



TRANSCRIPT OF PROCEEDINGS

THE HON RONALD SACKVILLE AO KC, Chair
MS RHONDA GALBALLY AC, Commissioner
MR JOHN RYAN AM, Commissioner

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

PUBLIC HEARING 28

WEDNESDAY, 12 OCTOBER 2022 AT 9.31 AM (AEST)

DAY 3

MS ELIZABETH BENNETT SC Senior Counsel Assisting
MS CATHY DOWSETT Counsel Assisting
MR ANDREW FRASER Counsel Assisting

5 CHAIR: Good morning, everybody. Welcome to the third day of Public hearing 28 of the
Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability.
We are addressing at this hearing violence against and abuse of people with disability in
public places. We begin by acknowledging the Jagera and Turrbal people as traditional
owners and custodians of the land upon which the city of Brisbane is now located and
10 where this hearing is taking place. We pay our respects to their elders past, present and
emerging. We also acknowledge and pay our respects to any First Nations people who have
following this hearing either from the Brisbane hearing room or via the live broadcast. Yes,
Ms Bennett.

15 MS BENNETT: Commissioner, before we start this morning there are a couple of
appearances that would like to announce themselves this morning.

CHAIR: Alright. I will take the appearances additional to those that have already been taken.
Yes.

20 MS FERGUSON: May it please the Commission, my name is Ferguson and I appear for the
State of South Australia.

CHAIR: Thank you very much.

25 MS MUNRO: May it please the Commission, my name is Munro and I appear for the
Commonwealth.

CHAIR: Thank you. Yes, Ms Bennett.

30 MS BENNETT: The next witness is Professor Nicole Asquith, who appears via audio-visual
link.

35 CHAIR: Good morning, Professor Asquith, and thank you very much for notionally coming to
the Royal Commission by video link. We appreciate your assistance. We have the detailed
statement that you have prepared which each of us has read, and we are grateful to you for
that. If you would be good enough follow the instructions of my associate, she will
administer the affirmation to you and then I shall ask Ms Bennett to ask you some
questions.

40 PROF ASQUITH: Thank you.

ASSOCIATE: I will read you the affirmation. At the end, please say yes or I do. Do you
solemnly and sincerely declare and affirm that the evidence which you shall give will be the
truth, the whole truth and nothing but the truth?
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PROF ASQUITH: I do.

<NICOLE ASQUITH, AFFIRMED

CHAIR: Thank you, Professor Asquith. Ms Bennett will now ask you some questions.

5 **<EXAMINATION BY MS BENNETT SC**

MS BENNETT: Professor, you have made a statement to assist the Commission; is that right?

PROF ASQUITH: That's correct.

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MS BENNETT: And you have reviewed that statement recently. Is that right?

PROF ASQUITH: I have.

15 MS BENNETT: Can you tell the Commissioners if that statement is true and correct to the best of your knowledge and belief?

PROF ASQUITH: It is.

20 MS BENNETT: If it pleases the Commission, I seek to tender the statement and ask that it be marked **Exhibit 28-14** and that exhibits be marked sequentially to **28-14.1** to **28.14-9** as set out in the index provided to the Chair.

25 CHAIR: Yes, thank you. Professor Asquith's statement will be admitted into evidence and given the marking of **Exhibit 28-14** and the annexures thereto will be admitted into evidence and given the markings indicated by Ms Bennett. Thank you.

<EXHIBIT 28-14 STATEMENT OF NICOLE ASQUITH

30 **<EXHIBITS 28-14.1 TO 28-14.9 ANNEXURES TO STATEMENT OF NICOLE ASQUITH**

MS BENNETT: Now, Professor Asquith you are Professor of Policing and Emergency Management in the School of Social Sciences at the University of Tasmania; is that right?

35 PROF ASQUITH: That's correct.

MS BENNETT: You hold the position as Director of the Tasmanian Institute of Law Enforcement Studies; is that right?

40 PROF ASQUITH: That's right?

MS BENNETT: And how long have you held your current position as Professor of Policing and Emergency Management?

45 PROF ASQUITH: Just over two years.

MS BENNETT: And you have worked with policing services in addition to that work in the academic sphere; is that right?

5 PROF ASQUITH: That's right. So, I have been working with police for and with police for 25 years.

MS BENNETT: Yes. Can you tell the Commissioners just briefly what that work has involved?

10 PROF ASQUITH: I started as a client advocate for survivors of hate crime and transitioned into an academic career where I'm now - I teach both recruits and sergeants and inspectors and oversee the Tasmanian Institute of Law Enforcement Studies. Prior to that, I was Associate Professor of Policing at Western Sydney university. So, during these two positions, I have had a lot of contact with Australian policing organisations.

15 MS BENNETT: Thank you. And you have taught in the fields of criminal justice, criminology, policing and sociology; is that right?

PROF ASQUITH: That's right.

20 MS BENNETT: And, again briefly, can you tell the Commissioners about where and how have you carried out that work?

25 PROF ASQUITH: I have been - I was trained as a sociologist from the mid 1990s, and completed my PhD in 2004 as part of the Centre for Women's Health and the School of Public Health at the University of Melbourne, and since then have held positions in sociology, criminology and policing at a variety of Australian and UK universities.

30 MS BENNETT: And in addition to those matters you identify as a disabled person. Is that right?

PROF ASQUITH: That's correct.

35 MS BENNETT: And you have recently completed some academic work around that issue. Can you tell the Commissioners about that?

PROF ASQUITH: That's right. We have just finished publishing two articles in relation to the experiences of disabled scholars which, even though we are quite privileged workers, aligns very closely with some of the earlier Commission's findings in regards to disabled workers.

40 MS BENNETT: Thank you. You have also carried out some research in Australia and the United Kingdom on the role of hate crime and what you refer to as the forensic artefacts of hate crime motivation. Can you tell the Commissioners about the work you have carried out in that space?

45 PROF ASQUITH: One of my earlier pieces of research that stemmed from my work at the Lesbian and Gay Anti-Violence Project was to identify the role of hate speech in hate crime. Often the only way in which to define something as a hate crime or targeted violence is

through the words said before, during and after the incident, and I was lucky enough to get - well, lucky enough - I was lucky enough to get access to 100,000 hate crime cases from the London Metropolitan Police Service and did an - a data analysis of the links between particular types of hate speech and hate crime.

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MS BENNETT: We will come to the terminology in a moment, because I know in your statement you make some observations about your preferred terminology. So, I'm going to stop saying "hate crime" in a moment, but just for the purposes of this question, is that about the connection between hate speech or vilification, and violence in the sense that it precedes it? It's an escalation? Or in the course of the violence?

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PROF ASQUITH: I think it's both. There was a strong link in the data that particular types of words and phrases were linked to particular types of crime. And that enabled us to be able to predict what kind of violence would emanate from particular types of hate speech.

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MS BENNETT: Now, I've foreshadowed a concern that you raise about the use of the words "hate crime". Can you tell the Commissioners about your preferred terminology and why?

PROF ASQUITH: Even though I'm the convener of the Australian Hate Crime Network, the - some of our communities that are involved in our network, as well as the Tasmanian network, have raised concerns about the phrase "hate crime", not only because it's very difficult to judge and evaluate what is hate and who hates, but also because it doesn't allow for some of the kinds of community and cultural responses that some communities would like in response to these kinds of incidents. And in particular First Nations people have raised real concerns. So, just in - respect to the needs of our communities, I have started using the term "targeted violence".

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MS BENNETT: So, what is it that you are referring to when you talk about targeted violence?

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PROF ASQUITH: As with the definition of hate crime, it's acts or omissions of acts that are partially or wholly motivated based on a characteristic of that individual. And in most jurisdictions, that includes race, religion, ethnicity, sexuality, gender, gender identity, age, disability, and in some jurisdictions also housing status.

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MS BENNETT: And what about - what about conduct that falls short of violence or crime that is more in the realm of vilification or harassment? What's the terminology that you have been adopting around those kinds of - that kind of conduct?

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PROF ASQUITH: I think the term "targeted violence" captures all of that really in a package rather than when we talk about hate crime we also talk about hate incidents, and these are things that do not rise to the - the level of a criminal act but are often a precursor to a criminal act. Or it may, in fact, be a single one-off incident or a series of incidents that are more in the realm of civil law than criminal law.

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MS BENNETT: So, turning now to how violence, abuse against people with disability fit these concepts - and I'm referring to paragraph 52 of your statement - can you tell us about how violence and abuse based on disability fits within these definitions?

5 PROF ASQUITH: Disability and the experiences of people with disability have come late to the field of hate crime. Most of us know hate crime through the lens of either race or sexuality or religion, and disability was one of the last categories to be added to much of the hate crime legislation around the world. And there are some who believe that it does not fit nicely within that framework of targeted violence.

10 And I think that is primarily because people see this kind of violence against disabled people as a matter of targeting - an opportunistic targeting of somebody's vulnerability, and my perspective is that the vulnerability exists because they are disabled, not the other way around. And so the premise is that they are targeted because they are disabled and, in our society at this time, disability often equates with vulnerability.

15 MS BENNETT: And you talk in your statement about why it's important to record aspects of this kind of violence, and you speak about the need to record both the criminal and the non-criminal aspects of the conduct. Can you explain to the Commissioners why that's important, in your view?

20 PROF ASQUITH: I think the best example of why this is important is the case of Fiona Pilkington and her daughter Francessca Hardwick in the UK, and this is a precedent setting case and is a case that has been used in other international jurisdictions as an example of why it is really important to record and report even - what is considered or may be considered less serious or minor incidents, because often it's like a - a frog in boiling water. You don't notice as the heat rises.

25 And in the case of Fiona and her daughter and her son, they were subject to over 10 years of what was perceived to be minor or less serious incidents, but, of course, if you experience a verbal abuse or harassment every single time you leave your house, every single time you walk out your front door, then obviously that is going to be layered upon layered upon layered over 10 years to actually have a significant impact, particularly in terms of the person's ability to be a full citizen, to engage in social life, to even go to the shops. And we see so often and in previous evidence in this session we have seen that it is in the every day that disabled people often encounter targeted violence.

35 MS BENNETT: And in context of this hearing, what's the significance of the fact that much of this is perpetrated by people who are unknown and potentially unknowable to the - the person that is the target?

40 PROF ASQUITH: There is some research from the UK. I have to say, in Australia, we have yet to do a large population study in regards to ableist violence. So, we have to draw on international research to get a sense of what's going on. The - much of the violence that occurs is in a public space, but 40 per cent of that is in and around the person's home. And we often talk about the stranger danger-type aspect of hate crime against disabled people, but also the known unknowns.

45 The people that live within our communities, that we don't know their names, we don't necessarily know where they live, we might encounter them on public transport or at the

local shop. We recognise their faces, but we don't know who they are. That combined with the random opportunistic attacks often means that traditional criminal justice processes just do not bring the justice that is required for disabled people, because we may report it, but the police may not believe able to investigate anything from that. But I say that we still need to report that because there may be a pattern of behaviour by a particular person, and unless the police have all of those reports they would not be able to see that pattern of behaviour.

MS BENNETT: What about places? Pattern of behaviour by individuals, but what about patterns of behaviours around certain places?

PROF ASQUITH: And this is common for a lot of forms of hate crime, in that it is in the everyday. It's in carparks, shopping centres, on the bus, on the train, going in and out of the workplace, getting lunch. All of those everyday things that most people take for granted, those who are part of targeted communities have to navigate and evaluate the impact of just even leaving their front door and how that may in fact result in some kind of violence.

So, the location is critical because it means that not even the home of disabled people is a safe place. There is no safe place. That there is always somebody who wants to focus and target them because of who they are.

MS BENNETT: What I'm trying to focus on in that question, though, is around whether or not there is value in reporting around the areas of particular conduct, geographically. Whether or not there's a - any experience here or overseas in heat mapping particular areas of concern around this kind of violence?

PROF ASQUITH: I think it's really hard to do that at this stage because there is so few that actually report to a criminal justice system. So, we are really reliant on population studies. I know from the 100,000 hate crime cases I had access to, only two related to disability. So, that was - that's the largest dataset that anybody has been able to access to look at these kinds of experiences, and yet only two out of 100,000 cases actually related to disability.

So, we can take educated guesses about the impact. I think where we see patterns is particularly around shopping centres, and I know that a few of the other witnesses have talked about shopping centres as really a hotspot for these kinds of incidents. And building knowledge around the kind of behaviours within shopping centres not only helps disabled people, but also the security of shopping centres' management, to be able to make better decisions about where they put their resources to secure people who - and make places safe for disabled people to access.

MS BENNETT: And switching to your education roles, I mean, how can - does education have a role in responding to the kind of targeted violence that you're talking about?

PROF ASQUITH: I think there's a whole range of educational needs, not only in terms of police and criminal justice actors and security staff and managers of public spaces, but I think there's also a need for increased education within communities. We know that often disabled people do not know that what they experience is a crime, let alone targeted

violence. But we also know that the general public in Australia has very little knowledge of this kind of violence.

5 In other - particularly in the UK and the US and also Canada, there is what we call figurehead cases. These are quite famous cases of hate crimes that bring the notion of a hate crime, the kinds of practices of targeted violence, into the public sphere, and so many more people in those countries know what is a hate crime or targeted violence, whilst in Australia I - when I am asked, I - most people do not understand what is it that I actually study.

10 MS BENNETT: You tell us in your statement about - that some hate conduct is motivated by what you describe as hate or prejudice or bias, and other is aggravated by it. Can you tell the Commissioners and those watching when what you mean by that decision?

15 PROF ASQUITH: Ans I see this in terms of, you know, the person who gets up every morning and thinks, "What I'm going to do today is to actually act hate against a group of people" and often those people who are motivated in that hatred often target a lot of groups, and we see this much more in terms of organised hate groups such as Neo-Nazis, far right organisations, that not only hate disabled people, but also migrants, refugees, people from culturally and linguistically diverse backgrounds, LGBTIQ-plus people as well.

20 So, these are people that get up every day with a motivation to hate. And they are a significant proportion of the hate crimes, but I think what gets missed out of - and particularly in relation to ableist violence - are those kinds of crimes that are aggravated by the hatred. So, it might start off by an argument over the parking space or an argument over
25 the fence about noise and then it quickly descends into a hate crime, usually through verbal abuse in the first instance, but it may be follow up instance of harassment and intimidation as well.

30 MS BENNETT: So, is it - the distinction being a person who sets out in the morning to enact violence against people in that group if they can find them, as opposed to somebody who in the midst of an interaction with a member of that group or coming across a member of that group might enact violence because of the chance meeting?

35 PROF ASQUITH: That's right. So, one is opportunistic, and I also like to point out that those motivated offenders will also assume somebody's membership. So, it's not necessarily even if somebody is a member of those targeted groups; it might be because they are assumed by the perpetrator to be a member of that group as well.

40 MS BENNETT: You speak in your statement about the ripple effects of this violence, and you've touched on it today. How broad do those ripples go, based on your studies?

45 PROF ASQUITH: The one study that we really know well is a study from the 2000s in New South Wales in relation to LGBTIQ communities, and that study found that 86 per cent of participants in the research knew of somebody who had been targeted because of their sexuality or gender identity. So, that means that there's - you know, two - four-fifths of the community at least have a lived experience or a vicarious experience of targeted violence.

Whilst the links may not be so strong within disability communities, I suspect that the same thing occurs, that word of mouth, because the communities are so small and highly linked together, that an attack against one is an attack against all. Because it does filter through, ripple out to other people in those communities.

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MS BENNETT: Now, you have spoken about the Australian Hate Crimes Network. Can you tell the Commissioners what that is and what your role is within it?

10 PROF ASQUITH: I'm currently the convener Australian Hate Crime Network. It was originally founded by Professor Gail Mason at the University of Sydney, who has since retired from academia. It is a partnership of community groups, NGOs, government agencies and academics all who have an interest in and a desire to prevent hate crimes or to respond to those that do occur. The membership is around 75 at this stage, and they are representing all of the targeted communities that are covered by, at this stage, the New South Wales
15 legislation.

It did form out of a New South Wales network, though over time we have brought in members from other states, particularly police and criminal justice actors from other states who are looking at New South Wales as a model of how to respond to hate crime. It is one
20 of the jurisdictions in Australia that has the most robust system of managing hate crimes that come in and are reported to the police.

The Australian Hate Crime Network is almost a clearinghouse of information but also a
25 network of bringing people together and creating a network of allies across different attributes so that we can learn from each other. We know that there are some communities that have been responding to hate crime and targeted violence for much longer than other communities, and we hope that we can learn from those more established communities and raise all boats, obviously, in that process.

30 MS BENNETT: And so is it - and just to be clear, there are disabled people who are present in - as part of that network?

35 PROF ASQUITH: That's correct. Yes. It's - I think it's really important that we have representatives from all of the targeted communities at the table to ensure that any of the information that we develop - so we now do have a stand-alone Hate Crime Network website that has resources in 26 languages, and it provides a view of hate crime from all different perspectives, including a briefing paper that looks at what hate crime and targeted violence looks like in each of those communities, as well as what is shared across those
40 communities.

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MS BENNETT: So - and just broadly, is there a - what is shared across those communities? What can those communities learn from each other in responding to hate crime? Is there cross-pollination?

45 PROF ASQUITH: There is. And as I said earlier, anybody who is a motivated offender is usually motivated to hate and target a variety of communities. It's not just one that is usually targeted. And my colleague at the Executive Council of Australian Jewry, Julie

Nathan, has monitored organised hate groups in Australia for quite a while. And she notes that almost - even though she is looking for antisemitic hate crime and hate speech, she actually sees all of the other communities being talked about within those hate groups as well.

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The - the prejudice and the hatred that is experienced by communities is very similar, right down to similar words that are used and themes of the speech that is used. We also see very similar experiences in terms of the known/unknown violence. Neighbours are often the most common and most violent perpetrators of targeted violence, apart from strangers, of course. But in terms of known perpetrators, neighbours are actually the most dangerous.

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And, of course, if you've got violence coming from neighbours, then your home does not feel safe, and often the response from and advice from others is just to move house. And a similar incident to this has occurred recently in Tasmania where a gay couple had to move house because they could not stop the violence that was coming from their neighbours. So, that is a very common experience. Similar very common experience is attacks that happen on public transport. And this is - again, this everyday nature of targeted violence. It's not exceptional. And I know that Dr Keenahan and my colleague Fiona Strahan talked a lot about this, is that it is the - just the everydayness that we encounter these kinds of attacks.

