

CHILD SAFETY COMMISSION OF INQUIRY

Harry Gibbs Commonwealth Law Courts Building,
119 North Quay, Brisbane

On Monday, 13 April 2026 at 10.00am

Before: Mr Paul Anastassiou KC, Commissioner

Counsel Assisting: Mr Tom Diaz
Mr Joshua Forrest

1 COMMISSIONER: Mr Hastie.

2

3 MR HASTIE: May it please the Commissioner, I call
4 Hanelie Lategan.

5

6 COMMISSIONER: Yes.

7

8 **<HANELIE LATEGAN, SWORN** [10.00 am]

9

10 COMMISSIONER: Thank you, Ms Lategan. Take a seat.

11

12 **<EXAMINATION BY MR HASTIE**

13

14 MR HASTIE: Your Honour name is Hanelie Lategan?

15 A. Yes, that's correct.

16

17 Q. Your the Chief Procurement Officer with the
18 department?

19 A. Yes, I am the Chief Procurement Officer.

20

21 Q. And you have been that since January 2025?

22 A. That's correct.

23

24 Q. And you've prepared a statement in response to a
25 notice dated 30 March 2026?

26 A. Yes, I did.

27

28 Q. And in that statement you referred briefly to some of
29 your experience. You've also prepared a resume?

30 A. I have.

31

32 MR HASTIE: Commissioner, we'll have to tender that later,
33 if that's permissible.

34

35 COMMISSIONER: Yes, that's fine.

36

37 MR HASTIE: That's the evidence-in-chief of this witness.

38

39 COMMISSIONER: Thank you. Yes.

40

41 **<EXAMINATION BY MR DIAZ** [10.01 am]

42

43 MR DIAZ: Good morning, Ms Lategan.

44 A. Good morning.

45

46 Q. If you could begin by going to tab 3 of the bundle
47 called the reasonable excuse bundle, and in particular if

1 you go to page 59.

2

3 COMMISSIONER: Mr Diaz, was this bundle tendered? I can't
4 recall.

5

6 MR DIAZ: Yes, I believe it was on Friday, off the top of
7 my head. I'm sure your associate will assist you, but
8 I think it's --

9

10 COMMISSIONER: That's all right.

11

12 MR DIAZ: Yes. Now, in your witness statement, and this
13 appears a little bit later on commencing at paragraph 32,
14 you provide some contextual information about the unique
15 procurement environment in which the department operates;
16 do you recall that?

17 A. Yes, I do.

18

19 Q. And you mention, for instance, that there's an
20 increasing demand for placements, including for children
21 and young people with complex needs; you see that at 32?

22 A. Yes.

23

24 Q. And then at 33 you also mention that there are some
25 constraints with provider capacity and workforce
26 availability?

27 A. Yep, that's correct.

28

29 Q. And together these factors affect procurement, timing,
30 pricing and responsiveness of the department; is that
31 right?

32 A. Yes, that's correct.

33

34 Q. Now, as I apprehend it from your witness statement,
35 there's perhaps a further contextual element which emerges
36 as relevant to the procurement environment in which the
37 department operates, and that's what I think is described
38 in your statement as the decentralised model of
39 procurement?

40 A. Yes.

41

42 Q. Could you explain to the Commissioner what you mean by
43 that expression?

44 A. Sure. So we have lots of people in the regions, which
45 I call the superheroes because they've got split roles.
46 They are performing procurement activities, they obtain
47 quotes from the market, they reconcile invoices and do

1 payments for invoices, and they also work closely with
2 young people and children.

3
4 Q. And I just want to tease this out a little bit more.
5 So would it be the same individual that is responsible,
6 firstly, for finding a suitable provider for a child?

7 A. Yes, that's correct.

8
9 Q. And that same individual enters into the contract with
10 the provider?

11 A. Yes, that's correct. Of course, these are delegated
12 authority approvals for finance. But, yes, it's the same
13 administration person that will be obtaining the quotation,
14 contacting the provider, reviewing the application and then
15 submitting that to the financial delegate for approval, and
16 if it is over 5 million that will come to Procurement
17 Services for review and for procurement delegate authority
18 approval.

19
20 Q. And is that \$5 million in total or \$5 million per
21 year?

22 A. That's - that is supposed to be whole-of-life cost.

23
24 Q. Whole-of-life?

25 A. Yep.

26
27 Q. And what position title does someone that is engaged
28 in these various roles hold?

29 A. Various position titles. They are normally
30 administration officers under the administration award for
31 government. But, depending on the timing and, you know,
32 the day of the week, it can be a service centre manager as
33 well or an administration officer.

34
35 Q. Yes. And you mention in your witness statement that
36 this decentralised model contributes to variability in
37 documentation, market engagement, approval practice,
38 contract administration and the application of procurement
39 processes; is that right?

40 A. Yes, that's correct.

41
42 Q. And that in your view the people you've described this
43 morning as superheroes are often required to balance
44 various operational responsibilities with their
45 procurement, contracting and contract management tasks?

46 A. Yes, that's correct.

47

1 Q. I wanted to ask you do you have any views about
2 whether it would be feasible for these contract management
3 and procurement management practices to be managed
4 centrally within Corporate Services - if you will, head
5 office at the department - taking some of the burden away
6 from the regions?

7 A. Yes, it is possible. Of course, you know, we will
8 need to get more resources to do that.

9

10 Q. You mean you would need more resources at head office?

11 A. At a central level, yes, that's correct.

12

13 Q. And do you know whether any consideration has been
14 given to such a proposal?

15 A. I'm not aware of it.

16

17 Q. And could you speak to whether you would anticipate
18 that those functions being centralised within central
19 office might pose any difficulties or inefficiencies in the
20 process?

21 A. It's a very good question, Tom, but I don't see any
22 problems with it. Of course we will have to collaborate
23 closely with the regions. We do - Procurement Services do
24 have a very good relationship with our regions, and I'm
25 sure we are on speed dial for all of them. But I don't see
26 any problems.

27

28 Q. Yes. Now, shortly before where we began with your
29 witness statement you explain what I will describe as the
30 usual procurement process for an IPS agreement, and that
31 commences, to help orient you, at paragraph 23. Before
32 I ask you some questions about that procurement process
33 I want to first confirm my understanding of the process is
34 correct and ask you some questions iteratively about that
35 process as we go through it.

36 A. Sure.

37

38 Q. So the first step, as I understand it, is that the
39 department issues a request for quote, and that details the
40 specifics of the care package required for the child, and
41 again to further assist with orienting this topic, if you
42 go to volume 3 of the master bundle and in particular
43 behind tab 132. So that's commencing at page 2517. I see
44 that you have that now. In substance, the request for
45 quote form includes a few sections, firstly some details
46 about the child or young person requiring a placement, and
47 those are identifying details such as the person's name and

1 the level of complexity. You then have a section entitled
2 "Requirements", which seems like there's considerable
3 latitude, but in substance it identifies the dates required
4 for the placement, the preferred staffing model, allowable
5 contingencies, additional staff hours and the like. Then
6 you have a section entitled "Outcomes", or "Child outcomes"
7 specifically. That seems to specify the specific
8 activities and services the department is seeking to
9 procure or purchase as part of the child's package. And
10 lastly a section entitled "Conditions", which outlines at
11 least in high level or general terms the requirements
12 suppliers are required to meet and identifies the
13 contractual arrangement which is governed by the standard
14 form individual placement and support agreement that we'll
15 come to.

16
17 Now, I just want to ask you some questions about this
18 particular request for quote form. How does it occur in
19 practice - and I appreciate there might be some regional
20 variability so you might have to speak to different
21 instances in different regions, but how does it occur in
22 practice that this form is sent out?

23 A. From the current state analysis it's - they first make
24 a phone call to the supplier and then they sent it out via
25 email.

26
27 Q. So it may not necessarily be an open tender; it might
28 be that --

29 A. No.

30
31 Q. -- they contact specific providers?

32 A. Yes. Yes, they do.

33
34 Q. And, to your understanding, is the decision to contact
35 specific providers informed by information that the regions
36 might have as to which providers have available placements?

37 A. That's my understanding, yes.

38
39 Q. And I think you comment in your current state
40 analysis - we'll come to it in due course - that often the
41 request for quote form is only sent to one or perhaps two
42 providers; is that right?

43 A. That's correct, yes.

44
45 Q. Now, the second step in the procurement process after
46 the request for quote form is issued - this is now at your
47 witness statement at paragraph 25, back behind tab 3 of

1 the reasonable excuse bundle, but do keep volume 3 handy as
2 we'll return to it. The second step is that the service
3 provider provides a quote for the proposed care package and
4 a pricing schedule to the department?

5 A. Yep.

6
7 Q. And I don't need to take you specifically to those
8 documents, but I just note for the transcript that an
9 example of the supplier response is behind tab 133 of
10 the master tender bundle, and an example of the pricing
11 schedule is behind tab 131 of the master tender bundle.
12 Now, after receiving the proposed quote from the provider
13 it's said in your witness statement that the department
14 then assesses the response and the pricing schedule as
15 against two things: firstly, the requested and approved
16 model of care and, secondly, the benchmarks in the IPS
17 supply guidelines. Now, if we could just go to those IPS
18 supply guidelines - unfortunately you'll have to go to a
19 different volume of the master tender bundle to find those,
20 but that's behind tab 36, volume 1. Do you have that,
21 Ms Lategan?

22 A. Yes, I've got it.

23
24 Q. Firstly, I should confirm am I right to understand
25 that those are the two criteria against which the quote is
26 assessed?

27 A. Yes.

28
29 Q. Yes. And it looks like in particular - if you go to
30 page 495 and following you'll see a heading that starts
31 "Pricing schedule", and following that, particularly
32 starting on pages - or page 496 you see there's an
33 assessment of salary and wages, and overleaf on 497 an
34 assessment of operational costs. And am I right to
35 understand that that is the benchmark pricing that is used
36 by someone evaluating a quote from a supplier in assessing
37 whether the department is obtaining value for money?

38 A. Yes, that's my understanding.

39
40 Q. And I think you mention at paragraph 26 of your
41 witness statement that Procurement then reviews the
42 documentation as against the IPS business rules and
43 relevant financial delegations before the arrangement is
44 finalised. Does that mean that Procurement - that is
45 Procurement within central office - reviews every
46 individual engagement?

47 A. No. We only see - what I've discovered in my current

1 state analysis is that the regions reviewed everything
2 under 3 million. So we only see the ones going to our
3 Director-General.

4
5 Q. Which are in excess of 3 million?

6 A. Yes, over 5 mill.

7
8 Q. 5 million did, did you say?

9 A. Yeah.

10
11 Q. Yes.

12 A. Whole-of-life cost.

13
14 Q. I may have misheard you, but I thought I heard you say
15 that the regions review everything under 3 million, but did
16 you in fact say 5 million?

17 A. There's another step in between if - it can also go to
18 the Deputy Director-General between 3 mill and 5 mill.

19
20 Q. And that's the Deputy Director-General of which?

21 A. Commissioning.

22
23 Q. Of Commissioning?

24 A. So it's all linked to the organisation's delegation
25 framework, the financial delegation framework. It is
26 linked to those levels.

27
28 Q. So am I right to understand that we have three
29 categories: those contracts of less than \$3 million on a
30 whole-of-contract basis?

31 A. Yes.

32
33 Q. Those do not go to anyone within central office for a
34 further approval?

35 A. No.

36
37 Q. Then there are those contracts that fall within
38 3 million to 5 million?

39 A. Yep.

40
41 Q. Those would ordinarily go to the DGG of Commissioning?

42 A. Yes.

43
44 Q. And then those in excess of 5 million, those go to
45 whom?

46 A. The Director-General.

47

1 Q. The Director-General. And am I right to understand
2 that that process of secondary review, that only occurs
3 some time after the child is already placed with a
4 provider?

5 A. It depends on the urgency. So before I started, yes,
6 it was always my understanding after, from my current state
7 analysis. We have since worked with our regions and we are
8 now trying to - before we place the child try to see those.
9 But it's, unfortunately, some instances emergency
10 procurement, so we don't always see them in time.

11
12 COMMISSIONER: Can I ask does each IPS contract - is it a
13 single contract for each child or are there multiple
14 children to which the contract relates?

15 A. It depends. If it's a sibling group, we do it in one.
16

17 COMMISSIONER: If it's a sibling group, yes.

18 A. Yes. But otherwise it's individual per child
19 contracts. It's a fee-for-service contract for that
20 specific child or young person.

21
22 COMMISSIONER: So take the case of an individual child,
23 there's an individual contract. Over how many years does
24 the contract endure to reach a sum of money at \$5 million
25 or above?

26 A. That's a very good question.
27

28 COMMISSIONER: Thank you.

29 A. The IPS business rules talk about six months.
30

31 COMMISSIONER: How many?

32 A. Six months process and then we should review that
33 contract. That's not happening in practice. I've seen
34 some that's close to five years.

35
36 COMMISSIONER: Yes, but - all right. If the contract
37 relates to a single child and the aggregate contract sum
38 expected to be paid under that contract is at or above
39 \$5 million, are you able to tell me approximately how many
40 years the contract is expected to continue for subject to
41 review as it occurs or doesn't occur during that period?

42 A. It depends. If there's, you know, the needs of the
43 child and if there's space in OSD, it can go on for years,
44 I've seen with my reviews.

45
46 COMMISSIONER: Years. How many years?

47 A. Difficult to say without looking at one specifically,

1 but from memory I've seen some that's more than five years,
2 six years, seven years.

3

4 COMMISSIONER: Yes. So you're contracting on an IPS basis
5 for five to seven years?

6

A. Yes.

7

8 COMMISSIONER: In that circumstance is consideration given
9 to instead coming to an arrangement using the OSD funding
10 model?

11

A. Agreed.

12

13 COMMISSIONER: Well, is that considered as an alternative?

14

A. The recommendation from Procurement Services is to
15 consider that, but I'm not or we are not responsible for
16 commissioning space. It's - the placement of our children
17 and young children is part of their role.

18

19 COMMISSIONER: So coming back to my example of a contract
20 for a single child under the IPS funding model, if the
21 contract reaches the sum of \$5 million over five years,
22 that would amount to an annual sum of a million dollars,
23 would it not?

24

A. Yes, that's correct.

25

26 COMMISSIONER: And is that commonplace in your experience
27 in the procurement of IPS-funded places, that sum of money,
28 I mean?

29

A. Yes, I've seen various between, I would say, 500 and
30 1.2 million.

31

32 COMMISSIONER: Yes.

33

A. Depending on the complexity and the behavioural
34 issues, and the needs of one of the children or young
35 people.

36

37 COMMISSIONER: All right. Thank you. Mr Diaz.

38

39 MR DIAZ: And where we left off before the Commissioner
40 asked you a series of questions you were explaining that
41 increasingly where possible you're seeking to ensure that
42 there's a secondary layer of approval before a child is
43 placed with a provider?

44

A. Yes, that's correct.

45

46 Q. And presumably that's because once a child is placed
47 with a provider there's a tendency to want to keep the

1 child in that placement, for understandable reasons, so as
2 not to disrupt their living arrangements and the like?

3 A. Yes, that's one of the reasons, but it is about
4 procurement delegate authority and it's about determining
5 if it's value for money and, you know, all the other things
6 that we look at, the human rights assessment, as an
7 example, following the organisation's procurement policy,
8 following the Queensland procurement policy 26, the supply
9 code of conduct, and all those various things that we look
10 at.

11
12 Q. Yes. So does that mean that, if a child was placed
13 with a particular provider for let's just say
14 hypothetically a month and then Procurement only then had
15 an opportunity to review the contract and determine that it
16 wasn't good value for money, that child may need to be
17 placed with a different provider?

18 A. No, I haven't seen any of those in my very short time
19 at the organisation.

20
21 Q. Yes. Now, just coming back to the process, I think
22 we're at the final step. So the request for quote has been
23 issued. You've received the supplier's response along with
24 their pricing schedule. There's been consideration of that
25 against the two criteria I mentioned. Assuming all of that
26 has gone through successfully, you then arrive at the
27 process where the department executes with the supplier a
28 standard form version of the IPS agreement; is that right?

29 A. Once we do our recommendation it will go to the
30 financial delegate for approval. Depending on the value of
31 the contract, it can go to the Deputy Director-General of
32 Commissioning or the Director-General. They are ultimately
33 the delegate making the final decision based on our
34 recommendations.

35
36 Q. Yes. So I think what you're explaining to me is
37 there's perhaps an intermediate step. So before we get to
38 executing the contract we first need formal approval?

39 A. Yes, that's correct.

40
41 Q. And, assuming formal approval has been obtained, you
42 then come to the point of executing standard form
43 agreement?

44 A. That's correct.

45
46 Q. And am I right to understand that that agreement
47 includes each of the aforementioned documents as well as

1 the standard form agreement?

2 A. Yes.

3

4 Q. And if I could ask you to take up - you perhaps still
5 have a copy of it in front of you - volume 3, in particular
6 at tab 136 of the master bundle?

7 A. I'll just close this one first. Can you just repeat
8 that, please?

9

10 Q. Of course, Ms Lategan. That's volume 3, tab 136 of
11 the master tender bundle, and you'll see that document
12 commencing at 2543.

13 A. Yes.

14

15 Q. And so this is a version or a standard form version of
16 the IPS agreement, and you'll see from the bottom of the
17 page that it's dated July 2025?

18 A. That's correct.

19

20 Q. And is this what you understand to be the latest form
21 of the standard form agreement?

22 A. Yes, this is the one published on our intranet.

23

24 Q. Yes. All right. We'll come back to that agreement
25 and different aspects of it. So perhaps if you could keep
26 that tab handy. Having set out that process I want to ask
27 you a series of questions about the procurement process,
28 and you've already alluded to this through some of the
29 evidence you've given this morning, but at paragraph 39 of
30 your witness statement you explain that you undertook a
31 current state analysis of IPS procurement contracting and
32 operational practices across the department; is that right?

33 A. Yes, that's correct.

34

35 Q. And am I right to understand that the findings of that
36 review are documented at tab 4 of the reasonable excuse
37 bundle? That will be the smaller bundle you have.

38 A. Yes, that's correct.

39

40 Q. And could you explain to the Commissioner the process
41 you followed to identify and collate the findings in this
42 quite detailed memorandum?

43 A. Sure. So I was asked or tasked by the Deputy
44 Director-General, Commissioning to do a review, to do a
45 full review of the IPS business rules, and I've met with
46 several people in the regions, every region actually, to
47 understand the processes. We've set up a working group as

1 well with representatives across the region, and we've
2 asked them lots of questions, or I've asked them lots of
3 questions. I've mapped out the process to understand who's
4 doing what, the risks and just the general process from
5 start to finish.

6
7 Q. Yes.

8 A. And that was all summarised in a document. This
9 document or the current state analysis document was sent to
10 our IPOGG members - I do apologise, I can't remember the
11 full name of the IPOGG members; they are basically regional
12 executive directors from our regions working in the space -
13 for them also to review and to provide their input.

14
15 Q. Yes, I see. And I understand you also provided the
16 findings to the Chief Finance Officer and Deputy
17 Director-General of Commissioning?

18 A. That's - that's correct, yes.

19
20 Q. And that was in around December 25?

21 A. Yes.

22
23 Q. Okay. I'm going to ask you about some of the
24 different findings within this memorandum, and if we could
25 perhaps start under heading 2, "Intake, triage and demand",
26 and specifically 2.2. So you explain there that the
27 process for exhausting alternative placement arrangements
28 before considering an IPS agreement vary significantly?

29 A. Yes.

30
31 Q. And you say that some regions use twice-daily mass
32 emails, whereas others use teleconferences or one-off
33 checks?

34 A. That's correct.

35
36 Q. And, to your knowledge, does the department provide
37 any guidance for its staff in the regions as to how someone
38 would satisfy themselves that there are no alternative
39 available placements before pursuing an IPS agreement?

40 A. I'm not aware of that.

41
42 Q. And in your discussions with various stakeholders from
43 the regions did anyone at that point raise a concern about
44 the lack of guidance that they may have available to them
45 or not available to them?

46 A. Yes, they did.

47

1 Q. Yes.

2 A. Yes.

3

4 Q. And from a procurement perspective does that raise any
5 concerns for you that prior to pursuing an IPS arrangement
6 regions may not be adequately satisfying themselves that
7 there aren't some other alternative placements?

8 A. Yes. The way that I'm looking at it, if I look at the
9 principles of the Queensland procurement policy and also
10 our organisation's policy, we always want to make sure we
11 give suppliers a fair and equal opportunity, and that we
12 get value for money. So if we sometimes only approach one
13 supplier without doing full market analysis then I'm not
14 sure that we meet that principle.

15

16 Q. Yes. And moving through this memorandum there's a
17 heading that begins at the bottom of the same page "Market
18 approach and provider engagement", but in substance it
19 commences on page 2 of your memorandum, and I want to focus
20 specifically on paragraph 3.2. This is something we've
21 already touched on but you note that regions often only
22 receive one to two viable responses?

23 A. Yep, that's correct.

24

25 Q. And that providers might be selective in their
26 responses depending on how it suits their particular
27 staffing availability and business need?

28 A. Yep.

29

30 Q. Are you able to say how common it is for the
31 department at least in approximate terms to only receive
32 one or two viable responses to a request for quote?

33 A. I can't put my hand on my heart and say exactly how
34 many because we are not - as part of our review and
35 approval process we do not ask that. But from the current
36 state analysis and the conversations I had it was explained
37 to me that it's quite often and common to receive one or
38 two.

39

40 Q. And does this not suggest to you that there's perhaps
41 insufficient market supply in those particular areas, which
42 means that the department is often unable to extract value
43 for money on those contracts because if it only has one or
44 two options to choose from I presume there's very little
45 room for negotiation?

46 A. I think it's going to be unfair for me to say yes for
47 that because each and every - we assess each and every

1 proposal for value for money. So there might be one
2 supplier or two suppliers in a region but they might be
3 providing value for money.

4
5 Q. Yes. And there's just some background noise,
6 Ms Lategan, so if I could ask just for you to keep your
7 voice up to make sure that I can hear you and also for the
8 transcript?

9 A. Sure.

10
11 Q. Thank you. Now, moving through your memorandum, at
12 paragraph 6 you come to discuss costing, pricing and
13 benchmarks?

14 A. Yes.

15
16 Q. And in particular at paragraph 6.1 you note that
17 benchmarking prices are outdated - this is something we've
18 already seen in the evidence - and apparently different
19 regions have created their own benchmarking. Are you able
20 to speak at all to what you saw or observed in terms of
21 regional variation on benchmark pricing?

22 A. Yeah, like I said, it's not been updated since 2022,
23 and they created their own Excel spreadsheets to try and
24 help form some sort of informed decision, some sort of
25 benchmark, and their benchmark tables are based on the
26 quotes they obtained in their regions.

27
28 Q. Yes. And were those spreadsheets shared with central
29 office?

30 A. No. And also not with each other.

31
32 Q. Also not?

33 A. Also not across regions.

34
35 Q. Yes. And are you able to explain to the Commissioner
36 whether there's any initiative currently underway to update
37 the benchmark pricing in the IPS business rules or, for
38 that matter, in the supply guidelines?

39 A. Yes, that's my understanding. In my witness statement
40 I've requested access to that a couple of times and it's my
41 understanding it's work in progress.

42
43 Q. Yes. And presumably it raises concerns for you that
44 the regions are operating in a procurement environment in
45 which they either have insufficient, outdated or variable
46 guidance?

