



TRANSCRIPT OF PROCEEDINGS

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

PUBLIC HEARING 17 PART 2

FRIDAY, 1 APRIL 2022 AT 10.02 AM (AEDT)

DAY 5

MS KATE EASTMAN SC, Senior Counsel Assisting
MS MARY ANNE RYAN, Counsel Assisting
MS SIMONE FRASER, Counsel Assisting
MS AVELINA TARRAGO, Counsel Assisting

CHAIR: Good morning, everyone who is following or participating in this hearing. This is the fifth day of Public hearing 17.2 on The Experiences of women and girls with disability with a particular focus on family, domestic and sexual violence. I shall now invite Commissioner Mason to make the Acknowledgment of Country.

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COMMISSIONER MASON: Thank you, Chair. As a Ngaanyatjarra and Kronie woman, I wish to pay my respects and acknowledge the First Nations people of the land on which the Royal Commission is sitting today.

10 We acknowledge the Muwinina people, the traditional custodians of the land on which Nipaluna, the city of Hobart, is now located.

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

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We recognise Meeanjin, Brisbane. We recognise the country north and south of the Brisbane River as the home of both the Turrbul and Jagera nations, whose land is now where the city of Brisbane is located.

20 We also wish to acknowledge the traditional custodians of the various lands on which you all virtually appear from and any First Nations peoples who are participating in this hearing, especially women, Minymaku, and children, tjitjiku, with disability.

Thank you, Chair.

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CHAIR: Thank you, Commissioner Mason. I understand that there are appearances to be announced this morning on behalf of the Tasmanian Police and Tasmanian Legal Aid. If that's correct, could the appearances be announced now?

30 MS EASTMAN: Yes, Chair. I just wonder if we can do the appearances for Tasmania Police when the Commissioner attends shortly. I don't think there's a separate appearance for Tasmania Legal Aid.

35 CHAIR: There is not. All right. In that case, we will postpone the announcement of the appearance until later. Yes, Ms Eastman.

40 MS EASTMAN: Thank you. Commissioners, this is the final day of the hearing, and our attention today turns to understanding some of the services that operate on a frontline and operational basis in relation to responding to the experience of women and girls with disability who experience family and domestic violence.

45 In Tasmania, the program described as Safe at Home is an integrated whole-of-government response to family violence. Safe at Home comprises 16 separate funded initiatives across four government departments, the Departments of Justice, Police and Public Safety, Health and Human Services, and Premier and Cabinet, as well as reforms that were introduced to the *Family Violence Act* in 2004.

In summary, the objectives of Safe at Home are to, first, achieve a reduction in the level of family violence in the medium to long-term secondly, to improve safety for adult and child victims of family violence, and, thirdly, to change the offending behaviour of those responsible for violence.

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The Safe at Home program is based on the following principles: It is a recognition that family violence is a crime, and where evidence exists, it has been evidenced to support arrest and prosecutions. A second important principle is the safety of victims is paramount. Police are responsible for providing immediate intervention to secure victims' safety and manage the risk that offenders might engage in conduct that repeats or escalates violence. It's premised on the principle that the victim does not determine the response of the justice system, and whenever possible, victims should be able to choose to remain in or return as soon as possible to their own homes.

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It's based on the principle that the criminal justice response to family violence should be seamless, and the roles and responsibilities of each participating agency and service should be clear. Two of the key agencies with respect to Safe at Home that we are going to examine today is the role of Tasmania Legal Aid and also the role of Tasmania Police. So, Commissioners, we have two witnesses to speak to these issues, and then after morning tea, we will turn our attention to National Disability Insurance Agency, and we will have a panel of senior managers from the Agency to speak about the role of the NDIA in responding to domestic and family violence.

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I hope that we will be able to conclude the evidence today shortly before 2 pm, so it will be a shorter day for those following the proceedings today. So, Commissioners, can I start with our first witness, Mr Vincenzo Caltabiano, and he is the Director of Tasmania Legal Aid. Commissioners, you will have a statement dated 9 March this year, and we will just take the oath and affirmations now.

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VINCENZO CALTABIANO, AFFIRMED

EXAMINATION BY MS EASTMAN SC

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CHAIR: Mr Caltabiano, thank you very much for coming to the Royal Commission to give evidence today. We appreciate your attendance. This may have been explained to you, but just to be sure, I will identify where the Commissioners are. In the Hobart hearing room, as you can see, there is Commissioner Bennett and Commissioner Mason. Commissioner Galbally is participating in the hearing from Melbourne. I am participating in the hearing from Sydney. And Ms Eastman, as you know, who is about to ask you some questions, is also in the Hobart hearing room. I shall now ask Ms Eastman to ask you questions. Thank you.

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MS EASTMAN: Thank you. Can I start by asking you, do you have a copy of the statement with you?

MR CALTABIANO: I do.

MS EASTMAN: And are there any corrections or amendments to the statement?

MR CALTABIANO: There is a minor typo. I can take you - if I can locate it promptly.

5 CHAIR: If it's a minor typo, I think we can live with it.

MR CALTABIANO: Yes. It relates to the service provided by our Safe at Home program and at one point it refers to assisting people - here it is, paragraph 28 subparagraph (e) and it should read "applications to extend, vary or revoke protection orders", not "evoke". But I'm
10 sure people got the sense of that.

MS EASTMAN: Right. With that amendment to paragraph 28, subparagraph (e), are the contents true?

15 MR CALTABIANO: Yes.

MS EASTMAN: The Commissioners have had an opportunity to read your statement, and we will tender the statement into evidence and those following the Royal Commission can read the statement. In the time that we have got, I want to focus on particular issues. I
20 think, to start, it will be very helpful to understand about the role of Tasmania Legal Aid in Tasmania. It is an independent statutory authority established under legislation, and it commenced operation in January 1991.

MR CALTABIANO: That's correct.
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MS EASTMAN: And Tasmania Legal Aid is funded by a combination of funding by both the Commonwealth and Tasmanian Governments?

MR CALTABIANO: Yes.
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MS EASTMAN: You also receive some additional funding from client contributions.

MR CALTABIANO: That's correct.

35 MS EASTMAN: Does that mean that if you recover costs in cases, you might have a contribution that way, or that the clients may have to also make a contribution to access services?

MR CALTABIANO: On grants of legal assistance, which are the most intensive service we
40 provide, there is a general provision - although it can be waived - for a \$60 contribution. And there is also scope for further contributions to be made if a person's income or financial assets exceed certain thresholds. But, primarily, it's the initial contribution.

MS EASTMAN: So the agency has a strategic plan. The current plan is the Tasmanian Legal
45 Aid - can I call it TLA just for saving some words?

MR CALTABIANO: Yes.

MS EASTMAN: The TLA *Strategic Plan 2020 to 2023*. That's a plan that's publicly available. Is that right?

5 MR CALTABIANO: Yes, it is, and it's on our website.

MS EASTMAN: And the vision of TLA is that all Tasmanians are safe, respected and have their voices heard.

10 MR CALTABIANO: That's correct.

MS EASTMAN: In terms of the suite of legal services that you provide, you have set out in paragraph 8 a list of those services. Could I summarise them this way: that it is to provide advice. That may be over the phone or in person. And it also involves representation in various courts, tribunals, and appellate work. And one function you also have is to assist people to access this Royal Commission through the Your Story Legal Support Service. Is that right?

MR CALTABIANO: That's right. I think it's also worth noting part of our function is to deliver community legal education, and we do so in a range of different settings. And in the last full financial year, we delivered community legal education sessions to around 12,000 Tasmanians.

MS EASTMAN: It looks like there were about 290 Community Legal Education sessions.

25 MR CALTABIANO: That's right.

MS EASTMAN: In your statement.

30 MR CALTABIANO: Yes.

MS EASTMAN: So, in terms of how this work is delivered, you operate across Tasmania from northern parts of Tasmania in Burnie, Devonport, Launceston, and also in the south, in Hobart. Is that right?

35 MR CALTABIANO: That's correct.

MS EASTMAN: And the five primary areas that the TLA operates in is divided into civil law, criminal law, family law, legal services, and business services?

40 MR CALTABIANO: That's correct.

MS EASTMAN: All of that work is done by the equivalent to 84 and a half full-time staff.

45 MR CALTABIANO: Yes, that's the current figure, yep.

MS EASTMAN: You have provided in your statement some statistics in terms of the work that Legal Aid does, and we might put up the first slide. So we have taken the information you have provided to us and just prepared a slide that has got the statistics. It might be an easier way of people following rather than me reading out percentages. So this first slide sets out a demographic of the Tasmania Legal Aid clients. So the Royal Commission has a sense of the client base, you have said many clients live with social or economic disadvantage, and many face complex legal problems. So this is a snapshot. Sixty five per cent of the clients receive government benefits. You've got the other statistics there, but a third of the clients live with disability.

MR CALTABIANO: That's so. And, for clarification, these figures relate to more intense services for which we actually collect the demographic data. We deliver a large number of services, for example, our telephone advice service, which is an anonymous service, so we don't carry - collect that data. There's, on average, around 20,000 of those annually. So it's not representative, necessarily, of the full range of suite or services that we provide, but in terms of those more intense services for which we collect that data, that's correct.

MS EASTMAN: And we asked you about the services in respect to women and girls with disability, and, in particular, to women and girls with disability who experience family or sexual violence. So you have provided some data for us in relation to that. I think you have said in the statement that 45 per cent of TLA's clients are women and girls.

MR CALTABIANO: Yes.

MS EASTMAN: And over half of the - that client base experience family violence.

MR CALTABIANO: That's correct.

MS EASTMAN: And more than a quarter live with disability. So we will just put some of those statistics up. Do you want to speak to any of these statistics in terms of what you have seen in TLA's client base? And I suppose one question we have is, how do you identify disability?

MR CALTABIANO: So, as can be seen from the table that is now on the screen, there has been an increase in the services provided over the five-year period. Again, these figures relate to the more intense services for which we collect the data. The information around the demographic details, including whether a person lives with disability, is part of the intake process and is one of the questions that is asked on the application for legal assistance.

MS EASTMAN: Is disability defined in any particular way, and if you don't know --

MR CALTABIANO: I can't recall whether it is explicitly defined, although we do collect data around the various types of disability that a person might identify, because I believe we have data in relation to matters such as whether it's a psychosocial disability or other form of physical disability and what the nature of that is.

MS EASTMAN: And you have also said in the statement, in terms of looking at the cohort of women who are clients of TLA, it might be that in the course of providing legal advice and assistance that the TLA and lawyers identify family violence. So are we right in understanding that you may have women and girls coming to the service to seek advice and assistance in relation to family violence but they may, for example, come in relation to a property dispute or information about something else and then, in the course of the consultation or in the course of providing advice, the lawyers might identify family violence.

MR CALTABIANO: That's correct. So we recently conducted a survey of our staff as part of some work that we were doing preparing a client safety framework. And in that, we asked about the staff experience in assisting clients with family violence-related matters. And what the staff identified is that it was very common - in fact, a daily occurrence - that they would see clients who were coming for assistance with a particular legal problem but having identified a family violence issue. I think it's very common, for example, for that to occur in, say, family law matters where the dispute that presents for the client is around, say, care of a child, but there is very often an underlying family violence issue.

MS EASTMAN: When the lawyers identify the family violence issue and the client also is a person living with disability, what is your expectation as to how the lawyers then support the client facing family violence but also living with disability? Because the service doesn't receive any funding that is specifically designated for services for women and girls with disability who experience family violence. So how do you expect the, sort of, lawyers to approach or handle such a situation?

MR CALTABIANO: So that's correct. Certainly, our Safe at Home lawyers - and our family violence service has the same name as the broader state-wide service, Safe at Home. But the TLA's Safe at Home service, those lawyers operate within a client-centred framework. So they have received and undertaken some training with regard to that, and their response is, as you say, in a trauma-informed way where they are seeking to understand the impact of the trauma but also the particular needs of the client, ensuring that they are giving the client the opportunity to identify the issues that they have and taking some additional time than might ordinarily be the case for a commercial issue or a straightforward criminal matter that might arise. So it is very much that trauma-informed, client-focused approach.

MS EASTMAN: I might come back and ask you about the trauma-informed training that the lawyers at TLA undertake, but before doing that, you've touched on Safe at Home. And I've mentioned just in some very brief opening remarks that Safe at Home is an integrated criminal justice response to family violence.

MR CALTABIANO: Yes.

MS EASTMAN: It really seeks to bring a range of agencies together. Looking at the material, it seems that the first entry point for the Safe at Home principles to operate might be an engagement or interaction with the police, but it is also the case that Legal Aid might or TLA might become involved at a fairly early stage, either on referral from the police, or it may be, as we have just discussed, that the identification of family violence arises with an engagement with the TLA lawyers, perhaps in a different context.

MR CALTABIANO: Yes. And also clients might be referred to us from other service providers, so other family violence service providers, non-legal providers, and so they often enter our system in that way.

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MS EASTMAN: So you have said in the statement - this is paragraph 27 - that TLA provided 1341 services to 430 women and girls experiencing family violence. This was done by the 3.8 full-time lawyers that you have in the Safe at Home team, but also by private practitioners funded by TLA for that purpose.

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MR CALTABIANO: Yes.

MS EASTMAN: And in that cohort of the 430 women and girls, approximately 29 per cent identified as people living with disability.

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MR CALTABIANO: Yes.

MS EASTMAN: But you have also identified in that part of your statement other attributes that might sort of indicate an intersectionality or a multi-layered experience. So, First Nations women, women with migrant or refugee backgrounds, and also older women.

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MR CALTABIANO: Yes.

MS EASTMAN: What is the approach taken under the Safe at Home service in providing services to women who live with disability but may also be, for example, First Nations or from a CALD background?

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MR CALTABIANO: So there's a number of aspects with regard to that, as I said. There is the overall approach, and we have been fortunate in having largely some long-term staff who have gained significant experience over time in working in this complex field and, in particular, have an acute awareness of the intersectionality that arises for many of the clients that they're dealing with.

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Tasmania Legal Aid has recently engaged in a Reconciliation Action Plan process, and we have our first Reconciliation Action Plan where we have taken considerable steps to increase our awareness and understanding of the local context and developing greater cultural awareness and are trying to feed that into our service response. There has not been any specific training in recent times that I'm aware of with regard to, say, delivering services to women from a migrant or refugee background, although there is ongoing interactions with the other support services, and these are often issues that arise.

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Can I note that with regard to the figure there of the 2.5 per cent having identified as First Nations women, that is significantly lower than our overall representation on grants of aid for people who identified as being First Nations, which is around 9 per cent, and it may well identify that we aren't reaching that group of people as effectively as we might.

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MS EASTMAN: At paragraph 28 of the statement, you set out the range of services provided by TLA under the Safe at Home service. And I won't ask you to go through each of them.

MR CALTABIANO: Yes.

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MS EASTMAN: But can I ask you to stand back from the description there to say how does that fit in to an integrated service? And I suppose the question, really, here is at what points do decisions - are decisions made about referrals to police or to other parts of government? I think it would be helpful for the Royal Commission just to understand from a TLA perspective how does that integrated service model work.

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MR CALTABIANO: Certainly. So I think those considerations are taken into account at numerous stages through our interactions with clients. It's very often that it will be in that initial interaction with the client where a family violence issue is identified that assistance will then be provided to the person to make a report, to prepare a statement to provide to police. So it's at that very early stage.

