



TRANSCRIPT OF PROCEEDINGS

THE HON RONALD SACKVILLE AO QC, Chair
MS BARBARA BENNETT PSM, Commissioner
MR ALASTAIR McEWIN AM, Commissioner

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

PUBLIC HEARING 23

WEDNESDAY, 18 MAY 2022 AT 10.04 AM (AEST)

DAY 3

MR PATRICK GRIFFIN SC, Senior Counsel Assisting
MS CATHERINE GLEESON, Counsel Assisting
MR BEN FOGARTY, Counsel Assisting

CHAIR: Good morning everybody, and welcome to the third day of this Public hearing 23 of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. We commence, as always, with the acknowledgement of Country. We wish to acknowledge the Gadigal People of the Eora Nation, the traditional custodians of the land upon which this hearing is taking place, and on which my colleagues and I are sitting today. And we wish to pay our respects to their elders, past, present and emerging. We also pay our respects to all First Nations people who may be in attendance at the hearing or who are following the proceedings on the live stream.

10 Yes, Mr Fogarty.

<WITNESS SAMANTHA TAYLOR, ON FORMER AFFIRMATION

<EXAMINATION BY MR FOGARTY CONTINUING

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MR FOGARTY: Yes. Thank you, Chair. Ms Taylor, before asking you about the Nuumaalii investigation, if I can take you back to the Thomas Stumpo investigation which traverses paragraph 16 to 18 of your statement. You gave some evidence about that yesterday. That was open in July - June 2021. I withdraw that. July 2021, the investigation with the compliance team.

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MS TAYLOR: That was received by the Commission as a reportable incident in July 2021.

25 MR FOGARTY: Yes. And, at the same time, wasn't it the case that the compliance - the matter was referred to the compliance team?

MS TAYLOR: It was at the time, yes.

30 MR FOGARTY: Alright. And yesterday I asked you some questions around the letters that I think were received, or the letter - two letters received in respect of the HR investigation of four employees, and those documents were received by the NDIS Commissioner compliance team after a section 26 notice. And those letters indicated that the Lifestyle Assistant and the Team Leader - this is at about paragraph 73 of the statement - those letters indicated they had been reprimanded - my words - but the letter also said there was no nutritional swallowing plan on Afford's client information system, the Team Leader hadn't communicated the nutritional swallowing plan to staff and, thirdly, a reference to Mr Stumpo when he visits that Afford respite service, there being no community activities for him or the others. That, essentially, he just stays there.

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40 And then at paragraph 81 of your statement - I think I took you to this yesterday - the compliance teams uncovered possible breaches of the Act based on this incident with Tom Stumpo, do you agree it's set out there?

45 MS TAYLOR: Yes.

MR FOGARTY: Being breaches of the practice standards in respect of risk management and support planning, a requirement to notify the NDIS Commissioner of a reportable incident because that didn't happen until two years until after the ABC report; correct?

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MS TAYLOR: Yes, they didn't notify, but, as we traversed yesterday, they didn't realise that it was an incident that needed to be reported.

5 MR FOGARTY: Alright. And then, lastly, a breach of the Code of Conduct and the provision of support and services in a safe and competent manner with care and skill.

10 Is there a reason why the - with respect to those matters that are before the NDIS Commission, is there a reason why the matter hasn't yet been concluded? Surely those matters, in a document from the provider, will provide sufficient evidence for those breaches. Do you agree or disagree?

15 MS TAYLOR: I - I do agree. At the time, though - and my statement goes to this - we were continuing to conclude the investigation around Ms Aprem, and determining what aspects, without going into that, what would be relevant to that particular matter as opposed to matters that we would pursue in another way. So we were - we had a number of matters on foot. My statement takes you through many interactions with Afford.

MR FOGARTY: Yes.

20 MS TAYLOR: Including the Mr Stumpo matter and, no, it is not concluded. Compliance was receiving information about this matter and other related matters over - over the course of several months. I - concluding assessment of that particular matter was made by our reportable incidents teams following its referral back to them quite recently, and I have included the issue of mealtime supports and my broader concerns, including Mr Stumpo,
25 as something that I would continue to pursue with the organisation, and, indeed, I'm in the process of doing so.

30 MR FOGARTY: Well, I suppose two things. There's a discrete compliance matter with the compliance number, correct, the Thomas Stumpo matter.

MS TAYLOR: Yes.

35 MR FOGARTY: That matter can be concluded whether the Aprem matter is concluded or any other matter; correct?

MS TAYLOR: Well, not if we're contemplating connecting them, no.

MR FOGARTY: What do you mean by "connecting them"?

40 MS TAYLOR: I prefer not to go too far into that, thank you, but - I'd prefer not to go any further into that.

45 MR FOGARTY: Alright. Given your assessment, can the Royal Commission then take - and I won't hold you to it or suggest you be held to it - but that the Thomas Stumpo investigation is nearing conclusion with the NDIS Commission in respect of that discrete compliance matter?

50 MS TAYLOR: Well, as I said, there's been a concluding assessment undertaken following the work that was done by the compliance team and the information that we received from Afford and the assessment of that information. The concluding assessment has been

completed on that, and it highlights a number of areas where we would want to continue to pursue, that we would want to continue to pursue with Afford, and I included a reference to that in my recent letter to the CEO.

5 MR FOGARTY: Yes.

CHAIR: Ms Taylor, you've referred to Afford's explanation that, at the time of the incident, they did not realise there was any connection between the sandwich and Mr Stumpo becoming unwell, and you've repeated that this morning. Is it part of the investigation to consider whether there is any disparity between that claim and what Afford did at the time, that is, round about May 2019? Does that form part of any investigation?

MS TAYLOR: So as also, Chair, thank you, I referred yesterday to having concerns about whether or not Afford understood the matters that should be referred to the Commission as reportable incidents, and I had ongoing concerns about the incidents that had reported or not been reported to us, and that also forms part of my correspondence with the CEO because I'm not satisfied that that issue in broad is closed, and the Mr Stumpo matter is related and may be separate to that.

CHAIR: Yes. Thank you for that answer, but I wonder if you'd direct yourself to my question: that is, does it form part of any investigation, the apparent inconsistency between the explanation given by Afford to the Commission for the failure to report and the contemporaneous actions taken by Afford, namely, disciplining of two staff members and certain other action? I'm just wanting to know whether that forms part of the investigation. I don't want to know what the outcome might be. I don't want to know what action you're contemplating. I just want to know whether that is part of the investigation. Do you understand what I'm asking?

MS TAYLOR: Yes, I think so. It will form - it does form part of the investigation which has not yet concluded on whether or not there are ongoing issues of governance and operational management, which include things like staff supervision, etcetera, that - that we continue to explore with Afford.

CHAIR: Yes.

MS TAYLOR: On the matter of Mr Stumpo, we have done a concluding assessment around that reportable incident. So, no, there is not any ongoing investigation into the matter of Mr Stumpo's circumstance, understanding that that matter - that that - that event for Mr Stumpo happened a couple of - a couple of years ago before the --

CHAIR: Alright. Well, let me ask a general question then, not specifically referable to this case. Is it of concern to a Commissioner if a service provider provides an explanation that lacks authenticity and can be demonstrated to lack authenticity? Is that a matter of concern to the Commission?

MS TAYLOR: I don't think, Chair, in my response I'm suggesting that the Commission is discounting the - the experience of Mr Stumpo and his family by not continuing -

CHAIR: I'm not talking about Mr Stumpo. I'm asking a general question. If a service provider gives an explanation of something to the Commission and that explanation

appears to be specious, appears to be unconvincing, appears to be unacceptable, and I'm asking it as a general question, is that a matter of concern to the Commission? And, if so, what does the Commission do about it?

5 MS TAYLOR: Thank you for adding that additional question. So, yes, it is a matter of concern and in this - and what does the Commission do about it? Well, in the case of Mr Stumpo, we exercised a number of our functions to obtain information.

CHAIR: I'm not talking about Mr Stumpo. I'm asking a general question.

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MS TAYLOR: Okay. Sure. Thank you. Yes, the Commission takes - is concerned where a provider might give us some random explanation, and we often use our powers to seek further information to test whether or not what the provider is claiming to have been the case is, in fact, the case.

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CHAIR: And what if it turns out that what the provider is claiming is simply false? What does the Commission do?

MS TAYLOR: Well, any number of things. It depends on whether or not the organisation itself was unaware that the position it put to us at the time was, in fact, false, or whether it was a deliberate misleading of - of the Commission. There's any number of -

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CHAIR: Alright. Assume it's a deliberate misleading. What does the Commission do?

25 MS TAYLOR: Well, we can take all sorts of actions.

CHAIR: I'm sure you can. What does the Commission do? I'm just trying to find out what response to the hypothetical that I'm putting to you. And let me explain that one of the themes that - as I'm sure you're aware through a number of hearings - has been that both the Commission and the NDIA sometimes may be too reactive and too reliant upon what they're told by the service providers, and I'm just trying to ascertain what, in a particular case, if it becomes clear that what - that a service provider is not providing you with accurate information and is doing so deliberately - let me make that assumption; I'm not talking about Mr Stumpo - what do you do about it?

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MS TAYLOR: Well, for example, we can issue a warning that sets out that we've identified that issue.

CHAIR: A warning.

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MS TAYLOR: We can issue an infringement notice. We can determine that the provider is no longer suitable to operate in the NDIS, and we can move to revoke a registration, for example, or to ban a provider where they have provided us with misleading information.

45 CHAIR: How many times has a registration been revoked by the Commission?

MS TAYLOR: Our activity report, Chair, is published now on a quarterly basis but previously on a six monthly basis and lists the number of revocations of registration that we have - we have made. I don't have that number off the top of my head. I do recall in the

latest activity report it might be along the lines of just over 50 providers for the period of that particular report which would be three months.

CHAIR: Right. Thank you

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MR FOGARTY: And, Ms Taylor, the list of banning is also available on your website.

MS TAYLOR: That is correct. Our compliance and enforcement action is published as part of the provider register.

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MR FOGARTY: Yes, and that's publicly accessible and -

MS TAYLOR: It is.

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MR FOGARTY: - and any historic banning orders or revocations sit on that axis, that, say ...1 July 2018.

MS TAYLOR: That's correct. So if those matters have concluded or if the term has already been complied it, they're retained as matters unless the decision has, for example, been reviewed and overturned, and then they are removed.

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MR FOGARTY: I see. Thank you. Can I move on to the Nuumaalii abuse reportable incident investigations. There were eight reportable incidents regarding Mr Nuumaalii that were notified by Afford.

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MS TAYLOR: That's correct.

MR FOGARTY: Correct? For your reference I'm at 119. Starts there. This is part of your evidence. Originally Afford notified the NDIS Commission only of abuse in respect of Jason, correct? On 30 April, on 1 May 2020?

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MS TAYLOR: Yes, that's correct.

MR FOGARTY: And on 4 May in your statement the investigations team of the Commission opened an investigation in respect of these two reportable incidents it.

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MS TAYLOR: Yes, that's correct.

MR FOGARTY: At 121 of your statement it talks about the focus of the NDIS Commission's investigation and I quote:

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"The focus of the investigation is whether the abuse could have been prevented by requiring the examination of systemic issues in relation to recruitment, training and supervision, and whether there were any indicators of abuse or misconduct which Afford should have identified and acted on."

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End of quote. Correct?

MS TAYLOR: Yes, that's correct.

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MR FOGARTY: So that was a focus - or your summary of the focus, in fairness. What about the steps the provider had taken or was taking following the discovery of the abuse to reduce and ideally eliminate the risk of similar abuse being perpetrated by its employees on clients in the future? Was that something that this investigation looked into, to your knowledge? What steps - what reactive steps were being taken by Afford?

MS TAYLOR: Well, we were looking into making an assessment about how the provider responded to those - to those things, but you just reflected on that I summarised. The steps that a provider took to avoid future incidents would form part of our assessment of their management of the incident.

MR FOGARTY: So it's not just them looking back on at "What did we get wrong?" or "How did we do it?" It's that, and "What are we now doing to rectify or reduce the risk that this could happen again?"

MS TAYLOR: Yes, that's correct. So the Commissioner's powers and functions related to reportable incidents are directly about receiving incidents and assessing whether or not a provider is both managing an incident, and in an appropriate way, but also taking steps to avoid future similar incidents in the future. That's the point of the function, is to effectively monitor the most serious events that occur in the course of providing an NDIS support or service, and for us to be satisfied that the provider is taking steps to avoid similar or same or other related incidents in the future.

MR FOGARTY: And that could be asked in a section 26 letter, couldn't it? What steps are you currently taking to - currently taking?

MS TAYLOR: It could be, but there are broad provisions in there for the Commission to seek information from the provider if it's not made available to us either in the 24-hour notification, the five-day notification or any concluding reports that we might require.

MR FOGARTY: The - do you agree that the sorts of steps that - and this is a closed investigation - that could have - could have been taken by Afford and reported to the NDIS Commission for the Nuumaalii abuse incidents could have included things like a root cause analysis or a formal risk assessment?

MS TAYLOR: They could have.

MR FOGARTY: Are you aware whether a formal risk assessment was provided to the NDIS Commission from Afford in respect of the Nuumaalii abuse?

MS TAYLOR: I can't recall that. I'm sorry, unless -

MR FOGARTY: There's no reference in your statement to it.

MS TAYLOR: Unless I've made a reference in my statement then I would say that I'm - I've looked at the things that were made available to me about that matter. I haven't explored other - other documents in any detail.

MR FOGARTY: And, in fairness to you, your corrigendum I think at paragraph 3 you referred to, you had some involvement, I think, personally with the matter, but then the rest of what you understand about the Nuumaalii investigation is by way of documents.

5 MS TAYLOR: By way of reviewing, yes, so I was aware of it at the point that - that it was advised or published actually, and asked our staff to look quickly into it to determine whether or not we had an incident report and other matters, and then I've relied on the records that are available on the Commission's system.

10 MR FOGARTY: I see. Early on in the investigation by the NDIS Commission, it became apparent to the Commission that there were six other NDIS participants it considered were impacted by the Nuumaalii abuse; correct?

15 MS TAYLOR: I think we were advised of that by the organisation following the police investigation.

MR FOGARTY: I see. Alright. The NDIS Commission requested Afford to -

20 MS TAYLOR: Yeah, we -

MR FOGARTY: To submit formal notification of those incident reports.

MS TAYLOR: Yes, from our - our engagement from the police investigation.

25 MR FOGARTY: Not just Jason but other -

MS TAYLOR: No, it revealed through the investigation. I understand there were other participants who had been affected.

30 MR FOGARTY: And Afford, I think, responded the very day that that first formal request was made, I think, 6 May 2020?

MS TAYLOR: Yes.

35 MR FOGARTY: On 7 May 2020 - in your statement this is at, I think, paragraph 128 - the Commission - the NDIS Commission investigated, issued a briefing note within the Commission recommending a banning order on Mr Nuumaalii, that he's not suitable to be involved in indigenous support or services for people with a disability.

40 MS TAYLOR: Yes, that was on 7 May.

MR FOGARTY: Yes, but by that time Afford had terminated his employment, on 4 May?

MS TAYLOR: We discovered that, yes.

45 MR FOGARTY: That meant, didn't it, by reason of the wording of the NDIS Act and the section 73ZN at the time, that the Commission or Commissioner couldn't issue a banning order on Mr Nuumaalii at that time; correct?

MS TAYLOR: At that time. At that time the Act - the powers referred to people who were “employed or otherwise engaged”.

MR FOGARTY: Alright. By an NDIS provider.

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MS TAYLOR: By an NDIS provider.

MR FOGARTY: And he was no longer -

10 MS TAYLOR: He was no longer employed or otherwise engaged.

MR FOGARTY: To your knowledge, then, he doesn't - there's no banning order under that power in respect of Mr Nuumaalii presently.

15 MS TAYLOR: That matter's under consideration.

MR FOGARTY: Alright. The - in November the banning powers were extended, that section was amended, is that right, November 2021?

20 MS TAYLOR: That's correct, yes.

MR FOGARTY: Would those powers now capture that scenario I've just suggested where the person has just been – let's say they had been terminated, that the NDIS Commission didn't realise that. I'm not suggesting anything untoward in respect of the provider. They had made an assessment pretty quickly.

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MS TAYLOR: Yes, that addressed -

MR FOGARTY: It would be covered.

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MS TAYLOR: - it addressed a gap that the Commissioner identified in the law that meant that if a provider dismissed a worker who had been the subject of allegation or, indeed, as in this case charges, that the Commission could not pursue, but we - and we saw that as a gap, of course, and so now we can do that.

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MR FOGARTY: You can issue a banning order.

MS TAYLOR: We can issue a banning order, yes.

40 MR FOGARTY: Alright. Just by way of chronology, then, of what happened as I understand it from your statement in terms of the NDIS Commission's oversight of Afford's response, on 27 May 2020 the NDIS Commission issued a section 26 letter requiring Afford to conduct an external investigation?

45 MS TAYLOR: Yes.

MR FOGARTY: The letter included specific matters to be addressed by that external investigator and listed those: the process of employing Mr Nuumaalii -

50 MS TAYLOR: Yes.

MR FOGARTY: The frequency and - frequency, content and appropriateness of training provided to Mr Nuumaalii. And this is in paragraph -

5 MS TAYLOR: Yes.

MR FOGARTY: - 140 of your statement:

10 "The nature and adequacy of supervision of Mr Nuumaalii. Whether there were any indicators of abuse (like complaints, unexplained injuries, instances where participants appeared reluctant or unhappy to be supported by Mr Nuumaalii, any other expression or indication of fear of participants regarding Mr Nuumaalii) and, if there had been any indicators whether, firstly, Afford could reasonably have been expected to identify them, and, secondly, whether Afford acted on any such indicators
15 that were identified."

Now, it appears that this is a - is this an extract. In statement - in your statement at paragraph 140 it's in italics. Is that an extract from the section 26 letter, to your
20 knowledge?

MS TAYLOR: Yes.

MR FOGARTY: Alright. Do you agree that in this part, this part of the extract, there's no request in respect of information about what steps the provider had taken, was taking or
25 was proposing to take following the discovery of the abuse to reduce or ideally eliminate the risk of similar abuse? That's not set out in this part.

MS TAYLOR: That's not set out in this part, no. This - this investigation would not be the only piece of information that we would have received about this matter. We had
30 information coming from the police. We had other information coming from Afford itself as it was obliged to do. So this was an additional piece of intelligence that we wanted them to provide us with.

MR FOGARTY: Alright. It's the case, though, would you agree, that this letter and the report that arose as a consequence were the only things requested directly of Afford by the
35 NDIS Commission in respect of Mr Nuumaalii's abuse?

MS TAYLOR: Yes. But Afford continued to be responsible for providing us with, under their statutory obligations, the reports around the incident, including a final report around
40 the incident, which they did provide us with. Sorry, I can't recall the date of the final report.

MR FOGARTY: Final report by Afford or by Mr Wise?

45 MS TAYLOR: By Afford. So Mr Wise as you - was the investigator who Afford engaged to undertake the investigation that we requested. Afford's then required not only to furnish us with whatever we might request under section 26 -

MR FOGARTY: Yes.
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MS TAYLOR: But to provide us with a final report around the incident.

MR FOGARTY: Alright. Do you recall whether you referred to that in your statement? I might allow you to take that as a question on notice.

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MS TAYLOR: Yes, I'm happy to - I'm happy to take that on notice.

MR FOGARTY: Thank you. Afford proposed speaking to Barry Wise - Barry Wise of Worksite Investigations - as the independent expert to conduct the investigation; is that correct?

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MS TAYLOR: That's - yes.

MR FOGARTY: The NDIS Commission confirmed his appointment - I think it's 144 of your statement -

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MS TAYLOR: Yes.

MR FOGARTY: - with the HR person, manager at Afford. The NDIS Commission didn't scrutinise Mr Wise's qualifications or expertise to carry out the investigation, did it?

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MS TAYLOR: No, we didn't. No.

MR FOGARTY: Unlike quality auditors, the NDIS Commission doesn't propose a panel of independent experts for these sorts of external investigations that a service provider like Afford could choose from.

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MS TAYLOR: No, the Commission doesn't do that. Mr Wise, though, as many investigators in these similar circumstances that happen - we request these kinds of things quite frequently - set out generally in their - in their reports what their qualifications are.

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MR FOGARTY: Yes.

MS TAYLOR: And, of course, investigation is a profession and people have a series of qualifications that - that are relevant to that profession, and I can't recall them off the top of my head, but he had a licence, as I've said in my statement.

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MR FOGARTY: But, beyond that, there's no scrutiny of who the service providers, in this case - in this case, there's no scrutiny of - beyond that of Mr Wise and who had been put up by Afford to do the internal investigation; correct?

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MS TAYLOR: I can't recall.

MR FOGARTY: By the Commission.

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MS TAYLOR: Whether on the record there was any engagement between Afford and our reportable incidents officer about the engagement of that particular person? I don't believe I've outlined it in my statement, and I don't recall seeing anything in the records that I looked at.

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MR FOGARTY: Paragraph 144 of your statement says:

5 "On 16 June 2020, the NDIS Commission emailed the HR manager at Afford or HR person thanking her for email, confirming the appointment of Mr Wise as investigator and asking her to advise when the appropriate clearance to proceed with the investigation was received, the New South Wales police has met since the date of the investigation.

10 MS TAYLOR: Yes, my apologies, and in the preceding paragraph, sorry, I referred to the fact that the HR manager -

MR FOGARTY: HR manager had - by phone -

15 MS TAYLOR: - had advised us by phone of his qualifications.

MR FOGARTY: And, further, I think you say there:

20 "Provide information about Mr Wise by email, including he was a codirector of Worksite Investigations and was registered."

Which is what you said in terms of a national and private inquiry agents licence New South Wales and equivalent version in Victoria and Queensland. Afford, I think is the next paragraph:

25 "Afford sought and granted permission from police to for that external investigation to occur."

MS TAYLOR: Yes.

30 MR FOGARTY: Shortly after the - I think in your statement on 25 September - and still on the same page, page 35, paragraph 148 - 25 September Afford submitted the Wise final report.

35 MS TAYLOR: Yes. No, sorry, that is - sorry. That's a final report for the reportable incident.

MR FOGARTY: That's what you were referring to.

40 MS TAYLOR: So that's what I was referring to previously.

MR FOGARTY: Sorry, so 25 September, my mistake, 147, the paragraph before, says:

"Afford submitted the final report for reportable incidents on that date."

45 Then three days after that, this is when, isn't it, 28 September 2020, the NDIS Commission writes back and, having looked at this final report from Afford, and indicates that the reportable Incidents Officer telephoned Mr Adamson - who I think had submitted the final report on behalf of Afford - in relation to the conclusion of a number of participants' names other than Jason in the "subject of allegation person with disability" sections of the final
50 report. In other words, the NDIS Commission requested, didn't they, that - that the final

report needed to - firstly, that they needed to notify the NDIS Commission of these separate reportable incidents. I don't think they'd been done till then, is that correct, the 28 September 2020?

5 MS TAYLOR: Yes, because as I said earlier these - the police were investigating the matter, and it came to Afford and police's attention that there were more participants affected by Mr Nuumaalii's abuse than had previously been understood. I think that's the case.

10 MR FOGARTY: Well - so this is five months after the first two reportable incidents about Jason were notified. The final report is submitted by Afford and even in the final report they're only still referring to Jason and the reportable incidents in respect of him; isn't that the case and that's what this -

15 MS TAYLOR: Because that's that notifiable instrument - I'm sorry - that is that reportable incident record.

MR FOGARTY: In this paragraph, doesn't it say that:

20 "The NDIS Commission, the officer called Wayne Adamson" -

MS TAYLOR: Which paragraph are you referring to?

MR FOGARTY: Paragraph 148, 28 September 2020:

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"The reportable incident officer telephoned Mr Adamson in relation to the inclusion of a number of participants' names."

30 And then further - later on that day, the reportable incidents officer emailed Mr Adamson in an email included following - if you turn to the next page and this is where, isn't it, if you read it:

35 "It has now been established that the allegations concerning Mr Nuumaalii have also impacted other NDIS participants in connection with supports and services."

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So this is where, isn't it, the NDIS Commission on 28 September 2020 after a final report from Afford says, "Hang on a minute, we've looked at your final report, these allegations affect or impact others, not just Jason." And then if you keep reading:

40 "A separate final report for each of these incidents is not required."

