Has Bedford undertaken a review of that kind to detect if there has been any underpayments?

MR MANN: Yes, we have. We have undertaken a review of approximately 7.5 per cent of the employees at this point. And that's been an internal review and that's now being reviewed externally as well just to double-check behind the internal review. To date, we haven't found any evidence of underpayment, but we will continue to carry out that review both internally and externally.

MS EASTMAN: Is that the same review that was referred to in the open submission that you provided to the Royal Commission in October 2020 where you told the Royal Commission that you currently are working through the historical application of the Wage Assessment Tool? Or is that a different review?

MR MANN: I think that was the early predecessor to the review that actually took place, yes. Because it was around the use of the Wage Assessment Tool.

MS EASTMAN: Right. And has this work coincided with Bedford participating in the Fair Work Commission's trial?

MR MANN: It has coincided. Whether they've been linked together, I wouldn't necessarily suggest they have. But it has coincided from a time standpoint.

5 MS EASTMAN: Now, the Royal Commission has heard - and I mentioned this in the opening remarks that I made yesterday, is that some people advocate that wages in ADEs should be the same as wages for people without disability and at least meeting that minimum wage set by the Fair Work Commission. So you've heard that?

10 MR MANN: Yes, I have.

MS EASTMAN: And the Royal Commission has heard that if ADEs were to apply the minimum rate of pay that applies in all awards, then ADEs would have to shut down and close down. You've heard that?

15 MR MANN: Yes, I have heard that.

MS EASTMAN: Has Bedford undertaken any economic modelling to look at the impact of increasing the wages of the employees up to a level that would meet the minimum wage set in Australia for employees who are not otherwise juniors, some training award payments, or people with disability? Have you done any economic modelling about what the cost impact would be for the business?

MR MANN: We have. We've done that internally.

25 MS EASTMAN: And can you tell us what the outcome of that modelling would be for Bedford's ongoing operations?

MR MANN: Well, if Bedford didn't change anything in regards to their ongoing operations, then it would - it would produce a loss of somewhere between 10 and 18 million dollars a year, depending on how you applied it.

MS EASTMAN: And would that loss have to be met by perhaps increasing the value of the services and products provided to entities like Harvey Norman or Bunnings or whoever else you provide services to?

35 MR MANN: Again, if you did nothing, you would - it would be - about the only lever you would have would be to increase your pricing, yes.

MS EASTMAN: Right it. Does Bedford, in terms of its revenue, meet the requirements for reporting under the Australian model modern slavery laws?

MR MANN: I don't know. I would have to take on notice - you're asking about the size of Bedford in regards to its revenue line?

45 MS EASTMAN: Yes.

MR MANN: Yeah, I'm not entirely clear on whether we do or don't.

MS EASTMAN: All right. So just a few questions now about how Bedford recruits employees. And you've addressed this in the statement, and you've provided to the Royal

Commission as part of your annexure for - to the statement some policies for recruitment. Have you got a copy of that with you?

5 MR MANN: Yes. Can you - do you want me show me the specific annexure you're --

MS EASTMAN: Yes. I think my numbers are not - a little bit out. So I've got it as annexure 13, but I will just have to check that --

10 MR MANN: I've got 13 as some case studies.

MS EASTMAN: No, 13 should be the recruitment policy. Sorry about that. I think my numbers are a little out. Yes, so it is 13. It says Supported Employment Recruitment. So 13 in the bundle.

15 MR MANN: In the bundle, okay.

MS VEALE: Commissioners, if I could again be of assistance. In Mr Mann's bundle, it should appear as annexure 11 to his statement.

20 MS EASTMAN: All right. So, Mr Mann, it might be 11 in your bundle and 13 in mine.

MR MANN: Okay. That's - as long as I get on the same page as you. Okay. I found it. HR14.

25 MS EASTMAN: So this is a Supported Employment Recruitment Policy, and are we to understand the policy is a policy to be followed by those in Bedford who are responsible for recruiting new employees?

30 MR MANN: That's correct.

MS EASTMAN: All right. And has this - are you familiar with this policy?

MR MANN: I have read it, yes.