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MS BENNETT: You spoke about a clearing house approach. So, is there a move towards a best practice education package around hate crime issues that can be rolled out, that is available at present, for example, for people in a position to immediately respond?

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PROF ASQUITH: Unfortunately not. In the US or the UK, yes, there are. There's a training program that is implemented through New South Wales Police because they do have a Hate Crime Unit that does spend quite a bit of time with their recruits and also sergeants and inspectors. But unless there is a dedicated unit within either the police academies or within the police organisation more generally, then it is often a small part of recruit training.

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And what we have found particularly with police training and raising the awareness with police, is that you may introduce it during recruit training, which is often 33 weeks of intense learning about the whole of the criminal law and all of the policies and practices, but they may not encounter an incident of targeted violence for, you know, two, three years after they have finished their training.

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So, when do we train and how do we train and what do we train is still really unclear. In terms of broader training programs, there's some work being done in high schools around bullying and harassment. Again, though, that's very much focused on particular experiences, and I would say most of the focus has been about race, religion and sexuality. There's been very little done in schools around ableist violence within those schools' environments.

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I think there is also an - and I didn't mention this in my written statement. I think there is also space to be able to do something within workplaces as well. We have Harmony Days. We have all of the - you know, Wear It Purple Day. We have all of these things that happen within the workplace, and often disability within workplaces are perceived as an individual

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problem rather than part of the diversity of workplaces, and I think we can do a lot more about raising awareness and creating allies within workplaces as well.

5 MS BENNETT: Ms Strahan talked about having disability pride flags that might be displayed on shops that people could enter if they were encountering a matter of concern. And if those - if education accompanied that flag, is that the kind of rollout of an educational program that you're talking about?

10 PROF ASQUITH: A very similar thing happened during the 1990s and 2000s in Sydney with the pink triangle. And many businesses put the pink triangle in their window to say this was a safe place. We have also seen in the UK there is a - a similar system for vulnerable people who may encounter or may feel like they are anxious or that they are concerned about their wellbeing. And they can actually go into shops and the shops - the shop owners are trained in providing first responder first aid and to be able to contact the relevant support services.

15 So, I think something like that would be amazing. It is something that needs to be rolled out in the right place at the right time and, of course, with disability where do you start with that because it - we are everywhere. It's not like with sexuality and gender diversity we can see particular communities that have formed within states and so you can target some of your energies into those communities. So, for others, you know, particularly around religion, you would be looking at religious organisations and them supporting their communities as well. So, it depends on where you start, but I think the idea of safe places is a really important thing for disabled people out in public.

25 MS BENNETT: Now, you identify in your statement a number of priorities for the Hate Crimes Network, and at paragraph 15D of your statement, you talk about investigating the establishment of a third-party reporting system. Can I ask you to tell the Commissioners and those watching what you mean by a third-party reporting system?

30 PROF ASQUITH: A third-party reporting system is developed out of the fact that many of those communities who are targeted for these kinds of violence have an estranged or fraught relationship with police and - historically, but also contemporary partnerships with police. So, if you do not trust or do not have faith in the police, then you're less likely to report to police. So, we have always proposed that there is a need for a third party, almost a liaison between police and targeted communities, where somebody can report an incident that they can receive support from people that know and understand what that violence is, that we can put in place a victim support package; all of those sorts of things.

40 But also if it is the wish of the victim, the third party can then also report that incident to police and they can choose to have that followed up by police or just report it as an information-only report. We have seen third-party reporting systems established in Australia already in relation to antisemitism, Islamophobia, Sinophobia, and more recently a reporting system for Indigenous and First Nations people to report their violence.

45 But each of those organisations ask different questions and provide different levels of support. So, it's very difficult for us to even know what they are capturing, how they are capturing it and whether it's consistently captured across communities. And unless we

understand the prevalence across communities, it's very difficult to understand what are the common experiences. So, third-party reporting systems are used in the UK predominantly and are incredibly effective in not only being able to monitor patterns of behaviour, but also as a - almost a step into the criminal justice system.

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It's giving out a helping hand to some victims to make them feel safer in reporting to police. And we found at the Lesbian and Gay Anti-Violence Project, which was a third-party reporting project for most of the 1990s and 2000s, that by the end of the 2000s, most of the community felt safe to report directly to the police and the need for the third-party reporting system actually was significantly reduced.

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MS BENNETT: And so would that third-party reporting system also be capable of supporting a person whose conduct might not reach the criminal threshold, where it's not a matter necessarily for police?

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PROF ASQUITH: And that's - I think that's a really important thing, that for many people who are targeted for hate crime or targeted violence, do not necessarily want a criminal justice response. And it may not be appropriate for a criminal justice response to something. We know that there are some communities that would like to see penalty enhancements and an increased punitive response to these kinds of incidents, but there are others that would prefer a restorative justice response or an educational response.

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So, it is actually - a third-party reporting system is ideal in that it gives the victim the power to make a decision about what justice looks like for them and what they see as what would make them feel safer in engaging in the world. And it may be that just telling their story is enough.

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MS BENNETT: I think the Chair observed yesterday the criminal law can be a blunt instrument. Is that really -

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PROF ASQUITH: That's right.

MS BENNETT: - at the crux of what you are saying.

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PROF ASQUITH: That's right and I have a PhD student at the moment that is looking at the cases that have reached the court, that have been considered in terms of hate crimes or prejudice-related violence in Victoria. And so rarely is the hate crime component ever considered in court, and often even in jurisdictions where it says "partially or wholly motivated", the courts have often erred in the favour of "wholly motivated" and, therefore, very few cases have actually met that threshold.

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So, given the costs and impact of going to court, of giving evidence and for the very small proportion of cases that are actually adjudicated as such, we need to find alternative responses, and, of course, we also need to work much earlier at preventing any of these incidents from occurring in the first place.

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MS BENNETT: You earlier spoke of some of the challenges of some of the models that have arisen somewhat organically, that they have different definition, they apply different approaches. And so while these third-party systems are doing a good job, there are some issues around consistency and, therefore, consistency of response and data. Is that a fair summary of the position now?

PROF ASQUITH: Yes, and there are - because we are starting to work collaboratively, we are hoping that those questions will start aligning. But each of those third-party reporting systems that have been developed in Australia have been report - have been developed for specific reasons for specific communities. And it requires quite an investment in human and financial resources to actually create those kinds of independent systems.

And it also means that that information is siloed. So, we don't get a sense that until it is reported and is reported in a very specific way. I think having a consistent approach across all forms of hate crime will allow us to have a better sense of what is going on. At the moment, there is - there's a concept by Hannah Mason-Bish from the UK, and she talks about it as a competition of suffering. And those are more capable of collecting data and reporting on that data are more likely to get the ear of government and policing organisations. And, unfortunately, for most of our history, disabled people have not been in that privileged position of having the ear of government and police.

MS BENNETT: So, can I test with you this notion of a state-based centre for responding to issues of targeted violence against people with disability being a clearing house or a essential location for reporting and warm handovers and education - and educative response. Is that something that meets the kind of criteria that you're looking for in a third-party reporting system?

PROF ASQUITH: And also advocacy as well. Often when I worked at the Lesbian and Gay Anti-Violence Project, my role was to actually go to the police station with victims and assist them through that criminal justice process. It's also about providing the other non-criminal justice support that they may require. One of the criminal issues we identified in the 1990s in regards to sexuality and gender diversity was public housing, and we were able to advocate on behalf of victims to the Department of Housing to have a strategy in place where hate crime from neighbours was persistent, that a tenant could then be provided emergency rehousing. So, that's why I say we need to have a third-party system so that we find the justice that is right for that victim, and sometimes that may not be the criminal justice system.

MS BENNETT: And is that the kind of thing that - are you familiar with the Adult Safeguarding model that could - can be adapted to some of that - some of that conduct. Is that the kind of model that you are talking about there?

PROF ASQUITH: Yes, to a certain extent. We see from the UK again - UK leads in so many of these spaces - that they have safeguarding legislation and often, in terms of particularly in terms of criminal justice, that safeguarding people, whether that's parents, guardians or the state, make decisions about what is - what justice looks like for victims and makes that decision on their behalf. And often that can mean that they take a victim out of making a

formal report to police or - and/or advise them to reduce the kind of activity that put them at risk in the first place. And I think that's a deeply concerning road to go down. I believe that anybody can have a perception of what is justice for them, and as I said before, it may just be a truth-telling exercise that is enough to make them feel that they have been heard.

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MS BENNETT: Yes. And so an Adult Safeguarding model that has in it genuine representation by the targeted groups.

PROF ASQUITH: That's right.

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MS BENNETT: That's the kind of model that you are really talking about; is that right?

PROF ASQUITH: That's right. That's right. For and by rather than on behalf of.

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MS BENNETT: Yes. I want to turn now - you have said a number of times that the criminal justice response is not right in all instances. I would like to just focus in on some of the responses to criminal targeted violence for a moment, recognising that it is a subset and it is not all of the conduct that is the subject of this hearing. You identify in your statement substantive changes to the criminal law penalty enhancement and sentence aggravation as three of the criminal justice responses. And this is at around paragraphs 32 to 34 of your statement. Can you tell the Commissioners - and those watching - briefly what you mean by each of those concepts? So starting with a the substantive changes.

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PROF ASQUITH: Yes, so the substantive offences are those that are within the criminal code as stand-alone hate crime incidents. No Australian jurisdiction has this. These are more likely to occur in the UK and the US and more likely to occur in relation to race and religion than any other targeted community.

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The substantive offence allows the courts to adjudicate a case right from the very beginning as a hate-motivated or a hate-aggravated case rather than in the other two models where - the penalty enhancement and the sentencing aggravation models - the hate component only really comes into consideration as an after fact, as something in terms of an aggravating factor in sentencing.

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The penalty enhancement laws really only exist in Western Australia in the Australian jurisdictions. They are more likely to occur in the US and Europe and, again, to a certain extent in the UK in regards to race and religion, whilst sentencing aggravation law is the standard model in Australia, and this is where a case is adjudicated for its base offence, maybe a simple assault, and in sentencing a hate motivation is considered as part of an aggravating factor in deciding on the sentence.

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And often that is usually the first thing that is pled out. From the UK research - we don't have enough cases in Australia to know what the case is, but in the UK, we have found that usually the hate motivation is the first thing pled out in cases.

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MS BENNETT: I see. And by "pled out" you mean that the prosecutor exercises their discretion to remove that from the charge sheet?

PROF ASQUITH: That's right.

5 MS BENNETT: Can you - do you have any views - are there any views based on the research that you've reviewed or undertaken about the relative efficacy of those three approaches?

10 PROF ASQUITH: I think they are all a blunt instrument. What we find from the UK research is that penalty enhancements are usually imposed on those people who are also part of targeted communities, and, in particular, young brown and black men are often those that get the penalty enhancements on hate crime. So, the criminal justice system was never designed for disabled people in the first place, so I wonder whether it is ever really going to be the place for us to justice in this regard.

15 From conversations I have had with other disabled people who have experienced targeted violence, they - they do want a response from police. They do want to be recognised that they have been victimised. But so often they also talk about, "I wish I could go to my local primary school and speak to the children about why disability is not something to be scared of or to hate."

20 So they are much more focused on preventing and restoring justice rather than imposing more punitive sentences. But I have to say the communities are quite divided on this. Some communities really do want a more punitive penalty enhancement or a substantive offence model in Australia.

25 MS BENNETT: Is there some value in the denunciation that's involved in enshrining in legislation that - I guess, the additional unacceptability of this?

30 PROF ASQUITH: I think there is importance in both the criminal law and civil law in terms of the - the symbolic contribution that they make to say these communities are part of us, they belong, they do not deserve this, this is a breach of their human rights. But symbolic law is not enough. That it has to be able to do something and change something as well. And, in many regards, I think civil law has a better opportunity to do that than criminal law, because criminal law is about individuals and individual deterrence. It's very rare that we can get a general deterrence from a very specific type of crime like hate crime.

35 MS BENNETT: When you speak about the civil law, do you mean the vilification-style?

PROF ASQUITH: Vilification, harassment, anti-discrimination, yes.

40 MS BENNETT: Yes. And have you had cause to look into the efficacy of those kinds of responses?

45 PROF ASQUITH: I - I did for my - my Honours research and also my PhD research. I had access to cases that were reported to the New South Wales Anti-Discrimination Board. It is a difficult system in the first instance because it requires a committed well-resourced victim. Some jurisdictions do not have representative complaints. So, you actually need a person who has been harmed by that act to be the complainant.

And as we saw, particularly with Jeremy Jones against the Adelaide Institute, that took over 12 years and rising to the High Court before a decision was actually made. And that started as a civil complaint, and really the only reason why it was able to go on for so long was because there was such a strong community support behind that complaint.

But if we think about most victims, they do not have those resources. They do not have an - and each time you have to engage with another hearing, a mediation, a conciliation, a court case, you revisit the original incident over and over again, and you set up conditions for ongoing traumatisation and possibly PTSD and CPTSD.

MS BENNETT: And I would like to turn to ask you about police training. You cover this in your statement at 82 and following. You say that training is not a panacea, and you raise some good and concerning practices, by which I mean there are some silos and perhaps limited training. Can you tell the Commissioners about what a good training system looks like for police?

PROF ASQUITH: I think we are starting to see better practices in relation to domestic and family violence, and I think that does set a template for us in terms of hate crime and targeted violence. Too often, hate crime is perceived in silos in relation to specific targeted communities. So, when there is training - cultural awareness training on you know, race, religion, ethnicity, sexuality, gender, we often impart knowledge to the police that, you know, these are the specific aspects of what they need to understand and working with these communities. And that includes their experiences of victimisation and also offending and witnessing.

And as part of that, they may have a - a brief session on targeted violence or hate crime that that community experiences. But what we find is that that occurs most commonly in recruit training and, as I said earlier, that can quickly be forgotten. I also think that without a dedicated specialist unit within policing organisation, no matter how much police training occurs, it is up to the individual frontline police officer and their capacity to recognise something as a hate crime.

And whilst police are getting much better at recognising and recording racist and homophobic hate crimes, and also Islamophobic and anti-Semitic, they are not very good at recognising ableist violence when it occurs and often it is, as I said earlier, reframed as an issue of the vulnerability and opportunistic attack against the vulnerability of the disabled person.

MS BENNETT: And so you mentioned there specialist units and the importance of specialist units within police forces to respond. What does - what are the elements of that kind of a specialist unit?

PROF ASQUITH: We really only have one in Australia and that is New South Wales Police Force who has a Hate Crime Unit. And within that Hate Crime Unit, there are officers who specialise in understanding that particular type of violence, just as we have specialist officers who focus on domestic and family violence. The New South Wales Hate Crime Unit

has been in existence for a very long time and they have built the institutional knowledge about hate crime. And also through the Parliamentary inquiry into historical, gay and transgender homicides, there has been a lot of work being done within New South Wales Police to develop that capacity.

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Unlike the unit in the London Metropolitan Police Service, New South Wales Police's Hate Crime Unit does not have investigative powers. It can only advise and train and prepare the organisation for responding to these types of violence. The London Metropolitan Police Service, their Hate Crime Unit had investigative powers which meant that if an incident was reported as a hate crime, it was flagged for that investigative unit to do an initial review to ensure that they had been recorded correctly. And if there was any problems in investigating that by the frontline officer, then the specialist unit could step in and take over that case.

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15 MS BENNETT: So, in an ideal world, how does a specialist unit interact with general operational police?

PROF ASQUITH: Ideally we don't want a specialist unit to take over every single incident. We want frontline officers to increase their capacity and knowledge of recognising and responding to targeted violence. But as a - you know, an interim temporary measure, having a specialist unit with officers that have been trained in this area, who can step in whether the frontline officer does not have the capacity or knowledge to respond appropriately, I think is a really important thing as a temporary measure, as we build the cultural capability of police officers. And having that specialist knowledge also means that things that don't get recognised can be reclassified later on as hate crimes if a victim raises that with the specialist unit as well.

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MS BENNETT: You've mentioned that specialist unit. We have heard some evidence from some people that a disability liaison is something that they would like to see within police forces. Is that part of a specialist unit or is that separate?

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PROF ASQUITH: That's a separate thing. So, most policing organisations have liaison officers, whether it's youth liaison officers or gay and lesbian liaison officers, multicultural liaison officers. To date, I think it is only the New South Wales Police Force that has an aged person's prevention liaison officer, I think it is called, and part of their remit is to also support some disabled people.

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I think it sends the wrong message to just have an aged person's prevention liaison officer also doing disability liaison officer. Yes, there is some cross over between the two, but not all old people are disabled and not all disabled people are old. So, we need a dedicated unit. And I think even more so than any of the other targeted communities, because there are so many barriers to criminal justice for disabled people.

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One of the things that we have done in our research on policing vulnerable people is we undertook analysis of the police caution, the written police caution, and we found that it required at least a year 10 level of education, which, of course, for some disabled people is - is beyond their comprehension. So, we need to have people that are - recognise the

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barriers and understand the barriers and understand how to work around those barriers within the criminal justice system, and I think dedicated disability liaison officers may actually play that role.

5 MS BENNETT: You speak in your statement about a number of barriers to reporting. I just want to spend a moment to identify those. They are outlined at paragraph 68 of your statement. But what do you see as being the key barriers to people reporting, particularly disabled people?

10 PROF ASQUITH: From my experience and also from the research, we know that most disabled people do not know what is a hate crime or what is targeted violence. Some disabled people do not know what they are experiencing is, in fact, a crime. So, that's why earlier I talked about education is not just educating the criminal justice system; it is also about educating our communities about what is targeted violence, what their rights are,
15 what their response - what possible responses they could have, and I think that then gets us past the two critical barriers of knowing and recognising something as a crime in the first instance, but also as a hate crime in the second instance.

I think then there is the third really big barrier, and that is reporting to the police. And if you
20 have an estranged relationship with the police - and we know that there is a - a strong intersectional experience with Indigeneity and disability, and in both of those communities there is quite high levels of distrust of the police. So, that third barrier is, in fact, one of the most critical barriers, that even if you know it's a crime, that you have been targeted because of your disability, whether you want to report to the police is another matter.