This is with respect to the other impacted persons or the other reportable incidents:

45 "However, we would expect Afford to consider the impacts of the incident allegations on each individual participant and provide details of the specific response and supports provided by Afford to each participant. Please respond to this email at your earliest opportunity acknowledging the final points: (1) the additional subjects of allegations in the final report were entered erroneously and are, in fact, impacted persons."

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And then, secondly:

5 "That you understand the requirement to lodge a separate reportable incident notification ASAP for any additional possible impact by the allegations around Mr Nuumaalii."

10 Do you agree this is the time when the NDIS Commission itself notified Afford that there are other impacted persons and that they needed to - to, then, notify? And the next paragraph, that very day - and I think I suggested that to you earlier - Mr Adamson did email back the reportable incidents officer advising he'd completed reportable notifications of those other six. In other words it would appear, wouldn't you agree, that Afford wasn't aware either that it had - well, it appeared that it didn't know it was required to submit separate reportable incidents for the six other persons who were the subject of Mr Nuumaalii's abuse?

15 MS TAYLOR: That would appear to be so. The officers requesting that notifiable - reportable incidents for each of the other participants that were identified in the final report from Afford should be notified separately, albeit the final report would, because it addressed the broader issues, would be - would cover those. So we asked, so that 20 there's an individual record of the incident as it relates to every participant who - that was affected.

MR FOGARTY: That would also assist - would make your accurate your data.

25 MS TAYLOR: That's correct.

MR FOGARTY: Alright. So, that day Mr Adamson submits those six reportable incident notifications, 28 September. Then if you move to the next paragraph, paragraph 150, two days later on 30 September 2020 the NDIS reportable incidents officer assessment submits 30 a concluding assessment, and that's submitted internally, correct?

MS TAYLOR: That's correct.

MR FOGARTY: And sets down information and conclusions from the final report - I 35 won't use final - the report by Mr Wise, and this is at 151.

MS TAYLOR: Mm-hmm.

MR FOGARTY: If you turn to the next page and paragraph 152, there's an excerpt I think 40 you include there from this internal concluding assessment which reads - and this is, as I understand, in reference to the report by Mr Wise and also the final report. Would that be right? Where it says:

45 "Based on this information."

MS TAYLOR: Yes, that's correct

MR FOGARTY: Alright:

5 "The provider appears to have responded appropriately to this incident. While it is apparent that the SOA worker, Nuumaalii, is alleged to have committed acts that both contravened the NDIS Code of Conduct and the law, it is unlikely the provider could have known about and prevented these actions based on the evidence submitted in the final report. I therefore recommend the notifications relating to this matter be considered for closure."

10 Do you agree this excerpt, and I accept it's only an excerpt, makes no reference to what Afford may or may not have been doing or steps being taken in respect of, for example, a risk assessment or reforms internally to reduce the risk, and ideally eliminate the risk, if they could that this sort of abuse wouldn't happen again, in this summary. There's no reference to that. Do you agree?

15 MS TAYLOR: Well, this summary is one paragraph of a very extensive lengthy concluding assessment which does make some reference to some adjustments that have been made by the organisation if I recall correctly.

MR FOGARTY: Yes.

20 MS TAYLOR: So the concluding assessment is a lengthy document. As you say, this is one expert - excerpt to the point of what I've been asked to comment on -

MR FOGARTY: Question.

25 MS TAYLOR: - by the Royal Commission in my statement.

MR FOGARTY: Alright. The next paragraph, paragraph 153:

30 "10 days later on 10 October 2020 the concluding assessments approved by the by the Assistant Director of Reportable Incidents New South Wales, ACT."

And then the Commission's oversight of these reportable incidents was - or this matter was closed; correct? Or were closed?

35 MS TAYLOR: Yes, because the - these matters as reportable incidents, we concluded the assessment of them and, you know, to take that extract, made a concluding view or the officers who were assessing it had made a concluding view. But the records remain available to the Commission and inform part of our overall information about a provider. They don't - just because a record happens to be closed because there are no further actions
40 that the officers consider need to be taken in relation to a particular incident doesn't mean that the record is not drawn upon or referred to and -

MR FOGARTY: No longer relevant.

45 MS TAYLOR: - no longer relevant to our oversight of a provider.

MR FOGARTY: Alright. I understand. Do you accept that the concluding assessment by the Reportable Incidents Officer of late reportable incident notifications - the assessment - that the provider appears to have responded appropriately to this incident, relies virtually

entirely on the investigation conducted in the report by Mr Wise? His findings, conclusions and recommendations in his final report, or do you not accept that?

5 MS TAYLOR: He does. I might need to remind myself about whether or not there was connection between our - our staff who were engaging with police at the time also. I couldn't - I couldn't say with certainty that there wasn't other - there weren't other things that were taken into account in that conclusion.

10 MR FOGARTY: You'd agree, from a general proposition, that the abuse perpetrated by Nuumaalii, and I should say at least as alleged at this time and, of course, the prosecution and the police inquiries hadn't concluded in October 2020, but they were very serious.

MS TAYLOR: Of course.

15 MR FOGARTY: Involving people of high support needs?

MS TAYLOR: Of course.

20 MR FOGARTY: Can I ask you - provide you a copy of a document, and this is the Wise report hearing bundle D tab 130 - I provide you a hard copy, Ms Taylor, so you can - I can take to you page - just to page 12 - well, yes, just to page 12. Are you familiar with this document, before I take you to page 12?

25 MS TAYLOR: I have - I have seen it, yes.

MR FOGARTY: Have you read it in preparation to giving evidence at this hearing?

MS TAYLOR: I read it in preparation for my statement, yes.

30 MR FOGARTY: Alright. At the bottom of page 12, do you have that? I think it's the second last page?

MS TAYLOR: Yes.

35 MR FOGARTY: The comments section, it starts:

40 "Throughout our investigation, it has become evident that generally the employees of Afford are working for the betterment of the lives of the clients. To that end, the events surrounding Daniel Nuumaalii appears to have been a shock for most employees."

Next paragraph:

45 "It is highly likely Afford management may receive reports of concern in the near future where one staff member has concern about another staff member. This is because a number of Lifestyle Assistants are questioning themselves as to why they did not see any signs in Daniel Nuumaalii and in part blame themselves for not being sufficiently observant."

50 Then this next paragraph:

"Without the full facts from the police, it is extremely difficult to say what could or could not have been observed or detected in Daniel Nuumaalii's actions."

5 And then the rest of that paragraph:

"It is also possible he was highly secretive about his actions as he was well aware his actions were inappropriate."

10 Just one more paragraph, but that's essentially, would you agree, the concluding comment of this report?

MS TAYLOR: Yes.

15 MR FOGARTY: The part where he says, or writes:

"Without the full facts from the police, it's extremely difficult to say what could or could not have been detected in Nuumaalii's actions."

20 Do you agree that's a limitation on the efficacy of this report?

MS TAYLOR: No, I don't think I do.

25 MR FOGARTY: Wasn't he asked to identify what could or could not have been done to detect it? Isn't this the essence of what the section 26 letter asked of this external investigator?

MS TAYLOR: Can you refer me back to the - so I can just look at that part of my statement again with the excerpt from the 26 letter, please?

30

MR FOGARTY: Yes.

MS TAYLOR: I think it's 140, sorry.

35 MR FOGARTY: Yes, 140, you're right. That's an extract of the 26 letter. I'll let you read that.

40 MS TAYLOR: So there almost certainly would be additional information that would come up from the police in the course of investigating a criminal activity, but - but I don't think there would be limitations in what Mr Wise could have done by way of the things we've asked him to look at around broad supervision. There might be other things that would come out that would cause him, if he was asked to amend his - his investigation report, if there was something significant, and, as I said before, just because we close a reportable incident, if there was issues that came to us by the police because we had an ongoing
45 dialogue with them around this matter, as I said, it's still a matter that's under consideration. The reportable incident is closed, but the matters around Mr Nuumaalii are not. It still remains as part of the information available to the Commission.

MR FOGARTY: The Commission didn't request a follow-up or, you know, "Wait until the police had finished and we'd like to do a - we'll keep this open and we'd like then to have a follow-up investigation when we know more in the next year", did it?

5 MS TAYLOR: No, we didn't.

MR FOGARTY: But the powers under 26 extend to doing that, correct? That could have happened?

10 MS TAYLOR: Yeah, that could have happened.

MR FOGARTY: Are you aware from your knowledge of this report that Mr Wise's investigation didn't actually involve speaking with or interviewing any of the alleged victims of Mr Nuumaalii or their families?

15

MS TAYLOR: I - I haven't looked at his report in some detail for a couple of -

MR FOGARTY: Do you accept that?

20 MS TAYLOR: - for several weeks, so I accept that.

MR FOGARTY: Alright. Do you agree that's a limitation on the efficacy of this report? Or put it -

25 MS TAYLOR: I would always say that it would be appropriate and very useful for participants or their representatives to be engaged in - in investigations of this type. This was a matter though that - where there were charges, and in my report - in my statement, I do say that even in getting the investigation underway, it was necessary for Afford to seek agreement from the police to do that. So I couldn't say whether or not it was possible or not
30 possible for Mr Wise to have done that because of the police proceedings that were underway at the same time.

MR FOGARTY: The police gave approval in June 2020, I think, virtually simultaneously to the request being made - in your statement, it essentially says that. They -

35

MS TAYLOR: Yeah, they did, but I can't speak to who they might have been speaking with as part of their investigations or what they might have been -

MR FOGARTY: Or what permission was given in terms of -

40

MS TAYLOR: What permission was given, what the police might have been exploring as part of their investigation.

MR FOGARTY: So is your concern, perhaps, that if Mr Wise had interviewed the alleged
45 victims or their family it might have prejudiced the police proceedings?

MS TAYLOR: It might have been a consideration.

MR FOGARTY: If you accept from me this report makes no reference to a risk analysis or a root cause analysis is that something you think is a - or would consider a concern in respect of this report, in terms of the 26 request?

5 MS TAYLOR: Well, we hadn't asked for that, but that doesn't necessarily - that doesn't mean that we wouldn't expect the organisation as part of its final report to not include references to those things.

10 MR FOGARTY: You refer to the final report, and that was my error, I didn't pick it up and you picked it up. You're not aware whether or not there was such a risk assessment referred to in the final report of 25 September 2020 that that Mr Adamson submitted?

MS TAYLOR: I can't recall that, I'm sorry.

15 MR FOGARTY: But we do know at least from your statement that there were six other persons that the NDIS Commission didn't notify Mr Adamson and Afford of from that final report to notify - to formally notify of reportable incidents and some directions about considering the impact on them; correct?

20 MS TAYLOR: Yes.

25 MR FOGARTY: Alright. Are you satisfied that the closure - and I note what you say, that it doesn't mean that it's not, my word, dead letter - it's something that's relevant to the NDIS Commission - that is, the Nuumaalii abuse and the material that was provided, the Wise report, the final report by Afford - are you satisfied that, when you review this closed investigation, that it was an adequate investigation of what I think you accept are very serious incidents?

30 MS TAYLOR: I think it's an adequate investigation for what we asked Afford to explore through this investigation, yes.

MR FOGARTY: Per the section 26 letter.

35 MS TAYLOR: Yes.

MR FOGARTY: Referred to or at least extracted at paragraph 140 of your statement. Alright.

40 MS TAYLOR: Mm-hmm.

45 MR FOGARTY: I think yesterday you gave evidence that you hadn't been able to follow all of the evidence of Sally, Lilly, Suzie and Rob on day 1, or that you necessarily had been able to read through all their statements. But if you accept from me that their evidence is that Afford didn't provide a written apology or offer any form of redress to Jason or Toby, them being victims, and indeed alleged victims at the time as at October 2020 when the matter was closed, or their families, do you accept the concluding assessment by that officer, that the response by Afford is - has been an appropriate one when that hasn't happened? The concluding assessment might:

50 "The provider appears to have responded appropriately to this incident."

5 If you accept from me that no written or formal apology was provided, and no offer of redress. The only offer that was made on the evidence so far was a phone call from the CEO offering counselling. Do you consider that's an appropriate response to these incidents by Afford?

10 MS TAYLOR: Well, I said before that that's one paragraph in a very lengthy concluding assessment when the detail of which I don't know. All I can say is that, you know, I do think it's appropriate for providers to engage sensitively with participants and their families who are affected by incidents. Whether or not in this case the organisation accepts that responsibility, it's a criminal matter, and Mr Nuumaalii was responsible for the abuse. I wouldn't like to comment on - on that, of course. But if - I always think it is good practice for an organisation to engage with sensitivity and empathy for participants and their families where they've been affected by horrible events, while they're being supported by the organisation.

15 MR FOGARTY: Alright. But that may not have been something that's encompassed by the concluding assessment and -

20 MS TAYLOR: I couldn't say because I can't recall the concluding assessment. As I said, it's very lengthy.

25 MR FOGARTY: Your statement refers to "credentials" - my words - being passed from Afford to the NDIS Commission in respect of Mr Wise and then each of the relevant licences. Were you aware that Mr Wise and Workplace Investigations had been engaged by Afford's former CEO, Mr Steven Herald in January of the same year, 2020, to investigate alleged breaches of Afford's Code of Conduct by a senior executive in the Afford workplace?

30 MS TAYLOR: No, I'm not aware of that.

35 MR FOGARTY: And he'd provided a preliminary report to Afford's Company Secretary on 9 March, so a couple of months before it was proposed by Afford that he would be engaged in the external investigator role. Are you aware of that?

MS TAYLOR: No, I'm not aware of that.

40 MR FOGARTY: Does that - my words - "bar association or contact" cause you any concern in terms of him being an external investigator?

MS TAYLOR: No. Not - I don't have any knowledge of the things you've just asked me, whether I know about or not -

45 MR FOGARTY: Yes.

MS TAYLOR: - so I couldn't say. But it's not - it's not unusual for organisations to use multiple independent investigators and to use some for different matters.

50 MR FOGARTY: Well, in this case it's the same one.

MS TAYLOR: But it's a different matter what you've just described, an entirely different matter.

5 MR FOGARTY: Alright. I'd like to move, please, to the latter parts of your statement in respect of certification audits by approved quality auditors. You move, I think, to paragraph 154. In Afford's case, SAI Global Pty Ltd has been conducted a stage 1 and stage 2 audit in February and March 2020, and there's a mid-term audit that is current. Do you consider - and I understand you've given evidence or evidence on your behalf was given at a prior Public hearing 20 in respect of the material that the quality audit has in front of them when conducting an audit of the service provider against the NDIS practice standards, and you give some evidence in your statement here about whether the auditor is - has before them complaints about a service provider in a relevant audit period, received by the NDIS Commission and reportable incidents from the relevant audit period notified to the NDIS Commission. The current status, isn't it, is that that's a case-by-case scenario, that there's no guarantee that an auditor will have that information in front of them when conducting an audit; is that right? As a case-by-case basis, I think the wording you use in your - it can happen, the NDIS Commission can provide - this is paragraph 175:

20 "Can provide quality auditors information about complaints and reportable incidents relating to a registered NDIS provider on a case-by-case basis."

MS TAYLOR: Yes, that's what my statement refers to and I've given some evidence about that before.

25 MR FOGARTY: Yes.

MS TAYLOR: We do have a piece of work which is underway about giving quality auditors a view of the interactions between the Commission and a provider. That is - that's not a simple process. We - we are considering what kind of information should be made available to a quality auditor, and the form in which it would be provided. I can say that the new Commissioner has taken a very significant interest in how the registration function of the Commissioner evolves after the first almost four years of operation, and we've got a very significant body of experience around the quality auditor program and - and she's expressed an interest in doing a very specific review about the role of auditors, what information - how we use information that comes from auditors and how we provide information from auditors and, indeed, what role they might have in the future.

40 So I'm sure the Royal Commission might be interested in - in that particular direction. This is an evolving area for us. You mentioned that a mid-term is underway for Afford. We're in very early stages of - of having providers undertake mid-terms, most providers having only commenced, or just concluded, rather, a first-pass registration if they were transitioning providers or for new providers coming in, having undertaken a - an audit of whatever form they're required to have. So there are some - it's an interesting set of considerations about what we might give an auditor.

45 We don't want auditors duplicating the work of the Commission, for example, so it's - it's our job to look at complaints and to explore those with complainants. It's our job to look at reportable incidents and to assess a provider's response to those. At present, the auditors' responsibility is to look at all the standards that are relevant to a provider and to make an assessment about whether or not, based on what's in our auditor guidelines, the provider

conforms with those particular standards, using the quality indicators as the reference point for making that - undertaking that assessment.

5 MR FOGARTY: But part of those standards cover, don't you agree, risk management, incident management, looking at some of the headers from one of the reports I'll take you to?

MS TAYLOR: Yes, they do.

10 MR FOGARTY: So isn't there a risk that the quality auditor doesn't have a full picture of the extent to which service providers are or are not providing safe and quality services to NDIS participants if they're not aware of all the of the complaints that have been made to the NDIS Commission about a service provider and all – importantly - reportable incidents notified? Isn't that a blind spot to make those assessments about risk management,
15 governance, quality management, incident management?

MS TAYLOR: Can I just - you just made reference to a quality audit and making an assessment about whether a provider is providing safe services. It may sound odd to say this, but it is not their job to assess that. Their job is to assess whether or not a provider is
20 meeting the standards which are framed around each participant's experience as true. It's the Commission's job to determine whether or not there are any issues with the safety of those supports. The provider - the auditor might identify risks or gaps in evidence from the provider or, indeed, in - in their - in their site visits or interviews with participants and their supporters that would suggest that there are gaps against those indicators in -

25 MR FOGARTY: Sorry.

MS TAYLOR: Well, and I think you can focus on - what I need to focus on, I guess, in my response here is the role of this audit is to assist the Commission in determining
30 whether to register a provider or not, and, as I said yesterday, that audit sits within the broader Commission's functions. It sits alongside other information which the Commission takes into account, which includes complaints and reportable incidents to make a registration decision. Yes. And I - I don't want to mislead you in terms of my view on this.

35 The reason we have a project underway to give access to auditors is - I do think it is important that we give that. But, as I've given evidence in hearing 20, there needs to be some consideration about what that information is, and I guess what I'm saying, is that the Commission is considering that carefully, and the new Commissioner, particularly, has an interest in making sure that how that information flows or whatever else she might wish to
40 have auditors focus on is done with due consideration.

MR FOGARTY: Alright. So the auditors are essentially holding up the - the service provider against the practice standards, or auditing and checking those. One of the practice standards is freedom from violence, abuse, neglect, exploitation or discrimination, isn't it?

45 MS TAYLOR: Yes, it is.

MR FOGARTY: Alright. And so that's something, do you agree, that the auditor ought to be considering in its report?

50

MS TAYLOR: Yes, and the indicators that would assist an auditor in assessing whether a provider met - was meeting that standard are set out in the quality indicator guidelines.

5 MR FOGARTY: But you're saying that the audit is not requested specifically around the safety of NDIS participants and the service provider?

MS TAYLOR: The auditor - the audit as a whole is not for that purpose. The audit is for the purposes of determining registration.

10 MR FOGARTY: Yes.

MS TAYLOR: And, as I said in - yesterday, the Commission takes into account everything it has on hand.

15 MR FOGARTY: Including - it does a suitability assessment?

MS TAYLOR: It does a suitability assessment. We look at our own records, including the records around incidents and -

20 MR FOGARTY: Complaints.

MS TAYLOR: - complaints received, and any other information we might have from regulators and other bodies

25 MR FOGARTY: To make that final decision?

MS TAYLOR: To make that final decision. But also I think registration sits within a cycle which includes our ability within that cycle to undertake our own compliance and enforcement activity at any point.

30

MR FOGARTY: Alright. At paragraph 155 to 168 you refer to Afford's first certification audit, which was done by SAI Global in 2020, February and March 2020. I'll summarise, tell me if you disagree; the outcomes of the stage 1 audit were that there were some areas of concern identified, paragraph 162 of your statement, but a recommendation was made that a stage 2 audit proceed; is that your understanding?

35

MS TAYLOR: Yes.

40 MR FOGARTY: Then the outcomes of the stage 2 audit, which - I think the audit report was in March - was that there were 12 non-conformances and a non-conformance report dated 27 March 2020 was provided and, for the benefit of the Commissioners, that's behind hearing bundle B, tab 264. So that formed part of the stage 2; is that correct?

MS TAYLOR: Yes.

45

MR FOGARTY: Taken that from paragraph 104 of your statement.

MS TAYLOR: Yep, that's correct.

MR FOGARTY: And then at 168 of your statement, the auditor's submission of its certification was to the effect that Afford had been assessed as meeting the applicable standards and other requirements prescribed by the NDIS practice standards. Do you agree that's essentially the recommendation that - concluding recommendation?

5

MS TAYLOR: Yes, because it can only be one thing or the other, so either - either the issues are resolved through the course of the audit, so anything that might be identified - and just emphasise that not in regard - I don't want to make those statements in regard to Afford - but, generally, this - these audits, particularly for transition providers, are the first time that they're undertaking a self-assessment and an independent assessment against practice standards that are new, introduced and coming into effect at the point that the Commission commenced in each jurisdiction. When a provider did transition to the - under the Commission's jurisdiction, only some of those standards were relevant for compliance purposes. So there were transitional arrangements in place that specified certain standards, and they're set out in the rules that were relevant at the point of transition, until such time as a provider re-registered with the Commission in which - at which time, if it was agreed that all - all the standards would be relevant.

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Now, the reason I point that out is because this is a transitioning system, these are first-pass audits in a completely new system where this form of assessment was not undertaken routinely in most jurisdictions. And - and there's, you know, given we've been in operation for - for coming on four years now, and in three years in some jurisdictions, and only 19 months in WA, these first passes, whilst they're critical to inform an ongoing - whether someone should retain a registration or be registered, they are the first time that a provider will have established the systems and engaged in - in this particular process.

MR FOGARTY: So is that a limitation on, for example, this stage 2 audit report that it's -

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MS TAYLOR: No, I don't think it's a limitation on the audit report at all. I'm just reflecting that the way that the structuring of the audits therefore work is that there's a self-assessment, there's a stage 1 audit report that looks at the self-assessment and other desktop matters, and there are generally, you know, a number of non-conformities that would be identified through that. So the job of the audit in informing a registration is as much about that binary consideration about whether someone does or doesn't meet the standards in order to inform a registration as it is about education and supporting a provider to understand what the standards mean, alongside the other mechanisms they would have for getting feedback. It includes a view from participants about whether or not they experience those standards in the way that they're now set out. And I might - I can also add that this is a very new process for participants and their families and, over time, will become a more and more empowering one for the people who are receiving supports and services.

45

MR FOGARTY: While it appears to be a binary recommendation, you agree that the details of these reports are important because you can drill down and essentially scrutinise why there's the final recommendation, can't you?

50

MS TAYLOR: Well, we can. But the thing that is - that you've asked me about, what information we're planning on providing the auditors from our systems, every day our staff look at these audits when they're dealing with compliance matters or with - with any

number of matters, people - people will look to these reports as part of the record of the provider to inform our own views about things, the providers might have had to have remedied in the course of undertaking the audit for the - for the binary recommendation of - from the auditor about whether to make a certification recommendation as part of a decision to register or not. So - so I guess my point is that it goes both ways. They are - they are useful documents for the Commission. They are useful documents for the provider.

MR FOGARTY: The Commission decided to re-register later that year, correct? I think that was your evidence yesterday - in September?

MS TAYLOR: Yes.

MR FOGARTY: At paragraph 114 of your statement - just jumping back - you say the following I'll read it to you and you can read it there if you'd like to:

"Afford's demonstrated underreporting in the past, including the quite recent past. Recent uncertainty around when incidents of missed medication require notification suggest to me that Afford may not be complying with its obligations to notify the NDIS Commission of reportable incidents in accordance with section 73Z of the NDIS Act and the incident management reportable incident rules."

So that's paragraph 114 of your 22 April 2022 statement. Bearing that in mind, do you have any cause for concern around the recommendation made in March 2020 by the quality auditor, or you don't? Or you say it's not that rudimentary?

MS TAYLOR: It's not that rudimentary. It's - so my assessment in paragraph 144 is about the monitoring of the Commission around reportable incidents, and the management of those reportable incidents, and the nature of matters that are reported. The quality auditor does look - they look across all the standards, and, in the context of the incident management standards, they are - we are not asking them to explore in as much depth or anywhere near what we explore as part of our monitoring of the condition that's subsequently imposed on the provider of registration around compliance with the - their obligations under the reportable incident - the incident management reportable incident rules.

