

CHILD SAFETY COMMISSION OF INQUIRY

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

On Wednesday, 8 April 2026 at 10.02am

Before: Mr Paul Anastassiou KC, Commissioner

Counsel Assisting: Mr Tom Diaz
Mr Joshua Forrest

1 COMMISSIONER: Good morning.
2
3 MS McMILLAN: Yes, good morning, Commissioner. I appear
4 for Queensland Health today. Thank you.
5
6 COMMISSIONER: Welcome back.
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8 MS McMILLAN: Thank you.
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10 COMMISSIONER: Before we go further I wish to just deal
11 with the public interest immunity claims. For reasons that
12 are more fully explained in a written ruling I am about to
13 publish, I have reached the view that the State's claims
14 for protection of the documents the subject of argument
15 yesterday should be rejected and, accordingly, I will allow
16 the tender of the documents in question in full. I publish
17 my reasons, which will shortly be published on the
18 Commission's website.
19
20 Mr Hastie, I hope that somebody at the Bar table can give
21 you a copy of the ruling.
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23 MR HASTIE: Thank you, Commissioner.
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25 COMMISSIONER: In any event, they are brief and you will
26 be given a copy just momentarily.
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28 MR HASTIE: Thank you, Commissioner.
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30 COMMISSIONER: Thank you, Mr Hastie.
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32 MR HASTIE: Can I raise two things, Commissioner?
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34 COMMISSIONER: Yes.
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36 MR HASTIE: The first is that, in our respectful
37 submission, notwithstanding the rejection of the claim,
38 which I assume is pursuant to the discretion that the
39 Commission has in weighing the differing public
40 interests --
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42 COMMISSIONER: Broadly.
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44 MR HASTIE: Yes.
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46 COMMISSIONER: Though there are some documents - I have
47 not dealt with that question in a seriatim fashion, but

1 there are some documents that I think are not covered by
2 the principle in the first place. But, broadly speaking,
3 they are the reasons that I have reached the view that the
4 public interest in disclosure outweighs the public interest
5 in retaining confidentiality over the documents.

6
7 MR HASTIE: Thank you, Commissioner.

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9 COMMISSIONER: Yes.

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11 MR HASTIE: So, arising from that, the position of --

12
13 COMMISSIONER: I was trying to move the microphone. It's
14 disappeared from view, but hopefully that is not a problem.
15 Okay.

16
17 MR HASTIE: Notwithstanding that, Commissioner, there's
18 the State's submission should be - and accepting the
19 Commission's reasons with respect at the moment - the
20 State's position is still that we contend that the
21 documents should not be published, which is not only
22 publication on any website but also would include with
23 respect to those documents publication through any visual
24 aids. Commissioner, you would appreciate that anyone who
25 is watching the Commission's broadcast would be in a
26 position to take, for instance, a photograph from
27 the screen of --

28
29 COMMISSIONER: That would be unlawful, would it not?

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31 MR HASTIE: Well, if it's a - if it's livestreaming --

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33 COMMISSIONER: Yes, but let's say, I think it's called, a
34 screenshot would be a copy of the document, and my
35 understanding is that it is - that persons are not
36 permitted to copy documents that are produced in the course
37 of the hearing. But I'll hear Mr Diaz on that.

38
39 MR HASTIE: But I understood as well that it was proposed
40 that some of these documents be put on the screen in the
41 courtroom and, in my respectful submission, that wouldn't
42 be necessary and it wouldn't advance the public interest
43 for that to occur. If the witness can follow the documents
44 through the bundle of documents, Commissioner, you can,
45 those at the Bar table can, then, in my respectful
46 submission, it wouldn't be necessary to put those documents
47 on public display.

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Commissioner, you will obviously appreciate it's only - at these hearings it's - that anything substantial has been sought to be put on a screen in that fashion and it hasn't been necessary in the past, in our respectful submission, it's not necessary now for the purpose of the proper functioning of the hearing.

COMMISSIONER: Yes. All right. Is there anything else you want to say, Mr Hastie? I'll hear from Mr Diaz.

MR HASTIE: Not on that point, Commissioner.

COMMISSIONER: Thank you, Mr Hastie.

MR DIAZ: Commissioner, there's essentially two points we wish to make on this matter. The first is it's my understanding that there is a banner restriction applied to the audiovisual recording which says parties are not to take photographs or further reproduce the material that's being published online. I'm being assisted by Mr Forrest, who has shown me an order that you made dated 8 September which prevents the further publication of that material. So that deals with the point as to whether or not it's unlawful to further publish the material that's being displayed on the livestream.