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There will be instances where decisions have been made by police not to proceed and then an assessment is made as to whether Tasmania Legal Aid should support the person to make their own application for an order, and that also occurs. At that early intake process, there's also consideration given to appropriate referrals and supports for - and they might be social supports, as well as referrals to other parts of Tasmania Legal Aid. So whether it be our family violence service, our family advice and - FASS, Family Advocacy and Support Services, or other services within the organisation.

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MS EASTMAN: You have said in your statement that, over the past five years, there have been improved outcomes for women experiencing family violence. In terms of why you can make the assessment that there is improved outcomes, how have you gone about measuring that? And what do you see, at a very sort of practical day-to-day level, by the improvements in the outcomes under the Safe at Home program?

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MR CALTABIANO: So that statement was putting it in the context of the clients who we've been able to assist as part of not only our Safe at Home program but the broader Safe at Home response. And we believe that there is a benefit that is obtained from that broader Safe at Home response because of the integrated nature of it. There is access to information that would otherwise not be available or not be as readily available as part of that broader integrated response, and there are the closer links or integration of the support network. So it's within that context that we make that assessment.

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MS EASTMAN: Right. I want to move on now to ask you about any barriers or gaps that continue to exist, and you have identified that while Safe at Home has improved responses, people with disability still face barriers in the system. And one is that the lawyers report that women and girls with intellectual disability are at a higher risk of an incident not being recorded, and you have had two clients recently where this issue has arisen. You have set those out in paragraphs 47 and 49 of the statement.

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MR CALTABIANO: Yes.

MS EASTMAN: I can see the Commissioner of Police has come into the hearing room and this might be a matter I will ask him about as well. So one of the incidents involved a woman who reported that she had been threatened with a gun and her pet cat had
5 drowned, and there was a failure to take a report or enter the details into the police family violence client management system. So that failure to enter or not being entered meant that the Safe at Home system was not activated.

MR CALTABIANO: Yes.

MS EASTMAN: From what you understand from reviewing the case, there was no investigation of charges, no protection orders issued, no support services accessed, and the - I think the woman or women were then at further risk of offending. So that is one instance. And the second was a client who wanted assistance to apply for a family violence
15 order against an ex-partner, and there was some concern in terms of being able to take the action that she needed.

So these could be sort of one-off aberrations, couldn't they, rather than the whole of the system not working well. But does it highlight that if the system is working well, it does
20 require those attention - that clear attention at those entry points, which might be receiving the initial information or recording information and then initiating the action? So what can you tell us about the two instances that you have referred to there?

MR CALTABIANO: I think these two instances are perhaps some stark examples of the sorts of challenges and barriers that our lawyers identify in their day-to-day work. So it does
25 require, I think, at that difficult time when police are attending and making assessments in relation to action that - that these factors and the particular circumstances of the individuals involved are taken into consideration.

I think there's - we also speak about the issue of misidentification, which is also a factor that we see and see with some frequency that is particularly acute for people living with disability, and we provide some examples in the statement with regard to that. I'm not
30 aware of any extensive research that's been done or examination that's been done in Tasmania with regard to that, but I note some recent work out of Victoria and even on Victoria Police's own assessment, about 12 per cent of instances involving women who were
35 identified as perpetrators, on further investigation, it was identified that that had been a misidentification of the woman as the perpetrator.

MS EASTMAN: Yes, so when you are talking about misidentification, this might arise that police attend a particular incident, and when speaking to those involved or present at the incident, depending on how much information might be provided, the victim might be
40 misidentified as the predominant aggressor. And you have said this can be a particular issue for women with disability because the type of information that women might provide might be very detailed, including what they have done to the perpetrator. And the description of
45 their own conduct might be the basis, then, for police making an assumption that they are the perpetrators rather than the victims and that is the - where the misidentification arises.

MR CALTABIANO: That's correct and that's one of the circumstances in which misidentification can arise. It might also be in terms of the person's presentation. They may not appear to be a conventional victim, if you like. They may be angry. They may be shouting. And it's at those moments where, as I say, those difficult decisions need to be made.

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But that - there can be that misidentification, and if there isn't a further exploration as to the history and the circumstances in that relationship, that misidentification can lead to significant consequences for the person involved, not only in terms of an immediate order and perhaps removal from a home, there's then the increased risk of further - or charges arising from breaches of that order, has issues and challenges with regard to the care of children, particularly where someone is removed from their home in the Tasmanian context where housing is particularly difficult to come by and a large number of people live in quite precarious housing circumstances. And so that then has further flow-on effects in terms of the capacity for women to retain and regain the care of children. So it has this snow-balling effect.

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MS EASTMAN: And you have given a case study example and you have shared a few case study examples in the statement of Rebecca's story. As a woman with intellectual disability and mental health issues --

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MR CALTABIANO: Yes.

MS EASTMAN: -- she was misidentified which resulted in not having contact with her children or her partner, being away from the home. But then, returning to the home, arguments arose, and then you got into a cycle of further charges being laid.

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MR CALTABIANO: That's correct.

MS EASTMAN: So she is a client where the Safe at Home lawyer unravelled a situation that arose. Is that what happened on that one?

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MR CALTABIANO: Yes. Yes. That's correct, as outlined.

MS EASTMAN: Just then moving forward to the criminal justice process, the Safe at Home scheme also works with appearing in court and participating in criminal justice processes. One thing I wanted to ask you about was the special witness status and the witness intermediary scheme. Are we right in understanding that that scheme operates for offenders but not for victims?

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MR CALTABIANO: The - sorry, the special witness scheme with regard to the provision - where a court makes an order for the representation --

MS EASTMAN: Yes.

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MR CALTABIANO: -- in order to prevent a perpetrator of family violence from directly cross-examining --

MS EASTMAN: Yes.

MR CALTABIANO: -- the victim? That's correct.

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MS EASTMAN: Then, I want to turn - I am just very conscious of time. And I think we are very interested to hear some of the recommendations that you have made. And one was the - so, Commissioners, this is paragraph 76. You have set out a series of recommendations. Some touch on training. One of the recommendations that you have

10 made was more comprehensive family violence training, guidelines, and protocols to address misidentification. That might be directed to police, but also more broadly to everybody in the Safe at Home system.

MR CALTABIANO: I think there would be benefit in that training being rolled out more broadly also for legal practitioners so that - as you saw from our data, a significant number of those orders for family violence orders were conducted by private practitioners pursuant to a grant of legal assistance. But also a significant proportion of our family law work, for example, is conducted by private practitioners pursuant to a grant. So I think that there would be benefit of that broader training.

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MS EASTMAN: And just while we are on, sort of, legal practitioners, you have also suggested a need for or support for National Legal Aid recommendations to have a national multi-disciplinary disability legal service. That is based on your work in Tasmania. You have got a third of clients who may be people with disability, particularly women and girls. What would an effective multi-disciplinary disability legal service look like?

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MR CALTABIANO: So it would require both specialist lawyers and social support staff who would be able to provide an integrated service that is focused on meeting the cluster of needs that people often present with, and, in particular, people with disability. Within Legal

30 Aid Commissions around Australia, but in particular in Tasmania, there is a couple of examples that we can draw on. There is the Family Advocacy and Support Service which provides services at Family Courts where we have lawyers and social support workers.

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But in Tasmania, our Senior Assist Service, for example, also has a model of lawyers and social support working together so that often, when meeting a client, both will be present, and so there can be an identification of the various issues that are required and then the - an appropriate plan developed in order to meet that person's needs.

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MS EASTMAN: And the other recommendations you make might be more in that support area. And one issue that you have identified, and it is throughout your statement, is the lack of services and support, but particularly in relation to housing and affordable housing. That may be a national issue, but it is a quite acute issue presently in Tasmania. How is the lack of housing and accommodation options, particularly for women and girls with disability seeking to take themselves out of a situation of family and domestic violence - because

40 often they are the one who has to move - how does that then impact the effectiveness of, as you say, a whole-of-government or integrated approach to addressing domestic and family violence?

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MR CALTABIANO: So, as I mentioned earlier, housing is under - the availability of housing is under acute pressure in Tasmania, and there are high numbers of people who are in precarious living circumstances, whether it's couch surfing or living in very substandard
5 circumstances. The challenge for women leaving violent relationships is then exacerbated by the acute lack of not only housing options and the delay in access to housing services, but the pressure that women's refuges are under.

The Hobart Women's Shelter reports that over approximately the last 18 month period they
10 were turning away seven out of 10 women, eight out of 10 children. So there are very few options for women who are leaving these violent relationships. And so what that can result in is difficult choices about either remaining or returning to a relationship, and, in particular where there are children involved where the question of the care of the child is connected with stable housing, access to school; all of those factors. And so that is another
15 complicating factor in that dynamic.

MS EASTMAN: The final questions that I want to ask you then turn to the Commonwealth fitting into the Safe at Home integrated model. For women and girls who are NDIS
20 participants - and you have addressed some recommendations in relation to NDIS plans in the final paragraph of your statement. Does that absence of having the NDIA as part of the Safe at Home system or program impact on the effectiveness of Safe at Home in Tasmania?

So it may pick up on, as you have just said housing issues, because you have identified that
25 women and girls with disability experiencing family violence and needing intensive supports may need additional supports at particular points in time, and they could be assisted with sustainable parenting, but also just very basic and immediate supports around travelling, housing and just access to health services and the like.

MR CALTABIANO: I think it would be fair to suggest that involvement of the NDIA in the
30 overall framework would certainly be of assistance to women with disability who experience family violence.

MS EASTMAN: And the NDIS Quality and Safeguards Commission has a role in oversight of
35 service providers, and there are obviously many service providers operating in Tasmania, from very small service providers to larger service providers. Does the - does TLA have any relationship with the Quality and Safeguards Commission in terms of referral or any involvement in how the QSC does its work and any investigations?

MR CALTABIANO: Not that I'm aware.
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MS EASTMAN: And, finally - and I think I asked you this the other day, is - for women and
45 girls who may live in more closed settings - for example, they are residents in group homes or they are older women in aged care or they may be women in circumstances where their access to the community is more limited - how do those women reach TLA or how does TLA reach those women?

MR CALTABIANO: Look, it's obviously one of those challenges in certainly in making your services known, and we engage in various means of communication to try and get the message out there as to the full range of services, whether it's through the Community Legal Education sessions, our presence in various forms of social media, and engagement in various other activities that might profile - raise the profile and awareness within the community.

We certainly, with the Your Story service that's supporting the work of the Commission, have sought - perhaps with mixed results - reaching into some of those services, and that remains to be a challenge.

MS EASTMAN: We have just - I feel like we have just skated the surface today, but thank you very much for the very detailed statement which I know the Commissioners have read. And those following the hearing will be able to read the statement as well. But thank you very much for the work that you and I know your policy people have done at Legal Aid. Thank you. Commissioners.

MR CALTABIANO: Thank you.

CHAIR: Yes. Thank you, Mr Caltabiano. I will ask the Commissioners, if I may, whether they have any questions of you, starting with Commissioner Bennett.

COMMISSIONER BENNETT: I have just two questions to ask you.

MR CALTABIANO: Yes.

COMMISSIONER BENNETT: Thank you for the very detailed - as Kate said - detailed information provided. Firstly, I just would like to briefly go to paragraph 12 and the table of stats that was provided to us. And it shows significant increase of women and girls with disability services provided in '16/17, '17/18, and '18/19, and yet a dip in '19/20 and '20/21. Do have you any observations why that would have decreased?

MR CALTABIANO: I would be speculating, but I suspect that may, in part, be a COVID impact. We did see some reductions in some services as a result of COVID, in particular, people seemingly not reaching out for services as much as they were previously.

COMMISSIONER BENNETT: That would align with other things that we have heard.

MR CALTABIANO: Yes.

COMMISSIONER BENNETT: The other question that goes to - in some jurisdictions, particularly Victoria that I'm aware of, there is an increased approach to remove the perpetrator from the home actively through police, legal services, and court systems rather than have the person subject to violence having to be homeless or seeking alternative accommodation arrangements. Do you think - has Tasmania started to shift towards that model? And if not, would that also - if it was a preferred statement under the Safe at Home

program, would that reduce some of the problems that you have described about housing shortage and access to other accommodation?

5 MR CALTABIANO: My understanding is that where there is police involvement and there is violence that has been identified, that that can and does result in the perpetrator being removed in those circumstances. That highlights the importance of getting it right at that point, and in particular, the challenge of misidentification that I spoke about earlier. So I think that does occur. The challenge often, though, for women is where there has not been that early intervention and they're experiencing family violence, but perhaps the police
10 haven't been involved to such an extent that it results in the removal of the perpetrator.

So often there is an ongoing pattern of family violence that isn't identified externally. And women often approach us without having a notification to police, and the first approach is, after the assistance that's provided by the Safe at Home lawyer, to prepare a statement and actually approach police, and then there's intervention. Safety assessments are made at
15 that point and advice given to women around how they can retain and maintain their safety in particular, given, as we know, of the high - one of the very high-risk points, danger points, is just prior to or immediately after leaving a relationship.

20 COMMISSIONER BENNETT: My last quick question is that the data and much of what you have talked about is being family and intimate partner violence, and Ms Eastman sort of talked about different housing situations such as group homes or institutional settings. WWDA also raised this, and I just wondered, did you have any data on where women might be coming - where it is a carer or a service provider or other family members or situations?
25 Is there any sense of the degree of the violence against women and girls from other parties or other settings?

MR CALTABIANO: So there are perhaps two parts to that answer. The definition for the relevant order in Tasmania is rather limited, and it is to that intimate partner. There is a
30 framework for orders for other relationships. So there is - there are a number of those orders that are made. They are fewer in number than for the intimate partner relationships, and that tends to be the focus - or the primary area in which we deliver services. So I don't - we probably don't have as good a sense of that broader number, that broader context that you're asking about.

35 COMMISSIONER BENNETT: Thank you.

MR CALTABIANO: Thank you.

40 CHAIR: Commissioner Mason?

COMMISSIONER MASON: Yes, thank you, Chair. Thank you again for your evidence. I just want to ask a quick question. In the Northern Territory we have an integrated response to domestic and family violence as well, and included in that package is behavioural change
45 programs for perpetrators. And I was just interested in Tasmania's approach, particularly in relation to Safe at Home. And, of course, with an eye on the level of recidivism and change in those interventions.

MR CALTABIANO: There are programs available, and that are part of the system - unfortunately, I won't be able to give you that information in terms of either the uptake or the - whether there's been any analysis of the success, ie, the recidivism rate with regard to those, sorry.

COMMISSIONER MASON: Yes, WWDA yesterday spoke about gendered violence and also ableist violence and abuse. And, of course, we want to target those programs particularly, because those areas that speak to the conditions, particularly across with particular cohorts of women, whether they be First Nations and CALD communities. So thank you for that.

MR CALTABIANO: Thank you.

CHAIR: Commissioner Galbally.

COMMISSIONER GALBALLY: Thank you very much. That was really valuable. Look, I would like to come back to paragraph 47 in your statement, because this issue of people with intellectual disability or who don't communicate verbally or who communicate with great difficulty, that the incidents of them not recorded by police, that really is a big area. And I just wondered whether I could have your comments on that and on what we are going to do about that area, because, you know, it is not just - it is in every - every part of life in terms of abuse and violence that I have heard about this, especially in private sessions as well as in the hearing. It just struck me as very important, that paragraph.

MR CALTABIANO: Thank you. I think that it is really a matter that warrants the consideration of further training that is focused specifically to address the issues that can arise, those challenges in terms of the communication, the presentation, the ensuring that a detailed history is taken so that we can avoid the circumstances where these sorts of instances arise.