MR FOGARTY: I see. The - I note the time, Chair. I don't know, Ma Taylor, whether I can continue. I've got a bit to go. It's taking longer than I anticipated to proceed.

CHAIR: If you've got a little while to go, I think we might take a break now. It's now 11.15. If we resume at 11.30, can you give some indication of how long you're likely to be with Ms Taylor.

MR FOGARTY: Half an hour and I'll sit here and -

CHAIR: Half an hour.

MR FOGARTY: - refine, refine.

CHAIR: I bear in mind the notorious unreliability in barristerial estimates of time, but I'll take that into account. We'll adjourn for 15.

ADJOURNED 11.13 AM

5

RESUMED 11.31 AM

CHAIR: Yes, Mr Fogarty.

10 MR FOGARTY: Thank you, Chair.

Ms Taylor, if I can show you a copy of the SAI Global stage 2 report which is behind hearing bundle D, tab 6. A hard copy will be brought to you. It's only part of this that I'd like to take you to notifying the undertaking. If you could go to pages 22 and 23 of that document. So this is the stage 2 audit report from - I think it's dated 27 March 2020. Two points. If you go to pages 22 and 23, 22 you see a table with header 2.6 Incident Management.

15

MS TAYLOR: Yes.

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MR FOGARTY: And that's one of the - obviously one of the parts or one of the NDIS practice standard parts that the auditors reviewed as part of this audit. It says, you'd agree:

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"Outcome: Each participant is safeguarded by the provider's incident management system ensuring incidents are acknowledged, responded to, well managed and learned from."

And a rating of 1. And work down that column, conformity, there's a minor non-conformity and that seems to be in respect of each participant:

30

"Is provided with information on incident management, including information on how incidents involving the participant have been managed."

35

And the next two rows on conformity. I won't read through those for paucity of time. And, again, this is March 2020. Can I take you down to underneath that evidence box in the last dot point, it says:

"The DM and EM."

40

Do you see that?

MS TAYLOR: Yes.

45

MR FOGARTY:

"The DM and EM manage the reportable incidents to the NDIS Commission through the NDIS Commission register."

50

Then it says:

"Cites of two reportable incidents were reported to the NDIS Commission in 2020."

And then some references are given there to the 24-hour and the five-day reports. Then over the page:

5

"An incident report number 15024 was investigated with further action taken by DM."

Then the next bullet point:

10

"Cited incidents recorded in the" -

It says "CMIS system"; I think that might be the CIMS:

15

"Incident ID and the number dated 10 March 2020 with record of analysis and action defined to prevent the reoccurrence."

20

And then further reference to reportable incident there. Now, you're not the author of this, and I don't expect that you've read that detail. Underneath it though, again you're not the author, opportunities for improvement, it says nil, and underneath that, the non-conformity, there's one dot point that says:

25

"While Red Alert post that is available on Afford sites, the process to provide the information on incident managements to participants is not clearly defined when participants are using services that are provided off site - are provided off site of Afford premises."

You agree here, and again you're not the author, but there's only the citing, or citation of two reportable instances reported to the NDIS in this part of the report?

30

MS TAYLOR: Yes, that's what's authored. That's what the - the - the auditors looked at.

MR FOGARTY: At this time, I think February, sorry, was the month before was when the audit was conducted, the - this audit report was, I think you said, this was the first for Afford, first audit, first quality audit.

35

MS TAYLOR: Yes.

CHAIR: I think you'll find it was March 2020.

40

MR FOGARTY: This report was, Chair, and I think - yes, sorry, Chair, that's so. And page 3:

"SAI Global conducted an audit of Afford on 16 March 2020 to 27 March 2020."

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CHAIR: If we go back a step, I think you'll find on pages 6 to 8 it records the visits that were undertaken. Those visits were undertaken between March 17 and March 27, apparently, of 2020, and the report is prepared almost instantaneously thereafter.

50

MR FOGARTY: Yes. There are some other details, Chair, in terms - and I don't propose to take Ms Taylor to them, she's not the author - but in terms of -

CHAIR: Well, I'd just like to ask Ms Taylor something. Ms Taylor, are you familiar with this document.

5 MS TAYLOR: I haven't read it in detail, but I'm familiar with the nature of the document, yes.

CHAIR: It records, pages 6 to 8, that there were visits to a number of sites.

10 MS TAYLOR: Yes.

CHAIR: You see that?

MS TAYLOR: Yes.

15

CHAIR: Were any of those sites day programs? If you don't know, fine.

MS TAYLOR: I couldn't - I couldn't say just from looking at this - this, Chair.

20 CHAIR: The certification or the registration covered day programs, didn't it?

MS TAYLOR: Well, it covered classes of support which are on the cover of the report, yes.

25 CHAIR: Yes. How can - if it be the case - and we'll have to ascertain whether it be or not - but if it be the case that they didn't visit any day programs, how can an audit be satisfied or reach a conclusion that there should be registration that permits the conduct of a day program?

30 MS TAYLOR: Because we're not registering for every single - let me reframe that. The practice standards apply across classes of support and are, at the moment, agnostic to setting. So the manner in which those reports are assessed is set out in the guidelines. It covers the classes of support in aggregate that a provider is seeking to - seeking to register for. Ideally the sites that are chosen would be sites that were representative of the spectrum
35 of activities that a provider was registering to deliver.

CHAIR: Alright. Well -

MS TAYLOR: I will say -

40

CHAIR: We will need to ascertain whether any of these sites were day programs, but I take it you would agree that if there is to be an order that says, yes, registration can take place, including activities such as the conduct of a day program, that at least a day program ought to be visited in order to make some sort of assessment of it?

45

MS TAYLOR: Well, as I say, ideally we'd like the audits to - to cover a sampling of sites that's representative of the breadth and diversity of the supports and services the auditor's providing. I couldn't say why a particular - I can't tell from these addresses what is or isn't a day program. I - I do, though, just reflect that this was at the beginning where we were
50 getting significant numbers of notifications from providers about -

CHAIR: Yes. I'll take that as a complicated way of saying yes.

MS TAYLOR: Well yeah, sure. Yep.

5

CHAIR: Okay.

MS TAYLOR: We were in the beginning parts of the pandemic, Chair, and, you know, providers were not necessarily, and participants alike -

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CHAIR: If you go to page 29, you will see there's a report on service agreements with participants. The outcome is each participant has a clear understanding of the supports they've chosen and how they'll be provided. The evidence that we have heard relating to a particular program rather suggests that that may not have been the case. Again, my question is: what measures are taken to ensure that the audit does, in fact, get a representative sample of the services for which registration is to be approved?

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MS TAYLOR: So the sampling is set out in the auditor guidelines around the sites that are chosen. There are also comments in this audit report, both positive and negative from individuals who were interviewed as part of that audit process. The provider - the auditor also looks at records available. It's not just reliant on site visits, but records of the provider, for example, samples of complaints and other matters, to see whether or not there's the evidence available, which is set out in - in - below that table on 30 - page 31 in this example about the evidence that was taken into account to inform where or not conformity was considered to be.

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CHAIR: I'm not suggesting that the audit wasn't carried out in accordance with whatever guidelines were in force. What I'm looking at is whether the guidelines are satisfactory to ensure that the audit process really interrogates what needs to be interrogated. Can we go to page 34. Management of medication, outcome:

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"Each participant requiring medication is confident their provider administers, stores and monitors the effect of their medication works to prevent errors or incidents."

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Rating is 1, which is a minor noncompliance, or non-conformity, and the same applies to the next three boxes which deal with medication. The opportunities for improvement are stated at page 36. It wasn't evidenced that the records clearly identified the medication and dosage required by each participant. What one doesn't get from this is any sense of a very large number of incidents of failure to administer medicines in accordance with the requirements of participants that the NDIS Commission subsequently learned about. My question is: is this a matter of concern for you?

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MS TAYLOR: So one of the - this is - this a stage 2 report and it follows the stage 1 report and a three-month period of the organisation being asked to address non-conformities that were - that had been identified in that first stage to improve issues, including, as I understand it, around - around medication management. So the - so the upshot of - of the work to address the issues that have been identified in the first stage of the audit, this is the concluding assessment at that point in time. And, as I said earlier, the Commission then monitors compliance through a range of mechanisms to determine

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whether or not, in a much broader sense, through our functions of looking at incidents and through complaints, that the organisation is continuing to meet its obligations.

5 CHAIR: We now know, based on the concessions made by Afford that are recorded in your statement, that Afford operated on a very serious misconception of its responsibilities concerning reportable incidents which involved the failure to administer correct medication. And yet, during the relevant report of this audit - and yet we see nothing to indicate that the auditors, for example, had made any inquiry as to whether Afford understood its basic obligations. Is that a fair assessment? All they had to do was ask.

10 MS TAYLOR: Technically no. No, because it - because the audit, as it relates to, you know, the incident management standard and the indicators, do not ask the auditor to determine whether or not the provider's conforming, you know, meeting its obligations to the Commission around reports. Now, I can see that that's something that I think we will look at in the future, about what else we might ask an auditor to look at as part of a maturing of this model. I think that there are opportunities for us to do that.

15 But as - as the - as the program is - is writ now, the incident management is about the incident management system that the organisation has in place, and the things that - that I'm just saying, described, not whether or not the provider is meeting conditions of its registration around reporting of incidents. And the - so the Commission monitors those things, and the Commission, through those - those, you know, monitoring the compliance of an organisation around its reportable incidents, might identify at some scale, as we have, issues around failure to report incidents.

20 And - and we will then take compliance action to bring that provider back into conformity with its conditions of registration, but, Chair, at the moment the auditors are not asked to assess conformity with conditions of registration and with the rules. So, in this context around incident management, for example, the indicator is about whether or not the provider's incident management system meets the requirements under the - the rules. The rules are - have two parts to them.

25 One is about the incident management system that specifies what the incident management system of any provider would - would contain, and how it would be managed, and then the second part of that rule relates to the reporting of incidents to the Commission, as well as obligations that, or powers available to the Commission as we've talked through earlier.

30 CHAIR: I understand what you're saying about the room for modification of the process in the light of experience. But do I take it from your answer that it was not part of the auditor's function at this stage of the registration process to make a judgment as to whether Afford understood its incident reporting functions and was abiding by its responsibilities to report incidents? I gather from what you're saying that's not part of the audit function.

35 MS TAYLOR: It's not part of the audit function to assess whether they're complying with their obligations to report incidents to the Commission, no; that's our job to manage.

40 CHAIR: And is that something that deserves reconsideration?

45 MS TAYLOR: I think it is something that deserves consideration, yeah.

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CHAIR: Alright. Thank you. I'll try and avoid upsetting Mr Fogarty any more than necessary, but while I'm speaking, and then I promise I'll keep quiet for a while, could you go, please, to - could we have the document behind D130, the investigation. Do you have that in front of you, the report of Mr Wise?

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MS TAYLOR: Yes.

CHAIR: When we look at the report of Mr Wise, and you've been asked some questions about it by Mr Fogarty, as we go through the report, we see on page 8 that:

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"The current District Manager for the day program at Mount Druitt commenced employment just a day before Mr Nuumaalii. The manager admits it was discovered that the Team Leader was failing to fulfil their administrative duties, which led to omissions in work such as the completion of buddy-shift checklists."

15

Buddy shifts was an important part of the checking process, if you like, but we see that there is that apparently quite longstanding deficiency. When we go over to - and I think Mr Fogarty asked you about this on page 10 - the Chief Executive Officer spoke to family members of clients identified in photographs, and it goes on to say that the parents of two clients approached the Team Leader and reported behaviours. But the Team Leader didn't document these reports or escalate the reports as per policy and procedure. One might have thought a fairly serious breach.

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Then one goes on to page 12 and we see from page 12 that:

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"The practice was for the staff to use their own mobile phones to take photographs and taking photographs was encouraged because the families wanted to see their family members enjoying themselves and participating."

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And then we learn that:

"Since the arrest of Mr Nuumaalii, a number of Lifestyle Assistants expressed their reluctance to take anything but a group photograph and, where possible, used the mobile phone provided by Afford rather than their own."

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Now, it might be thought that an invitation to staff members to use their own mobile phones to photograph residents was something that was plainly open to abuse by anybody minded to use their mobile phone for that purpose. And yet we have not only Mr Wise saying, basically its difficult to say whether anything could have been done to stop this, we have the Commission saying, "Oh well, there's really nothing more that could have been done." Even this report doesn't say Afford should never permit people to use - staff to use their own mobile phones to photograph residents.

40

My point is that it seems that there are deficiencies both in the report and in the Commission's acceptance of the findings of the report. I invite you to comment.

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MS TAYLOR: I'm not going to add anything further to what I've already said which is my statement has one paragraph of the concluding assessment which was extensive. And - and look, I think there are - that's all I'm going to - I'm going to rest on that because I think there were other observations made in that concluding assessment and they were, though I

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can't recall them in detail, other things that had been said in the final report from the organisation.

5 CHAIR: Yes, I see. Thank you, Mr Fogarty, I shall take a vow of monastic silence for a short while.

MR FOGARTY: Yes, thank you. Ms Taylor I had you on pages 22 and 23 under the 2.6 Incident Management of the stage 2 audit report in bundle D, tab 6.

10 MS TAYLOR: Yes.

MR FOGARTY: This audit period was from 1 July. I was asking about the period that it was the first such audit, 1 July 2018 effectively to that period in time; correct? So this audit report -

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MS TAYLOR: Can you ask me that again? Sorry

MR FOGARTY: This audit report - the period of the audit report is from 1 July 2018 to March 2020, isn't it? Isn't the audit -

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MS TAYLOR: No, the period of the audit report is for the period that the report was underway. The period of the jurisdiction of the provider and its registration commenced on 1 July 2018.

25 MR FOGARTY: Alright. So it's only that - I think, and the Commissioner prompted me to look at it, on page 3 of the same document, the audit was conducted between 16 March 2020 and 27 March 2020. So it's just that, that's the audit period.

MS TAYLOR: That's the audit period; that's right.

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MR FOGARTY: At that time -

MS TAYLOR: Well, that's the audit period for the stage 2 audit, so this relates to this particular part of that audit.

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MR FOGARTY: At that time, to your knowledge, Afford was aware, wasn't it, that Ms Aprem had died in its care in May 2019?

MS TAYLOR: Yes.

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MR FOGARTY: Again, back at incident management - and it reported that as a reportable incident -

MS TAYLOR: Yes.

45

MR FOGARTY: - notified to the NDIS Commission. You agree that, looking at it a little more carefully, pages 22 and 23 of incident management makes no reference to - and the Aprem matter was still afoot from the NDIS Commission's perspective at the time of this audit; correct?

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MS TAYLOR: Yes, it was under investigation.

MR FOGARTY: The Federal Court proceedings hadn't commenced. No mention is made of Ms Aprem in this part of incident management and if you accept from me - I don't expect you to look through it all, but she's not referred to or that incident is not referred to anywhere in that document, and incident management here gets a rating of 1. Does that concern you that there's no reference - it appears to be that this auditor has no awareness at all, at least if you read this report of the reportable incident of Ms Aprem and the ongoing investigation.

MS TAYLOR: It would be extremely unusual in an audit report for any particular incident to be recorded in any detail. That would not be something that would be usual in an audit report of this nature.

MR FOGARTY: You would say that's outside the guidelines, would you?

MS TAYLOR: Yes.

MR FOGARTY: Alright. But I took you to - so would you accept then - would you accept, then, that the summary, the two bullet points I took to you with report numbers - cited two reportable incidents were reported to the NDIS Commission in 2020. You'd say that's sufficient for the purposes of an audit when assessing 2.6 Incident Management? There's no need to go into any detail of the site visit?

MS TAYLOR: Well, I can't have - I didn't author the report, but also I don't know what was sampled in the stage 1 audit report. This is a stage 2 report.

MR FOGARTY: Alright. Before leaving this document, just for the purposes of understanding of the sample, pages - and the Chair took you to page 8. He took you to a series of pages in respect of the sites that had been visited. But if you go to page 8 you agree - there's an organisational overview and it would appear - a number of staff, and a number of staff files audited. So number of staff 1344; number of staff files audited 10. See that?

MS TAYLOR: Yes.

MR FOGARTY: And then underneath that, total number of participants states: 1429 NDIS participants receiving services. In total, there was 39 interviews across all the sites audited. You see that?

MS TAYLOR: Yes.

MR FOGARTY: Alright. So it would appear from that overview that that was the sampling of staff files audited and interviews of NDIS participants across all sites. Do you agree?

MS TAYLOR: Well, I'll accept the bit below, that is that 25 other participants were invited to participate and opted out.

MR FOGARTY: Alright.

MS TAYLOR: The sampling for audits is set out in our guidelines. Not every participant supported by a particular provider will be receiving as many services as another. It's a market driven system with people with disability who have very varying needs and the sampling takes account of that variation. But, again, as I said, the Commissioner is keen to look at this and whether or not there are any - any adjustments that need to be made.

MR FOGARTY: Alright. If I could ask you, please, to be provided with a copy of the document behind hearing bundle C, tab 8C. It's the, as I understand it, SAI Global surveillance report dated February 2022. This is the - part of, isn't it, the mid-term audit?

MS TAYLOR: Yes.

MR FOGARTY: Alright.

MS TAYLOR: It says "unconcluded" as I understand.

MR FOGARTY: Yes. On the front page before I move onward, just to be very clear about what one can understand from this document - again, you're not the author. The audit date at the bottom of page 1 of 83 says 8 February 2022, 24 February 2022; do you agree?

MS TAYLOR: Yes.

MR FOGARTY: You agree too that there are some site addresses that are set out, if you go back up that page, mid page?

MS TAYLOR: Yes.

MR FOGARTY: Do you see a Paull Street, Mount Druitt address there?

MS TAYLOR: Yes.

MR FOGARTY: You're aware that that's no longer - I withdraw that. Withdraw that question. Can I ask you to turn to page 4 of 83 which appears to be an executive overview, and I am going to take you, Ms Taylor, to your letter of 6 May in a moment, and I think I'd suggest to you now that some of the matters I'll take you to in this executive overview reflect some of the concerns in your letter. I'll ask you about that. If you go midway down you'll see this audit gave, one, two, three, four, about five paragraphs down:

"This audit gave particular attention to"

I think it should say - "mealtime management and severe dysphagia management." Do you see that?

MS TAYLOR: Yes.

MR FOGARTY: The next paragraph:

"The identification of the services provided to the participants proved very difficult prior to and during the audit. The Afford systems would seem to be difficult to interrogate. The identification of those participants with BSPs" -

5 That means behaviour support plans:

- "and mealtimes were a case in point."

Do those remarks and the overview concern you in respect of Afford as at February 2022?

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MS TAYLOR: Well, they're observations in an unconcluded report. But, yes, of course, if the systems are difficult to interrogate for the auditor, but I guess I'm not sure what conclusion I'd draw about what impact the difficulty of the interrogation has, I want to understand that. I might also say, you've asked me to agree that the paragraph before about

15 mealtime management and severe dysphasia management, the focus on those audits would be because we'd introduced those new standards in the year prior.

MR FOGARTY: That you gave evidence about.

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MS TAYLOR: And so we had asked the auditors, where those standards were relevant to a provider, to look at those standards having just been introduced, and so they, yeah, providers were required to commence meeting those standards in the December prior to this report.

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MR FOGARTY: Yes, and so that was a new NDIS standard.

MS TAYLOR: They're both - they're both new standards.

30

MR FOGARTY: You gave evidence yesterday about two others you mentioned. In this case, did the NDIS Commission direct or encourage those auditors to look at that in particular, or -

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MS TAYLOR: We meet regularly with all the auditors committees. There's a very regular engagement with them to update them on things like when we introduce new standards and brief them.

MR FOGARTY: That the 19 on the panel?

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MS TAYLOR: Yes. We also let JAS-ANZ know about these changes. We point the auditors to things like education material that we might be - we might have put out as we did in the case of these things, and we expect auditors to be across the information that we're providing them to help us explain what's expected by those standards, or indeed any other information we push out, which is very frequent around other obligations which aren't new, so standards that are already relevant to providers.

45

MR FOGARTY: Would you agree that mealtime management, severe dysphasia management go towards the safety of NDIS participants?

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MS TAYLOR: I said I thought that was a very severe issue yesterday.

MR FOGARTY: Further down in bold you'll see - this is on page 4 of 83:

5 "The audit revealed that there are some significant gaps in the system as detailed in the non-conformance report. As a result, major non-conformances have been identified."

First bullet point:

10 "There were several areas within mismanagement identified with significant gaps."

Second bullet point:

"Emergency and disaster processes from a corporate perspective were not in place."

15 Then the next page, page 5, the recommendation - and I think this is the - forgive me if this is different to the binary one we were talking about earlier:

20 "The recommendation from this audit is that the organisation does not comply with the requirements of NDIS practice standards."

That's the other - comparing to the 2020 this is the other --

25 MS TAYLOR: Yes, but this is not - as I understand it, this is not a final, and the organisation then has - so the auditor is part of this mid-term.

MR FOGARTY: Yes.

30 MS TAYLOR: And, as I said, mid-terms are very new, so I think I explained that as briefly as I can. But the provider, as with the other audit, non-conformities are identified. The auditor then - the organisation then has time to put in place things to address those, which the auditor then re-assessed. I understand that period is still in play. So the surveillance audit is not final, as I understand it, and we would - so the - the title of this report is the surveillance report. That, in fact, is an old term. We made amendments to the provider registration rules in 2019. There had been a - two surveillance audits. That was
35 changed to one much more comprehensive mid-term audit and the rules were amended to accommodate that. And - and that was really a partner amendment to the change that had been brought about to - around small business. But really these are the first mid-terms that were done.

40 MR FOGARTY: But this is, in substance, a mid-term.

MS TAYLOR: That's right, this is a mid-term in the context of the rules and they're very - it's very early days for us on these.

45 MR FOGARTY: Afford is one of the earlier ones.

50 MS TAYLOR: Yep. And so we're thinking, as these are coming in and we're joining up - as the mid-term - I'm not talking about Afford in this instance, but as other mid terms are starting to come in, the - we're connecting up with our compliance investigations teams where there are matters that come up in those audits to - to correlate anything we might

have on with a provider or to - or to maybe have connection made with a provider around any particular issues that might raise concerns for us. These - these reports don't, in and of themselves, affect the registration decision, but they might lead to compliance activity.

5 MR FOGARTY: Right.

MS TAYLOR: Which might result in an adjustment to registration.

MR FOGARTY: Yes.

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MS TAYLOR: They could and have started to already inform things like the - the application of new conditions of registration and I anticipate that over time they will - or, indeed, as they start to come in now, are starting to inform things like compliance notices where we're requiring providers to do certain things in particular times to remedy other things that come up.

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MR FOGARTY: I see. Can I ask you to turn to page 17 of 83 in this report, halfway down. Again it's one of these tables that I think walk through parts of the practice standards that are being audited or reviewed. When - at page 17 that table, second half of the table you see:

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"1.5 violence, abuse, neglect discrimination and discrimination. Outcome: Each participant accesses supports free from violence, abuse, neglect, exploitation or discrimination. Rating not assessed at this audit."

25

You didn't author it, but does it trouble you or concern you that that practice standard or that part of the audit wasn't assessed?

MS TAYLOR: So the mid-term requirements set out in the practice standard rules refer to the mid-term audit dealing with module 2 of the practice standard. So I think it's part 2 of schedule 1 of - I might need to be corrected on that - of the practice standards and the registration rules. So it deals with - because the - it was brought in with a range of other changes, what was specified the mid-term needing to look at were the standards related to provider governance and operational management. So the intent in making that change to the rules was to replace, as I said, two surveillance audits. But really the intent of this audit is to look at issues to do with the provider governance and operational management, as I say, and then anything else that the Commission might want to have the auditor explore.

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MR FOGARTY: Right.

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MS TAYLOR: In - in the case of an organisation where we have the extent, like a case like Afford, where we've got the extent of interaction that we've got with our reportable incidents teams, our investigations teams, our chief investigator and compliance teams, it's not likely, given all that on foot that we've talked about over the last couple of days, that we would ask an auditor to drill into anything particular that we were already looking at.

45

MR FOGARTY: Alright.

MS TAYLOR: So, in other words, the short answer is, the rules prescribe what is looked at in the mid-term audit, and the auditors audit in accordance with those requirements and the guidelines.