The second matter raised by Mr Hastie concerns whether or not there's a public interest in the images being displayed in circumstances where the documents would otherwise be available to the witness. In my submission, it is not sufficient just for the witness to be able to see them, though I appreciate that the earlier practice may not have been to display documents on the livestream. The documents - and you'll see this when I come to my opening - have a particular character, namely they're largely by way of visual representation and numerical data that is plotted on graphs, which makes the ability for one to understand the documents that are being discussed - that's only really possible if they can actually see the document.

COMMISSIONER: What you mean by "one" is the hypothetical or the observers who we assume for the purposes of this argument are observing the course of the proceedings on the webstream or even in the gallery.

MR DIAZ: Precisely.

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COMMISSIONER: Yes.

MR DIAZ: And so we say, in circumstances where you have made a ruling that the public interest is served by these documents being part of the Inquiry's consideration generally, there's no reason why they ought to be treated differently to the other documents in the master tender bundle, for instance.

COMMISSIONER: Yes, I understand. Thank you, Mr Diaz.

Mr Hastie, as I understand the argument, the utility of projecting the documents on the screen is to give content to the meaning of a public and open Inquiry. If the documents are, as Mr Diaz describes them, graphic representations of the material, such as graphs and the like, the - it's only by visual observation of the documentation that observers of the hearing outside the Bar table of course will be able to appreciate the import and significance of the material.

So in my view, Mr Hastie, given that there is no contention on the part of your clients that the disclosure of any of the material the subject of the PII claims would lead to some identifiable prejudice to the State and, having regard to the mandate which requires me to conduct an open hearing, in my view the material should be displayed.

MR HASTIE: Very well, Commissioner. Can I add that that argument with respect to graphs or pie charts or the like is understandable. It doesn't necessarily cover and doesn't deal with the fact that a lot of these are simply written documents which explain, for instance, for the purposes of the Cabinet what's proposed or what - what's proposed by the department or a witness that the Cabinet should do with it.

COMMISSIONER: Well, if the documents, insofar as they are communications in writing, can be spoken about in express terms, that is to say revealing in the course of the questioning of the witness in due course and for the purposes of Mr Diaz's opening the express contents of the documents, and that's necessary in order again to promote the interests of this being an open Inquiry, then I think the same reasoning applies to communications in writing.

1 MR HASTIE: Except that a document that's actually headed
2 "Budget in confidence", for instance, or "Cabinet in
3 confidence" and specifically deals with a whole myriad of
4 things that the witness may not be taken to, which adds
5 unnecessarily to the cross-examination of the witness if it
6 was placed on the - if it was placed on the screen.

7
8 COMMISSIONER: Yes. I'd understood from what Mr Diaz had
9 said that the concern is principally to ensure that
10 communications which are in a pictorial form are
11 digestible - comprehensible, I should say, by observers.
12 Let me just ask Mr Diaz whether there is any way in which
13 documents that are in writing might - to the extent they
14 need to be expressly referred to, that is to say the
15 contents of those documents need to be expressly referred
16 to, your purposes would be satisfied by reference to them
17 rather than the projection of them on the screen.

18
19 MR DIAZ: Yes, there is perhaps a middle category of
20 documents that I might deal with first before going to the
21 purely written documents. So what you'll find,
22 Commissioner, is in a number of instances the Treasurer was
23 briefed or a minister was briefed using what I understand
24 the department would call a slide deck or a PowerPoint
25 presentation. Now, that sits somewhere in between on the
26 spectrum of entirely visual and entirely written to a
27 combination of both. It was my intention that such
28 documents would be shown to witnesses for the reasons
29 I previously explained.

30
31 COMMISSIONER: And projected on the screen?

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33 MR DIAZ: And projected on the screen.

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35 COMMISSIONER: Yes.

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37 MR DIAZ: Essentially to assist in comprehension of the
38 material that is being put to witnesses by those observing,
39 whether in the gallery or online.

40
41 COMMISSIONER: All right. Well, those documents, though
42 they are a sort of hybrid, might require projection on the
43 screen. But what about documents that are purely textual?
44

45 MR DIAZ: Yes. Well, there's two matters to raise about
46 that. One, there are obviously a large number of purely
47 textual documents, if you will, that are in the master

1 tender bundle that it had been proposed would be shown to
2 witnesses. If the proposal is that purely textual
3 documents that were subject to a public interest immunity
4 are not to be shown to witnesses, I think I can accommodate
5 that, but it would be perhaps beneficial if counsel could
6 confer as to which documents exactly those are.