47 A. I think so because it is - you know, for people

1 qualified in procurement we love what we do. But imagine
2 people in the regions, that's not their core business. For
3 them it's hard. We - I often say procurement people live
4 in their own world, they use words that no-one else
5 understands. I'm the first one to acknowledge that. But
6 it is very hard, and you, yourself, you're a lawyer,
7 imagine you have to deal - you need to diagnose a patient.
8 It's a complete different area of principle and work to
9 operate in. So it's hard work for them, difficult to
10 understand

11
12 Q. Yes. And --

13
14 COMMISSIONER: Can I ask, Ms Lategan, did your review of
15 the IPS business rules include a review of the supply
16 constraints that applied to the market and in particular
17 supply constraints on a regional basis?

18 A. I didn't get to that point yet.

19
20 COMMISSIONER: No.

21 A. Yeah.

22
23 COMMISSIONER: But do you agree that the depth of
24 the market in terms of supply, its competitiveness on the
25 supply side, has a significant bearing upon price for
26 services?

27 A. Yes. Yes, I agree with that statement.

28
29 COMMISSIONER: So how does one review the pricing
30 structure without taking into account on a region-by-region
31 basis the conjunction of demand and supply that generally
32 as a matter of economic law produces price?

33 A. Yeah, in my witness statement I do mention that I'm
34 not familiar with the methodology that they follow and that
35 they are looking at with this benchmarking of the
36 pricing --

37
38 COMMISSIONER: Who's they? Who's they?

39 A. Commissioning area.

40
41 COMMISSIONER: Yes. All right.

42 A. Yeah. So I'm not familiar with that. But I know they
43 are looking at the way that you describe it. They are
44 looking at the different regions, the supply constraints at
45 a high level. But I haven't seen it myself, so I can't
46 honestly say what I've observed.

47

1 COMMISSIONER: Yes. Thank you. Yes.

2

3 MR DIAZ: And this trifecta of guidance, which is either
4 non-existent, inconsistent or outdated, you explain at
5 paragraph 6.5 that that has the consequence of a high risk
6 of overpayment or inequity, by which I take to mean a
7 degree of inconsistency across pricing in the regions; is
8 that right?

9 A. Yes, that's correct.

10

11 Q. And you mentioned that, as far as you're aware,
12 updating that guidance remains a work in progress. Again,
13 is it not a concern for you that, in circumstances where
14 the department is procuring something like half a billion
15 dollars in services under IPS agreements, having this
16 updated should be a matter of considerable priority?

17 A. Yes.

18

19 Q. You agree that it should be a matter of considerable
20 priority?

21 A. Yes.

22

23 Q. And just at paragraph 6.2, so moving slightly back,
24 one of the aspects of variability that you identify
25 concerns the application of the SCHADS award, and I think
26 you mention there - it's somewhat in shorthand, but
27 I understand from the reference in brackets at the first
28 dot point that you're seeing rates of - award rates of 5.2,
29 5.4, 5.5 and above for some contracts; is that right?

30 A. Yes, that's correct.

31

32 Q. And you also mention there that you're seeing mixed
33 costs for training and development, motor vehicle and other
34 such expenses?

35 A. M'hmm.

36

37 Q. Now, can I take you to again volume 3 - I think you
38 may still have that in front of you - tab 79, and this
39 commences at 1895. What you'll see is a report authored by
40 KPMG for the Commission of Inquiry entitled "Financial
41 review of non-family-based residential care"; do you see
42 that?

43 A. Yes.

44

45 Q. Have you seen this report before, Ms Lategan?

46 A. I've seen it in court last week.

47

1 Q. Yes. You've seen it during the course of the current
2 hearing?
3 A. Yes.
4
5 Q. Yes. And I just want to ask you about a couple of
6 aspects of this report, in particular at 1902. You'll see
7 at paragraph ES.17 that KPMG observes the key driver of
8 profitability for providers is labour inputs?
9 A. M'hmm.
10
11 Q. And they also observe that once those costs are agreed
12 they tend not to be revised down in subsequent quotations?
13 A. Yes.
14
15 Q. Do you agree with me that, at least based on your
16 experience, labour costs are the most significant input
17 cost for providers?
18 A. Yes, it's one part of it, I would say, yep.
19
20 Q. One part?
21 A. Yep.
22
23 Q. So you don't necessarily think it's the most
24 significant cost?
25 A. I think it's - yes, let's say it is significant, yeah.
26
27 Q. I see. Did you say you think it is significant?
28 A. Yes.
29
30 Q. But not necessarily the most significant?
31 A. I think it's the most significant, but it's - there's
32 many parts going into the pricing, from my limited
33 observations, and I do not understand the pricing
34 methodology that the organisation follow, but, yes, I agree
35 with that.
36
37 Q. Are you able to comment on whether in your experience
38 labour is often a component that drives profitability for
39 providers?
40 A. Yes.
41
42 Q. It does?
43 A. Yep.
44
45 Q. And are you able to comment on the observation in the
46 KPMG report that once a rate is set it often tends not to
47 be revised down?

1 A. Yeah, can confirm that.

2

3 Q. That's also your experience?

4 A. Yeah. In my year at the organisation, yes.

5

6 Q. Yes. I note for the benefit of the Commissioner that
7 Ms Lategan has been at the department since around January
8 25.

9

10 And if you go back to the KPMG report, and this is - you'll
11 have to flick forward quite a number of pages to 1943.
12 When you have that you'll see that this is some of the key
13 findings from KPMG's report based on an analysis of a
14 cross-section of 20 particular providers?

15 A. M'hmm.

16

17 Q. And finding 1, one of the observations there is that
18 labour costs in IPS pricing schedules are often higher than
19 the amounts paid to their staff, and that this has the
20 effect of increasing providers' profit margins in two ways:
21 not only because they're making a margin on the labour
22 costs, but because the guidance in the supplier guidelines
23 and the IPS business rules ties organisation and
24 administration costs to the calculation of staff costs; is
25 that something you're familiar with?

26 A. Yes.

27

28 Q. And is it also something that you've observed, in
29 paragraph 6.2 of your memorandum, that these are often
30 award rates much higher than the minimum award rate payable
31 for staff?

32 A. Yes.

33

34 Q. Now, turning back to your memorandum, which you'll
35 have in the reasonable excuse bundle behind tab 4, and
36 I want to ask you about the finding at paragraph 6.4, you
37 say there that negotiation is mostly explanatory, not
38 assertive. Am I right to infer from that description that
39 it's not really a negotiation at all or what at least one
40 would ordinarily understand to be a negotiation?

41 A. Yes.

42

43 Q. And if we could just unpack that a little bit. It
44 seems that staff might be seeking to ask questions to
45 understand why the cost is high but they really have
46 little, to no negotiating or bargaining power; is that
47 right?

1 A. That's correct, yes.
2
3 Q. And is that because of the matters that I took you to
4 right at the outset of this morning about the particular
5 characteristics of the procurement environment?
6 A. I would say it's a combination of what we discussed
7 this morning, and also skills and experience. Again, to
8 negotiate you need to have certain skills, technical
9 skills, soft skills. I'm not saying our superheroes don't
10 have soft skills, but, you know, it's a complete different
11 skill to have to negotiate.
12
13 Q. Yes. We'll come back in due course to the topic of
14 staff training and whether they're adequately equipped with
15 those skills, but I understand from your answer that you
16 say it's not simply something that's a consequence of the
17 environment; there's also steps that the department could
18 be taking to better upskill the staff for negotiating
19 contracts?
20 A. Yes, that's correct.
21
22 Q. Now, there's just a couple more aspects of your
23 memorandum which I would like to take you to, if you'll be
24 patient with me. The next one concerns contracting and
25 document execution, in particular the findings at
26 paragraphs 7.1 to 7.3. This is something we've already
27 touched on to some extent. You mention that contracts
28 often aren't executed until well after a child has been
29 placed with a provider?
30 A. Yep.
31
32 Q. You also mention there that different regions use
33 different template contracts. Could you explain what you
34 mean by that?
35 A. Yeah. I've noticed they use different versions of the
36 IPS fee-for-service agreement.
37
38 Q. And are you aware - is that different versions that
39 have been published by the department over time?
40 A. Yes, that's correct.
41
42 Q. Are you aware of any regions making bespoke amendments
43 to those agreements?
44 A. No.
45
46 Q. No. And one of the other aspects you mention under
47 the contracting and document execution issues is that

1 providers often treat emails as approval instruments?

2 A. Yes, that's correct.

3

4 Q. And presumably by that you mean that a provider would
5 take the view that, if they've sent an email requesting,
6 for instance, a change of the model of care and then they
7 subsequently seek payment for that change in model, they
8 would regard the email as sufficient proof to obtain
9 payment?

10 A. Yes, and also before the contract formally was
11 executed. It might take - like I mentioned under 7.1, it
12 can take up to six - between six and eight weeks, sometimes
13 shorter, but they take the email as the agreement.

14

15 Q. Yes, I understand. And would you agree with me that
16 that poses considerable legal and operational risk because
17 the department can't in those circumstances where it
18 doesn't have an agreement in place avail itself of
19 the usual contractual rights that it would otherwise have
20 under the agreement?

21 A. Yes.

22

23 Q. Is there any reason why providers couldn't be
24 pre-contracted - that's my language - or, as it were,
25 signed up to some sort of standard terms and conditions in
26 advance of entering into any child placement?

27 A. Yes, that's part of the reform work that I'm involved
28 in, is the prequalification system. So it's to prequalify
29 suppliers, let them sign up in advance to the standard
30 terms and conditions, agree to the pricing and, you know,
31 making sure they meet all the requirements upfront, and
32 then it will become a very slick process where they will
33 only agree on the requirements and outcomes for our child
34 or young person.

35

36 Q. Yes, we'll come back to the prequalification criteria.
37 Is it envisaged that part of that would include them
38 signing up to some standard terms and conditions?

39 A. Yes, absolutely.

40

41 Q. Now, moving further through your memorandum -
42 mercifully we only have a couple more topics to go - at
43 subtopic 11, "Invoicing and payments", am I right to
44 understand that what you're describing is a process for
45 invoicing and payments that is high volume, high frequency
46 and highly manual?

47 A. That's correct, yes.

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Q. And on my rough numbers, if you take the first dot point under paragraph 11.1, it seems that some regions process as many as 40 invoices per day?

A. That's correct.

Q. And those are all processed and manually reconciled; is that right?

A. Yes.

Q. And do you have any visibility over what level of staffing would be processing that number of invoices?

A. During my current state analysis it was mainly the responsibility of one or two people.

Q. Yes.

A. A huge job for one or two people, and sometimes during the day can be more, and they've got split roles, so they do more than just paying and doing invoice reconciliations.

Q. And, again, is there any reason why that couldn't be a process managed centrally in your department, that is within central office?

A. I think instead of thinking about it as a manual process we do have systems available to us today, and if we issue purchase orders then, you know, the system can do the reconciliation and we just do our checks.

Q. Yes. Perhaps the question I ought to have asked you was is there any reason that the department can't have the type of integrated end-to-end automatic system for processing these invoices?

A. It will be a massive chains management process, but, no, not that I'm aware of.

Q. Yes. And the last topic in your memorandum I wanted to ask you about was at part 12, "Contract management and oversight", in particular 12.2. You mention that there's no performance monitoring of IPS contracts, be a some sort of consistent or statewide management system. Could you just explain what you anticipate such a system would look like if it did exist and what types of performance monitoring you would expect to see?

A. Yes. So just remember that IPS is supposed to be short term, six months. But, if you look at how we manage contracts, we don't manage all contracts the same way. We look at the risk, we look at the value and the

1 consequences, and really what we want to achieve, we link
2 those contracts to outcomes for the organisation, for our
3 children and young people, and also government targets in
4 terms of admissions, you know, there's lots of things we
5 look at. These contracts do not have KPIs. They do have
6 limited information. You've seen the IPS fee-for-service
7 agreement. But we don't really manage the performance on a
8 contract basis when we look at contract management.

9
10 Then if you think about - and I think the Commissioner
11 touched on this. If you think about we are doing it, you
12 know, child by child and supplier by supplier, but we might
13 have a contract in Far North, only one contract, but
14 statewide we have multiple contracts with the same
15 supplier. So we really need to do segmentation to
16 understand the risk profile of that supplier, and not just
17 manage the contract on a contract management level, but we
18 also need to manage the performance of the supplier. If
19 you do it the right thing, contract management can actually
20 be a really beautiful thing in how you manage the
21 relationship with the supplier. It is really a good thing
22 if you do it the right way.

23
24 Q. I don't doubt that's so. And I promised earlier we
25 would come back to the IPS standard form agreement, which
26 is where I want to take you now, and it might be useful if
27 you still have the master bundle volume 3 in front of you.
28 If you could just keep handy while we navigate this topic
29 tab 136.

30 A. Individual - yep.

31
32 Q. Which you explained to me earlier is what you
33 understand to be the latest version of the agreement?

34 A. Yes.

35
36 Q. Now, just keep that by your side, but the document
37 I want to take you to in particular is actually in the
38 smaller bundle, the reasonable excuse bundle, at tab 18,
39 and if I could ask that the operator please go directly to
40 page 294 rather than the cover page of that particular
41 document. When the operator brings it up, if I could ask
42 that it be shown in such a way that the emails displayed -
43 or are not displayed. You'll see this is an email that's
44 been sent by someone who I understand was the Senior
45 Executive Director of Investment and Commissioning at the
46 time, and it's addressed to the procurement team generally
47 but also to you specifically, and it in substance seems to

1 be requesting a series of amendments to the standard form
2 IPS agreement, including in relation to reporting
3 requirements, the purpose for which funds are to be used,
4 blue card requirements and child safety standards; do you
5 see that?

6 A. Yes.

7

8 Q. And I should start by asking you do you recall
9 receiving this email?

10 A. Yes.

11

12 Q. Yes, you do. And if you just work up the email chain,
13 as it were, to page 292. Now, we don't need to go there,
14 but on 291 you see that it's an email from you to the
15 general counsel at the department and a series of
16 stakeholders largely from Investment and Commissioning, and
17 you explain that you have undertaken a review of the IPS
18 agreement template; do you see that?

19 A. Yes.

20

21 Q. And you explain specifically but properly, I might
22 add, that you've done so from a procurement and contract
23 management perspective, noting that you're not a lawyer?

24 A. Yes.

25

26 Q. And then what one sees is a reference to given the
27 urgency you would appreciate advice on whether this should
28 be addressed internally or progressed to Crown Law; do you
29 see that?

30 A. Yep. Yep, yes.

31

32 Q. And presumably by "given the" - or could you explain
33 what you meant by "given the urgency"?

34 A. First of all, when one of our senior executives ask us
35 to do some work, Procurement Services will try and action
36 it within a certain amount of time, and once I've completed
37 my not legal assessment I've seen several risks with this
38 document, and for me that was urgent.

39

40 Q. Yes. And I assume you also regarded it as urgent
41 because you knew that in September 2025 - so when you sent
42 this email - that IPS agreements were being used to
43 procure - I have it in excess of \$750 million in
44 residential care services?

45 A. Yes.

46

47 Q. And, returning to the substance of your email, you

1 identify in the issues and risk matrix a series of
2 problems, if you will, with the standard form agreement?
3 A. Yes.
4
5 Q. And is it right that those include that insurance
6 requirements are either absent or not addressed in the
7 clause relating to liability?
8 A. Yes, that's correct.
9
10 Q. And you also identify that indemnities are either
11 light or missing altogether from the agreement?
12 A. Yes. Yes.
13
14 Q. And, just turning overleaf to page 293, you explain
15 that there's an absence of a dispute resolution process or
16 breach in rectification pathways?
17 A. That's correct.
18
19 Q. And again something you alluded to in your memorandum
20 that we spent some time on, no performance measures or KPIs
21 for particular providers in those agreements?
22 A. Yes.
23
24 Q. And you mentioned earlier that the version of the IPS
25 agreement that hopefully you'll still have in front of you
26 at tab 136 remains the current version of the standard form
27 agreement?
28 A. Yes, that's correct.
29
30 Q. And that's because it hasn't yet been rewritten?
31 A. Yes, that's correct.
32
33 Q. Are you able to update the Commissioner on the
34 progress of rewriting the standard form IPS agreement?
35 A. Sure. I have request quotations after agreement with
36 our legal team, obtained quotations from Crown Law. I've
37 submitted the quotation and asked for budget approval. I'm
38 still waiting for budget approval.
39
40 Q. Yes. And who would provide such approval?
41 A. I've requested from the Chief Finance Officer, first
42 of all, and was told that we've exhausted the procurement
43 budget. Then I've requested it from the commissioning
44 team.
45
46 Q. And you're just waiting on a response from
47 the commissioning team?

1 A. I have followed up a couple of times to see if they
2 can find the money, and I'm still waiting for that
3 approval.
4
5 Q. Yes, I see. My computer has frozen at the most
6 inopportune time, but I think that at tab 22 of
7 the reasonable excuse bundle one will find your emails or
8 an email I expect you have directed be sent by your
9 principal executive officer to the CFO requesting to fund
10 that proposal?
11 A. Yes.
12
13 Q. Do you have that document in front of you?
14 A. Yes, I do have it in front of me.
15
16 Q. And, as I seek to try and restart my computer, is it
17 right that there's a reference in that email to funding the
18 proposal out of WOD? Do you see that? I think it's at
19 page 307.
20 A. Yes.
21
22 Q. What does WOD stand for?
23 A. I cannot answer that question.
24
25 Q. You can't answer it?
26 A. No.
27
28 Q. No. Is it right that [REDACTED] is some -
29 I withdraw that. Is it right that the person identified in
30 that email is someone that assists you?
31 A. Yes.
32
33 Q. Do you recall whether you directed her to send this
34 email?
35 A. Yes, I followed up with her. So the request was made
36 directly to her to talk to the Chief Finance Officer.
37 That's the way that he likes to work. So he - she then ask
38 him directly.
39
40 Q. Yes. Is it possible that WOD means whole of
41 department?
42 A. Yes, yes. I do blame the circumstances I'm in for not
43 remembering that.
44
45 Q. I take it by that you mean the position of being a
46 witness in the Commission?
47 A. Yes.

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Q. Yes, okay. Okay. Those are the matters I wanted to ask you about the business rules and standard form agreement. If I could take you to a different topic, and this is addressed in your witness statement at paragraph 138?

A. Yep.

Q. You see there that you say you were consulted by Ernst & Young, or EY, in the course of its review in relation to unlicensed residential care providers?

A. Yes.

Q. Is that right?

A. Yes.

Q. And I don't necessarily need to take you to the document, but I've seen elsewhere that it says you were consulted in relation to procurement processes, risks and gaps; is that right?

A. Yes.

Q. Yes. Now, the report itself authored by EY is behind volume 3 at tab 76?

A. Yes.

Q. And I just want to ask you about a couple of the recommendations that it has been suggested you might be able to speak to in this - well, I think I said suggestions but I meant recommendations in the EY report, and those commence at page 1769, and you'll see there's a heading "Phase 2, procurement"?

A. M'hmm.

Q. Now, the first of those I want to ask you about - and I should just say this is sort of the executive summary of recommendations. There's some further detail in the body of the report. But the first of those I wanted to ask you about was the development of a preferred supplier list based on a series of provider-level, employee-level and site-level considerations?

A. Yes.

Q. Do you know whether that recommendation was accepted or not?

A. Yes. So that's part of the prequalification system that we are currently developing.

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Q. Yes. So part of that prequalification system or framework or whatever one might like to call it will include a subset of providers that the department assesses as being preferable?

A. Yes.

Q. And could you just explain at a high level how those type of considerations manifest, that is to say how does one find themselves in the position of being a preferred supplier?

A. Sure. I think various factors, but it will be based on performance, qualifications, pricing, if they meet all the prequalifications, and if they are - you know, it's all about where they are based, in which region, the availability and if they are qualified.

Q. And would the fact of a provider being licensed form part of that consideration?

A. Of course, yes. My understanding.

Q. Your understanding is?

A. Yes, my understanding, at the moment we're still working with the regions to agree the qualification questions, and I've received them back. We are now setting them up in the system, but they are not agreed yet with the Director-General, Commissioning.

Q. And could you explain what some of the tensions or perhaps disagreements are as to which criteria ought to be included?

A. Sure. It is - if you think about our superheroes, they want to make sure that we get the right qualifications, but you can easily go the other way around and make it - we need to take the market on a journey, of course, and if we - sometimes we might not have a market that's suitable to deliver what we want them to deliver and we need to develop the market. So if we go - swing the other way we might not have many suppliers. Then there's also, you know, a lot of conversations around the requirement for blue cards and how we will be managing that within the system, things like financial viability, how that will be managed in the system. Yeah, it is quite complex. So it's around making sure it's, you know, right sized for what we need right now and then eventually take the market on that journey.

1 Q. Yes. And one of the risks you've identified - I think
2 this is ventilated in one of the other witness statements,
3 so I might just take you to it. If you go to - you'll need
4 a new bundle. It's at tab 40 of the PII bundle, or the
5 public interest immunity bundle. I think you'll find that
6 it's - yes.

7 A. Yep. Did you say 40?
8

9 Q. Yes. You'll actually need to go to the second to last
10 page in the bundle, which is page 577 on my count, and it
11 will be a witness statement prepared by former Deputy
12 Director-General, Corporate Services, Mr O'Brien?

13 A. Yes.
14

15 Q. And hopefully you'll have paragraph 70 of Mr O'Brien's
16 statement?

17 A. Yes.
18

19 Q. You'll see there that he expresses a concern that, if
20 part of the - or, as I apprehend it, part of
21 the prequalification criteria requires newly formed
22 companies to evidence their financial viability and provide
23 other such information, that may either preclude or
24 discourage them from entering the market if they don't have
25 a history of service delivery; do you see the description
26 to that effect?

27 A. Yes.
28

29 Q. Based on what you've just said, I take it that's also
30 a concern that you're alive to and at least to some extent
31 share?

32 A. I'm aware of it. I don't agree with it.
33

34 Q. Could you elaborate on that?

35 A. Yes. Because, you know, in terms of financial
36 viability you can manage the supplier in a different way by
37 giving them a certain amount of work and you manage it
38 according to the classification of the supplier. So if a
39 supplier do not have - if you create a market and the
40 supplier do not have, you know, evidence that they are
41 viable, I'm not going to give them a contract for a billion
42 dollars. I will start off small, and work with them and
43 develop them. That's all part of how we develop a market.
44 And that's actually how we work with some of our suppliers,
45 it's shadowing, and that fits very nicely with the
46 Queensland procurement policy 26, making it easier for
47 suppliers to do business with us.

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Q. Yes.

COMMISSIONER: In relation to areas of the market - and I assume these are particular geographical locations - where there are serious supply constraints --

A. M'hmm.

COMMISSIONER: -- and you've indicated that it's often the case that there is only one or two suppliers?

A. That's right.

COMMISSIONER: And you just a few moments ago indicated a concern that steps could be taken in the procurement process and the requirements that may be imposed that could lead to a supplier exiting the market; is that a concern that you have, not to disincentivise suppliers based on requirements the department may impose?

A. Yeah, I don't have that worry because the way that we are setting up the prequalification system is to develop the market, making it as simple as possible for the supplier to do business with us and not have, you know, stringent requirements to make it very difficult for them to join our panel.