5 MR FOGARTY: And you conjecture that because all those matters we talked about earlier today and yesterday were going on ahead that the emphasis may not have needed to be in this further report on violence, abuse, neglect, exploitation?

10 MS TAYLOR: Well, we don't need the auditors to be looking at the same things that we've already looked at in a much more focused way.

MR FOGARTY: So could they have been directed by NDIS Commission in terms of this audit? Would they have been?

15 MS TAYLOR: They could have been. The rules require the assessment of those standards around provider and operational management. Any issues which had come up in the preceding audit that's required for a registration decision that needed - so minor non-conformities that is you took me through earlier - to make sure that those - the adjustments the provider undertook to make have been done, and then the third part that a
20 mid-term could explore are any other matters that the Commission considers relevant. But as I say, we had, in the Afford example and in other provider examples, where we have issues where we are - we are looking at some considerable depth and - and getting information directly from an organisation at some depth and undertaking investigations, we wouldn't ask an auditor to duplicate our effort on that.

25 MR FOGARTY: Can I ask you - and it's the second last part of this report I'll take you to - page 20 to 22. On page 20 there's a table starting 2.2 Risk Management and that appears to go over a table for two pages before you get to Quality Management.

30 MS TAYLOR: Yes.

MR FOGARTY: You see:

35 "Outcome: Risks to participants, workers and the provider are identified and managed."

Now, this is a rating where 0 to major non-conformity.

40 MS TAYLOR: Yes.

MR FOGARTY: That would be consistent with that executive overview I took you to a moment ago.

45 MS TAYLOR: Well, presumably their executive overview as it stands reflects the body of the report.

MR FOGARTY: If you go to page 22, so the last of those three pages, there's a box that says opportunities for improvement, it says "nil". Given finding of major non-conformity, does that strike you as odd or -

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MS TAYLOR: There's a piece of work that we're doing. These are areas where we're working with the auditors to point out how to fill in the template in a more consistent way, for example, but I think in this and in the other reports there are opportunities for improvement which are described in their evidence. So whilst the box isn't necessarily filled in, there are a number of areas in that, and then in the non-conformity report itself.

MR FOGARTY: Non-conformance report, yes.

MS TAYLOR: Which would indicate the things that need to be addressed in order to resolve that non-conformity. So I would class them as opportunities for improvement even though -

MR FOGARTY: They become apparent.

MS TAYLOR: - the template is not complete in the way that I would, if I'd authored it myself, would possibly have done.

MR FOGARTY: Alright. And moving to the next row below that might give you an example. It almost becomes apparent, would you say, what needs - the opportunities for improvement. So you see here the first bullet point:

"Afford's risk management framework and business continuity plan is required to be reviewed annually. It was last reviewed in 2016."

And this would - so these are the examples of non-conformity leading to that rating. Risk management procedure, I won't cite - well, CGPR001 version 2 dated 13 March 2022:

"Risks are reviewed on a quarterly basis by the Business Improvement Manager to identify trends and monitor progress. This was not occurring and there was no longer a business improvement manager."

The next bullet point:

"The strategic risk registering included the risk management 2019 to 2020 and has not been revised since."

And then the other one I take you to and it might assist the question that the Chair had, or it may not, the second last bullet point:

"Risk assessments for activities that occur at day programs could not be located."

Probably goes without saying, doesn't it, that those are matters of concern to you?

MS TAYLOR: Absolutely.

MR FOGARTY: Moving on then to the last part of this report I want to ask you a couple of questions about, pages 32 and 33 of 83. Again, it's a table, similar format. It reads 2.9 Emergency and Disaster Management and, again, I think it reflects the executive overview. Given - the auditor gives a rating of zero major nonconformity and if you move to down to the evidence, which is on page 33, says:

"This module has not been addressed."

5 I understand from the executive interview that it hasn't been addressed by Afford, is that correct, to your understanding? Hence the zero rating?

10 MS TAYLOR: I couldn't say what that sentence meant, but I'd say from the zero across the board rating, which is pretty unusual, don't often see that in the audit reports, that there's no demonstration. This is a standard that came into play in -

MR FOGARTY: That's one of the -

MS TAYLOR: It's one of the three new standards.

15 MR FOGARTY: Okay.

MS TAYLOR: And if this report were concluded with major non-conformities continuing, but as I've said I understand -

20 MR FOGARTY: Opportunity to -

MS TAYLOR: - the organisation still working through those issues, then we would take that report and determine what we needed to do by way of any of our powers around that particular standard.

25 MR FOGARTY: It goes without saying, doesn't it, that this is a critical area of mismanagement, particularly, let's say, the day programs we've heard evidence about in terms of the people with - persons, the clients with complex needs and so emergency staff?

30 MS TAYLOR: Well, emergency, in fact, this Commission made a recommendation in the COVID hearing that we put in place a standard around -

MR FOGARTY: Emergency -

35 MS TAYLOR: - emergency response around the pandemic and this standard is the result of that, with the addition of looking at other emergencies and disaster responses like the floods, for example. So these are about very serious issues that impact the safety of people with disability.

40 MR FOGARTY: I see. I ask you to leave that document, the last topic and document you want to take to you the letter you've been referring to, your refer which is hearing bundle E, tab 265A. I'll just provide you with a copy of that. This is a letter from you to Ms Toohey of Afford dated 6 November 2022.

45 MS TAYLOR: Yes.

MR FOGARTY: On the second page you refer to some of the work being - I'll summarise here - some of the work being done that's relayed to you and the NDIS Commission by Afford. Then midway down on page 2 it reads:

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"Notwithstanding this work, I do not consider that it is entirely clear to the NDIS Commission that Afford is meeting its obligations, particularly in relation to incident reporting and management."

5 Further down, I won't read all of it, towards the end of this paragraph:

10 "Similarly, although the organisation is progressing work on improvement to risk management, the Commission must be satisfied that that work will result in compliance by Afford in key risk areas for NDIS participants including mealtime supports, medication management and assurance that staff engaged in supporting NDIS participants have the relevant expertise and experience to provide that support in all instances."

15 And then the next sentence in the second last paragraph that, you write:

"I am therefore contemplating taking compliance action."

What - can I ask what prompted you to send this letter?

20 MS TAYLOR: So you would have seen from my statement that I've had an ongoing interest in some of the issues to do with Afford, albeit one of many organisations that the Commission registers and - and a subset of those that we have action on. Part of my job is the operations of the Commission and - and, in the course of overseeing those operations, staff brief me regularly on organisations where we have major investigations or a
25 significant volume of matters on hand, and Afford is one of those. I then prepared a statement after questions from this Commission and in looking through that material in much more depth than I would usually -

30 MR FOGARTY: Yes.

MS TAYLOR: - and seeing where officers had got to in the compliance activity that had been on foot for a while, I've taken the view that there's not the need to gather any more evidence around noncompliance. We have more than enough, in my opinion, for me to form a reasonable view as a delegate that there are compliance issues to be addressed by
35 the organisation, and so I - so I myself wrote this letter and have offered to speak to the CEO about what form that might take.

MR FOGARTY: Yes.

40 MS TAYLOR: And I had given instructions some - over meetings over - several meetings over the course of this calendar year and the end of last about the kinds of issues that we might explore with Afford.

45 MR FOGARTY: Alright. Chair, those are my questions for Ms Taylor.

CHAIR: Yes. Thank you very much. Ms Taylor, I'll now ask my colleagues whether they have any questions of you. I'll ask Commissioner McEwin first.

COMMISSIONER McEWIN: Thank you. Thank you for your evidence, Ms Taylor. A quick question. Just on that last note, you meet often directly with CEOs of service providers?

5 MS TAYLOR: I meet often with lots of people including CEOs of service providers in very - a very wide range of fora. I generally leave, and it's often the preference of our staff who are leading the operations, for them to be dealing with providers, for example, those that are located in a particular State, to meet with them directly for them to undertake that direct work, and so usually the main meetings on particular matters of compliance and
10 details around the individual matters are handled by our branch head or by a State or Territory director or other directors because they're close to the matters.

COMMISSIONER McEWIN: Thank you. Thank you, Chair.

15 CHAIR: Commissioner Bennett?

COMMISSIONER BENNETT: No, thank you.

CHAIR: I notice that in the letter of 6 May you congratulate the Chief Executive Officer
20 on her appointment which was, in fact, in October 2021. So I take it this was the first communication you had had with the Chief Executive Officer of Afford?

MS TAYLOR: Yes.

25 CHAIR: Yes. Going back to the document that is the - whatever name of it is - the surveillance audit report that Mr Fogarty took you to, do you have that nearby?

MS TAYLOR: I do.

30 CHAIR: On page 20, it refers to the executive organisation chart and then says:

"The new CEO has 30 years of experience in human services. She has been the CEO of large providers previously."

35 Would you expect the auditors to have been aware if there had been any investigation into the conduct of the previous CEO?

MS TAYLOR: Sorry, I can't quite place that.

40 CHAIR: Sorry. I'm talking about - I hope we're talking about the same document. It's the document headed National Disability Insurance Scheme NDIS Practice Standards Surveillance Audit Report.

MS TAYLOR: Yes.

45 CHAIR: Page 20 you will see the third bullet point is what I was referring to.

MS TAYLOR: Yes, thank you.

CHAIR: About the qualifications of the new CEO, and I have no doubt about those qualifications. But my question is whether the auditor - you would expect the auditor to be aware of any investigation that had been undertaken into the conduct of the previous CEO and any findings that had been made about that conduct?

5

MS TAYLOR: Not necessarily. The - as I've described before, under the current arrangements the auditors are asked to assess conformity with standards which are about the experience of each participant. They're framed in a participant-centric way.

10 CHAIR: Right. So anything that happened between the assessment - second assessment in 2020 and the assessment that takes place here is not relevant to this assessment because it's only concerned with a position as at the date of the audit?

15 MS TAYLOR: It's - it's concerned with whether or not the organisation is conforming with the standards that are relevant to be explored in that audit, and -

20 CHAIR: I understand that. But I'm also seeing that there are laudatory comments about the new CEO, and that may be absolutely fine, I'm not querying that. I'm just wondering why in this there would be no reference, if there were an inquiry or investigation into the conduct of the previous CEO, and allegations had been upheld, that there had been no mention of it? Just seems a little odd.

25 MS TAYLOR: I couldn't speak to why. I don't think that in the context of that particular - I mean, I didn't author the report but we already knew about that because there are other - other requirements on the providers to notify us of certain events, and under other parts of the rules.

30 CHAIR: Alright. Let me ask a different question. Would you expect an investigation into the conduct of a CEO of a major service provider which found allegations of misconduct to be substantiated come to the attention of the NDIS Commission?

MS TAYLOR: Yes.

35 CHAIR: You would.

MS TAYLOR: Yes, but -

40 CHAIR: Do you know whether any such investigation report concerning the previous CEO came to the attention of the NDIS Commission?

MS TAYLOR: I'm happy to take that on notice, Chair.

45 CHAIR: If you would. And if you also would take on notice whether it would be significant for the NDIS Commission if the investigator had concluded that concerns included a reluctance by employees of Afford to raise concerns openly, the existence of somewhat of a party culture, a lack of - general lack of compliance with the relevant policies and procedures within Afford. Was that something that you'd want to know that had been a result of an investigation into Afford?

MS TAYLOR: Well, I think I said in my statement that we're still looking at various matters following an extensive request for information. We talked about one aspect of that yesterday around the debt that's now due to Afford, but we sought a lot of information about various aspects of the culture in the organisation.

5

CHAIR: Alright. Well, if you would be good enough to take on notice whether the NDIS Commission has ever received a copy of any such report, that would be helpful.

MS TAYLOR: Thank you.

10

CHAIR: Thank you. Yes. Is there any application for any party to ask any questions of Ms Taylor.

UNKNOWN SPEAKER: No thank you, Chair.

15

CHAIR: In that case, thank you very much, Ms Taylor, for coming to the Commission again to give evidence. As always, we appreciate your assistance. Thank you very much.

MS TAYLOR: Thank you.

20

<THE WITNESS WITHDREW

CHAIR: What do we do now, Mr Griffin?

25

MR GRIFFIN: Chair, the next witness will be Rachel. I anticipate that will take 15 minutes. I mentioned Rachel in the opening.

CHAIR: Yes.

30

MR GRIFFIN: She's represented by Ms Anne Healey of counsel.

CHAIR: And we should start with that evidence now.

MR GRIFFIN: Yes.

35

CHAIR: By all means.

MR GRIFFIN: She's represented by Ms Anne Healey of counsel who I understand is going to appear remotely. She's been previously granted leave. I was wondering whether you might inquire as to whether she's online?

40

MS HEALEY: Yes, I am here, Chair.

CHAIR: I can hear a voice.

45

MS HEALEY: Can you see me?

CHAIR: I can't see you.

50

MS HEALEY: I apologise. I don't know why it's not working.

CHAIR: No, that's quite alright. I'll assume that there is a person associated with the voice. Thank you very much.

5 MS HEALEY: Chair, it is Ms Healey and I appear for the witness, Rachel. And I have been following proceedings.

CHAIR: Now, we can see you. Thank you very much. Thank you.

10 MR GRIFFIN: Rachel has provided a written statement to the Commission dated 21 April 2022 which appears in hearing bundle B at tab 1.

CHAIR: Yes. I take it we're going to deal with the tender of all this material later on?

15 MR GRIFFIN: We are indeed. Both Afford and the Commonwealth have been provided with a copy of that redacted statement. You will recall in the opening I indicated that Rachel was a senior executive at Afford until early 2020. She worked with other members of the senior executive team, including the former CEO, Mr Steven Herald, and for
20 purposes of today, Rachel doesn't appear in person but parts of her statement will be read by Ms Kate Beattie.

CHAIR: Yes. Thank you. Yes, Ms Beattie?

25 MS BEATTIE: In 2015 the then-CEO of the Australian Foundation for Disability Services, Afford, recruited me to Afford. I started working at the head office in Minchinbury, New South Wales. I was promoted to the position of Executive Manager. I started with about three staff reporting to me. Between 2015 and 2020, that grew to about 12 staff reporting to me. I reported directly to the then Afford CEO.

30 My role continued to change and evolve over the almost five years that I was at Afford. This was largely driven by the CEO who was very driven to grow the organisation and told me many times that he wanted to keep a lean management structure that was flexible. There was ongoing pressure from the CEO to recruit very large numbers of staff, up to 50
35 per month, to keep up with the rapid growth of Afford that was being pursued.

40 One of the things that was actively encouraged and supported at Afford was internal promotion of staff. This was done through a management development program called "Step Up" which was an internal program created by Afford. Internal promotion was heavily encouraged and supported by the CEO. This meant that people hired as direct support workers, Lifestyle Assistants who were on a SCHADS level 2 award, could be promoted to mid - and sometimes then to senior management - senior managerial
45 positions.

45 Team Leaders, who had responsibility for a particular Afford site, and District Managers, who had responsibility for a group of sites within a particular geographic area, were often people who had been promoted from within, although sometimes we did have to go to market to recruit for those roles. These positions had a heavy administrative and managerial workload.

While there are advantages to internal promotions of high-performing staff, and it could work well, sometimes people who were promoted from direct support roles just did not have the skills or ability to cope or perform properly in more managerial positions. I had particular concerns towards the end of my time at Afford about the capabilities of some of the senior managers, and the impact this might be having on the quality of services we were providing for people with disability.

One of the initiatives brought in by the former CEO of Afford was the PACES bonus scheme. On paper, it was intended to reward staff for meeting compliance-related targets or KPIs. PACES stood for Person-Centredness, Attitude, Customer Service, Efficiency and Standards. All sites operated by Afford were assessed quarterly against these five categories and given a score which could add up to a maximum of 100. If a total of 80 per cent was achieved by a particular site, the Team Leader of that site could receive a bonus payment for that quarter. I believe it was approximately \$1,000 but my recollection could be wrong.

Team Leaders also passed on an additional bonus payment to the support workers at their site which was shared out based on the hours they worked at the site in the quarter. The District Managers and relevant National Executive Managers also received bonus payments if the sites they were responsible for exceeded the 80 per cent target.

I did not think the PACES scheme was particularly helpful as the scores given were fairly arbitrary, particularly for categories like “person-centredness”. I have no idea whether it made any difference to the quality of services actually provided to Afford's clients or whether it helped to motivate staff to do their jobs better. In my view, PACES probably created more problems by turning staff into box tickers.

I remember this being discussed a few times but it was hard for managers, even those in senior positions, to raise these types of things with the CEO. Certainly there was a lot of internal discussion of the PACES scores, and the quarterly results were shared across the organisation so everyone could see who had achieved what.

The Human Resources department were responsible for investigating incidents, allegations or complaints that might raise potential abuse or neglect in accordance with Afford's written procedures but our focus was on outcomes with respect to the staff, not with respect to the clients. The outcomes for the clients were the responsibility of the District Managers and their superiors.

All policies and procedures were managed by the relevant Executive Manager for documents related to their particular divisions. There was no centralised department or person who had responsibility for these type of things.

I answered directly to the former CEO and I interacted with him multiple times a day in the office and on the phone. I often raised issues with him verbally, either in person or on the phone, and also by email and sometimes text message. We also had regular weekly meetings with the whole Senior Executive Team which included the Executive Managers and District Managers. These were usually by phone and during them we discussed a range of operational issues. The CEO kept a document referred to as an “Action Plan” which was a list of things each of us were required to do, with deadlines. Items on this “Action Plan” were often discussed during these weekly meetings.

In terms of written reports to the CEO, I was required to prepare monthly reports. As far as I recall, the CEO would provide the monthly report I prepared for him to the Board as part of the papers for the monthly Board meetings. From time to time, I was requested to attend
5 Board meetings and I recall attending them semi-regularly. It was my understanding that the CEO was the primary conduit of information to the Board about all things relating to the operation of Afford and its provision of services.

10 I do not remember the details of all the Board meetings I attended and what was reported to them. However, my recollection of the Board meetings that I went to is that the atmosphere was tense and sometimes hostile. I remember occasions when some Board members acted aggressively and disrespectfully towards the CEO, Senior Managers and sometimes each other.

15 During the period of my employment with Afford I was very aware of the emphasis on growth and the financial sustainability of the organisation. The CEO often said things to me and to others in my presence that indicated this was his main priority. During the weekly Senior Executive team meetings, growth was always discussed. In the last couple
20 of years I was with Afford, that included frequent discussion of how many group homes Afford could open and fill.

I also remember the CEO making comments in an aggressive way if some of the senior managers were not meeting his target for "filling beds" in group homes, and that one of the members of the Senior Executive team ended up resigning because of this.

25 There were also annual Strategic Planning meetings - excuse me - planning weekends for the Senior Executive team and the Board, most of which I attended. My recollection is that the discussion at these weekends was also focussed on Afford's financial and geographical growth. The organisational culture within Afford was very connected to the focus on
30 growth.

At meetings, as well as in newsletters and internal documents, it was all about being the biggest and the best without a lot of reflection about what "best" might mean from the perspective of the clients themselves. There were business development staff whose job it
35 was to bring in new clients, and they did this in a number of different ways. These staff received commissions based on the number of new clients they were able to sign up. I also believe that those commissions were based on the size of the NDIS packages of those clients, and there would be documentation in their staff file about this.

40 There were, of course, many great staff at all levels who really did want to provide the best possible support to Afford's clients. But towards the end of my time at Afford, I was increasingly worried about - that the safety and quality of our services and respect for the rights of the clients were not the top priority.

45 I am aware that there were staff social events from time to time which had a small budget from Afford. I believe they were intended to provide an opportunity for socialising among staff and to encourage good working relationships. Most of these events were organised at the site level. I never attended those types of things. There were also larger events from time to time like Christmas parties, management conferences and one gala ball which I did
50 attend.

In May 2019, a client who lived in supported accommodation provided by Afford in New South Wales died. She was a young woman named Merna Aprem. This event brought to the fore a number of issues and concerns I had been beginning to have about the quality - the safety and quality of services we were providing. In particular, I had become increasingly worried about Afford's systems and processes to ensure compliance with all the regulatory frameworks given that the organisation had gone through such a rapid period of growth from 2015.

5
10 Afford had no central person or department overseeing quality, compliance or work health and safety, and I think it was just assumed that each division would deal with these types of issues. I sent an email to the CEO asking him to consider hiring a person with focus on ensuring the quality of service provisions in light of Afford's expansion into new States and the different audit and compliance requirements that existed at that time. I raised the matter again in an email and received a simple, "No" in response.

I remember the CEO yelling at me for bringing up this issue and saying that a compliance person would try to find reasons why Afford could not open a new site or service which would inhibit growth.

20
After Ms Aprem's death, the matter was raised again when a member of the Board proposed that Afford should have a Support Governance Framework in place along with a dedicated Executive Support Manager and a Board Committee whose job would be to focus on the quality and safety of the support services Afford was providing to its clients.

25
The CEO was asked to consult with the Executive Management team about this proposal, and so he forwarded us an email about it. In response, I repeated my opinion that we should have an additional "quality person" who would overhaul, implement and monitor compliance. I recall that, shortly after this, this was a telephone conference meeting of the Senior Executive team during which the CEO shouted at me, and said words to the effect that I needed to "grow a backbone." I understood that he remained very opposed to the idea of bringing on anyone whose job would be to focus on issues of compliance or service quality. I do not know whether the Board member who raised the matter took the matter further or not.

30
35 I also began to express to the CEO concerns I had about the performance of some members of the Senior and Executive Management team. For example, I emailed him about what I perceived to be a lack of understanding or care on the part of some members of this team concerning risk and compliance.

40
45 It reached the point where I was so worried about what was happening and about the CEOs unwillingness to take action that I felt I had to raise my concerns directly with the Afford Board. I recall that I told the CEO that I would do so. I set everything out in a five-page report which I sent to Mike Allen who was a member of the Board. I said that the report was being delivered under the protections of the *Corporations Act* afforded to whistleblowers and noted why I thought the criteria for those protections were met. I understood that they arranged for an investigation to be conducted of the matters I had raised in my report.

By this point I was very stressed and beginning to feel unwell. I had to take time off as sick leave. I felt that I was being increasingly targeted by the CEO and I was sure that he had told other members of the Senior Executive team that I had made a report to the Board. Suddenly, I was informed that I was being suspended because of complaints made against me by my colleagues.

From the time I received the initial email I was being investigated, it took Afford eight weeks to provide me with a letter of allegations. I believe this is because the allegations were vexatious and created after the initial email, to push me out of Afford, due to making a complaint directly to the Board. I understood that an investigator was hired to investigate complaints against me, but I reached the point where I had just had enough, and I offered to resign.

Up until the complaints, I had never been the subject of any form of disciplinary action, nor been told that my performance was anything other than satisfactory. I had even had a pay rise in late 2019 which I understood was recommended by the CEO in part because of my good performance. I ended up providing a letter of resignation and concluding a separation agreement with Afford.

The effect of those final months at Afford on me has been significant. I felt targeted and isolated and remain traumatised by how I was treated. I realise now that there were a lot of problems in Afford while I was there, and I think much of that stems from the quest for growth and the manner in which it was run which was like a profit-driven corporation, rather than like a disability service provider. I also believe that the cost model for funding disability services does not provide enough money for staff training, or for service providers to have non-face-to-face staff who can deal with things like service quality, safeguarding and compliance.

It is important that quality assurance and safeguarding are separate from operations so that there is some level of independence of these functions from the direct provision of services like day programs or accommodation.

CHAIR: Thank you, Ms Beattie. Would it be convenient to take the luncheon adjournment now?

MR GRIFFIN: Yes.

CHAIR: It's now 12.50 or thereabouts. If we resume at 1.35?

MR GRIFFIN: Yes.

CHAIR: Alright. We'll resume at 1.35.

ADJOURNED 12.47 PM

<RESUMED 1.34 PM

CHAIR: Yes, Ms Gleeson.

MS GLEESON: Commissioners, next witness is Wayne Adamson.

5 CHAIR: Yes. Mr Adamson, thank you very much for coming to the Royal Commission to give evidence today. We appreciate your attendance and assistance. I will ask my Associate to administer the oath to you. If you would be good enough to follow his instructions, and then I shall ask Ms Gleeson to ask you some questions.

10 MR ADAMSON: Thank you.

<WITNESS WAYNE ADAMSON, SWORN

<EXAMINATION BY MS GLEESON

15 CHAIR: Yes, Ms Gleeson.

MS GLEESON: Could you tell the Commission your full name.