7
8 COMMISSIONER: Well, Mr Hastie is in close proximity to
9 you.

10
11 MR HASTIE: Yes, we could do that on the run,
12 Commissioner. I'm happy to do that.

13
14 COMMISSIONER: Yes, I think so. That's hopefully a fair
15 compromise if you would just in relation to purely textual
16 documents. As I understand it, you'll take me to
17 particular parts of those documents and in due course
18 potentially ask witnesses about those parts of the
19 documents. In that category it's probably unnecessary to
20 project the documents onto the screen. The visual
21 documents, for the reasons I've already expressed, I think
22 should be, and the hybrid category also should be.

23
24 MR DIAZ: Very well.

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26 COMMISSIONER: I hope that resolves it. Yes.

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28 MS GREENWOOD: Commissioner, if I may assist the court,
29 there may be an additional option, a technological
30 solution, where the graphic of the Commission of Inquiry
31 could be displayed on the live link, voices could still be
32 heard, but it would still allow for counsel at the table
33 and the witness to see the document displayed inside the
34 courtroom.

35
36 COMMISSIONER: I'm not sure whether that technological
37 nuance is possible. I understood that - or it's my
38 understanding that you have access to the documents as
39 counsel have access to the documents. So that is not a
40 problem. The issue, I think, is whether the documents
41 should be projected on the screen in a way that would
42 broadcast the documents via the webstream to whomever may
43 be observing the proceedings.

44
45 MS GREENWOOD: Yes, Commissioner. It may be an issue for
46 technical people, but it should be possible to separately
47 have a visual on the live link as opposed to what occurs in

1 the courtroom.

2

3 COMMISSIONER: I'm not sure. We'll take it on notice.
4 The technical people are here, and they can assist me over
5 the luncheon adjournment if that's a possibility for --

6

7 MS GREENWOOD: Thank you, Commissioner.

8

9 MR DIAZ: And, Commissioner, I think I can also placate
10 some of the concerns that the State has understandably
11 about these documents insofar as I don't intend to scroll
12 through an entire document. I'll often be able to go to
13 just the relevant part of it. So the concern that
14 Mr Hastie raised in respect of documents being sort of
15 ventilated in full, it's not the approach I intend to take
16 given time restrictions

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18 COMMISSIONER: Yes. Thank you, Mr Diaz. And, Mr Hastie,
19 I appreciate and am alive to the State's concerns, and
20 we'll try and balance the interests as best we can in the
21 course of the hearing.

22

23 MR HASTIE: Thank you. Thank you, Commissioner.

24

25 COMMISSIONER: Thank you, Mr Hastie.

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27 MR HASTIE: And thank you to my learned friend for that
28 indication. There's only one - the second issue --

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30 COMMISSIONER: Yes.

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32 MR HASTIE: -- relates to the bundle of documents that
33 we've claimed privilege over.

34

35 COMMISSIONER: Which privilege? Legal professional
36 privilege or parliamentary privilege? No, parliamentary
37 privilege has effectively gone away.

38

39 MR HASTIE: Yes, it has.

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41 COMMISSIONER: Yes.

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43 MR HASTIE: But the public immunity interest bundle that
44 we spoke about yesterday that I took you to various
45 documents, your Honour - Commissioner, includes some
46 documents that weren't covered by our written submissions.
47 It's unnecessary to canvass how that happened, but there

1 remain between us, Commissioner, seven documents that need
2 to be dealt with in this way, and they arise this way. The
3 State provided various documents, including statements,
4 which had parts redacted on the basis of the immunity, and
5 we had thought that that was sufficient, but I understand
6 Counsel Assisting wish to press for the full documents to
7 be available to the Commission and --

8
9 COMMISSIONER: I'd understood yesterday that in the -
10 I think arising from Mr Forrest's submissions that there
11 had been agreement reached, but perhaps it concerns other
12 documents, to the effect that documents which had been
13 redacted were acceptable to Counsel Assisting in their
14 redacted form. Now, if there is some bundle of documents
15 to which that approach does not apply, then we can deal
16 with that in due course, and Mr Diaz, as long as he knows
17 which of the documents are that you were talking about,
18 which I assume he does, can defer reference to them until
19 we resolve that matter.

20
21 MR HASTIE: Thank you, Commissioner. Mr Forrest was
22 correct in saying - because I would have thought that too -
23 that we had dealt with the redacted documents. But we
24 haven't, so there are about - as I indicated, in that
25 bundle there are about seven documents that contain
26 reference to things that we - that the State still claims
27 immunity for, which we would need to go through. It may
28 follow - if I read, Commissioner, your reasons --

29
30 COMMISSIONER: Yes.