COMMISSIONER GALBALLY: Just to connect it to Commissioner Bennett's question, if we are talking about intimate partners' violence and we have got group homes and other ways of living where people with intellectual disability and other disabilities don't have access or encouragement to have those more traditional relationships, then could the term "intimate" be - you know, is it intimate to be abused by a support worker? It is not an intimate partner, but, you know, the situation - just leaving them out of this intervention and program seems really - you know, because that would be the pointy end of what - of violence, in a way.

MR CALTABIANO: So I think it's fair to surmise - and we see examples of violence in those settings. I think that's one of the things that sits behind the recommendation with regard to the National Disability Legal Service which would resource Legal Aid Commissions to focus more broadly on this area. And they're - as indicated in the statement, we do not receive funding at present that is specifically dedicated to addressing these issues, and having a committed direct focus would obviously permit us and assist us in reaching out to this group of people more successfully.

COMMISSIONER GALBALLY: Thank you.

5 CHAIR: Thank you. As far as the recommendations for a national multi-disciplinary disability legal service, how far has that proposal got? Has anybody worked out how it would actually operate at a national level, who would fund it, who would staff it, how it would link with these state agencies?

10 MR CALTABIANO: I believe that it was part of the submission that National Legal Aid made, and National Legal Aid is the - in effect, the peak body that represents all Legal Aid Commissions, including Tasmania Legal Aid. It would need further work with regard to developing a model; however, as I indicated, there are some examples of the sorts of services that already exist. The FASS service is a Commonwealth funded national service that is delivered by Legal Aid Commissions around Australia.

15 CHAIR: Is it envisaged that a national service would actually provide services through the state and territory agencies or through a separate national agency?

20 MR CALTABIANO: So it would be through the state and territory, the existing Legal Aid Commissions around Australia.

CHAIR: Yes. The attempts to set up a National Legal Aid body have not been met with unmitigated success in Australia's history over the last 50 years.

25 MR CALTABIANO: Yes.

CHAIR: Yes, all right. Well, thank you very much for your evidence, Mr Caltabiano. We do appreciate the detailed written statement that you provided and the evidence today. So thank you very much for your assistance to the Royal Commission. Thank you.

30 MR CALTABIANO: Thank you.

THE WITNESS WITHDREW

35 MS EASTMAN: Thank you, Chair. Could I ask that you receive the statement into evidence and mark the statement 17.30.1.

CHAIR: Yes, the statement of Mr Caltabiano will be admitted into evidence and given that marking. Thank you.

40 EXHIBIT 17.30.1 STATEMENT OF VINCENZO CALTABIANO

MS EASTMAN: Thank you, Chair. We are just going to have a short adjournment for about 15 minutes, just to reconstitute the hearing room. And I can see the Commissioner for Police has arrived.

45 CHAIR: Yes. All right. Well, we will - let us resume, then, at 11:20 Hobart and Sydney time, 10:20 Brisbane time.

CHAIR: Thank you very much.

ADJOURNED 11:01 AM

5

RESUMED 11:21 AM

CHAIR: Yes, Ms Eastman.

10 MS EASTMAN: Thank you. There's one appearance. Mr Miller will announce his appearance.

CHAIR: Yes. Please go ahead.

15 MR MILLER: Thank you, Chair. My name is Mark Miller. I appear to represent Tasmania Police Service. I am grateful to the Commission for granting leave to do so. I note for the sake of completeness that I am an in-house counsel. My role is principal legal officer, and I've held that role for nearly 24 years. Thank you.

20 CHAIR: Yes. Thank you very much, Mr Miller. Thank you.

MS EASTMAN: Commissioners, we have Commissioner Darren Hine who is the Commissioner of Police in Tasmania, and I think you are taking an oath. Is that right?

25 **DARREN HINE, SWORN**

EXAMINATION BY MS EASTMAN SC

30 CHAIR: Commissioner Hine, thank you very much for coming to the Royal Commission and to the Hobart hearing room to give evidence. We appreciate your attendance, and we also appreciate the statement that you have provided which I am sure will shortly be admitted into evidence. Just so you are aware where everybody is, although you may already be aware, you are in the room with Commissioner Bennett and Commissioner Mason, and Commissioner Galbally is joining the hearing from Melbourne. I am in our Sydney hearing
35 room. Ms Eastman, of course, is in the Hobart hearing room, and I shall now ask Ms Eastman to ask you some questions. Thank you.

MS EASTMAN: Thank you. Thank you, Commissioner. You have provided a statement to the Royal Commission dated 24 February this year. Have you read the statement?
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COMMISSIONER HINE: Yes, I have.

MS EASTMAN: Are there any corrections or amendments to the statement?

45 COMMISSIONER HINE: No.

MS EASTMAN: And are its contents true and correct?

COMMISSIONER HINE: Yes.

5 MS EASTMAN: Thank you. So you hold the role of Commissioner of Police in Tasmania, although I think you have announced your retirement recently; is that right?

COMMISSIONER HINE: Yes, in October I will retire from this position.

10 MS EASTMAN: And you also hold the role of Secretary of the Department of Police Fire and Emergency Management; is that right?

COMMISSIONER HINE: That's correct.

15 MS EASTMAN: So you have held the role of the Commissioner of Police for some time now?

COMMISSIONER HINE: Yes, 14 years coming up to in this role.

20 MS EASTMAN: And you have provided to us a copy of your CV, which will be tendered into evidence when we complete our discussion. There is a lot in your statement, and I won't be able to do justice to it in covering absolutely everything in our discussion this morning, but I want to focus very specifically on the experience of women and girls with disability who experience family and domestic violence.

25 Over the course of the last week, we have heard many accounts of women and girls with disability in seeking to report to the police. In some cases, they have been very positive experiences, but in other cases there has been real challenges and barriers, both to reporting, to being believed, to understanding what police do, how police can provide assistance, perhaps also some expectations about what police can do that might not necessarily align with your functions, and also for women working their way through the justice system. So I understand that your office has been following the proceedings over the course of the week?

COMMISSIONER HINE: Yes.

35 MS EASTMAN: I am not going to ask you about any particular case or any aspect of the evidence that has arisen, but I wanted to draw on your statement and pick up some of the themes that the Royal Commission has heard over the course of the week. So in terms of the Tasmania Police functions and powers in relation to experience of women and girls in family, domestic violence or sexual violence, you have said in your statement Tasmania has been a world leader in responding to family violence. Is that because of the work done in 40 the *Family Violence Act* when it was enacted in Tasmania in 2004? And that has then been accompanied by the Safe at Home framework which is that - which I have spoken about this morning, is an integrated approach to supporting victims of family and domestic violence. Is that right?

45 COMMISSIONER HINE: Yes, that's correct.

MS EASTMAN: The Safe at Home framework and the *Family Violence Act* apply to women or victims of domestic and family violence generally. It is not specific to women and girls with disability; is that right?

5 COMMISSIONER HINE: That's correct.

MS EASTMAN: You have set out in your statement the functions, and the Royal Commissioners can see that on page 2 of the statement. But you have said that, with respect to the *Family Violence Act* - and do we take it the approach taken by Tasmania
10 Police is you don't differentiate between disability, gender or age, but you focus on prevention, detection and prosecution of family violence offenders; is that right?

COMMISSIONER HINE: That's correct.

15 MS EASTMAN: If there is no differentiation based on characteristics such as disability, age - and I might add to the mix there other factors: LGBTI status, First Nations status, being a person from a migrant or refugee background; is there a risk that not focusing on those particular characteristics mean that there might be some barriers in terms of how the *Family Violence Act* works and protects people with a multi-layered experience or how
20 police respond to that cohort of people?

COMMISSIONER HINE: I think I would rather look at it - excuse me - the other way. It actually includes all those barriers and to make sure that the police officers who are attending in their training actually take all those barriers or various circumstances into
25 account to make sure that, through their training, they are recognising that and actually dealing with those situations that's presented to them. So whilst I understand your question, I actually think it's the other way; it actually is more inclusive through our training and our approach.

30 MS EASTMAN: Can I ask you in terms of how family violence is defined in the legislation in Tasmania, is it a broad definition that is used or is it focused on particular relationships?

COMMISSIONER HINE: In fact, that was one of the recommendations that, you know, I would like to leave the Royal Commission with, as in I think some of the significant
35 relationship definitions under the *Relationships Act* can be a little bit narrow, and some of the issues that have been brought up to take into account various relationships, I think the definition can be a bit narrow, and I think that's one of the things that needs to be further explored to actually expand it, to not only give the police an opportunity to deal with various relationships and not have to try and fit it into the Act, but it's broader and,
40 therefore, all the other support mechanisms and legal support mechanisms are available to those people. So, yes, I think there is an opportunity to review that.

MS EASTMAN: You said in your statement Tasmania Police has designated Family Violence Units and you employ specialist family violence prosecutors. What can you tell us about
45 how those units operate and, with respect to the family violence prosecutors, what particular qualifications do they have to perform that work?

COMMISSIONER HINE: Thank you. At - we have various areas within Tasmania Police that specifically look at family violence. We head up a Safe Families Coordination Unit which is headed by Tasmania Police. And we have our experts in there, not only from a policing perspective, but also from an Education, Health, Justice, Communities as well. So they
5 integrate and to make sure we have an integrated approach. Because we understand there - a siloed approach doesn't give the best support to victims or offenders.

So they what we call map high risk situations that a police officer - or it has come to their attention. Then within the police service, each of our regional areas- or districts, as we call
10 them - we've got one in the western, in the north, in Launceston, and down south. So Tasmania is divided into those. Each area has a Family Violence Unit, and typically there are five police officers in there, with a sergeant in charge. They are embedded into our Criminal Investigation Branch, which is headed up by an inspector.

And, again, we have our highly trained, experienced police officers in there that they review all family violence matters. And as part of our program, we have been giving - given
15 investments to actually continue to employ family violence prosecutors. And, again, we've now got 15 across the state, and that is their main role. And they not only receive training, but Mr Miller, who is - has been given approval to appear here today, he assists with the
20 selection of those people to make sure we have the right qualified people to perform those roles. And I have to say, these prosecutors have developed expertise in the prosecution of family violence.

MS EASTMAN: What makes their role as a family violence prosecutor different, perhaps, to the regular prosecutors? What is it about their training or their qualifications that make it
25 different?

COMMISSIONER HINE: I think one of the areas that they specialise in, as in to making sure they understand the law, they studied the legislation that applies to family violence. So they
30 have a detailed understanding. They work closely not only with Mr Miller but also the Director of Public Prosecutions Office as well to make sure they have a detailed understanding. They work with the - not only the victims but the police officers who are dealing with these situations.

And, obviously, there's professional development. So they are specialised in that area to make sure that - as we know, in the law, there are various specialisations, and they
35 specialise in family violence. So they are highly trained; they are scrutinised in relation to what they do. They are given professional development through Mr Miller's office as well.

MS EASTMAN: So you have said in your statement - this is page 15 in answer to question 14 - that the Family Violence Units within the Criminal Investigation branches assist in
40 dealing with family violence-related matters for all persons and are not gender specific. So do you mean by that that it's not a Family Violence Unit that's got a specific focus on women and girls - applies across the board; is that right?

COMMISSIONER HINE: That's correct. They deal with the family violence matters, no matter who may be involved.
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MS EASTMAN: And to the extent that the Family Violence Unit has this quite specific role, does the Family Violence Unit also have particular expertise in supporting people with disability?

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COMMISSIONER HINE: Whilst they actually are trained in dealing with everyone, no matter what background or circumstances they come from - and including disability - we have several assistance and guidelines for them under our Police Manual and our Family Violence Manual to say - to assist them to where to get the various expertise to help not only the victim but also for them to understand. And our people that we put into there are - again, they have been in that area for a long period of time. They've certainly had expertise over - gained over many, many years to assist not only people with a disability, but from various other backgrounds as well.

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MS EASTMAN: But do I take it by that that they are not sort of specialists in disability in addition to being specialists in family violence. Is that right? You don't have that combined function?

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COMMISSIONER HINE: It's a combined function. Being a smaller jurisdiction, it's very hard to have a specialist in each area, but they are generalists but with specific expertise in family violence. So whilst we are a small jurisdiction and, you know, approximately 1 per cent our victims that come to us have identified or notified us of a disability, so to actually specialise in that area would be very difficult to take the resources to put in there.

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MS EASTMAN: You just made mention of the Tasmania Police Manual, and I think a version of that is publicly available.

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COMMISSIONER HINE: That's correct.

MS EASTMAN: And the manual, in a sense, are your Commissioner's orders as to what you expect of police officers and members in discharging their functions.

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COMMISSIONER HINE: That's correct.

MS EASTMAN: It is a very comprehensive set of orders and sets out expectations of police officers. Is that right?

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COMMISSIONER HINE: That's correct.

MS EASTMAN: And it covers a range of issues, including provisions dealing with family violence.

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COMMISSIONER HINE: That's correct

MS EASTMAN: And you have also got in the manual some particular parts dealing with people with disability and impairment. Now, just because of the time constraints, as much as I might like to do this, I am not going to take you through that part of the manual, but can

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I summarise it this way: If we read the manual dealing with people with disability and impairment and people with disability, is there is a clear direction to police officers in performing their duties that they have to have an awareness of disability?

5 COMMISSIONER HINE: That's correct.

MS EASTMAN: And members need to understand that communication with people with disability might be different to communication with people without disability?

10 COMMISSIONER HINE: That's correct.

MS EASTMAN: And your expectation is that if a police officer is able to identify a person with disability, that they need to ensure that person has the relevant supports. It might be with respect to communication or having another person supporting them, but also the police officers are not to make assumptions about people with disability that they may be impaired or unable to make decisions themselves.

COMMISSIONER HINE: That's correct.

20 MS EASTMAN: That is my attempt to try to summarise quite a bit of the manual.

COMMISSIONER HINE: It's a fair summary.

MS EASTMAN: Have I missed anything in that regard?

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COMMISSIONER HINE: No, I think that's a fair thumbnail sketch.

MS EASTMAN: The manual does also make particular reference to the United Nations' *Convention on the Rights of Persons with Disabilities*. What is the reason for including the CRPD in the manual and what is your expectation of police officers in knowing their way around or understanding the relevance of the CRPD to their work?

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COMMISSIONER HINE: We put that in the manual so if there's any policy development or guidelines development, those police officers responsible for developing those guidelines or policy are aware of it and make sure that they actually look at it and take it into account when developing the policy or the guidelines. I don't expect every operational police officer to be aware of it, but those who are providing training, guidelines, or policy to be aware of it, so it's there for them to take that into account.

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40 MS EASTMAN: Right. Also looking at the manual, there is some requirements that police officers have to follow if they are conducting investigations or, for example, forensic work. So taking forensic evidence or also interviewing people. Looking at the manual in relation to those matters, there is a provision dealing with forensic considerations of examination of a victim with intellectual, mental, or physical disability. So that is 4. - I will just give you the reference. So it's 4.4.10.6.

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Then the provisions dealing with the interviewing of victims of sexual abuse, there is provision in the manual for interviewing victims of sexual abuse who are children, but there is no specific provision dealing with interviews of people with disability who are victims of sexual abuse. Do you agree with that?

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COMMISSIONER HINE: Whilst I agree with your statement, I suppose it's actually embedded in other sections of the manual to make sure that they take that into account as well. So whilst, yes, I agree with your statement, but I also think it's embedded in the manual to make sure they take those circumstances into account.