20 MR ADAMSON: Wayne Adamson.

MS GLEESON: And you received a notice to give a statement and prepare a statement for this Royal Commission, didn't you?

25 MR ADAMSON: That's correct.

MS GLEESON: Do you have that statement with you?

MR ADAMSON: I do.

30 MS GLEESON: You've read your statement recently?

MR ADAMSON: I have.

35 MS GLEESON: And are you content that statement is true?

MR ADAMSON: Yes.

40 MS GLEESON: And just for the Commissioner's reference, that statement is behind hearing bundle D, tab 3.

CHAIR: Thank you.

45 MS GLEESON: Now, Afford also responded to a notice to give information on 10 May 2022. Do you remember that?

MR ADAMSON: No, I don't.

50 MS GLEESON: It was a larger document which responded to a number of questions that were -

MR ADAMSON: Yes. Yes.

MS GLEESON: Did you contribute to that response?

5 MR ADAMSON: I did.

MS GLEESON: Did you contribute in particular to the questions after question 11, do you remember?

10 MR ADAMSON: Not memory.

MS GLEESON: I'll take you through it as we go. For the Commission's assistance, that's behind hearing bundle D, tab 5.

15 Now, you were first employed at Afford about June of 2019; is that right?

MR ADAMSON: That's correct.

MS GLEESON: And you started your employment in the position of District Manager for
20 the far west district on 10 June 2019.

MR ADAMSON: That is correct.

MS GLEESON: And the far west district encompassed the Mount Druitt centre; that's
25 right?

MR ADAMSON: It did.

MS GLEESON: You were then promoted on 3 May 2021 to Acting Executive Manager
30 Day Programs New South Wales and Victoria.

MR ADAMSON: That's correct.

MS GLEESON: And then you were promoted again to Acting Executive Manager
35 National Lifestyle Centres on 16 August 2021.

MR ADAMSON: That's correct.

MS GLEESON: And the acting, could you explain that to me? Were you filling in for
40 somebody else who occupies that position?

MR ADAMSON: There was a change in leadership after the former CEO left, so the role I'm currently filling is a secondment.

45 MS GLEESON: At this stage, is that secondment due to expire at any time?

MR ADAMSON: It is, on 29 July this year.

MS GLEESON: Now, the two latter positions I took you to, the executive management
50 positions, in that case - in those cases were you, effectively, the senior executive

responsible for what we're calling Afford's day programs at a State level and then a national level?

MR ADAMSON: Yes.

5

MS GLEESON: Now, what I wanted to do was to take you to some paragraphs of your statement in which you identify some issues with the way Afford's processes and procedures run and also some other issues that you have identified and ask you some questions that elaborate on what you've identified in your statement. Can I first take you to paragraph 4.33 of your statement. Have you got that there?

10

MR ADAMSON: Sorry. What page is that on?

MS GLEESON: I'm just getting that up for you now. I apologise. Page 15. And you can see there that you state that at the time of assuming your role as National Executive Manager, so in August 2021, there were clear issues, problems and gaps with the systems, processes and procedures which relate to three things: safety, compliance with the statutory framework and culture within Afford.

15

MR ADAMSON: That's correct.

20

MS GLEESON: You - that was based obviously on your assessment at the time of taking on that role, but I take it that was based on your experience as District Manager and then State Executive Manager.

25

MR ADAMSON: That is correct.

MS GLEESON: Now, in your statement you talk about changes in culture, and I'll come to that any a moment. You also talk about compliance. But what I wanted to address with you is what you have to say about the issue of safety. Can you tell the Commission what you have observed about the issues, problems and gaps with the systems, processes and procedures as they relate to safety.

30

MR ADAMSON: Yeah. So the main problem we had is we were a very lean organisation at the top, with a lot of that responsibility falling on the Team Leaders or the District Managers shoulders to complete those tasks.

35

MS GLEESON: Now, could I just ask you to elaborate what you mean by "a lean organisation"?

40

MR ADAMSON: So there was - at the executive level there was, I guess, no executive in charge of safeguarding or quality, risk or compliance. That all fell on the District Manager and Team Leader's shoulders.

45

MS GLEESON: And in that sense was there a tension between that particular area and some of the other duties that were imposed on District Managers and Team Leaders to do with the day-to-day running of the centres?

MR ADAMSON: That's correct.

50

MS GLEESON: And you've said that there was no dedicated department or person devoted to - to that function. In your statement you speak of a number of policies and procedures that are relevant to safeguarding clients. Where were those policies devised, to your knowledge?

5

MR ADAMSON: So a lot of the policies, they were handed out to the Executive Managers to review and complete and update. So there was no independent part of the organisation that would be reviewing those.

10 MS GLEESON: And when you say the Executive Managers, the Executive Managers for day programs, for example? The Executive Managers for HR? Can you identify precisely who was formulating those policies?

15 MR ADAMSON: So it just depended what part of the organisation those policies were a part of. So if it related to day programs, it would come across to myself. If it went to supported accommodation, it was the Executive Manager. If it applied to both, it would come across to both of us.

20 MS GLEESON: Now, you've given your reasons for why it is that there were these gaps. Can you now tell me a little bit about your observations of how those gaps emerged during your time as District Manager?

25 MR ADAMSON: Yeah, so during my time as District Manager some of the gaps that I seen was just - it was just basically around some of the supports that we were offering to - to our clients. And, with that, if there was, say, investigations that were required, they were going up through to the Human Resources department, and it was done via them, but there was this assumption of staff being guilty before, you know, being innocent.

30 MS GLEESON: Is what you're saying to me effectively that, first of all, all of the investigations of issues concerning the safety of clients were being undertaken by HR; is that right?

MR ADAMSON: Up until the appointment of the new management, correct.

35 MS GLEESON: Okay. And then is what you were saying in the answer before the one you've just given, that the usual outcome of those investigations is that there would be some consequence for the employment of whichever Lifestyle Assistant or Team Leader was involved in that incident?

40 MR ADAMSON: That's correct.

MS GLEESON: Did you see that that, then, created any problems with staff at the centres that were under your management with reporting incidents?

45 MR ADAMSON: To my knowledge, no. There was a lot of incidents that were being reported on a regular basis. But if there - if there was no staff withholding information or reporting it, we wouldn't know unless they were actually doing it.

50 MS GLEESON: Unless, of course, I suppose you found out in some different way.

MR ADAMSON: Correct. If there was -

MS GLEESON: For example, through a family member --

5 MR ADAMSON: Through a witness or a member of the community if there was a community access.

MS GLEESON: Do you remember that happening?

10 MR ADAMSON: There's been a number come through from the community which we welcome, and then we act on those when they come through.

MS GLEESON: But it's a problem when that happens if it wasn't identified to Afford first through whichever staff member was responsible for the client?

15 MR ADAMSON: It could be. It could be the member of the public had called Afford first before the staff member had had the opportunity to raise the incident.

20 MS GLEESON: Now, you, as District Manager, were responsible for - I think it was seven – sites; is that correct?

MR ADAMSON: That's correct.

25 MS GLEESON: Mount Druitt was one of those sites.

MR ADAMSON: Mount Druitt was one of those sites.

30 MS GLEESON: How often did you typically visit the sites that were under your management?

MR ADAMSON: Excluding Victoria, my New South Wales-based sites I would visit them once a week.

35 MS GLEESON: And once a week, how long would you stay at each site?

MR ADAMSON: All day.

MS GLEESON: And feel free to say that it varies between each site.

40 MR ADAMSON: During the hours of operation of each site.

MS GLEESON: So one day a week you would be there for the whole day; is that right?

45 MR ADAMSON: Correct.

MS GLEESON: It might mathematically be difficult for you to go and stay for a full day at seven sites, you know, unless you were working on the weekend.

50 MR ADAMSON: That's right.

MS GLEESON: Am I correct that you rotated?

MR ADAMSON: That's right. One day I would be at one site; the next day I'd be at another site.

5

MS GLEESON: And when you were visiting the sites what were you doing, what were you overseeing?

MR ADAMSON: So I always made a point of going round and mingling with the clients, talking to staff. I felt it was important for me to – to get to know who the staff were that worked at each site, but also who our clients are and just make them feel like I'm not a stranger that I do attend there because it is once a week that they potentially may see me and it could be on different days that I attend each centre. But also spend a lot of time with the Team Leaders as well.

15

MS GLEESON: And in spending the time with the Team Leaders, was that for the purpose of getting information about how the centre was running?

MR ADAMSON: Yeah, just the day-to-day operations. Being there as a mentor to them to offer support for them, but also just being present so that way if they had something they wanted to discuss, they were able to do so.

20

MS GLEESON: Now, we have heard some evidence yesterday from a Team Leader who used to be employed at the Mount Druitt centre about her having quite a large administrative burden in preparing invoicing and financial documents in particular. Did you observe, when you were District Manager, that your Team Leaders were unable to engage with you to your satisfaction because of the amount of administrative work they had to do?

25

MR ADAMSON: No, not at all. Dianne, I'm led to believe, she was only with Afford for about three weeks when I joined.

30

MS GLEESON: Yes, and was that an issue that you'd observed with Team Leaders who were employed after she had left Afford?

35

MR ADAMSON: No. No.

MS GLEESON: How much time did you find you were able to spend with Team Leaders when you visited the sites?

40

MR ADAMSON: If I was able to spend all day with them, I was able to. It just was depending on what they were doing. If they had meetings arranged, then obviously I wouldn't be a part of those unless they asked me to be a part of those. But if they needed me there with them all day, I'd be in the office with them all day.

45

MS GLEESON: And did that mean that during the time that you were in the office those - you didn't observe those Teams doing any administrative work?

MR ADAMSON: There was a lot of administrative work, absolutely.

50

MS GLEESON: And you would be in the room while they were doing it; is that right?

MR ADAMSON: Yeah, because a lot of the administrative work they were doing, I was then getting the reports that they were doing for the seven sites and doing my part in the administrative work to send up to my direct report at the time.

MS GLEESON: When you were -

CHAIR: I think you said that while you were District Manager you were responsible for seven sites or centres; is that right?

MR ADAMSON: That's correct.

CHAIR: Were they all day programs or -

MR ADAMSON: They were all day programs.

CHAIR: Sorry?

MR ADAMSON: All day programs.

CHAIR: Okay, thank you.

MS GLEESON: While you were visiting each of the sites, did you also use that as an opportunity to review whether or not the staff at the centre and the Team Leaders and Senior Lifestyle Assistants were familiar with and were adhering to the policies and procedures that - that Afford had that related to client safety?

MR ADAMSON: Yes, yes, I did, and each site had the policies and procedures as well as the standards visible. So the standards were on the walls when you first walked into the centre, there was policy and procedure folders that were at the front of each of the sign in desks.

MS GLEESON: Did you do anything else to satisfy yourself that, in particular the Lifestyle Assistants had a decent understanding of what their obligations were under each of the policies, both in relation to identifying instances of abuse and neglect, preventing harm through abuse and neglect, but other issues such as medical mismanagement and also reporting incidents?

MR ADAMSON: Yes, where possible I would join team meetings, and I would go through those and really make a point about their obligations to the role that they were performing and making sure that anything they see, that they're reporting it, and anything that they need clarification on that they're actually speaking up about it.

MS GLEESON: Alright. And did you have any concerns in the manner that you've identified in your statement as a result of the number or the type of incidents that were emerging at the centres while you were District Manager? Did you feel like there were, for example, an uncomfortable number of incidents arising or that some of these were so severe you thought there may be some problem with the way that safety was being managed at the centres?

MR ADAMSON: I would be more concerned if there was no incidents reported. But with the incidents that were coming through and reviewing those, they could be minor, they could be a minor one, but they could be a lot badder, you know, require a deeper dive into to see what was happening there. But I was comfortable with the incident reporting that was coming through from each centre.

MS GLEESON: The sense I get from the answers that you have given is that, notwithstanding what you said in your statement, you were fairly comfortable with the systems and processes that were in place, and how they were being implemented at each of the centres. Can I just take you back to what you initially said about there being a lean organisation and the responsibilities falling on Team Leaders and District Managers and just ask you to elaborate a bit further about where you did see there were some gaps or shortcomings that gave you some concern about the way in which safety was being managed at your centres?

MR ADAMSON: Yeah, so after the incident reports were being completed and they had been done by the staff, then the Team Leader and the District Manager for review, that was where it stopped. So there was no - no team coming in to review the overall number of incidents for the organisation and to look at patterns or trends or anything like that.

MS GLEESON: Can I just ask you to elaborate a little further on identifying incidents and patterns or trends. I take it you agree with me that the best way to be able to identify patterns and trends is by incidents, when they arise, being reported, first of all?

MR ADAMSON: Correct.

MS GLEESON: You agree with that? And that they're reported into a system that allows the information about them to be collated and then analysed so that if there are any trends that arise they can be picked up on a systematic basis.

MR ADAMSON: Correct, and the system does that.

MS GLEESON: Can you explain first of all what is the system that does that and whether or not it operates to your satisfaction during this period to enable any trends or systemic issues to be identified?

MR ADAMSON: Yeah, so the system is CIMS and at the time it was operating there could have been improvements and there has been improvements made along the way. So at the time, yeah, there was definitely --

MS GLEESON: You say there could have been improvements, could you let me know what they were?

MR ADAMSON: Just little drop-down boxes so there was one of the drop-down boxes that was included was: "Did this incident report trigger a reportable incident?", for example. So little suggestions like that which we were able to make with the business improvements to have them --

MS GLEESON: And what was the benefit that you would then get from that change? Was it that - or you were then able, when looking at the incidents that had been reported over a particular time period, to know what proportion of them were reportable incidents?

5 MR ADAMSON: Correct.

MS GLEESON: And did it also allow you to analyse, for example, whether or not certain incidents that should have been reportable incidents weren't in fact classified as reportable incidents when you looked at what the nature of that incident was?

10

MR ADAMSON: That's correct.

MS GLEESON: Were there any other examples that you can give to us about shortcomings that you saw in the way in which reporting works so that you could identify any systemic problems or gaps?

15

MR ADAMSON: No, not at this time.

CHAIR: Mr Adamson, I think you said that one of the defects in the system was that incident reports came to the District Manager and went no further.

20

MR ADAMSON: That's correct.

CHAIR: You were the District Manager.

25

MR ADAMSON: That's correct.

CHAIR: What did you do about that?

30 MR ADAMSON: So once I'd finalised them, they would be just classified as completed in the system and that's where -

CHAIR: Did you seek to have any changes in the system to address the defects that you apparently identified during your time as District Manager?

35

MR ADAMSON: No.

CHAIR: Why not?

40 MR ADAMSON: At the time that was just the system that was in place, and I just accepted that that's how it was. If there was severe ones that is were reportable we speak to our senior manager.

CHAIR: Have you played in role since in changing the system?

45

MR ADAMSON: When being asked I have provided input.

CHAIR: When asked?

50 MR ADAMSON: Correct.

CHAIR: Have you been asked?

MR ADAMSON: Only just asked to review, that's correct.

5

CHAIR: The last review?

MR ADAMSON: Only asked to review.

10 CHAIR: Asked to review.

MR ADAMSON: So asked for that to be put in place, yes.

CHAIR: Thank you.

15

MS GLEESON: I take it from the answer that you just gave to the Chair, that if a closed incident stops with you, the only way that it could be escalated above you to a member of the Executive and ultimately to the Board if it needed to be, would be if the systems were operating in such a way that there was regular reviewing of incidents, incident trends, and the nature of the incidents that were occurring by either you or someone at the State Executive level so that that could then be identified and acted upon?

20

MR ADAMSON: That's correct, or you would speak -

25 MS GLEESON: That would usually by way of some reports that were given to someone who was then going to analyse it for the purpose of conducting a risk assessment, for example.

MR ADAMSON: If there was that person, yes.

30

MS GLEESON: And I take it your answer is there was not such a person?

MR ADAMSON: That's correct.

35 MS GLEESON: Did you give any reports as part of your role as District Manager to - in relation to the amount of incidents that were arising and the nature of the incidents that were arising so that they could be reported up the line?

MR ADAMSON: I did.

40

MS GLEESON: And can you tell us about how you went about doing that?

MR ADAMSON: Yes, so they all form part of the monthly report that my Team Leaders would put together and send to myself. I would compile all them monthly reports and then I would add to them and then send them up to my line manager.

45

MS GLEESON: Alright. And how did you access the information that allowed you to do that in your monthly report?

50 MR ADAMSON: Access the information out -

MS GLEESON: Could you generate a report out of CIMS, for example?

MR ADAMSON: Directly out of CIMS, yes.

5

MS GLEESON: All right. And can you walk us through exactly how you did that? Is there a particular query that you ran that picked up information?

MR ADAMSON: That's right, there's radio buttons that you just click on and it gives you a selection, so you can choose each site and the period that you want to run that report for.

10

MS GLEESON: Alright. The report, did you then just put that report straight into your report to the State Executive Manager.

MR ADAMSON: It wasn't the report; it was just the total in any incident number.

15

MS GLEESON: You just inputted the total incident number?

MR ADAMSON: Correct.

20

MS GLEESON: Did you include any other information?

MR ADAMSON: No, that was all that was required for the incident reporting side.

MS GLEESON: Alright. Do you agree with me that the only thing you're doing is reporting the - sorry, I'll withdraw that and ask a different question first - I take it that you would be reporting a number of incidents side by side or was it the incidents for the entire --

25

MR ADAMSON: No, side by side.

30

MS GLEESON: Side by side. So that the only information if that's all you were reporting would be that there may have been unusual number of incidents or an unusually low number of incidents at a particular site.

35

MR ADAMSON: That is correct.

MS GLEESON: There wouldn't be any other information that would enable your State Executive or anyone else further up the line to be able to conduct an analysis of any problems that might be occurring or systemic level -- based on what type of incidents were happening. For example, if all of a sudden there are a number of medication errors at a particular site, then that wouldn't be something that would be identified?

40

MR ADAMSON: It was never a requirement.

45

MS GLEESON: And it not being a requirement, if you noticed that there was a particular type of incidents arising at a particular site, or that there had been a spike in the number of incidents, or something else that gave you a concern that something might be going wrong, would you then communicate that to your State Manager?

50

MR ADAMSON: Yes.

MS GLEESON: And would you do that in your report or would you do that in some other way?

5

MR ADAMSON: If there was a number of systemic issues that I'd seen I would speak to her.

MS GLEESON: You would just speak to your Executive Manager?

10

MR ADAMSON: Absolutely.

MS GLEESON: But it wouldn't necessarily be something that you would think I need to put this into a report so that there's some record that then goes into a broader analysis what risks might be occurring at your sites.

15

MR ADAMSON: It was never a requirement. Other than sending an email with the information, it was never a requirement to go into a report.

20 CHAIR: Mr Adamson, you, I think, were the District Manager between June 2019 to April 2021 when you became Executive Manager for New South Wales. Is that right?

MR ADAMSON: That's correct.

25 CHAIR: During that period were there any incident reports that come to you concerning the failure to administer correct medication?

MR ADAMSON: So there - yes, there was.

30 CHAIR: Sorry?

MR ADAMSON: Yes.

CHAIR: There were?

35

MR ADAMSON: Yes.

CHAIR: How often?

40 MR ADAMSON: I couldn't tell you off the top of my head.

CHAIR: Were there many? Just a couple.

MR ADAMSON: There were a number. Yeah.

45

CHAIR: What did you do with those?

MR ADAMSON: With the missed medications, they were predominantly in the day program settings. They were missed by time, but they were still administered.

50

CHAIR: What did you understand was the obligation of Afford in relation to reporting those incidents to the NDIS Commission?

5 MR ADAMSON: My understanding at the time is due to it not being staff, like, withholding it, it was not reportable. So if it was late or it was missed because of time, it was my understanding that it was not reportable.

10 CHAIR: I'm sorry, I'm not quite clear. What was the - if you received an incident report that indicated that someone at a day program, a participant had not had medication that that participant should have received, what was your and Afford's obligation in respect of that reported incident? Was there any obligation to report it to the NDIS Commission?

MR ADAMSON: At that time, no. My understanding.

15 CHAIR: At that time not.

MR ADAMSON: Yes.

20 CHAIR: What was the foundation of your belief that there was no obligation to report such an incident?

MR ADAMSON: Because it wasn't deliberate and that if it was missed because of time, because of the time frame, then it was still considered that it was within the allowable time frame.

25 CHAIR: Presumably it was never deliberate?

MR ADAMSON: Yes.

30 CHAIR: Correct?

MR ADAMSON: Correct.

35 CHAIR: What was the source of your understanding that it was only if the failure to administer medication was deliberate, that it was a reportable incident to the NDIS Commission? Where did you get that understanding from?

40 MR ADAMSON: That came when the NDIS Commission contacted our then Chief Executive Officer to advise us that we needed to report on that.

CHAIR: The NDIS Commission contacted the CEO to explain that these were reportable incident reportable incidents; is that what you mean?

45 MR ADAMSON: Not the CEO, the COO.

CHAIR: Sorry?

MR ADAMSON: The COO, Chief Operations Officer.

50 CHAIR: But that's what happened.

MR ADAMSON: Yes.

CHAIR: I'm talking about the time that you were the District Manager, when these
5 incident reports are coming to you of failure to administer medication, and I'm asking you
what was the source of your belief that these were not reportable incidents unless the
failure to administer their medication was deliberate? Where did you get that from? Did
you read something? Did someone give you an instruction? Where did it come from?

10 MR ADAMSON: It just came from our superiors above us. So the organisation were not
reporting.

CHAIR: Came from the superiors, a bit like the vibe, sort of, the vibe coming down?

15 MR ADAMSON: Yes, correct.

CHAIR: Just like that.

MR ADAMSON: Yes.

20 CHAIR: Nobody ever thought, as far as you knew, to investigate whether these incidents
should have been reported to the NDIS Commission.

MR ADAMSON: That's correct.

25 CHAIR: And you never did?

MR ADAMSON: That's correct.

30 CHAIR: Okay. Sorry, Ms Gleeson. I'm taking your valuable time.

MS GLEESON: Can I move on now to the other matter that you identified in paragraph
4.33 of your statement which is Afford's culture.

35 MR ADAMSON: Yes.

MS GLEESON: Just taking a page back, at page 14 of your statement, paragraph 4.32 has
you saying that Afford's culture has changed in a number of respects but you note a few
pertinent examples of some changes in the culture, and I take it that these changes in the
40 culture are - and this comes from paragraph 4.31 of your statement - they commence with
the departure of the former Chief Executive Officer and the appointment of a new Chief
Executive Officer?

MR ADAMSON: That's correct.

45 MS GLEESON: I'll just go through each of them in turn and ask you a few questions. The
first that you identify is:

50 "The previous senior executives teams focused on financial success and a culture of
rewarding staff."

Can I ask you firstly in relation to a focus on financial success, how did you see it that that created an adverse effect on the culture at Afford?

5 MR ADAMSON: It just seemed as though everything was based around the financial side of things, which is the task that fell on the Team Leaders and the District Managers. So whenever we would have a meeting or there was some sort of conference, the first point of discussions was always around financials.

10 MS GLEESON: Did that mean, to your observation, that other things that might have been important in relation to the services that are provided to Afford's clients were given a lower priority?

MR ADAMSON: No. No.

15

MS GLEESON: You just thought that there was - I take it from your answer that there was an undue priority on financial performance?

MR ADAMSON: Yeah, it was a balancing act, making sure that you're managing the
20 financial side of things as well as the care and support given to our clients.

MS GLEESON: You've spoken about financial performance being a focus of the meetings that you attended. Can you tell the Commission about the various meetings that you attended as District Manager?

25

MR ADAMSON: Yeah, so we would have a - would have the Team Leaders meetings which were weekly - they were on a Tuesday and a Thursday - and then we would have the District Manager meetings on Wednesdays and Fridays. We also had the Friday afternoon executive meeting where the District Managers were invited to join in. And then there was
30 various ops conferences and staff conferences that were held.

MS GLEESON: What were ops conferences, what did they address?

MR ADAMSON: That was where all the operations team would get together and they
35 would just go through a list of any changes, any updates to policies, procedures, new way of doing practice and the like. It was just an update for the ops team.

MS GLEESON: And when you say "the ops team", who within Afford were members of the ops team?

40

MR ADAMSON: So that was my direct line manager as well as my peers, Team Leaders, other District Managers.