31
32 MR HASTIE: -- it may follow that you will simply say that
33 for the same reasons you don't accept the immunity with
34 respect to those paragraphs. But it's still a matter for
35 you, Commissioner, to exercise that discretion.

36
37 COMMISSIONER: Yes, I understand that. Well, Mr Diaz,
38 could I just ask you the documents to which Mr Hastie has
39 referred, are you able to manage the situation by not
40 referring to those documents presently and we'll see if it
41 can be resolved by further discussions between counsel in
42 the course of the day or, if need be, a short argument
43 about what should occur in relation to those documents?

44
45 MR DIAZ: I am theoretically, as it were, able to skip
46 over the documents. But we have sought, as Counsel
47 Assisting the Commission and counsel for the department, to

1 narrow those documents as much as possible. Mr Forrest can
2 address you in more detail if required. But the simple
3 point we make is the redactions broadly relate to one of
4 two topics: either the QTC review, which is in focus in my
5 opening submissions, or the parameters-based funding model.
6 We say those matters are dealt with by your ruling on the
7 public interest immunity point generally and there's no
8 basis now to be part-redacting documents. It is possible
9 theoretically that I skip over those documents, but I think
10 you would be most assisted if the decision could be made
11 in --

12
13 COMMISSIONER: Well, would it assist, because I don't want
14 the flow of your opening, which I assume has been thought
15 through and - to assist everybody in understanding in
16 context the matters relevant to this aspect of the Inquiry,
17 I don't want it to be derailed. So if I were to stand down
18 just briefly, allow Mr Hastie to read my reasons and see
19 whether in light of those reasons Mr Hastie accepts that
20 the documents which were not the subject of express
21 argument yesterday would nonetheless - those reasons would
22 determine the issue in relation to those documents as well.

23
24 MR DIAZ: That seems a suitable course to me, and
25 otherwise I think that we could deal with it very briefly
26 by way of argument.

27
28 COMMISSIONER: Yes. But I think Mr Hastie should at least
29 have a moment to reflect on whether the reasons I've
30 expressed would in substance decide any controversy on the
31 subject of public interest immunity applicable to those
32 particular documents.

33
34 MR DIAZ: Yes.

35
36 COMMISSIONER: So, Mr Hastie, we might just stand down
37 briefly to give you an opportunity to read my reasons,
38 which are quite brief, and form a view as to whether any
39 further argument is necessary or whether that ruling in
40 substance covers those documents.

41
42 MR HASTIE: Thank you, Commissioner. Thank you for that
43 opportunity. Whether or not I'll be able to - I would in
44 normal litigation be able to probably accede to that.
45 Whether I can as regards immunity, which is - Commissioner,
46 you appreciate, is just something that exists, I'll have to
47 reflect further. But I'll see what we can do to advance

1 the matter further.

2

3 COMMISSIONER: That would be good because I'm keen to -
4 I mean, we have a pretty tight timeframe in the course of
5 the next - during this hearing block, and so I'm keen to be
6 as efficient as possible in the circumstances. So whatever
7 you can do. I'll stand down until, say, half past 10.

8

9 MR HASTIE: Thank you, Commissioner.

10

11 COMMISSIONER: Thank you.

12

13 **SHORT ADJOURNMENT**

14

15 COMMISSIONER: Mr Hastie.

16

17 MR HASTIE: Commissioner, thank you for the opportunity to
18 read your findings and reasons.

19

20 COMMISSIONER: Yes.

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22 MR HASTIE: It would follow from those findings and
23 reasons that the same ruling would apply to the other
24 documents that the State sought to have immunity over, that
25 is to say the other parts of the documents that we sought
26 that immunity apply. That makes that part of it simple.
27 Can I just --

28

29 COMMISSIONER: I understand, Mr Hastie, that the State is
30 not by agreement, just to be clear, not pressing a claim
31 for the immunity. So, if you wish for the sake of the
32 record to identify the documents so that it is clear as a
33 matter of record that it is my ruling that has caused their
34 disclosure, I have no problem with that.

35

36 MR HASTIE: Thank you, Commissioner. Can I indicate then
37 that in the bundle, Commissioner, that was handed to you
38 which was described as the public immunity interest
39 bundle --

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41 COMMISSIONER: Yes.

42

43 MR HASTIE: -- with an index of 40 documents, to which you
44 referred to in your findings --

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46 COMMISSIONER: Yes.