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MS EASTMAN: I thought I might approach understanding the interaction that the police may have with women and girls with disability who are experiencing family, domestic violence or sexual violence by walking through what might happen. So can I take you through some scenarios so that, hopefully, we can match what is in the police manual with what actually happens on a day-to-day - on an operational level. So if a person with disability - woman or girl - wanted to report that they felt unsafe in their home or that they had experienced violence and abuse, what is the first step for them to engage with the police?

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COMMISSIONER HINE: In relation to those circumstances you've outlined, that can come to police in several ways, and I've got several examples where it's come through support workers, friends and family. So it mightn't come directly from the victim, but if it does come from the victim into our - what we call our communications centre, our radio room, they may make connection through that.

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MS EASTMAN: So, what, that will be a --

COMMISSIONER HINE: A 131 444 number.

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MS EASTMAN: Or a 000 call?

COMMISSIONER HINE: 000 - if it's a case of emergency, and, of course, that has another set of protocols. If it's 000 and it's an emergency, obviously, it's - we've got an operational response policy, how many police officers would go. But even before, you know, when, they contact our radio room, our radio room has experience in dealing with matters of family violence. There are several ways that they can communicate - people can communicate with the radio room, whether it's by text, email or via the internet.

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So once that call comes in, our radio room operators are experienced to obtain the information from the individual. They would then have a look at the information that has been supplied through our various databases to ascertain the people involved, if it might require a multi-unit response, if there's an immediate danger. And so any of the history that we have, that will be passed on to the operational police officer.

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MS EASTMAN: Can I pause there. In terms of the information that you have, step 1 is when the call comes in or there's that initial contact, they may be experienced in family and domestic violence, but what experience do the - that initial contact person have in disability,

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in communicating with people with intellectual disability or people who may have communication needs? What happens then?

5 COMMISSIONER HINE: Our radio room personnel are trained in relation to call taking to make sure they have the experience to obtain calls. For example, often we will - sometimes get, sorry, 000 calls, no voice. Therefore, there is a set of protocols that are enacted when that occurs. If there is someone having difficulty communicating, it's a matter of following it up. It's not left there. It is always followed up to make sure the person is safe where the telephone - the call has come from, to make sure we dispatch a unit there anyway.

10 So they have training through experience and through their training as well. And they have access to our manuals as well to make sure if an interpreter is needed, they will obtain that to make sure they get the information. But if that occurs and there is difficulty contacting or speaking with someone on the - the telephone, then, obviously, a unit would be dispatched
15 anyway to follow up to see what the issue is.

MS EASTMAN: When you said that then the next step is to look at the relevant records, that would be the internal police databases. So you keep a record of disability status for any offenders in your database; is that right?

20 COMMISSIONER HINE: There's - the databases - it's quite complex about how they are all interrelated, including the family violence database. It is a - we are connected to a national database as well, because we all understand people move around the country, so we want the best information we possibly can have. And then we've got our radio dispatch system.
25 If we've been there before, if there is a disability involved and it's recorded, obviously that forms part of the response.

MS EASTMAN: That database - and I know it's a complex database, but, in shorthand, that database does not record victims who are victims - I just focus on women and girls - who are
30 women and girls and women and girls living with disability. You don't collect that information in the database?

COMMISSIONER HINE: Some of our systems do collect that information if it's available, for example, our family violence and management system. So it's a - it's like a spaghetti
35 diagram of several databases that we have access to. Some may record that information and some don't. So it's hard to say that we don't record at all, because it may be recorded in various databases.

MS EASTMAN: You don't keep specific data of the number of interactions that Tasmania
40 Police might have with people with disability, be they men or women, however they are identifying. You don't keep that data.

COMMISSIONER HINE: No, because all the - it's obviously all the hundreds of thousands if
45 not millions of interactions a police officer has with members of the public - unless there is a need to record - and we record a lot of information - it's fair to say that we don't record every interaction no matter what it is, and we certainly don't record every interaction with a

woman or a child with a disability as well. Because it could be in various circumstances where that wouldn't be required.

5 MS EASTMAN: All right. Let's go to the next stage, which would be sending a unit out to the particular location. So we are really talking about those sort of more acute or crisis situations. What is your expectation of the police officers who are dispatched in terms of going into a situation of a report of family violence? What can we expect to see in terms of the police officer's understanding of family violence, the indicators that the police officers may be looking for when they arrive to understand what is family violence?

10 COMMISSIONER HINE: The unit that would be dispatched - for example, let's use Hobart as an example. We've got a 24-hour, seven-day a week uniform section, and if it was dispatched to one of these units, for a start, we would have people who are well trained in relation to - there's over 83 units or modules that they would have gone through the academy that covers family violence and disability training as well. So - now, there's
15 hundreds of hours of training they would already had. So they would be aware of that.

They would have the information passed on to them by the radio room. Each police officer has a tablet where they can have access to all the manuals and all the information that they
20 would have back at their office. So if they need further information, they would have that information before they even arrive. So if it's an acute situation or emergency situation, obviously the supervisor, as in a sergeant, would be aware as well, and they would be directing what units to go to make sure there is the safety of the police officers and safety of the victim to understand what is occurring.

25 As you would expect, some of these situations - and I know you've heard evidence from victims - some of these situations are horrific and volatile and chaotic. So the police officer has to understand what they're going into to make sure they are safe and to make sure the victim is safe. They would then switch on their body-worn cameras straight away to make
30 sure it is recorded for various - whether it's judicial purposes or reviewing purposes as well. So that would be switched on straight away.

It is about separating the two people so they can actually gather the information to understand who's a victim and who's the offender. Obviously, whoever has called, we'd
35 have that information. And we do know - and I know you've had evidence in relation to misidentification where someone may be extremely upset, someone is cool, calm and collected but not necessarily - it's hard to understand who is the victim and who is the offender.

40 So police officers are trained to look through that, to understand the information, to get the victim alone, get the offender alone, get the information, start to make sure they are safe, for a start, and if there's any further assistance that's required, as in medical assistance, and to start to get the story.

45 MS EASTMAN: So the Director sort of raised some examples of clients of Legal Aid who had been misidentified. He said the issue there was a person with intellectual disability, and the information that she may have provided to the police would have allowed the police to

misidentify her as the aggressor. Just stepping back, if the officers know that there will be people with disability when the units arrive, are there any specialist police officers who are at that operational level who have experience working with people with disability but also experience in a range of forms of communication that can be readily adapted to ensure that a person with disability is able to communicate safely and effectively with police? Do you have specialist people?

COMMISSIONER HINE: We certainly have specialist investigators and interviewers, but they are not working 24/7, so I wouldn't expect that they would be there initially, because they mightn't be working or mightn't be available. So that's where a generalist response - and when I say generalist, they have been highly trained to go there. So if they identify someone with a disability and they need assistance to deal with that, the information's on the manual. They have got the supervisor available. And they've got the radio room to get extra resources there to assist in those circumstances.

MS EASTMAN: In terms of their training - again, as I said there is a lot in your statement about the training. There is the initial recruit training, and then there is quite specific training for particular areas. They may have done these hours of training, but how do you evaluate whether or not that training has been effective in taking it from the classroom into an operational setting? Do you require ongoing training on an annual basis? Do you evaluate the training? Do you assess whether the training has been effective for the officers?

COMMISSIONER HINE: I suppose it's all of those things, as in it's - a family violence matter, if we jump forward a couple of steps, a family violence matter is probably one of the most scrutinised circumstances that police go to. And that's from our own internal circumstances. We have their supervisor of the people who go to make sure that they have the right response. We've got the radio dispatch. We've got the body worn videos.

So when, at the end of the day, they have to put in a family violence report, before they leave, it's, again, scrutinised by their supervisor. When I mentioned the Family Violence Units, each day Family Violence Unit then scrutinise those reports as well to make sure that it has been dealt with properly. And, again, these are very experienced police officers who have had many years of family violence training and experience.

If it's a serious matter, it goes to our Safe at Home area, where it is mapped by experts within various other agencies as well to make sure that all the information that should be gathered - and I would expect if there's some information gaps - and we have many examples where those information gaps have then been picked up and fed back into the Family Violence Units. And then there's another level where each week we have a case coordination conference with not only police but Education, Communities, Health, Justice - again, the experts and the police family prosecutors, they again scrutinise those incidents. So that's at least four occasions that it is scrutinised by the various agencies to ensure if there's any gaps.

And, of course, if someone is then charged - and the Director of Legal Aid as in - and if - they can challenge, as in the offender can challenge if it has been misidentified to make sure that it's - we haven't misidentified and they have an opportunity to challenge. But if we - sorry.

5 MS EASTMAN: No, no. Go ahead. So one thing we have heard during the week is this sense of not trusting the police and where that sense of distrust arises. How do you train your officers to be able to have that trust, particularly in an acute or an emergency setting? That trust could be critical to the victims' wellbeing but also her then experience through a criminal justice system.

10

COMMISSIONER HINE: It's really important to make sure that the police in any community is trusted because we do our job with the trust and confidence of the community. If we lose --

15 MS EASTMAN: How do you build that up? Sorry to interrupt you there. But it's easy to say we want to have trust but how do you expect your police officers to be able to develop that trust, particularly if they are aware that the person is a person with disability?

20 COMMISSIONER HINE: Yes, and, again, I was going in - it's easy to say and it's - but, you know, we've got various mechanisms, including national surveys about the trust and confidence in police, which we take extremely seriously. So there is one way, and then there a number of complaints we may get as well. But police officers are trained in relation to how to communicate with people with disabilities, whether it's the CALD community or the LGBTIQ community as well.

25

So there is training in relation to that to make sure that we have a human face when we interact with the community. And that has been built up over many, many years. So - and, again, that is one of fundamentals to be trusted and to be accountable and to be - for the community to have confidence in us, including anyone who is - has a disability as well. So it's easy to say it's very hard to build up that confidence so people trust the police.

30

But we'll have, certainly, circumstances where we can't meet the expectation of victims, because we have a judicial responsibility and sometimes the victims' expectation of certain things, we mightn't be able to meet that for various reasons. And that's where we need to explain and deal with the victim to help them understand where we're going. Not to say we don't believe them, because we always have a fundamental aspect to these jobs that we should believe victims and we must believe victims.

35

We mightn't put everyone before the court who they are accusing because of various reasons, but we have a fundamental where we must believe the victim to provide them with the support that they need. It mightn't be a judicial response or an outcome, but, again, providing them the support that they require. So I'm not sure if that's answered your question.

40

45 MS EASTMAN: No, that - at the particular location, bringing it back to the police officers there, what can a victim of domestic, family or sexual violence as a person with disability, expect to happen if the police arrive?

COMMISSIONER HINE: They should expect care, confidence, and a professional approach. And if there is - if it's identified that the person has a disability, then they should expect that that police officer will get the support services to assist them so they can communicate.

5 And, again, there is many examples we've done that, where they get specialist services for the person with a disability to be able to communicate.

Sometimes it will be on the night or on the day when the police are called, but police will not leave until the victim is safe and action has been taken. And if specialist services are
10 required, then those specialist services assist the police to get the statement. Again, there's many examples where non-verbal people have been able to give a statement in the - in a way that is tailored to make sure we get the information from the person to assist them as well.

15 So no matter what disability they - that we're dealing with, then the specialist service will be contacted to be able to assist the police officer to make sure that we can get the - that information.

MS EASTMAN: Do police also have a role in those circumstances of identifying relevant
20 health services, counselling services, maybe also accommodation services? Is that the role of police in that situation?

COMMISSIONER HINE: The police will do all of those things to make sure they've got those
25 support services available for the person. And I have to say, I have multiple examples where the police officers go above and beyond what is expected of them to make sure there is follow-up. I've had an example where, whilst police dealt with a situation, the victim with disability has contacted those police officers involved to support that person in other ways. That is definitely not a policing area. But, again, it's about building that rapport with the
30 community and those with disability to assist them.

Whilst it's not a core duty to police, they've gone out of their way. So, yes, it is about
35 connecting and to make sure that those services are identified for the person and then connecting all those services. That's where the Safe at Home - that's the family violence case coordination units in the Safe at Home is made available.

MS EASTMAN: We asked you, in the preparation of your statement, whether Tasmania
40 Police have a reasonable adjustment policy with respect to its members' engagement with people with disability, among other things, as victims of crime, as witnesses and as alleged perpetrators. And you said no. There's no reasonable adjustment policy. If there's no reasonable adjustment policy, then what does that mean in terms of the police officers following the manual or being able to make adjustments that might be necessary for the person with disability? Assume she's a victim of family violence.

COMMISSIONER HINE: Thank you. And whilst we don't have a specific policy about
45 reasonable adjustment, I think - well, it is actually built into the Police Manual right through. Whilst there is no policy I could point you to, but it is throughout the manual. It's built in so police officers can take a reasonable adjustment approach to the circumstances they're

dealing with to make sure they feel more comfortable and to make sure they've got the right resources. So whilst we don't have a policy I can hand up to you, it is built throughout the manual. And --

5 MS EASTMAN: Is there a risk, though, that if you don't have a stand-alone policy and it is in the manual, then that gives a little bit of margin for error, doesn't it, in terms of police understanding what the nature of a reasonable adjustment might be in a particular setting?

10 COMMISSIONER HINE: I will probably flip it around to say seeing it is built into the policy, it is actually making it clearer where that reasonable adjustment approach can be taken. So whilst we have - we should be built on values and the manual should give guidance - and there's certain orders as well. But it is also - we understand that not every circumstance will fit neatly into a - into the manual or a procedure. So, therefore, there should be a reasonable adjustment to that to dealing with that.

15 So - and before we used to have a manual that was, you know, it got down to very low levels and actually didn't give the police officer discretion to have a reasonable adjustment approach. So I actually think being built in is a way that takes away some of those grey areas that a policy may create.

20 MS EASTMAN: If the victim is required to make a statement and she is going to be interviewed by police, are there specialist interviewers who have got expertise in family and domestic violence and disability? Is this where the CIB's Family Violence Unit comes in at this point?

25 COMMISSIONER HINE: Yes. As I explained before, our Family Violence Units in the three districts have specialised people dealing with family violence, but they are within a Criminal Investigation Branch who have specialised investigators to deal with various circumstances, and they have additional training as well, as well as some of our frontline people as well. So we do have those highly specialised investigators, and we've put it to good use in many
30 circumstances to make sure that we provide the best environment for the victim with the disability to get that information.

35 MS EASTMAN: And I think you have kindly shared with us some guidelines on interviewing, and we have looked at those guidelines. There is a reference to vulnerable witnesses and vulnerable victims. There is obviously references to children so that will include girls. But there is no mention of any guidelines that are quite specific for engaging with people with disability. Is there a reason that the guidelines don't expressly cover people with disability who are victims of crime?

40 COMMISSIONER HINE: I suppose again from a smaller jurisdiction, as in, they are very specialised right across a broad gambit of the people that they deal with, and whilst the larger jurisdiction may have those specialist areas, we have tested what we should have to be able to assist people with disabilities. So I think they are actually well trained in dealing
45 with people with disabilities when they interview people. And, again, they follow our procedure.

And we've had it tested on numerous occasions for other jurisdictions coming down to assist us, and, for example, we had a tragedy not that long ago where we had to interview children. We had our policies and procedures put in place, but we actually had people from other jurisdictions come down to assist and review. And, of course, the - well, the feedback from those other jurisdictions was that we are well developed and that they certainly are a national standard in dealing with people with disabilities or vulnerable people.