25 Then once you do make that report, there is no guarantee that that police officer will recognise it as targeted violence and will record it as such and investigate it as such. And this is where it becomes really critical for having a specialist Hate Crime Unit that recognises the characteristics of what is a hate crime, even when the frontline officer does not recognise it
30 as such.

MS BENNETT: Commissioners, those are the questions I have for Professor Asquith, and I will hand her to the Commission.

35 CHAIR: Yes. Thank you. Professor Asquith, I will ask my colleagues if they have any questions to put to you, if you don't mind, and I will start with Commissioner Galbally.

COMMISSIONER GALBALLY: Thank you very much. I would like to ask a little more about third-party reporting systems. So, they are often NGOs of the population-specific groups.
40 That's who puts their hand up and -

PROF ASQUITH: In Australia, yes, that is the predominant model in Australia. And there are examples of that over in the UK and the US as well and Canada. But there are other third-party reporting systems such as True Vision. True Vision was originally owned by
45 Targeted Communities and was sponsored by UK policing services, so the policing services funded the True Vision portal to report hate crimes. But the data was owned by the community organisations themselves, and at the end of reporting through True Vision, you

could also ask for that report to be passed on to the police or investigated by the police and passed on your personal details for doing so for following up.

5 That was, I would say, the best practice model that I've seen, is that the data is owned by communities, but it is that police can get access to it if that's the wish of the victim. I think data sovereignty and autonomy is really important for our communities. We know that, you know, just general crime statistics are reported in particular ways by governments to, you know, achieve specific aims, and often it is only volume crimes that are reported.

10 The US is unique in that the FBI has a piece of federal legislation that requires them to collect data from state-based organisations on hate crime. But we don't have the equivalent framework in Australia to be able to do that. So, I think having a community-owned but government-supported and government-funded organisation, I think, is the most critical thing.

15 COMMISSIONER GALBALLY: Thank you. My second question is that the - in the education area - so criminal justice, that would be one focus. Disabled communities would be another focus. Do you - what do you know about the efficacy and evaluation of education of the wider community and whether those R U OK type of campaigns really hit the mark and
20 change things?

PROF ASQUITH: I think they can be tokenistic. And, you know, so many of my disabled friends and colleagues on R U OK day often say, "You asked me last year and I said no and I
25 still haven't had a response." So, they can be tokenistic. I think what they can do, though, is to put them on the landscape of a broader audience. The figurehead hate crime cases in the UK and the US have done an incredible job in raising the awareness of this kind of violence.

30 You know, we have spent the last 30 years raising at awareness of domestic and family violence, yet we still have domestic and family violence. But at least a broader range of people know and recognise domestic violence now. And I think it's not something that is the answer for tomorrow; it is an intergenerational program of action rather than something that will change the world tomorrow.

35 COMMISSIONER GALBALLY: Thank you.

CHAIR: Commissioner Ryan?

40 COMMISSIONER RYAN: Thank you. Professor, I'm a bit unclear how you have police training and specialist police units to engage in something that's not actually yet a crime. You seem to be equivocal about whether or not this sort of violence should be, in fact, declared a crime in the same way that, for example, you refer to the *Crimes Act* in New South Wales which makes sexuality, race and HIV status and so on a crime. So, are you - are you for
45 change? You haven't actually recommended legislative change. Like a good academic, you have sat on the fence a little. Isn't - wouldn't it be true to say that we would have to have legislative reform to get your three main recommendations implemented?

PROF ASQUITH: And there's need for legislative reform in various states. I'm in Tasmania myself at the moment, and the sentencing aggravation provisions only allows for racist hate crime to be recognised. So, just adding all of the other characteristics within that sentencing legislation would be important. The substantive -

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COMMISSIONER RYAN: Are you for that change?

PROF ASQUITH: Sorry?

10 COMMISSIONER RYAN: Are you for that change?

PROF ASQUITH: I am definitely for that - I am for any change that our communities require, and there are some communities that require a criminal justice response and that they want a punitive criminal justice response. So, I would not wish anything more than a sentencing aggravation provision. I do not see penalty enhancements as being an efficacious way of dealing with hate crime, because you are - at the most, you have got an individual deterrence factor happening. It's not a general deterrence. I think that having it in law is also a symbol to communities that they are - that their needs and their human rights are recognised and will be responded to.

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Whether the criminal justice system is the way to change hearts and minds is another matter completely. I think that we have to have both strategies running at the same time. There are communities that will never seek justice from a criminal justice system that we have at the moment. And we need to have something for them.

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COMMISSIONER RYAN: What about a change to the *Crimes Act*, for example, analogous to what happens in New South Wales. Would you support and recommend that?

PROF ASQUITH: I would support that. And, you know, Western Australia has legislation that is penalty enhancements and substantive offences, and whether that has made a change in the experiences of hate crime, I don't know. There's been no analysis of that data as yet. And I think it's very difficult to make any grand statements or recommendations because there has been so little research in Australia on hate crime even more generally, let alone ableist violence itself.

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COMMISSIONER RYAN: The usual constraint - or one of the distinct differences, I think, between legislation in Australia that makes crimes against particular groups a crime is because it usually involves a public act as described in the New South Wales legislation, where some sort of message is communicated to the public either by broadcast or writing or a speech or something of that nature. So, you would agree that unless the law went a bit beyond that, it's not going to pick up what appears to be the everyday level of crime that opportunistically happens in places like shopping centres, transport hubs and so on. Would you agree that it might well be that we can add that to the legislation but it still would not pick up the kind of things that are mentioned before the Commission?

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PROF ASQUITH: Yes, and there is some - there's some incidents where there is no hate speech before, during or after to give us an indication that there is an underlying motivation

that occurs with it. But it may be that it is something around the place that occurs. So, we know that a lot of homophobic violence happens at beats. So, we can get - we can judge that they may be targeted violence because they are occurring in a place that is predominantly visited by gay men or men who have sex with men.

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But, you know, in terms of ableist violence it occurs everywhere. It is literally from the moment you leave your front door into the street, into your community, the shopping centre, public transport, whatever it is. So, I think it is difficult to be able to identify anything as targeted violence or hate crime without that verbal or textual evidence or without a specific kind of location or event that is linked to that - that violence as well.

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So, that's why I'm saying that the criminal law may be too blunt of an instrument to deal with all incidents. I know when I spoke to colleagues who are short-statured, that often - and also people who use wheelchairs, that they - somebody may not necessarily say anything, but they may pat somebody on the top of their head or they may move their wheelchair without asking them. And that could - that is perceived to be assault. But you wouldn't actually recognise that as ableist violence unless you understood that those were the kinds of acts that occur for people with disability. And we don't know that because it's never reported to the police, so we need to do the research in order to, you know, provide the evidence that we need specific kinds of responses.

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COMMISSIONER RYAN: The establishment of liaison officers within the police service, I agree with you, has been recommended to us. But the best models of those are usually places where it's possible to put the liaison officer within a community where that particular crime is a focus. For example, in Sydney, I think there are 26 of them, they are located in suburbs which have higher volumes occupies of a particular ethnic group that have been subject to crime. The targeted crime against people - gay and lesbian and transgender people are generally located in the inner-city of Sydney with the support of the Sydney City Council, for example. How would we get something as ubiquitous as crimes against people with disability adequately covered with liaison officers across, you know, even regional areas and the city?

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PROF ASQUITH: Two things I want to address around liaison officers. I think, you know, the best practice of liaison officers is that's their job. For most Australian policing organisations, liaison officers are liaison officers in addition to their substantive position. So, they are only available - even the best of liaison officers are only available when they are on shift, and it may be that even in Darlinghurst, there may not be a gay and lesbian liaison officer on shift at the time when you need it.

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They are - they do not have investigative powers. They cannot take a report of crime. They are a liaison between the reporting officer and the victim or complainant. I think the other issue, as you raise, is that disabled people are everywhere. How do we make sure they are liaison officers everywhere. I don't think we can. I think we need to have - we have learnt from COVID that we can have liaison through online, and phone, and/or other mechanisms.

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We don't necessarily need that to be face-to-face. And having a central resource of people who are specifically trained on the issues in relation to working with people with disability, I

think is really critical. But I think also raising the cultural capability of senior officers is some of the most powerful things that you can do. Sergeants and inspectors role model to their junior colleagues about what is to be expected, and if you have an incredible advocate at that level of rank then you will actually - that will filter down to frontline officers. So, increasing the training of sergeants and inspectors in this space will also go a long way to changing the lived experience of reporting.

COMMISSIONER RYAN: Thanks, Professor. Thanks, Mr Chair.

CHAIR: Thank you. Professor Asquith you set out in paragraph 14 the Australian Hate Crime Network's Terms of Reference. And I think, as you have indicated, the expression "hate crimes" is a bit of a misnomer because the Terms of Reference refer to hate crime and hate incidents. And then on - in paragraph 17 you describe hate incidents as:

"Other acts that are motivated in whole or in part by bias prejudice or hatred towards a group characteristic of the victim but that do not amount to a breach of the criminal law."

Where do you draw the line with other acts? I ask because if you are going to have a reporting system of some kind, there has to be a definition of the act, however - whatever the motivation may be, that meet the threshold for reporting and recording. Is the borderline marked by what you referred to in paragraph 20 by section 17 of the *Anti-Discrimination Act Tasmania*? Or is there some other point or definition that can be used to determine which Acts would be covered?

PROF ASQUITH: I think in the first instance, we need to capture the evidence of both incidents and crimes. Incidents are usually precursors to crimes, particularly when it's known offenders, neighbours, those sorts of things. It may start off with verbal abuse across the back fence, which then descends into throwing rubbish across the back fence, to setting somebody's car on fire. So, it is part of a continuum and escalation of violence. So capturing the -

CHAIR: I understand that, but what I'm asking about is what are the other acts that are will trigger, for example, a reporting requirement? I'm not quite clear what it is that you have in mind for - or that the network has in mind when they talk about other acts that are motivated by bias, prejudice or hatred.

PROF ASQUITH: And the London Metropolitan Police Service, I think, is a good example. They take reports both of incidents and crimes and they take reports of verbal abuse as the baseline of what is a hate incident, and they do so because that may be the first of a string of incidents or a pattern of incidents, either against that individual victim or against similar victims within the local area. So, verbal abuse is seen or - verbal or textual abuse, so hate mail as well, or graffiti, may be seen as the baseline of a hate incident, and that is something that the London Metropolitan Police reports.

Likewise, New South Wales police also takes reports of hate incidents such as that. And they are for information only. So, again, it's about trying to keep data on patterns of behaviour, in case there is something that's similar is occurring elsewhere.

CHAIR: Thank you. You in paragraph 25 refer to your preference to use the term "targeted violence." But as I understand it, you would use that term to describe what we have just been talking about, hate incidents as well as hate crime. Is that right?

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PROF ASQUITH: That's right.

CHAIR: Doesn't that run the risk of extending violence beyond its ordinary meaning and maybe create a little bit of confusion?

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PROF ASQUITH: It depends how you want to look at it. I talk about violent speech. So, it depends on whether you are using the criminal justice system as the benchmark or whether you are wanting to take the subjective experience of victims. In Australia, we use the objective test, which is the police and criminal justice agencies determine whether something is a hate crime or not and whether it's an intent or a crime, whilst in the UK it is a subjective test and it is about the victim and their perception of what occurs. And this may lead to overreporting, and overrecording, but we believe that that is better than underreporting and underrecording.

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CHAIR: Thank you. In paragraph 49, I think I am going to take issue with one of your sentences. At the end of say:

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"As with Jewish communities, for the most part these are only reporting systems and related advocacy and support are limited."

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The Jewish community, in fact, is extremely active with advocacy and has been for a long time, of necessity, as with other Jewish communities in throughout the world and their advocacy is responsible for the amendment of the New South Wales Act to include Nazi symbols.

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PROF ASQUITH: Yes.

CHAIR: I mention that because it's not inevitable that particular communities are relatively inactive in terms of advocacy. Some can be extremely active and extremely effective. One of the things that the Jewish - sorry, one of the things that the Jewish community -

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PROF ASQUITH: I was just going to clarify there, when I was meaning advocacy, I was meaning individual advocacy in terms of supporting victims going to policing organisations rather than advocacy to governments about legislative change. The Jewish community has set a framework for many of us to follow, because they have been doing this work to so long.

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CHAIR: Yes. I think you will find there is some support for individual reporting, but we will put that to one side. But one of the things that the Jewish community does is take people to the Jewish Museum and - which is in part a Holocaust museum. And the groups that go to the Jewish Museum include young men, often high school students, and they are sometimes selected because of what they have done in the past – antisemitic comments or antisemitic

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behaviour. From what I understand, that is a very effective mechanism for addressing the anti-semitic behaviour of particular individuals or groups, especially through schools, but not exclusively through schools.

5 Nobody has ever suggested, as far as I know, at the Commission that there should be a similar, whether you call it a museum or resource centre, that deals with what you're described as ableist violence. It strikes me that the Jewish Museum model may be a quite effective way of educating some groups that are particularly in need of education. There can be some very striking changes in behaviour when confronted with the consequences of
10 what they have done. It may start out, as you are indicating, as relatively minor, often thoughtless rather than deliberately intended to be a reflection of hate. And I just wonder whether anybody has put forward that possibility in your discussions with people with disability or representative groups?

15 PROF ASQUITH: I think it would be amazing if there was a museum of disability and the historical context, particularly, you know, in terms of the Third Reich and the Shoah. What we do have and what exists in most states are Speak Out bureaus, and I know from Tasmania there is also the Human Library which provide a very similar role. The Speak Out bureaus usually have time with police during their recruit training, and this is where people
20 with lived experience talk about what it's like to encounter the police as a disabled person, whether victim or offender. And the Human Library is a much more interpersonal experience of getting an understanding of that lived experience.

25 So, I think you're right in regards to education that we - we need a process that is by and for rather than on behalf of so that people can actually have first-person encounters. Often the opportunistic on the street violence is because people do not know other - do not know disabled people do not have any kind of relationship with disabled people that would give them a sense that their thoughts and views are quite skewed.

30 CHAIR: Yes. Thank you very much. Professor Asquith, again, my thanks and the thanks of my colleagues to you for the work that you have done, reflected in the written statement that you have provided and the research to which you have referred in your statement and in your evidence today. We very much appreciate the detailed evidence have you given both in writing and in your oral evidence. So, thank you very much for your assistance to the
35 Royal Commission. We appreciate it.

PROF ASQUITH: And thank you for the opportunity to give that evidence.

<THE WITNESS WITHDREW

40 CHAIR: Ms Bennett, what we do now?

MS BENNETT: We now have a brief adjournment, if it's convenient for the Commissioners, until 11.am.

45 CHAIR: It will, in fact, be a brief adjournment until 11.05 am.

MS BENNETT: If it pleases the Commission.

<ADJOURNED 10:51 AM

5 **<RESUMED 11:07 AM**

CHAIR: Yes, Mr Fraser.

10 MR FRASER: Commissioners, moving on to the next item, you will now be shown a portion of pre-recorded evidence of a witness we are referring to as Marie, which is a pseudonym. Marie is an autistic woman in her 60s. She lives in New South Wales. Marie has a university Associate Diploma in Social Welfare and a Graduate Certificate in Professional Studies ASD from the University of Canberra.

15 She is a registered peer mentor and has training in community peer mentoring and case management, existential counselling with the Australian College of Applied Psychology. Marie is the co-founder a peer support network for autistic adults across New South Wales, which she will refer to as AAU. AAU's members are individuals who largely live independently and are from diverse age groups and backgrounds. AAU was established in
20 order to connect autistic people and create opportunities to meet and discuss various topics of concern.

A helpline was also established which autistic adults could call for information, mentoring and support from other autistic adults. Occasionally, calls are received by people who are
25 not autistic but have an autistic family member or partner. On average the helpline received between 10 and 15 calls per week, been over 9,000 calls since it started operating in 2003.

In the conduct of her work with AAU, Marie has received numerous reports of violence against and abuse of autistic people in the community. In addition to her pre-recorded
30 evidence, Marie has also provided a written statement to the Commission dated 30 September 2022, which is at tab 42 of the Tender bundle. I tender that statement and ask it be marked as **Exhibit number 28-12**.

35 CHAIR: Yes, that can be done. Thank you. It will be admitted into evidence and given that marking.

<EXHIBIT 28-12 STATEMENT OF 'MARIE' DATED 30 SEPTEMBER 2022

40 MR FRASER: In addition, I tender the pre-recorded evidence of Marie as **Exhibit number 28-13**.

CHAIR: Yes, that too can be done. And Marie's statement will become **Exhibit 28-13**.

<EXHIBIT 28-13 PRE-RECORDED EVIDENCE OF 'MARIE'

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MR FRASER: I ask that the pre-record of Marie's evidence be played, being the extract.

CHAIR: Yes.

(Video played)

5 MARIE: Based on the notes of the calls to the helpline, we estimate that around 80 per cent
of the autistic people who have contacted us since 2003 have told us that they experienced
some kind of hate crime. We also estimate that around 40 per cent have reported ongoing
experiences of hate crimes. The overwhelming trend that we have observed from the
10 accounts given to us is that it is often groups or "mobs" of young people, the majority of
them males, who are targeting autistic people for violence and abuse.

Repeated hate crime incidents involving a single perpetrator are extremely rare. Autistic
people who live on their own in the community rather than with their spouses or families
are more likely to be targeted, according to the reports we have received.

15 Abuse often starts with comments and public vilification like calling an autistic person a
"freak" or "retard" or threatening to hurt or kill them. It can happen in all kinds of places
where there are groups of young people, such as on the streets, in parks, in or near
shopping centres and on public transport.

20 It typically involves complete strangers who are often people who live in the same area as
the victim, although the perpetrators may later become known when abuse occurs
repeatedly. Many people are abused multiple times over extended periods.

25 The abuse can escalate from things like spitting on and throwing stones and other objects at
the autistic person, stalking them, and even targeting them near or in their homes, such as
by breaking windows and trespassing. It can include violent physical assaults involving
knives or home-made weapons. Some of these are apparently planned.