MS GLEESON: So ops team effectively means the people who were doing the day-to-day work?

45

MR ADAMSON: The operations team, yes.

MS GLEESON: Dealing with the clients.

50

MR ADAMSON: That's correct, that's correct.

5 MS GLEESON: And we heard some evidence yesterday from Dianne about some other meetings that she was required to attend, for example, a wage analysis meeting. Was that a meeting that you attended?

MR ADAMSON: They took place before I joined Afford.

10 MS GLEESON: So by the time you joined Afford the wage analysis was no longer taking place?

MR ADAMSON: That's correct.

15 MS GLEESON: And I think you said there was a slight overlap between the time.

MR ADAMSON: About three to four months.

MS GLEESON: But they weren't a feature by the time you started as District Manager.

20 MR ADAMSON: That's correct.

MS GLEESON: And the other meeting that she referred to was a sales analysis meeting.

25 MR ADAMSON: Again, before my time.

MS GLEESON: Were there meetings - you've identified Team Leader, District Manager and Executive meetings. Were there meetings at which there was an analysis of the staffing level and NDIS income that was being received from each centre?

30 MR ADAMSON: Not during my time, no.

MS GLEESON: That didn't happen anymore by the time you arrived?

35 MR ADAMSON: That's correct.

MS GLEESON: And the meetings that you did attend, you mentioned that there was a focus on the finances always at the outset of the meeting. What kinds of things were discussed at those meetings that related to the finances?

40 MR ADAMSON: Just each - each team's performance, anything related to what the income coming in for each - each team is, as well as the outstanding moneys that are owed in terms of what we called back claim to us, and any outstanding activity fees from clients.

45 MS GLEESON: And did you get the sense that the focus on the financials imposed some pressure on each of the centres to make sure that they were performing well financially?

MR ADAMSON: Yes. Yes.

50 MS GLEESON: And did you also get the sense that a priority should be making sure that all the financial reporting documents that needed to be done, invoicing and any other

wrap-up documents to report on how each individual -- were performing should be prioritised by the staff at the centres?

MR ADAMSON: It was always that way that that was the priority, yes.

5

MS GLEESON: Can I turn now to the -

CHAIR: Have you finished with 4.32?

10 MS GLEESON: No, no. I will be on it for quite some time, Chair.

CHAIR: Carry on.

15 MS GLEESON: Is it the case, just before I move on, is it case that two sets of spreadsheets needed to be created by the Team Leaders at the time that you were - started as District Manager and one of them was a weekly sales analysis spreadsheet? Did that have to be completed?

MR ADAMSON: Yes, it did.

20

MS GLEESON: And did the - and a separate spreadsheet called the wage analysis spreadsheet also had to be completed.

MR ADAMSON: There was no spreadsheet for the wage analysis.

25

MS GLEESON: Alright.

MR ADAMSON: There was just comment.

30 MS GLEESON: But that still needed to be created. There wasn't a meeting that was devoted to that for achieving more.

MR ADAMSON: No, no.

35 MS GLEESON: What became of the spreadsheet after it was created - after it was completed by Team Leaders?

MR ADAMSON: Which spreadsheet?

40 MS GLEESON: The weekly spreadsheet - sorry - the weekly sales analysis spreadsheet.

45 MR ADAMSON: Yes, so what was required was the Team Leaders would complete the wage - sorry - weekly sales analysis. They would input all the data that came from finance. They would comment on any variances, and then they would send that across to the Finance Department as well as copying in their District Manager.

MS GLEESON: But it wasn't a requirement after that time for there to be a meeting in which the Team Leaders had to justify what was in the spreadsheet?

50 MR ADAMSON: No, in my time, no.

MS GLEESON: It went to you. What function did you have in reviewing or acting on the sales analysis spreadsheets you received?

5 MR ADAMSON: Yeah, so my part was just reviewing the income coming in, making sure that if there was any variances, that they had comments that were accompanying those variances, so that way we could see why there would be a variance in what the client services were due to be delivered and what was actually - actual services delivered.

10 MS GLEESON: Sorry, and when you speak about the discrepancy, does that mean the discrepancy between the services that were provided in a particular week and what was allowed in the client's NDIS plan?

MR ADAMSON: That's correct.

15

MS GLEESON: Yes. To the extent that there were variances, you said that they had to be justified. What did you mean by that?

MR ADAMSON: It's just a general comment in there. So there could be, for example, a client attends five days a week but they only attended three so that's why there was a variance, or there was a request for additional services, so that's why the amount invoiced was higher than what their weekly invoices would regularly be.

MS GLEESON: And did you, after receiving the weekly sales analysis spreadsheets, then have to collect together the information in each of them and create a larger report for your district?

MR ADAMSON: No.

MS GLEESON: You just passed on - those reports were passed on and dealt with by Finance.

MR ADAMSON: That's right.

MS GLEESON: And you didn't have to do anything else.

MR ADAMSON: That's correct.

MS GLEESON: Did you ever get any directions from Finance or from the State Executive or from the CEO that there were problems with the financial performance that was recorded in those spreadsheets and directed to investigate, do something about it at an individual site under your management?

MR ADAMSON: Yes.

45

MS GLEESON: Can you give an example of when that occurred?

MR ADAMSON: It could be when the Team Leaders are posting the plan managed invoices which we do on a weekly basis as opposed to daily with the NDIA-managed

clients. And if they put the incorrect posting date, it will not show the actual figure that was delivered for the services for the previous week.

5 MS GLEESON: And I take it that you would get a complaint by Finance that that had happened and you need to direct the Team Leader to fix that up.

MR ADAMSON: Not so much a complaint, it was just an observation by Finance. Even though it had already been claimed, it would just reflect in the following week's figures.

10 MS GLEESON: Were issues that were fed back to you ever more substantive? This particular centre isn't charging enough to clients as against to what's allocated in their plan, problems of that nature that were identified to you?

MR ADAMSON: No. No.

15

MS GLEESON: I'll turn now to the second matter that you refer to in 4.32(a) and that's the culture of rewarding staff. I've got a couple of questions about that, but, generally, is it right that there was a philosophy that one of the ways in which Afford could grow as a business would be they had a happy and well-recompensed staff who enjoyed their job and therefore would perform better?

20

MR ADAMSON: Yeah, look, a happy work environment is always going to make people more inclined to come to work.

25 MS GLEESON: Do you remember that being a particular message that was communicated by the CEO?

MR ADAMSON: No.

30 MS GLEESON: Or any of your managers about that?

MR ADAMSON: Not in my time.

35 MS GLEESON: Can you tell me when you speak of a culture of rewarding staff, what are some of the examples in which that occurred during the period in which you were District Manager.

MR ADAMSON: So PACES is one way of rewarding staff.

40 MS GLEESON: And that's a bonus performance system?

MR ADAMSON: That's correct.

45 MS GLEESON: And were there any other ways in which there were staff rewards that existed on a cultural level?

MR ADAMSON: Yeah, so we had monthly customer service awards for staff who were nominated by their peers for outstanding work that they've observed them do.

MS GLEESON: And was there also any culture that related to ensuring that staff would socialise and celebrate and have parties?

MR ADAMSON: You're referring to "buzz nights"?

5

MS GLEESON: Yes. Can you - we'll start at the ending. Can you tell the Commission about buzz nights and how they operated?

MR ADAMSON: Yeah, so buzz nights were events that were put on at the end of team meetings. Generally team meetings were held after the - after the day's clients had gone home and they were once a month, and the purpose of the buzz nights was just to create that happy team environment for everyone to come, mingle with each other, and just enjoy each other's company and interact with people who they may not interact with on a daily basis, given that everyone's availability is different from each other's.

10
15

MS GLEESON: Did you see any downsides in buzz nights being held?

MR ADAMSON: There has been a few which can be taken advantage of, given that there was a particular figure allocated per head, and if they're off site then, you know, if you were not there, you - obviously you don't know what you don't know when you're not there. So there definitely could be some, yeah, down sides to that, yeah.

20

MS GLEESON: When you say, "You don't know what you don't know when you're not there", what do you mean by that? Do you mean that people that didn't attend these parties were out of the loop or not included in the same way as other staff members did, or -

25

MR ADAMSON: No, as a District Manager I very rarely attended buzz nights, so I was not there to observe what was happening, and you're just taking it from the feedback that you'll hear from Team Leaders what actually - what the event was and what they were doing at the event.

30

MS GLEESON: Okay, and what was the feedback that you were receiving?

MR ADAMSON: It was quite positive what I was receiving, that staff loved it. It was a way to generally have a meal together and just share a few laughs and a few stories and get to know people outside of work and, you know, who they are and what motivates them.

35

MS GLEESON: Did you ever observe that social functions like buzz nights were - were better attended and attracted more interest than, say, meetings at which you and the Team Leaders had to explain matters that were relevant to the care of clients, such as safety issues or client specific issues?

40

MR ADAMSON: No, so in order to - to go to - like, to be included in the buzz night, you had to attend a team meeting. So you couldn't just turn up to the buzz night without attending the team meeting and be a part of that.

45

MS GLEESON: When you say you couldn't do one without the other, is that because they would be held at the same time?

MR ADAMSON: The team meeting would be held first and then they would have the buzz night afterwards.

5 MS GLEESON: I'll move back, then, to PACES. We've heard some information from the witness Rachel earlier today. I'm not sure you were here for that.

MR ADAMSON: Yes, I was.

10 MS GLEESON: And she gave an account of how it is that PACES operated. To your memory when you were District Manager, the Team Leaders under your management, if they did meet the PACES criteria - and, as I understand it, you had to achieve 80 per cent of all the criteria -

15 MR ADAMSON: That's correct.

MS GLEESON: - in PACES. If they achieved that outcome, how much money did the Team Leader get?

20 MR ADAMSON: My understanding is roughly about \$1000 it just depends on the size and scale of each site.

MS GLEESON: So that's \$1000 per quarter give or take.

25 MR ADAMSON: Correct.

MS GLEESON: And was there any flow down of bonuses for Senior Lifestyle Assistants, Lifestyle Assistants who were employed at that site?

30 MR ADAMSON: Yeah, so the Senior Lifestyle Assistants, they would also receive the PACES incentive. And any staff who participated, say, in the coordination of fire drills or site safety inspections or holding team meetings and doing the minutes and the like.

35 MS GLEESON: Because they were all criteria that had to be ticked off for the purposes of -

MR ADAMSON: That's correct.

MS GLEESON: - qualifying for PACES bonuses.

40 MR ADAMSON: That's correct.

MS GLEESON: Turning to your position, am I right that your entitlement to a bonus was dependent on the performance of the sites that you managed.

45 MR ADAMSON: That's correct.

MS GLEESON: So if they qualified for a PACES bonus, you qualified for a PACES bonus.

50 MR ADAMSON: That's correct.

MS GLEESON: And if they didn't, you didn't. Is that right?

MR ADAMSON: That's correct.

5

MS GLEESON: And how much money did you get - I take it you received your bonus on a per site basis.

MR ADAMSON: That's correct.

10

MS GLEESON: How much did you get per site?

MR ADAMSON: It would be the same amount that each Team Leader would get.

15 MS GLEESON: So each - for each Team Leader given 1000, you're given 1000 that you can get every quarter, \$7000.

MR ADAMSON: That is correct.

20 MS GLEESON: So that so that means that over a calendar year you can potentially - if all of your sites performed well - get \$28,000?

MR ADAMSON: That is correct.

25 MS GLEESON: And did that flow further up the chain from you? Was there an equivalent benefit to State Executive Managers?

MR ADAMSON: There was.

30 MS GLEESON: And was it also \$1000 per site?

MR ADAMSON: No, I believe it was 50 per cent of what each of the District Managers received.

35 MS GLEESON: We've heard some criticisms - and Rachel gave her opinion on it in the statement we heard before lunch - that PACES wasn't a good measure of how staff at a particular site was performing and that part of the issue was it was largely a box ticking exercise. Do you agree with that assessment?

40 MR ADAMSON: Not within my district, no.

MS GLEESON: Why do you say not within your district?

45 MR ADAMSON: So my higher performing sites who, you know, were meeting all the criteria, they were the ones who were passing, but the ones that there was a few issues with, you know, compliance, they were not meeting the PACES criteria.

50 MS GLEESON: Alright. I'm not sure that entirely answers my question about whether or not it's a box-ticking exercise, because all that seems to say is that some of your sites ticked the boxes better than other sites did. Do you agree with that?

5 MR ADAMSON: No. Well, there is - there's a set list of tasks that each - each of the staff need to do and it's just a part of their daily duties. So it's not ticking the boxes just to meet the criteria. It's ensuring that the day-to-day tasks that you do are being done and they're being done correctly.

10 MS GLEESON: Can I just turn to the awards that you also referred to. Did you see any downsides in that award system operating? It's nominated by peers and presumably there was recognition in Afford publications as to whoever won the award.

MR ADAMSON: No, no, I actually think it's a great thing.

15 MS GLEESON: Okay. You've identified a culture of rewarding staff as being a cultural problem. Can you explain to the Commission exactly how the bonus system and the award system created cultural problems?

MR ADAMSON: I'm not sure what you mean by how they were creating - the reward system creating problems.

20 MS GLEESON: You said in your statement -

MR ADAMSON: Yeah.

25 MS GLEESON: - that they - there were examples of there being issues with the culture at Afford.

MR ADAMSON: Yes.

30 MS GLEESON: And I'm trying to get you to identify in what respects they created problems with the culture at Afford.

35 MR ADAMSON: I don't think the staff customer service awards created any difficulties with the culture. I actually think it promoted people to identify others doing the right thing and to feel encouraged to speak up and let everyone know that staff member A is doing a fantastic job.

MS GLEESON: Was there a financial benefit attached to receiving one of the awards?

40 MR ADAMSON: There was, yeah.

MS GLEESON: And how much is that?

MR ADAMSON: I'm not sure of the exact figure.

45 CHAIR: Mr Adamson, for the two years that you were District Manager may we take it from your evidence that you got bonuses of \$28,000 per annum during that two year period?

50 MR ADAMSON: No, I never received those.

CHAIR: Sorry?

MR ADAMSON: I didn't receive 28,000.

5 CHAIR: What did you receive?

MR ADAMSON: I don't know the figure per annum; I just know the total figure to date.

CHAIR: You can't remember?

10

MR ADAMSON: No.

CHAIR: Did you get bonuses in respect for each of the seven units for which you were responsible in each year?

15

MR ADAMSON: I did, but not all the sites achieved the bonus.

CHAIR: Right. Why did you get that bonus? What did you do to earn it?

20 MR ADAMSON: So part of my criteria for qualifying was ensuring that I was there to support and mentor my team and making sure that they were doing everything that was required for them to actually meet the - the required fields of the PACES.

CHAIR: And yet in your own statement you accept that during this period there was a culture of concentrating on financial success, a culture where Afford staff were reluctant to speak up and share ideas, a culture by inference where families were not included and there was not a strong sense of community, a culture where there had not been a priority accorded to safeguarding the safety of service users, and a culture that did not place appropriate emphasis to promote a safer, more inclusive environment for service users.

25

30 That's what follows from paragraph 4.32, doesn't it?

MR ADAMSON: Yes.

CHAIR: And yet you still got your bonuses.

35

MR ADAMSON: Yes.

CHAIR: What for?

40 MR ADAMSON: Yes, I was given the bonus for doing my job.

CHAIR: Did it ever occur to you to ask why a non-profit organisation which had as a mission to support people with disability and, above all, to ensure their safety and wellbeing should embrace: (a) a philosophy of expansion; and (b) an emphasis on financial success? Did it ever occur to you to ask?

45

MR ADAMSON: No.

CHAIR: Have you asked since? Since your time as a District Manager?

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MR ADAMSON: I've asked since stepping up in the Executive Manager role.

CHAIR: Yes. And what answer have you got?

5 MR ADAMSON: The answer that I got at the time is that's what it was and that's what it's always been, and it's been in place the whole time.

CHAIR: That's what it was and it's always been.

10 MR ADAMSON: Correct.

CHAIR: Did that answer satisfy you?

MR ADAMSON: At the time it did, yes.

15

CHAIR: It did?

MR ADAMSON: Yes.

20 CHAIR: By the way, paragraph 4.32, are they your words or did someone else write it for you?

MR ADAMSON: So on page 14.

25 CHAIR: Sorry.

MR ADAMSON: On page 14?

MS GLEESON: Yes, on page 14.

30

MR ADAMSON: Yes, they're mine.

CHAIR: Yes, are they your words?

35 MR ADAMSON: Yes.

CHAIR: You wrote them?

MR ADAMSON: Correct.

40

CHAIR: You realise, do you, I put it to you, that apart from the acknowledgement in the first sentence of (a) and (b) the rest of it sounds like an advertisement, doesn't it?

MR ADAMSON: Yes. It could be read that way.

45

CHAIR: Yes?

MR ADAMSON: Yes.

50 CHAIR: Okay. Yes, sorry, Ms Gleeson, again. I'll try and keep myself under control.

5 MS GLEESON: Can I suggest from the second part of your answer in 4.32(a) that one of the problems with the culture of rewarding staff that you've identified is that there's then, because there's a financial benefit attached - a focus at every centre on completing the PACES criteria rather than doing what the centre is there to do, which is to pay attention to clients, make sure they're receiving good quality care and that their safety is being appropriately safeguarded? Do you agree with that?

10 MR ADAMSON: Yes, yes.

MS GLEESON: Can I move on to (2)(b). You identify there that there was previously a culture where Afford staff were reluctant to speak up and share ideas. Can you tell the Commissioners why that was so? What caused that to be a cultural issue at Afford?

15 MR ADAMSON: Yeah, so if you spoke up you were often shut down, and sometimes you'll be shut down in a public forum with all of your other peers, either on the phone or on the team's conference. So that just - it just discouraged people from actually speaking up in those open forums.

20 MS GLEESON: So if a Team Leader thought -

MR ADAMSON: Under the previous management.

25 MS GLEESON: If a Team Leader thought there was an issue, for example, with the way in which a centre was set up and the safety of clients in that centre, and they raised that at one of the team meetings, they would be publicly abused; is that right?

MR ADAMSON: Not so much the team, in the higher team meetings, yes. Not their team meetings. Yes.

30

MS GLEESON: Is the culture of - you talked about Afford staff here. Are you saying to me that the cultural issue that you're identifying was at the more senior executive levels?

35 MR ADAMSON: That's right, so from the Team Leader level and above. If you're a Team Leader or District Manager and you're trying to speak up about something, quite often you were shut down.

MS GLEESON: And was it ever the case that if you spoke up about an issue, you may find that there was some performance management issue raised against you?

40

MR ADAMSON: I never experienced that, no.

MS GLEESON: Did you ever observe it happening to anyone else?

45 MR ADAMSON: No.

MS GLEESON: You say that the - in the second sentence:

50 "The focus has shifted to encouraging staff to speak up and provide feedback to improve the quality of services and activities provided by Afford."

Can you give examples of what is being done to encourage staff to speak up and contribute to the quality of services at Afford?

5 MR ADAMSON: Yeah, so since the change in senior leadership from the CEO level down, we're actually being encouraged to speak up. We have our executive teams who are wanting to know who each individual Team Leader is, which District Manager, you know, and get to know them a lot more but also asking them questions when they're visiting them face to face, "What are some of the problems that you see?"; "What are some of the areas of success?" So that way they're able to speak up in a more comfortable environment
10 without fear of being ridiculed or anything like that.

MS GLEESON: Have you observed so far, and I accept you're now a couple of levels above the day-to-day goings on at centres - and can I ask you, before asking my next
15 question, you've told the Commission about the frequency with which you visited centres when you were a District Manager.

MR ADAMSON: Yes.

20 MS GLEESON: Now that you're a level of National Executive, how often do you get to visit sites of Afford around the country?

MR ADAMSON: So the majority of the time in this role was during the pandemic, so I was unable to travel around. That's the same as the District Managers given, you know, the
25 lockdown orders that were in place. But since we've been able to move around freely, I try to get out to each of the sites at least once or twice a week to be with the District Managers. Just depending on what site they're at, I try and make time to be there with them and spend the whole day there with them.

30 MS GLEESON: It seems to me that there's two ways in which you can encourage staff to contribute in the manner in which you've identified, and one of them is that there would need to be a concerted effort and perhaps a direction amongst the senior managers that that was the way that you were going to conduct yourselves going forward. Has that happened?

35 MR ADAMSON: It's - we're still on that path, yes.

MS GLEESON: And how do you see that path operating? What's going to be done to make sure that there's systems in place and a culture in place to that encourages staff to speak up and identify problems and issues?
40

MR ADAMSON: So we're starting to see a more professional level of the senior executive team. There is new department heads coming on board on the regular. We know what areas they're actually predominantly looking after, so we know now that if I have an issue with this particular area, I know who to go to. It's not - focused more on the District Managers and Team Leaders, there is actually highly-skilled qualified people who are overseeing
45 those areas. So we have a direct reference point to go to and, you know, we're on that path to continuous improvement especially in those areas where it's been well overdue.

MS GLEESON: The other way in which I can see that senior management can encourage
50 staff to speak up and provide their input into the way in which services should be delivered

is that if they're confident when they do that not only will their input be welcome but it will be acted on. What systems, procedures or policies are being devised or are in place to ensure that when an issue exists, it's being acted on or there's some explanation about why it isn't?

5

MR ADAMSON: There has been a review of all our systems and policies, but I do know now speaking to my new direct line manager there if is an issue, he's acting on it and I'm getting constant feedback about what he's done, as well as what has been committed to which is - which is great because it's just - it's allowing me to know something is actually happening, whereas in the past, once you discharged the information above, you would never know unless you were constantly following up.

10

MS GLEESON: Now, the next matter in 4.3.2(c) is that there has been a cultural shift relating to the inclusion of families and community at lifestyle centres. Now, I take it you were here on Monday and heard the evidence of the parents of three of -

15

MR ADAMSON: Yes.

MS GLEESON: - the clients at the centre and some of their quite considerable issues they had in trying to communicate with Afford in relation to their children. What were your observations when you were District Manager about the way in which the clients of the centre and their support people were able to communicate and give input into the way in which the clients were receiving services at the centre?

20

MR ADAMSON: Yeah, so it was done in conjunction with the Team Leader so they'd communicate either by phone, text message, email, so they were communication channels. Some families would drop their loved ones off at the centre so they were able to speak face to face there. And we did hold things in the past called "parents' events" which were quarterly events where we'd invite parents to come along and provide input and feedback into how the centre was operating.

25

30

MS GLEESON: And, again, it's very commendable that there's now occasions created for families to visit centres and to be involved and raise feedback. What's being done to make sure that when families do raise concerns at those events that those concerns are being acted on and that someone's checking that the families and, more importantly, the clients are receiving an appropriate response to the issues they raise?

35

MR ADAMSON: Yeah, so a lot of what I just spoke about earlier was pre the pandemic, so obviously there was a lengthy period in between where no one was coming to the sites, but we were able to communicate. But now it's just communicating with the families, letting them know who we are and we're available so for myself in my level, so they know who I am, so they've got an open line for them to come to me as well as the District Managers and Team Leaders. So they're starting to have a lot more of that engagement again, and, over time, once a lot of the roles are redefined, we'll start to allow, you know, there will be more capacity for the Team Leaders to have that family and carer engagement.

40

45

MS GLEESON: Now, engagement in particular events is very nice, but the experiences that we heard about on Monday involved there being, I think it's fair to say, two elements. And the first element was that there would be a problem with the way that client services

50

were being delivered, and it was very difficult for the clients to get any effective response from Team Leaders and above as to how that problem was going to be dealt with. That's one. And two was that the clients felt that they weren't getting sufficient information about what was happening to their children at the site. Sorry, I withdraw that. The support people were not getting enough information about what was happening to their children at the site, so that very often there may have been a bad experience, an incident occurring, that they simply weren't being told about, or weren't being told about in a timely manner. What's being done to make sure that doesn't happen and that there's a proper line of communications between clients, their support people and the staff at Afford's day centres?

MR ADAMSON: Yeah, so the incident that you're referring to with the three, so the Team Leader at the time is no longer with Afford. With the Team Leaders that are there now, and it's across the board, they're doing a lot more engagement with families, picking up the phone, but obviously more can be done. So I think it's important that we - obviously we're communicating a lot better than what we did previously because, you know, that's a common theme, but it's just making sure that our Team Leaders know that, first and foremost, that, you know, they're encouraged to pick up the phone and speak to the families, invite the families in. So that there's no priority on anything else except for clients and the families. So in the past it was I needed to finish task A, B, C; now task A, B, C is not the priority, it's picking up the phone.