MS EASTMAN: As part of the Safe at Home approach, which is the integrated approach, are you aware as to whether or not there has been a sort of holistic review of the Safe at Home program to look at it from a disability perspective?

COMMISSIONER HINE: Not from a disability perspective. And, again, I look forward to the outcomes of this Royal Commission to understand what we can improve on. And we are always going to be a learning organisation to make sure we have the best support and the best response for people - women and girls with disabilities as well. But - and we are always looking at other jurisdictions, we are always looking at how we can work with our university partners as well to make sure we are reviewing ourselves and learning as we go.

MS EASTMAN: One piece of evidence we heard during the week for our first witness, Chloe, is she spoke of having continuity and ongoing contact with the police officer who I think attended, who interviewed - was part of the interviewing but then supported her through the system. And she said he went above and beyond. He would give regular updates as to what was happening, and she felt very supported by that. Do you have a mechanism in place in Tasmania to have that continuity of police officers who may first engage with the victim to then walk with them through a court process?

COMMISSIONER HINE: We - especially for family violence, yes, we do have a process. Not only the specialised family violence prosecutors, but also our family violence area to (a) to continue that contact to make sure they are safe, and also they are supported through the process as well. And it was - it was a great example of a police officer going above and beyond with Chloe as well. And that other example that I gave where, whilst the person with disability didn't need ongoing police assistance, that bond has been created to give that assistance in case there's other need for police to assist that person with a disability.

MS EASTMAN: I don't think we specifically asked you this, but do you know what the conviction rates are for women and girls who experience family violence in terms of victims who are women and girls with disability? Have you got any data that would assist in the Royal Commission understanding what the conviction rates might be?

COMMISSIONER HINE: No. I don't have that. But that's a matter that's from a Justice and the courts would be able to provide that.

MS EASTMAN: So the police wouldn't necessarily keep that as part of your overall database.

COMMISSIONER HINE: No.

MS EASTMAN: I am very conscious of the time and, Commissioners, there is lots of questions I would still like to ask the Commissioner. My final question is this, and we have spoken about this: We are aware that some of the police services throughout Australia have a memorandum of understanding with the NDIS Quality and Safeguards Commission.
5 Is there an MOU between Tasmania Police and the NDIS Quality and Safeguards Commission?

COMMISSIONER HINE: There isn't is a specific MOU, but we do have regular conduct and we do have regular sharing of information as if there was an MOU. So whilst there's no
10 specific MOU, but we do regularly share that information.

MS EASTMAN: And last one is Mr Caltabiano said he thought police needed to have some more training to deal with misidentification. Would you agree with that?

COMMISSIONER HINE: I don't think you can actually have too much training and make awareness. So we're always looking about - to ensuring we have adequate and at a good practice, if not best practice training. So we're always looking at that. For example, we're developing another sexual assault training package. We do have disability confidence training online which is mandatory as well. So and misidentification is - there's many studies
15 that have been conducted into this, and we know ourselves where we've identified it and we've actually supported the victim that was initially the offender.
20

So, yes, we do know that right across the country and right across the world there is more work to be done on this and there's more training to make sure that we're all aware. But
25 police officers when they go into a situation, we train them to question everything, to make sure that they're not misidentifying. But, again, it's like a lot of other crimes. There will be misidentification of other crimes as well, but we certainly want to minimise that, and training is one way to minimise that.

MS EASTMAN: And the Director also raised a couple of instances where he said that there were gaps or still barriers, and one of them involved the failure to record charges in relation to an incident involving a gun and a drowning of a pet. Those matters have been brought to your attention, and I think you have seen the statement. Are they matters that you are going to follow up?
30

COMMISSIONER HINE: They were really - that one with the gun and firearm, I would find very surprising that it's not recorded and taken to, because that is a serious incident. In fact, we have reached out to the Director in a couple of days ago to get more details of that, because that is a significant area that we've got concerns. And the Director gave us the
35 assurance that he was going to contact the victim in relation to that specific one to see if he could share that information.
40

But I would find it very surprising if a serious situation involving a gun, involving the harming of a pet, that police didn't react. For example, if someone had a firearms licence, when we deal with those situations, that would be taken straight off them. If they didn't, then we would be searching. So I would find it very surprising that it wasn't recorded. But we want to find out more information for the safety of those victims.
45

MS EASTMAN: Right. Thank you, Commissioner. I will hand back to the Commissioners now. Chair.

5 CHAIR: Thank you very much, Commissioner Hine. I will ask the Commissioners if they have any questions of you, starting with Commissioner Mason. Commissioner Mason, do you have any questions to put to Commissioner Hine?

COMMISSIONER MASON: No, thank you, Chair.

10

CHAIR: Thank you. Commissioner Bennett?

COMMISSIONER BENNETT: Thank you for the information you have provided, but no questions.

15

CHAIR: And Commissioner Galbally?

COMMISSIONER GALBALLY: Also thank you very much for the information and no questions from me.

20

CHAIR: Commissioner Hine, thank you very much once again for coming to the Royal Commission and for the written information that you have provided to us. We appreciate the assistance you have given to the Royal Commission, and we hope, within due course, the recommendations of the Royal Commission will be of assistance to the Tasmanian Police in relation to this and other matters affecting people with disability.

25

MS EASTMAN: Chair. Mr Miller would like to ask some questions.

CHAIR: Mr Miller, what would you like to ask questions about?

30

MR MILLER: Well, can I indicate that if I am permitted, the questions will be brief, and I will lead to add to the brevity. I want to ask the Commissioner one question relating to the scope of the Act, the limitations, and the amendments. I want to ask him a question in relation to a question posed to the Director of Legal Aid by Commissioner Bennett in relation to a proactive policy of removing offenders from residences. And I want to ask just a couple of questions in relation to the Director's - the issues the Director has identified.

35

CHAIR: Yes, well, I would ask you to be as brief as possible.

40

MR MILLER: I will, Chair.

CHAIR: And I am not sure we need to hear details about amendments to the legislation since we usually are able to read legislation ourselves. But let's see how you go. Okay.

45

EXAMINATION BY MR MILLER

MR MILLER: Yes. Thank you. Commissioner, in relation to the scope of Act, it has been identified that there is a - that the definition of family relationship is limited and there are - amendments are being pursued. Is that correct?

5 COMMISSIONER HINE: That's correct.

MR MILLER: And what has motivated them is a particular decision last year?

COMMISSIONER HINE: That's correct.

10

MR MILLER: Would it be fair to say that, in practice, until that decision, the limitations have not flowed through to the practical application of the Act?

COMMISSIONER HINE: That's correct.

15

MR MILLER: And that regularly police family violence orders have been made in circumstances that perhaps strictly don't fall within it?

COMMISSIONER HINE: That's correct.

20

MR MILLER: Thank you. Now, in relation - Commissioner Bennett asked the Director of Legal Aid - I think you were here at the time - a question about Victoria Police in particular taking a proactive approach to removing offenders from homes. Is it your understanding that that has been the case since the commencement of the Act here?

25

COMMISSIONER HINE: That's correct. In fact, it would be fair to say that I think Victoria looked at our model and adopted our model about removing the offender from the home.

MR MILLER: Yes. And a police family violence order, you can - they require an offender to vacate premises not - irrespective of their legal or equitable interest.

30

COMMISSIONER HINE: That's correct. The lease can be varied by a court.

MR MILLER: Yes, but a police officer can make an order requiring them to leave.

35

COMMISSIONER HINE: Yes.

MR MILLER: Yes. Thank you. Now, in relation to Mr Caltabiano's statement, this issue about misidentifying offenders, that is something that occurs at large, not strictly speaking in relation to disabilities?

40

COMMISSIONER HINE: That's correct.

MR MILLER: But there may well be a heightened risk?

45

COMMISSIONER HINE: Yes, that's correct.

MR MILLER: Yes. And that's something police are conscious of?

COMMISSIONER HINE: Very conscious of those situations.

5 MR MILLER: And inspectors of police have a power to revoke police family violence orders upon review?

COMMISSIONER HINE: Yes.

10 MR MILLER: And do so regularly?

COMMISSIONER HINE: Yes, they do.

MR MILLER: And there is also right of review to a magistrate.

15

COMMISSIONER HINE: That's correct.

MR MILLER: Yes. Now, in relation to the particular matter - and, upon close analysis, the matter raised at paragraph 49 doesn't refer or suggest that police were involved in that, but is it true that you are very concerned about the matter raised - referred to at 47?

20

COMMISSIONER HINE: That's - yeah, very concerned.

MR MILLER: And that if you get some information that enables you to identify the police officers, you will follow it up from a Professional Standards point of view?

25

COMMISSIONER HINE: If that's deemed to be correct, yes, we will definitely follow it up from an investigation point of view.

MR MILLER: And because of a particular tragedy that occurred here, police have a particular approach to firearms offences and threats of violence?

30

COMMISSIONER HINE: Yes, very much so.

MR MILLER: Very much a proactive policy?

35

COMMISSIONER HINE: Very much so.

MR MILLER: And, finally, the policies, practices and training at Tasmania Police are constantly under review?

40

COMMISSIONER HINE: Yes, they are.

MR MILLER: And you would welcome any deficiencies that the Commissioners can identify?

45

COMMISSIONER HINE: Definitely.

MR MILLER: And certainly any recommendations?

COMMISSIONER HINE: Definitely.

5 MR MILLER: Yes. Thank you. I have nothing further. Thank you, Chair.

CHAIR: Thank you, Mr Miller, and thank you again, Commissioner, for giving evidence. Thank you.

10 COMMISSIONER HINE: Thank you, Commissioners.

THE WITNESS WITHDREW

CHAIR: Ms Eastman, do you wish to have a short adjournment? If so, for how long?

15

MS EASTMAN: I do. I first want to deal with the tenders of the documents and items concerning the Commissioner's evidence. Can I do that first, please?

CHAIR: Yes, you can do that now, yes.

20

MS EASTMAN: So there is a number of documents. If you could receive the Commissioner's statement into evidence and mark the statement as **Exhibit 17.31.1**. And then there's the annexures and accompanying material which I think, Chair, you've got a list and that would take --

25

CHAIR: Yes, I think we can do it from the list. So that the statement of Commissioner Hine will become **Exhibit 17.31.1**. And the other documents identified in the Index to Tender Bundle C will become **Exhibit 17.31.2** through to **17.31.7**.

30 **EXHIBIT 17.31.1 STATEMENT OF COMMISSIONER DARREN HINE**

EXHIBIT 17.31.2 TASMANIA POLICE, BUSINESS PRIORITIES 2021-2022 (ATTACHMENT 1)

35 **EXHIBIT 17.31.3 TASMANIA POLICE, DISABILITY INFORMATION ON-LINE CHARGING (ATTACHMENT 2)**

40 **EXHIBIT 17.31.4 DEPARTMENT OF POLICE, FIRE AND EMERGENCY MANAGEMENT, ACCESSIBLE ISLAND: TASMANIA'S DISABILITY FRAMEWORK FOR ACTION 2018-2021, DISABILITY ACTION PLAN 2018-2021 (ATTACHMENT 3)**

EXHIBIT 17.31.5 DEPARTMENT OF POLICE, FIRE AND EMERGENCY MANAGEMENT, INITIAL INVESTIGATION AND NOTIFICATION OF CHILD SEXUAL ABUSE GUIDELINES (ATTACHMENT 4)

45 **EXHIBIT 17.31.6 STATEMENT OF INHERENT REQUIREMENTS – GENERAL DUTIES POLICE OFFICER (ATTACHMENT 5)**

EXHIBIT 17.31.7 CURRICULUM VITAE OF DARREN HINE

5 MS EASTMAN: Thank you. And it may be that we will ask the Commissioner or Mr Miller to provide us with an update of any steps taken by the Commissioner to follow up the matters identified in paragraph 47 of Mr Caltabiano's statement. So we may do that and include that in the directions later today.

10 Chair, perhaps if we can have a morning tea adjournment now for 20 minutes. And I think we will still be on time. Our next witnesses are three managers from the NDIA who are joining us by video link, as I understand it, either from Sydney or Canberra or a combination of both.

15 CHAIR: Yes. All right. Well, we will take an adjournment until - if we can make it 12:40 Sydney and Hobart time and 11:40 Brisbane time, we will resume then. Thank you.

MS EASTMAN: Thank you.

ADJOURNED 12:16 PM

20 **RESUMED 12:42 PM**

CHAIR: Yes, Ms Eastman.

25 MS EASTMAN: We are joined by a panel of three managers from the NDIA, who I hope the Commissioners can see on the screen. And all of our witnesses have given their affirmations. So, Chair, unless you have got some opening remarks for the witnesses, I will ask them each to identify themselves. But you may want to just let the witness --

30 **SAM BENNETT, CALLED**

CLAIR WHEELER, CALLED

LIZ NEVILLE, CALLED

35 CHAIR: Yes, I will just thank - it is Mr Bennett, Ms Wheeler and Ms Neville for attending the Royal Commission and giving evidence today. We appreciate your assistance, and we appreciate the response to the notice to give a statement in writing that we have received and had the opportunity to read. Just to ensure you know where everybody is, in the Hobart hearing room, we have Commissioner Bennett and Commissioner Mason. In
40 Melbourne, Commissioner Galbally is joining us from that city, and I am in the Sydney hearing room, and Ms Eastman, who will be asking you some questions, is in the Hobart hearing room. So I will now ask Ms Eastman to put some questions to you.

45 **EXAMINATION BY MS EASTMAN SC**

MS EASTMAN: Thank you. Can I start with you, Ms Wheeler. You are Clair Wheeler?

MS WHEELER: Correct.

MS EASTMAN: And you are the Branch Manager, Service, Guidance and Practice --

5 MS WHEELER: I am.

MS EASTMAN: -- with responsibility for service practice guidance, including standard operating procedures, work practices that set the parameters of frontline national delivery and enable delivery of intention. Is that a description of your title and your role?

10

MS WHEELER: That's right.

MS EASTMAN: Can I ask you, have you completed the family and gender-based violence prevention e-learning modules referred to at paragraph 40 of the statement?

15

MS WHEELER: I have.

MS EASTMAN: When did you do that?

20 MS WHEELER: I did it around about 12 months or so ago when the module was first launched, and then I did a refresher in preparing for the hearing today.

MS EASTMAN: And have - so you did a refresher for today's purpose.

25 MS WHEELER: Correct.

MS EASTMAN: And have you completed any of the other courses that are referred to in paragraph 41 and 42 of the statement?

30 MS WHEELER: I will just check the statement. Thank you. I haven't done those, no.

MS EASTMAN: Ms Neville, I think it is a welcome back to the Royal Commission. You have provided a statement for the Royal Commission for Public hearing 15 back in June 2021. Is that right?

35

MS NEVILLE: Yes.

MS EASTMAN: And you are the General Manager, Government with responsibility for NDIS governance and advice, including work programs with the NDIS Quality and Safety Commission, focusing on participants' safety; is that right?

40

MS NEVILLE: Broadly, yes.

MS EASTMAN: Is there anything I have missed in that description?

45

MS NEVILLE: No. That's fine.

MS EASTMAN: Have you completed the family and gender-based violence prevention e-learning module referred to at paragraph 40 of the statement?

MS NEVILLE: No.

5

MS EASTMAN: Have you completed any of the courses referred to at paragraph 41 and 42 of the statement?

MS NEVILLE: No, I have not.

10

MS EASTMAN: Mr Bennett, you are the General Manager, Policy Advice and Research, and you have responsibility for policy relating to participant cohorts and population groups, including policy on participants' safety. Is that right?