COMMISSIONER: I take it if you appreciate, that is to say the department appreciates, that in a particular location there is either the - well, let's say there's only one supplier willing to bid, perhaps two - that's known to you. Do you assume that it's also known to the supplier that fact as to the market?

A. I'm sure they are. They are very commercial. I'm sure --

COMMISSIONER: So they're astute enough to know that --

A. Yep. I'm sure they will be.

COMMISSIONER: -- they might be, when bidding, only one of potentially perhaps two bidders for a particular contract?

A. I'm sure they will be aware. But, you know, we've got the state, so there's multiple suppliers in the other areas that could enter that part of the market as well.

COMMISSIONER: Yes. But doesn't the fact that in certain areas at least --

A. M'hmm.

1 COMMISSIONER: -- there is a very low level of competitive
2 interest from the supply side --
3 A. That's correct, yes.
4
5 COMMISSIONER: -- mean - but doesn't it follow from that
6 that the department is vulnerable in negotiations to that
7 fact being exploited - I don't mean in an improper way, but
8 just exploited in a commercial sense - by the suppliers
9 treating with the department?
10 A. If I refer to the current state, then I would say yes.
11
12 COMMISSIONER: Yes. Well, in all of this analysis of how
13 to improve the procurement options and processes has
14 consideration, as far as you're aware, been given to the
15 department itself supplying these services to itself rather
16 than subcontracting in effect for the supply of these
17 services by participants willing to participate?
18 A. That's something that I thought about and I've heard
19 people talk about but not in a formal sense that I'm aware
20 of.
21
22 COMMISSIONER: And when you thought about it did you think
23 it was a good idea, to pursue the possibility of the
24 department itself entering the market?
25 A. I'm not sure if I can answer that question.
26
27 COMMISSIONER: Why's that?
28 A. To Crown Law. I think - if it's my --
29
30 COMMISSIONER: I'm only asking you about your state of
31 mind about it.
32 A. If it's my opinion you are asking then, you know, with
33 my experience and observations from other parts of the
34 world, where I grew up and how they do it on that side of
35 the world, then, yes, I do think it can be a viable option.
36
37 COMMISSIONER: What part of the world are you speaking
38 about?
39 A. With this beautiful accent of mine, it can only be
40 from South Africa.
41
42 COMMISSIONER: Yes. I thought so. So in South Africa the
43 relevant department would provide these services to itself
44 or directly --
45 A. Yes.
46
47 COMMISSIONER: -- arrange and provide the services?

1 A. Yep, and I've also observed some of it in New Zealand
2 as well.
3
4 COMMISSIONER: Yes.
5 A. Yep.
6
7 COMMISSIONER: Have you put that thought in writing to
8 relevant people within the department? Have you
9 communicated your views about the department itself
10 engaging in this activity to the relevant decision-makers
11 within the department?
12 A. No, I haven't.
13
14 COMMISSIONER: When you've raised it orally I assume
15 you've expressed the views that you've just indicated you
16 hold internally?
17 A. Yes.
18
19 COMMISSIONER: That's correct?
20 A. Yep.
21
22 COMMISSIONER: And what has been the reception, when
23 you've raised those views, to such an idea?
24 A. I have raised it at IPOGG meetings and also when we
25 performed the current state analysis, and I --
26
27 COMMISSIONER: What's IPOGG?
28 A. I can't remember the full name. Maybe Crown Law can
29 look that up. So many acronyms and --
30
31 COMMISSIONER: Yes, I sympathise with you there.
32 A. So it was - and, look, it's not senior executives -
33 limited exposure. That's people - that's the superheroes
34 I'm talking about. So some people were, you know, positive
35 towards it and for other people not positive at all.
36
37 COMMISSIONER: But that idea hasn't gained traction, so to
38 speak, in a way that it's become a subject of more studied
39 analysis within the department so far as you're aware?
40 A. Not that I'm aware of. But then I think it's a little
41 bit unfair for me to answer that question because I haven't
42 discussed it with our Director-General, also not the
43 Director-General, Commissioning. That just did not come
44 up. We didn't discuss it yet.
45
46 COMMISSIONER: Yes. Do you agree with me that if the
47 department were to enter the market itself it doesn't mean

1 that it has to in any given geographic area be the
2 exclusive provider of residential services; it could be one
3 of the providers?

4 A. Yes, I've seen that model before. Yep.

5

6 COMMISSIONER: Yes. And the fact that the - do you agree
7 that the fact that the department itself is prepared to
8 enter the market would have a disciplining effect on
9 negotiations as to price at which services are offered in a
10 market that is thinly supplied on the supply side of the
11 market?

12 A. I'm sure it will have an effect. Together if we do,
13 you know, contract management, we do procurement processes,
14 that's right size and fit for purpose, I'm sure it will.

15

16 COMMISSIONER: Because doesn't it follow that in the
17 absence of an alternative supplier in areas where there is
18 only one bidder the department is effectively hostage to
19 the prices that are quoted or submitted by the single
20 supplier, given that it's not a choice when it comes to
21 acquiring these services; do you agree?

22 A. Yes. I identified that in my current state analysis.

23

24 COMMISSIONER: Where do I find that? Is it in writing
25 somewhere?

26 A. I'm sure it is somewhere. Maybe the words that I've
27 used was very - a little bit different, but it boils down
28 to that.

29

30 COMMISSIONER: You might have been a bit diplomatic?

31 A. I'm trying here to. Yeah. But it is --

32

33 COMMISSIONER: Is that somewhere in the report that
34 Mr Diaz has been taking you through?

35 A. Yeah. It's like we don't have a choice, really. We -
36 you know, if - if you think about this at a service centre,
37 it is 5 o'clock or even 6 o'clock at night, they removed
38 one of our children or young people and they need to put
39 them somewhere safe, then the wellbeing of our child or
40 young person is the most important for the people obtaining
41 those quotes. And then also, you know, if you think about
42 it, after a long day, they also have families to go to. So
43 that's my observation after having these conversations with
44 them. So price is perhaps not the most important thing at
45 that point in time. The wellbeing of our child or young
46 person is the most important, and that's how they look at
47 it.

1
2 COMMISSIONER: Yes. And if a child is removed with some
3 urgency, as often is the case --
4 A. Yeah.
5
6 COMMISSIONER: -- and there isn't an available placement,
7 I've heard evidence that it's not uncommon for the child to
8 be accommodated at a motel for some period of time, which
9 is not desirable for a range of reasons, I think you would
10 agree?
11 A. Yes, I agree with that.
12
13 COMMISSIONER: So is there not a need to have
14 strategically placed a degree of supply, potentially
15 surplus supply, that is available to be used as needed when
16 an urgent situation arises? If you agree that's the case,
17 how would the department procure such an arrangement from a
18 supplier so that there is a sort of triaging capacity that
19 is available to meet unexpected and urgent demand?
20 A. I think it can be a mix of agreements. If you think
21 about it, we do own a lot of properties ourselves. So, you
22 know, we can lease those properties, we can have, if
23 possible, some of our own staff working there and maybe do
24 a mix with suppliers. That's --
25
26 COMMISSIONER: When you say the department owns a lot of
27 properties, are these properties that are dedicated to
28 residential care?
29 A. I don't know, but I do know the department do own
30 properties.
31
32 COMMISSIONER: But the property might be a factory or a
33 storage?
34 A. No, no, houses.
35
36 COMMISSIONER: Houses?
37 A. Yes. But, you know, factories and - if they - if the
38 department do own those, it can be converted.
39
40 COMMISSIONER: Yes. The houses the department owns --
41 A. M'hmm.
42
43 COMMISSIONER: -- are they presently, to your knowledge,
44 leased to providers to then provide the residential care
45 services?
46 A. I cannot answer that question.
47

1 COMMISSIONER: No. All right.
2 A. I only know about one that I helped develop a strategy
3 with recently that was leased to a supplier, on an island
4 somewhere.

5
6 COMMISSIONER: I see. Yes. Thank you. Mr Diaz.

7
8 MR DIAZ: And, Commissioner, just to close out the
9 discussion you were having with Ms Lategan, some of the
10 matters that have been ventilated are addressed in her
11 witness statement at paragraphs 32 and 33 about the
12 high-demand environment, the constraints in provider
13 capacity and the like, and they also feature in the IPS
14 business rules review, which is the document behind --

15
16 COMMISSIONER: Yes, I have that.

17
18 MR DIAZ: -- yes, tab 4 of the reasonable excuse bundle.
19 If you look at, for instance, 2.1, "Volume and urgency":

20
21 *Multiple placement requests every day,*
22 *often late in the day, placing extreme*
23 *pressure on IPS teams. Service centres*
24 *[this is at 2.5] often sitting idle and*
25 *then forced to obtain a placement at short*
26 *notice, which creates pressure to cut*
27 *corners due to urgency.*

28
29 And then 3.2 is the point around limited provider responses
30 often only receiving one or two viable responses, and so on
31 and so forth.

32
33 COMMISSIONER: Yes.

34
35 MR DIAZ: So a number of those points are addressed by
36 Ms Lategan in her memorandum or witness statement.

37
38 COMMISSIONER: Yes.

39
40 MR DIAZ: And also, just to clarify, the IPOGG is the
41 Investments and Partnerships Operational Governance Group,
42 so an operational governance group for investments and
43 partnerships, and we have, for instance, behind tab 30 of
44 the PII bundle - you don't necessarily need to go to it,
45 but you can get a flavour of what seems to be discussed at
46 those governance group meetings, and it includes, among
47 other things, very detailed information about how

1 placements are changing over the short term, and whether
2 they're going into family-based care or non-family-based
3 care and like considerations.
4

5 Ms Lategan, just to come back to where we were, we just
6 finished discussing the EY report. I want to take you to
7 another audit which I understand you're at least somewhat
8 familiar with, and that's an internal audit of private
9 providers, what is sometimes called the Deloitte report or
10 an internal audit from September 2025. You'll find that at
11 tab 78 of volume 3 of the master bundle.

12 A. Yes.
13

14 Q. And I want to take you to just a couple, perhaps even
15 only one finding in this report which I think is relevant
16 to your work, and it's summarised at page 1861, and it's
17 specifically finding 3.1. Now, this relates to the timely
18 provision of financial assessment or the timely assessment
19 of organisations, and you'll see this is taken partly from
20 this particular summary at 3.1 but also the more detailed
21 findings in the report that the current process lacks
22 timely financial assessment prior to those providers
23 fulfilling their contractual obligations, and the point
24 made is that providers aren't required to submit their
25 audited financial statements via the Procure to Invest
26 system until 180 days post financial year end, and then
27 it's only at that point that the finance team performs an
28 initial and it's described as a binary assessment of the
29 viability or financial status of the provider, and that's
30 followed by a more in-depth analysis by the compliance
31 team. Now, I should just say I appreciate this all sits
32 somewhat outside the direct remit of your
33 responsibilities --

34 A. That's correct, yes.
35

36 Q. -- but I'll come back to why I'm taking you to it in a
37 moment. Then there's a reference to - for a new
38 organisation, and presumably that's an OSD provider, that's
39 required to submit their audited annual financial
40 statements. The timing of the current process means that
41 they may not have their financial viability assessed until
42 at least 18 months after their first contractual
43 engagement. Are you familiar with all of these matters?

44 A. I'm familiar with it, but I do not work with it.
45

46 Q. Yes.

47 A. Yes.

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Q. Well, the report concludes, and this is at page 1877, that the absence of a timely preliminary financial assessment poses risks both in terms of risk management generally and operational compliance; do you agree with that observation?

A. Yes.

Q. And then there's an action plan - this is at 1880 - and it's suggested that you are the responsible officer for this action plan and in particular that you would be responsible for implementing an integrated assessment approach that involves performing financial evaluations as part of the initial sourcing process. Am I right to understand based on some earlier evidence you gave that this timely financial assessment will be incorporated as part of the prequalification criteria?

A. That's correct, yes.

Q. There's an implementation date of end of June 2026. Is it envisaged that the types of recommendations that are made in this internal audit will all be rolled up as part of the prequalification?

A. Yes.

Q. Yes. There are just two more topics I want to ask you about, or two more substantive topics. At paragraph 119 of your witness statement you explain that since commencing as the Chief Procurement Officer you've taken a number of steps to reset the department's procurement approach. We've already discussed some of those, including the prequalification framework, but I just want to ask you about a couple of other aspects. Now, though I've taken you to 119, that was really to contextualise things. What I understand to be one of those particular steps is in fact described at paragraphs 53 to 55 of your statement, and that's what you call an agile procurement framework?

A. M'hmm.

Q. Now, I'll explain to you what my understanding is about that and then have you clarify some aspects. So I understand the first step of that agile procurement framework is that suppliers first execute a confidentiality deed before being issued with an RFQ. Could you just explain what the purpose of having a confidentiality deed at that stage is?

A. Yeah. So it's important to understand that there's

1 multiple phases of the agile procurement process or the IPS
2 to OSD negotiations, and during this time it was phase 1
3 and it was only the statewide suppliers. So we don't want
4 suppliers to talk to other suppliers and explain the
5 negotiation process or even approach a minister because you
6 can imagine that it can be quite uncomfortable to talk
7 about price and agree on price and really negotiate on
8 price. So it's just putting all those safeguards in place.
9

10 Q. So am I right to understand then that the agile
11 procurement framework was part of the IPS to OSD
12 conversion?

13 A. It is the IPS to OSD negotiations, yes.
14

15 Q. Did you say it is?

16 A. Yes.
17

18 Q. I see.

19 A. Yep.
20

21 Q. And so it's not necessarily some enduring framework
22 that you intend to put in place?

23 A. Yes, it is. We've replicated this process across
24 multiple procurement processes and areas in our
25 organisation.
26

27 Q. Yes.

28 A. So - actually, we trialled it on another procurement
29 before I refined it for the IPS to OSD negotiations.
30

31 Q. When you say you trialled it on another procurement,
32 that was, say, an individual contract that was being
33 negotiated or?

34 A. Yeah. It was also - I can't really remember. It's a
35 couple of months ago. But, yeah, it was for quite sizeable
36 procurement activity.
37

38 Q. Yes.
39

40 COMMISSIONER: Have you made an analysis or arrived at an
41 estimate of the degree to which IPS funding will continue
42 to be required as a sort of - to provide residual
43 flexibility, bearing in mind the objective is, as I would
44 understand it, to transition a proportion, perhaps a large
45 proportion, of the IPS-funded arrangements to OSD-funded
46 arrangements? Do you have a view about what residual
47 amount would be - of IPS-funded arrangements would

1 optimally be retained for flexibility purposes and perhaps
2 also to meet particularly complex needs?
3 A. No, I haven't done those calculations, but when I look
4 at the purpose for urgent emergent care and for
5 individualised placement services it's intended to be short
6 term.

7
8 COMMISSIONER: Sorry, I didn't hear?

9 A. So if we think about the purpose of IPS, individual,
10 you know, placement services, and also urgent emergent
11 care, the one is - both of them is actually short term.

12
13 COMMISSIONER: And which by short term you mean how long?

14 A. The urgent emergent care is up to three months,
15 I think, and then IPS is up to six months before we need to
16 review it. So I don't - it's --

17
18 COMMISSIONER: So even in the case of complex needs --

19 A. Yep.

20
21 COMMISSIONER: -- if you assess the child as having
22 ongoing need for care at whatever level of complexity is
23 called for, and if you assess that child as needing care
24 for a period extending beyond six months, then in principle
25 there's no reason not to provide that via an OSD
26 arrangement, is there?

27 A. I'm - I - I think that's a question that will sit
28 nicely with the Deputy Director-General, Commissioning.

29
30 COMMISSIONER: Yes. Well, just returning to my original
31 question, do you believe that there will be an ongoing need
32 for some degree of IPS-funded arrangements after you reach
33 some optimal point of transition from IPS to OSD?

34 A. Yes.

35
36 COMMISSIONER: Yes. But you don't know presently what
37 that proportion might be?

38 A. No.

39
40 COMMISSIONER: But further you say, whatever that
41 proportion is, it should be for funding not to exceed six
42 months in duration, ideally?

43 A. Yeah, I think if we look at the child safety system,
44 right, we've got foster care, we've got multiple different
45 placement types. So if we apply that - the strategy the
46 right way then I don't think IPS funding will make up a big
47 proportion of the overall funding.

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COMMISSIONER: Yes. Thank you.

MR DIAZ: And, as concerns this agile procurement framework, just at a very high level I wanted to describe what I understand to be some of the other aspects of it.
A. Yes.

Q. So the idea is that you will engage, if you will, proactively with providers on how it's proposed that they will meet the service requirements you have, including matters such as models of care or service model, delivery approach, pricing and the like; is that right?
A. Yep.

Q. And that following this sort of dialogue or presentations you'll be able to ask questions, clarify aspects of the model, maybe test why the price is what it is, whether there's actually - good outcomes are being achieved for children, so forth?
A. Yes.

Q. And perhaps this is more so part of the IPS to OSD conversion, but there's a final aspect of the procurement framework discussed in your witness statement, which is that senior executives and other appropriate officers will then consider the proposal and decide whether or not it meets the department's requirements?
A. Yes, that's correct.

Q. Yes. And so perhaps inelegantly have I captured broadly what you would describe as the agile procurement framework?
A. Yes. I also think it's around making sure they agree to signing up to our standard terms and conditions, the Community Services Act, and that it's the right fit for the organisation. What I mean by that is that these suppliers are with us on the journey with our children and young people, so we want to make sure it's the right fit for the organisation.

And the only other thing is the pricing component. It's more like evidence based off open-book pricing. So we go into a lot of detail, want to understand the margins and allow a certain percentage to be acceptable versus not acceptable. So we go into a lot of conversations around, you know, resources, what that means, and if that's

1 acceptable, and if we give them the stability and the
2 longer term arrangements, if we can work together with them
3 to bring resources down - as an example they might have
4 contingent labour resources because government's not clear
5 around the term of the contract. But if we give them
6 longer-term surety of that then it might be - you know,
7 there might be a reduction in costing.
8

9 Q. Did I understand your evidence to be that you would
10 actually specifically ask providers what their margin is,
11 profit margin is?

12 A. We ask for information around that, yes.
13

14 Q. And, to the extent you're able to comment on it, are
15 you able to say what types of margins you've observed?

16 A. We are currently in a procurement process. I don't
17 think it's acceptable. It will be - can hinder further
18 negotiations.
19

20 Q. Yes.
21

22 COMMISSIONER: Yes. Can I ask you this. Particularly in
23 the context of a thinly supplied market in certain areas at
24 least, you accept, I take it, that if you're to encourage
25 ongoing participation on the supply side there has to be an
26 acknowledgment that - in the negotiations, I assume, that
27 the supplier is entitled to a reasonable profit margin,
28 otherwise you're likely to drive suppliers out of the
29 market, aren't you?

30 A. Yes, it is a reasonable profit margin. However, we
31 are also mindful that we are spending taxpayers' money and
32 that we need to make sure it is value for money for the
33 State.
34

35 COMMISSIONER: Yes.

36 A. Yep.
37

38 MR DIAZ: And is there any risk in your mind that, while
39 this agile procurement framework you've developed is a
40 commendable model, it might not really be fit for purpose
41 in an environment which you yourself have described as
42 requiring quite urgent placements and therefore a degree to
43 which you need to move quickly and may not have scope to
44 have detailed presentations and negotiations around models
45 of care?

46 A. I think if we think about the prequalification model
47 that will take care of the urgency. So the

1 prequalification model is different than the agile model in
2 terms of we get suppliers to agree upfront to the standard
3 terms and conditions, what we require from them, financial
4 viability. All those things we agree upfront, including
5 the pricing, ahead of time, and then we - only when there's
6 an urgent need we issue them with a statement of work,
7 because they agreed to everything upfront.

8
9 Q. Yes, I follow.

10 A. Yeah. And I just want to say that the difference
11 between - if we followed the traditional process, the
12 traditional RFQ process, it would have taken at least a
13 year to negotiate phase 1, where phase 1 with the agile
14 process took about three months to get it all done.

15
16 Q. Yes.

17 A. I think it was 400 placements or something like that
18 in that short period of time because we didn't ask
19 suppliers to write long proposals and with - you know, did
20 it the right way according to the Queensland procurement
21 policy 26, but those clarifications, it was more like a
22 competitive dialogue process, if I can describe it like
23 that.

24
25 Q. Did you use the expression "competitive dialogue"?

26 A. Yes.

27
28 Q. Yes. And there's perhaps one more aspect of this
29 resetting the approach to commissioning and procurement
30 that I wanted to ask you about. It's what you describe in
31 your witness statement as a targeted cost methodology?

32 A. M'hmm.

33
34 Q. I was hoping you could explain for the Commissioner
35 what you mean by a targeted cost methodology and how you
36 achieve that methodology in practice?

37 A. Yes. There's in procurement multiple or different
38 types of way to evaluate price. Targeted cost is what we
39 use in health services as well, is when we agree with the
40 suppliers upfront on a cost that we are willing - that we
41 consider that's value for money that we are willing to pay.
42 And then it is sort of - the suppliers will either accept
43 it or they won't accept it. I have to say the targeted
44 cost methodology is normally, you know, very fair to
45 suppliers. We look at the things that we discussed today:
46 where they are based at, what it will cost to do business
47 with government, a fair margin as well.

1
2 COMMISSIONER: Is the margin calculated on the costs?
3 I mean, sometimes a supplier will supply, say,
4 materials --
5 A. Yeah.
6
7 COMMISSIONER: -- with a margin on the materials?
8 A. Yeah, that's a cost-plus methodology, yep.
9
10 COMMISSIONER: Yes. Well, how does this targeted cost
11 methodology account for a margin of profitability for the
12 supplier?
13 A. Yeah, it --
14
15 COMMISSIONER: Is it based on the costs? Is it based on
16 something else?
17 A. It can be based on the cost plus the margin. That's
18 normally how we do it. This is new for the organisation.
19 I'm not - like I said in my statement, I don't - I don't
20 have visibility of the costing methodology that we're
21 currently putting together. But my understanding is that
22 at the end of the day we will have the framework set up and
23 we will agree the pricing upfront. It will incorporate the
24 margins, all the variables of the pricing that we
25 discussed.
26
27 COMMISSIONER: But is the idea of a targeted cost
28 methodology, as it is presently described, that the
29 department agrees on the costs for, say, units of labour at
30 a certain price?
31 A. Yes.
32
33 COMMISSIONER: Plus a certain percentage of profit margin?
34 So it's essentially cost-plus, isn't it, as a methodology?
35 A. It can be. Yep.
36
37 COMMISSIONER: But the model that you're proposing to
38 introduce or are now applying, as I would understand it,
39 that involves a margin over and above the cost to the
40 supplier of elements or components of presumably in
41 particular variable costs that the supplier incurs when
42 providing the service?
43 A. Yep.
44
45 COMMISSIONER: And then there are some fixed costs like,
46 say, the lease of the premises. Yes. Do you understand
47 that from a supplier's perspective in relation to

1 residential care services most of the - or the highest
2 percentage of costs associated with that activity or for
3 the provision of that service are variable costs and the
4 largest single cost is labour; is that your understanding?
5 A. Yes, we have discussed that earlier today, yeah.

6
7 COMMISSIONER: Yes.

8
9 MR DIAZ: And the last matter I wish to take you to,
10 Ms Lategan, broadly concerns the topic of training, and
11 specifically contract management procurement training.
12 Now, you've already given evidence today that the staff
13 involved in entering into IPS agreements are often
14 balancing multiple operational responsibilities and, what's
15 more, they may not always have access to specialised
16 training or support; is that right?