47

1 MR HASTIE: -- there are a number of documents in that
2 which had against them the words "unredacted".

3
4 COMMISSIONER: Yes, I see that.

5
6 MR HASTIE: And that is to say that the State had
7 contended that portions of, for instance, the first
8 document, which was a statement of Helen Dogan - in fact,
9 it was only one paragraph of that statement was contended
10 to be subject to immunity. And in the tender list of that
11 40, Commissioner, there were 11 redacted documents, some of
12 which are marked - for instance, Commissioner, if you've
13 got the same copy I have you will see in highlight in
14 yellow "unredacted".

15
16 COMMISSIONER: Yes, I have that. So they're --

17
18 MR HASTIE: So some of the documents in issue had - in
19 this list had the words "unredacted" against them, and that
20 was the contention by the Commission's Assisting Counsel,
21 was that they should be put before the Commission in
22 unredacted form. Apart from those that had that yellow
23 highlighting, there are other documents that were the
24 subject of an immunity claim but which are now - following
25 that, we accept that it would follow that they would be not
26 subject to any redactions, and I think there's an
27 understanding between Counsel Assisting and ourselves which
28 documents they apply to.

29
30 Can I add, Commissioner, just for your information, in
31 relation to the 40 documents we had not understood there
32 was a dispute about the redactions, and that's what's given
33 rise to the contention this morning, and it was only when
34 we had an opportunity to look at the index and the bundle
35 after yesterday's argument that we realised that some of
36 the 40 were in fact not the subject of debate. We had only
37 contended originally for - 18 should be the subject of the
38 immunity. That was reduced by the amended aide memoire to
39 15. But that's why it was 18 at one stage, because we
40 understood there wasn't a dispute about the redactions that
41 we contended were properly - should be made. And out of
42 that 40, Commissioner, you mentioned, I think, that later
43 on in your findings some were dealt with in other ways.
44 Four were dealt with either by withdrawals by the
45 Commission staff or by the State, and there were - eight
46 documents in fact were the subject of parliamentary
47 privilege, not the subject of the immunity claim. So there

1 was a - that's why - that's how we got to the 40, because
2 there was a mixture of different documents, and that's why
3 we originally had - we contended there were 18,
4 subsequently moved to 15, and then when the redaction
5 issues come up that's why we sought to have this debate
6 again this morning.

7
8 COMMISSIONER: Yes, it's sort of archaeological in its
9 scope, really, when you start interrogating the history of
10 the issue being, you know, considered by the parties.
11 That's not a criticism, Mr Hastie. But is there a sort of
12 nutshell ending to this story?

13
14 MR HASTIE: Yes, Commissioner. We've exchanged the
15 position of the parties, that is the Counsel Assisting and
16 the State, and - this morning, which was going to lead to
17 this debate, and we think we're now on the one page.

18
19 COMMISSIONER: By that you mean the same page
20 metaphorically?

21
22 MR HASTIE: The same page, yes, thank you, Commissioner.

23
24 COMMISSIONER: Good. Well, I'm delighted to hear that.

25
26 MR HASTIE: For the avoidance of doubt, maybe I should
27 just indicate then out of the index then, Commissioner --

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29 COMMISSIONER: Yes, I've got the index.

30
31 MR HASTIE: -- what was - but now following, Commissioner,
32 your ruling would be available for use by the Commission
33 would be documents 1, 2, 3, 10, 30 - sorry, yes, that's
34 correct, 37 - sorry, Commissioner, I was questioning my
35 junior counsel --

36
37 COMMISSIONER: That's all right.

38
39 MR HASTIE: -- 37, 39 and 40.

40
41 COMMISSIONER: All right. And that's the position so far
42 as you're concerned, Mr Diaz?

43
44 MR DIAZ: It is, and that leaves just on my count I think
45 three documents that we will need to substitute in the
46 bundle with redacted versions of the document. I'll be
47 corrected if I'm wrong about this, but I understand that to

1 be documents 3, 4 and 6, though the position for 6 is
2 slightly different because that's in fact already in the
3 master indexed as a redacted version.
4

5 COMMISSIONER: Well, can I say, provided counsel have
6 reached a consensus about this, I am satisfied to proceed
7 on that basis. I think I understand the position.
8

9 MR DIAZ: Very well. I should just say I misspoke. It's
10 not in fact document 3 but 15 that will need to be
11 substituted.
12