35 MS EASTMAN: Right. And this policy has been prepared to take into account the transition to the NDIS. Is that a fair understanding?

MR MANN: That's correct.

40 MS EASTMAN: And the policy has got to be read with a number of associated documents, which appear at paragraph 7 on page 5?

MR MANN: Yes.

45 MS EASTMAN: And those documents include an employment contract which I asked you about earlier. Is that right?

MR MANN: That's correct. Yep.

MS EASTMAN: Okay. And you also have another document called the Employment Induction Handbook. Is that provided to employees after they are successful in obtaining a job at Bedford?

5 MR MANN: That's correct, yes.

MS EASTMAN: Okay. All right. Just looking at the policy in relation to recruitment, on page 2 of 5 at paragraph 5.2, there's some eligibility criteria.

10 MR MANN: That's correct. Yes.

MS EASTMAN: And if somebody wants to work for Bedford in supported employment, they have to meet this criteria; is that right?

15 MR MANN: Yes.

MS EASTMAN: Do they have to meet all of it?

MR MANN: Yes, they do.

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MS EASTMAN: So all supported employees have to be NDIS participants?

MR MANN: Yes. I believe there are some exceptions that have been grandfathered at the moment

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MS EASTMAN: Okay. And they have to manage their own personal needs in work areas: is that right?

MR MANN: That's correct.

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MS EASTMAN: Does that mean that if they require supports in managing personal needs, that they are not going to be eligible for employment at Bedford?

MR MANN: No, I think somewhere in there it - or in one of the other HR policies that's in that list in paragraph 7, it does refer to the fact that if they do have specific needs in regards to certain personal requirements during the day that there are people who can support that.

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MS EASTMAN: And this matter which is described as:

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"The person does not have behaviour problems or medical conditions which may result in them endangering themselves or others in the workplace."

You see that?

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MR MANN: Yes, I do.

MS EASTMAN: How is that assessed as part of the application process?

MR MANN: I - I probably can't be as specific as you would like for me to. I would think it has to do with the medical assessment.

5 MS EASTMAN: What is the relevance of a medical assessment to the work that the person might be performing at Bedford?

MR MANN: No, it's to - it's relevant to the behaviour. If someone is - has a history of self-harm or something.

10 MS EASTMAN: But wouldn't - I'm just using the language that's in your document. If a person has what might meet "behaviour problems" or "medical conditions", would that not require Bedford to apply a reasonable adjustment to enable the person to meet the criteria?

15 MR MANN: So are you asking me would Bedford be required to adjust the working conditions to allow them to work? Is that what you're asking?

20 MS EASTMAN: Well, I'm asking about reasonable adjustments. You would be aware, wouldn't you, that there's an obligation to make a reasonable adjustment to enable a person to meet condition or requirements?

MR MANN: Yes, yes. And I think we would do that on a fairly reasonably frequent basis where people need adjustments. But --

25 MS EASTMAN: Does Bedford have a stand-alone reasonable adjustment policy?

MR MANN: I don't know. I would have to take that on notice and come back to you.

30 MS EASTMAN: So then the application process is set out on page 3 of 5. And can I summarise it this way: It requires an application to be made, some checking to be done as to the person's suitability for work.

MR MANN: Yes.

35 MS EASTMAN: And next they may have to attend an interview and to go through an interview process. Is that right?

MR MANN: That's correct.

40 MS EASTMAN: And, in some cases, the person might have to come back for a second interview. Is that right?

MR MANN: That could be, yes.

45 MS EASTMAN: And are we right in understanding that it's during that application process that Bedford will determine where the person might work, and that might depend where they live or their skills or their interests? So Bedford decides where they will work; is that right?

50 MR MANN: Bedford in conjunction with the potential employee.

MS EASTMAN: But the process says:

5 "Every consideration will be given to accommodate an individual's personal choice; however, if their first preference is not available options will be discussed, allowing them make an informed choice about their application."

10 MR MANN: Yes. That's correct. They would be allowed to make a choice. So if someone wanted to work in landscape construction, for example, and there were no job openings - vacancies available in landscape construction, then there would be a discussion around what their next choice might be.