17 A. Yes. They do have access to two procurement modules
18 that we developed, and that's available in our island
19 system, but that's very high level. So we've got
20 "Introduction to procurement" and we've got "Introduction
21 to contract management", which aligns with the Queensland
22 Government contract management framework.

23
24 Q. Yes. Am I right to understand that those are optional
25 modules?

26 A. Yes. Of course, Procurement Services do encourage
27 people to do those.

28
29 Q. Yes. But is it your understanding that the department
30 currently has no mandated or mandatory procurement or
31 contract management training for its staff?

32 A. In the regions, yes, no mandated. However, in
33 Procurement Services you can't hold a procurement delegate
34 authority or you can't provide procurement delegate
35 authority if you do not hold a procurement qualification.

36
37 Q. Yes. But presumably that only applies to those that
38 are approving the contracts above either 3 million or
39 5 million?

40 A. Yes, that's correct.

41
42 Q. Is that right?

43 A. Yes.

44
45 Q. So for anything under 3 million there's no specialised
46 training necessarily?

47 A. No.

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Q. And - okay. So you did mention that there are some optional modules and you mentioned "Introduction to procurement" and "Contract management"; is that right?

A. Yes. Those are two different modules, yes.

Q. Yes. And how familiar are you with those two particular modules?

A. I'm familiar with them.

Q. Yes. And are you able to speak to their adequacy or suitability in terms of being properly bespoke to the type of procurement activities that employees are engaged in?

A. Yeah, they are relevant, but it's at a very high level, I would say. Certainly it will be difficult to perform the role if that's the only training you are getting.

Q. Yes. And am I therefore to take it in aggregate, if you will, from what you say in your witness statement and the evidence that you've just given that you wouldn't regard the existing training as sufficient?

A. No.

Q. No. And I understood from your statement, but tell me if this is mistaken, that in your view procurement and contract management staff should have some sort of recognised professional development opportunities or formal accreditations; is that right?

A. Yes.

Q. And you do mention the World Commerce & Contracting Association as one such organisation that provides such training?

A. Yes, they do.

Q. And my understanding is you hold an accreditation with that particular organisation?

A. That's correct, yes. I hold procurement and contract management, and also supply of performance and relationship management.

Q. And could you explain how long is required to obtain such an accreditation?

A. It will depend on existing qualifications. It's an accreditation process. So some people do struggle to get it. You have to complete it within a year. It's quite

1 extensive. As an example, the contract management and
2 commercial accreditation, there's something like 27
3 modules. It is quite unique as it covers off both the
4 supply and buy market. So it gives you an understanding of
5 what's happening at the supplier - in the supplier world,
6 if that makes sense, and then also, you know, the
7 government process in quite detail. It goes into the legal
8 aspects of managing a contract, it goes into quite a bit of
9 detail around negotiations, and then just understanding the
10 business end to end, the different relationships and
11 collaboration in a business as well.

12
13 Q. Yes. Would you regard such training as suitable for
14 the types of people --

15 A. Yes, absolutely.

16
17 Q. So it's not that that type of training would be
18 perhaps overqualifying them?

19 A. No.

20
21 Q. You would say that that's --

22 A. Yeah.

23
24 Q. -- perfectly suitable?

25 A. It is a worldwide qualification. It's been used in
26 other countries like the United States and England,
27 Scotland. It's quite worldwide, and government agencies
28 worldwide do use it and fund their people to go and do it
29 because it's quite helpful.

30
31 Q. Yes. Now, there's reference in a statement authored
32 by the DDG of Commissioning. This is at volume 1 of
33 the master bundle, tab 11.

34 A. Yes.

35
36 Q. And in particular if you could take up paragraphs 30
37 and 31 of that statement?

38 A. Yes.

39
40 Q. You'll have to bear with me while I do likewise. So
41 you'll see at those paragraphs that there's reference to a
42 series of other or what I understand to be other possible
43 certifications, firstly the Queensland Government
44 procurement certification program?

45 A. Yes.

46
47 Q. And reference is also made to ongoing professional

1 development opportunities through the Queensland Government
2 procurement community of practice, the Federal Government
3 community of practice sessions, and quarterly World
4 Commerce & Contracting practice sessions?

5 A. Yes.

6
7 Q. Is any of that, either the certification or attendance
8 at those professional development opportunities - is any of
9 that mandatory for staff?

10 A. No, and in 31 what we described here, or I think
11 what's been described here, it's more like, for me, because
12 I'm accredited, I need to obtain annual points to stay
13 accredited. So I'm actually inviting the IPOGG members and
14 regions and my team to attend because I'm an accredited
15 member to attend these sessions with me free of charge.

16
17 Q. Yes.

18 A. So they are not - the only other accredited program
19 that we are mentioning here is under 30, and that only
20 covers the procurement lifecycle, not really to the level -
21 the contract management lifecycle --

22
23 Q. Yes, I see.

24 A. -- to the level that's needed to perform the role of a
25 contract manager.

26
27 Q. And so the contract management aspect of the training,
28 that is something that is delivered by the World Commerce &
29 Contracting Association?

30 A. Yes, that's correct.

31
32 Q. Yes. I follow. And I appreciate you've just said
33 that you sometimes invite staff to attend alongside you as
34 part of you obtaining your continuing professional
35 development?

36 A. Yes.

37
38 Q. I take it, therefore, that it's a very small
39 proportion of the department staff that in fact attend
40 these type of practice sessions?

41 A. That's correct, yes.

42
43 Q. And just a bit further down in the statement you'll
44 see that the DDG of Commissioning says she encourages staff
45 to complete - or the department, rather, encourages staff
46 to complete relevant LinkedIn Learning courses in
47 procurement and contract management?

1 A. Yes.
2
3 Q. Do you consider there's any real utility in the staff
4 undertaking those courses?
5 A. It can be quite helpful, yes.
6
7 Q. I mean, surely those are just very generalised and of
8 limited relevance to the particular procurement environment
9 in which the department is operating?
10 A. Some of these - I've done - I like to do some of these
11 courses myself. LinkedIn Learning can be quite helpful.
12 But in terms of their application and I think - there's -
13 World Commerce & Contracting training and accreditations is
14 quite different.
15
16 Q. Yes.
17 A. You get support and leadership, and it's not the same
18 as LinkedIn Learning, I would say.
19
20 Q. Yes. Sorry, Ms Lategan.
21
22 Those are the matters I had for Ms Lategan, Commissioner.
23 The only other thing just to mention, this is a document
24 that's not in the bundle because it's subject of a
25 reasonable excuse claim that we didn't press, but I'm
26 instructed that our instructors have spoken to Crown Law
27 and I can refer to one particular aspect of the document,
28 and it's simply to note that through the current transition
29 work that the department is doing it's seeking to
30 transition between 50 to 75 per cent of IPS funding to
31 longer-term OSD contracts, and so the proportion of IPS
32 agreements that would be left is just the balance.
33
34 COMMISSIONER: Yes. Thank you. That goes to my earlier
35 questions about the residual proportion of IPS-funded
36 arrangements.
37
38 MR DIAZ: Precisely.
39
40 COMMISSIONER: Yes. Thank you. Thank you, Mr Diaz.
41 Mr Hastie?
42
43 MR HASTIE: Maybe it's an appropriate time to tender the
44 resume, Commissioner?
45
46 COMMISSIONER: Yes. Thank you. Ms Lategan's resume will
47 be exhibit CL-98.

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EXHIBIT #CL-98 - MS HANELIE LATEGAN'S RESUME

MR HASTIE: Thank you, Commissioner.

COMMISSIONER: Yes, any questions?

MS AMOS: No questions.

COMMISSIONER: Yes.

MS GREENWOOD: Yes, thank you, Commissioner.

<EXAMINATION BY MS GREENWOOD [11.55 am]

MS GREENWOOD: Just to get this part out of the way, if I may hand up two copies for you, Commissioner, and one for the witness. It's entitled "Strengthening kinship care in Aotearoa, New Zealand, research report from October 2025".

WITNESS: Can I just say that I've worked in Child Safety in New Zealand at the Ministry of Social Development many years ago, nearly 20 years ago, I think, before 2025. Yeah.

COMMISSIONER: All right. Do you wish to tender this?

MS GREENWOOD: Yes, I do, please, Commissioner.

COMMISSIONER: The document "Strengthening kinship care in Aotearoa, New Zealand" will be exhibit AT-19.

EXHIBIT #AT-19 - DOCUMENT "STRENGTHENING KINSHIP CARE IN AOTEAROA, NEW ZEALAND"

MS GREENWOOD: Thank you, Commissioner. I'll come back to that in a little while.

So boiling procurement down to its essentials in the discipline of procurement and government you can be buying anything from submarines down to photocopy paper, and these are the disciplines that you have been describing in terms of how your review has gone for how it's done in Child Safety in the Queensland Government, and you've already given us a sense of the delegation layers of above 5 mill, between 3 to 5 mill, and below \$3 million. And is it fair to say that what makes this particular procurement

1 environment a bit different from others is you have two key
2 factors in play. You've got this vast growth in demand,
3 which again puts pressure on your procurement system, and
4 Queensland is a very decentralised state, so you're looking
5 to procure across urban communities, rural, regional and
6 remote communities, and if I might be permitted an
7 observation, Commissioner, where something as simple as the
8 cost of an onion varies so dramatically from one end of
9 this state to the other. So is that a fair description of
10 the chief challenges that put pressure on this procurement
11 system?

12 A. Yes.

13
14 Q. I noted when you were talking about - and,
15 Commissioner, this is I think coming back to tab 4, and it
16 was your - yes, your point 2.2, "Exhausting alternative
17 placement options", and if I could just get it to - it's
18 hidden. And that's page 83 at tab 4 of the reasonable
19 excuse bundle, Commissioner.

20
21 COMMISSIONER: Yes.

22
23 MS GREENWOOD: So you gave a description in there and in
24 evidence about when this very urgent placement demand is
25 being made that, while there is an attempt to exhaust
26 kinship and foster options before engaging IPS, that's
27 achieved sometimes by some regions using twice-daily mass
28 emails to foster agencies. How does that compare with what
29 sort of testing of the kinship carer capability there is?
30 A. I cannot answer that question. I didn't analyse the
31 kinship care model as part of the IPS current state
32 analysis.

33
34 Q. Are you able to comment on how the use of IPS towards
35 foster carers is different from the use of IPS towards
36 kinship carers?

37 A. Unfortunately not.

38
39 COMMISSIONER: So there's an assumption in your question
40 that it's different. I don't understand the basis for the
41 assumption. IPS is a funding model.

42
43 MS GREENWOOD: Yes, that's right, Commissioner.

44
45 COMMISSIONER: It could be applied to kinship carers or to
46 foster carers or to residential care providers.

47

1 MS GREENWOOD: So if the only way of testing the
2 alternatives is by mass mail-outs - and this ties into my
3 earlier questions last week, Commissioner, about how
4 information about extra kinship carer capability is
5 communicated into the system and made use of in the system.
6

7 COMMISSIONER: All right. I'm not sure that this witness
8 can help you with that, given her role is at central
9 command, so to speak, in relation to procurement. But you
10 can ask a question about that.

11

12 MS GREENWOOD: Yes, Commissioner. And in a sense her
13 evidence about this is a dot to be joined up with other
14 dots, but I just wanted to check what level of knowledge
15 there was about testing of kinship care options --
16

17 COMMISSIONER: All right.

18

19 MS GREENWOOD: -- in the context of your paragraph 2.2,
20 and I think, Commissioner, the witness has answered. She's
21 got limited line of sight over how that happens.
22

23

24 COMMISSIONER: Yes.

25

26 MS GREENWOOD: I have handed the document which is now
27 AT-19, and if I can take you to both pages 19 and 20, and
28 I think it appears throughout this document, except simply
29 before we move to the specifics on page 20 that the
30 document describes that it can be difficult for kinship
31 carers to access the networks that they need to access in
32 order to be able to provide kinship care. On page 20 - and
33 this may or may not align with the time that you were
34 working in New Zealand and were familiar with the child
35 safety procurement there - they refer to the permanent
36 caregiver support service, which offers financial and
37 social work support to kinship carers, and that is run by
38 the Oranga Tamariki, Ministry for Children; are you
39 familiar with that?

40 A. Yes.

41

42 Q. I see you nodding.

43 A. Yep.

44

45 Q. Yep. And that would be an example of a service that
46 the government provides itself instead of seeking to
47 procure from other organisations - are you aware of any of
the rules around or the reasons why it's done inhouse

1 instead of procurement?

2 A. It's a very long time ago. I'm so sorry.

3

4 Q. That's fine. Thank you. You have been - actually,
5 just before I move off that - and I think it's - this one
6 was tab - no, it wasn't. There was in your statement
7 somewhere a description of misuse of incident reporting,
8 and I think you gave the example of \$150 for carpet
9 cleaning, and in your report you're saying, even though the
10 child did nothing wrong, that becomes part of the child's
11 behavioural history, and this was something that you saw as
12 a misuse of the contingency funds - and just for the
13 transcript, because I saw you nod to each of those
14 propositions, but if you can just say "yes" or "no"?

15 A. Yes. Yes, I remember that's in the current state
16 analysis, yep.

17

18 Q. Yep. And in the course of your review into that sort
19 of misuse of incident reporting did anyone make you aware
20 of - because I realise you started in 2025, so this is all
21 new - the QFCC auspice protocol on unnecessary police
22 callouts to resi care?

23 A. No, I'm not aware of that.

24

25 COMMISSIONER: Just to be clear, in relation to misuse of
26 incident reporting, which is referred to on page 87 under
27 the heading "9.2 Contingency damages", the point being made
28 is as follows:

29

30 *Providers create incident reports purely to*
31 *claim small damages such as \$150 for carpet*
32 *cleaning.*

33

34 Now, that seems to be an observation directed at specious
35 claims for further compensation?

36

37 MS GREENWOOD: Yes.

38

39 COMMISSIONER: Yes.

40

41 MS GREENWOOD: And again, Commissioner, it just links into
42 another submission I make elsewhere for the Commission.

43

44 The other matter you commented on - same document at
45 page 89, and this is under point 13.2. You make the
46 observation that, when a child moves regions, cumulative
47 totals, variations, contingency and approvals become

1 unclear?

2 A. M'hmm.

3

4 Q. Did you notice a lot of children being moved in
5 regions, or how much of it - or it was just if it does move
6 regions then the differences between regions?

7 A. Yes, and the process for that is there's - there's no
8 real clear process for it.

9

10 Q. You did mention early on in your evidence about
11 reviewing the procurement policies against the Human Rights
12 Act, and you would be familiar that there is a right to
13 connection to kin, culture and Country --

14 A. Yep.

15

16 Q. -- contained within the Queensland Human Rights Act.
17 Does movement between regions engage that right or
18 recognised as engaging that right?

19

20 COMMISSIONER: Well, that's a very general question. It
21 might, it might not impede that right. Depends on the
22 particular individual circumstances of the child. I mean,
23 the child could conceivably be moved to an area more
24 proximate for the purposes of connection, or cultural
25 connection.

26

27 MS GREENWOOD: That's very true, Commissioner. But I have
28 also asked questions about children being removed from
29 the Gulf area to the east coast.

30

31 COMMISSIONER: Yes, but this witness is concerned with
32 procurement processes, policies, practices and the like,
33 and unless she has personal knowledge of a particular
34 incident or a particular child's circumstances it's
35 difficult for me to see how she can give probative evidence
36 about the matters that you wish to raise in the absence of
37 specific assumed facts that you're able, presumably on
38 instructions, to put to her, otherwise you're simply
39 commenting through the witness, and you can make those
40 comments as a matter of submissions to me.

41

42 MS GREENWOOD: Yes, Commissioner. I was simply seeking to
43 find out the extent to which the human rights review of the
44 procurement policy went in terms of looking at those
45 rights.

46

47 COMMISSIONER: All right. Well, are you asking the

1 question: in reviewing the procurement practices were
2 rights such as those identified by the Human Rights Act and
3 presumably also as repeated in the Child Protection Act
4 taken into account and, if so, how?

5
6 MS GREENWOOD: It's the how that I'm after.

7
8 COMMISSIONER: All right.

9
10 MS GREENWOOD: If you're able to give us some sort of
11 flavour of how that was done?

12 A. I can give you a very limited view of that based on
13 the briefing note. So they do the human rights assessment
14 in the briefing note, and we just check that's it's done
15 and it's not in breach of it. And if it's in breach - and
16 I've never seen any that's in breach - of the human rights,
17 then we will make a note of it in our procurement delegate
18 section. Ultimately it's up to the delegate itself, in
19 this case the Director-General, to make the decision.
20 However, I can tell you that the organisation and every
21 person in the region are quite keen to have that
22 connection. It's always a topic of discussion. When it
23 comes to what's right for the child and having the
24 connection with their family and Elders and the community,
25 that's exactly what everyone is really proud of in our
26 organisation. They do that really well, with my limited
27 exposure.

28
29 COMMISSIONER: Thank you.

30
31 MS GREENWOOD: Thank you. So the briefing note you refer
32 to, is that the briefing note to request the funding for
33 the placement?

34 A. Yeah, that's the final approval for the funding. Yep.

35
36 Q. All right. Thank you. Possibly - so this is in the
37 reasonable excuse bundle at tab 4 at page 95. There is a
38 reference on the last paragraph to outreach placement
39 support, refers to proactive engagement and check-ins with
40 young people under the care of Child Safety who are
41 choosing to self-place at alternative accommodation. You
42 then go on to comment on the situation I think talking
43 about both funded outreach services - that funding can be
44 sought under an IPS agreement and when funded outreach
45 services have reached capacity or no outreach service is
46 provided in the community in which the child or young
47 person is self-placing --

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COMMISSIONER: Well, that's not a comment by the witness. That's a provision contained in the individualised placement and support business rules, so the IPS business rules.

MS GREENWOOD: Yes, sorry. Quite correct, Commissioner.

In your reviews have you looked at better ways to support the self-placing children, other than through the IPS?

A. No, part of the current state analysis was to just review the IPS current state analysis. I didn't look at other models of care and not reviewed those.

Q. Okay. Thank you. Just returning briefly to the New Zealand model, you may or may not be familiar with this, but under their approach contracts are designed to hold agencies accountable for maintaining a child's connection to community and heritage. Is there a similar opportunity to have that sort of requirement in the contracts that are being used by the department now?

A. I think that's a question for the DDG, Commissioning, is better placed to answer that question.

Q. Okay. Thank you. And then just finally to ask you about the agile procurement framework. It's a very modern thing. To just compare with project management either through what was called the classic waterfall method or the agile method, the disadvantages of the older approach was it took a longer time and could take longer; do you agree with that?

A. Yes, absolutely, and I think also the fact that the people in procurement believe that they couldn't talk to suppliers, and because of that that's not really in my view a good model to follow for human services.

Q. And I started my questioning earlier with describing procurement rules could cover everything for buying submarines to photocopy paper. But, as you're describing, in human services it's a much more dynamic environment and the relationships with suppliers are much more dynamic. Traditionally, however, and I was asking about those bigger value contracts, you tend to have procurement embedded in - like, in the submarine procurement you would naturally have a procurement officer embedded in the commissioning team. This is a little bit different because the projects are that much smaller. In your view, does it make sense to

1 have that level of embedding of a procurement officer with
2 these smaller, more agile arrangements?
3 A. I have to - so we are involved with the commissioning
4 team, right, for other procurement activities, not for the
5 IPS, though. So for the rest of the organisation, yes,
6 procurement is there, we are leading it, we are working
7 closely with our business units. What I think is there's
8 procurement that's fit for purpose and not, and we should
9 try and stop forcing, you know, a procurement process
10 through a hole that it's not going to go through, if I can
11 describe it like that, and in my view if we do a
12 prequalification system that will work much better than
13 being reactive and trying to do it after the fact, and
14 that's not going to work. That's in my view. I think what
15 we are seeing today is part of the problem. But a
16 prequalification system, which we are looking at at the
17 moment, will help us prequalify the suppliers with the
18 right qualifications that want to work with us at the right
19 pricing, and we can very quickly issue purchase orders to
20 them and it can take a matter of hours, not days.

21
22 Q. And that's an innovation which in particular could
23 favour foster carers being identified early on as being
24 suitable; is that the sort of idea that that encompasses?

25 A. We are currently in a procurement process for foster
26 carers. So I cannot comment on that at this stage; yep.

27
28 Q. Fair enough. But by that very answer it is something
29 that is amenable. But also looking at kinship care what
30 sort of arrangements could be made so that kinship carers
31 could be in that sort of preferred supplier role and not
32 get disadvantaged?

33 A. I'm sure there's method, prequalification method, can
34 be rolled out across our organisation, not just in Child
35 Safety but you can roll it out across government. It's,
36 you know, a process that will work really well in all
37 categories.

38
39 Q. But I am specifically looking at kinship care in the
40 context of child safety. Is there something that could be
41 done to make sure that they're not disadvantaged in their
42 ability to be considered?

43 A. Sure, yes.

44
45 Q. Are there any specific recommendations that the
46 Commissioner could make to assist that?

47 A. I haven't looked at that myself. We've been really

1 busy with the IPS and urgent emergent care and IPS to OSD
2 negotiations. So I think it will be a little bit unfair
3 for me to make a recommendation off the cuff. I don't feel
4 comfortable with that at this stage.
5
6 Q. Is it something you could subsequently write to the
7 Commission about?
8 A. Sure. I mean yes.
9
10 MS GREENWOOD: Thank you. Thank you, Commissioner. No
11 further questions.
12
13 COMMISSIONER: Thank you. Just a question arising from
14 Ms Greenwood's question. The present prequalification
15 model, it applies, I take it, to procuring services from
16 family-based providers, so residential care providers?
17 A. Yes, it's all residential care at the moment.
18
19 COMMISSIONER: And also to foster carers?
20 A. It can be rolled out. We are starting with
21 residential care first. But if that's in line with the
22 instruction that I get from my seniors then absolutely,
23 yes.
24
25 COMMISSIONER: So it's presently not being examined
26 specifically in the context of foster carers, as you
27 understand it?
28 A. I'm only looking at the prequalification for
29 residential care and the IPS side as well.
30
31 COMMISSIONER: Therefore I assume that it's not being
32 looked at either presently, that is, for application to
33 kinship carers?
34 A. Not that I'm aware of. But that is part of the
35 strategy that is a good question to ask to the DGG
36 Commissioning.
37
38 COMMISSIONER: Yes, but in principle there is no reason
39 not to apply the methodology --
40 A. Absolutely not.
41
42 COMMISSIONER: -- to foster carers, kinship carers --
43 A. Yep.
44
45 COMMISSIONER: -- as well as to residential care
46 providers?
47 A. Yes, that will be my recommendation because it will -

1 if you think about suppliers doing business with government
2 we sometimes ask the same questions over and over again.
3 Like financial viability, regardless which category it is,
4 we ask for insurance certificates, we ask - it's almost
5 like someone comes to your door and they knock. We ask,
6 "Who are you," all those questions over and over again. It
7 will make it a lot easier if we ask those questions once.

8
9 COMMISSIONER: Certainly. But in the case of foster
10 carers and kinship carers as the system presently operates
11 there's a distinction of substance, isn't there?