15 MR BENNETT: That's correct.

MS EASTMAN: And have you completed the family and gender-based violence prevention e-learning module referred to at paragraph 40 of the statement?

20 MR BENNETT: I have not.

MS EASTMAN: And have you completed any of the training courses available described at paragraph 41 and 42 of the statement?

25 MR BENNETT: I have not.

MS EASTMAN: You - as I understand it, the statement which has been provided to the Royal Commission, dated 2 March 2022, is a statement where each of you have had a role in drafting the statement; is that right?

30

MS WHEELER: That's right.

MS EASTMAN: And the statement makes reference to two statements provided by Mr Hoffmann to the Royal Commission, described in your statement as Statement 1 and Statement 2. Have you read Mr Hoffmann's statements?

35

MS WHEELER: Yes.

MS NEVILLE: Yes.

40

MR BENNETT: Yes.

MS EASTMAN: And do you have a copy with you? Copies of those statements with you?

45 MR BENNETT: I don't think so.

MS NEVILLE: No.

MS WHEELER: No.

5 MS EASTMAN: All right. Have you had an opportunity to read Mr Hoffmann's statements before you came this afternoon to give evidence?

MS NEVILLE: Yes.

10 MS WHEELER: Yes.

MR BENNETT: Yes

15 MS EASTMAN: Right. Would you agree with me that there are substantial parts of your statement that are identical to Mr Hoffmann's statements?

MS NEVILLE: Yes.

20 MS EASTMAN: So, just so we understand, are you able to assist as to who has drafted this particular statement of 2 March and whether that drafting involved taking parts of Mr Hoffmann's earlier statements and including them in this statement?

25 MS NEVILLE: So the senior officers involved in drafting this particular response are identified on paragraph 131. And the statement prepared by Mr Hoffmann was a point of reference for drafting of this statement. So that's where the similarities come in.

MS EASTMAN: All right.

30 MS NEVILLE: Specifically in the early paragraphs of this statement that alignment is provided.

35 MS EASTMAN: I have asked Mr Hoffmann about matters which are in your statement that are identical to his statement provided as part of the Royal Commission's Public hearing 14 in Adelaide last year. And I asked him a number of questions about those paragraphs. Have you all had an opportunity to read the transcript of the examination of Mr Hoffmann with respect to those parts of your statement that are identical to his statement?

MS NEVILLE: Yes.

40 MS WHEELER: Yes.

MS EASTMAN: You have. All right. What I am hoping to do ask not to have to ask you questions that I have asked Mr Hoffmann. So I will take it that you are aware of the questions that I asked him on that occasion.

45 MS NEVILLE: Noted.

MS EASTMAN: All right. I can see you nodding, but if you are not sure, let me know as we go along. All right. Now, in terms of the NDIA, there is no designated gender specialist role, is there, in the NDIA?

5 MR BENNETT: What do you mean by a gender specialist role?

MS EASTMAN: A person who has a designated role with specific functions and duties to look at gender, to bring expertise around gender in the overall operation of development and policies and practices in the NDIA.

10

MR BENNETT: It is right to say we don't have a specific gender strategy. We do have a --

MS EASTMAN: Sorry to interrupt you. I am going to ask you about a strategy, but I am asking you at this stage whether you have got - well, I am putting it to you that there is no gender specialist - designated position for a gender specialist in the NDIA; is that right?

15

MR BENNETT: That would be correct.

MS EASTMAN: And there is no designated family violence specialist in the NDIA, is there?

20

MS NEVILLE: That's correct. Although, we do have subject matter experts, particularly within our Complex Support Needs Pathway, who have experience in family services and family violence services.

MS EASTMAN: There is no standing advisory committee on gender issues in the NDIA, is there?

25

MR BENNETT: Not specific to gender issues, although our independent advisory council has a reference group on equity and inclusion, of which obviously gender issues are an important part, and they are at the moment providing us with advice on those matters that the Agency is considering.

30

MS EASTMAN: There is no standing advisory committee on family or domestic violence for the NDIA, is there?

35

MS NEVILLE: No. But, however, there is an established engagement model with key representative organisations, such as Women with Disabilities Australia, and it's also the case that, at an intergovernmental level, we have governance arrangements with, in particular, the voluntary out-of-home care system and the child protection system.

40

MS EASTMAN: And I think, Mr Bennett, you just mentioned this. There is no NDIA gender strategy, is there?

MR BENNETT: That is correct.

45

MS EASTMAN: And you - the three of you, you are all aware, are you not, that the most common perpetrator of violence against women with a disability is a former partner. You are aware of that?

5 MS WHEELER: Yes.

MS EASTMAN: And for girls who experience sexual abuse, the perpetrator is most commonly a male relative, family friend, acquaintance or neighbour. Are you aware of that?

10 MS NEVILLE: Yes.

MS EASTMAN: And during the first part of the COVID pandemic - and it may be continuing - women with disability were at a significantly higher risk of the onset or escalation of violence being perpetrated by a current or former intimate partner. That was particularly so during the first three months of the pandemic. You are aware of that?

15 MS WHEELER: Yes.

MS EASTMAN: Can any one of the three of you tell me how many NDIS participants are women or girls who are victim-survivors of family or domestic violence?

20 MS NEVILLE: We don't hold data at that structured level, unfortunately. I can't give you that figure.

25 MS EASTMAN: Why not? Why isn't there data?

MS NEVILLE: We hold - we hold information about participant critical incidents of which family violence may form a part; however, we don't have structured data according to that particular category readily available. It's information that could be compiled manually with - with appropriate time, effort.

30 MS EASTMAN: Does the NDIA have a working definition that it uses for domestic or family violence?

35 MS WHEELER: Our staff use a broad definition of risk, and we look at a number of different risk factors. We look at whether there might be particular situational or personal factors that might make someone vulnerable at a particular point in time, and that, of course, includes family violence indicators, as well as a number of other things as well.

40 MS EASTMAN: But my question is not about risk or indicators. It is whether the NDIA has a working definition of domestic and/or family violence.

MS NEVILLE: I don't believe we do; however, we do - we would commonly accept those definitions applied by family violence services.

45 MS EASTMAN: And what are those definitions and which services are you referring to?

MS NEVILLE: Well, I suppose I'm referring specifically to the - the family services, the family violence services of a specialist nature which are funded typically under state/territory government arrangements, but also supported by appropriate national frameworks, and we would apply the definitions that are used in those frameworks.

5

MS EASTMAN: So what definition would you use, based on those frameworks, in the NDIA? How do you define domestic and family violence?

MS NEVILLE: I - I don't have the precise definition to hand. However, we would take the view - and this is somewhat reflected in our participant critical incident framework - that violence, abuse, neglect in informal relationships would be primarily how we would think about family violence.

10

MS EASTMAN: All right. Can I ask you, how many NDIS participants are women or girls who are victim-survivors of sexual violence?

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MS NEVILLE: We would - we don't have that information to hand.

MS EASTMAN: Does the NDIS have a working definition of sexual violence?

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MS NEVILLE: No.

MS EASTMAN: Has the NDIS commissioned any research to identify among the NDIS participants who are women and girls those participants who may be victim-survivors of family and domestic violence and/or sexual violence?

25

MR BENNETT: No, we have not.

MS EASTMAN: Has the NDIS conducted any audit or review of its policies and practices to identify any gender inequality in the NDIS?

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MS NEVILLE: No, not to my knowledge.

MS EASTMAN: Is there a reason why that has not been done?

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MS NEVILLE: None that I can think of.

MS EASTMAN: You have identified in the statement training, and I think, Ms Wheeler, you have said you have done the training about 12 months ago and a refresher in preparation for today.

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MS WHEELER: Correct.

MS EASTMAN: So the statement identifies the description of the course, family and gender-based violence prevention e-learning module. Are we right in understanding that that is an online program?

45

MS WHEELER: It is. That's right.

MS EASTMAN: And how - what is the duration of it and what can you tell us about what is involved?

5

MS WHEELER: I think it takes around about half an hour to work through. There's some - some scenarios. It's - there's some animations and some scenarios about raising - speaking to someone who may be experiencing family violence, using empathy, supporting someone to seek help, and some interactive questions.

10

MS EASTMAN: So that takes about half an hour to complete?

MS WHEELER: I believe so.

15 MS EASTMAN: Is there a test at the end of it?

MS WHEELER: Yes. There's - as you work through, there are some interactive questions and, you know, those - you get information about whether those answers are correct or not as you work through.

20

MS EASTMAN: And this module has been developed by an external provider. I don't need you to identify the provider, but can you assist us as to whether the external provider has a particular expertise in the experience of women and girls with disability who experience family, domestic or sexual violence? Do you know who that provider is?

25

MS WHEELER: It is - I do know who the provider is. I'm not sure of the background or, you know, the - how the course was developed and what sort of input that provider has had.

30 MS EASTMAN: Do you know whether the module was developed by way of co-design with women with disability?

MS WHEELER: I don't know that.

35 MS EASTMAN: Do you know if the module was developed or co-designed with victim-survivors of family, domestic violence, or sexual violence?

MS WHEELER: I don't know that.

40 MS EASTMAN: Has that training - that particular module of training been evaluated in any way?

MS WHEELER: The agency keeps information about feedback from our staff, about whether they found the training useful. And we use that in continuous improvement of our staff training.

45

MS EASTMAN: In that half-hour training module, are there trauma-informed approaches addressed?

MS WHEELER: I don't remember trauma-informed in there, no.

5 MS EASTMAN: In the half-hour training, does it include training to address the experience of women and girls with disability from non-English speaking backgrounds?

MS WHEELER: Not specifically.

10 MS EASTMAN: Does it include in the half-hour training the experience of women and girls who might identify as LGBTI?

MS WHEELER: Not specifically, no.

15 MS EASTMAN: Does it cover First Nations women?

MS WHEELER: It doesn't.

20 MS EASTMAN: In terms of the training, we asked you about NDIS staff generally, and you have explained to us in the statement that "staff" could be a broad term. So you have covered different areas both from people within the NDIA but also the Local Area Coordinators and Planners. I am just trying to sort of summarise very briefly. Is that a fair summary?

25 MS WHEELER: That's right.

MS EASTMAN: Okay. It is the case, isn't it, that the training that you have done, you encourage the LACs and the Planners to undertake this training; is that right?

30 MS WHEELER: That's right.

MS EASTMAN: Does the NDIA keep a record of the number of LACs who have undertaken the training?

35 MS WHEELER: Those records will be kept by the partner organisations and then reported through to the NDIA.

MS EASTMAN: And is that the same with Planners as well?

40 MS WHEELER: Yes, those are kept internally to the NDIA, yes.

MS EASTMAN: And I hope I have read the statement correctly, but my understanding is that this is not compulsory training for the LACs or the Planners. Is that right?

45 MS WHEELER: Yeah, it's not part of the mandatory Planner Essentials Training, no.

MS EASTMAN: And in terms of that training - you might be able to assist us, having done, I think, it now twice - what are the risk factors that the training identified for NDIS

participants who experience domestic, family or sexual violence? Can you list the risk factors for family violence for me?

5 MS WHEELER: So the training talks, really, about - it talks about engaging and supporting someone who - who you believe may be at risk or experiencing family violence. It does talk about change in personality, change in mood, being very withdrawn, and, in an interaction with someone, how you might pick up some of those flags and indicators of violence. So it's very much focused about how you might pick it - pick up risk in - in a conversation or an interaction with someone.

10

MS EASTMAN: All right. Is there a reason why this training is not mandatory for the LACs or Planners?

15 MS WHEELER: The mandatory training for our Planners and LACs focuses on their - their specific roles. So there's - the mandatory training is an eight-week Planner Essentials Training that people do when they first come into the role. That really goes through the - their role as a delegate or someone supporting a participant to implement the plan. And, really, the core processes of the role are covered in that - that training.

20 So that would be about reasonable and necessary decision-making. Participant critical incidents, participant risk assessment is absolutely core competencies and processes that are covered in that - in that training. That doesn't mean that that's the only training that's available to people. So generally about 70 or 80 per cent of the training that people do occurs after that training.

25

There's training on the job and coaching, support, and we do have a continuous improvement training program call Continuous Improvement Connect which allows us to use data and information from the agency and to deliver particular training modules, generally on a monthly basis, which our staff through. And, again, they are very interactive and practical. So the mandatory Planner Essentials training looks the core processes and then there is other opportunities for continuous improvement.

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35 MS EASTMAN: All right. Can I ask you about the National Contact Centre. I think your website says that the NCC is often the first point of contact and experience participants or providers might have with the NDIS. So is it the case that the Serco staff at the NCC have the opportunity to undertake the training that you have described in the statement and the training you have just described in your oral evidence?

40 MS WHEELER: The module, yes, the NCC staff - NCC staff don't do Planner Essentials.

45

MS EASTMAN: Okay. Now, much of your statement focuses on risk assessment. And if I can draw your attention to paragraph 7, and you have listed a number of methods and you have provided to us the relevant attachments and we have also, as I said, looked again at Mr Hoffmann's earlier statements which address the same methods. Would you agree with me on this: is that not one of the methods identified there expressly identify family or domestic violence as a risk factor?

MS WHEELER: That's right. The - what I would say is that the Complex Support Needs Pathway - as we ask our staff to look at indicators that might mean somebody needs to be referred through to Complex Support Needs, experience of family violence is a factor there. And, of course, in participant risk assessment also, we - we talk to staff about identifying risk in the home, and family violence would be one of them. So they're not - you know, they're not in the title but absolutely in the materials there is reference to family violence.

MS EASTMAN: The focus is looking at risk in a very broad way, and there might be a range of risk factors. And I don't want to repeat what I asked Mr Hoffmann about vulnerability and the Vulnerable Participants Framework and the Complex Network Pathways. But stepping back, for women and girls who are NDIS participants who might in their domestic arrangements, be it - whether they live with their families, whether they live in group homes, or attending day programs, is there is not a tool there that is very specifically designed to identify risk factors around family violence? So, for example, there is not a tool to help planners identify practices that might have the character of grooming or coercive control. Do you agree with that?

MS WHEELER: I do agree specifically for family violence, although there are questions about potentially coercive control or financial control in the participant risk assessment.

MS EASTMAN: Would you agree with this proposition - that the NDIS participants are more likely to be the victims of violence. The factors that are set out in these risk assessment tools do not make any assessment of the risk of the perpetrators of violence. And I am probably not expressing it well. The focus is on the victims, but not on the indicators of family violence in terms of the way in which - and I am not trying to be sexist in any way of saying this, but, by far, the perpetrators are men.

There is no focus on the perpetrators within the domestic settings of the NDIS participant to look at family violence from the perpetrator perspective. Does that make sense? Do you agree with that?

MS WHEELER: It does, thank you. The questions that we ask in participant risk assessment and also in developing a participant's plan in our check-in conversations really explore the participant's home and living situations. So we will absolutely talk to the participant, for example, about how they manage their finances. We will look at particular spending patterns in their plan.

So, you know, if there are - if suddenly supports stop being claimed or if - if personal care supports or capacity-building supports that generally occur in the home stop happening or if there are barriers to sighting the participant or being able to hear their views in a conversation with them, then those would all be risk indicators that our staff would pick up.

MS EASTMAN: If the staff picked up those risk indicators, what do they do?

MS WHEELER: So generally what would happen is that they would refer for advice. So if a staff member had had a conversation either in person or over the telephone and they were concerned about either something that the participant had said, some information they had

gathered, or if they felt that they had not heard the participant's voice or that maybe somebody who is acting for the participant was not acting in their best interests, then they would generally escalate for advice either from a team leader, from the Complex Support Needs Pathway, and look at how we could contact and make appropriate referrals and take the right action. If we believe into a participant is at immediate risk then, of course, that would involve contacting emergency services and making sure they are safe.