15 MS EASTMAN: And if someone is successful in the application process, this policy suggests that they will start under a six-month trial period to assess their suitability for a placement and training at Bedford. Is that right?

MR MANN: That's correct.

20 MS EASTMAN: And is it the case that if they are undertaking the six month-trial period, they would be assessed at that EC entry level?

MR MANN: Yes.

25 MS EASTMAN: And so if a new employee was coming in, it's likely that they would be on that rate of just over \$2 an hour for the six month period: is that right?

MR MANN: For that period of that probation, yes.

30 MS EASTMAN: And then at the end of the six months, there will be a review and an assessment about where they might be suitable for ongoing work. Is that right?

MR MANN: That's correct.

35 MS EASTMAN: In terms of Bedford's recruitment practices, do you target any particular groups for recruiting new employees?

40 MR MANN: So I can probably speak to a couple. Bedford is primarily employing people with intellectual disability. So we wouldn't necessarily be targeting any sort of physical or sensory disability, although we may have employees in those categories, particularly in the regions. We have run school-leaving programs, and we have student work experience programs that we run with a number of different schools in the Adelaide area. So we do provide an opportunity at an early age for students to come and visit and work and understand what's happening at Bedford.

45 MS EASTMAN: Is that the primary source of recruitment of new employees out of local schools?

MR MANN: It has been, yes.

MS EASTMAN: And would the school students, in leaving school, come to Bedford through the NDIS School Leaver Employment Services, the SLES program?

MR MANN: Yes. Yes. That could be a method. We do use that.

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MS EASTMAN: And I think you've mentioned that they could come and do work experience. Would that be while they are still at school?

MR MANN: Yes, they could come in and observe or, in some cases, they might do work experience.

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MS EASTMAN: All right. And I think you've referred in the October 2020 submission to the SLES program being:

15 "A pathway designed to provide participants with the skills and confidence to help transition from school to employment, offering individualised supports for up to two years after finishing secondary school."

MR MANN: Yes.

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MS EASTMAN: Can I ask you this: That if someone comes through the SLES program, so the School Leaver Employment Services program, into Bedford and they last two years, are they likely to stay at Bedford in employment for a long time?

MR MANN: I wouldn't have any statistics to answer your question, but I would say, based on the average length of service that our employees have with Bedford, they would probably last longer than two years, yes.

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MS EASTMAN: So even after the continuation - even after the program which may support them for two years, it's likely that they will continue in ongoing employment.

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MR MANN: Yes.

MS EASTMAN: All right. Now, I want to turn to the transition to the NDIS. And I think you've said in both the submission to the Royal Commission in 2020 and I detect from reading your statement that this has been a transition with some challenges for Bedford. Is that right?

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MR MANN: It has been, yes.

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MS EASTMAN: All right. I just want to run through, as I understand, the nature of the transition and what it means in terms of the change to the funding model. So the starting point is Bedford no longer receives block funding from DSS.

MR MANN: Correct.

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MS EASTMAN: So the way in which the supports are now characterised is that, for each individual employee, they will have an NDIS plan; is that right?

MR MANN: Yes, that's correct.

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MS EASTMAN: And as part of the - their planning with their NDIS planner, they have to identify the supports that they would like to be able to work at Bedford.

5 MR MANN: Correct.

MS EASTMAN: Bedford will help the NDIS participant, or your employee, to identify what those supports might be.

10 MR MANN: Yes.

MS EASTMAN: And with Bedford's assistance, the participant themselves can indicate what they would like by way of supports as part of their NDIS plan. Is that right?

15 MR MANN: Yes. You're talking about supports for employment, yes.

MS EASTMAN: Okay. And the way in which the supports for employment have to be undertaken is that the participant would have to identify as part of their NDIS planning where they work, how many hours a week they usually work, how many hours they would like to work each week, what help do they receive when they are at work, what skills would they like to learn at work and other jobs they would like to try. Those are the sorts of questions that would need to be addressed by the participant. Is that right?

25 MR MANN: That's correct.

MS EASTMAN: And Bedford may assist the participant in identifying or being able to answer those questions; is that right?