13 COMMISSIONER: All right.
14

15 MR DIAZ: We'll in any event attend to that. I don't
16 think it will present an issue with my opening.
17

18 COMMISSIONER: All right. Well, excellent. Thank you to
19 all parties involved for resolving this issue quickly.
20

21 MR DIAZ: Commissioner, if I may return to where I was in
22 my opening?
23

24 COMMISSIONER: Yes. Please do.
25

26 MR DIAZ: So where we left off yesterday I had already
27 introduced some of the key themes and the witnesses to give
28 evidence at the upcoming hearings. If I may now turn to a
29 number of briefing notes, reports, audits, internal
30 reviews, external reviews and the like that will be in
31 focus over the next fortnight of hearings.
32

33 COMMISSIONER: Yes.
34

35 MR DIAZ: And I propose to take you through these in
36 chronological order, Commissioner.
37

38 COMMISSIONER: Yes.
39

40 MR DIAZ: I imagine you have available to you the hard
41 copy bundles?
42

43 COMMISSIONER: I have the master bundle comprising three
44 volumes, which was tendered yesterday, and I had the bundle
45 marked "Public interest immunity bundle".
46

47 MR DIAZ: Yes. That will be all --

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2 COMMISSIONER: Is that the universe of it?
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4 MR DIAZ: There's also a "Reasonable excuse bundle".
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6 COMMISSIONER: Yes, I have that as well.
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8 MR DIAZ: You need not trouble yourself with that now
9 because it's essentially been all resolved and we will in
10 due course tender a fresh bundle --
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12 COMMISSIONER: Yes.
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14 MR DIAZ: -- which has those documents with the redactions
15 and the like.
16
17 COMMISSIONER: Do you wish to tender the public interest
18 immunity bundle, or does that require some further
19 refinement, having regard to the matters that have been
20 discussed and Mr Hastie has raised?
21
22 MR DIAZ: It requires just some minor further refinement.
23
24 COMMISSIONER: Well, we'll defer that.
25
26 MR DIAZ: For present purposes I will just take you to the
27 existing PII bundle --
28
29 COMMISSIONER: Yes.
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31 MR DIAZ: -- and in the course of hopefully lunchtime or
32 the afternoon we will tender a fresh bundle.
33
34 COMMISSIONER: Yes. Thank you.
35
36 MR DIAZ: All right. So the first document I wish to take
37 you to, Commissioner, is at volume 2 of the master tender
38 bundle.
39
40 COMMISSIONER: Yes.
41
42 MR DIAZ: And it's behind tab 59.
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44 COMMISSIONER: Thank you.
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46 MR DIAZ: For ease of reference, this document is starting
47 at page 979.

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COMMISSIONER: Yes, thank you.

MR DIAZ: So the document commencing at page 979 is a document called the "Care system investment plan", or CSIP, and it was drafted in January 2020 in advance of the 2020/2021 budget process. And, Commissioner, if you go to page 983 of that bundle --

COMMISSIONER: Yes.

MR DIAZ: -- what you'll see is that the report - this is the CSIP - explains that it was intended to make the economic case for investment into the care system to provide stable, cost-efficient care options. That's right at the beginning of the executive summary.

COMMISSIONER: Yes.

MR DIAZ: Now, there's extraordinary detail in this report, so I won't take you through it all now, but I'll just give you some of the high points. If you scroll through to what is page 13 of the CSIP, which appears at page 991 of the master tender bundle --

COMMISSIONER: Yes.

MR DIAZ: -- you will see that there is first one of the many graphs I foreshadowed you'll be seeing over the next two weeks, and it shows just a linear projection under the simulated analytical model of likely demand for out-of-home care placements. Now, this is - and we'll come to explore this through the evidence - a relatively simplistic analysis, but you'll see coincidentally the data for 2026 quite closely tracks in fact where demand for out-of-home care went. So it's a little bit small but if you zoom in on 2026 you'll see that the projected demand was about 12,000 children in out-of-home care, which is not too different to the actual situation we face today.

COMMISSIONER: So the linear model, as it happens, was more accurate than perhaps criticisms of that modelling might suggest?

MR DIAZ: Yes, and I'll have people that are better placed to speak to the SAM and how authoritative and reliable it is over the next two weeks, but even on modelling that was

1 considered relatively rudimentary, whether by luck or
2 otherwise, they got it right.

3
4 Now, you will see - and I'll just skim over them, but for
5 context on the pages that follow at paragraph 2.2.2 there's
6 some modelling about what's occurring with CRC-PaS
7 placement packages. Now, that's child-related costs, and
8 I forget what the PaS stands for, but in short it's an
9 acronym that's used in the alternative to IPS packages, a
10 more historical acronym. But you can treat that as
11 referring to IPS placement packages in the first graph,
12 which is figure 4 - or, pardon me, figure 3.