MS GLEESON: I think, in fairness, the issues that were raised by the parents that gave evidence on Monday traversed a number of Team Leaders, in fact, one of the problems they identified was that there was a turnover of Team Leaders.

MR ADAMSON: Yes.

MS GLEESON: So they had problems with communication and problems with continuity of what services they were receiving from the Team Leaders. Is that an issue that still persists at Afford, that there is a high turnover of staff and that that impacts on the manner in which clients receive their services?

MR ADAMSON: So staff as in Team Leaders or staff as in staff in general?

MS GLEESON: Staff in general, but Team Leaders being a problem that I've identified here.

MR ADAMSON: In the time that I was looking after Mount Druitt there was six Team Leaders. Two of those left because of performance-related matters, one relocated and one was just filling in until the other one came on board. So, yeah, there has been a high turnover, but we've been able to stop that turnover so the Team Leader that's in place at the moment has been there for about 15 months now.

MS GLEESON: And that's at one site. You're now overseeing Afford nationally. Are you finding that there are issues with turnover of staff, or has that regularised so that there's greater continuity of care occurring across the board?

MR ADAMSON: Yeah, so the Team Leaders we've in place, they've been in place for the whole duration that I've been in this role. There's only been a slight turnover, and that's just

due to people moving out of the sector or people, you know, opting against being vaccinated, which is a requirement.

5 MS GLEESON: Alright. Have you identified that as being a significant problem with staff take-up?

MR ADAMSON: I think it's a problem for the whole sector, the vaccinations, yeah, which we support.

10 MS GLEESON: Alright. Just one final question: you've talked about changing culture so that there's a greater encouragement and engagement with staff, but how is it that you can be satisfied that having that as a worthy goal is actually going to be in force at each of the centres? What policies are in place in relation to how staff should be communicating with clients and with their support people so that there's some metric against which you can
15 measure whether or not issues that are raised are actually being dealt with?

MR ADAMSON: Yeah, so there's no policy currently in place, but we're working through those. So, obviously, in the past there was no things like surveys and stuff, but, you know, that'll obviously be something I'm sure the organisation will look at going forward.
20

MS GLEESON: I mean, it seems to me that in matters as serious a concern that might be raised, for example, about how it is that a behaviour management plan or a medication management plan is being administered at the sites, it would be important for there to be some log of those concerns being raised so it can be tracked that those concerns are then
25 being met, in the same way as a complaint is, even though it may not be a problem; it is a concern or issue that needs to be dealt with.

MR ADAMSON: Yes, and with those examples, so all staff, so frontline staff have a quarterly staff development plan meeting with their Team Leader where they go through, you know, obviously, their performance, any issue, any complaints that have come to light, any compliments that they've received. Obviously, if there is stuff that, you know, Team Leaders find out, they have those conversations at that moment in time, rather than waiting for the STP.
30

35 MS GLEESON: Alright. And I'll just - I'll go very quickly to 4.32(d). You refer to there being a:

"cultural shift to safeguarding and prioritising the safety of service users."

40 That begs the question, what was the cultural problem that meant that safeguarding and prioritising the safety of service users was not being addressed -

MR ADAMSON: Yeah, it's -

45 MS GLEESON: - prior to the appointment of the new CEO?

MR ADAMSON: It sat on the - with the District Managers and the Team Leaders, so there was no team above to provide that guidance and support. But with -

MS GLEESON: And this is the issue that you were referring to earlier, that there was no central department that was focused on safeguarding -

MR ADAMSON: That's correct.

5

MS GLEESON: - as a general issue.

MR ADAMSON: That's correct.

10 MS GLEESON: And then the last is that:

"There is a greater emphasis placed on Lifestyle Centres to promote a safer, more inclusive environment for service users."

15 Now, you've just spoken about there being problems at a central level.

MR ADAMSON: Yeah.

20 MS GLEESON: This sounds to me like you're identifying a cultural problem that existed at a centre-to-centre level. Can you tell us about what the problems were in the culture at each centre that meant that emphasis wasn't being placed on a safer, more inclusive environment for service users?

25 MR ADAMSON: Yeah, so with this here, so it's about making sure that all the staff at the ground level also understand their roles and responsibility when it comes to providing care and support, and that we're there to support them, and make them - make everyone understand that it's all about - all about the clients, all about including the clients, all about the client choice. It's not so much about what individuals want to do on a daily basis. If a client wants to do one activity then, you know, we - we could do that activity. We don't
30 just, you know, go off and do what the staff want to do or what a different group are going to do. So it's about more of the client steering us about what they want to do in line with their goals rather than just being a part of the group and doing what the group activity would be for the day.

35 MS GLEESON: A greater emphasis, that is, on there being choice and control.

MR ADAMSON: Choice and control.

MS GLEESON: In the clients.

40

MR ADAMSON: Absolutely.

45 MS GLEESON: In relation to safety, did you observe that there was a cultural problem which meant that safety was not an emphasis in the way in which the staff at lifestyle centres were caring for their clients?

50 MR ADAMSON: So with that, it's just - it's about making sure they understand what, you know, what is a safe working environment for them, but what's then a safe environment for our clients to attend as well. So it could be as little as making sure that, you know, risk assessments are completed when going out and attending activities, which is something

that never happened in the past. So, yeah, doing all those - those checks before to make sure that where a client is going, it's safe for them to actually attend that venue or go to that park.

5 MS GLEESON: Is what you're telling me that there was a lack of awareness or understanding amongst staff at the day centres about what they needed to do to safeguard clients against risks of harm?

MR ADAMSON: I think they were doing the best to their ability with what they knew.

10

MS GLEESON: And what were the short comings with what they knew, to your observation?

MR ADAMSON: There was just a lack of information provided to them about risk and safety, for example, if you were going out to a venue and doing a risk assessment on that venue.

15

MS GLEESON: And what were - were the issues with the lack of awareness related to the policies and procedures that were in place to ensure that client safety was safeguarded?

20

MR ADAMSON: All the policies and procedures are being reviewed, but, yeah, they could have -- a place, yes.

MS GLEESON: And what way would that have contributed, to your observation?

25

MR ADAMSON: Just by them obviously feeling like they're doing a great job but understanding that more - more can be done. So, their perception is they're doing a great job but ensuring that we're providing them with the right tools to do that job --

MS GLEESON: And when you say they're not being provided with the right tools, does that mean in your assessment, when you were District Manager and State Executive Manager, that the policies and procedures that were in place were not the right tools to assist Lifestyle Assistants to understand what their obligations were in relation to safeguarding clients from harm?

30

MR ADAMSON: So the policies and procedures that were in place at that time were - we were following them so they were our guide. So, whatever was in those is what we stuck to. Obviously, we - we now know that there's a lot more than what's - what's in the document. We can, you know, in some cases apply common sense.

35

CHAIR: When you were District Manager did it occur to you that there was some deficiencies in the policies because, after all, you were the person to whom the Team Managers were directly responsible, weren't you?

MR ADAMSON: Yeah, so the Team Leaders were responsible for that, yes.

CHAIR: Yes. Well, did it occur to you that the policies were defective?

MR ADAMSON: No, so that didn't occur to me at the time.

50

CHAIR: If I may say so, it seems a rather unquestioning attitude for someone with responsibilities for the management of seven units. You understood, didn't you, that the highest priority had to be the safety and wellbeing of participants in the program?

5 MR ADAMSON: Absolutely.

CHAIR: And yet you're telling us that there were clear deficiencies in the policies, procedures and practices adopted at the time. That's what you're telling us, isn't it?

10 MR ADAMSON: Yes.

CHAIR: And none of this occurred to you?

15 MR ADAMSON: At the time, if I was doing a risk assessment, no, it didn't - it didn't occur to me to - that a risk assessment needed to be done on a park, for example.

CHAIR: I see. By the way, what training did you get when you began as a District Manager?

20 MR ADAMSON: I had one day visiting the sites, that was it. And then I did the online training modules before I started.

CHAIR: That was it?

25 MR ADAMSON: That was it.

CHAIR: What training did you get in the operation of the statutory framework to which you refer in your statement?

30 MR ADAMSON: I had no -

CHAIR: None.

35 MR ADAMSON: - additional training, no. It was just handover from above.

CHAIR: Did you ever know anything at all about the requirements of the NDIS Act?

MR ADAMSON: Not until I joined Afford.

40 CHAIR: Not while you were a District Manager?

MR ADAMSON: When I was a District Manager, yes, also through my child who has a disability.

45 CHAIR: No, I'm asking when you joined Afford.

MR ADAMSON: Yes.

50 CHAIR: You said the only training you got was one day at the site, that was it?

MR ADAMSON: That's right. I had a one-day handover.

CHAIR: And now I'm asking you what did you understand about the statutory framework that governed the operations of Afford at the day programs for which you were
5 responsible, and I'm asking you what did you know about that statutory framework?

MR ADAMSON: At the time, nothing.

CHAIR: Did you have any training at all?
10

MR ADAMSON: No.

CHAIR: Did you ever have occasion to look at the definition of "reportable incident"?

MR ADAMSON: After I started doing them, yes.
15

CHAIR: After?

MR ADAMSON: Once I started completing reportable incidents, so I got an
20 understanding of what they were. But there was no training on reportable incidents when I first started.

CHAIR: My question was whether you had occasion to look at the definition of reportable
25 incidents under the legislation.

MR ADAMSON: Yes.

CHAIR: When did that happen? You said when you started doing reportable incidents.
30 Was that three months after you started as a District Manager, a year after, towards the end?

MR ADAMSON: It was a couple of months after, it was around August, so two months
after.

CHAIR: Are you familiar now with the requirements of the NDIS Act?
35

MR ADAMSON: I am. Yes. Yes.

CHAIR: It had never occurred to you once you became familiar with the definition, which
40 happens to be in section 73Z subsection (4), it never occurred to you that a failure to administer medication inadvertently could be a reportable incident.

MR ADAMSON: That's correct.

CHAIR: Yes.
45

MS GLEESON: Just picking up on the Chair's questions, I take it you're not a lawyer?

MR ADAMSON: No.
50

MS GLEESON: No. And nobody's asking you to read and interpret the *National Disability Insurance Scheme Act*, for example. You had to have that information presented to you in such a way that you could understand what the requirements were without having to look at up each of the pieces of legislation.

5

MR ADAMSON: That's correct.

MS GLEESON: How was that done when you were District Manager?

10 MR ADAMSON: So it was just by myself just looking online.

MS GLEESON: When you a looking online were you looking at the Act and the Practice Standards and Code of Conduct under the Act?

15 MR ADAMSON: That's correct, yeah.

MS GLEESON: And did you inform yourself by any guidance that was issued, for example, by the NDIS?

20 MR ADAMSON: So everything was just - everything I learned about it was just all online.

MS GLEESON: Did you do that for the purposes of your role as District Manager or did you do that to inform yourself as part of what you were doing to assist in the care of your child?

25

MR ADAMSON: It was a bit of both.

MS GLEESON: Alright. And I take it from what you've just told me that if you needed to inform yourself of those things, no one at Afford was making sure that people from District Manager and below were aware of what their compliance requirements were under all of the applicable legislation?

30

MR ADAMSON: I'm not sure what they done before I started there.

35

MS GLEESON: I'm talking about what was done after you started in relation to people at your level and below who were under your management?

MR ADAMSON: Yeah, I believe so, yeah, no-one was.

40

MS GLEESON: No-one was. And did you ever think that it would be appropriate to introduce some level of understanding for the Team Leaders and the Lifestyle Assistants and Lifestyle Assistant in the day centres that were under your management?

45 MR ADAMSON: Some - the team that when I started they were already in place and they - they had a good understanding of it. And those that joined, who were not promoted from within, who joined external, had come from leadership roles within the sector.

MS GLEESON: Did you get a sense or have an impression that to the extent that there were legislative requirements, that they were addressed in the policies and procedures in relation to reporting of incidents, for example?

5 MR ADAMSON: I believe so, yes.

MS GLEESON: Did you know from reading the policies that they were designed to do that?

10 MR ADAMSON: Yes. Yep.

MS GLEESON: Alright. I might take you back now to the commencement of your employment.

15 MR ADAMSON: Yep.

MS GLEESON: Your role as a District Manager was your first role in disability support; is that right?

20 MR ADAMSON: That's correct.

MS GLEESON: And for a period before that you worked in aged care from 2016.

25 MR ADAMSON: That's correct.

MS GLEESON: To 2019, and you were in a regional management position when you were working in aged care?

30 MR ADAMSON: That's correct.

MS GLEESON: Similar to the role that you occupied as District Manager -

MR ADAMSON: That's correct.

35 MS GLEESON: - when working for Afford. And in your statement at paragraph 1.11 to 1.15 - and that's on page 3 - you set out your qualifications. There aren't there any qualifications in relation to the provision of disability services?

40 MR ADAMSON: That's correct.

MS GLEESON: You didn't, for example, do a Certificate IV in disability -

MR ADAMSON: No.

45 MS GLEESON: - at any time before or after?

MR ADAMSON: No.

50 MS GLEESON: Were you aware whether or not it was a requirement for District Managers to have that qualification?

MR ADAMSON: My understanding is no based on my not having it.

5 MS GLEESON: Yes, that's a fair conclusion. Prior to working in aged care you worked in banking.

MR ADAMSON: That's correct.

10 MS GLEESON: And the qualifications that you set out in paragraph 1.11 to 1.15 of your statement are largely training courses relating to business leadership and things of that nature?

MR ADAMSON: That's correct.

15 MS GLEESON: You also speak - in 1.13 of your statement you talk about undertaking a training course, being the Afford Academy.

MR ADAMSON: That's correct.

20 MS GLEESON: Can you tell me a little bit about the Afford Academy?

MR ADAMSON: Yes, so the Afford Academy was designed for District Managers just to go over the roles and responsibilities of their role as well as the reporting on any, you know, the - the management reports that we had to report through to senior leadership. It went through things like reporting reportable incidents on PRODA. It went through how to lead your team, how to mentor your team. Yeah, it was just - it was an in - an in-house internal training program.

30 MS GLEESON: How long did it go for?

MR ADAMSON: It went for four days.

MS GLEESON: Four days. When did you complete the Afford Academy training?

35 MR ADAMSON: It was early 2020 from memory.

MS GLEESON: Early 2020.

40 MR ADAMSON: Yes.

MS GLEESON: So you'd been in the position of District Manager for more than six months when you did the Afford Academy?

45 MR ADAMSON: Yes.

MS GLEESON: Was that because it had just been introduced at that time.

MR ADAMSON: That's right. It was a new thing.

MS GLEESON: Did the Afford Academy include any modules in relation to abuse and neglect and responding to risks to clients in relation to their health and safety.

MR ADAMSON: Health and safety, yes, but not abuse and neglect from memory.

5

MS GLEESON: It wasn't part of your -

MR ADAMSON: From my memory.

10 MS GLEESON: - Academy curriculum. Alright. Who was eligible to attend the Afford academy? District Managers, Team Leaders?

15 MR ADAMSON: So there was different categories. There was the District Manager Afford Academy, which all the District Managers attended from both day program and accommodation. Then there was the Team Leader one for all the Team Leaders across the same programs. And there was ones for staff who identified as part of the Step Up Program.

20 MS GLEESON: And the Step Up Program was a program where you'd identify people who were performing well and put them on track for promotion; is that right?

MR ADAMSON: Yeah, or their development plan in their meetings with their Team Leaders, they expressed their desire to further their career in a leadership role.

25 MS GLEESON: Alright. Did you participate in the Step Up Program?

MR ADAMSON: No.

30 MS GLEESON: What proportion of the Afford Academy when you attended was related to issues of business development, growth, financial performance, financial statements, dealing with invoicing, dealing with NDIS charging requirements, things of that nature?

MR ADAMSON: Yeah, all of those formed a large part of the training.

35 MS GLEESON: Would you say the majority?

MR ADAMSON: Yeah, about 65 per cent of it was all related to those.

40 MS GLEESON: Who was the trainer at the Afford Academy?

MR ADAMSON: It was the previous Chief Operations Officer.

45 MS GLEESON: I wanted to go now just to paragraph 2.1 of your statement, which is on page 4, and if that can go up on the screen because I'll spend a bit of time on it. I just want to ask you about some of the responsibilities that you identified -

COMMISSIONER McEWIN: I'm sorry to interrupt. Do you mind if I ask a question about the training?

50 MS GLEESON: Of course.

COMMISSIONER McEWIN: Mr Adamson, before you go on, Ms Gleeson, onto that topic, just a few questions about the training that you receive or have received. Have you received training on the *Convention of the Rights of Persons with Disabilities*? Have
5 Afford provided you with training on that?

MR ADAMSON: No.

COMMISSIONER McEWIN: At all. Nothing at all?
10

MR ADAMSON: Nothing at all.

COMMISSIONER McEWIN: Do you have an understanding on the *Convention of the Rights of Persons with Disabilities*?
15

MR ADAMSON: Only through what I know with my son.

COMMISSIONER McEWIN: So that I understand Afford does not provide training as far as you know on the Convention?
20

MR ADAMSON: That's correct.

COMMISSIONER McEWIN: To any staff?

MR ADAMSON: I know it wasn't provided to myself and I believe not to others.
25

COMMISSIONER McEWIN: So it's fair to say that the Convention is not part of the everyday conversations that you have with your staff and management and the Board?

MR ADAMSON: That's correct.
30

COMMISSIONER McEWIN: Okay. Thank you.

MS GLEESON: Chair, I've just been made aware of the time. Was there an intention to take a short break in the afternoon session?
35

CHAIR: By all means. I might just ask Commissioner Bennett if she has any questions at this stage without prejudice to her right to ask questions at the end.

COMMISSIONER BENNETT: Ms Gleeson, are you going to ask - you're about to go into 2.1 and roles and responsibilities.
40

MS GLEESON: Yes.

COMMISSIONER BENNETT: That's probably the point that I would like to ask.
45

MS GLEESON: --

COMMISSIONER BENNETT: Thank you.
50

CHAIR: In that case, it's now just after 3 o'clock. If we resume at 3.20, is that - and could you give an indication, without a completely binding commitment, as to how long you're likely to be?

5 MS GLEESON: I think I will go into tomorrow.

CHAIR: Will go into tomorrow?

MS GLEESON: Yes, but not for a lengthy period. It may be just for an hour or so.

10

CHAIR: Very good. Alright. Well, you'd better make sure that Mr Adamson is aware that that is going to happen, as I'm sure he now is, and that the necessary arrangements can be made.

15 MS GLEESON: I will have a discussion.

CHAIR: So does that mean we are likely to finish at 4 today or 4.15?

MS GLEESON: I'm in the chair's hands. I can go -

20

CHAIR: You discuss it carefully with Mr Griffin and let us know what the outcome is.

MS GLEESON: I will.

25 CHAIR: Yes, we'll adjourn.

ADJOURNED 3.01 PM

RESUMED 3.19 PM

30

CHAIR: Yes.

MS GLEESON: Chair, having had a discussion with Mr Griffin moments ago, 4.15 I think is --

35

CHAIR: 4.15.

MS GLEESON: Cut off time.

40 CHAIR: By majority, we were hoping it would be 4 but nonetheless we will press on.

MS GLEESON: I will endeavour to complete what I wish to complete by 4, but I'm going to give myself the buffer.

45 CHAIR: Very good. Mr Griffin is a very hard man.

MS GLEESON: Mr Adamson, can I ask you one follow-up question from the questions I was asking before the break. You mentioned that the COO was the person who administered the Afford Academy, could you tell us which COO that was?

50

MR ADAMSON: The name of them?

MS GLEESON: Yes.

5 MR ADAMSON: Joy Kumar.

MS GLEESON: Thank you. Right. Now, I was taking you before the adjournment to page 4 of your statement, which is the table that you've set out of your responsibilities for each of your roles that I'm interested in, what you describe as your responsibilities as District
10 Manager. Can I just go through a few of them. The second dot point has got:

"Monitoring Team Leaders to ensure they are providing adequate assistance and care including weekly visits to each lifestyle centre."

15 And you gave some evidence about that before the break. Do you agree with me that that particular function is largely directed at you ensuring that clients of Afford are receiving appropriate quality of service?

MR ADAMSON: That's correct.

20

MS GLEESON: And then the next one is:

"Ensuring daily lodgement of service user progress notes."

25 We heard some evidence earlier that progress notes were the way in which Lifestyle Assistants did the billing, as it were, for the purpose of charging back to NDIS plan.

MR ADAMSON: Yes.

30 MS GLEESON: Do you agree with me that the function of ensuring that those notes were lodged on a daily basis is largely directed to ensuring that Afford is receiving appropriate income from the services that they provide?

MR ADAMSON: It forms part of it, but it also identifies what we've done throughout the
35 day.

MS GLEESON: The progress notes, were they used for any purpose other than matching up the invoicing that was generated for NDIS plans?

40 MR ADAMSON: They could be used as just general comments and file notes. If you've had a conversation with a family you could put the comment in there just as a general comment.

MS GLEESON: Was that at a line item that had no charge attached to it?

45

MR ADAMSON: There was no charge for that.

MS GLEESON: But the primary function, you'd agree with me, was that that was a billing function -

50

MR ADAMSON: That's correct.

MS GLEESON: - -- payment. The next one is:

5 "Mentoring Lifestyle Assistants and Team Leaders in maintaining relationships with stakeholders in external group homes."

10 Can you explain to me what that means? I assume some of the clients of Afford are also residents of group homes, but when you describe those group homes as stakeholders, what does that mean?

15 MR ADAMSON: So they're external to Afford so they're, I guess, a business partner where a client would be living in a supported accommodation, external to Afford, and joining our day programs for the daily activities. So it was important to have that relationship with them so that way we could have open conversations if there was anything that happened with the client over the night, or if there's any observations that they had that may impact on the client, their behaviours or their wellbeing when they - or their mood when they've attended the day program.

20 MS GLEESON: Was the purpose of maintaining that relationship also so that business could be referred as between the group home and the day centre managed by Afford?

MS GLEESON: No, it's the client and the family's choice.

25 MS GLEESON: The next is:

"Ensuring adequate rostering and staff allocation."

30 Do you agree with me that that that's probably got a dual function. One is making sure that clients are appropriately allocated to the staff that they need to manage their care, particularly within the confines of their plans, but your statement says that rostering forms an integral part of the way in which Afford charges the NDIS plan because it charges in accordance with the staff that are allocated to each of the clients; is that right?

35 MR ADAMSON: That's correct, yes.

MS GLEESON: So it's an income function as well as a client service function?

40 MR ADAMSON: Yes.

MS GLEESON: And the next is:

"Ensuring service documentation and profiles on the CIMS system are accurate."

45 MR ADAMSON: That's correct.

50 MS GLEESON: Can you tell the Commission of why it is important for that - sorry, I'll withdraw that question and I'll ask a different one. Can you tell us and we've heard some evidence from Afford, but can you tell us what service documentation is included on the CIMS system and why it's important that it be there and accurate?

5 MR ADAMSON: Yes, it allows us to identify the client's goals, their behaviours, any - any plans that they may have, so around behaviour support plans, mealtime management plans, asthma plans and the like, so that way we have all of that information at hand. There's also the client information so emergency contact details, family's numbers, emails and the like.

10 MS GLEESON: It's important that that information is accurate because it, is in some cases, vital to maintain the safety and wellbeing of the clients, but it also might be relevant to ensuring that the quality of the care they receive is optimal because it might set out what their limitations are and what they might benefit from as far as the activities that are provided by Afford is concerned; is that fair?

15 MR ADAMSON: That's correct, yes.

MS GLEESON: And then the next bullet point is:

"Working with internal marketing business development ... on growth strategies."

20 You'd agree with me that that's purely a business development function?

MR ADAMSON: That's correct.

25 MS GLEESON: And then the next one is:

"Budget management for the lifestyle centre facilities which includes ensuring claiming from the NDIS is accurate and the rosters reflect the care needs of service users."

30 Again, that's a dual function?

MR ADAMSON: Yes.

35 MS GLEESON: There's an income function and a care function?

MR ADAMSON: Yes.

MS GLEESON: And then lastly:

40 "Ensuring site vehicles are branded and in working order."

Is largely a care and business function?

45 MR ADAMSON: Correct.

MS GLEESON: It keeps the service going if you've got working vehicles.