12 A. Yeah.

13
14 COMMISSIONER: And that is the non-residential care
15 providers are contracted to provide a service which in turn
16 requires them to engage employees and the like, and so
17 you're engaging a provider of a service which provider must
18 in turn engage the services of employees --

19 A. Exactly.

20
21 COMMISSIONER: -- and other inputs to the provision of the
22 service, whereas in the case of foster carers and kinship
23 carers you're not engaging the provider as things presently
24 stand but rather providing some financial support for the
25 provision of a service which, in substance, is provided
26 voluntarily.

27 A. Yes.

28
29 COMMISSIONER: All right.

30 A. That's correct.

31
32 COMMISSIONER: Thank you. Now, Mr Creamer?

33
34 MR CREAMER: No, I don't have any questions for this
35 witness, Commissioner. I might flag at this stage I'll
36 probably be in a similar position with Mr O'Brien, but I do
37 envisage having at least an hour of cross-examination with
38 Ms Mulkerin. So just to assist with planning.

39
40 COMMISSIONER: Yes, of course. Thank you. That's a
41 helpful indication, Mr Creamer. All right. Well, then
42 thank you very much for attending. Thank you for
43 clarifying some matters at a level of detail which is
44 important, and for your assistance in providing a witness
45 statement and answering questions you have answered today.
46 So thank you very much.

47

1 I think in view of the time we should adjourn until
2 2 o'clock, if that's convenient?

3

4 MR HASTIE: Thank you, Commissioner. Yes.

5

6 COMMISSIONER: Yes. All right. We'll adjourn until
7 2 o'clock.

8

9 **LUNCHEON ADJOURNMENT** [12.27 pm]

10

11 COMMISSIONER: Mr Hastie.

12

13 MR HASTIE: Commissioner, I call Arthur O'Brien.

14

15 COMMISSIONER: Thank you.

16

17 **<ARTHUR O'BRIEN, AFFIRMED** [2.00 pm]

18

19 **<EXAMINATION BY MR HASTIE**

20

21 MR HASTIE: Your name is Arthur O'Brien?

22

A. That is correct.

23

24 Q. And you're presently on leave from your role as Deputy
25 Director of the Corporate Services at the department?

26

A. That is correct.

27

28 Q. And you've completed a statement in the proceedings
29 dated 1 April 2026?

30

A. Correct.

31

32 MR HASTIE: And you have prepared a resume. I tender the
33 resume, Commissioner.

34

35 COMMISSIONER: Mr O'Brien's resume will be exhibit CL-99.

36

37 **EXHIBIT #CL-99 - MR O'BRIEN'S RESUME**

38

39 MR HASTIE: Thank you, Commissioner. That's the
40 evidence-in-chief.

41

42 COMMISSIONER: Thank you. Mr Forrest.

43

44 **<EXAMINATION BY MR FORREST** [2.01 pm]

45

46 MR FORREST: Good afternoon, Mr O'Brien. I'm going to ask
47 you some questions. They're going to cover six topics. So

1 I'll let you know which topic we're up to as we go and I'll
2 try and be as efficient as I can. The first topic is your
3 role in the department. The particular period of interest
4 for this round of hearings is the period from 2019 to 2023,
5 and it's right, isn't it, that in those years you held two
6 roles. Up until 12 November 2020 you held a position of
7 Assistant Director-General?

8 A. That is correct.

9

10 Q. Yes. And is it right that after that you were
11 appointed to your current role, the Deputy Director-General
12 of Corporate Services?

13 A. That is correct, yep.

14

15 Q. And there's some differences in the allocated
16 responsibilities between those two roles, but is it correct
17 that at all times in the period 2019 to 2023 your portfolio
18 of responsibilities included financial services, legal
19 services, audit and compliance, and procurement services?

20 A. Yes, that's right. Yes.

21

22 Q. Yes. It's fair to say, isn't it, that the issue of
23 out-of-home care - especially its financial dimensions -
24 was something that touched on all of those areas of
25 responsibilities?

26 A. Yes, all of those; yes.

27

28 Q. Were you in court, Mr O'Brien, for Ms Lategan's
29 evidence this morning?

30 A. I was.

31

32 Q. I thought I should give you an opportunity to comment
33 on something that she said. There was an exchange between
34 the Commissioner and Ms Lategan about whether the
35 department had ever given serious consideration to entering
36 the residential care market. Ms Lategan of course has been
37 at the department for a year. You've been with
38 the department, as I understand it, from 2012 to present.
39 Are you able to tell the Commissioner whether in the time
40 you've been with the department - that is from 2012 - any
41 serious consideration has been given to the department
42 entering the residential care market?

43 A. In my recollection, there was no consideration given
44 to that. That would require a government policy decision.

45

46 Q. Yes.

47 A. Because it would have significant financial, and human

1 resource, and operational impacts on the department.

2

3 Q. Yes. To your knowledge is it correct that some other
4 jurisdictions in Australia do have longstanding government
5 residential - you don't know?

6 A. I don't know.

7

8 COMMISSIONER: Mr O'Brien, when it comes to changing the
9 way things are done is it fair to say that as issues are
10 noticed by the department advice is given upstream, as it
11 were, to the government about what might be done to address
12 the identified issue?

13 A. Yes, that is correct. So --

14

15 COMMISSIONER: As a general --

16 A. As a general process --

17

18 COMMISSIONER: Yes.

19 A. -- government makes the policy, and we deliver on that
20 policy of the day.

21

22 COMMISSIONER: Certainly. But the government doesn't know
23 what it doesn't know it doesn't know, does it?

24 A. That's right. So the government is informed by the
25 department, but it's also informed by Queensland Treasury
26 and the Department of Premier and Cabinet --

27

28 COMMISSIONER: Yes.

29 A. -- in relation to potential policy changes.

30

31 COMMISSIONER: And in other instances the government
32 itself might come up with an idea.

33 A. That is correct.

34

35 COMMISSIONER: It might be a matter of its political
36 agenda, for example.

37 A. Correct; yep.

38

39 COMMISSIONER: And then presumably what happens is that's
40 communicated downstream from the relevant minister or
41 ministers to the department or departments concerned.

42 A. Correct. The government can develop its own policy
43 platform.

44

45 COMMISSIONER: Yes.

46 A. And then ask the public servants - service to
47 implement that policy platform.

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COMMISSIONER: Well, maybe even ask the public sector or the public servants to tell the government whether it's a good idea, what would be involved in implementing the policy, what the costs would likely be, to do an analysis of the proposal?

A. Correct, and that's part of our role in providing frank and fearless advice to government.

COMMISSIONER: Quite. So in relation to the question that Mr Forrest asked you about whether there has ever been consideration of the department entering the market in relation to out-of-home care services has it never occurred to the department, as far as you're aware, to suggest to the government that, "Look, we have these really serious supply side constraints in certain areas. Perhaps a good idea would be to consider providing those services directly by the department itself where there are procurement constraints because of supply side constraints"? I mean, you appreciate of course that the department is the only buyer. Has that never been discussed to your knowledge within the department as an idea?

A. Not to my knowledge. And I think it probably goes back to government used to be a provider of out-of-home services for children and there was a government policy for deinstitutionalisation. And so some of the larger children's homes were deinstitutionalised, and the decision that was taken at that time was to put that out to the not-for-profit sector.

COMMISSIONER: But that's a different point, isn't it, Mr O'Brien? I mean, that's a question - that goes to how the model of care is designed. Presently, as I'm sure you're aware, non-family based residential care is essentially provided by third party providers who, as a general proposition, lease a residential home and then set up the home with the staffing required and possibly some particular modifications to the residence so as to provide a family-like home environment, that's the theory at least, for the children; is that how you understand it works?

A. Yep.

COMMISSIONER: Well, why couldn't the department do the very thing that it contracts with third parties to do? What's to stop it?

A. Look, my view is that it would be costly. It would require some significant industrial reforms within --

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COMMISSIONER: But it's costly now, Mr O'Brien; very costly.

A. It is. But there is no evidence that the department could do it cheaper.

COMMISSIONER: Well, is that because it has examined that question and come to that conclusion?

A. I have not heard that it's been examined.

COMMISSIONER: No.

A. I think there's been - there's belief that the non-government sector can do it cheaper than government can deliver it.

COMMISSIONER: That might be based on a range of anecdotal evidence about the effectiveness of government in running services; I accept that. But this is a rather unusual service area for the government in looking after children. But, nevertheless, it's the government that has the duty to the children, legally, and it seeks to discharge that duty by, in the case of non-family-based care at least, contracting with third parties to provide the services to the government so that the government can discharge its duty; you accept that?

A. Yes, I accept that.

COMMISSIONER: And, if the market circumstances are such that there is serious constraint in the availability of services in particular areas, I'm just not understanding why the government hasn't considered evaluating its own capability of providing those services in certain areas that are identified as in need of greater supply and why it hasn't undertaken a detailed review or evaluation of what that would entail. But you're not able to say?

A. I could not give you a definitive answer to say that it's never been looked at. To my knowledge over 2011 to 2025 it was not a consideration of the department to look at in-sourcing residential care.

COMMISSIONER: Yes. And had it been looked at in that timeframe where you've been in the positions that you've held it's likely to have come to your knowledge, isn't it?

A. Yes, it would have significant human resource, financial, and property implications and so it would come to my attention.

1 COMMISSIONER: Is part of the reticence of the government
2 or the department directly undertaking this activity a sort
3 of desire to avoid the many risks associated with providing
4 the service?

5 A. Look, the department contracts with the non-government
6 sector but it doesn't contract out the risk. The
7 department still holds the risk.

8
9 COMMISSIONER: Yes, certainly. It's a non-delegable duty,
10 you would say?

11 A. M'hmm.

12
13 COMMISSIONER: Yes. Well, if that's the case, which
14 legally is I think likely to be correct, then that's all
15 the more reason, isn't it, to give consideration to the
16 department directly undertaking the activity?

17 A. I would say that if we - knowing what we know today,
18 if we didn't at least give it some consideration we
19 probably wouldn't be doing our jobs.

20
21 COMMISSIONER: So does it follow from that that you would
22 favour here and now giving substantive consideration to
23 that option where appropriate in formulating the supply
24 mix, as it were, for non-family based residential care?

25 A. I think it's worth an assessment, a proper assessment.

26
27 COMMISSIONER: What do you perceive to be the in principle
28 objections to that course of action?

29 A. I think it's the way that the department is set up at
30 the moment that to change a policy position we would need
31 the authority of the government of the day and then we
32 would need the resourcing because there would be
33 significant start-up costs associated with this. The
34 ongoing costs could well be offset --

35
36 COMMISSIONER: What would the start-up costs be? It's a
37 marketplace with low economic barriers to entry, I venture.

38 A. So, we'd have to identify properties because these
39 children need homes to live in. We would have to identify
40 and recruit significant staff to fulfil a roster that's
41 24/7, seven days a week, 365 days a year. So --

42
43 COMMISSIONER: But that's precisely what very small
44 enterprises relative to the Queensland Government do
45 presently, isn't it?

46 A. That is right.

47

1 COMMISSIONER: With far less resources.
2 A. Look, as part of their contract arrangements they get
3 12 to 14 per cent administration costs, which is part of
4 their costs of recruitment, training, costs of their
5 financials, costs of managing their properties, their legal
6 costs and what have you.

7
8 COMMISSIONER: Sure.

9 A. So you're shifting - you're shifting the existing
10 resource, I guess, onto the department, but there would be
11 an initial set-up cost on top of that.

12
13 COMMISSIONER: All right. So it's clear, I'm not
14 suggesting that the department should eradicate the third
15 party marketplace for the provision of these services but
16 rather to look astutely at areas where there is inadequate
17 participation on the supply side - the department's the
18 only participant on the buyer side - and if necessary or if
19 it would enhance the range of services that are available
20 to meet the needs of children brought into care and
21 specifically those who are placed in out-of-home care such
22 that it becomes a further option available to meet those
23 children's needs.

24 A. Yep, I would - I would agree that some form of
25 assessment should be done.

26
27 COMMISSIONER: And I do understand your point that it's a
28 matter of government policy. But, as we discussed earlier,
29 government policy as ultimately implemented might commence
30 from a suggestion where there is an identified need by the
31 department itself, and this suggestion could well emanate
32 from the department?

33 A. That is correct.

34
35 COMMISSIONER: It may be rejected --

36 A. May be.

37
38 COMMISSIONER: -- at the government level, or it could
39 emanate from the government of course and the department
40 would then be required to evaluate it and advise the
41 government fearlessly of course.

42 A. Correct. That is correct.

43
44 COMMISSIONER: Yes, thank you.

45
46 MR FORREST: Before we depart that topic, Mr O'Brien, the
47 financial dynamics of the out-of-home care sector have been

1 within your remit for a number of years. The Commissioner
2 asked Ms Lategan a question about whether she thought that
3 the presence of the government in that market at least to
4 some extent would have a disciplining effect on the price
5 offered by the outsourced providers. Do you have a view
6 about that?
7 A. I think if you established another model of care it
8 would set an indicative price. The caveat I would put on
9 that is that we are subject to national competition policy
10 as a government.
11
12 Q. Yes.
13 A. And we cannot undercut the private sector because of
14 the way that we might be able to take advantage of things
15 that the private sector had to meet that we may not have to
16 meet.
17
18 COMMISSIONER: Do you mean like subsidising?
19 A. Correct; yeah.
20
21 COMMISSIONER: It would be an internal accounting
22 exercise, wouldn't it, if it's the government providing the
23 service?
24 A. If the government's providing a service we would have
25 to assess it based on national competition policy and make
26 sure that we're not putting in unfair competition on the
27 private sector.
28
29 COMMISSIONER: And that in practical terms would be some
30 form of subsidy; a notional subsidy?
31 A. It's notional. It is notional.
32
33 COMMISSIONER: For pricing purposes.
34 A. For pricing purposes, yes.
35
36 COMMISSIONER: And that could easily enough coped with.
37 You just survey the market for what the actual input costs
38 are, make sure that for internal pricing purposes the
39 department doesn't benchmark prices notionally at a level
40 that no private supplier could meet because of some
41 notional subsidy on the part of the government. That
42 wouldn't be too hard to comply with, would it?
43 A. It's not too hard to comply with that. It's just part
44 of your assessment.
45
46 COMMISSIONER: All right.
47

1 MR FORREST: And I asked you about your knowledge of
2 whether there were longstanding government resi care
3 programs in other states. Do I take from that answer that
4 you're unaware of any of the other practices in other
5 jurisdictions full stop or just unaware about longstanding
6 programs?
7 A. Look, the only knowledge I have is where someone else
8 would have mentioned it as part of a workshop --
9
10 Q. Yes.
11 A. -- or as part of a discussion in the board. We had a
12 number of executives who came from other states who shared
13 their different models with the board, but I don't pretend
14 that I'm the expert in that.
15
16 Q. Yes, all right. We'll return then to your role. I'd
17 like to place you in the organisational hierarchy. It's
18 right that in your role the Chief Finance Officer reports
19 up to you?
20 A. Correct.
21
22 Q. We've heard from Mr Short. At all times in that
23 period from 2019 to 2023 that was Mr Short; is that right?
24 A. That is correct, yes.
25
26 Q. Yes. And above you you report to the
27 Director-General?
28 A. That's right.
29
30 Q. And until 3 February 2020 that was Michael Hogan, and
31 after that it was Ms Mulkerin; is that correct?
32 A. Yes, until I think November 24, and then it became
33 Ms Belinda Drew.
34
35 Q. Yes. Focusing on the period when Ms Mulkerin, who
36 we'll hear from tomorrow, was the Director-General you said
37 in your witness statements that you would report to her in
38 those years on at least a fortnightly basis; is that
39 correct?
40 A. Yes, that's right.
41
42 Q. And in fact I think for most of the time you were
43 reporting to her on at least a weekly basis?
44 A. Yes, that's right. Yes.
45
46 Q. Yes. And before taking your current position you were
47 Mr Short's predecessor as Chief Finance Officer?

1 A. That is correct.

2

3 Q. And we heard from Mr Short on Friday that a chief
4 finance officer is required by law to have specialist
5 financial qualifications, and you've set out in your
6 witness statement that you also have those qualifications?

7 A. Yeah.

8

9 Q. Topic 1 is done. Topic 2 is the budget. So, firstly,
10 I want to bed down with you for reasons that will become
11 clearer later the timing of the budget cycle. This is a
12 topic that you very helpfully address in your witness
13 statement. Working through from the start, the starting
14 point is the State's main budget which in a normal year is
15 delivered in June; is that correct?

16 A. That is correct.

17

18 Q. The budget contains a sum of money that is
19 appropriated to the department for the financial year
20 ahead?

21 A. That is correct; yes.

22

23 Q. And there are some technical wrinkles to this that are
24 unimportant but in effect the appropriation kicks in on
25 1 July?

26 A. That is right; yes.

27

28 Q. Yes. And the decision about the size of the sum of
29 money that's appropriated for the department we've heard is
30 made by a body called the Cabinet Budget Review Committee
31 or the CBRC?

32 A. So CBRC makes decisions based on budgets for agencies
33 and for other agencies of government as well.

34

35 Q. Yes.

36 A. So CBRC makes those decisions. But the ultimate is
37 parliament, who approves the appropriation through the
38 Appropriation Act or the Bill; it's a Bill and then it
39 becomes an Act.

40

41 Q. Yes. Thank you, Mr O'Brien. So after the budget your
42 next step is something called the MYFER or the mid-year
43 fiscal and economic review process; is that right?

44 A. Yeah, that is correct, although you can have budget
45 submissions that you can raise with the permission of CBRC
46 at any time through that year.

47

1 Q. I see. So, assuming you don't do that and wait for
2 the MYFER, the MYFER process runs basically from October to
3 December; October the department's lodging its submissions?
4 A. Yeah, so it depends on the year. So some years
5 government have asked or CBRC has asked for submissions,
6 and in other years they have invited specific topics to be
7 the topic of a submission, and then in some years they have
8 not invited any submissions.
9
10 Q. I see.
11 A. So it depends on the CBRC.
12
13 Q. Yes.
14 A. And it depends on the framework in which they're
15 operating for that year's budget.
16
17 Q. Yes. Can you just explain what you mean by "the
18 framework in which they're operating"?
19 A. I'm talking about their capacity to make adjustments
20 to departmental funds based on consideration of the impact
21 on the state and the taxpayers in the state.
22
23 Q. Yes. You've said in your witness statement that the
24 MYFER process is an opportunity for the department to alert
25 the CBRC of any "budget pressures" that have emerged since
26 the June budget.
27 A. That is correct, yep.
28
29 Q. Does that mean the MYFER process is an opportunity for
30 you to signal to the CBRC if the department is at risk of
31 running a deficit?
32 A. So if you think about the appropriation as the
33 revenues that are provided to the department.
34
35 Q. Yes.
36 A. So the department has revenue. The department then
37 spends that revenue through the year.
38
39 Q. Yes.
40 A. We will - through the year from when we establish the
41 budgets we will look at what are the budget pressures, and
42 we will do a full year projection on known pressures.
43
44 Q. Yes.
45 A. And if those known pressures, budget pressures, are
46 not absorbable within that total appropriation it creates
47 what is known as a budget pressure but the reality is it's

1 a potential deficit from a financial perspective.

2

3 Q. Yes.

4 A. So it's an operating deficit.

5

6 Q. Budget pressures, in other words, is another way of
7 saying that you're trending towards an overspend for that
8 year?

9 A. Yes, if we can't absorb it within the appropriation.

10

11 Q. Yes.

12 A. So there are some years that we have been able to
13 absorb budget pressures and there are some years that
14 they've been beyond the control of the department to be
15 able to absorb.

16

17 Q. Yes. And this may be of mainly historical interest
18 but is one of the mechanisms by which the department might
19 absorb budget pressures in one of its portfolios by
20 essentially cross-subsidising the more profitable
21 surplus-running portfolio?

22 A. That's correct, yes

23

24 Q. After the MYFER you have your big opportunity to seek
25 funds through the main budget review process, and is it
26 right that the department typically lodges its main budget
27 submission in around March?

28 A. That is correct; yes.

29

30 Q. CBRC then meets to consider the budget submissions
31 generally in April or May?

32 A. Yep.

33

34 Q. Yes. And you'll find out shortly after that what's
35 coming in the June budget?

36 A. That's right. Correct.

37

38 Q. In your witness statement you also refer to something
39 called the end of year review process. When does that
40 occur in the year?

41 A. So that happens in - so end of June you know what your
42 actual expenses are, and there will be some work with
43 Queensland Treasury around looking at what the total
44 appropriation for the department is required to be and how
45 that differs from the appropriation through the
46 parliamentary process.

47

1 Q. Yes.
2 A. And then that difference is a technical adjustment in
3 some instances but can result in unexpected expenditures or
4 UE --
5
6 Q. Yes.
7 A. -- which become a supplementary appropriation bill or
8 sometimes it becomes an appropriation bill that's done as
9 part of the next year's budget process.
10
11 Q. Yes. You said "unexpected expenditure". With
12 Mr Short we explored a mechanism called the unforeseen
13 expenditure mechanism. We're talking about the same thing?
14 A. Unforeseen. You are right. It is unforeseen.
15 Unforeseen expenditure.
16
17 Q. Very good. At any event, any overspend eventually
18 needs to the subject of a later appropriation, whether a
19 supplementary or the next budget cycle?
20 A. Not every - so the department has had historically a
21 budget - not a budget deficit but an actual deficit. So if
22 you look in the financial statements there are years where
23 the department is in an operating deficit.
24
25 Q. Yes.
26 A. And there are years where the department is in an
27 operating surplus. So there's not always a complete top-up
28 of a budget.
29
30 Q. Yes.
31 A. Sometimes you can manage and run a deficit and offset
32 it against available cash, for example, in your financial
33 statements.
34
35 Q. We'll come back to the idea of deficit funding in more
36 detail later, but Mr Short's evidence was at least in the
37 years from 2018 to present all of the deficits run up by
38 this department were funded ultimately by way of a
39 supplementary appropriation; do you agree with that?
40 A. I would agree that the - in a budget deficit sense
41 that's true. But if you look at the department's financial
42 statements, which are audited by the Queensland Audit
43 Office, you will see deficits in 2020, 21/22 and 22/23.
44
45 Q. And can you explain the distinction that you're making
46 there?
47 A. So, as I said, the government appropriates through the

1 parliament an amount of revenues, and then the department
2 will spend those revenues. And if our expenditure at the
3 end of the year is greater than the revenue that's
4 appropriated with all the adjustments that are made through
5 the year it still can be a difference and there still can
6 be an operating deficit.

7
8 Q. Yes. And is your evidence that some of those deficits
9 were not ultimately funded by way of supplementary
10 appropriation or --

11 A. I think it's a matter of evidence in the financial
12 statements that the department ran deficits in a number of
13 those years, in that five-year period that you're referring
14 to.

15
16 Q. Yes.

17 A. From an appropriation perspective what that means is
18 that the department was not appropriated to the full extent
19 of its expenses.

20
21 Q. Yes. Would you disagree with me if I said that the
22 shortfall was ultimately made good either by way of a
23 supplementary appropriation or in a future budget --

24 A. I would say that the cash shortfall was ultimately
25 made good.

26
27 Q. The cash shortfall?

28 A. Yep. But the department - I mean, it 's a matter of
29 public record that the department ran deficits, had actual
30 deficits audited by Queensland Audit Office in a number of
31 financial years that --

32
33 COMMISSIONER: What's the difference between a budget
34 deficit and an operating deficit?