30 From my observations, the abuse tends to be worst in areas where there are significant
social problems, such as illegal drug use, low rates of employment, high rates of other types
of violent behaviour. In my opinion, the young people in these groups of abusers may be
trying to demonstrate power, personally or as a group, by targeting other people perceived
to be different to them. But it is difficult for me to understand some of the hatred and
35 disregard for the safety of autistic people who the perpetrators have never even met.

Another type of abuse that I hear about often through AAU is what I refer to as "mateship"
abuse, where a person tries to exploit someone with autism pretending to be their friend.
This may be motivated by opportunity, but the trust or naivety of many autistic people
40 presents additional risk of this type of abuse.

From the autistic people I have spoken to through my role with AAU, I understand that
some are ashamed or are too frightened to report their experiences to the authorities.
Some have social phobias or difficulties in communication which can be caused or
45 exacerbated by their victimisation and trauma. Many people have had negative experiences
trying to make reports to the police, such as not being believed, being misunderstood, or

being asked what they have done to provoke or cause the abuse. In many cases, victims are often told to ignore the abuse or try to avoid it by moving or staying indoors.

5 Through my role, as well as my own experiences, I also understand the devastating impact that violence and abuse by strangers can have. Autistic people can be severely traumatised by a single incident of abuse. But when multiple incidents occur over lengthy periods of time, the trauma is compounded and can become chronic.

10 I think it is very important for it to be known that autistic people often are targeted for violence and abuse in the community. It seems there is not a great deal of public awareness of this problem, and perhaps there has been more focus on abuse perpetrated by carers, families or institutions rather than hate crimes perpetrated by strangers in the community. This may have resulted in "public" hate crime towards autistic people and others being dangerously underestimated. It is therefore important for me to share what I have seen,
15 heard and experienced with the Royal Commission, as well as with others.

AAU is committed to working with other disability organisations and groups who might be able to set up similar forums that can bring a higher profile around hate crime and advocate for people with autism/cognitive disabilities who have been subject to hate crimes. I
20 consider that people with hidden disabilities in particular need access to forums that are ideally peer-driven, where they can share their experiences, begin to recover from these in a safe identity-affirming setting and to have their voices heard.

25 After I started keeping track of the accounts of hate crimes that AAU was receiving, I began to send de-identified summaries to and data to other organisations that we are connected to like the Australian Hate Crime Network and New South Wales Health Education Centre against Violence. I have also spoken to other disability organisations about it and shared information with university researchers, who have incorporated our data into their reports and publications.
30

Unfortunately, formal research on hate crimes against people with disability in Australia is scarce. I am aware that there has been more attention paid to the issue in the UK. For example, the British organisation Dimensions has a campaign called "I'm with Sam" which is about tackling hate crime against autistic people and people with other cognitive
35 disabilities. They have done research showing that 73 per cent of people within this cohort have experienced hate crime. In a 2021 survey, they found 82 per cent of people who responded to the survey had experienced other people calling them names or shouting at them, and 44 per cent had been threatened, hurt, or coerced into doing things.

40 I think that there needs to be systems devised to track incidents of violence and abuse targeting people with disability in the community in Australia. The data gathered in this way could then be analysed for patterns and used by researchers to develop appropriate responses.

45 I believe there needs to be changes to the laws in Australia so that there are better definitions of hate crimes and different types of abuse of people with disability, as well as specific laws prohibiting vilification of people on the basis of disability. We also need

structural change so that people with disability are able to make reports of the various kinds of abuse we experience in a safe and supported manner, whether to police or other agencies. An example might be consultative groups that include representatives of targeted communities.

5

Those receiving reports need to have better training on and understanding of our lived experiences and be able to recognise how biased or misconceived attitudes towards autistic people, and people with disability more broadly, can affect responses. I think this could be assisted through some kind of ongoing consultation or liaison between police and other first responders with people with disability at a local level.

10

In order to stop these abuses, changes cannot be short-term, superficial or tokenistic. For these abuses to stop, all changes need to be directly informed and guided by people with disability and championed and directed by government and heads of supporting organisations. For us to be safe, we need these changes to be actively embraced and adequately implemented all the way through to frontline responders.

15

(Video ends)

MR FRASER: Commissioners, the next witness is Mr Timothy Marks. Mr Marks is present with us in the Brisbane hearing room. I ask that he come forward and also be sworn in on the Bible.

20

CHAIR: Good morning, Mr Marks. Thank you very much for coming to the Brisbane hearing room to give evidence today. We appreciate your attendance and we also appreciate the statement that you have given. If you would be good enough to follow the instructions of my associate, who is sitting just in front of me, she will administer the oath to you.

25

MR MARKS: Thank you.

30

ASSOCIATE: I will read you the oath. At the end, please say yes or I do. Do you swear by Almighty God that the evidence which you shall give will be the truth, the whole truth and nothing but the truth?

35

MR MARKS: I do.

<TIMOTHY MARKS, SWORN

CHAIR: Thank you, Mr Marks. I will now ask Mr Fraser to ask you some questions.

40

<EXAMINATION BY MR FRASER

MR FRASER: Mr Marks, Tim, you have provided a written statement to the Commission dated 28 August 2022?

45

MR MARKS: Yes.

MR FRASER: Have you had a chance to read that in preparation for your evidence today?

MR MARKS: Yes.

5 MR FRASER: Can I - have you got a copy there?

MR MARKS: No.

CHAIR: I'm sure one will find its way to you shortly.

10

MR FRASER: We will provide a copy to you now.

MR MARKS: Thank you.

15 MR FRASER: Now, can I take you to page 2 of your statement at paragraph 9. And you say there that you are the Director of the Tasmanian branch of Physical Disability Australia and, in addition, you are the Chairperson and Director of the Tasmanian Amputee Society. You are now also the President of that society. Is that correct?

20 MR MARKS: Yes.

MR FRASER: And in paragraph 10 of your statement, you refer to waiting for your formal qualification in a Certificate IV in Mental Health Counselling, that you have been completed, to be received. You have now, in fact, received that qualification; is that correct?

25

MR MARKS: Yes.

MR FRASER: And finally at 12 - sorry, at 11, you refer to being in contact with a younger man in Sydney who has recently become an amputee. You would like to correct that to delete the word "younger"; is that right?

30

MR MARKS: Yes.

MR FRASER: And then finally at paragraph 12, you state you planned on running for election as an Alderman at the Glenorchy City Council. You are now, in fact, running for election for that position; is that correct?

35

MR MARKS: Yes.

40 MR FRASER: Now, with those updates, are the contents of that statement true and correct to the best of your knowledge and belief?

MR MARKS: Yes.

45 MR FRASER: Commissioners -

CHAIR: When is the election?

MR MARKS: Now.

CHAIR: You mean today?

5

MR MARKS: It's between the 7th and the 25th postal voting. People can vote up to the 25th.

CHAIR: Right.

10 COMMISSIONER RYAN: Good one.

CHAIR: So, we are in the midst of a heavily contested election?

MR MARKS: Yes.

15

CHAIR: Okay. Yes, Mr Fraser.

MR FRASER: A copy of that statement is at tab 38 of the Tender bundle. I tender that statement and ask that it be marked as **Exhibit number 28-9**.

20

CHAIR: Yes, the statement can be admitted into evidence and given the marking of **Exhibit 28-9**.

<EXHIBIT 28-9 STATEMENT OF TIMOTHY MARKS DATED 28 AUGUST 2022

25

MR FRASER: Now, Tim, I would like to begin by asking you to tell the Commission a little bit about yourself. You are 53 years old; is that right?

MR MARKS: Yes.

30

MR FRASER: You were born in Burnie in Tasmania?

CHAIR: Why don't we let Mr Marks tell us about these things instead of reading it to him. Mr Marks, why don't you tell us about yourself?

35

MR MARKS: Yes. I am 53 years of age. I was born in Burnie Tasmania. I was brought up by my grandparents. My grandparents had a mentally retarded daughter. I'm not meaning that nastily. She - became my sister by adoption. I grew up with her all my life, so I - all my life spent around people with disabilities, and then I became a carer. I worked in the caring industry looking after elderly people in nursing homes for 20 years. Then I - as you can see, became - got a disability myself through no lack of - no problem of my own but an issue with a hospital. So, now I advocate, I volunteer on 16 different committees at the moment, helping people with disabilities and, as Andrew said, I'm going for Alderman in Glenorchy Council as well.

45

CHAIR: Thank you. Yes, Mr Fraser.

MR FRASER: You presently reside in Glenorchy.

MR MARKS: Yes.

5 MR FRASER: And you moved to Glenorchy when you were 29 years old to be closer to specialist medical services; is that right?

MR MARKS: Yes.

10 MR FRASER: And that was to treat the onset of reflex sympathetic dystrophy or RSD; is that right?

MR MARKS: Yes.

15 MR FRASER: And when were you diagnosed with that?

MR MARKS: 1997.

20 MR FRASER: Now, in your statement, you describe yourself as very involved in the local community and the disability community in Tasmania, as you've just mentioned. Can you tell the Commission about your roles with the disability community in Tasmania?

25 MR MARKS: The main role I've got at the moment, as I said, is I'm the President of the Tasmanian Amputee Society. I'm also the Chairman of the Tasmanian Amputee Society and I'm also classed as the Director for the south, and in that role is peer support, advocacy and mentoring for people who have just become amputees or just about to become amputees to show them that they can have a future and a life as an amputee. You don't have to be told, like I was told, "Go home and die." Because that's what I was told by the doctors when I left hospital, "Go home and die. You are useless. You are no good for anything" 12 years
30 ago, and I have proven them wrong. So, that's the main role with that one.

35 Same with Physical Disabilities Australia is mentoring and peer supports. I'm also on the Glenorchy Access and Inclusion Reference Group and we train Council staff, public, whoever wants to come along to learn what it's like to be disabled, put them in a wheelchair or put - give them glasses that make them blind, do different things and do different activities to see what it's like going out in our streets of Glenorchy or going out in different areas and trying to shop or go through the normal process of going to the bathroom, or whatever process to show them what it's like for people with disability, just - and trying to make things better in our community so that people with disabilities or elderly people can access
40 things easier.

MR FRASER: Now, with respect to your diagnosis of RSD in 1997, as part of that, you suffered multiple heart attacks and strokes. Is that right?

45 MR MARKS: I have had 17 heart attacks and six strokes.

MR FRASER: And, in fact, after one of those strokes in 2009, you had your leg amputated above the knee. Is that right?

5 MR MARKS: The leg was amputated in 2010, but in 2009 I kept on telling the doctors I couldn't feel my leg, and they discharged me saying it was - I was a mental case, pretty much. It was in my head. Unfortunately, I had blood clots in my leg and by the time that any doctor with a brain got to see, it was 2010 and it was either amputate it or die.

10 MR FRASER: And following the amputation, you use a number of mobility aids to get around in the community?

MR MARKS: Yes.

15 MR FRASER: Can you tell the Commission about those aids?

MR MARKS: I actually have my own motor vehicle that I drive. On the top of my motor vehicle, I have what's called a wheelchair pod, which is the only one I know of in Tasmania, that puts my wheelchair which I'm actually sitting in now up on to the roof of my car so I can go places and go around Tasmania and helping people that I'm helping. Also I have an electric wheelchair. I have a smart drive which connects on to this chair to make this chair an electric wheelchair. I have a beach wheelchair, and I have just been approved for a new prosthetic leg.

25 CHAIR: Approved through the NDIS?

MR MARKS: Yes.

MR FRASER: And in terms of mobilising with a prosthetic leg, you use crutches with that to get around?

30 MR MARKS: Yes.

MR FRASER: Now, you refer in the statement you have provided to being subject to many instances of violence and abuse while out in the community. Prior to the amputation of your leg in 2010, had you been the subject of any such incidents in the community?

MR MARKS: No.

40 MR FRASER: And that changed after you had the amputation; is that right?

MR MARKS: Yes.

MR FRASER: And you started using a wheelchair?

45 MR MARKS: Yes.

MR FRASER: So can you tell us about what changed?

MR MARKS: Just the incidents of when you go out in public and people say - call you cripple, call you useless. Just verbal abuse, mainly, was the start of it. Just you copped that as you go wherever you go in public and, like, going doing my own shopping and stuff. In the first
5 couple of years when I lost my leg, I pretty much nearly didn't go out of my home because of access issues getting out of home, plus being out - being - getting called names and getting stuff, that was just not worth it. And now I don't even go out of my home after 4 o'clock.

10 Coming here to Brisbane is being a very big deal for me because I have post-traumatic stress disorder and I - even now I'm looking around to see if somebody is going to come behind me and attack me when I know nobody is in the room. But I'm very, very aware of my situation and where I am.

15 CHAIR: Why 4 o'clock? Why is that the cut-off point?

MR MARKS: It's usually in - where I live in Glenorchy, it's usually the thugs, that I'll call them, come out and hang around the Glenorchy Bus Mall, the Northgate Shopping Centre areas and that, and usually that's when the main trouble starts in the area down there. So if you
20 are not there, you are not going to have the trouble.

MR FRASER: Can I take you back to when you first started the wheelchair and mobilising on crutches. Did you observe or notice any difference in the level of or the amount of violence or abuse you got, depending on whether you were using a prosthetic leg and crutches as
25 contrasted to a wheelchair?

MR MARKS: Yes, well, usually when I was using the prosthetic leg, I had - like I have today, long trousers on, so it's not visible. So, there was a lot of times where people just ignored you because they thought you might have broken your leg or had some injury to your leg.
30 They don't actually notice that it is a prosthetic leg. But when you are in the wheelchair and you haven't got a leg or even in the wheelchair, at times when I had my prosthetic leg on, you still cop the abuse because they seen you sitting in a wheelchair.

MR FRASER: Now, I want to ask you some questions about the specific incidents that you
35 have referred to in your - sorry before I do that, you have referred to some specific incidents in your statement. Before I move on to those, might I ask you some more general questions. And if it assists you, I'm in your statement at paragraph 37. And you have said in your evidence today that you've - you have been - experienced verbal abuse while in the community.

40 MR MARKS: Yes.

MR FRASER: And, in fact, is that something that you have now come to expect when you
45 leave the house?

MR MARKS: In a daily situation, you expect that.

MR FRASER: You also say that you are subject to comments and treatment along the lines of you are an inconvenience, things of that nature.

5 MR MARKS: Yes, and especially when you are going along the footpath and there is somebody - these younger ones blocking the footpath and you say, "Excuse me, please" and they go, "Oh, get out of the way, you inconvenience." Or "Get out of the way, you cripple." Or they just all different kinds of nasty comments. And I just get - ignore them usually and now because I've just got used to it happening.

10 MR FRASER: And you talk also about being the subject of harassment and intimidation in public places around Glenorchy. Can you tell the Commission about that?

15 MR MARKS: That's usually a situation where you will get a number - can be five, can be 10 or so youths coming to hang around you and harass you and ask you to go to the pub and buy them alcohol or go and get them smokes or stuff, and when you say no, and all that, they - they really start abusing you and make you feel like if you don't get the hell out of there, you are going to get bashed or - because you are not going to do what they want.

20 CHAIR: Do you know who they are?

MR MARKS: No, I don't know them by name or person.

25 MR FRASER: Now, if I can turn to a specific incident referred to in your statement. Referring here to in around April 2020 when you are travelling towards the local Woolworths near the local council. You talk about an incident that occurred when you were using your electric wheelchair. Can you tell the Commission about that occasion?

30 MR MARKS: Yes, it was approximately around 6 o'clock at night. I was going to Woolworths to get some milk. And we have a - what we call the Glenorchy Bus Mall which is right next to our council chambers in Glenorchy. And I was going to have to cross the Bus Mall to go to Woolworths. As I was going across the Bus Mall, I seen a bottle - I don't know at the time whether it was plastic or glass bottle, but it flew past me and bounced on the ground, and numerous bottles came. Some of them were glass, some were plastic. One had to have been glass because it hit me in the head, just up here above my right eye, and cut me and I started bleeding. And I ended up putting my wheelchair into full power and getting out of there because I thought I was going to be attacked.

40 MR FRASER: And there was four or five young people around that were throwing these bottles?

MR MARKS: Yes, sitting at what we call the Bridgewater stop at the bus mall, those at that stop. I don't know afterwards whether they caught the bus or whether they disappeared because I just kept - got the hell out of there.

45 MR FRASER: And so after you got yourself to safety, did you report that - what had happened to anyone?

5 MR MARKS: Yes, I called the police and reported it and they said that they would send a car out to the area and have a look. I don't know what happened because I had no report back from them. They also said they were going to check with the security cameras that - in the Bus Mall, but I actually talked to a member of council and found out that the security cameras were inoperative at the time.

MR FRASER: And you later informed the Mayor of the council and other council members about what had happened, didn't you?

10 MR MARKS: Yes.

MR FRASER: Did you inform any other body about what had occurred? Metro Tasmania?

15 MR MARKS: Yes, Metro Tasmania, which is the ones they run the bus service there - in Hobart.

MR FRASER: Other than the police, are you aware of any other reporting line operated for the purpose of a person with disability reporting violence and abuse?

20 MR MARKS: No.

MR FRASER: Now, unfortunately, that was not an isolated incident, was it?

25 MR MARKS: No.

MR FRASER: In your statement, you talk about something that happened in 2018. Can you tell the Commission about that?

30 MR MARKS: Yes. In Hobart, we have what we call the bike track, which is a cycle way through Glenorchy through - right through to Hobart out to the other end of Claremont. And it's also a track where people like myself with disability use it to easy access to go into Moonah and shops and things. And my previous electronic wheelchair I had had a little rack on the back of it that I built myself, and on that rack I had a bag, like a sports bag that you buy at the shops, cable tied to that.

35 And as I was going along, I felt a tugging on the chair, and I thought either one of my seat belt straps or something had fallen down into the wheels and was starting to jam and block me, so I looked back to see what was going on, and there was a - I won't call him a gentleman because he wasn't, trying to cut my bag off my wheelchair with a knife.

40 MR FRASER: And what did you do in response to that?

45 MR MARKS: I - I said - I think I said, "What are you doing?" And I swung my arm back like - like this, my left arm back because he was just behind me on this side trying to get the cable tie uncut. And I smacked him right into the nose, and I believe I broke his nose because claret was coming out, and he said, "I'm going to call the police" and I said, "Go for

it. Because you are trying to attack me; I'm just defending myself." Unfortunately, he got a bloke that used to be a boxer that can still use his fists.