MS EASTMAN: Right. I want to ask you in a moment about those critical or acute situations. But just say in the course of a plan review, if a planner asked a participant, "Are you safe at home" and the participant said, "No, I don't feel safe at home", Nicole Lee said to us this week in evidence that she would not be confident that the Planner would know what to do or what referrals to make. What do planners do if they are told by a woman that she does not feel safe at home? What do you expect them to do immediately?

MS WHEELER: Absolutely. So immediately, depending on who's part of that conversation and how that conversation is occurring, we would make sure that the participant is safe, and we would talk through and we would ask why the participant doesn't feel safe. And they may or may not be comfortable to do so, of course. And the participant risk assessment, if we identify - you know, if you had an answer to the question that indicated the participant wasn't safe, the participant risk assessment tool does guide you through looking at exploring what the safety risks are, if there are ways to mitigate those risks and, if there are not, then to seek appropriate referrals. That might --

MS EASTMAN: If the participant said, "I don't feel safe", why would the planner then ask them why they didn't feel safe? That seems to suggest that the planner would interrogate the basis of them feeling - would you not just accept it on face value? Why do you need to ask them why?

MS WHEELER: Risk to participant safety would be considered a critical incident and the responsibility of the person who first becomes aware of that critical incident and risk to safety is to gather the right information.

MS EASTMAN: What information are they gathering?

MS WHEELER: So they would be asking the participant about their home and living situation and exploring the risks and any strategies to mitigate. Of course, in lots of situations, the participant doesn't feel comfortable to discuss, so they would note - they would note the concerns, they would arrange to follow up, absolutely immediately escalate for further advice and, you know, that would involve potentially looking at referrals to - it would look at referrals to family violence services or to the emergency services if we believe that the participant is not safe.

MS EASTMAN: All right. Well, let me then go to the acute or critical situation. You have said in the statement - this is paragraph 119 and 120. There is a dedicated web page. We have had a look at that. It says, "Family violence support - NDIS." And the front of the web page gives you two options. One is to click through, "Welcome to Disability Gateway" and

other is to click through to a program that focuses on why men engage in violence. When - have you looked at this bit of the website?

MS WHEELER: Yes.

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MS EASTMAN: When you click through the Disability Gateway, there is nothing on the front of the Disability Gateway that mentions violence in terms of family or domestic violence. You are aware of that?

10 MS WHEELER: Yes.

MS EASTMAN: Has anyone reviewed this web page in terms of the two pathways that are open to see if they are actually relevant to domestic and family violence?

15 MS WHEELER: I'm not sure if that's happened within the agency. That's not in my overall responsibility so I can't speak for whether those have been reviewed recently.

MS NEVILLE: I would follow up by saying that I believe that web page was quite recently refreshed. I think there's actually a refreshment date on the website. So --

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MS EASTMAN: I looked at it this morning, just to make sure I was up to date.

MS NEVILLE: Yeah. I believe it was refreshed a number of days ago.

25 MS EASTMAN: Then, other than that initial pathway to the Gateway, then there is just a list of telephone numbers which look like the telephones that the Royal Commission provides for content warnings: 1800 RESPECT, Lifeline, those types of numbers. And then there is a really long list that sets out state by state and the territory local numbers for police or other services. That's all I could find on the web page about where I go as an NDIS participant or
30 even a supporter to assist a NDIS participant to understand what is available in a situation of family violence.

35 Can you tell me whether there are any other sources of information that are available to NDIS participants who may be in these acute or crisis situations where they might go to the internet to look for information but where else - what else can they find?

40 MS WHEELER: Participants or their supporters can get that information by contacting the NDIA. So, absolutely, if - if someone was to contact us by whatever means, either through to the Contact Centre or through a Local Area Coordinator or Support Coordinator then there would be an immediate response to make sure that the participant or the person was supported to make the right referrals, to get the right supports, and, of course, that would - that would then lead to our staff following the participant critical incident process.

45 MS EASTMAN: There is no designated hotline where there is a one-stop shop for women and girls to call if they are experiencing family violence through the NDIA, is there?

MS WHEELER: The Contact Centre is absolutely the single point of contact to the Agency, and if people contact the 1800 number, the National Contact Centre, then staff have the right information to pass on to the participant and to take the right action.

5 MS EASTMAN: But I am not asking you about the general number, but a number which might even be different that women and girls can use that number safely. One place, knowing that whoever is on the end of the line will be able to give them the advice about where to go and what they need to do specific to the NDIA. That doesn't exist, does it?

10 MS NEVILLE: I might, I guess, say by - respond by saying that the 1800 number for our Contact Centre is intended to respond to a large variety of circumstances for participants. We have an IVR option, which is basically a kind of a call answering service which allows participants to - it's not a long, laboured message, but it allows participants to identify if their circumstances are urgent, and the obvious dedicated referral service would be the
15 1800 RESPECT service. And that would be where that person would be pointed to if emergency services weren't the more appropriate response.

MS EASTMAN: Is it the case that the expectation, based on what is on the website, is that
20 the first port of call is not actually to the NDIA at all, but to contact police or ambulance emergency services? That is the starting point; is that right?

MS NEVILLE: I think that's reasonable insofar as if we are seeking to ascertain if the person's
25 circumstances are urgent, as we've heard from police today, they are very skilled in their call centre operations to determine the urgency of the matter. So we point to the emergency services in the first instance.

MS EASTMAN: In that crisis situation, for example, if police intervene, we have heard today
30 in Tasmania there is an integrated approach and that the police would have a role in referring for various services, be it Health or Housing or otherwise. Does the NDIA have any network in to the police or emergency health services, for example, that, on presentation, the woman or girl is identified as an NDIA participant - NDIS participant, and that there would be some immediate action or support triggered within the NDIA in that acute situation? That would require a link in, would it not, with the local state or territory police service or ambulance service? There's no alert system to connect straight in, is there?
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MS WHEELER: There's no shared - there's no shared data or alert system but what
40 our - certainly our Local Area Coordinators, they're employed by the Agency in a number of locations, and the reason that they're employed is for their established local networks and local links and the relationships that they build. So Local Area Coordinators are absolutely linked in to the right services. They would have established relationships with family violence services, for example, and a whole range of community and mainstream services locally.

45 And that's how generally those responses - if somebody contacted a family violence service and it became apparent that they were an NDIA participant, then we would - what would generally happen is that that service would support them to contact the NDIA and

bring - bring the person who is helping them to implement their plan into the conversations and into the response.

5 MS EASTMAN: Right. There's no NDIA-funded emergency assistance for a woman or girl participant to have support in these crisis or acute situations, is there?

10 MS WHEELER: There's no separate crisis service within the NDIA but part of our response to an acute and a critical situation would be to make immediate support available, and that might include additional personal care supports, if someone has left their home or if a family member or a perpetrator has left their home and they've been relying on that person for informal supports. We can absolutely make very short-term and very immediate changes to the participant's plan very quickly.

15 MS EASTMAN: When you say - sorry, go ahead.

MS NEVILLE: I might just add, if that's okay, to say that although we don't have an emergency management function specifically for this circumstance, we do have an escalations function, and the Escalations staff would perform the duties that Clair referred to earlier.

20 MS EASTMAN: When - Ms Wheeler, you were making reference to that. How long does that take to have that immediate support? Does that occur in 12 to 24 hours of an acute situation?

25 MS WHEELER: Absolutely, it can do. So the escalations framework - and generally in - if there's an acute and critical family violence situation, if there's an immediate risk to the participant, then it would absolutely be a same-day response.

30 MS EASTMAN: How - do you have any data on the same-day response rates? So do you collect data on circumstances where the same-day response has been required and the NDIA has provided that support? How many women in the last, say, financial year have had the benefit of that speedy escalation and support, say, in 12 to 24 hours?

35 MS WHEELER: I don't have that information, but we could follow up to see if it's available.

MS EASTMAN: I don't know if you do keep that information, but if you do, could you let us know?

40 MS NEVILLE: Yes, we will.

45 MS EASTMAN: Right. I think from what we have heard is that the process of having assistance requires the victim of family violence to have to contact the NDIA and ask for a change or an alteration to her plan. And that that may take quite a deal of time. As we understand it, that's not common that the response be in 12 to 24 hours, but it could take a number of weeks. Is that more likely the experience of somebody who was seeking to have specific assistance but would have to make an application to alter her plan?

MS WHEELER: The timing for plan reviews and working through an appropriate response is obviously a case-by-case decision, and we use our risk assessments and our escalations matrix and the approach of working with other agencies at looking at whether there are short-term or medium to longer-term changes that need to be made to the plan.

5 Absolutely, if it's an immediate response that's required, that's available. Sometimes supports need to be put in place over a much, much longer period of time. So it would absolutely be on a case-by-case basis.

MS EASTMAN: All right. Look, my final question just comes back to paragraph 4 of the statement. And you make a reference there to the Applied Principle and Tables of Service. And when we have looked at the particular principles identified there, there is not a stand-alone principle dealing with family or domestic violence. That is right, isn't it?

MS NEVILLE: That's correct. This particular paragraph is referencing the language of the Applied Principles and Table of Supports, which specialist family violence services is included within the child protection and family support service system.

MS EASTMAN: Yes. So we find it in a different area rather than stand-alone. Is that right?

MS NEVILLE: Insofar as the - that's correct, insofar as this particular policy reflects multiple service systems, all service systems with which the NDIS would interact. So it's quite a - I guess a macro policy statement.

MS EASTMAN: I am very conscious of time and I know the Commissioners may have questions. I did want to ask about nominees but thank you for providing a fairly comprehensive overview of the situation of nominees, particularly if the nominees might be engaged in perpetrating violence or abuse. So I thank the panel. Commissioners, you have the more detailed statement. Chair.

30 CHAIR: Yes, thank you very much. Commissioner Galbally, do you have any questions you wish to put to the panel?

COMMISSIONER GALBALLY: No, thank you for your responses and no questions. Thanks.

35 CHAIR: Thank you. Commissioner Mason?

COMMISSIONER MASON: Just one quick question. I am always interested in recruitment and retention of First Nations people in organisations. Just was interested in the numbers of First Nations people working within the NDIA, particularly at a senior level who have responsibility and influence in relation to improvements. I did read previously --

MS NEVILLE: We can provide that on notice. I'm sorry. We don't have that data point with us, but we do measure it.

45 COMMISSIONER MASON: Yes, I did notice previously there was - I can't recall the exact title but around an "Indigenous Champion", words to that effect. I am just interested in that

level of subject matter experts. That would be fantastic. Thank you. And also thank you for giving your evidence today.

MS NEVILLE: Happy to provide that.

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CHAIR: Commissioner Bennett, do you have any questions?

COMMISSIONER BENNETT: I have two questions. Ms Eastman sort of talked about your call centre exchange, you know, often a first point of contact. Do the call centre staff have comprehensive detail on specialised services on a state-by-state basis, and do they have skills and training where they are able to assist, connect that person to that service to provide them with the assistance they might need?

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Is there an updated and current directory? Is there information that is on a state or in a local area basis where they might be? Do they have it at their fingertips the moment someone rings them - rings you, maybe, as a first point of contact?

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MS WHEELER: Absolutely, there's a referral directory that our Contact Centre staff have, and that's continuously updated. So that has the local referral agencies. What is much more likely to happen if that person is a participant of the NDIA, then either their LAC or their Support Coordinator or their Planner would be contacted to support them to contact those services. So it would be - it wouldn't generally be our practice that we would hand out a 1800 number and provide no further support.

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COMMISSIONER BENNETT: And how quick - I've got - how quick is that link from that phone call to the LAC or the Planner?

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MS WHEELER: In the - in a family violence instance, which would be a participant critical incidence, it would be same day.

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COMMISSIONER BENNETT: And did you see the appearance of Ms Lee?

MS WHEELER: Yes.

COMMISSIONER BENNETT: She talked about where her circumstances had changed and her abusing partner had left the relationship, and it took - I think if I have got it right - at least six weeks before her services were changed. And she was very reliant on her child to fill the gap of - which was not funded, but her partner providing some carer support. And I want to go back over what Ms Eastman said, and it is set out in your plan reviews.

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And I am trying to work out, even in the best scenario, how long it takes for someone that is in a crisis situation where their circumstances have changed to actually get - it says up to 14 days to conduct a review, but you have said that they might be prioritised. That is even an agreement to do a review. Then someone does the plan review, and I assume there is approval process of a new plan. And then following that, there would be either funding or services to follow and to be joined up. If you can't comment, I would really like some

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information about how long it's taking to respond to a crisis change of circumstances on average.

5 MS WHEELER: In a situation, again, where there's, you know, an acute and an immediate need and an immediate risk to the participant because either supports are no longer available - and that might be because of the family violence situation or other circumstances - then our planners can make immediate response and that's part of our critical incident framework. So once we've established safety for the participant, then our next step is to look at what immediate support the participant might need.

10 And that might be immediate changes to their plan on the spot, and it might mean that we need to replace informal supports that might have been providing personal care in the home, for example. And that - then there would be a period where we would engage with the right agencies and establish longer term - and sort of medium to longer term plans in terms of home and living situations, support to find additional accommodation or support to bring additional supports into the home. So generally, in an acute situation, we wouldn't wait for 14 days to do a plan review.

15 COMMISSIONER BENNETT: So the capacity is to actually respond immediately if needed?

20 MS WHEELER: That's part of our critical incident framework, yes.

25 MR BENNETT: I might add in addition, there were some changes that have come through in the Bill that was recently passed around plan variations which would enable the Agency to add supports or funding into plans immediately of our own discretion and without the requirement of a full plan, review, which would support the sorts of circumstances that Ms Wheeler is talking about.

30 COMMISSIONER BENNETT: Ms Eastman, is it okay if I ask them to provide information on how many times have you responded to an immediate change? And how - was it immediate or was it a week later or what the timeframes of what "immediate" actually is?

35 MS EASTMAN: Yes, I think I have asked about the 12 to 24 hour. But if there is broader information as well.

COMMISSIONER BENNETT: Yes. I wanted to know how many times has a decision been made to do that and then how quickly were you able to respond to make the changes that were needed.

40 MS EASTMAN: Chair, can I --

CHAIR: I think - I am sorry. I think if we are going to ask for information, that is fine, but I think it should be formalised in a way that --

45 COMMISSIONER BENNETT: I will leave it up to counsel to work out.

CHAIR: So the key point of the questions we are asking, the information that is needed, the time period and so on. It is very difficult to do that, I think, on the run.

COMMISSIONER BENNETT: Okay, thank you.

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MS EASTMAN: Chair, we will do that. I think there is provisions in the directions for that to be done. So we can --

COMMISSIONER BENNETT: Thank you. I will leave that to Senior Counsel to organise.

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CHAIR: Very good. All right. Thank you very much. I just have one question. The thrust of the questioning from Ms Eastman is to the effect that the NDIA doesn't have a lot of specific policies dealing with domestic violence perpetrated on NDIS participants, family violence and so forth. I would like to understand how far, if at all, it is the consequence of the NDIA's perception or understanding of the APTOS principles that has led to these gaps. Would you care to comment on that?