30 MR MANN: Yes, we can.

MS EASTMAN: Okay. It's the case, isn't it, that the objective is that this will create more flexibility for the employer as to how they may use their funding to support their work at Bedford. Is that right?

35 MR MANN: You're asking if it's the case that - that that procedure would increase the flexibility.

MS EASTMAN: Yes. It's to give the participant more flexibility.

40 MR MANN: Yes, I mean, the whole sort of thesis behind the NDIS is choice and control. And it would give the participant choice and control of what supports they believe they need.

45 MS EASTMAN: Right. When it comes to actually determining the level of funding for the employment support, that is decided by the NDIS, not by Bedford. Do you agree with that?

MR MANN: Yes. That's correct, the NDIS has a price book.

MS EASTMAN: And the NDIS price book depends upon what the participant identifies with respect to three particular areas of support that might be funded. Is that right?

MR MANN: Yes.

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MS EASTMAN: So under the NDIS, the way in which supported employment is funded is with respect to these three areas: direct support, non-direct support and the cost of running a workplace. You agree with that?

10 MR MANN: Yes.

MS EASTMAN: And Bedford describes those three areas as on the job supervision and workplace training, and then for the non-direct supports, you describe that as non-face-to-face supports. And the costs of running a workplace, you describe as centre capital costs; is that right?

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MR MANN: Yes. That's what it is in the statement.

MS EASTMAN: Right. If we take each of those three areas and look at the nature of the supports under each of these three areas which may be funded by - under the NDIS, on the job supervision and workplace training is intended to be the direct individualised support, or it can be done in a group-based setting: is that right?

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MR MANN: That's correct.

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MS EASTMAN: So it's either one-on-one or group?

MR MANN: Yes.

MS EASTMAN: And the purpose of this direct support is intended to assist Bedford to support the employee by doing some of the following: on the job assessments related to a person's work; job customisation; it could be on-the-job training or intermittent support to do daily work tasks; it might be direct supervision or group-based support to enable the person to do work; or supports to manage disability-related behaviour or complex needs at work. Do you accept that?

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MR MANN: I do.

MS EASTMAN: So that class of supports is very much focused on the individual?

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MR MANN: It is.

MS EASTMAN: Or how the individual might work in a particular group setting.

45 MR MANN: In a particular group; correct.

MS EASTMAN: The non-direct supports, which are the non-face-to-face supports - so these are really supports that, in a practical sense, assist Bedford to, in turn, support the employee. Is that right?

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MR MANN: Yes.

5 MS EASTMAN: Okay. So these help cover such things that Bedford might do, such as progress noting, progress reports, case conferences and engagements with the employee support, assistance with job customisation, development of resources for program activities. Is that right?

MR MANN: Yes, it is.

10 MS EASTMAN: So these are the types of supports that a participant would fund out of their NDIS plan but, in effect, they are sort of - I might call the back of house, that they really are around the activities that the Bedford staff would do in supporting the employee, but not in that face-to-face direct way. Is that right?

15 MR MANN: Yes, so it's not a - it's not a direct face-to-face support, but it would be a support that is, for lack of a better word, supporting the face-to-face. So where we might be redesigning a job to simplify that job.

20 MS EASTMAN: Can I ask you, in - I mean, you've worked in a range of businesses. These types of non-direct supports, they are usually sort of part of the day-to-day cost of operating a business, aren't they?

25 MR MANN: You would have non-direct supports, overheads in any normal operating business, yes.

MS EASTMAN: The third area is the - what Bedford described as the centre capital costs. And these are costs that can be described this way; If the supports that someone receives are being delivered in a particular centre or premise or location, Bedford can work with the participant to make a claim for the costs of running and maintaining Bedford's facilities. So these are costs that were introduced by the NDIA to help support the costs of running and maintaining the service provider's facilities. Is that right?

30 MR MANN: Yes, provided it's an eligible line item in the NDIS price book.

35 MS EASTMAN: It has to be connected to the price book.

MR MANN: Yes.

40 MS EASTMAN: And you would agree that perhaps - and I don't mean to make any assumptions about this, but most participants would have limited or no idea about the costs of running and maintaining Bedford's facilities. So this has to be identified by Bedford, doesn't it?