MR FRASER: And did you report that incident to the police?

5

MR MARKS: No.

MR FRASER: Why not?

10 MR MARKS: No, I thought he got what he deserved and it's - by the time they even get there, he's going to be gone anyway. And the silly thing is the bag that I had on the chair was only to put my shopping in which - it was empty at the time so he would have just got an empty bag.

15 CHAIR: A nose for an empty bag. Kind of justice.

MR FRASER: Now, I want to turn now to ask you some questions about the impact - and you have referred to this earlier in your evidence, that these incidents of violence and abuse and - up until now and your experiences in the community have had on you. You say in your
20 statement that there's been - you have developed a sense of fear when you are in the community. Is that right?

MR MARKS: Definitely, every time I go out I fear that something is going to happen and I much prefer to either go out with one of my carers and that. I don't like to go on my own.
25 My carer is actually here with me - with me in here in Queensland because I won't travel on my own.

MR FRASER: And so when you leave the house, you normally only leave the house with a carer or a friend. Is that right?

30

MR MARKS: Yes.

MR FRASER: Are there things that you no longer do out in the community?

35 MR MARKS: Yes, well, I - no longer go out, as I said, roughly after 4 o'clock of a night-time. I don't go to friends' places for coffee even because getting to their place and that, I can be susceptible to these people attacking me. So, if a friend says, "Come around to tea tonight", I don't go and then they go, "Why didn't you turn up? I made plenty." And I can't - I don't really like to tell them, "Because I'm scared of going out."

40

MR FRASER: Now, you are very involved in the local community. Are there things that you don't now do in terms of council involvement and things like that?

45 MR MARKS: I have been not going to meetings and different functions that are held in the community because of what's happened to me. And if I do have to have to go, I go by car now instead of go by my wheelchair, which costs me - unfortunately impacts on my

day-to-day living because it costs me in fuel costs and that to go out, so sometimes I've got to go without food to do these functions.

5 MR FRASER: Because you have got to pay for the petrol for your car? So are these places you would otherwise be able to take your wheelchair to?

MR MARKS: Yes.

10 MR FRASER: In your statement, you refer to being in a state of hypervigilance when you leave the house. Can you tell the Commissioners about that?

15 MR MARKS: It's just like even with here now. I'm not looking at you all the time. I'm looking left, I'm looking right to see if somebody is going to come behind me and attack me. And I shouldn't be like that. I know nobody is here to hurt me, but my body is just ready to go. If something is going to happen, if something come behind me now, they would probably get a knock in the nose, unfortunately, and that's just not the way you need to be.

20 MR FRASER: And do you feel as though you are missing out on opportunities you would otherwise take up?

MR MARKS: Yes, definitely.

MR FRASER: I want to move on to the final -

25 CHAIR: Just before you do that, if you do get elected to council, will the council provide the support for to you travel where you need to safely?

MR MARKS: No, I will have to do that by my own motor vehicle at my own cost.

30 CHAIR: You have asked them?

MR MARKS: Yes, the council doesn't support any aldermans or volunteer role.

35 CHAIR: Even if it's a reasonable support for someone with disability?

MR MARKS: Yes.

40 MR FRASER: If I can move to the final topic that I was intending to ask you some questions about. And these are the ideas or proposals for reform that you have taken the time to set out in your statement. One of the first things that you mention is that there could be better education of to the general public about disability. What do you have in mind there?

45 MR MARKS: Well, as I said, with the Glenorchy Access Reference Group, we train people what it is like to feel as - an experience of being disabled. By education, get people like myself with a disability to go into primary and high schools to educate people from a young age what it's like to have a disability and to also show them that just because you are fit and fine now doesn't mean 10 years, 20 years, 30 years down the track you are going to have a

disability. So, if you experience it now, you might not become these thugs that are causing the trouble to the people.

5 And on the other end of the scale, with the ones that are the thugs, causing the trouble, I believe that there should be a criminal element to it. That it doesn't matter what the crime is against the person with disability; it's a crime. And that they should be given some kind of punishment, but instead of putting them in front of a judge and a jury, give them an automatic punishment where they have to do a training course with people like myself with a disability that they have to come and meet people like myself, yourself, other people with
10 disability and learn the same process as we teach in schools so that they understand, hang on, this is a normal person. We all do normal everyday jobs. Just because we have got a disability doesn't mean we can't live a normal life, and we should be treated normal.

15 MR FRASER: So similar to the access program that you run for the council to start with but with offenders, so to speak.

MR MARKS: Yes.

20 MR FRASER: And you also mention in your statement you think it would be helpful if the police had a specific disability unit or hotline.

25 MR MARKS: Yes, well, Tasmania police have a specific unit for mental health cases if they are called to a possible attempted suicide or somebody that is legally classed as having a mental health issue, they have a specific set of police that go straight to that incident. If they had the same for people with disabilities and those police officers that were specifically trained what it's like to have a disability, they would understand better.

30 And I don't mean that they only - that that's the only job they do. Just normal frontline police doing their everyday job. But if there is a disability case come up, then they can go to it. Because if - if you just get people specific for that job, then it's tying up resources. But if they were a normal frontline police officer, then they - and trained in that field by people like myself with a disability, then they could understand it and help better. I don't believe in just somebody that you call that will take notes; I believe somebody that will act on the situation.

35 MR FRASER: Before we finish, and subject to any questions that the Commissioners may have for you, I would like to invite you to say anything else that you would like to tell the Commission about what you think needs to change or your hopes for the future.

40 MR MARKS: Well, one of my hopes for the future, as I've said to a few people here, is that this Commission, when it finishes, doesn't just finish and that's the end of it. I hope that there is legal reform change put in place because everybody with a disability is still - as I said, still a human, still able to do things, but getting treated by - as I call them, thugs need to change.

45 We don't need to have a Commission and then just finish it. We need to do something to make change. And as I said, by educating the younger generation that is coming up to learn

what it's like to be disabled, there will be less of these thugs that want to do these crimes, because they will be aware of who they are having a go against.

MR FRASER: Thank you. Commissioners, that's all the questions that I have.

5

CHAIR: Thank you very much, Mr Marks. If it's okay with you, I will ask my colleagues if they have any questions. Commissioner Galbally.

COMMISSIONER GALBALLY: No, I want to thank you very much for coming today, Mr Marks, and no questions. Thank you.

10

MR MARKS: You are welcome. Thank you very much for having me.

CHAIR: Commissioner Ryan.

15

COMMISSIONER RYAN: Likewise, I don't have any questions, but thank you Mr Marks for coming, and I wish you all the best in your attempt at public life.

MR MARKS: Thank you very much.

20

CHAIR: But he's not a voter.

MR MARKS: No.

COMMISSIONER RYAN: I know how you feel, though.

25

MR MARKS: You have got to live in Glenorchy to vote for me, unfortunately.

CHAIR: He knows how you feel. Mr Marks, I had asked you some questions and I don't have any further questions. Thank you very much for coming to the Commission and giving us the benefit of your experiences and your ideas, and I too wish you all the best, as Commissioner Ryan has, and I join with my colleagues and expressing our appreciation to you for the assistance you have given to the Royal Commission. Thank you.

30

MR MARKS: Thank you very much.

35

<THE WITNESS WITHDREW

CHAIR: Mr Fraser, what happens now?

40

MR FRASER: I propose that we adjourn until 1.15.

CHAIR: Very generous adjournment, but, in that case, we will adjourn until 1.15.

<ADJOURNED 11:50 AM

45

<RESUMED 1:16 PM

CHAIR: Ms Bennett.

5 MS BENNETT: Thank you, Chair. In the next session we would like to play for the Commission pre-recorded evidence provided by a person by the name of Ricki Spencer. Before I ask the operator to play that pre-record, I would ask to tender the statement and pre-record, marking them **Exhibit 28-15** and **28-16** respectively.

10 CHAIR: That's the statement of Ms Spencer?

MS BENNETT: Yes.

CHAIR: And what was the other document?

15 MS BENNETT: And the pre-record.

CHAIR: And the pre-record. Both of those may be admitted into evidence and given the marking Ms Bennett has indicated. Thank you.

20 <EXHIBIT 28-15 STATEMENT OF RICKI SPENCER

<EXHIBIT 28-16 PRE-RECORDED EVIDENCE OF RICKI SPENCER

25 MS BENNETT: So, Commissioners, Ricki Spencer is a First Nations transgender woman who living with a variety of physical and psychosocial disabilities. And I would ask the operator now to play the pre-record, which is at IND.0202.001.001.

CHAIR: And where was Ms Spencer when this was done?

30 MS BENNETT: In Melbourne.

CHAIR: Melbourne. Thank you.

(Video plays)

35 MS DOWSETT: Good morning. I'm here today with Ricki Spencer, who has asked me to call her Ricki today. She likes to keep it simple. Ricki has made a statement for the Royal Commission, and it's a statement dated 30 August 2022. Ricki, you have got a copy of your statement there?

40 RICKI SPENCER: That's correct.

MS DOWSETT: Are the contents of the statement are true?

45 RICKI SPENCER: That's correct.

MS DOWSETT: And the answers that you are going to give as we talk today will also be true?

RICKI SPENCER: That is correct.

5 MS DOWSETT: You have told us in your statement you are a proud First Nations Australian and a proud transgender woman.

RICKI SPENCER: That is correct.

10 MS DOWSETT: You live with a variety of disabilities, including psychosocial conditions and physical disabilities, and you were recently diagnosed as having autism spectrum disorder.

RICKI SPENCER: That's correct.

15 MS DOWSETT: In your statement, you have described a number of recent experiences of violence and abuse, and you say that you noticed a clear and dramatic increase in the number of times you were targeted in - for abuse in public places since you started to use mobility aids.

RICKI SPENCER: That is correct.

20

MS DOWSETT: Now, we can see that you are holding your walking stick today. That's one of the mobility aids that you use.

RICKI SPENCER: That's correct.

25

MS DOWSETT: I want to thank you for sharing the experiences in your statement with us, and just to confirm that we are not going to talk about those experiences today, but today our conversation is going to focus on two parts of your statement: The impact of that abuse and violence on your life, and your thoughts on different ways of reporting experience and abuse, other than going to the police.

30

RICKI SPENCER: Yes, that's fine.

35 MS DOWSETT: So, if we can start with the first one, about the impact of the violence and abuse upon you. You refer in your statement to a narrowing of your life. Can you talk to the Royal Commissioners about that? In - how has your life narrowed because of the abuse?

40 RICKI SPENCER: Well, since having all that sort of - being - having - being unable to walk and then being subjugated to constant verbal and physical harassment, I'm just too frightened to spend the time going out in public. I use transport. I don't have a car, access to a car. So, it's very difficult, you know. And I live in an inner suburb so I'm fortunate to have access to public transport. But it's that ease of access where the problem is that if somebody doesn't like the way I look - and it happens a lot.

45 MS DOWSETT: So, you've - you've stepped back from using public transport as a way to avoid -

RICKI SPENCER: Yes, if I can catch a taxi, I try to limit that to that. But even that's difficult.

5 MS DOWSETT: And you speak in your statement about the ways that you - the things that you have adopted in order to - to try and maintain some of your life and so one of them is using online platforms, like you giving your evidence today.

RICKI SPENCER: Yes.

10 MS DOWSETT: So, using things like Zoom and having that video connection. Can you talk about the difference between an online life and a life in public?

15 RICKI SPENCER: Sure. When you have a Zoom life you are able to control your environment in terms of how people are going to see you. If someone is not going to be happy with your presentation or how you are - how you are perceived to them, you can control that. You can take your screen off so that they don't have to keep staring at you. You can move away from that screen. You can have some control over that.

20 But when you are physically in a space, I've encountered, you can't stop that. You can't stop someone from spitting on you. Online life has revolved around that, because at least if someone says something inappropriate to me online, I can switch it off.

MS DOWSETT: While it might be a safer environment, is it - does it give you as much fulfilment as a - a life in person?

25 RICKI SPENCER: No. I don't - I miss being able to just walk down the street, feel the sun on me. Like, today is a beautiful day. I miss the ability to just - just - just blend in, and sometimes I think I wish, you know, I wasn't born this way. And maybe if I just stayed presenting as a cis-gendered gay male, maybe people wouldn't have laughed at me or ridiculed me. Perhaps if I didn't have my walking aids, maybe that might have - I might have
30 blended in more. I really can't tell. I just don't know which of the intersectionalities seems to get people so angry at me. Is it because I'm a bigger person and I take up too much of their space? And that they are angry the way I am? So, you know, I have to be content with the fact of being inside my own home is my world, because I know no one's going to come at me or hit me. That is my reality for the last couple of years now.

35 MS DOWSETT: You spoke earlier when we were talking about feeling like maybe your mobility aids and your walking stick are a flag. What do you think that that flag - and I realise you can't talk for other people, but do you have a sense of why you - why you think people see it as a flag?
40

RICKI SPENCER: I think they think because of my body shape I have done this to myself, that I'm lazy, that I'm a burden to the tax - to the working people of Australia, that I am selfish. I - I - I cost everyone too much money. And then it's the thing, well, look at that thing, it's disabled. It show - why is it even here? So, it's that feeling of ableism. You know, "I'm better
45 than you. You're taking up too much space. You're probably costing everyone too much money to be here. Why are you still alive?" That's what I feel.

Maybe I could just iterate that for people to know. And I think I spoke to someone else about it. It all highlighted to me when I was going for my MRI test. And I thought, of all spaces, being in a hospital, being in a space where care is of the essence, I was still verbally attacked by that - this couple who were, like, in their 60s or 70s, and nobody cared. Not even the receptionist or the nurse at the little office. It was a small room. And they were saying, "What is that? Why is that even here? What - what are they trying to do? Look at them."

I just put my head down because I was upset about the process I had to go through. The nurse didn't care. The other people put their heads down. What was I going to do? I just had to think to myself, this is - this is my life. This is - I have to keep dealing with it.

MS DOWSETT: So in your statement you say that you think the idea of a community group, a trusted community group or advocacy organisations who could assist in receiving reports might make the process more comfortable for - for people with disability and people with intersectional issues. And you raised the possibility of those reports being anonymous or being facilitated through these third parties to the police. So, firstly, can I ask you have you had any experience in using an advocacy group or a community group to assist you in making a report?

RICKI SPENCER: I have talked to, like, Transgender Victoria, where I'm actively involved in, and they have been quite supportive. And I have spoken to - because of all my community work involvement to the - what they're called - ILOs, which is the - I think it's the LGBTIQ police liaison officers. But I think I mentioned it to the previous people when I was speaking about this issue, is that I have to deal with the trauma. It's like retraumatising myself. And even telling it to a community person takes a lot of energy and kind of self-reflection.

But it's so difficult, because we - many of us, like myself, my experiences, I don't want to have to put myself out there. I mean, doing this is - sometimes I - I kind of think, "Should I be saying this? Should I be putting my face to this?" But I have to because, you know, today, you might have someone spit on me, but perhaps tomorrow someone might push me on the road, to a car or push me off a train track. And if I don't do something now and help make change and have people listen to say, "We are so vulnerable"

MS DOWSETT: On that question, on that issue of making change, it - it's an important part of what you think we could achieve through these third-party reporting, particularly anonymous reporting. You're not seeking a personal redress. You're seeking a broader, social change. Is that correct?

RICKI SPENCER: That's correct. I think the idea of having some form of - where we can talk to somebody, like a peer that can help guide you through that healing process and then help somehow make change. Yes, I know the reporting is important, but the reporting has to be co-designed and developed so that the reporting doesn't become a retraumatising and then lead to PTSD. Because we need something to support the person and also to make sure that that information goes somewhere for change. It doesn't just sit there on a database and just sit there as a statistic. It has to be enacted. It has to be followed through. If this happens in a bus terminal, then the bus company needs to hear about it, they need to kind of go through

their CCTV material. If it happened in a train station, if it happened in a library, if it happened at my space - there has to be some sort of recourse.

5 So, I think the reporting, yes, we need, but there has to be some - but this whole idea of capturing this - this incident then needs to be framed and enacted on and a positive thing to come out of it. And I'm still - that's the only way I could see. Otherwise it just becomes just another stamp process.

10 MS DOWSETT: You say in your statement that you see reporting as a step in creating a society where everyone is safe and heard and seen and given a seat at the table.

RICKI SPENCER: Absolutely.

15 MS DOWSETT: Did you want to say anything more to the Commissioners about that?

RICKI SPENCER: I would just like to reach out to the Commissioners and think, you're looking at me, you might think, "Oh, no, I have no relation to that person." But maybe think about your mum, your father, your brother, your sister, your partner. What would you do if one of them told you that they were perhaps transgender or they felt different and that they had a disability? And how would you feel if they weren't able to go down to the shop, or if you had - they went to a doctor and someone came up and slapped them on the face or spat on them, or pushed them, or threw an apple at them?

25 Is it okay? Would you think, "Well, you deserved it because you were there. You shouldn't have dressed like that. You shouldn't act like that." What does it tell us if we allow that to happen? It kind of reminds me back of the 1950s and 40s when people had to look a certain way and be a certain way and we had institutions to put people away. You can't put people away just because they have a disability, and they look a bit different. We can't expect people to say it's okay to spit on somebody or push them because you think they take up too much space or they caused their situation and they're trying to somehow - they're not making fun of you.

35 All we want just to be ourselves and be respected. So, for me, that's the message and all we need is please consider us. Don't leave us behind. Don't make us another statistic. Don't make us another space where someone from our communities gets murdered or bashed, because you're not only just bashing the person, you're kind of destroying their whole family and their connected friends, and you are sending a message that if you don't fit in the ableist world and heteronormative world, then you don't belong or have a right to be here.

40 MS DOWSETT: It's a very powerful message, Ricki. Thank you very much for your time this morning. And thank you for sharing your experiences in your statement as well.

RICKI SPENCER: Thank you for listening to me.

45 **(Video ends)**

CHAIR: Yes, Ms Bennett

MS BENNETT: Commissioners the next witness is a woman we are referring to by a pseudonym, Ashleigh. Ashleigh's present in the hearing room, and if I could ask her to come forward and be sworn or affirmed.