35 A. I think it's just a matter of perspective. So I think
36 I take a very accounting view to this. You have revenue
37 and you have expenses. The appropriation that's provided
38 through the budget process, people talk about that as the
39 budget. The budget is set on both sort of a revenue side
40 and an expenditure side. A budget deficit is when you look
41 at those revenues, you allocate those revenues down across
42 the department. People get an expenditure budget and, if
43 they overspend against that budget, they see that as a
44 budget deficit. But it's purely a way to control
45 expenditure and manage and monitor expenditure and report
46 on that expenditure.

1 If you've got a budget that's an expense budget and then
2 you've got an actual expense that's against that budget, so
3 that in the department's mind would be a budget deficit.
4 But, in my accounting mind, at the end of a financial year
5 the budget is a point in time number whereas your actual
6 revenues that are provided by government and your actual
7 expenses that are made are audited and are published in
8 your financial statements, and the difference between those
9 two numbers is your operating position, and that can be a
10 deficit or a surplus.

11
12 COMMISSIONER: So by budget deficit that includes a sort
13 of line item level overspend in respect of particular
14 identified activities against which an expense allowance
15 has been allocated? So, if you budgeted X for non-family
16 based residential care and what you actually spend is
17 higher than that, that will produce a budget deficit
18 vis-à-vis that allocated expense item?

19 A. Correct, yes.

20
21 COMMISSIONER: But overall it might also lead - depending
22 on the magnitude of that overspend for that item - an
23 operating deficit?

24 A. That is correct, yes.

25
26 COMMISSIONER: Yes, I see.

27
28 MR FORREST: Thanks, Mr O'Brien. That's very helpful. In
29 your witness statement you say that someone may do and
30 something that you did at least until 2020 in respect of
31 the end of year process was to negotiate with Treasury
32 around the department's end of year financial position and
33 any specific funding pressures. Is an aspect of that
34 negotiating with the CBRC about whether or not they will
35 fund any end of year shortfall?

36 A. An aspect of that is negotiating with Treasury what
37 they might take to CBRC as part of the end of year process.

38
39 Q. Yes.

40 A. And then Treasury will make a decision about does that
41 then become a matter for the budget if there's time for
42 that, that year's budget, or is it an adjustment that's
43 post-budget, which is that unforeseen expenditure process.

44
45 Q. Yes, thank you. We'll come back to it in greater
46 detail later, but is it correct that the Queensland
47 Treasury Corporation out-of-home care review report was

1 essentially a condition imposed on deficit funding for the
2 previous year by the CBRC?

3 A. Yes, I think there's documented evidence that would
4 indicate that.

5
6 Q. Yes, there is. So QTC itself says that it was engaged
7 in January to March 2020 following the previous year's
8 MYFER process in 2019; do you agree with that?

9 A. I would agree with that; yes.

10

11 Q. And QTC's timeline was to come back with interim
12 findings on 7 February of 2020, with a draft report to
13 follow later. Was, to your knowledge, the intention of
14 having the interim findings returned in early February to
15 be so that they could be fed into the March budget
16 submissions for 2020?

17 A. That is correct; yes.

18

19 Q. Yes. And is it correct that CBRC insisted that the
20 QTC report be commissioned because during the late 2019
21 year MYFER process the department had told the CBRC that it
22 was expecting to run a 132 million overspend in financial
23 year 2020?

24 A. Yes, that is correct.

25

26 Q. Yes. And essentially is the position that CBRC was
27 concerned that this was, I think, going to be the second
28 deficit year in a row, that they then said, "We want some
29 independent analysis to understand what is driving these
30 seemingly fairly fast-increasing deficits in the
31 department"?

32 A. Yeah, I think CBRC was keen to understand what was
33 driving the deficits in the department, but was also keen
34 to understand from a range of initiatives that had been
35 proposed by the department which ones would make the most
36 impact for the least investment.

37

38 Q. Yes, and you're referring I think to something called
39 the care systems investment plan?

40 A. That is correct; yes.

41

42 Q. And we'll come back to that, but that was a plan that
43 was in train in late 2019 and in fact was referred to in
44 the 2019 MYFER submission that the department made. And so
45 CBRC wanted an independent rigorous analysis of that plan
46 by QTC?

47 A. That is correct; yes

1
2 Q. Yes. Can I just focus on the 2020/21 budget cycle;
3 that's the first COVID budget cycle. Am I correct that in
4 this budget cycle the timing was slightly different in that
5 the cycle was essentially pushed back six months?
6 A. I can't recall that particular far back, no.
7
8 Q. COVID is a bit of a fog in my memory as well.
9 A. I do recall one year where it was September and not
10 June.
11
12 Q. If I told you it was December 2020 would that --
13 A. I wouldn't be surprised.
14
15 Q. Yes.
16 A. Yes, given COVID.
17
18 Q. I try not remember that period as far as I'm able. Is
19 it right then - assume I'm right that it was in December
20 2020. Is it right that that would have meant that the
21 department's main budget submission would not have been in
22 March but was in August of 2020?
23 A. It depends. It may still have been a requirement to
24 put in budget submissions in March and they were just held
25 over.
26
27 Q. Yes. I want to show you a document. So you're going
28 to have a large number of bundles in front of you,
29 Mr O'Brien.
30 A. I do.
31
32 Q. I'm very sorry. But one of them's called the public
33 interest immunity bundle, and --
34 A. Public immunity interest bundle?
35
36 Q. Yes, that's the one. And if I could ask you to open
37 tab 16. This is - and we'll come back to it - the
38 department's budget submission for the next year. But if
39 you're able to turn to the second page, which is page 378,
40 and focus on paragraph 6 it says that the former department
41 with a slightly different acronym then prepared a CBRC
42 submission in August 2020. Just refreshing your memory,
43 does that --
44 A. Yep. Sounds right.
45
46 Q. That stacks up?
47 A. Yep. Yep.

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Q. Okay. Can I turn now to the process by which a budget proposal moves through the department. So Mr Short gave evidence on Friday that a budget proposal that was generated by him would move up the line to you before it ultimately went to the Director-General.

A. It would - yes, it would go from Danny Short, the CFO, to myself if he wrote that.

Q. Yes.

A. If any of my other areas of Corporate Services wrote a budget submission it would go up through me.

Q. Yes.

A. And depending on the year would depend on who coordinated that submission.

Q. Yes.

A. So prior to 2020 Corporate Services coordinated the budget submissions.

Q. Prior to 2020, did you say?

A. Prior to 2020.

Q. Yes.

A. And then after 2020 the Director-General was keen that the budget submissions were part of the responsibilities of the Deputy Director-General Strategy so that there be an alignment between budget and strategy so that the strategy would drive the budget, not Corporate Services driving the budget.

Q. Yes. And does what you're saying mean that after 2020 a budget proposal that started with Mr Short would still run up through you to the Director-General but it would be the Deputy Director-General of Strategy who would coordinate the budget process involving CBRC?

A. So, yes, the Deputy Director-General Strategy would take submissions from right across the department.

Q. Yes.

A. The Chief Finance Officer has a sort of specific role to make sure that the funding that's being sought by the department has some level of assurance. So the CFO is likely to see all the budget submissions that have a financial implication to provide some certification about the financial content. But that would go to the Deputy

1 Director-General Strategy, who would prepare the submission
2 for the consideration of the Director-General and the
3 minister. It's ultimately the minister's budget submission
4 that's presented to CBRC.

5
6 Q. Indeed. So, if you've still got that document open in
7 front of you, this is a document that comes after 2020. So
8 this is a document from 16 March. If you can track through
9 to page 388, and at the foot of that page is a table --

10 A. Yep.

11
12 Q. -- with various titles and various names, and that
13 seems to suggest, doesn't it, that at least this budget
14 proposal went from Mr Short through you and ultimately to
15 the Director?

16 A. Correct.

17
18 Q. And is what you're saying that, allied to that
19 process, there was also at that stage a sort of
20 coordinating involvement from the Deputy DG of Strategy in
21 the overall --

22 A. Yes. So you can imagine the DDGs across the
23 department and the Chief Practitioner, who is that sort of
24 second level in the agency, would be coordinating their own
25 budget submissions.

26
27 Q. Yes.

28 A. That would be pulled together by the DDG Strategy, and
29 then there would be some form of discussions about the
30 budget strategy at a Director-General level. So not all
31 budget submissions would make it through. This particular
32 one would, given it's Cabinet-in-confidence labelled, this
33 particular one would have.

34
35 Q. Yes.

36 A. But not all budget submissions that are developed by
37 executives in the department do end up through into the
38 CBRC process.

39
40 Q. Yes. There's multiple sort of off-ramps during the
41 process.

42 A. Correct; correct.

43
44 Q. So it may or may not end up in front of CBRC in its
45 original form.

46 A. Correct. Yep.

47

1 Q. Can I just ask you to focus on the budget submission
2 for the previous year. Am I right to assume that you would
3 have had the same level of visibility over the August 2020
4 submission for the 2021 budget as it seems that you had
5 over this submission?

6 A. Yeah, I think you can take it as read that any
7 submission that had an implication for out-of-home care,
8 given my involvement in both the phase 1, phase 2 and later
9 the phase 3 parameters-based funding model, plus all of the
10 other process that were going on in conjunction with that
11 that were being run through Queensland Treasury, I think
12 you can assume that all of those budget submissions I would
13 have signed off on.

14 A. Yes.

15

16 Q. And you knew ultimately what was proposed to the CBRC
17 and what the outcome was?

18 A. Yes.

19

20 Q. Yes.

21 A. Correct.

22

23 Q. The final subtopic of the budget topic is the topic of
24 deficits, which we've touched on a little bit already.
25 Mr Short gave evidence on Friday that IPS agreements
26 uniquely drive department deficits because they can be
27 bought using a different funding source, something called
28 the CRC-PaS source; do you agree with that?

29 A. I agree that the demand pressures on the department
30 prior to the establishment of the parameters-based funding
31 model was creating some significant budget pressure on the
32 department, and I also agree that through that period there
33 was a need to place young people and children in care.

34 So --

35

36 Q. I think I've not been clear enough in my question, so
37 I'll ask it more precisely. There is a budgetary
38 distinction between the funding sources available for
39 family-based and OSD residential care places on the one
40 hand and IPS places on the other. The former category have
41 to be spent using budgeted funds whereas the CRC-PaS
42 funding source is available for the IPS places; do you
43 agree with that?

44 A. I think it's a little bit more complicated than that.

45

46 Q. Can you explain?

47 A. So if we look at what I think people call OSD

1 contracts, which I call social services contracts, they are
2 multi-year contracts. To get a financial delegate to
3 approve a multi-year contract requires a multi-year funding
4 source. So, if there is no funding source across the three
5 years or even the five years of the contract that you want
6 to write, a financial delegate could not sign off on there
7 being funds available and the CFO could not certify that
8 those funds were available. So there would not be a
9 process by which you would be able to sign off on a
10 three-year contract arrangement without having a funding
11 source in place.

12
13 A temporary individualised placement and support
14 arrangement that a region may go and negotiate after
15 they've determined that there are no residential places,
16 there's no fostering placements and there's no kinship care
17 placements would be likely the first time within their
18 delegation, so it might be a couple hundred thousand, and
19 they would sign that off in light of their consideration of
20 that child needing a placement. At some point through the
21 financial year as the department progresses there would be
22 a point where people are then writing these short-term
23 contracts that are beyond the budget, the original budget.

24
25 COMMISSIONER: Mr O'Brien, you were present this morning
26 in court, were you, and heard the evidence given by
27 Ms Lategan?

28 A. Yes, I was.

29
30 COMMISSIONER: And you'll recall her evidence that IPS
31 contracts at the level of \$5 million and above required
32 central authority or sign-off by the procurement team --

33 A. Yep.

34
35 COMMISSIONER: -- at the central office. Now, the very
36 availability of that mechanism suggests that contracts were
37 being entered into under the IPS funding model which were
38 known and indeed intended to endure for in the order of
39 five years or thereabouts. If the contract reached a level
40 of \$5 million, it will be surprising if they were for less
41 than a period of somewhere between three to five years; do
42 you agree? It wouldn't be for one year or six months if it
43 was costing 5 million?

44 A. No, no. My understanding of the way that this works
45 is that if it's a new arrangement and you're signing up to
46 an individualised placement and support arrangement for a
47 young person the first time it may well be within the

1 region's delegation. When that arrangement comes to an
2 end - so you might have signed up for six weeks. When that
3 arrangement comes to an end there is an extension of that,
4 and under the delegations the department would consider
5 that extension of that contract to be a contract extension,
6 not a new contract. So the cumulative cost of that
7 contract over time would accumulate to the point where the
8 original financial delegate would no longer have the
9 delegation to sign off on the cumulative cost of that IPS
10 placement.

11
12 COMMISSIONER: But somebody --

13 A. So at some point then that would get through to the
14 Director-General level where it's over 5 million over the
15 life of that arrangement.

16
17 COMMISSIONER: Sure.

18 A. So it's not - it's - if you like, it's the arrangement
19 that's written that exceeds the previous person's
20 delegation that I think would trigger the next delegation
21 to approve. If it gets up to the range of 5 million it's
22 probably been in place for quite some time.

23
24 COMMISSIONER: Yes. I understand that, and thank you for
25 explaining that hierarchy of approval. The point I want to
26 draw attention to is this. When it comes to an OSD
27 contract there is no power, as I understand it, at any
28 delegated level for authority to be given to enter into an
29 OSD contract over the life of the contract - it might be
30 four years, it might be five years - unless there's a
31 correlating OSD budget appropriation that allows that to
32 occur; is that correct?

33 A. That is correct. And it's because the IPS agreements
34 are within the year, within the budget year. I mean, as
35 you come towards the end of the budget year you might be
36 crossing over into the next budget year. But if you're
37 signing an OSD contract you're signing off three years into
38 the future.

39
40 COMMISSIONER: Yes, I understand that sort of legal
41 distinction between the two types of funding. But as a
42 matter of substance if what you're doing in year 1 is
43 entering into an IPS arrangement which you know or is at
44 least intended to, say, endure for four to five years, and
45 that cost is in the order of potentially 5 million, as was
46 explained this morning, then it falls into a different
47 regulatory bucket but in substance it is a long-term

1 contractual arrangement or at least is contemplated to be a
2 long-term contractual arrangement. But, because of
3 the constraints that apply to OSD-funded arrangements, the
4 department has no choice but to enter into the more
5 expensive IPS-funded arrangements because the latter are
6 not subject to the same need to correlate the contract with
7 the appropriation; is that right?

8 A. I understand what you're saying and I --

9
10 COMMISSIONER: Is what I'm saying correct is what I'm
11 asking.

12 A. I would say yes. I would say that to sign off on an
13 OSD contract knowing you didn't have funds would have
14 consequences for that financial delegate, whereas signing
15 off on an IPS arrangement that might be for the next three
16 months became an issue - became a financial issue rather
17 than a delegation issue.

18
19 COMMISSIONER: But wasn't it really an artifice? I mean,
20 if you know that you haven't got any OSD funding available
21 because it's been absorbed by contracts already entered
22 into but you have a child that needs caring for, your only
23 resort is to shift to IPS funding, isn't it?

24 A. If you can't find a suitable placement for them, yes,
25 outside that IPS --

26
27 COMMISSIONER: Yes, that's the embedded assumption in my
28 proposition.

29 A. Yes.

30
31 COMMISSIONER: But you know also that this IPS arrangement
32 will need to be extended, rolled over periodically. That's
33 all right under the present arrangements so far as the
34 legal authority to enter into the arrangement because you
35 just break it down into bits for funding purposes and
36 thereby you don't offend the rules that constrain entering
37 into longer term arrangements via the OSD-funded mechanism;
38 is that basically correct?

39 A. That's basically correct; yes, yes.

40
41 COMMISSIONER: All right.

42 A. So, I mean, it becomes - you know, the lack of funding
43 in that IPS space becomes the budget deficit. Then we need
44 to go and argue with government every year to top up the
45 funding which would then cover off on the expenditures
46 associated with the contracts that are being --

47

1 COMMISSIONER: But doesn't the problem begin with a lack
2 of OSD funding or a realistic level of OSD funding, thereby
3 driving or creating the necessity to instead, for the
4 reasons we've just discussed, enter into IPS contracts that
5 are short term but contemplated to be extended or rolled
6 over potentially for as long, perhaps even longer, than an
7 equivalent OSD contract, longer in duration that is?

8 A. I would argue that the issue here was that the
9 department had a strategy of growing kinship care. The
10 strategy to grow kinship care really meant that we couldn't
11 enter into long-term OSD contracts because that was against
12 the strategy. Why would you grow your out of - why would
13 you grow your residential care when you're intending to
14 reduce it to 7 per cent by 2026? So the only fallback then
15 was temporary arrangements because the expectation was that
16 kinship care would increase and you wouldn't need those
17 temporary arrangements anymore.

18
19 COMMISSIONER: That was the thinking.

20 A. That was the thinking. The strategy and the way that
21 the department advised government particularly in that
22 22/23, 23/24 period was that if you invest in additional
23 family support, if you invest in child and family reforms,
24 finding kin teams, more contract managers in regions, a
25 reform team in Investment and Commissioning, that will
26 drive additional kinship carers. The approach to splitting
27 kinship care out of the foster care arrangements so that
28 there would be a standalone kinship care program was all
29 about growing kinship care so that we would reduce
30 residential care because to grow kinship care was the right
31 thing to do by those children. An under 5-year-old and an
32 under 12-year-old shouldn't be in residential care.

33
34 COMMISSIONER: I understand all of that. So if that's the
35 strategy you've got to implement the strategy.

36 A. Correct.

37
38 COMMISSIONER: And you've got to monitor it.

39 A. Correct.

40
41 COMMISSIONER: And see whether it's in fact working
42 against forecast.

43 A. Correct. Yep.

44
45 COMMISSIONER: And if you don't implement it sufficiently
46 or dedicate enough resources to it and you don't monitor
47 the progress of success with the strategy then the

1 justification for not increasing OSD funding starts to
2 erode, doesn't it?

3 A. It does, and hindsight is a wonderful thing.

4

5 COMMISSIONER: Yes, indeed.

6 A. So when you're looking back now across the last five
7 years, you know, someone would say, "Why didn't you grow
8 OSD? It would have been a lower cost option than IPS." My
9 answer is that we were going for the lowest cost option,
10 which is family-based care, and family-based care was the
11 right thing to do by those children.

12

13 COMMISSIONER: Yes, well, I think Mr Forrest will come to
14 it. We need to understand why the plan to grow kinship
15 care and family-based care, which is plainly a lower cost
16 option, was not realised. Mr Forrest.

17

18 MR FORREST: Mr O'Brien, in a few of the answers that you
19 gave to the Commissioner you emphasised the fact that IPS
20 placements are short terms of three-month placements. Do
21 you accept that more than half of IPS or CRC placements are
22 actually for more than two years?

23 A. I have seen evidence that indicates that a number of
24 these IPS placements become longer term arrangements; yes.

25

26 Q. The phase 2 report that QTC prepared indicated that
27 57 per cent of the children in CRC-PaS places were there
28 for more than two years.

29 A. Yep.

30

31 Q. You may have in front of you still, because I referred
32 to it recently, the budget proposal for FY21/22. I'd be
33 grateful if you could take up - that's at tab 16 of
34 the public interest bundle.

35 A. M'hmm.

36

37 Q. And I'd be grateful if you could take up page 381 and
38 in particular direct your attention to the graph. Now,
39 earlier you said, I think, that this was one of the budget
40 proposals that went through you from Mr Short.

41 A. Yep.

42

43 Q. This is a graph, isn't it, that maps the level of
44 funded places, that is family-based and IPS-funded places,
45 against the increase in demand; that is the increase in the
46 number of children entering care; do you agree with that?

47 A. Yes.

1
2 Q. Yes. And we have three - the first three columns to
3 the left show us the actual figures for the three-quarters
4 from March to September 2020 and then there's a projection.
5 This, you'll see from the capitalised word "Low" next to
6 the title, is the sort of best-case scenario and you'll see
7 overleaf that there's a worst-case or a high scenario, but
8 I'd just like to focus on this. It's right, isn't it, that
9 the yellow component of the columns of this graph, which is
10 referred to as "funded OSD places" is using the word "OSD"
11 in a slightly different way to the way we've used it over
12 the last two weeks in this hearing block? Just looking at
13 the numbers, that must in fact be all funded family-based
14 places as well; do you agree with that?
15 A. Yes, so everything that we're doing with private
16 providers is OSD.
17
18 Q. Yes.
19 A. Even IPS is OSD.
20
21 Q. Yes.
22 A. We use labels like "OSD contracts", we use "outsourced
23 service delivery".
24
25 Q. Yes.
26 A. But, yes, it is - OSD would comprise the contracts
27 that we have for our residential placements, for safe
28 houses, for our foster care organisations, for our kinship
29 care organisations, for our - and any sort of support
30 agency that might be supporting a placement of a child.
31
32 Q. Yes. So we can read that yellow component as
33 including all of the things that you've just referred to?
34 A. Correct; yeah.
35
36 Q. And the green component is something called "Funded
37 CRC-PaS places". Now, this is a reference, isn't it, to
38 CRC-PaS or IPS places that are funded in advance; do you
39 agree with that?
40 A. This would be the number of places that we could
41 afford with the budget for that year.
42
43 Q. Yes. And so we read yellow and green together as
44 basically the total number of funded places. And we can
45 see a grey category which is basically the gap, isn't it,
46 between the funded places and actual demand?
47 A. So that is correct. It would demonstrate the

1 difference between the funded placements and the demand for
2 services, noting that some of those would be department
3 supported.
4

5 Q. And what do you mean by that?

6 A. So it might be - I think they call them, like -
7 I think they're supported arrangements that the department
8 has rather than being outsourced.
9

10 Q. Yes.

11
12 COMMISSIONER: Do you mean by that where the child remains
13 with the family with assistance and/or supervision by the
14 department?

15 A. Yes. Yes, I think so.
16

17 COMMISSIONER: Yes. So the child is not removed from
18 the family?

19 A. Yeah, although I think looking at these numbers this
20 might just be out-of-home care. So they're requiring paid
21 placements. So I would determine from that that that would
22 be the gap.
23

24 MR FORREST: Yes. So overwhelmingly when we see grey we
25 would understand that to be IPS, emergency IPS placements,
26 where there's not supply of funded places?

27 A. Because the bottom is flatlined and because it's over
28 financial years I would also say that there would be some
29 capacity for growth within those two - within the yellow
30 box and the green box to absorb some of the grey box. So
31 it wouldn't all be the overflow for IPS. So the department
32 every year gets growth funding which can be applied to grow
33 the number of places.
34

35 Q. Yes. Do you agree in general terms that the dynamic
36 that this chart describes is that there is a significant
37 gap between funded places and demand, most of which must be
38 filled by emergency IPS placements?

39 A. Yes, I would. And it reflects the increase in demand
40 that the department was experiencing.
41

42 Q. Yes.

43 A. And our difficulty in managing that demand within the
44 current budget parameters that we had.
45

46 Q. Yes. But the dynamic's slightly more complex than
47 that because if funded places basically flatline, as you

1 can see there, then the growth in the unfunded gap
2 placements rises at a more extreme level to cover the
3 increase; do you agree with that?

4 A. Say that again?

5
6 Q. If the funded places don't grow but demand does, your
7 gap or emergency places have to grow more rapidly to even
8 keep up with linear growth?