45 MR MANN: Yes, it would.

MS EASTMAN: All right. And the NDIA pricing sets out the different line items and then the total amount that might be able to be part of the participant's plan to cover capital centre costs: is that right?

50 MR MANN: That's right.

MS EASTMAN: Looking at a business outside an ADE model, would not meeting the costs of running, maintaining facilities - it might be leasing cost, maintenance costs or the like - be part of the regular costs of operating a business, would it not?

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MR MANN: It would be, yes.

MS EASTMAN: So part of this transition to - from block funding into the NDIS scheme --

10 MR MANN: Mmm.

MS EASTMAN: -- is that Bedford's - Bedford is able to claim out of the employee's plan the monetary value of each of these three areas that the participant can claim in their plan. That's right?

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MR MANN: Yes, Bedford - Bedford is able to enter into a service agreement with an NDIS participant based on the services that the participant in Bedford collectively identified that they want and need to support them. Bedford invoices the participant, who then instructs the NDIS or their plan manager to pay Bedford. So Bedford's not actually

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invoicing NDIS.

MS EASTMAN: So it goes through the participant. They are, in a sense, the middle person between how the funds make their way from the NDIA to Bedford.

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MR MANN: Yeah, so for lack of a better word -- get back to the operating costs, the - the non-direct ones you're talking about. So when NDIS was implemented, Bedford took on 1,100, essentially, new customers that we had to invoice individually and administrate individually. We carry on our debtors ledger until their plans pay. So there's a - there's an increase - there's a cost to administering the program, if I can just put it that way. So that's part of the supports you're talking about.

30

CHAIR: Mr Mann, what you're just describing - I'm just trying to follow this as best I can.

MR MANN: Yes.

35

CHAIR: This covers categories 1 and 2, does it, that is, direct support and non-direct support, the system you're describing?

MR MANN: Everything is invoiced through the client --

40

CHAIR: Including 3?

MS EASTMAN: Yes.

45 MR MANN: Yes, there's nothing invoiced directly to NDIS.

CHAIR: How does an NDIS participant's plan make provision for what amounts to a proportion of the capital cost incurred by your organisation in providing the - or producing the goods and services that are sold?

50

MR MANN: So there's an NDIS price book that has - I don't know, I mean, thousands of lines. There's about 100 lines when it comes to employment. And there's only certain categories that you can - and the price is fixed. So if it falls within one of those categories - and it happens to fall within category 3 - the price is fixed. It's not what Bedford's cost of operating is. It's what the NDIS deems is billable.

CHAIR: But why does the NDIS participant have any interest in including in a plan a capital cost of the service provider?

10 MR MANN: I --

CHAIR: I'm afraid someone will have to instruct me. Perhaps we can't do it today and perhaps I'm missing something. I just don't understand how this works.

15 MS EASTMAN: Well, Chair, we will ask the NDIA to --

MR MANN: I don't think you're alone in that, Chair.

CHAIR: Yes. All right. Well, I will try to keep the word "bizarre" out of this and see how we go.

MR MANN: Mmm.

MS EASTMAN: What is also clear is that the NDIS is not subsidising wages at all.

MR MANN: Correct. There is no wage subsidy. That's the fundamental difference in the business models that ADEs used to run, versus what they have to run in the future.

MS EASTMAN: And that has been a significant change, has it not, to service providers such as Bedford?

MR MANN: Yes.

MS EASTMAN: All right. And has there been any modelling within Bedford about what will be the implications of this new scheme in terms of being able to meet those operating costs? I started, you will recall, at the beginning by noting that your operating costs exceed the total revenue coming in, at least for that 2020-21 financial year.

MR MANN: Mmm. Sorry, can you just rephrase - can you just ask that question again? Sorry.

MS EASTMAN: Has Bedford done some modelling to look at what the impact of the transition may be in terms of Bedford meeting its operating costs?

MR MANN: We have. We have done a substantial amount of modelling, and we've done a substantial amount of work around the implementation of a completely different business model and strategy in how we're going to transition that over a period of time.

MS EASTMAN: Right. Can I - and this will be my final question - and, Chair, there's lots of questions I could still ask Mr Mann but this is the final one. Can I just test what may be a hypothesis that sits behind this transition to the NDIS?