5

CHAIR: Good afternoon, Ashleigh. If you just make yourself comfortable and we will then work out what is to happen. Ashleigh, thank you very much for coming to the Royal Commission in the Brisbane hearing room to give evidence today. Thank you also for the written statement that you have provided, which we all have and which we have read, and we look forward to hearing your evidence, which we will hear through Ms Bennett asking you some questions very shortly. But first up, could I ask you, please, to take the oath, and to do that would you follow the instructions of my associate who will explain what is to happen. Thank you.

10

15 ASSOCIATE: I will read you the oath. At the end, please say yes or I do. Do you swear by Almighty God that the evidence which you shall give will be the truth, the whole truth and nothing but the truth?

ASHLEIGH: I do.

20

<ASHLEIGH, SWORN

CHAIR: Thank you very much, Ashleigh. I will now ask Ms Bennett to ask you some questions.

25

<EXAMINATION BY MS BENNETT SC

MS BENNETT: Good afternoon, Ashleigh. Can you hear me okay?

30

ASHLEIGH: I can.

MS BENNETT: Thank you. You have made a statement to this Commission; is that right?

ASHLEIGH: Yes, I have.

35

MS BENNETT: And is that statement true and correct to the best of your knowledge and belief?

ASHLEIGH: Yes, it is.

40

MS BENNETT: Thank you, Ashleigh. Commissioners, I tender that and ask it be tendered - marked **Exhibit 28-11**, with the attachment **28-11.1**.

CHAIR: Yes, Ashleigh's statement will be admitted into evidence and given the marking of **Exhibit 28-1** and the attachment will also be admitted into evidence and given the marking **28-11.1**. Thank you.

45

<EXHIBIT 28-11 STATEMENT OF 'ASHLEIGH'

<EXHIBIT 28-11.1 ATTACHMENT TO STATEMENT OF 'ASHLEIGH'

5 MS BENNETT: Ashleigh, you are an artist and you live in Western Sydney; is that right?

ASHLEIGH: Yes, that's true.

MS BENNETT: What kind of art do you do?

10

ASHLEIGH: I'm mostly a sculptor, but I also like to draw and paint.

MS BENNETT: And you actually teach art as well. Can you tell the Commissioners about that?

15

ASHLEIGH: I started the first disability-led art studio in south-west Sydney.

MS BENNETT: And you - you teach students every week. Is that right?

20 ASHLEIGH: Yes, I teach students with disability every week and they get to exhibit it - exhibit their work at Ryde Royal Rehab for Brain Injury Awareness Week.

MS BENNETT: Can I show the Commissioners a piece of your artwork that you have included with your statement. It's marked - if the operator would put the artwork up. It's at
25 IND.0186 - I have been anticipated - 001.001. Can you tell the Commissioners about this piece of art?

30 ASHLEIGH: This artwork is called "The Audience." And it's - it's a representation of how it feels when I walk out into public, how I feel vulnerable because I can feel the faces looking at me, the people looking at me like an 'other', like a different - different person than them.

MS BENNETT: And does expressing that through art, does that help you to process that?

35 ASHLEIGH: Yes, it does. Since I first got my brain injury, I've used art as a way of expressing myself and coming to terms with my changed body and people's changed perception of me.

MS BENNETT: Well, can you tell us a bit more about that change and how - how it happened? You graduated from the University of Western Sydney with a Bachelor of Visual Arts and Honours. And you were accepted to do a Master's Degree in Art Therapy. But then
40 something got in the way. Can you tell us about that?

ASHLEIGH: Yes. I am a survivor of family violence. Sorry, my stepfather tried to kill me with a hammer, and part of my brain was injured with - left me with hemiplegia and 70 per cent of the missing vision on the left-hand side.

45

MS BENNETT: And it sometimes causes you some difficulty with your balance as well; is that right?

ASHLEIGH: Yes, that's true. I have trouble because of the hemiplegia. My left leg, not all the muscles turn on at the same time, and I get a bit dizzy sometimes which makes it hard to - to get around sometimes, yes, walking.

5

MS BENNETT: And sometimes you will use a wheelchair?

ASHLEIGH: Yes. Early on in my disability, I had to use a wheelchair all of the time in public.

10 MS BENNETT: And you also use an identification cane, an ID cane; is that right?

ASHLEIGH: That's true. This - this is it. It's a - I hold it in front of me a bit towards the left so that people don't walk into me.

15 MS BENNETT: And it's a bit different to some other kinds of cane. How do you - how does it help you navigate?

ASHLEIGH: It helps me because if I'm walking into something on my left-hand side, I will - I will hit that object before I hit my body on that object. And people are supposed to - supposedly able to see that I have a vision impairment because of this cane.

20

MS BENNETT: You are also involved in the Council for Intellectual Disability, a Sydney-based organisation. And what do you do with that organisation?

25 ASHLEIGH: I am part of the advocacy group, and we - we get together and work on different projects where we can advocate for people with intellectual disabilities and brain injuries. I'm part of that.

MS BENNETT: And you tell us that since your disability, that you faced a number of situations where you felt threatened or fearful of your safety. You tell us sometimes that's because of a lack of understanding. People express frustration or complain if they think that you're in their way. Can you tell the Commissioners and those watching what those experiences are like for you?

30

35 ASHLEIGH: I have been in situations where I was at a concert, and somebody threatened to make me blind on my other side because I accidentally walked into a young man and he didn't understand what my stick meant. And I apologised. I said, "I'm sorry, I can't see on my left side." And then he said, "Do you want me to make you blind on your right side as well?" That left me very fearful, and I searched for a way to quickly get away from him. And I haven't been to a concert since then as I was so afraid of being parted from my friends and not being able to be safe or find my way to be safe.

40

MS BENNETT: You tell us as well about a situation where a woman at a supermarket was rushing to the exit and she shoved you. Can you tell the Commissioners about that?

45

ASHLEIGH: Yes, that was during COVID when everybody was going crazy for toilet paper and such, and I was at the check-out with my support person, but she was a little bit ahead of

me. And I had my stick with me, and it was where it should be, toward my left. And she - she pushed me to get past and I said to her, "Excuse me, this stick means you could injure me", but she still pushed past me and, like, pushed my elbow, my hemiplegic arm and I said, "Sorry, you're going to bruise me." But she said, "Sorry, sorry" and kept pushing. And I did end up with a bruise.

MS BENNETT: And how did that make you feel?

ASHLEIGH: I felt very anxious and vulnerable, and since then I have always tried to get my support person to go do the shopping for me.

MS BENNETT: You tell us about a time when you were on public transport and there was an incident with some boys you think might have been in year 11 or year 12. Just as much as you feel comfortable, can you tell the Commissioners about that?

ASHLEIGH: Yes. I was trying to get home from the art studio, and I was walking with my cane trying to get onto the train, but the kids walked around me both sides and were pushing me. And my foot slipped between the train and the platform and started to go down. And I was very lucky that a woman, she saw me, and she told the kids to - to calm down and give the lady space. And then she - she helped me to get my leg back up and onto the train. And since that point, I've been too scared to catch the train without somebody with me, or even sometimes I'm too scared to catch the train at all.

MS BENNETT: Does that limit the kinds of things that you can do?

ASHLEIGH: Yes, exactly. I - I have become more isolated and scared to go to art galleries unless - unless I have a support person with me who can drive me, most of the time, to the art gallery in the city and, yes, other art functions.

MS BENNETT: And what about seeing your friends and socialising? Does it get in the way of that as well?

ASHLEIGH: Yes, definitely. I used to be much more independent. I wasn't afraid to - to catch a train or to get out of the house more and go to see my friends because I had more confidence and sense of independence.

MS BENNETT: And can you tell the Commissioners about - you tell us that you find it exhausting to always be alert to these issues. Can you tell the Commissioners about that exhaustion?

ASHLEIGH: Yes. I find that negotiating crowds and even just the regular foot traffic on a footpath or in a shopping centre is very difficult because I have to walk defensively. I can't rely on anybody noticing my cane or even understanding what my cane means. I'm always having to look left and right and not only concentrating on making my leg walk properly, I have to also concentrate on making sure that no one hits me and that I'm not going to hit anything or anybody. It's a very tiring process.

MS BENNETT: So it's not easy to go somewhere. Even if you had a safe way to go, wherever you go is exhausting.

5 ASHLEIGH: Very exhausting. People don't seem to understand what the cane means, that it means I need extra space and if they knock me, I can fall.

MS BENNETT: Yes. You tell us in your statement about one incident where you did fall and - when you were in a wheelchair and you did fall. Can you tell the Commissioners about what happened on that occasion?

10

ASHLEIGH: Yes. Early - early in my disability I had the manual wheelchair, and I was going a little bit too fast down a kerb ramp, and I ended up tipping myself out of the wheelchair by accident. And a man came from behind me and he didn't ask me or anything, he just grabbed me and put me back into the wheelchair, and I felt really embarrassed and also disempowered because he didn't ask me, "Can I give you a hand", which is what most people would do. If a so-called normal person fell down in the street you would ask "Can I give you a hand" and offer your hand to help someone get up. But he didn't ask; he just picked me up and put me back in the chair.

20 MS BENNETT: Do you feel like people - strangers don't treat you like an equal?

ASHLEIGH: Exactly. Yes, I feel like I'm an 'other'. I'm 'other' than - 'other' than people without disabilities. They don't see me as - as just a person - as a person like everyone else.

25 MS BENNETT: You have made some suggestions in your statement about things that might change. Before I come to that, you have made some comments about the impact of the abuse - that it's had on you. Is there anything you would like to add to the impacts of this abuse over time that you think the Commissioners need to know?

30 ASHLEIGH: I think that I became disempowered and less part of the community because of my fear of being hurt and not being treated as equal, being - being afraid of what could happen. And I was very lucky that CID, Council for Intellectual Disability, taught me more about asserting myself and about advocating for myself. So, yes, very much had to learn to be strong. Sometimes you don't feel strong, but it's very hard.

35

MS BENNETT: And is that something that you now help other people to understand in your work?

40 ASHLEIGH: Yes. That's one of the things I learned since I got my disability, is that you really - I really had to call on my - my strengths and learn a new way. I had to decide that I was going to be part of the community and use my abilities and everything that I still had in me to help other people and help myself to be the best version of myself that I could be.

45 MS BENNETT: And, in fact, after your disability you obtained a Diploma in Counselling. And you - and that enabled you to carry out art therapy. Is that right?

ASHLEIGH: That's true. I have used my ability to counsel others and to have empathy and listening skills, as well as my art skills to help others to express themselves and to heal through art.

5 MS BENNETT: You talk about the need for symbolic representation of disability in Australia. Can you tell us what needs to happen there, in your opinion?

ASHLEIGH: I - I like to use my art to help - help people with disability to - to represent themselves and how we feel as being people with disabilities, but being artists first and then
10 someone with a disability second. I don't like it when people say, "She's a great artist for someone with a disability." It should just be, "She's a great artist."

MS BENNETT: And in the future, you would like to continue your advocacy work and to assist people to become leaders and understand the perception of people with a - sorry, and
15 to understand that people with a disability are equal. Is that right?

ASHLEIGH: Exactly. Yes, I would like to advocate for people with a disability and assist my peers to also advocate for their position and to also make their own lives better and the lives of other peers with disabilities better in any way we can.
20

MS BENNETT: And is there anything else you would like to say to the Commissioners about what you would like Australian society to look like in the future? How you want it to be?

ASHLEIGH: I would like to see more education of the community in general, not only
25 children, but for the whole community in what disability can look like and how there needs to be space and acceptance made for people with disabilities so that we can be fully included in society, work and the community in every way that everybody else is allowed to be.

MS BENNETT: And you say in your statement that having a disability should be considered a point of difference in the way that hair or eye colour is a point of difference. Is that right?
30

ASHLEIGH: Exactly. I don't - I don't think that having a disability should be considered anything different than having any other difference, than any other person. We just do things in a different way. Like someone with - with brown eyes is no different than someone with blue eyes. They have you have a different colour eye.
35

MS BENNETT: Commissioners, those are the questions that I have - well, is there anything else you would like to say to the Commissioners before I hand you over to them?
40

ASHLEIGH: No, not - I just think very much that we have had this opportunity to speak as people with disabilities and give our stories.

MS BENNETT: If it pleases the Commissioners, those are the questions I had for Ashleigh.
45

CHAIR: Thank you very much, Ashleigh. If it's okay with you, I shall ask my colleagues if they have any questions for you. And I will first ask Commissioner Galbally.

5 COMMISSIONER GALBALLY: Thank you very much for your evidence. As somebody leading other art, you know, groups with people with disabilities and as a member of CID, are you finding that this harassment and public place behaviour is very common amongst people? Do they talk about it in those groups?

10 ASHLEIGH: Yes, I find that with our CID advocacy group, a lot of people have expressed their - their concerns with being part of the public sphere, that they are more targeted with people saying negative things to them and also some pushing and physical abuse that happens to them. It's just that I'm a bit - a bit more able to speak in public than they feel comfortable doing.

15 COMMISSIONER GALBALLY: And has also made them fearful of going out and participating in the community and being in shops and -

ASHLEIGH: Yes, exactly. I think it's very much limited their ability or confidence in getting out into the public sphere, participating in work outside of - outside of home. These things.

20 COMMISSIONER GALBALLY: Thank you.

CHAIR: Commissioner Ryan?

25 COMMISSIONER RYAN: I have no questions, but I do want to sincerely thank you for coming to the Royal Commission and giving us your evidence. Thank you.

ASHLEIGH: Thank you.

CHAIR: Ashleigh, where do the classes that you give take place?

30 ASHLEIGH: We started at the Brain Injury Unit. I've been working voluntarily with the group. Then we moved to another art centre, and we have been going since 2010, and we're still going now. Post-COVID, we are slowly getting back into things.

35 CHAIR: Is it difficult for any of the people who want to come to the classes to get there for the reasons you've been talking about?

40 ASHLEIGH: It has been difficult for some people with the transport system - public transport, trains and things. But we are lucky that our art centre is very close to a train station. But that did limit the opportunity for us to use many centres that were available. Yes, so we were very lucky in that respect.

CHAIR: And is the - are the classes that you teach supported by some agency outside - to give financial support for it?

45 ASHLEIGH: No. Financially, we all have to contribute some money to rent the - to rent the space, but just a small amount of money. And I don't get paid to do the classes. I just -

CHAIR: Is it voluntary?

5 ASHLEIGH: - do them voluntary because I feel that - a responsibility as a member of the community and someone who is being paid a disability pension, to contribute back into the community.

CHAIR: The artwork that we saw, I take it that was a three-dimensional work?

10 ASHLEIGH: No, it was a drawing made in white Conte crayon.

CHAIR: A drawing. I see. I wasn't - I wasn't sure.

ASHLEIGH: Sorry.

15 CHAIR: Okay. Ashleigh, thank you very much for giving evidence today. I know it's not necessarily easy to do it in a forum such as this. And we very much appreciate your willingness to come to us and tell us of your experiences and of the other people - the people with whom you come in contact.

20 ASHLEIGH: Thank you very much.

CHAIR: Thank you very much indeed. Ms Bennett, what should now happen?

25 MS BENNETT: We should now, if it pleases the Commission, have a brief adjournment. I'm in the Commissioners' hands about the length of that adjournment. We have one final witness today, for this afternoon, and the schedule says we will break now between 2 and 2.30.

CHAIR: That witness is Ms Butler.

30 MS BENNETT: Ms Butler of Speak Out advocacy.

CHAIR: And you anticipate that will take approximately one hour.

35 MS BENNETT: That's right, Chair.

CHAIR: Well, if we adjourn now until 2.15 Brisbane time, that should be satisfactory.

MS BENNETT: May it please the Commission.

40 CHAIR: Alright. We will adjourn until 2.15. Thank you again, Ashleigh.

<THE WITNESS WITHDREW

45 **<ADJOURNED 1:58 PM**

<RESUMED 2:16 PM

CHAIR: Yes, Ms Dowsett.

MS DOWSETT: Thank you, Chair. The next witness and our final witness for today is Ms Julie Butler. I asked that she be affirmed.

5

CHAIR: Good afternoon, Ms Butler. Thank you very much for coming, I assume, all the way from Tasmania to Brisbane to give evidence today. We have the statement that you have prepared and have had the opportunity to read that, and we thank you for that statement. And shortly I will ask Ms Dowsett to ask you some questions, but first if you would be good enough to follow the instructions of my associate who is sitting in front of me, she will administer the affirmation to you.

10

MS BUTLER: Thank you.

15

ASSOCIATE: I will read you the affirmation. At the end, please say yes or I do. Do you solemnly and sincerely declare and affirm that the evidence which you shall give will be the truth, the whole truth and nothing but the truth?

MS BUTLER: Yes.

20

<JULIE BUTLER, AFFIRMED

CHAIR: Thank you very much, Ms Butler. And I will now ask Ms Dowsett to ask you some questions.

25

<EXAMINATION BY MS DOWSETT

MS DOWSETT: Thank you. Ms Butler, you are the Advocacy Practice Leader for a group called Speak Out Advocacy Tasmania. Is that correct?

30

MS BUTLER: That's correct.

MS DOWSETT: And in that capacity, you have prepared a statement for the Royal Commission?

35

MS BUTLER: I have.

MS DOWSETT: And there's one correction that you would like to make to that statement, and it's in respect of paragraph 8. And you - you have indicated to me that in the first line of that paragraph, you would like to strike out the words "intellectual and cognitive" at the end of that first line.

40

MS BUTLER: That's correct.

45

MS DOWSETT: Are there any other alterations, additions or corrections you would like to make?

MS BUTLER: No.

MS DOWSETT: Are the contents of that statement with that amendment true and correct?

5 MS BUTLER: They are.

MS DOWSETT: Chair, I tender Ms Butler's statement dated 26 September 2022 and ask that it be marked **Exhibit 28-10**.

10 CHAIR: Yes, Ms Butler's statement will be admitted into evidence and given the marking of **Exhibit 28-10**. Thank you.