13
14 And then in figure 4 you'll see some projections around
15 forecast growth in IPS packages, and in particular what
16 you'll see is, if I take the base of June 2018, at that
17 point expenditure was \$100 million or so on IPS packages,
18 which had grown almost 50 per cent in June 2019 and was
19 forecast to grow by roughly the same proportion in 2020.
20 So, even though the aggregate figures at that point don't
21 quite reach the magnitude that we face today, you'll see
22 that the trajectory was of considerable growth.

23
24 And then, turning overleaf, there's some analysis about
25 future need and the like. The short point to make about
26 this section of the report is it had already identified
27 that there were challenges in the placement care system,
28 including increasing demand, insufficient OSD-funded
29 placements, increasing IPS expenditure, and the last point
30 that's important, which dovetails into another point I'm
31 about to come to, is stagnation in foster care rates.

32
33 Now, somewhat awkwardly, I'm going to take you back to
34 page 8 of the report, out of sequence, which appears at
35 986. I apologise, I think I have the wrong page number.
36 It's page 8.

37
38 COMMISSIONER: Page 8.

39
40 MR DIAZ: Oh, yes, it is 986.

41
42 COMMISSIONER: Yes.

43
44 MR DIAZ: And it's the second paragraph of that subheading
45 "Introduction and background", and what it says is, "This
46 report outlines a targeted investment plan having regard
47 to," the things I just mentioned, the increase in demand,

1 increasing IPS expenditure and the like, "contingent on the
2 availability of funding," which is a key point we'll come
3 back to, "to address the foster care system's most pressing
4 challenges, including the long length of stay," so on and
5 so forth through to the critical part, "the need for a
6 greater foster care pool, including specialised foster
7 care," which you'll come to see is very similar to the
8 professional foster care concept, "and to increase
9 supported kinship care and resources to meet the complex
10 needs of older youth," and so on and so forth.

11
12 So in sort what we have here is a report which is
13 identifying very much the sorts of problems that the
14 department is continuing to grapple with today and
15 proposing solutions that are very much in line with what
16 the department is proposing to do today.

17
18 If you scroll all the way through or, perhaps better said,
19 flip the page all the way through to page 30 of that
20 report, and this is at 1008 of the bundle --

21
22 COMMISSIONER: Yes.

23
24 MR DIAZ: -- you'll just see some more details about the
25 recommendations that were made in the CSIP, including
26 increasing foster carers, and there is, if I may say so,
27 very detailed supporting evidence in the following pages,
28 and then crucially when you come to page 32, which is 1010,
29 you'll see an Excel spreadsheet. The Excel spreadsheet is
30 extracted in the report and is one of these documents that
31 I said was somewhat impenetrable. But what you'll be able
32 to discern from the bottom line of table 8 is that, if
33 there was to be the specified investment in foster caring,
34 the net benefit in financial terms to the department over
35 the subsequent four financial years is in terms mentioned
36 there, and you'll see that if one takes the full term over
37 which that's forecast, being through to 23/24, there's net
38 savings of \$30 million predicated on, as I understand it
39 but we can ask some witnesses about it, essentially
40 recruiting 225 foster carers to support 366 young people.

41
42 Now, there's a great deal of detail in the report, but for
43 present purposes it's sufficient to go to page 70, which is
44 the conclusion. Page 70 you'll find at 1048. Essentially
45 what you'll see there is the conclusion of the report is to
46 justify an economic case for investment into the care
47 system to provide the stable cost-efficient options that we

1 were just discussing, an uptake in foster and kin care, and
2 you'll see on 1048 in the conclusion the second sentence,
3 "Simply put, there are not enough funded care options for
4 the number of children who need a care option. If the
5 State has deemed it sufficient to remove a child from
6 the care of their parents, then they are obliged to have a
7 safe and stable care option available for that young
8 person."
9

10 Now, it's recorded in a document I'll come to shortly,
11 which is one of the significant procurement plans, that the
12 care system investment plan did not proceed due to
13 pandemic-related budget pressures.
14

15 The next document I wanted to take you to, Commissioner, is
16 in a different bundle. It's in the public interest
17 immunity bundle, in particular at tab 10, and this is one
18 of the documents that was subject to the redaction dispute,
19 but you will see you've got an unredacted version of the
20 document, and the redaction issue has now fallen away. For
21 context, this is an incoming brief to the Director-General,
22 who we will call as a witness next week, Deidre Mulkerin,
23 dated 21 January 2020. So it's essentially contemporaneous
24 with the other report I took you to.
25