5 MR MANN: Sure.

MS EASTMAN: If you assume that participants through their plan are receiving the targeted individualised supports that they require to be able to do their job well at a level where they are competent, where their skills are continually improving - step 1 - step 2,
10 does it follow that it is inevitable that the level of wages will necessarily increase because the skills, competency and meeting those requirements under the enterprise agreement are going to be able to be achieved far more quickly for employees with the support? Do you accept that?

15 MR MANN: I - I accept the premise. I don't necessarily agree with you that the NDIS is structured to achieve that.

MS EASTMAN: If you accept that targeted supports that will provide a participant with choice and control over the way in which they may wish to work and achieving their
20 employment goals is the outcome of this transition to the NDIS, does it not make it clear that there has to be transitions out of this form of employment and into open employment? Do you accept that?

MR MANN: No, I don't believe the NDIS speaks to open employment at all.
25

MS EASTMAN: You don't see that the support for participants and the choice and control that they may have through the NDIS is directed to assisting people to make choice about working in open employment. You don't see that as the ultimate outcome?

MR MANN: I see the choice potentially is there, but I don't see any support from the
30 NDIS in regards to transitioning employees from, let's say, an ADE to open employment. Because there's no NDIS support for capacity or capability development, and there's no support for transitioning to open employment. I heard the testimony of the witness yesterday, who was talking about the - that there's support while you are in an ADE but
35 then there's nothing to transition to open employment, and that was - that was absolutely correct.

MS EASTMAN: You agree with that?

40 MR MANN: Yes, I don't believe the NDIS addresses capacity development or open employment at all.

MS EASTMAN: All right. Thank you. Thank you, Chair.

45 CHAIR: Thank you. If I may, I would like to ask some questions, no doubt proceeding from my imperfect understanding as to how this system works. I have some difficulty reconciling the consolidated statement of profit and loss that appears in the annual report with the consolidated financial statements of Phoenix Incorporated and the other company, the Group. But put that to one side just for the moment. Do you happen to
50 have a Phoenix consolidated financial statements for 30 June 2021?

MR MANN: I do not have that in front of me, but I could probably answer your query, though.

5 CHAIR: All right. Okay. When we go to page 11, with the notes to the financial statements, we see these figures - revenue from sale of goods and services, \$27.3 million. What does that mean? What is that figure referable to as - it says \$60.7 million in the annual report, but let's put aside the difference. What is the figure "revenue from sale of goods 27.3 million"?

10 MR MANN: That would be the commercial sales, but that number is - is low compared to the total. So I'm not sure - and without looking at it I can't see exactly where you are reading it from, sorry.

15 CHAIR: I'm reading from page 11 under the heading Revenue Note 2 to the Accounts. So you don't know off-hand what the 27.3 million refers to?

MS EASTMAN: Chair, I'm sorry to interrupt. You might be looking at some documents that are not part of the tender material or in the bundle.

20 CHAIR: Well, they mightn't be but that's all right. I can still ask Mr Mann some comments and some questions. They are public documents. Yes. So - all right. Well, you can't answer that at the moment. Well, you might take that on notice.

25 MR MANN: Certainly will.

MS EASTMAN: There is then an item, Fee for Service - NDIS, 25.6 million. What's that?

MR MANN: That would be - I'd have to take that on notice because in my --

30 CHAIR: All right. Take --

MR MANN: In my statement in paragraph 23, we show the funding from NDIS for that year is 12.7 million.

35 CHAIR: Yes, I know. All right. Then there is Revenue from Rendering of Services, 21.6 million. What's that? All right. Well, if you -

MR MANN: I'm happy to take all of that on and answer those questions for you.

40 CHAIR: And in 2020, the year ended 30 June, and in the year ended 30 June '21, JobKeeper provided \$21 million, nearly; is that correct?

MR MANN: Yes, it was a substantial amount, yes.

45 CHAIR: And what was that for? I know that there is a scheme, but how come your organisation managed to qualify for \$21 million over two years?

MR MANN: Well, it would be under the JobKeeper - under the JobKeeper, which is the reduction in revenue, and then the JobKeeper would have been paid out in lieu of wages because we weren't operating.