<EXHIBIT 28-10 STATEMENT OF JULIE BUTLER DATED 26 SEPTEMBER 2022

15 MS DOWSETT: Ms Butler, if I could ask you to begin by telling us who Speak Out Tasmania is?

MS BUTLER: Speak Out is an advocacy service for people with disability, but we are a - primarily a member organisation as well for people with intellectual disability. We have - there are about 200 members statewide who are members of Speak Out who have an intellectual disability. And Speak Out was formed back in - 40 years ago back in 1982, primarily to facilitate a - an annual - a conference for people with intellectual disability, and that was very much grassroots. We are very much a grassroots organisation. And we are in our 40th year and we went from - from that very first conference into self-delivering self-advocacy support and training to people and then on to deliver advocacy - independent advocacy services to people with disability in Tasmania.

MS DOWSETT: And you tell us in your statement that Speak Out has three offices in Tasmania, one in Hobart, Launceston and Burnie.

30 MS BUTLER: That's correct.

MS DOWSETT: And you also have peer support groups.

35 MS BUTLER: Yes. So, we facilitate peer support groups through the whole state of Tasmania, basically. We have - there are self-advocacy groups, which was the first form of peer support for Speak Out, and they are run in Glenorchy in Hobart, in Burnie and Launceston. And they - Speak Out is a - has a - was started with a peer - with a - with a dual governance structure. So, we have members - so, our members can nominate to be on our Members' Executive. So, from each region of Tasmania, we have two members that are elected by the members themselves and then they elect a Members' President, who - and they form a dual governance structure. So, the Members' President also sits on the board of management, and so we - it's very much a - an organisation by people with disability and they very much are in control of the direction of our organisation.

45

MS DOWSETT: And your members, the members of Speak Out Tasmania, wanted their voices heard in the Royal Commission, particularly in this public hearing. But they have sent you along to do that for us. Please tell us why it is you have been sent?

5 MS BUTLER: They have sent me along. And I'm under very strict instructions on some things that I need to - I actually need to deliver and if I may at this point perhaps -

CHAIR: Well, I think the best thing - I'm sure you're under instructions but so is Ms Dowsett.

10 MS BUTLER: Yes.

CHAIR: And I'm the one giving instructions to Ms Dowsett, so she will ask you some questions and we will see how far we get.

15 MS BUTLER: Yes. So -

CHAIR: So Ms Dowsett will ask you some questions.

20 MS DOWSETT: So my purpose in giving that introduction is that you wanted to be clear that you are not speaking for your members. You are relating the information that they have provided to you.

25 MS BUTLER: Absolutely. I'm here to deliver their stories, and it's not my own personal opinion. I'm here very much to deliver the information that they have - that they have entrusted with me to present today at the Royal Commission.

MS DOWSETT: And that information was provided through a series of consultations that were held earlier this year.

30 MS BUTLER: That's correct, yes.

MS DOWSETT: Could you tell us who participated in those consultations?

35 MS BUTLER: So when we first heard there was a suggestion of a Royal Commission around this topic, we - there were discussions around the membership whether they would like to participate and in hope that someone might come and give evidence themselves. Or, you know, provide their own personal stories. We did consultations around the whole state, so facilitated by the members themselves and with advocates assisting them. And so we spoke to the peer support groups and self-advocacy groups to hear their stories about violence,
40 abuse, in public places.

MS DOWSETT: And you tell us in paragraph 26 of your statement that 110 people with intellectual and/or cognitive disability were involved in that consultation, and that over 70
45 of those people reported that they had experienced some form of violence, abuse, exploitation or bullying in the community by someone they didn't know.

5 MS BUTLER: Most definitely. It was really clear and in my statement I - we talked about when we talked about - first of all, you know, some people - we had to unpack what - what it is, what violence is, what abuse is, and it was really clear that there was about 74 people that had actually experienced those forms of abuse in the community by people that they didn't know, and on a regular basis.

10 MS DOWSETT: You recount one story in your statement, and this begins at paragraph 31, and it's the story of a young man who experienced some repeated abuse. And if I can ask you just to summarise what's in that part of your statement about what he reported, what he did, and what the ultimate impact for him was.

15 MS BUTLER: So he was a young man who lived in a rural community in Tasmania, in the north-west coast. He had been experiencing on his way back from the shops, he would experience - he would come across a group of the same group of teenagers. He recognised them as school-aged young people because of their school uniform. And who had repeatedly - you know, a number of times when he - when he saw them, they would call him names, they would call him cat killer and he had no idea why they - why they targeted him. He described it as because he had red hair, perhaps, and he was an easy target. They began verbally abusing him and throwing stones at him and this happened a number of times. Like, multiple times.

MS DOWSETT: And you say on one occasion there was a police person - a police officer happened to be present and noticed what was happening?

25 MS BUTLER: Yes, so they had - had sort of surrounded him and the police - the police stopped and they asked him was he okay. They sent the young people on their way and asked him was he okay and did he - you know, and he said he wasn't far from home so he continued on his way. The police officer, he said that the police officer was on a two-way radio on a walkie-talkie and reported - the police officer reported the incident over the walkie-talkie. But he went on his way home.

30 MS DOWSETT: And then you tell us that he attended - the young man attended the police station with his mother the next day, and you describe in paragraph 35 what happened during that attendance. Can you tell us that?

35 MS BUTLER: Yes, so the incidents escalated and there was an incident where a youth pulled a knife from his bag and so his mother - he was accompanied by his mother - with his mother to the police station. And the police told him and his mother that he should basically change his own life to accommodate - or to prevent these incidents from happening. So, he was told to avoid the - the walking track, not go out at night and - and basically to modify his own life to avoid these instances.

40 MS DOWSETT: And in paragraph 36, you relate a major modification that he made. Would you like to tell the Royal Commission about that?

45 MS BUTLER: Yes, he - he came to us at this time. He had been a member in the past, and he came to us at this time to - to talk about this incident. And he decided that he - he had

5 already decided that - with his mother that he would move. So, he moved about half an hour away to another town, to avoid this - these incidents with these youth. He had no faith that the police would follow it up, and he was offered advocacy support to do that, but he - he had the opinion that there was no use. The police wouldn't listen to him. He had been and reported it a number of times and nothing had happened.

10 And so he had very little faith that anything would happen. And so the way for him and his mother to feel confident that he - these things weren't going to continue to escalate, he moved towns. And so he - he moved from a town that he actually really loved and had a - you know, was familiar living into another town about half an hour away.

MS DOWSETT: Now, I'm not sure if you were here earlier today. We had some evidence from Mr Marks. Did you hear Mr Marks' evidence?

15 MS BUTLER: Yes.

20 MS DOWSETT: He was telling us about his experience in the Glenorchy Bus Mall or the bus interchange. You describe in your statement some - some experiences of Speak Out's members and some successful self-advocacy that they engaged in. So, can - and this begins at paragraph 51 of your statement. Can I ask you to begin by describing the problem that your members experienced in the bus mall?

25 MS BUTLER: Of all of the members that had used the bus mall, every one of them had experienced some form of abuse in the bus mall, whether it be being called names similar to Mr Marks, having rubbish thrown at them. They had attempted to have their groceries stolen from them. Being asked for money and so -

MS DOWSETT: Can I just pause you there. How many is "all of the members"?

30 MS BUTLER: Well, everyone that was attending - that lives in the Glenorchy area.

MS DOWSETT: How many? 20? 50?

35 MS BUTLER: It would be close to 20 people, yes.

MS DOWSETT: Please continue. So, they are all having a problem.

40 MS BUTLER: Yes, so they are all having a problem with the bus mall. And so - and so the - one of the peer - the peer network groups had been meeting, and there had been repeated stories of these incidents in the bus mall. And so they were - they decided to write to the Glenorchy Council and experience the - their concerns about the Glenorchy Bus Mall. They got an - almost immediate response from the Glenorchy Council, who then - who then continued to engage with them. And so they - they really clearly - the members really clearly told the Glenorchy Council that they were starting to avoid the area. They were starting to
45 not use public transport because they felt really, really clearly unsafe there.

The - the Glenorchy Council then had meetings with - with the Tasmania Police, and Metro Tasmania, who is our public transport company in Tasmania. That's a government business enterprise and they run the public transport through the whole of Tasmania. So, they met with them to discuss the issues. I think the thing that's remarkable about the Glenorchy Council intervention is that they - they took this issue on board. Not just didn't just respond to individual issues, but they looked at it from a very systemic issue and across the whole of the community. And so they - and regardless of the person in that role changing, the work around this didn't - didn't stop. It kept - it kept going and they kept focusing on, you know, the safety within the bus mall and then that grew the safety - the safety around the further Glenorchy area.

And so there was a roundtable with the - to talk about broader issues in the Glenorchy area. And so as a result of all this - this - the discussion around the Glenorchy Council and the Bus Mall, there were increased security cameras, increased security presence, and the council maintained contact with the members, which is really important because people quite often say, "We don't report things because no one listens. No one tells us what's going on." So, there was a really a two-way communication and the council very much kept the members informed of what was happening around the incidents. And they met - they met with the members who - to talk more broadly about the Glenorchy Council and the safety within, you know, shopping malls and things and they had -

MS DOWSETT: I will just pause you there. So, we have got a piece of self-advocacy about a particular location, the bus mall. And then that generated some broader council-wide engagement and that is ongoing.

MS BUTLER: Yes, it is ongoing, yes.

MS DOWSETT: And the members have been invited to participate in contributing to the diversity and inclusion plan?

MS BUTLER: Absolutely, yes. So, the information that the members provided, that's informed that plan, yes.

MS DOWSETT: And also arising out of this piece of self-advocacy about the bus mall, you say in your statement that a Metro representative attended one of the Speak Out conference and that has led to some further engagement around public transport issues. Can you tell us a little more about that?

MS BUTLER: Yes, that's right. The - so the manager of the - of Metro Tasmania attended a Speak Out conference and it was - it was an open session. So, Speak Out members very much grilled them and was really - it was quite a lively session, in that they really demanded that some change happen, and they directly told stories to - to the manager. And so then now there is - there are quarterly meetings, Metro Tasmania, in the four - three regions of Tasmania where issues of disability are discussed. And they're very - they're very active in addressing those issues straight away. So, individuals can raise issues, they look at things more systemically, they have - as a response in the past, they have made drivers have training so there's -

MS DOWSETT: I will pause you there because some of the stories you of your members trying to use public transport that you relate in your statement, there was one account about a bus driver who would stop just a little way off from the stop so that the member
5 had to run to catch the bus before the bus driver took off again. Is that the kind of - one of the kinds of issues that are now being ventilated directly with the Metro representative?

MS BUTLER: Yes. Issues such as that, yes. And people - not enough care taken by the drivers in terms of, you know, taking off before people have the opportunity to sit down and then
10 they are ridiculed or laughed at because they fall over. And so any of those sort of issues definitely are raised at those meetings.

MS DOWSETT: From your statement, it's clear that it is not just a driver issue, though. It is also other passengers. You tell a story about a woman who had some of her groceries, a
15 packet of chips taken from her - her shopping, and the person sat there and ate it in front of her. And can you tell us about what that member tried to do and the outcome of that?

MS BUTLER: So - yes, they were sitting - sitting on the bus, with their grocery, having done their shopping. And a young person grabbed their crisps, opened them in front of them and
20 ate them. Not one person on that bus intervened and so when she - the following day, she reported it to her parent, who told her again that she should modify her own - her own life and that she should make sure in future that she takes her - a zip-up shopping bag so she can zip up the bag to prevent people from seeing her shopping and maybe easily accessing what's in the bag. So, it was - you know, the onus was put on her to modify her life to
25 prevent these things from happening.

MS DOWSETT: You speak in your statement - and I'm at paragraph 65 now - about the reasons why some of the members are hesitant to report, and one of the things that you say is that they are often encouraged to just walk away or forget about it. Can you tell us about
30 what impact members say that advice has for them?

MS BUTLER: This is really common. It's extremely common. In fact, the majority of people who - who report to someone that this has happened or if they are with someone, they are encouraged at the time to walk away. And it's similar to the sticks and stones will break my
35 bones. It's "walk away" and "they don't know what they are saying." Just walk away and forget about it. When we unpack this with our members, it's really evident that the trauma related to this is really just under the surface.

And we - and we talk to one member who - and it's compounding. One of our members described it as a, "Every time that happens to me, a - it's like someone puts a rock on my
40 back. And then another person says it to me and there's another rock on my back. No one takes the rocks off. It's just more rocks." That's how they described it in their own words. And when we talk to people about walking away, they - they talk about - they - many of them cry when they relay incidents that this happened. And it could have been, you know,
45 as a child, as a - you know, in high school when they were teased and bullied and called names.

And so it's retraumatising people every time. And it just adds to that trauma. And I think when - when support workers tell them to walk away - and I will give my view in this. Support workers have a responsibility to uphold rights, and not just to keep people safe when crossing the road. And I think every time they ask someone to walk away, they are
5 denying them their right to justice. And those - and those people are traumatised every time.

MS DOWSETT: What would it take to take some of the rocks off? How do we do that?

10 MS BUTLER: Well, I think - I think that it shouldn't be up the - up to the individual who has just been abused or assaulted at that time. I think those workers, those family people, the people who are telling them to walk away, and our community need to be the ones that stand up and - and to call it out and to say that's not okay. I think that when - our members
15 say that when they are faced with those situations, they don't know what to do. They - you know, they follow the advice and they walk away.

MS DOWSETT: You talk in your statement about members feeling that they don't think any action will be taken even if they do report it, so that the "why bother" response. And you have described in paragraph 69 - and in your evidence today - about advice that they get
20 when they go to police stations to report what you've described as low-level incidents. It's all focused on what they can do. Have you had - have your members reported any experiences where the police have actively been involved in responding to situations?

MS BUTLER: People generally don't report - don't report to police because there are
25 generally - there are three reasons. It's fear of retribution. That's probably the least one. When we talk to people that's the least reason. The second one - the second one is, "I'm told to walk away." And I think that - and the - the other one, the main one, "And nothing ever happens. I have reported this in the past. Nothing ever happens. Nothing will happen so why do I bother."

30 And one of the main ones is that people are afraid - are afraid they will get into trouble. If I had a dollar for every time someone said to me, "But I might get into trouble" I would be a rich woman. Because they fear that the people that are telling them to walk away and if they decide they will go to the police station and report it, then they might get into trouble
35 by those people, even the people that are their allies. Sorry, I don't think I have answered your question there.

MS DOWSETT: That's fine. You talk in your statement about the difference between - a
40 perceived difference to talk about what's happened and making an official report.

MS BUTLER: Yes.

MS DOWSETT: What did members tell you around that?

45 MS BUTLER: Yes, so we have had - a number of members have - have reported what they believe is a report to police but, in fact, when they - you know, over time say nothing ever happens, it's - it's - and they come to us and say, well, this happened, you know, a month

ago and I've not heard anything. It generally is because there's a misunderstanding about what is an official complaint to police.

5 And so when they go to the police station and they talk to a police officer, they believe that they have given a report. They believe that that's going to be followed up by police. But quite often, from a police perspective, it's a chat, and they might be offered advice on how to deal with that situation themselves. And it appears that it's - because there's a perception that this is low-level and it's not something that the police have the resources to respond to.

10 And so people believe that they have - they have - they have given an actual report, an official report but, in fact, it's just been a chat and some advice around how, perhaps, to deal with it.

15 MS DOWSETT: You also talk in your statement at paragraph 69 about members thinking they won't be believed. What have your members told you around that?

20 MS BUTLER: Well, they - they quite often - they feel like if they report things, then they might be - they might be blamed for the incident or people won't believe them. They have - it's one - it's one of the really - people become desensitised to this sort of behaviour as well, and so it's also one of the reasons why they don't report it, because they believe - and I think we have heard lots of evidence about this - is that they feel like that's my lot in life, and because it happens so frequently, then I just have to put up with it.

25 And so when it happens so frequently they think, people won't believe me because it's happened so many times that it couldn't possibly happen that many times. And so people believe that when it is reported, they won't be believed. Because it happens so frequently.

30 MS DOWSETT: Moving on just a little bit, you describe - you refer in your statement to a new reporting tool that Equal Opportunity Tasmania have introduced, the Report It tool. Can you tell the Royal Commission about that?

35 MS BUTLER: Yes, it's - it's not so new, but it's - Equal Opportunity Tasmania have implemented a - it's a - it's an opportunity to report incidences of abuse, violence, discrimination directly through the Equal Opportunity Tasmania, by - you can do it by the phone, you can do it by filling out the - the online form and submitting it. It's an opportunity for - and during COVID, we used it a lot, members - to report members' incidents that were happening for them during COVID. And it's an opportunity for Equal Opportunity Tasmania to gather the data around those - around those incidents.

40 They - members feel really - felt really confident in using it because you can do it anonymously. You don't have to give your name. So, you can report the incident without, you know, being exposed. So, that fear of retribution of getting into trouble, of - of you know, a parent or somebody else who has told you just to walk away, that - that means that they don't have to worry about that because it's an anonymous form and they can just
45 submit it and then the data can be gathered by EOT.

MS DOWSETT: And how do members feel about the - what do members feel is the purpose of making these anonymous reports? We heard from Ricki a little while ago that she doesn't want to fill in a report just to be a statistic in a database. Do your members share that same view? Do they think there's a purpose to the reporting?

5

MS BUTLER: Yes, they - they feel like they are heard. They feel like if they have reported it to somebody, and that's the avenue that they feel comfortable doing, then they feel like they have been heard. And they are not - you know, they are not always comfortable going to the police or going to other people. So, if there's a function where they can do that, they feel like they have an avenue, without having to go to the police station and that - that, you know, the - the trauma, I guess, of going to a police station and talking to a police officer where, you know, people aren't always comfortable with that.

10

MS DOWSETT: Is something about the formality and the institution of going into the police station that is itself a barrier?

15

MS BUTLER: There is. There absolutely is and it's - there's - there's a fear of, "I will get into trouble myself." For some reason. You know, it's - it's that, "I won't be believed by the police." That the other - you know, I might be - if I - it's just the - I guess also the trauma of some of the experiences that people have had in those sort of types of settings, whether it be schools or, you know, those sort of formal settings, there is a fear from our members around some of those more formal settings.

20

MS DOWSETT: I would like to turn now to the topic of the of impact of being subjected to violence and abuse, and I am at paragraph 75 of your statement. And you talk in there about your members saying their experiences of violence and abuse in public places makes them expect to be abused, and it has - it does have an impact for them. And can you talk about the group of employees who worked at the ADE?