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MS NEVILLE: I'm - I guess I'm - my view would be that the NDIA has been focused on building staff capability on core processes that will address a wide variety of circumstances involving participants who are vulnerable or at risk, and trying to work on those processes, those tools for a wide variety of circumstances. And that's probably where the energy has been going at this time. Less so into, you know, particular circumstances or cohorts. I would put it that way.

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MR BENNETT: If I may add to that , for me --

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CHAIR: Sorry, do I take it from that answer that it is not the APTOS principles that present an obstacle to addressing the issues that Ms Eastman has raised with you; it is really a question of priorities and addressing what the NDIA considers to have been the core issues, and then over a period of time, it will get to other issues such as the ones that have been identified today?

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MS NEVILLE: I would say that, broadly, that is - that is an accurate interpretation. And I would further add that there is another principle - overarching principle over the APTOS which talks about the need for seamless interactions between service systems and a "no wrong door" approach. And the NDIA is progressively working with other governments to put in place governance arrangements that better support their interactions with service systems at that sort of governmental level, if you like.

35

But it's also the case that the Agency recently published our tender - a new tender opportunity or a tender opportunity involving engagement of partners in the community, and within that tender, it makes quite clear that we will be expecting partners to provide more in the way of information and referral and linkage, as was always intended in the original design of the Scheme. And we will be taking back from planners - sorry, rather, taking back from partners responsibilities around building the plan, bringing those back into the business so that partners, who are a key part of our operating model, with able to perform information linkage referral in a more sophisticated way.

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MR BENNETT: And we have, Chair, also -

CHAIR: I think Mr Bennett was wanting to say something.

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MR BENNETT: I was. Just to add to that that we have, albeit briefly in our submission at paragraphs 125 and 126, talked about some of the work that we are doing not specific to family and domestic violence but more broadly looking at participants' safety, which refers to our development of an overarching participant safety policy that will bring all of our existing policies, practices and protocols into one place. And we are committed to doing that work in co-design with the disability community.

10

It reflects a priority that was jointly identified with many of our key stakeholders, with our Independent Advisory Council, and disability representative organisations, including Women with Disability Australia. And we will begin with a series of workshops from May that reach out very broadly to hear from participants, families, carers, other stakeholders about any improvements that can be made in our identification and support of participants who are potentially vulnerable or at risk.

15

And we anticipate a significant gender lens on that process, and we'll be very happy to update the Commission at some future stage as to the progress with that work, which we expect to be concluded by the end of this calendar year.

20

CHAIR: Yes, thank you. I am sure that Ms Eastman will take a note of that and will follow that up in due course. But the message - and I just want to make it clear that I have understood it correctly. The message I would take away from what we have been discussing is that if the Royal Commission were minded to make recommendations about the way in which domestic violence, sexual violence, family violence and the gender lens could be applied to the NDIA, there is no impediment to the implementation of that, from your point of view. It is really just a question of the priorities that the NDIA has adopted, given the need to implement a very big and complex scheme. Have I understood it correctly?

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MS NEVILLE: Yes, agree.

MS EASTMAN: Chair, I've got one further question which arises from Commissioner Bennett's questions. And --

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CHAIR: Yes.

MS EASTMAN: And, for completeness, I would like to put this proposition to the NDIA. It would be possible, would it not, to include a participant service guarantee with clear timelines for victims of family and domestic violence as to when and how they can receive appropriate support. So in the same way you have got timelines presently there, there could be a very specific participant service guarantee for participants who experience domestic and family violence. Do you agree with that? That is possible?

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45

MR BENNETT: Technically possible. I don't think it would be any different than what we currently have in place through our participant critical incident framework and the timeframes for escalation that have been described during the course of our oral evidence today. But - and, obviously, that would be a matter for government rather than for the NDIA.

MS EASTMAN: I accept that. I just wanted to raise that in terms of Commissioner Bennett's questions and my question about the data of the urgent response. Thank you, Chair. That is the --

CHAIR: Thank you. I will just inquire whether the Commonwealth's counsel Ms Morgan has any application to make about asking any further questions. Is Ms Morgan with us?

MS MORGAN: Chair, you should be able to hear and see me now.

CHAIR: I can hear you, but I can't see you. But as long as I can hear you, we can carry on. Now I can see you.

MS MORGAN: Thank you very much for the opportunity, Chair. But there are no questions that I need to ask the panel. Thank you.

CHAIR: Thank you very much, Ms Morgan. And thank you, Ms Wheeler, Ms Neville, and Mr Bennett, for your attendance and for the information you have provided to the Royal Commission. We are grateful to you for your assistance to our work. Thank you.

THE WITNESSES WITHDREW

CHAIR: Ms Eastman, are you proposing that we should take a break now? Or do we proceed with tenders or how would you like to --

MS EASTMAN: Chair, there are the tenders for the NDIA, and I think, Chair, you may have a list. There is a number of documents which starts with the statement of the 2 March. If that could be received into evidence and marked 17.32.1. And then the balance of the --

CHAIR: Sorry, that can be done and then the other documents that are referred to, which actually have the numbers 10 to 19, they can also be admitted into evidence with Exhibit number 17.32.2, through 17.32.11.

EXHIBIT 17.32.1 NDIA, RESPONSE TO GIVE A STATEMENT IN WRITING CTH-NTG-00190

EXHIBIT 17.32.2 NDIA, STANDARD OPERATING PROCEDURE: COMPLETE THE RISK ASSESSMENT TASK (ANNEXURE 1)

EXHIBIT 17.32.3 NDIA, STANDARD OPERATING PROCEDURE: PREPARE FOR THE ONGOING CHECK-IN CONVERSATION (ANNEXURE 2)

EXHIBIT 17.32.4 NDIA, PARTICIPANT CRITICAL INCIDENT FRAMEWORK (ANNEXURE 3)

EXHIBIT 17.32.5 NDIA, PRACTICE GUIDE - PARTICIPANT CRITICAL INCIDENT (ANNEXURE 4)

EXHIBIT 17.32.6 NDIA, PRACTICE GUIDE – ASSISTING COMMUNICATION (ANNEXURE 5)

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EXHIBIT 17.32.7 NDIA, PRACTICE GUIDE – ABORIGINAL AND TORRES STRAIT ISLANDER PLANNING SUPPORT (ANNEXURE 6)

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EXHIBIT 17.32.8 NDIA, STANDARD OPERATING PROCEDURE: ASSIST THE PARTICIPANT WITH THEIR PREFERRED METHOD OF COMMUNICATION (ANNEXURE 7)

EXHIBIT 17.32.9 NDIA, APPOINTING A NOMINEE (ANNEXURE 8)

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EXHIBIT 17.32.10 NDIA, STANDARD OPERATING PROCEDURE: APPOINT A NOMINEE (ANNEXURE 9)

EXHIBIT 17.32.11 NDIA, NOMINEE: CONSIDERATION FOR NOMINEE APPROVAL (ANNEXURE 10)

20 MS EASTMAN: Thank you, Chair. There are some additional tenders which perhaps I can do in chambers in relation to the material in Tender Bundle D.

CHAIR: Certainly.

25 MS EASTMAN: And, Chair, for our part in Hobart, that concludes the evidence. I do not propose to make any closing submissions today other than to say it has been somewhat challenging in Hobart. So we are pleased to have got to this point. But, Chair, there are some directions I would ask you to make.

30 CHAIR: Yes, I have those.

MS EASTMAN: And perhaps if I could ask you to make any closing remarks and to deal with the directions, and we may be able to conclude this hearing without the need for a break and coming back after lunch.

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CHAIR: Yes. As long as my colleagues can manage postponing lunch for another two minutes, I think we can conclude and then the lunch will be even more leisurely than otherwise would be the case.

40 MS EASTMAN: Thank you.

CHAIR: Ms Eastman, as far as you are aware, is there any disagreement with the proposed directions? Have they been distributed to the parties?

45 MS EASTMAN: As far as I am aware, they have been distributed to the parties yesterday and there is no disagreement with the matters. And could I just say, Chair, before you read, that I think our colleagues from the NDIA can be excused.

CHAIR: Yes.

MS EASTMAN: They don't have to listen to this.

5

CHAIR: Yes it appears they have been excused, because they have been removed from the screen. So I assume they - they have gone.

All right. What I will do is read out the directions I propose to make. I will then pause for a moment to see if any party wishes to disagree with any of them and, if not, then they are the directions that can be taken as made for the purposes of concluding the additional work required for the hearing.

10

The proposed directions are as follows:

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1. By 19 April 2022, witnesses who took questions on notice during Part 2 of Public hearing 17 are to provide their answers in writing to the Office of the Solicitor Assisting the Royal Commission. The answers should be targeted and precise and not address additional or unnecessary matters.

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2. Also by 19 April 2022, parties with leave to appear who wish to tender further documents into evidence are to provide those documents to the OSA - that is the Office of the Solicitor Assisting - for consideration by Counsel Assisting the Royal Commission.

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3. By 27 April 2022, Counsel Assisting the Royal Commission will tender any documents into evidence in Public hearing 17, including both Parts 1 and 2, that she considers appropriate.

4. Counsel Assisting the Royal Commission will prepare written submissions following the hearing by 17 June 2022. The OSA will make these written submissions available to parties with leave to appear at the hearing on a confidential basis.

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5. By 15 July 2022, parties with leave to appear in Public hearing 17 who wish to make submissions in response to Counsel Assisting's written submissions are to provide those submissions to the OSA. Any such written submissions should be concise and should not include any additional evidence.

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So I will just pause to see whether any party wishes to object to any of those proposed directions. There does not appear to be any objection. Thank you. In that case, they are the directions that I make and they will appear - no doubt, copies, if they are not already available, will be made available to the parties who have leave to appear.

40

Ms Eastman, you have indicated you don't propose to make any closing remarks?

MS EASTMAN: No, other than, Chair, just to thank all the witnesses who have participated and also to the members and representatives of the advocacy groups who have also had the opportunity to be with us in the hearing room in Hobart. We thank them for their attendance and participation. Thank you.

45

CHAIR: Thank you. I too would, on behalf of the Commissioners, like to thank all of the witnesses who have given evidence at Part 2 of Public hearing 17, but particularly we would like to thank the people with lived experience of disability who have been prepared during this week to share their experiences of family, domestic and sexual violence.

As has, I think, been remarked on more than one occasion, it takes a great deal of courage and determination to describe those experiences in a forum and an environment such as a public hearing of a Royal Commission. And we are extremely grateful to the witnesses who have come forward, been prepared to share their experiences with us and with the community at large.

The evidence, as Ms Eastman, Ms Tarrago, and Ms Fraser frequently pointed out, was often very confronting and very distressing. But that evidence is also exceptionally important. Part of the function of this Royal Commission, the core function, is to provide an opportunity for people with disability who have experienced violence and abuse in all of its forms to bear witness to their experiences.

We hope that this hearing has provided that opportunity to the witnesses from whom we have heard, and we hope that they have been able to do that through their statements, their oral evidence, pre-recorded interviews and, of course, the artworks that, one of which at least, can be seen on the screen right now. We have listened very carefully to those stories. They will play a key part in formulating recommendations to address the policy issues that have been identified during the course of the hearing. And we also hope that the people who have shared their experiences so generously with us have found giving evidence not only to be worthwhile, but perhaps even liberating.

I do want to share on behalf of the Commissioners the comments made by Ms Eastman about the advocacy groups. I have not been involved in the detail of planning the hearing. Others have done that extraordinarily difficult and challenging task. But I am told, and I accept completely, that it would not have been possible without the contributions by advocacy groups such as WWDA, and we are exceptionally grateful also to the contributions they have made to the conduct of this hearing. It is an example of the cooperation and engagement that can take place in a most constructive manner between the Royal Commission and advocacy groups that have a great deal to offer to our work.

It is critical to the work of the Royal Commission, as we have repeatedly said, that all of our engagements with people with disability are trauma-informed. This is particularly the case where people are recounting their own experiences, which are often deeply traumatic. And I want to thank especially the members of the Royal Commission staff who provide support to witnesses of this hearing and to other - of course, so many other people with disability who engage with the Royal Commission. They have done a magnificent job throughout this Royal Commission, and their work is absolutely integral to what we do, and they have our thanks, and I'm sure they have the thanks of people who have given evidence at this hearing.

As has been noted as we have gone along, this hearing, unfortunately, like a number of others, has had its challenges because of the disruptions caused by COVID-19. I don't - I won't go into the details. I just want to say that, again, the staff of the Royal Commission and Law in Order, which was affected by the pandemic, have done an outstanding job in
5 allowing us to continue with this hearing. It was very close, I think, to getting to the point where we might have had to postpone, and that would have been exceedingly unfortunate, to say the least, and I do want to express our appreciation for the very flexible, very innovative and very constructive ways in which those who were faced with the challenge has responded and allowed the hearing to take place.

10 Finally, to all others who have been involved in preparing for this hearing, it cannot be said too often just how much goes into the preparation of the hearing such as this. It is a major, major effort on the part of Counsel Assisting, on the part of the Office of Solicitor Assisting, policy people, and all others who were involved in organising the hearing from beginning to
15 end and dealing with the multitude of problems that arise, we thank them. We thank the interpreters for their excellent work. We thank those who are responsible for real time transcript, and everybody else who has contributed to this hearing.

20 Because of the nature of the subject matter, I am just going to ask our - the Commissioners who have been sitting if there is anything that they would like to add, particularly to the people with lived experiences who have given evidence. And I will ask Commissioner Galbally if you would like to start, if there is anything you would like to add to what I have said.

25 COMMISSIONER GALBALLY: Well, I would like to endorse what you have said and add my thanks very deeply to all of the witnesses with lived experience especially, but also to the DROs and WWDA and - you know, for assisting us so, so deeply in putting this together. And thanks also to all of the Commission staff. I think it was incredibly adaptive, and I have
30 never seen anything like it, really, the way people were able to be so quick-footed around, you know, quite deep challenges. So thank you very much, everybody.

CHAIR: Thank you, Commissioner Galbally. Commissioner Mason, is there anything you would like to add?

35 COMMISSIONER MASON: Yes, just echoing the thanks that you have given, Chair, as well as Commissioner Galbally. And particularly I want to express my thanks to WWDA and WWILD and all the organisations as well as the lived experience witnesses and advocates and everyone who came. It has given a really broad cross-section of the multi-layers of
40 experiences of women and girls with disability, and I am most grateful.

45 And I also echo conversations during the very difficult time during the week in keeping the hearing in place so that we could really have that fulsome evidence provided to the Royal Commission. And from my experiences with women's law is that the strength of working with a kind heart and kindness is critical to - not only to this work but also to living in this country with so many multi-layers of history and experiences and people coming from all corners of the earth that live here. And those stories were heard this week as well. So I just want to say a big thank you to everyone for their sterling work this week. Thank you.

CHAIR: Thank you. Commissioner Bennett, would you like to add anything?

5 COMMISSIONER BENNETT: Yes, I would like to add what a privilege it was and humbling to meet the women who had the courage to come and talk to us and tell us their experiences and to see the trust that they had in our staff and the support for them to be able to feel safe to share those experiences. I thank them deeply.

10 CHAIR: Thank you, Commissioner Bennett. That concludes this hearing. The next hearing will be Public hearing 22. I appreciate that is not sequential from Public hearing 17 but that is because we have had Public hearing 18, 19, 20 and 21. Public hearing 22 will deal with the experiences of people with disability working in Australian Disability Enterprises. That hearing will take place from Monday, 11 April 2022, to Wednesday 13 April 2022. And that will be a virtual hearing primarily conducted from Sydney. Thank you, everyone, again. We
15 will now adjourn.

ADJOURNED 2:00 pm.

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