5 CHAIR: All right. That was because the revenue went down, is it?

MR MANN: Yes, because some of our operation had to shut down. The --

10 CHAIR: Yes, all right. Well, that leads me on to a question with Bunnings. Why does Bunnings buy from you? Is it a philanthropic exercise on their part, or is it part of their commercial operations?

15 MR MANN: It is probably a mix of both, if I'm honest, Chair. We are the only Australian-made product that we have in those categories. Everything else is imported. And - but we have to be priced competitively. But --

CHAIR: That's what I was wondering. Are you in a competitive market or you are a monopolist, as far as the supply of goods or services to Bunnings is concerned?

20 MR MANN: We are in the competitive market.

CHAIR: So that your ability to alter prices is then limited by ordinary forces of competition?

25 MR MANN: Correct.

30 CHAIR: All right. Something at the moment I don't understand is the relationship between an NDIS participant's individual plan, which provides for the three categories or may provide for the three categories that Ms Eastman has identified in questioning, which - when an NDIS participant has a plan that provides for certain amounts of money in relation to each of the categories, which of those amounts is allocated and spent specifically for that particular NDIS participant? Or are the amounts from NDIS participants pooled in some way, as far as Bedford is concerned? Do you understand my question?

35 MR MANN: I do. I do understand your question. In its purest form, the NDIS would be very much like a professional services where you would sit and you would invoice for the time that you essentially provided to that client. But as people are - ADEs are transitioning over, they work with the NDIS to agree certain group methodologies to do it because all services are not delivered 100 per cent individually.

40 CHAIR: I get the impression - and perhaps this is something that you can clarify on notice - that the moneys that are invoiced - sorry, the invoices that go to individual participants for a good portion of it are actually pooled, in effect, as far as the operations of Bedford are concerned. It would be - that would be the case with category 3, wouldn't it?

45 MR MANN: Yes, I - I would be happy to take it on notice and give you specifics around that.

50

CHAIR: Yes, that's - for those of us who are new to this system, it poses some interesting questions about the relationship between the NDIS and the operation of the organisations. All right. Well, I will curb it there, and I will ask Commissioner Galbally if she has any questions of you.

5

COMMISSIONER GALBALLY: Thank you for your evidence. I am interested to know do you refer your employees to DESs to get training advice and support and also to move to segue into open employment? Do you have a relationship that's outward with a DES? You might have a relationship that is inward with a DES where they refer people to you.

10

MR MANN: It's my understanding that we have referred people outwardly as well.

COMMISSIONER GALBALLY: Can you let me know at some point how many and the results?

15

MR MANN: Yes, certainly. We will take that on notice. Happy to do that.

COMMISSIONER GALBALLY: Because that then - because they are the training and placement body. So your view that that should be the NDIS support, you know, how does - what would DES do with themselves?

20

MR MANN: Okay.

COMMISSIONER GALBALLY: And in - my second question is about the - with the relationship - first of all, support needs are in the four competencies in the enterprise agreement: Safety, communication, support needs and work habits. Am I correct in my understanding of that, that support needs are in that list of the competencies?

25

MR MANN: I'm just - I just want to clarify the question. I'm just trying to understand. Are you talking about --

30

COMMISSIONER GALBALLY: I'm just trying to understand whether I have got it right, whether support needs --

35

MR MANN: Yeah, so the - if you're talking about the support needs, it would be in a participant's service agreement.

COMMISSIONER GALBALLY: Well, in terms of assessment for their wages.

40

MR MANN: Right.

COMMISSIONER GALBALLY: I thought there was safety and workplace safety, communication, support needs and work habits.

45

MR MANN: Right.

COMMISSIONER GALBALLY: If it's in the paragraph there --

MS MANN: So if there is a requirement for support in order to do the job, is that part of the assessment?

50

COMMISSIONER GALBALLY: Yes. That's right. Yes.

5 MR MANN: Can I - can I come back - take that on notice and answer you, because just - to be clear about how much that is - it is involved in the assessment itself. Certainly.