9 A. Yes, that's right.

10
11 Q. In evidence that Mr Short gave on Friday he accepted
12 that this essentially created a vicious cycle because you
13 would fund these emergency placements through deficit
14 funding. Because you were running deficits you had less
15 much to build up the supply of family-based and OSD care,
16 which in turn produced greater deficits, and the cycle
17 repeated. Do you broadly agree with that dynamic?

18 A. With the caveat that I raised before that the whole
19 department was focused on growing family-based care. So,
20 you know, why would you invest in further three-year
21 contracts for OSD placements if your whole focus was
22 growing family-based care.

23
24 Q. Well, one idea --

25
26 COMMISSIONER: Mr O'Brien, when did the implementation of
27 this department strategy to increase kinship care, increase
28 family-based care more generally, commence and over what
29 timeframe was it realistically contemplated that the fruits
30 of that investment would emerge? This graph is over a
31 two-year period and shows, when one looks at the demand
32 curve and the gap that Mr Forrest has just pointed out that
33 I think you've accepted, that the trend is not reversing
34 over that period, it's in fact getting more acute in terms
35 of the gap. So when was it, to your understanding, (a) the
36 initiatives in relation to encouraging family-based care
37 and kinship care commenced; what occurred; and what, if
38 any, revisions were made to forecast having regard to the
39 success or otherwise of that program? I've asked you a few
40 questions together there, Mr O'Brien, so if you could
41 address those.

42 A. Based on my memory, the process started prior to the
43 QTC phase 1 report, because that QTC phase 1 report was
44 assessing some of the proposals that the department had
45 raised as investments, and part of those investments was
46 about growing kinship care at that time. So it was about
47 the Finding Kin proposal that was being assessed through

1 that period. And so it would have been prior to January
2 2020, which was when the phase 1 report started to assess
3 some of the department's proposals.
4

5 COMMISSIONER: And by June --

6 A. It was about the time that Deidre Mulkerin joined the
7 department and had some success in New South Wales doing
8 something very similar.
9

10 COMMISSIONER: I'm not arguing with the objectives, but
11 the objective has to be implemented.

12 A. Correct. Correct.
13

14 COMMISSIONER: And here when one looks at this graph
15 things didn't seem to be improving by June 2022.

16 A. So these are projections. They're not actuals. So
17 the actuals are - I think you said the first three were the
18 actuals?
19

20 MR FORREST: The first three-quarters.

21 A. And then the rest are estimates. So what we're
22 telling government in this August proposal in 2020 was, "If
23 you don't do anything, this is how it will look in June
24 2022."
25

26 COMMISSIONER: "If you don't do anything in relation to
27 the" --

28 A. To growing the yellow box or funding additional
29 residential care.
30

31 COMMISSIONER: And embedded within that --

32 A. Sorry, growing the yellow box, it was.
33

34 COMMISSIONER: Embedded within the forecasts are there
35 assumptions about the implementation of the policies
36 directed to increasing family-based care?

37 A. Not embedded in the assumptions. But the argument
38 that was raised by the department through this process was,
39 "If you don't invest in family-based care, if you don't
40 invest in other models of care, this is where we'll be in
41 June 2022 with some 2,000 young people unfunded in a
42 placement."
43

44 COMMISSIONER: So no assumption is made as to the efficacy
45 of what had already commenced by that stage, by the time of
46 this forecast, as to the effects of encouraging
47 family-based care and kinship care?

1 A. The budget proposal was seeking funding to do that.
2 So, if you like, the department had come up with a range of
3 strategies. CBRC had asked QTC to look at those strategies
4 and see which ones would create the best impact for the
5 future.

6

7 COMMISSIONER: I see. This was a tool to explain to the
8 government that --

9 A. Yep, that, "If you don't do anything, this is where
10 we'll be at June 2022."

11

12 COMMISSIONER: I see.

13

14 MR FORREST: That's actually a very helpful segue because
15 I want to now just discuss with you briefly the QTC
16 reports. It's obvious from the discussion you've just had
17 with the Commissioner that you fully absorbed the
18 conclusions, but if I could briefly ask you about the
19 process. You have given evidence in your witness statement
20 that you were the point person in the preparation - the
21 department point person anyway in the preparation of the
22 QTC reports.

23 A. Correct.

24

25 Q. You were responsible for furnishing the QTC analysts
26 with the departmental data.

27 A. Correct.

28

29 Q. And it appears from some correspondence that we've
30 seen that you were reviewing and providing some feedback on
31 some early drafts --

32 A. Correct.

33

34 Q. -- even before the interim findings.

35 A. Yep.

36

37 Q. You agree, I take it, that the QTC reports are
38 excellent; they're very good reports?

39 A. Very thorough.

40

41 Q. Very thorough, very carefully reasoned, thoroughly
42 objective.

43 A. Correct, yes.

44

45 Q. You mentioned earlier that one of the purposes of the
46 QTC reports was to analyse the care systems investment
47 plan. Did you also have involvement with the care systems

1 investment plan or --
2 A. Only insofar as that I facilitated the provision of
3 that to QTC.
4
5 Q. Yes. And I don't want to go into the findings in
6 great detail because you've already explained the
7 conclusion, but essentially QTC in broad terms endorsed the
8 CSIP plan and in particular endorsed the idea of building
9 up supply of family-based care and building up a
10 contingency supply of OSD places to head off the sort of
11 exponential cost growth curve that's predicted by a chart
12 like that?
13 A. Yeah, so I don't think QTC endorsed the whole plan.
14 So my recollection is that QTC went through each of
15 the initiatives in the plan and said, "These are the things
16 that will give you the best impact if you focus on these so
17 that you're not - you've not got a shopping list of things,
18 you've got a smaller number of initiatives which you can
19 seek government funding for that will make a difference to
20 your future expenditure."
21
22 Q. And, to put it colloquially, QTC said of the elements
23 in the care systems investment plan you'll get the best
24 bang for your buck by building up family-based care
25 options, including kin care?
26 A. Yep.
27
28 Q. And also by having your contingency OSD layer?
29 A. Yes.
30
31 Q. Yes. And a theme that ran through both the care
32 systems investment plan and the QTC reports was that action
33 needed to be urgent; do you agree with that?
34 A. To avoid future budget pressures on the department.
35
36 Q. Yes.
37 A. Yes, the department was under immediate budget
38 pressure.
39
40 Q. You were sitting at the lower end of what was going to
41 become an exponential cost growth curve and the only way to
42 get ahead of it was to investment in new placements which
43 were going to take time to come on line; do you agree with
44 that?
45 A. Yes, I agree with that.
46
47 Q. Mr Short accepted on Friday that the department had a

1 limited window of opportunity. Would you agree that the
2 critical window of opportunity after QTC 1, that is from
3 early 2020, was probably one or two budget cycles to get
4 ahead of the curve?

5 A. Yes, I'd agree with that. And I'd also note that in
6 the 22/23 budget, which was after both the phase 1 and the
7 phase 2 report, government made a recurrent commitment to
8 the department of \$500 million a year. It was a
9 \$2.2 billion over five year budget approval.

10
11 Q. We'll come to that. That was the third cycle after
12 QTC.

13 A. The third cycle.

14
15 Q. I'd just like to work through them one by one. So the
16 first budget submission after you have the QTC phase 1
17 report is the August 2020 COVID submission.

18 A. Yep.

19
20 Q. And we know from another document that we've seen,
21 I don't need to take you to, the department said in its
22 significant procurement plan that the care systems
23 investment plan was drafted for the 2020/21 budget but did
24 not proceed given pandemic budget pressure. This was a
25 plan, a budget proposal, that would have gone through you.
26 Mr Short gave evidence on Friday that the plan did not
27 proceed because it wasn't put to the CBRC. Is that your
28 recollection?

29 A. I don't have any evidence to suggest that that
30 wouldn't be the case.

31
32 Q. That it wouldn't be the case?

33 A. Yes. But if Danny had said that he would have - he
34 would have access to the evidence to prove that. I don't
35 have access to that evidence.

36
37 Q. We have a copy of the draft budget submission from
38 February of that year, and I'm happy to hand you a copy if
39 it would assist you. But is your recollection of the
40 drafted proposal that it was going to be a roughly half
41 billion dollar package which included investment in the
42 care systems investment plan, a liquidity injection, and
43 increasing the allowance for carers and an extension in the
44 amounts of carers until the child was aged 21; does that
45 ring a bell?

46 A. That does ring a bell, yes.

47

1 Q. Yes. And so the initial intention actually was to
2 take to the CBRC in the first budget cycle after QTC a
3 package that directly nailed the brief that QTC had given
4 you, which is to seek an up front injection into
5 family-based care.

6 A. Yep.

7

8 Q. What ultimately happened that year was the department
9 received a sum of \$98.3 million to address its deficit;
10 does that sound right?

11 A. I also recall that there was an allocation of about
12 98 million in the budget as well. So there was a
13 recognition from government that there was a budget
14 pressure on the department. My recollection is that there
15 was 98 million appropriated through the budget and then a
16 further 98.3 appropriated.

17

18 Q. So that is correct. Yes, there were two separate
19 appropriations of similar amounts to cover the total
20 deficit for that year.

21 A. Yep.

22

23 Q. But the critical point was in the first budget --

24 A. But the 98 point - the first allocation, the
25 98.3 million in the budget is not a deficit, because it 's
26 funded. That's part of your appropriation. So the
27 deficit, if you like, is the additional funding that's put
28 in post-budget. So if you appropriate up front
29 \$98.3 million for out-of-home pressures that becomes part
30 of your budget for that year. That's not a budget deficit.
31 That's part of your budget.

32

33 Q. So your evidence is you got 98.3 in cash, effectively,
34 and 98.3 to make good the deficit?

35 A. Correct. Yep.

36

37 Q. Thank you. So the first COVID budget gets delivered
38 on I think 1 December 2020. And about nine days after the
39 budget it seems that some savings measures were commenced.
40 Could I take you to public interest bundle tab 14. This is
41 a document I think from 10 December. And we can see just
42 in the second dot point that shortly after that first
43 budget the department has been directed to find savings of
44 around \$11 million. You recall this?

45 A. Vividly.

46

47 Q. Yes, I can imagine. And I don't want to go through

1 this document in a great deal of detail but it sets out
2 some of the strategies that the department was pursuing to
3 try and carve out its allocation of \$11 million in savings.
4 And some of those strategies included not filling
5 non-frontline vacant positions, cutting down on staff
6 travel spend --

7 A. Yep.

8
9 Q. -- cutting down on office supplies, finding unused
10 grant funds, and a freeze on new IT.

11 A. M'hmm.

12
13 Q. This is a year where the department understands that
14 it needs a significant injection in up front funding for
15 family-based and OSD care to get ahead of what it knows may
16 well be an exponential cost growth upswing in the hundreds
17 of millions of dollars, and it's dedicating its energies
18 instead to carving out 10 or \$11 million in savings.

19 I understand that this was sort of a whole of government
20 project to carve out COVID savings, but this is verging on
21 sort of penny-wise and dollar-foolish, isn't it?

22 A. I don't pretend to know what deliberations CBRC had in
23 relation to the state budget and the impact of COVID on the
24 State budget.

25
26 Q. Yes.

27 A. I would presume, given the role of CBRC, that they
28 deliberated long and hard about what the impact might be on
29 departments from COVID and how to best recover from COVID.
30 I can only assume that they made decisions in the best
31 interests of Queensland generally.

32
33 Q. Yes.

34 A. And that may have come at the expense of our agency
35 having to find some savings from, as you said, not buying
36 stationery, not travelling as much, not engaging as many
37 contractors.

38
39 Q. Yes.

40 A. But I think you'll find in that document that the
41 government decision at the time or the CBRC decision at the
42 time was it was not to impact frontline service delivery,
43 and the department took pains to ensure that that happened
44 and that that funding was found through savings without
45 impacting the frontline.

46
47 Q. Yes. Do you know or recall whether the department was

1 successful in achieving its savings targets?
2 A. The department achieved the savings target because
3 effectively what CBRC did was remove it from our budget.
4 So we had no option but to achieve it.
5
6 Q. I see .
7 A. So it was taken off our budget. So the budget that
8 was appropriated was net of those savings.
9
10 Q. I see. And hence the scramble to reduce costs to
11 accommodate that?
12 A. To actually find that so there would be no impact on
13 the frontline.
14
15 Q. And I think you said earlier - and correct me if I'm
16 wrong - but ultimately in the financial year the department
17 required another \$98 million in deficit funding?
18 A. Correct. Correct.
19
20 Q. Can I go to the next budget cycle. This was the
21 budget proposal that we've looked at for the 21/22 year,
22 which is behind tab 16 of the public interest bundle.
23 A. Yep.
24
25 Q. And if I can ask you to turn over to page 379. An
26 interesting feature of this budget proposal is that the
27 care systems investment package is mentioned a few times
28 but isn't put forward again in terms. Am I right to take
29 from that that by the second budget cycle, by the 21/22
30 year, the care systems investment package was probably
31 insufficient to deal with the deficit funding cycle by that
32 financial year?
33 A. I don't know.
34
35 Q. You don't know. That's okay.
36 A. No. I do know that this budget submission was
37 successful in that you can see the 98.3 million that
38 I referred to previously, it was actually allocated in that
39 budget for the prior year.
40
41 Q. For the previous year; correct, yes.
42 A. But we also received a further 184.3 million in 21/22
43 in the 21/22 budget for that year in acknowledgment of the
44 budget pressures on the department.
45
46 Q. Yes. Yes. So we can see actually what - before going
47 there, I mean, the ultimate bid is for a far larger amount

1 of money; I accept that. You're seeking there about
2 \$1.5 billion over the forward estimates to fund projected
3 overspends?

4 A. That's what we were seeking. But, you know, it's a
5 government policy decision.

6
7 Q. Yes, I understand.

8 A. And the outcome of the government policy decision is
9 what we implement.

10

11 Q. Yes, I understand. I'm not being in any way critical
12 of you, Mr O'Brien. And then if we go to public interest
13 bundle 19 this is the next year's proposal but at page 399,
14 just in that final paragraph, we can see what was
15 ultimately approved. So it's exactly as you've said,
16 Mr O'Brien. They pick up the 98.3 deficit from the 2020/21
17 year and then there's additional funding, as you've said,
18 of 185 million for the 21/22 year.

19 A. M'hmm.

20

21 Q. You said earlier when talking about this budget
22 proposal - because this is the budget proposal that the
23 CRC-PaS placement versus demand table that we were looking
24 at appears in. You said earlier that this proposal and
25 that table was saying, "If you don't do this, as in up
26 front invest in family-based and OSD care, this will
27 happen," meaning the trajectory of the graph, presumably
28 when you said, "If you don't do this," what you meant was
29 provide a package somewhere in the range of a \$1.5 billion
30 package that the department requested?

31 A. That's right; yes.

32

33 Q. Yes.

34 A. So by this time it was fully supported by the QTC
35 work. So there was a weight of evidence that supported the
36 department's position, and the department had been saying
37 it for a number of years. But it was for the first time we
38 had it supported by all the evidence that was presented to
39 CBRC in that year and Treasury was, more importantly, a
40 critical friend in this in supporting the department to get
41 ongoing funding, recognising that one-off funding multiple
42 times every year wasn't going to cut it long term. So this
43 was the first time that we got a significant injection that
44 had out-year implications that would allow us to then
45 invest those out-years into contract arrangements.

46

47 Q. Yes. Just to tie it off you also mention the

1 injection in the third budget cycle, which was 22/23.

2 A. Yes.

3

4 Q. So I'll take you to that which is I think the document
5 we're on, actually, which is tab 19 of PII. So I think if
6 you move down to page 401, just below the table which is
7 comparing the forecast to the amounts appropriated and the
8 amounts in the forward estimates for the out-years, there's
9 a paragraph commencing, "DCYJMA is seeking", and this sets
10 out what you - and by you I mean the department - sought in
11 that year which was a really significant package in the
12 order of \$3.2 billion across the forward estimates. And
13 this proposal, to your knowledge, was taken to the CBRC in
14 the form that we see here?

15 A. Yes.

16

17 Q. Yes. And --

18 A. So the department was effectively saying, "If you
19 don't invest in some of the reforms, this is what it's
20 going to cost, your 3.2 billion." So that's a no change
21 position.

22

23 Q. Yes.

24 A. Government's response was, "We'll fund you 2.2 billion
25 over five years and we'll also fund those reforms so that
26 you can manage your costs within that 500 million ongoing."

27

28 Q. Just turning your attention to the table that's above
29 the paragraph that I took you to and the deficit forecast
30 that the department is making in that year, they're pretty
31 good deficit forecasts, aren't they, because they ended up
32 being not too far off what ultimately happened?

33 A. I would agree 21/22 it was about 170 million. So it
34 was slightly less than the 185. 22/23 is the year we got
35 the 500 million recurrent.

36

37 Q. Yes.

38 A. So that should have taken care of 22/23, 23/24. And
39 we probably shouldn't have had a deficit in - based on
40 these figures until 24/25, and yet in 23/24 we did have a
41 \$202.3 million deficit.

42

43 Q. Yes.

44 A. And in 24/25 the number was 461 million. So if you
45 add the 500 million and the 461 million it's 961 million
46 versus the 712 million. So, no, they're not pretty good.
47 I think they're a little bit out.

1
2 Q. I might just show you tab 26 of the public interest
3 bundle --
4 A. Yep.
5
6 Q. -- which I think sets out what you've described in
7 table form.
8 A. Yep.
9
10 Q. And have you seen this document? This is something
11 that came through Mr Short.
12 A. I saw it when Mr Short was giving his evidence. I saw
13 it flashed up on the screen.
14
15 Q. I see. You saw Mr Short give evidence; I see.
16 A. These numbers are all public figures.
17
18 Q. Yes.
19 A. So I elicited this from budget documents, annual
20 reports and from appropriation bills.
21
22 Q. I see.
23 A. So you can see these figures.
24
25 Q. Yes.
26 A. They're writ large. They're not hidden. They're
27 there if you know where to look.
28
29 Q. Yes.
30
31 COMMISSIONER: If you know where to look, did you say?
32 A. If you know where to look; yeah.
33
34 COMMISSIONER: That's a big if I think for most people,
35 Mr O'Brien.
36
37 MR FORREST: And so just looking at the row entitled
38 "2022/23 CBRC child and family services budget deficit", so
39 this is what you received in response to the proposal we've
40 just looked at?
41 A. Yep.
42
43 Q. And we see 170 million in the first year and then, as
44 you've mentioned, the half a billion dollars each year
45 through to 25/26. Just looking at that table, one way of
46 looking at the 22/23 budget was that the CBRC didn't fund
47 the full projected deficit but it seems as though it has

1 ultimately funded something close to the full projected
2 deficit via top-up payments in subsequent years; is that
3 broadly correct?

4 A. My view would be that CBRC looked at the proposals
5 that the department had on the table, the total proposals,
6 because this was just one submission, was about the
7 deficit.

8
9 Q. I see.

10 A. We were also asking for some fairly significant
11 funding to I think it was family support and some child
12 protection reforms, I think it was called, and there was a
13 significant amount of money that we were seeking in that.

14
15 Q. Yes.

16 A. And I think the way it was viewed was, "If we give you
17 this reform funding we expect that there would be some
18 difference because your deficit is based on a no change
19 basis and we expect to see some change."

20
21 Q. Thank you. You'll be relieved to know that we've got
22 two very short topics to go. The first is the
23 parameter-based funding model, which you've touched on
24 already. Is it correct, Mr O'Brien, that the inclusion of
25 aspirational supply targets as part of the parameter-based
26 funding model was at the insistence of CBRC?

27 A. No, that's not correct.

28
29 Q. Can I just take you to an email at public interest
30 bundle tab 37. And if the operator could not bring it up
31 immediately because there's a series of emails, and only
32 bring it up on page 552 in the first half of the page
33 without showing the signature. You've got it in front of
34 you, Mr O'Brien?

35 A. Yeah.

36
37 Q. So I just wanted to ask you about the text starting
38 from the second paragraph down.

39 A. Yep.

40
41 Q. This is an email from someone in Treasury to you and
42 it says that:

43
44 *The CBRC has only specified supply targets*
45 *out to the final out year 26/27 and this*
46 *will require us agreeing to the supply*
47 *targets for 27/28.*

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And then it goes on to say that:

The PBFM overview approved by CBRC noted that funding provided for placements will be dependent on locked in supply targets for family-based care that align with the placement reform program.

A. Yep.

Q. Just reading this as a sort of - out of context, that suggests to me that CBRC was dictating the inclusion of supply targets. But was that not the case?

A. That's not how I read it.

Q. Where was the --

A. So the development of the parameters-based funding model with QTC, QTC worked with Treasury and the department and came up with a model that reflected actual demand for child protection services across four measures across the child protection continuum. So we would monitor intake demand, we would monitor the assessment investigation demand, we would monitor the total number of children who were under some sort of ongoing intervention, and we would measure the number of children in out-of-home care. So there were four measures of demand. And those measures of demand would drive demand that then would be looked at in terms of supply and price.

Supply was determined by a workshop the department had to look at how do we reform the child protection system and how do we focus on family-based care, and these are the targets that were set. They were set as part of a departmental process. And those supply targets then informed the PBFM, and that PBFM with those supply targets that were informed by the department was then approved by CBRC.

COMMISSIONER: But, Mr O'Brien, were those supply targets nevertheless at the time they were put into the model --

A. Yes.

COMMISSIONER: -- aspirational, not actual?

A. They were - they were, if you like, the department's commitment to government to achieve the reforms that we had set out for them in our budget proposal.

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COMMISSIONER: What is different to your - that makes them aspirational, doesn't it, if they're not actuals?

A. They're not actuals. No. No, no, no. No. And in fact we had a fair way to go when we looked at where we were at in 21/22 to get where we needed to be in 26/27. So, yes, they were aspirational. Mind you, I think they were at the time considered to be achievable and they were very much a focus of every executive in the department. There was a will to look at increasing kinship care particularly and there were some additional resourcing put into that space right down to regional level to achieve that.

COMMISSIONER: But they weren't met, were they --

A. They were not met.

COMMISSIONER: -- as events turned out?

A. No, the evidence shows that, yes, we fell short of our targets.

COMMISSIONER: What are the reasons in your view that those targets were not met?

A. I have a suspicion that we've been under the same foster care system for many, many, many years and in 2026 with a cost-of-living crisis, with both parents working in large, foster carers are simply not wanting to be - people are not wanting to be foster carers the way they wanted to be in the 90s and in the early 2000.

COMMISSIONER: But when you were doing these forecasts, these aspirational values that were included in the model, those manifest problems with the ongoing preparedness of foster carers to become and remain foster carers, that wasn't a secret then, was it?

A. No, which is why we put significant resources into foster care recruitment. We were expecting to see additional foster carers from our investments and we were particularly expecting to see significant increases in kinship care from our investments.

COMMISSIONER: But by the time the model was being used as a basis for seeking funding with the support of the Treasury wasn't there a need to evaluate the actual results at least to that point in time to assess whether the aspirational values that were given to certain assumptions embedded in the model were realistic at that

1 time?

2 A. Yes, you always have to review these models. When you
3 put them in place they're based on assumptions at a point
4 in time, and over time they change. So we saw changes in
5 price, for example. We were asked to manage price within
6 consumer price index increases which around about that time
7 were 3 to 4 per cent, and didn't - it proved impossible
8 because of the nature of the supply market that we're faced
9 with.

10

11 COMMISSIONER: Perhaps we'll come back to that, what you
12 mean by that. But one of the things you said earlier was
13 that there wasn't, as it were, a push to increase OSD
14 funding because the aspiration was to increase family-based
15 care, both kinship care and foster care; that's correct?