25

MS BUTLER: And - and many of those people who worked there are also members of Speak Out. So, the purpose of the visit to the ADE was actually to promote the work of the Royal Commission and - and to talk about, you know, any other opportunities to extend their lives and do things outside an ADE. And the majority of the people that we spoke to are - and this - this shocked me, that the majority of the people that we spoke to said, when we asked them would you like to work in mainstream employment like a supermarket, or, you know, or somewhere else just out in the community and not in this type of setting, and they - the majority of them said no.

30

35

And when we explored that with them, and they said that they feared being abused in - as an employee in a supermarket or somewhere. They thought it was just another avenue where they would be victims of abuse. And so they said that they felt - they felt supported and they felt in that environment where they were working with their peers, they thought that that was a more supportive environment than a mainstream employment would be.

40

MS DOWSETT: So, we heard from Professor Asquith this morning about the ripple effects, and so one of the ripple effects that we hear through your evidence is that it causes people to self-limit the opportunities they might otherwise have.

45

MS BUTLER: Yes. People - similar to the evidence that has been presented, people said that they - they avoid going to the supermarket by themselves. They prefer to go places with their support workers now, because don't have to travel on public transport. They don't
5 have to risk being abused in supermarkets or shopping centres. They have stopped going to the places that they used to - that they used to go to because there are the opportunities to be abused, and they are expecting - they expect that to happen every time.

And we have one member who says it does happen every time. "It doesn't just happen once
10 when I go out; it happens multiple times in a day when I go into town. Every single time." Every day that she goes to town, she is called names and abused - verbally abused. And so people are now being seen more with support workers and so, rather than being seen as, you know, people who can be independent, active, contributing members of the community, they are at risk of being seen as "other" - and we heard about that - and about
15 those who need to be cared for, because they are with support workers more frequently than they are with their friends or by themselves. Purely because they are avoiding their communities and the abuse that's focused on them.

MS DOWSETT: You talk in paragraph 78 about a concern that this - this avoidance can lead
20 to deskilling and isolation. Can you tell us a little bit more about those concerns?

MS BUTLER: So where people - where people were independently shopping and where they were independently travelling, they are now doing that with support workers. And so they are - they - you know, so they are not - they are not doing things as independently as they
25 were in the past because they are afraid of the abuse. And so we - we are - you know, I guess as a community, we are at risk of losing the diversity in our community and having people with disability in our communities. And I don't think - that's not going to change until the balance is tipped in terms of, you know, people feeling safe and going back out in their communities again and doing those things independently that they were doing in the past.

MS DOWSETT: On the topic of isolation and that avoidance, you describe in paragraph 78 a
30 member who said that:

*"She used to catch the bus everywhere, including on a longer journey to visit a friend.
35 However, due to the fear caused by her previous experiences with violence and abuse on the bus, she no longer feels comfortable to catch the bus. She now only goes shopping when her support worker drives her, and she also no longer visits her friend who lives a long distance away."*

40 So, that's the kind of community exclusion and avoidance and isolation you were describing.

MS BUTLER: Yes, people are modifying their own lives to avoid incidents of abuse in the community, and so they are not participating in many of the activity they did. You know, the social experiences, the attending, you know, public events or the things that they used to
45 do, they are actually avoiding them because they don't feel safe. And it's not just - it's not just the occasional thing. It is lots of members are saying this. It's not just, you know, a number - you know, a small number of people, but a lot of people are saying this.

And there's - there was a - an incident where a member reported sitting at a café with a friend and someone random, a young person, came up to her and - and just stared at them and said, "I hope you have a heart attack and die." She then - they don't go to that area anymore. They - and her - and she now says that she won't go out without a support worker. And it - it's - there is a feeling of safety if there is someone else with them. If they have a support worker with them, they think that that will provide them with a level of safety.

10 MS DOWSETT: Is that the members' experience, that they are safe or safer with a support worker? Is that - is it a perception or a reality?

MS BUTLER: Yes.

15 MS DOWSETT: I'm not saying that they should have to have a support worker with them; I'm just testing how that works.

MS BUTLER: Well, it's a perception, I think, because some of the abuse still does - it certainly does continue. Some of the verbal abuse still happens even though some of the support workers are there and still, you know, encouraging them to walk away when that happens. So, I'm not sure whether - I'm not sure whether the - yes, I - I - it doesn't appear from the consultations that we have with members that any of the support workers actually challenge that - you know, at the time, the person who is perpetrating the abuse.

25 MS DOWSETT: So, moving on, then, to the last topic I want to address with you today, which is avenues for change. And the first topic - and you address this in paragraphs 82 and 83 - is education about diversity, disability and inclusion. But I think we can also take from your evidence that we need some education about activating bystanders and activating support workers. Do you agree with that?

30 MS BUTLER: Yes, definitely, definitely. I think if some of these incidents, particularly with young people, maybe, are called out at the time, then, you know, there may be some - there may be less incidents or that - that young person might actually feel like they can't get away with it so frequently or at all if there were other people calling out that is unacceptable.

35 There was a - so during - just before COVID, we started to have a - well, you know, a campaign around calling out the use of the R-word at the - the members wanted to do something about it because it was so frequent and that word is so hurtful and harmful to them that they wanted to do something about it, and we started to put together a campaign about - about the use of the R-word and how that affects people and how it offends people. And, unfortunately, COVID got in the way so that didn't continue, as it did for many things.

40 But they very clearly say that we need to have education and education needs to start very early. And I think the impact of that, even though it's one very small - one very small incident, is when - for example, when we have a troupe of puppets and we tried to apply for funding to deliver - for the members to deliver disability awareness using this troupe of

puppets in early childhood. And we - and so the - people with disability operate the puppets and talk about inclusion and disability.

5 We - and they took it to an early childhood setting, and on - and the - a number of weeks after, one of the children that were in the - in the childcare centre ran into the - the person in the supermarket and actually went up to them and introduced their mother to - to the young woman with disability and said, you know - and talked about her disability.

10 And so that's the - I think that's the impact that potentially that sort of early - early education can have, and that's the very, very - the key - the major thing that our members say is that they want education, and they want it very, very early.

15 MS DOWSETT: So, this puppet troupe is something that you have done but you haven't got funding to continue it. Is that -

MS BUTLER: Yes, yes, that's right.

20 MS DOWSETT: And the R-word campaign is something you started but then COVID got in the way.

MS BUTLER: Yes.

MS DOWSETT: Is there a plan to kick it off again?

25 MS BUTLER: There is, but, again, this is the - this is the - you know, this education - the education and any sort of education around disability needs to be really, really well resourced. It needs to be resourced by the government and it needs to be continuous. You know, embedded in the curriculum at school, you know, early. I think - we believe - the members believe that it has to start early, it has to be well resourced, and it has to be co-
30 designed by them. It can't be - it can't be, you know, other people delivering it. It has to be co-designed and delivered by them.

35 MS DOWSETT: And the final thing that you - you mention in paragraph 86 is just a greater need for security in public places. What have your members said about that?

MS BUTLER: Yes. So - so places like - they very clearly report that those places where people
40 congregate - so bus malls, shopping malls - they are the places where they feel really extremely unsafe. On buses. And so they - they feel reassured by increased security - security cameras, security presence - and so that gives them a feeling of being - a feeling of safety. So, they would like to see an increase in those sorts of strategies around their communities.

45 MS DOWSETT: Now, that's the end of the list of questions I have, but before I hand you to the Chair, I just invite you, is there anything that your members have instructed you that they would like you to say to the Commission today that we haven't covered?

CHAIR: What a good question, Ms Dowsett.

MS BUTLER: Well, they - they actually wanted me to acknowledge the - to acknowledge self-advocates past, present and emerging and their - and their fight for equality. And they want to say that they are appreciative that their stories have been heard and that they have great
5 hope that the Commission will be able to make some strong recommendations that will give them feelings of safety and feel more included in their community.

MS DOWSETT: Thank you. Chair, those are my questions for Ms Butler.

10 CHAIR: Thank you very much. If you don't mind, I will ask my colleagues if they have any questions for you. First, Commissioner Galbally?

COMMISSIONER GALBALLY: Thank you, Ms Butler. So, Speak Out has always stood for, if I understand it rightly, for inclusion, independence and connection to others. And you are
15 finding that this abuse in public places and fear, that it's forcing people into isolation, into dependency, and into segregation. Is that - so it's having a huge -

MS BUTLER: That's absolutely - it's -

20 COMMISSIONER GALBALLY: So the opposite of everything that disability rights would want?

MS BUTLER: Absolutely. You've summarised it very well.

COMMISSIONER GALBALLY: And I was wanting to ask you about the ADEs. So, the fear of
25 being out in the world in case you are abused and, you know, attacked, forced people to think that they must stay in. So, that's -

MS BUTLER: Yes, and it's -

30 COMMISSIONER GALBALLY: That must have been a shock.

MS BUTLER: It was a big shock because - certainly, as a - a member organisation and an organisation that's - that's committed to, you know, equal rights and certainly mainstream employment, to hear that the majority of people stay in an ADE because they fear being
35 abused was a big shock, yes.

COMMISSIONER GALBALLY: And so people using support workers that they now have through the NDIS to not be part of the community and public transport and to do the things that they used to do, that would also be of great concern.
40

MS BUTLER: And the use of support workers as pseudo-friends now, because - because they are isolated - they are becoming more isolated from the friends that they had because they won't meet in community and they won't travel on - on public transport to meet with their friends.
45

COMMISSIONER GALBALLY: And you think it's increasing?

MS BUTLER: Yes, yes.

COMMISSIONER GALBALLY: So the more - the paradox is the more people come out, the more the abuse is increasing. Is that -

5

MS BUTLER: Yes, yes, without a doubt.

COMMISSIONER GALBALLY: And Glenorchy council as a local government authority has taken quite systemic action, and do you think other local government authorities could do that across Tasmania?

10

MS BUTLER: They certainly could, and a lot of - a lot of local government - they - councils have inclusion committees. I would have to say that a lot of them are focused on physical - on the physical access as opposed to, you know, broader issues of safety and inclusion across the board. Yes. And many members - you know, there are many members of Speak Out who sit on those committees.

15

COMMISSIONER GALBALLY: But local government could play a really significant role and then the Metro too.

20

MS BUTLER: Yes, and in collaboration with Tasmania Police. You know, it's certainly demonstrated by the Glenorchy Council that that collaborative approach is really - is the approach that needs to happen and that it's effective, and with the lived experience of people with disability informing that work.

25

COMMISSIONER GALBALLY: Thank you.

CHAIR: Commissioner Ryan?

30

COMMISSIONER RYAN: Thank you, Mr Chair. Just a couple of clarifications things first. The Glenorchy Bus Mall. Does the council have some relationship to that? Do they operate it or build it or something or other? I was just intrigued as to why the council took the responsibility for fixing it?

35

MS BUTLER: Well, it is part of the Glenorchy community, I guess. It is like a bus interchange, so it's the place where people go where multiple buses stop, and so where people interchange buses. And so it's a place where there are lots of people at any one time catching and changing buses. It's also an area where young people just congregate. You know, there are seats and things, and so it's just a place where people congregate, but it's part of the Glenorchy community.

40

COMMISSIONER RYAN: The reason I ask is that, although it is a public space, is there a chance the bus mall is actually privately owned by the transport user, or does it belong to the council? Because, I mean, I thought it was a good thing they took responsibility for it, but what I was interested in is did they have a responsibility for it or was it something that they just did?

45

MS BUTLER: I think they did have a responsibility for it. Yes. Yes.

5 COMMISSIONER RYAN: The - in your statement, you refer to a number of instances where things were reported to the police and the police didn't even record the event when there was a person with a disability that was a member of your community sort of said, well, I have heard nothing. And then they had advocacy contact the police and they discovered there was no - no record of the person having even spoken to the police. Did that give you some concern?

10 MS BUTLER: Yes, it's the - it's that not knowing when it's an official report. So, it was - you know, the police took it as "we are having a chat", whereas the person thought that they were actually reporting an incident. And in one of those incidents, the - I have to say, when we followed up, the police responded really well in terms of they offered to meet the person in their home and discuss the issue and try to you know, make recompense for the fact there was - they hadn't responded.

15 And so perhaps there's a need for that more of a - the police to actually say whether this is a chat or whether it's an - you know, is there a police report number, is this an actual official report and what does the person want? Are they actually going there for a chat? I think 20 when a person with an intellectual disability walks into, they're - certainly our members say, "When we walk into a police station, we are walking in there to make a report." And there is some form of you know, misunderstanding there about what is a - what it is an official report. What does that mean? What does it look like, and what should we expect as a result of it?

25 COMMISSIONER RYAN: Well, do you think there is a fault on the part of the police failing to understand or perhaps enable the person to communicate why they are there?

30 MS BUTLER: Yes, definitely.

COMMISSIONER RYAN: Because it could be that the police don't take the person that seriously because of their intellectual disability. Quite often there is an impairment in their conversation. And they would really wonder as to whether, you know, there could be, in the mind of the police officer who is hearing this report, they don't know whether - they would 35 doubt as to whether it was true. Do you think there's something like that going on?

MS BUTLER: That's certainly the case, yes.

40 COMMISSIONER RYAN: Right. So they there obviously seems to be a need for some police training about how to assist people with intellectual disability in particular. Communicate or at least to understand that they communicate differently, and they need to be aware of that. The other thing was that the people that you have been consulting with expressed concern that police declined to do anything about their complaints because they didn't see them to be reliable witnesses. Is there anything we can do about that?

45 MS BUTLER: That - that - that in the - in the - in the evidence is - are incidences from our advocacy, which is separate to our membership. And so, in Tasmania, they have

5 implemented communication assistance. I've yet to see that actually in practice yet, but certainly it's not - it's not that they are - so a person comes to the police and they - they report a crime. And the person and the - the Department of Public Prosecution will then investigate, and it's a balance about whether, you know - how - what the chances are of winning - of winning that - that case are.

10 And so quite often it's - you know, it's deemed that that person may not be a reliable witness and not that they are not telling truth, but their evidence might not be the - reliable. And so I think there is a lot of work in that area in terms of people receiving justice that needs to be done.

COMMISSIONER RYAN: You also say on page 14 of your statement:

15 *"Police often do not pursue what they consider to be low-level incidents such as name-calling, bullying and harassment in the community."*

What might have been a reasonable - what might be reasonable for the police to pursue when they hear that?

20 MS BUTLER: So - well, I mean, we have heard about community liaison officers, and certainly in the - in the town where I live there's a community liaison officer who is very, very active in terms of disability. He has a particular interest in disability. And if - and if we go to him, he will follow things up. I think there's - there's not enough resourcing in Tasmania Police to be able to respond to these incidents, but what it does is just - it just gives people a sense of, 25 when they are not followed up or when there is no sense of justice, people have a feeling of "what's the use?" "This is my life and I have to put up with it." That's certainly the - the - the way that the members articulate to us.

30 COMMISSIONER RYAN: I guess one of the advantages of at least keeping and recording that material is that it enables the police to develop I think what are often called crime heat maps and respond appropriately. Look I was just -

CHAIR: -- I think we are coming to the end.

35 COMMISSIONER RYAN: Okay. But going to - going back to the three people who had incidents that were not responded to, would any of the complaints they have made have constituted a serious crime? Or did they fall more into the category of low-level incidents?

40 MS BUTLER: One of them - one of them was a - an alleged physical - physical assault, and that's the one that the police followed up.

45 COMMISSIONER RYAN: Right. And then my final question relates to you - you have referred to the *Anti-Discrimination Act* changes in Tasmania which enables following up - prohibits conduct that offends, humiliates, intimidate, insults or ridicules people. Others have mentioned that legislation. Do you have any view as to whether that has been effective?

MS BUTLER: I think if - I think if I was to have - if Speak Out was to have an - an opinion about certainly outside of the membership, it would be that that legislation continues to be under - I guess under assault from those who would want to take out those words "offend and insult" and there certainly was a - a move by an Upper House member of the State
5 Parliament who wanted to remove those words. And - I guess in the guise of freedom of speech, which - which we are concerned would then enable more of this behaviour to continue. So, you know, we are very - very keen to keep our *Anti-Discrimination Act* in Tasmania as it is.

10 COMMISSIONER RYAN: Thanks, Mr Chair.

CHAIR: Thank you. We have heard a lot about Glenorchy. Is there something particular about Glenorchy that suggests that these kinds of problems are particularly prevalent in that local government area?

15

MS BUTLER: There is a - there is a high proportion of people with disability in Glenorchy. I think that's evidenced by the - the Bureau of Statistics and so -

CHAIR: Which statistics are you referring to?

20

MS BUTLER: I'm not a statistical expert, sorry, Chair. But there is a report. The Glenorchy Council have a report that - that's sets - that actually identifies the proportion of people with disability within their community, and it is higher than other areas of - of Hobart. And so - and, again, it's that - areas of congregation where young people - where young people
25 congregate in the bus malls and which are the areas that the members say are problematic to them - and the shopping centres.

CHAIR: Are there others about malls in the greater Hobart area?

30 MS BUTLER: There are, but there don't appear to be incidents - well, certainly the members don't report incidents in the Hobart Bus Mall in the CBD.

CHAIR: Does that explain why there hasn't been the same community action to persuade councils to take the sort of - to make the sort of responses that Glenorchy Council has
35 made?

MS BUTLER: Perhaps the - well, perhaps the issues haven't been raised with them, if there are issues, or the issues haven't occurred and so they haven't been presented to the - say the Hobart City Council or some of those other councils. But it certainly is a standout in
40 Glenorchy.

CHAIR: Alright. Well, thank you very much for the evidence you have given, both in your written statement and in your oral evidence today. Thank you for coming to the Royal Commission to give us the benefit of your experiences and reporting on what your
45 membership wanted you to convey to the hearing today. So, thank you very much for that.

MS BUTLER: Thank you.

<THE WITNESS WITHDREW

CHAIR: Ms Dowsett, does that mean we have finished for today?

5

MS DOWSETT: It does mean we have reached the end of today, Chair. And I propose that we commence tomorrow morning at 10 am, and Ms Bennett will be leading a panel of witnesses representing some police forces.

10 CHAIR: So we shall recommence at 10 am tomorrow, Thursday.

<ADJOURNED 3:14 PM TO THURSDAY, 12 OCTOBER 2022 AT 10 AM

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