10 COMMISSIONER GALBALLY: Yes. And then the second related question that you might want to take away is do you subtract points for people who need additional support in their wage assessment? So that's a second question.

MR MANN: Yes, I will take that on notice in terms of how that tool works.

15 COMMISSIONER GALBALLY: My third question, yes, is relating to Ms Eastman's questions about reasonable adjustment. And I would be grateful if you could clearly distinguish your view of reasonable adjustment compared with support needs that then relate to wage assessments and points deducted.

MR MANN: Okay.

20 COMMISSIONER GALBALLY: Look, that then brings me to my final question, which is about Bedford's own disability action plan. Do you have a disability action plan for your whole operation, all of your staff and, you know, right across the organisation?

25 MR MANN: Again, I will take that on notice. Specifically, I'm not aware of it, but I will take it on notice just in case there is one.

30 COMMISSIONER GALBALLY: And within a disability action plan, one of the areas is employment of people with disabilities across the organisation, which Ms Eastman referred to in asking you about senior management, management and staff. And I would be interested to know what is your employment action plan and what your target would be for Bedford.

MR MANN: Okay.

35 COMMISSIONER GALBALLY: For employment across the organisation. Thank you.

MR MANN: Happy to do that for you.

40 CHAIR: Commissioner Mason, do you have any questions?

45 COMMISSIONER MASON: Yes. Thank you, Chair. Just following on from Commissioner Galbally around employment of people with disabilities in the non-supportive - supported roles, has Bedford - does it currently have or has it had in the past strategies around identified disability positions, around those non-supported roles, to encourage and attract people with disabilities into those roles? Currently or in the past, has there been a strategy around that?

50 MR MANN: I - I don't know. So I would be - I would be remiss in trying to answer that. I'm happy to take it on notice and come back to you.

COMMISSIONER MASON: And - thank you. And also the same approach at the board level, identified positions.

MR MANN: Okay.

5

COMMISSIONER MASON: But I want to say thank you, Mr Mann, for your evidence today. Thank you very much. Really appreciate it.

MR MANN: Thank you.

10

CHAIR: Mr Mann, just one more piece of homework for you. On the basis of clause 42.8 of the award, for level 4 - sorry, for level 5, the maximum rate of pay, as we've seen, is 100 per cent of the minimum wage, and the minimum rate is 25 per cent. For level 4, the maximum rate of pay is 75 per cent of the minimum wage and the minimum for level 4 is 17.5 per cent. We see from paragraph 64 of your statement that there are 72 employees on level 4 and 71 on level 5. Could you please break down the percentage of the - between the maximum and minimum in each case of those 72 and 71.

15

MR MANN: Yes.

20

CHAIR: Thank you.

MR MANN: Happy to do that --

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CHAIR: All right. Well, thank you, Mr Mann. That was - we covered - or at least Ms Eastman covered with you a very considerable range of matters. Thank you very much for giving evidence and providing the information that you have, and we are also grateful for your taking away your homework and providing us with additional information which I am sure will be very helpful. So thank you very much for attending and giving evidence.

30

MR MANN: Thank you. Thank you for the opportunity.

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MS EASTMAN: Chair, that completes the evidence for this afternoon other than a fairly large tender that I need to do. So could you receive into evidence Mr Mann's statement, which is dated 4 April this year, and mark the statement **Exhibit 22-6**. There is then a series of annexures which are --

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CHAIR: Can we do that by means of a document that we can simply do them en masse?

MS EASTMAN: Yes, so happy - we might circulate that, but it would take us from 22-6 through to 22-6.27. So there is an additional 27 annexures. But we have prepared a document that, I think, sets that out.

45

CHAIR: Perhaps we can deal with that tomorrow morning. And as long as there is no difficulty, we can simply do it by reference to the document rather than going one by one.

50

MS EASTMAN: Thank you. Otherwise, that concludes the evidence today and we will resume at 10 o'clock tomorrow.

CHAIR: Thank you very much. We will adjourn now and resume at 10 am Sydney/Brisbane time tomorrow and 9.30 am Adelaide time. Thank you.

5 <ADJOURNED 4:00 UNTIL WEDNESDAY, 13 APRIL 2022 AT 10AM

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