16 A. That is correct; yes.

17

18 COMMISSIONER: Now, if by the time you're looking at the
19 budget for this year and applying the parameters-based
20 funding model it becomes clear enough that the trend that
21 you wanted to see occur was not in fact occurring for the
22 range of reasons you've just identified, and perhaps there
23 are others, wouldn't it then be appropriate to revise the
24 reasons for not increasing OSD funding because, as events
25 have turned out, the take-up of family-based care has been
26 less successful than you would have liked and, accordingly,
27 there was an ongoing need for OSD funding, otherwise those
28 making decisions on the ground would become increasingly
29 forced to rely on IPS funding, having exhausted OSD
30 funding?

31 A. Yes, there was a recognition in the department in the
32 lead-up to the 25/26 budget, given that we were still faced
33 with significant deficits. The reason for those deficits
34 was we weren't achieving the supply targets that we had set
35 ourselves and we were not achieving the price for
36 placements that we had set ourselves.

37

38 COMMISSIONER: Yes.

39 A. And there was a proposal that we were looking at to go
40 back to government in that budget to identify those things.
41 I'm not sure if it went to government or not in that form
42 or whether it purely became about the deficit and not
43 issues with the parameters-based funding model.

44

45 COMMISSIONER: Yes. Mr Forrest.

46

47 MR FORREST: Mr O'Brien, you've said earlier something

1 along the lines of why would you have been investing in
2 OSD-funded places if the entire focus was building up kin
3 care. Was there some reason why building up OSD capacity
4 couldn't have been done as sort of contingency planning?
5 Was there an issue with availability of funds or
6 departmental sort of bandwidth that meant that it was
7 impossible to pursue them in tandem?

8 A. It's purely about not having recurrent funding,
9 multi-year funding, in which a financial delegate could
10 approve a funding allocation to additional social services
11 contracts for residential care.

12
13 COMMISSIONER: I don't understand really why they were
14 binary choices. If OSD funding had been increased and had
15 the aspiration for increasing the availability of
16 family-based care, including kinship care, been realised
17 that could have occurred in tandem, could it not, on the
18 basis that if the OSD funding was not needed because you
19 realised the happy outcome of increasing family-based care
20 it would just mean that the department would have an
21 uncharacteristic surplus when it came to OSD funding, would
22 it not?

23 A. No, it would be a funding commitment, because to undo
24 social service --

25
26 COMMISSIONER: You don't have to spend your allowance, do
27 you, in full? You're not required to spend it, even though
28 you have it available, are you, once it's appropriated?

29 A. No, no, no.

30
31 COMMISSIONER: No. So why --

32 A. But if we had invested more in social services
33 residential placements it would be hard to undo those if we
34 didn't need them. And then people would be asking
35 questions about, "Well, why have you purchased so many
36 placements that you don't need?" Now, as it happened, it
37 hasn't happened that way. But the concern was why would we
38 invest in 21/22, 22/23 in additional contracted placements
39 long term when we didn't have the funding for it and our
40 whole focus was growing family-based care.

41
42 COMMISSIONER: Well, when did it become manifest to your
43 mind that the increase in family-based care was not being
44 realised or certainly not being realised within the
45 timeframe that had been originally contemplated?

46 A. It came to my attention in the 23/24 budget where we
47 had to go for another budget deficit submission, which for

1 me was very disappointing.

2

3 COMMISSIONER: Yes. Mr Forrest.

4

5 MR FORREST: And indeed that was what the PBFM was
6 designed to avoid, you having to go back for more deficit
7 funding, really, because the idea was to more accurately
8 forward forecast the demand and cost?

9 A. I think I put in my witness statement that the purpose
10 of the PBFM, which is published in the budget 22/23 - 23/24
11 budget, was to ensure that the department was properly
12 funded for actual demand for service while incentivising
13 the department to implement reforms. So government
14 effectively said, "We will fund you for your actual demand,
15 but you need to do some work around price and you need to
16 do some work around your supply arrangements, because we
17 expect some reforms in that space. We expect a lower bill
18 in the future."

19

20 COMMISSIONER: Isn't the consequence, if the department
21 isn't so incentivised, that it just has a larger deficit?

22 A. Yes, that's right.

23

24 COMMISSIONER: Which then gets picked up in the next
25 cycle?

26 A. Yep.

27

28 COMMISSIONER: And, in the meantime, the deficit has been
29 inflated by the fact that the only option when it comes to
30 acquisition is the more expensive IPS option; isn't that
31 the --

32 A. As it turns out, yes. Yes. I think some evidence
33 that's presented I think KPMG identified that the premium
34 that we're paying is around 10 per cent for IPS over and
35 above the OSD. So, you know, with a 10 per cent
36 difference, if you look at 10 per cent of the IPS budget,
37 you start to get an idea of the quantum of the opportunity
38 lost.

39

40 COMMISSIONER: Yes. It's significant, isn't it?

41 A. The opportunity lost, yes. But, as I said, it's all
42 very well in hindsight.

43

44 COMMISSIONER: Well, that's what I'm partly trying to
45 understand. When can you say it's a matter of hindsight
46 and when can you say it actually became a manifest problem
47 that was known or should have been known by a particular

1 point in time, and I think you've answered that question.
2 A. Yep.

3
4 MR FORREST: You talked about the targets being there in
5 part to incentivise the department. Was there a concern on
6 the part of government that without building in
7 aspirational targets there essentially would be a business
8 as usual sort of approach?

9 A. Look, I'm not sure it's business as usual. If the
10 government hadn't incentivised and had provided the 3.2 or
11 3.3 billion that the department had asked for instead
12 I think the department would still have focused its
13 attention on growing family-based care and kinship care
14 because that's the right thing to do by those young people.

15
16 Q. Yes.

17 A. So the department's purpose is about protection of
18 children, and our focus would have been that regardless of
19 the budget outcome.

20
21 Q. You didn't need an incentive to care about those
22 things; yes.

23 A. We didn't need an incentive, no. So the incentive was
24 more of a financial incentive that aligned well and truly
25 with the thinking of the department that going to
26 family-based care was, you know, the right thing to do.

27
28 Q. Yes. You mentioned KPMG and you would have seen that
29 I invited Mr Short to comment on their sort of proposed
30 version of a PBFM model which includes both actual numbers
31 and also aspiration based targets.

32 A. Yep.

33
34 Q. And then generates two numbers at the end of
35 the process: one showing what's likely to happen under
36 current conditions and one showing where you might be if
37 you hit your targets.

38 A. Yep.

39
40 Q. I'm happy to bring it up if that would assist, but
41 you're probably familiar with it from Mr Short's evidence.

42 A. Yeah, I was - I took a bit of quiet satisfaction in
43 reading what KPMG had to say about the PBFM.

44
45 Q. You agree with it?

46 A. I agree, yes, and we can do that.

47

1 Q. Yes.
2 A. With the model as it stands. So it's just a matter of
3 plugging in the actuals instead of the projected.
4

5 Q. Yes. All right.
6 A. So it will produce for us a whole range of information
7 that would be very useful, and in fact it has informed some
8 of the thinking about what is the deficit likely to be in
9 the future.
10

11 Q. Yes. The final topic we've touched on as well --
12

13 COMMISSIONER: Just before you leave that, there's a
14 rather alarming deficit projection which is I think what
15 might be called straight line that the Child and Family
16 Commission in a report called "Buyer Beware" projected, and
17 the projection, the headline figure, is \$7 billion if
18 nothing changes I think is the assumption --
19

20 A. Yep.

21 COMMISSIONER: -- by 2030. So four years from now. Do
22 you have a view about what the likely projected cost of
23 non-residential care by 2030 will be? Have you done some
24 back of the envelope analysis of that?

25 A. No, I have not. But when I read that section in the
26 KPMG review I was more thinking that 3.5 to 4.5 billion
27 number that I think was another report rather than the QFCC
28 7 billion because I'm expecting that some of the things
29 that have been started over the last two or three years
30 will start to make a difference.
31

32 COMMISSIONER: Yes. But if the things that would
33 encourage the increase in family-based care do not occur
34 then the straight line nothing else changes projection in
35 the "Buyer Beware" report is likely to be realised, isn't
36 it?

37 A. If nothing else changes, yes.
38

39 COMMISSIONER: So it all turns upon the efficacy of
40 efforts to reduce reliance on the non-family based
41 residential care sector and effectively increase the
42 provision of the services to children via family-based
43 care; that's the critical effort?

44 A. That's the critical effort that the department
45 recognised right back in 2019.
46

47 COMMISSIONER: Yes.

1 A. And that's what we need to focus on.

2

3 COMMISSIONER: Yes. Thank you.

4

5 MR FORREST: The final topic is the financial delegation
6 issue. We've talked a little bit about it. In your
7 witness statement, which is behind tab 40 of the public
8 interest bundle at page 571, you identify at paragraphs 33
9 and 34 what has recently changed, which as I understand it
10 has been the decisive fix to this issue, and now allows
11 department officials at the coalface to enter into a better
12 value OSD contract even if there's not committed funds
13 available rather than defaulting to IPS. You describe this
14 as coming about through a permission piece from government.
15 Can you unpack that for us? What do you mean by a
16 permission piece?

17 A. So it was a CBRC outcome that asked us to balance the
18 requirements in the Child Safety - sorry, Child Protection
19 Act with the requirements in the Financial Accountability
20 Act. And from that we developed a set of words that was -
21 I'm not sure if it was ever sort of formally approved by
22 Treasury, but it was sort of like agreed with Treasury that
23 was placed into funding memos for approval by the financial
24 delegate to give them some comfort that if they signed a
25 multi-year contract, even if they didn't have out-year
26 funding to match that contract, they wouldn't be breaching
27 their financial responsibilities.

28

29 Q. The actual solution which CBRC adopted, did that
30 originate within CBRC or was that something that came from
31 Treasury or the department? You don't know?

32 A. I do not know.

33

34 Q. Was the actual solution that was adopted a solution
35 that was known to the department at any earlier time?

36 A. No.

37

38 Q. No.

39 A. And I can say it wasn't proposed by the department.

40

41 MR FORREST: I see. Thank you, Mr O'Brien. That's
42 all from me.

43

44 COMMISSIONER: So the legislation that imposes the
45 constraint on a public service decision-maker, public
46 servant, that hasn't been changed or it has been changed?

47 A. No, it hasn't been changed.

1
2 COMMISSIONER: So somebody has decided that there's a form
3 of words that can be crafted that will exculpate the
4 personal responsibility of the decision-maker?
5 A. Correct. And, sir, in the circumstances where you can
6 demonstrate that you've achieved the best outcomes for that
7 child under the Child Protection Act and the best value for
8 money under the Financial Accountability Act. So if you
9 can't prove those two things you could still be in breach
10 of your responsibilities.
11
12 COMMISSIONER: So it's an unlegislated defence for
13 infringing the Financial Accountability Act as it presently
14 stands?
15 A. Yes.
16
17 COMMISSIONER: I'm not criticising it. I'm just trying to
18 understand it.
19 A. It provides some comfort to executives to enable them
20 or, sorry, delegates to enable them to sign off when
21 there's no ongoing funding.
22
23 COMMISSIONER: That's interesting.
24 A. Yes. It's yet to be tested.
25
26 COMMISSIONER: Yes. All right.
27
28 MR HASTIE: Commissioner, can I just intrude --
29
30 COMMISSIONER: Please.
31
32 MR HASTIE: -- just to ask we realise that there's a
33 mobile phone number at the end of the resume of Arthur
34 O'Brien. I'm just wondering whether I could ask to take
35 back --
36
37 COMMISSIONER: I will just, if you like, put a - I'll
38 redact it. Would that satisfy you?
39
40 MR HASTIE: Thank you, Commissioner.
41
42 COMMISSIONER: And, just to allay any concerns, documents
43 of this nature I would never contemplate to be published in
44 any way. They're for the assistance of the Commission to
45 understand the expertise and background of the witness. So
46 you needn't be concerned about it. And I shan't be
47 personally ringing Mr O'Brien using that number. But

1 I will redact it.

2

3 MR HASTIE: Yes, thank you, Commissioner. In fact indeed
4 one of his supervisors was at the end --

5

6 COMMISSIONER: Well, I see Mr O'Brien's telephone number
7 is there at the top.

8

9 MR HASTIE: As well.

10

11 COMMISSIONER: I can redact it.

12

13 MR HASTIE: His and one at the very - on page 7 of one of
14 the senior executives.

15

16 COMMISSIONER: I shall redact both of those by hand.

17

18 MR HASTIE: Thank you, Commissioner.

19

20 COMMISSIONER: Thank you, Mr Hastie. Yes. Now, any
21 questions from the left of the Bar table, or my left?

22

23 MS GREENWOOD: Sorry, Commissioner, I'm too busy ripping
24 up pieces of paper.

25

26 <EXAMINATION BY MS GREENWOOD

[4.03 pm]

27

28 MS GREENWOOD: If I can take you back to what I think was
29 paragraph 46 of your statement. I'll just read it out.
30 There's a whole lot of black paragraphs before and a whole
31 lot of black paragraphs after. But essentially it reads:

32

33 *A commitment to reducing use of residential*
34 *care, maintaining foster care and*
35 *increasing kinship care arrangements was*
36 *considered at the same time to be both*
37 *achievable and the right thing to do to*
38 *support children and young people in care.*

39

40 And earlier at paragraph 44 of your statement you were
41 saying:

42

43 *The PBFM was to replace historic*
44 *funding ... and incentivise placement*
45 *reform effort.*

46

47 So that was the plan and, as I understand it, for now

1 remains the plan. But what needs to happen is to actually
2 achieve those changes in numbers. But that plan requires a
3 fair number of kids to come out of the resi care system.
4 In terms of anticipating the sorts of numbers that are
5 needed to make this change happen in those 2022 projections
6 we saw 11,600-plus kids in the system. We have heard
7 elsewhere in evidence flat annual reunification rates at
8 around about the 500 mark. We have also heard in evidence
9 efforts to create delegated authority to help improve the
10 removal of Aboriginal and Torres Strait Islander children
11 back into kinship care. But what we have heard in evidence
12 is that delegation is only one child at a time. So when
13 you're balancing tens of thousands against 500 reunified
14 against one at a time reunification the projections on that
15 can't be too good, can they?

16 A. If you're looking at April 2026, yes, it's a lot worse
17 now than it was when we looked at this in 2019; yep. So if
18 you're using today 's numbers to back-project back to
19 2019/20 when these targets were put in place it's a very
20 different - it would be harder to achieve today without
21 some significant additional investment in the kinship care
22 space.

23
24 Q. Without some sort of Dunkirk to actually pick up a
25 bunch of these kids, get them out of resi and into kinship
26 care.

27 A. Yep.

28
29 Q. The parliament recommended in August 2024 to remove
30 one of the structural barriers to kinship care, which was
31 the inappropriate use of the blue card in those sorts of
32 kinship care settings. If I may pick up a quote from the
33 QFCC that said there's almost 2,000 Aboriginal and Torres
34 Strait Islander children in out-of-home care, 700 in resi
35 care, and if only half can safely return to be with family
36 or, as I would put it, also to place them with kin that
37 would be a substantial outcome.

38 A. Yep.

39
40 Q. Just referring to the KPMG figures of half a mil per
41 child in resi care, 50 grand if they're in foster care,
42 20 grand if they're in kinship care, just taking that 350
43 figure, if they could be pulled out they would cost
44 7 million in kinship care and they would cost 175 million
45 in resi care. What has to happen - and I'm an
46 ex-bureaucrat, big believer in you rob Peter to pay Paul in
47 the budgetary side of things. What has to happen to

1 achieve those sorts of savings not on a one-by-one basis?
2 Where can that flexibility occur in the budget to try and
3 achieve what is both a good humanitarian result and a good
4 financial result?

5 A. Yep. So, firstly, I thought foster carers and kinship
6 carers were paid the same and that they both required a
7 payment to their support agency. I thought they were the
8 same amount.

9

10 COMMISSIONER: Well, that's my understanding and I'm not
11 sure what the basis for the differential in the KPMG report
12 is, and we might need to find out because it doesn't seem
13 consistent with other evidence.

14

15 MR DIAZ: Yes. Just to clarify, I think those numbers
16 have come from PeakCare's report rather than KPMG's report.
17 There's nothing by way of substantiation and we don't have
18 the source material to know how they've arrived at the
19 figures of 50,000 and 20,000. But I understand
20 Ms Greenwood is quoting from a PeakCare report.

21

22 COMMISSIONER: Well, what I understood you to just tell
23 me, Mr Diaz, is that those figures in the KPMG report,
24 their source is PeakCare.

25

26 MR DIAZ: Precisely.

27

28 COMMISSIONER: Yes. Well, given the other evidence I have
29 and the best evidence I'm confident of at present is there
30 isn't any disparity in terms of allowances available as
31 between kinship carers, on the one hand, and really as a
32 subspecies in a sense of foster carers, and foster carers
33 generally on the other, which understanding was obviously
34 your understanding as well.

35 A. Was my understanding.

36

37 MR DIAZ: And I think so much was confirmed by Ms Wilson
38 and has been confirmed by other witnesses during the course
39 of the Inquiry.

40

41 COMMISSIONER: Yes. So, Ms Greenwood, there's some
42 gremlin in those figures or in that dissonance between them
43 and that may be capable of explanation. But for present
44 purposes your point is made just as well, which is there's
45 a vast saving to be made for every child who's removed from
46 a residential care setting to a family-based care setting.

47

1 WITNESS: Which is --

2

3 MS GREENWOOD: So, Commissioner, I have updated those
4 figures and, with my trusty calculator, I've adopted the
5 50,000 being the same for foster care and kinship care, in
6 which case we're talking about the difference between
7 17.5 million in kinship and 175 million in resi care.

8

9 COMMISSIONER: And the sensitivity is also demonstrated in
10 more aggregate terms by the reference to the saving that
11 would emerge from a 1 per cent variation --

12

13 MS GREENWOOD: Yes.

14

15 COMMISSIONER: -- to the numbers in residential care
16 compared to family-based care. And I've just forgotten the
17 figure but it is your figure, isn't it? Just remind me
18 what's the saving?

19 A. 1 per cent is 50 million.

20

21 COMMISSIONER: 50 million. That's the headline figure
22 that proves the point of the utility of it all from a
23 financial perspective and the other objectives which nobody
24 seems to dispute that it's better for the children --

25

26 MS GREENWOOD: Yes.

27

28 COMMISSIONER: -- first and foremost --

29

30 MS GREENWOOD: Yes.

31

32 COMMISSIONER: -- if they're in family-based care, kinship
33 care. So I think they're given parameters of the debate.
34 They're not in issue, is the way one might put it. So,
35 with that in mind, do you want to ask this witness about
36 what would need to be done to bring about that objective
37 from a budgetary perspective; that's essentially your
38 question?

39

40 MS GREENWOOD: Yes, that is my question.

41

42 COMMISSIONER: Are you able to speak to that?

43 A. I can speak to that because I feel that the reforms
44 that were started - and some of them have been going for
45 tomorrow time, but I feel that the reforms that have been
46 started, particularly in looking at kinship care as a
47 different funding program, if you like, than foster care,

1 looking at changing some of the compliance barriers on
2 kinship carers, ensuring that the funding flows, because
3 I don't think the barrier is financial in terms of
4 procuring or engaging more kinship carers, I don't think
5 it's a financial barrier, it's potentially an operational
6 barrier and it's how do we break down some of the
7 operational barriers that stop people putting their hand up
8 to be caring for their kin.

9
10 And I think the department has started that process and
11 there's a number of reforms in place. You mentioned
12 delegated authority. It would be a shame to change the
13 trajectory of delegated authority. I mean, you bring up
14 the delegation issue, which is the one-to-one. But,
15 I mean, that's embedded in the legislation. That would
16 require a legislation change to change the way that the
17 Director-General delegates her authority to a Chief
18 Executive of an Aboriginal and Torres Strait Islander
19 community-controlled organisation.

20
21 It's continuing the reforms, but it's also thinking again
22 about what else can we do to attract more foster carers.
23 And I don't think sort of general advertising; we've tried
24 that for years and years and years. Maybe some specific
25 advertising in specific places where people are more likely
26 to become foster carers or where the demand is might be
27 better to do specifically targeted advertising.

28
29 MS GREENWOOD: One question I've put earlier in these
30 proceedings and I'll put it to you because it's been a
31 fanatic question, we're talking about an agency which we
32 will not name for the moment, it currently has 95 kinship
33 care placements. It says it's got 20 more kinship carers
34 available. Where does that information have to travel to
35 for someone to action that and to take up those extra
36 kinship places, and financial adjustments have to be made
37 to make that happen?

38 A. It would be a service delivery decision. So it will
39 be right down to potentially the placement services unit in
40 that region making decisions about what are appropriate
41 placements for these children based on their need. So for
42 me the barrier is not financial here. The barrier is an
43 operational decision or an operational determination about
44 whether those kinship carers are appropriate for those
45 children.

46
47 Q. Is there any sort of monitoring, because there are

1 agencies who already provide kinship carers? Is there any
2 monitoring of their spare capacity?

3 A. As I understand it, the department does go through
4 from time to time. In the unspent funds process we would
5 look at the number of funded placements in a foster care
6 support agency. I mean, they're the same thing at the
7 moment - foster care/kinship care - and we'd look at that
8 unspent - you know, what placements have they not filled,
9 and we would try to recover those funds. Every so often
10 the department will go through a process of saying, "If
11 there's additional places that are not funded with this
12 organisation, and there's no positions in this
13 organisation, maybe we shift the approvals over."
14

15 Q. I see.

16 A. But that would be a sort of contract management
17 process which would look at what is that organisation
18 achieving under their contract. And if they're
19 overachieving - and I've got to say there are a number of
20 foster care agencies that are really altruistic in this
21 space and they might be funded for 100 places and they've
22 got another five that they manage within their allocation,
23 and that's a fantastic thing and should be applauded if
24 they're doing that.
25

26 Q. My focus is primarily on kinship --

27 A. Yep.
28

29 Q. -- to keep it within culture. I apologise; I forget
30 if it was yours or the previous witness who was talking
31 about the lack of a dashboard. Would it be a worthwhile
32 recommendation that there be some sort of dashboard talking
33 about capacity?

34 A. My understanding is that Investment and Commissioning
35 would. Because these are contracted placements, they would
36 know what's contracted with what organisation. And those
37 organisations would be providing performance data to the
38 central office Investment and Commissioning about how many
39 placements they actually have versus how many they're
40 funded for. So I suspect that could be dashboarded quite
41 easily. But I think the performance data in the contract
42 management space is there. I think the previous witness's
43 comments was in regard to the IPS agreements and not having
44 performance measures in those agreements.
45

46 MS GREENWOOD: Yes. Thank you. Thank you, Commissioner.
47

1 COMMISSIONER: Thank you. Mr O'Brien, thank you for
2 coming along today. Thank you for your cooperation with
3 the Commission, for preparing a statement that has been
4 very useful, and for giving us your experience and actual
5 knowledge of the course of events that you've been involved
6 in for a very substantial time. So it's most appreciated,
7 Mr O'Brien.

8 A. Thank you, Commissioner.

9
10 COMMISSIONER: Thank you. We'll adjourn until 10 o'clock
11 tomorrow.

12
13 **THE HEARING WAS ADJOURNED AT 4.19PM UNTIL TUESDAY, 14 APRIL**
14 **2026**

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