MR ADAMSON: Correct.

MS GLEESON: Thank you. I'd like to turn now to the subject of Daniel Nuumaalii and your involvement in the reporting of that incident.

MR ADAMSON: Yes.

5

MS GLEESON: Now, you commenced at Afford in June 2019, which is the same month as Mr Nuumaalii; is that right?

MR ADAMSON: That's correct.

10

MS GLEESON: Did you have any role in his recruitment or induction?

MR ADAMSON: No.

15

MS GLEESON: When did you first become aware that charges had been laid against Mr Nuumaalii?

MR ADAMSON: I was at Mount Druitt day program, and the police arrived in the afternoon whilst I was on the premises.

20

MS GLEESON: So the police came to Mount Druitt?

MR ADAMSON: That's correct.

25

MS GLEESON: Did they come to Mount Druitt to arrest Mr Nuumaalii?

MR ADAMSON: They did ask if he was on site, which he wasn't, but I believe if he was there he, I mean -

30

MS GLEESON: And did you engage with the police when they arrived at Mount Druitt?

MR ADAMSON: I did.

MS GLEESON: And what did you discuss there?

35

MR ADAMSON: So the police asked me, first and foremost, if Daniel was on site which I responded by, "No." They asked who I was, and I explained who I was, so they were comfortable to talk to myself. And they went into some details about the reason why they were seeking Daniel, but they didn't go into a lot of the specifics because there was obviously an ongoing investigation that they had started, but they seen behind where they were sitting there was client files and they had the clients' photos on there and they asked, you know, who these clients are.

40

So, from there we were able to identify some of the clients that they had pointed out to us, and then, during that conversation, I felt it was necessary to call on my line manager to let her know that we had the police on-site and it seems to be a serious incident. So we called her and then we also engaged the then-CEO as well, of which myself, the Team Leader who was on site, the police, my line manager and the CEO had a call, basically a conference call over the phone while the police were onsite in Mount Druitt.

50

MS GLEESON: So you were the first person to become aware of the pending charges against Mr Nuumaalii, and you immediately escalated that and, together with senior management, engaged with the police; is that correct?

5 MR ADAMSON: That's correct.

MS GLEESON: Alright. Is it fair to say that, after being advised of the pending charges, you assumed the role of managing the reporting process with the NDIS -

10 MR ADAMSON: Yes.

MS GLEESON: - Quality and Safety Commission?

MR ADAMSON: Yes, I did the report, yes.

15

MS GLEESON: I'll refer to it as NDIS just for brevity as we're talking.

MR ADAMSON: Okay.

20 MS GLEESON: Now, the first reportable incident report that was submitted to the NDIS was submitted by Christina Emmanouel; is that right?

MR ADAMSON: That's correct.

25 MS GLEESON: She's the Executive Manager of Commercial Development and Company Secretary. Was she submitting that in the latter capacity to your knowledge?

MR ADAMSON: Not to my knowledge, no.

30 MS GLEESON: Okay. And at the stage that that first report was submitted, Mr Nuumaalii had been arrested, but is it fair to say that little was known by Afford about what the nature of the charges were at that time?

MR ADAMSON: That's correct.

35

MS GLEESON: Alright. And then on 4 May 2020, you engaged in some email correspondence with the NDIS Commission?

MR ADAMSON: I did, yes.

40

MS GLEESON: I'll show you that email. It's at hearing bundle E, tab 184. If I can take you back very briefly to page 5291, there's an email there from the NDIS to Ms Emmanouel but copying you in, and it asks a series of questions, but I'll go, for convenience, to the first page, 5290 because you insert your answers underneath the request.

45

MR ADAMSON: Okay.

50 MS GLEESON: The first thing that they ask, and this is at the first bullet point in the email at the bottom of the page. Have you got that with you?

MR ADAMSON: I do.

5 MS GLEESON: Yes. That the Commission's received two notifications that appear to relate to the same allegations, and they'd like confirmation that there's been a duplication in that incident, and your response is that there were two incidents, but with one, the initial reporting, and another when you had attended the police station to identify clients.

10 MR ADAMSON: That's correct.

MS GLEESON: And that occurred when, between 29 April and 4 May?

MR ADAMSON: I'm not sure of the exact date. I can't remember that, yeah.

15 MS GLEESON: You can be rough, a couple of days after the initial -- notification.

MR ADAMSON: I think it was two days after they called me because it was during the night-time I had to go.

20 MS GLEESON: The notification was on 1 May; does that assist your memory that it might have been on that day?

MR ADAMSON: Yes. Yes. The night before it might have been.

25 MS GLEESON: What took place when you attended the police station?

MR ADAMSON: So I met with the constable who was investigating - sorry - the detective who was investigating. We went through basically what they have found as part of their investigations and that it was identified that the clients were Afford clients because of one of the images taken by Daniel having the Afford van in the background. So that's how they linked the clients with Afford, and then obviously with Daniel working for Afford. From there I was shown a series of images that will stay with me forever. They were blanked out but it was pretty much easy to see what - what had happened in those images.

35 MS GLEESON: When you say they were blanked out, does that mean that the faces -

MR ADAMSON: The faces I could see, but in terms of their private parts were blanked out.

40 MS GLEESON: Alright. So you observed the conduct -

MR ADAMSON: Yes.

45 MS GLEESON: - of Mr Nuumaalii in relation to those clients. How many images roughly were you shown?

MR ADAMSON: Maybe a dozen, a few more.

50 MS GLEESON: Did you watch any videos or was it all images?

MR ADAMSON: No videos.

MS GLEESON: And the purpose of doing that was so you could assist the police in identifying the particular clients that were involved in the images.

5

MR ADAMSON: That's right, they wanted me to identify the clients with them, not at the centre when they first arrived.

MS GLEESON: At that time did you have any discussion with the police about the nature of the charges that they had filed against Mr Nuumaalii?

10

MR ADAMSON: I had a chat with them, but they were not discussing the nature of the charges, given the investigation was ongoing.

MS GLEESON: Alright. And then I'll just go back to the email, the second bullet point seeks clarification about both incidents referring to the alleged abuse of clients, in the plural, and then a request to advise if Afford or New South Wales Police have identified any further persons with disability who may have been impacted, and then when a notification might be made about those additional people. And your response is you identified one other client who was, at the time of attending the police station, unidentified. Can I just clarify with you, was it the case that you had identified a number of clients while you were at the station and then -

15

20

MR ADAMSON: So when they first came to the Centre, they were pointing to the clients as per their client profiles, but it wasn't until I went to the police station that they showed me another image of a client that they couldn't identify and I was able to.

25

MS GLEESON: So your purpose in attending at the police station was to confirm the identity of a number of clients and then also identify one of the clients?

30

MR ADAMSON: Yes, if that client was someone I knew.

MS GLEESON: Alright. And did you understand as a result of this communication that there needed to be further notifications in relation to each of the client - further incident reports filed with the NDIS in relation to each of the clients individually who were affected by Mr Nuumaalii's conduct?

35

MR ADAMSON: So at the time of the reportable - we listed all the clients as impacted on clients on the one reportable incident.

40

MS GLEESON: Yes.

MR ADAMSON: And it wasn't until later on when the Commission came back and asked if we could do them individually, just so they could go in with their profiles as well.

45

MS GLEESON: And then, by the bye, the third bullet point you were asked to give some information or information in relation to the setting of the Paull Street, Mount Druitt site, and you identify there that there were no clients residing at the address, but that, at that time, there were 72 clients who attended the day program.

50

MR ADAMSON: That's correct.

MS GLEESON: And that there were, of those, two bullet points down, a mix of support ratios and support needs, amongst the clientele.

5

MR ADAMSON: That's correct.

MS GLEESON: And then the last bullet point you identify that the total staff, including Team Leader and Senior Lifestyle Assistants, was 31.

10

MR ADAMSON: That's correct.

MS GLEESON: So that the maximum people who could be present at the Paull Street site at that time was 103 people?

15

MR ADAMSON: Yes, if -

MS GLEESON: Assuming everyone was on site and everyone was on staff.

20

MR ADAMSON: That's correct. That's correct.

MS GLEESON: Now, then, the only thing I'll make reference to in the top email, which is a response by the Reportable Incidents Officer, is that there's a notation that the five-day notification requirement for the first incident in time was due yesterday and had not been submitted as at that date. Were you responsible for making sure that there was an initial report within the five-day follow-up that was required?

25

MR ADAMSON: Yes.

30

MS GLEESON: And what was the reason why that five-day notification hadn't been submitted at that time?

MR ADAMSON: The requirements in the five-day notification, there was not enough information to satisfy that, given we had not received a lot of information from the police that we could actually put into that reportable incident.

35

MS GLEESON: Did you understand that the five-day incident reporting requirement had to be submitted regardless of whether or not there was any information to update?

40

MR ADAMSON: Yes.

MS GLEESON: What did you understand the purpose of the five-day requirement to be? Was it to allow, for example, for a service provider to conduct a sufficient investigation so that they could give that additional information even if that was simply identifying more information about the affected client or more information about the person who had an effect on the incident?

45

MR ADAMSON: Yeah, that's right, and provide whatever documents that we've been able to discover in that time.

50

MS GLEESON: There would have been time, wouldn't there, to have done at least that amount of work as between the first incident and the five days?

MR ADAMSON: Yes.

5

MS GLEESON: I'll then take you to the five-day incident report that you filed, but this is in relation to the second notification that you had put in, and it's at hearing bundle E, tab 135.

10 MR ADAMSON: Sorry, can I just make a comment.

MS GLEESON: Of course.

15 MR ADAMSON: So this email here which was sent on the 7th showing the five-day report is due on the 8th, it was sent before.

MS GLEESON: Alright, but the observation was -

MR ADAMSON: Yeah.

20

MS GLEESON: - it expired the day before.

MR ADAMSON: Yeah.

25 MS GLEESON: Have you got the next document up now?

MR ADAMSON: Yes.

30 MS GLEESON: So as I said, that's the five-day report that was submitted in relation to, you can accept from me, the second report that you filed?

MR ADAMSON: Yes.

35 MS GLEESON: If I can just ask you some questions about some of the information that is inserted in here. I take it that you completed this form?

MR ADAMSON: Yes.

MS GLEESON: And if you can just go to page 4.

40

CHAIR: Ms Gleeson.

MS GLEESON: Yes.

45 CHAIR: I take it that the documents that are being shown redact the names that are meant to be anonymised?

MS GLEESON: As I understand it, they are not on the live stream.

50 CHAIR: They're not.

MS GLEESON: So only the people in --

CHAIR: Okay. Thank you.

5

MS GLEESON: And no names obviously will be disclosed during the course of going through this document.

10 Sorry, are you now at 5036? Yes. Just underneath important dates or individual - and individuals in response to the question:

"When did the incident or allegation occur?"

You stated that it is unknown.

15

MR ADAMSON: That's right.

MS GLEESON: But you had at least some information from the police at that point that there was advice that it started in about July 2019.

20

MR ADAMSON: That's right. That's -

MS GLEESON: Presumably because they got the dates of the videos from the phone.

25

MR ADAMSON: Yes.

MS GLEESON: So the police at this stage had given you some information about the scope of the -

30

MR ADAMSON: Just the - yeah, no specific dates just the period that they believe.

MS GLEESON: They haven't told you anything about charges at this stage?

MR ADAMSON: No.

35

MS GLEESON: Alright. And then over the page on page 5, there's a reference at the top of the page, the District Manager, being you, attending Surry Hills Police Station to give a witness statement on the abuse that the clients had suffered at the hands of a staff member. What was the witness statement that you provided? What was the content of that statement? Was it just identifying each of the -

40

MR ADAMSON: Just identifying myself and who the clients were that I was able to name.

45

MS GLEESON: Alright. And were you questioned in any other way about - about - in order to find out any information about how it is that Mr Nuumaalii had contact with these people, and how it is that he had the opportunity to do the things that he was reported doing?

50

MR ADAMSON: Yes, so the police did ask those questions.

MS GLEESON: So you had, again, some sense of what had occurred, based on what they knew or what they wanted to find out?

5 MR ADAMSON: What they were telling me now I was able to -

MS GLEESON: Had they told you that you weren't to disclose that information to anyone?

10 MR ADAMSON: Yeah, other than those that I had spoken to.

MS GLEESON: Alright. Did you raise with them that you had reporting obligations to the NDIS that you would need to comply with?

15 MR ADAMSON: We did say that, and we also said that when we need to speak to families we need their consent, for the police to speak as well.

MS GLEESON: Alright. And then just completing that page, it's got the police having evidence of the abuse and having attended the Mount Druitt day program as you told the Commission. Can I ask you now to go to page 7. Here it's got support people for the impacted person, and it then states:

20

"A person hasn't been identified as a support person for the impacted person."

25 I'm curious about that statement in the document because surely if you knew who each of the clients that were impacted were, you also knew who the support person was for each of those clients if that information is stored in Afford's files, and that you engage with those people.

30 MR ADAMSON: This was the initial 24-hour notification?

MS GLEESON: No, this is the five-day notification.

MR ADAMSON: Yeah, I can't recall why that's there.

35

MS GLEESON: You agree there's a more complete answer that could have been given there so that the NDIS had information about who those support people were?

MR ADAMSON: Yes.

40

MS GLEESON: Now, can I ask you to briefly look at pages 5042 through to 5047, and can I ask you, after you've looked at that, just to - if you agree with me that you've identified seven subjects of allegation in that part of the report?

45 MR ADAMSON: That's right, yes. Seven, yes.

MS GLEESON: Can I ask you now to go to page 19 and that's a section on immediate action taken and it says:

50 "Has a risk assessment been undertaken in response to the incident?"

And the answer is “no” and the reason for not undertaking a risk assessment is that it's under police investigation.

5 MR ADAMSON: Yes.

MS GLEESON: Did you discuss with the police the need, under Afford's obligations under the relevant legislation, and also simply because it was a necessary thing to do in the circumstances, to conduct a risk assessment?

10

MR ADAMSON: No, but I did explain to them that - they did explain to me that we need to not do what we normally would to compromise the investigation. Because normally, yeah, we --

15 MS GLEESON: Was there any discussion about the tension between things that you needed to do to make sure that - because it was now known that there was this staff member who had been abusing certain clients, that there needed to be a risk assessment to make sure that, firstly, no other clients were at risk and, secondly, that there were no staff members who might be engaging in the same conduct?

20

MR ADAMSON: No, but there was numerous conversations that the police had without me being there with other people of the Senior Executive team.

25 MS GLEESON: Can I ask you to go to page 21. This is a section in relation to immediate action in relation to the impacted person, and the question is:

"What immediate supports were offered to the person with disability impacted by the incident or allegation?"

30 And the response given is that the source of harm had been removed.

MR ADAMSON: Correct.

35 MS GLEESON: I take it that is because, at that point, Mr Nuumaalii's employment had been suspended?

MR ADAMSON: That's correct.

40 MS GLEESON: Without undertaking a risk assessment how could you be satisfied that the source of harm was entirely removed without knowing whether there were any other staff members who might have been engaging in this conduct?

MR ADAMSON: So at the time, police told us that Daniel was the only one involved.

45 MS GLEESON: Did you ever think to interrogate what they had told you? They have one person's phone, so they're going to say - and I take it that person's phone only had the images of him and no-one else with him. Let's assume both of those things are correct. How did the police know and how did you know whether or not other people at Afford might have been doing the same thing as Mr Nuumaalii?

50

MR ADAMSON: There would be no way, yep, we just took what the police said.

MS GLEESON: But if a risk assessment had been undertaken, there might have been a better idea of whether or not there was a risk to clients at Afford.

5

MR ADAMSON: Potentially, yeah.

MS GLEESON: And then going about five entries on this same page, there's a question:

10

"Have the impacted person's support people been made aware of this incident?"

And the answer is, "Yes."

MR ADAMSON: That's correct.

15

MS GLEESON: Is it right, then, that, at the date of this report, all of the support people for all of the clients that have been identified have been informed of what had occurred?

MR ADAMSON: Yeah, that's right, they were done by my CEO.

20

MS GLEESON: To your knowledge, did you speak to any of the support people yourself?

MR ADAMSON: I did.

25

MS GLEESON: Did you speak to all of them?

MR ADAMSON: Some of them, no, but because the CEO had already spoken to them, so I didn't want to be - have too many people, you know, contact them, but those - I made myself available to whoever wanted to speak to myself.

30

MS GLEESON: What - what supports were offered, firstly, to the clients and, secondly, to their support people in the immediate aftermath of them finding out about this incident?

35

MR ADAMSON: Yes, I believe the CEO when he spoke to the families, he offered them counselling supports. With the staff - sorry, with the clients that were attending, you know, we put them with - with staff, you know, known staff, but more senior staff on site as well, and a lot of that was at the request of the families.

40

MS GLEESON: I'll come to that in due course, but you'd accept, wouldn't you, that what you observed in this incident that you saw had at least the potential to be quite seriously traumatic to the clients that experienced that abuse?

MR ADAMSON: Yes.

45

MS GLEESON: Did you or did your State Executive or did the CEO consider the necessity to make sure that, having suffered that trauma, that the clients were being appropriately managed and looked after in consultation with their families?

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MR ADAMSON: So I made sure I was on site the next few weeks of - after the incident occurred because a lot of that was, you know, the police were constantly coming on site

and needing to meet with myself, so I was always there and always available. But the other commitments were made by the CEO.

5 MS GLEESON: Alright. Can I ask you now to go to page 24. This is in relation to an incident assessment, and you've written here that the assessment was completed on 1 May 2020, and then you state that the process that was undertaken was that HR had suspended the staff member, and then, in relation to what records were considered and any consideration of whether the incidents could have been prevented, and whether the views of the impacted person had been considered, the answer is in relation to all three:

10 "Still currently investigated by the police."

MR ADAMSON: Yes.

15 MS GLEESON: But it was possible, at least in part, wasn't it, without interfering with the police investigation, to give a more fulsome answer to some of those questions, wasn't it? For example, when taking into account the views of the affected clients and their support people, had you been told by the police that you weren't allowed to speak to them at all about the wellbeing of the client?

20 MR ADAMSON: No.

MS GLEESON: And what they wanted done?

25 MR ADAMSON: No, we just couldn't speak to them about the others involved.

MS GLEESON: And in addressing the question of whether the incident could have been prevented, I can understand that with the police investigation being in its infancy, all of the information about what occurred was not available, but surely there was enough information available. There was a staff member who had one-on-one support with a client; he had his phone with him, and he was taking videos of him acting in an abusive way; that that was enough information to allow Afford to at least make a preliminary assessment about what could have been done to prevent that happening?

35 MR ADAMSON: Yeah, they could have been.

MS GLEESON: And it could have been this report, couldn't it?

40 MR ADAMSON: It could have, yes.

MS GLEESON: Alright. That's all I had on that document. Alright. Can I take you now to a document behind hearing bundle E, tab 136. While we're waiting, I'll just tell you what the document is, and I'm sure it will come up on the screen in due course, but this is a letter - here it is - from the NDIS Assistant Director of Reportable Incidents addressed to the CEO of Afford, and it refers in the second paragraph to a requirement pursuant to 26(1)(d) of the NDIS rules to engage an appropriately qualified and independent expert to carry out an investigation in relation to the incidents. You see that?

50 MR ADAMSON: Yes.

MS GLEESON: And that's the report that you ultimately obtained from Barry Wise?

MR ADAMSON: Yes.

5 MS GLEESON: That's right. And then in the second paragraph it sets out what it is that the investigation is to cover. And it's:

"To identify and report on the causes and any contributing factors to the alleged offending behaviour whilst he undertook his duties within the organisation."

10

And then secondly:

"To identify corrective or other actions that have been taken or ought to be taken by the provider to prevent future occurrence."

15

So what the NDIS is asking for there is for there to be a report that engages with the cause of the incidents and also engages with steps that need to be taken in order to prevent such things happening again, including any corrective action. That was what the NDIS was looking for.

20

MR ADAMSON: Okay.

MS GLEESON: That's right, isn't it? Can I just go over the page and just take you to the top paragraph on that page. It states that:

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"The investigation should proceed in a manner that does not impede or interfere with the New South Wales Police investigation."

Then it says:

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"The person appointed to conduct the investigation must consult with the New South Wales police officer in charge prior to carrying out any part of the investigation. Should the relevant police officer advise that the investigation would impede or interfere with the ongoing police investigation, the investigation must not proceed until it's cleared by police."

35

What they're saying to you there, isn't it, that you're required to undertake an investigation, the investigation shouldn't interfere with the police investigation, but in order to identify whether or not it will interfere with the police investigation, you should engage with the police about what it is that you need to investigate and whether or not that will impact on the police investigation; is that right?

40

MR ADAMSON: Yes.

45 MS GLEESON: And you were, at this time, in discussion with the police about the progress of their investigation?

MR ADAMSON: We had ongoing discussions with them --

MS GLEESON: And the police ultimately gave their approval to this investigation, the section 26 investigation proceeding; that's right?

MR ADAMSON: They would have gave it to the CEO, not myself.

5

MS GLEESON: Yes. But you're aware that that happened?

MR ADAMSON: After it happened, yes.

10 MS GLEESON: Yes. Were you privy to any discussions with the police about any concerns they had about the investigation proceeding, what it is that the investigation should or should not cover?

MR ADAMSON: No.

15

MS GLEESON: Who did?

MR ADAMSON: That essentially would have been the CEO because he was meeting with the police as well.

20

MS GLEESON: Alright. Do you agree with me that it would have been possible, based on what the NDIS had told you - you were to do, it would have been possible at an early stage to work with the police so that Afford could identify as much of the matter as was necessary to assess whether there was an ongoing risk to Afford's clients?

25

MR ADAMSON: There were -

MS GLEESON: There could have been a discussion with the police that stated - that identified what it is that Afford needed to do and how much of it could be done so as not to trespass on the police investigation.

30

MR ADAMSON: So when you're referring to "you" you're referring to myself or Afford?

MS GLEESON: Well, I'm referring to you as being a person who was - who had management of the reporting process, including this requirement to produce a section 26 report.

35

MR ADAMSON: So these were sent to the CEO.

40 MS GLEESON: Did you see this letter?

MR ADAMSON: I don't recall seeing this, no.

45 MS GLEESON: Did you have any discussions with the police, after your initial engagement with the police, about the progress of their investigation?

MR ADAMSON: Only when they were coming out and asking for more information, which we run by the Executive and HR at the time.

MS GLEESON: I note the time. I'll just ask a couple of wrap-up questions before we come back tomorrow. The - the Barry Wise report, were you involved in procuring that report?

5 MR ADAMSON: No, I was just interviewed as part of his investigation.

MS GLEESON: Alright. And who was it who was in charge of engaging Barry Wise and in ensuring that he had an interest in the investigation?

10 MR ADAMSON: My understanding was the previous executive of HR.

MS GLEESON: Alright. I note the time. I'm going to go on to a couple of documents that will take a while, so I think I'll go with the Commission's preference for closing time.

15 CHAIR: Yes. What would you like us to do?

MS GLEESON: Having identified a preference for 4 pm, I think we can finish for today and I'll continue with the witness tomorrow.

20 CHAIR: I see. No, that's alright. By minority, we can continue to 4.15 if you wish.

MS GLEESON: The next document I have is going to take some time so I'm happy to start that in the morning.

25 CHAIR: Alright. Well, then reluctantly we'll force ourselves to adjourn. In that case, Mr Adamson, you'll need to come back tomorrow and we will resume tomorrow at 10 am. Now, after Mr Adamson has concluded his evidence, perhaps Mr Griffin could indicate what the order of business will be?

30 MR GRIFFIN: There will be joint evidence taken from Joanne Toohey and Mr Allen, and the reason for doing that jointly is because the CEO is relatively new to the organisation and we thought it would be the most efficient way to deal with the issues I want to raise with them.

35 CHAIR: Yes. Well, she joined the organisation, I think, in October 2021 and the Chairman or Chair has been on the Board since 2015.

MR GRIFFIN: And he's been in the chair for that period of time.

40 CHAIR: Yes. Alright. So that will be done as a panel, as it were?

MR GRIFFIN: Indeed.

CHAIR: Right. And will that take the rest of the day?

45 MR GRIFFIN: I anticipate it will.

CHAIR: Yes, alright. We shall adjourn now and resume at 10 am.

50 **ADJOURNED 4.00 PM TO THURSDAY, 19 MAY 2022 AT 10 AM**

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