26 COMMISSIONER: Yes.
27

28 MR DIAZ: And under "Current position" - this is on
29 page 347 - you'll see that at the outset the first thing
30 that the Director-General is told upon taking the position
31 is that year to date there's a controlled budget deficit of
32 \$55 million and a projected deficit of \$70 million, and
33 this is quite a crucial point, the second dot point under
34 "Current position", and I say it is a crucial point because
35 of the timing - this is before COVID, so January 2020 -
36 "The department is dealing with significant budget
37 pressures brought about by the increased number of young
38 people requiring placements over the last 18 months," and
39 I emphasise those last words because what it suggests if
40 this briefing note is to be taken as an accurate record of
41 what's occurring in the department, which one certainly
42 would expect that it is given it's going to the
43 Director-General, placement pressure is already escalating
44 in the 18 months before COVID, and that's also what we see
45 in the care system investment plan. And then there's
46 reference to young people staying in placements longer, the
47 rising costs associated with capacity constraints, and

1 complexity of children and young people.

2

3 Now, the other part of this document that I wanted to
4 specifically draw your attention to is under "Next steps".

5

6 COMMISSIONER: Yes.

7

8 MR DIAZ: And there's reference to the department having
9 briefed Treasury and the minister's office in relation to
10 this matter, and then crucially in recognition of this
11 fiscal pressure the department and Treasury have engaged
12 QTC in January 2020 to undertake a review of the cost
13 drivers in the child safety system, and there's reference
14 to QTC seeking to identify opportunities to optimise
15 placements and mitigate estimated overspend or projected
16 overspend of \$123 million.

17

18 That, Commissioner, takes us to a suite of documents that
19 have already been the subject of some discussion, and those
20 are QTC's reports themselves.

21

22 COMMISSIONER: And they're in this bundle, the --

23

24 MR DIAZ: They are, and they're at tabs 7 and 8 of
25 the bundle --

26

27 COMMISSIONER: Yes.

28

29 MR DIAZ: -- 7 being the April 2020 phase 1 review and 8
30 being phase 2, which was completed in August 2020. There
31 is a separate briefing note to the Director-General about
32 the phase 2 report, which is in the master bundle, but I'll
33 take things in turn, starting with phase 1 of the QTC
34 review.

35

36 So this is behind tab 7, as I mentioned, on page 149 of
37 the PII bundle --

38

39 COMMISSIONER: Yes.

40

41 MR DIAZ: -- and you'll see that phase 1 was completed, as
42 I mentioned, on 6 April 2020. And there's an introduction
43 which explains the remit of the review essentially in terms
44 that were explained in the briefing note to the
45 Director-General. And you come then on page 5, which is at
46 153 of the PII bundle, to a series of key findings, and
47 I'll just highlight a couple of those key findings for you,

1 Commissioner.

2

3 COMMISSIONER: Yes.

4

5 MR DIAZ: Key finding 1 is essentially in terms that QTC
6 concluded that there was predicted a substantial overspend
7 in the 2019/2020 budget and that future budgets would
8 further deteriorate, and there's reference in particular to
9 costs of out-of-home care increasing due to fee-for-service
10 arrangements. Again, you can treat fee-for-service
11 arrangements or CRC-PaS arrangements as meaning IPS
12 agreements, all the same thing.

13

14 Then overleaf on page 6 of the phase 1 report at key
15 finding 4 you'll see there's reference to gaps in the
16 department's information and data collection. That means
17 the placement system is unable to strategically plan,
18 develop insights into children's outcomes, clarify system
19 pressure points - that's essentially a euphemism for the
20 demand forecasting issue - and to determine how best to
21 improve service provision to enhance outcomes for children.

22

23 The findings go on and on. Perhaps the last one to draw
24 specifically to your attention is on page 7 at 155 of
25 the bundle, and that's important in the context of the CSIP
26 that I took you to because it refers to four investment
27 plan strategies reviewed by QTC. Now, those are strategies
28 that actually came out of the CSIP. So, notwithstanding
29 that it was abandoned, QTC then seems to do some analysis
30 on those particular strategies, and they're essentially
31 around the utility of recruiting more foster and kin
32 carers.

33

34 COMMISSIONER: You said it was abandoned. Was it
35 abandoned because of COVID? Is that --

36

37 MR DIAZ: With the --

38

39 COMMISSIONER: That's the stated reason?

40

41 MR DIAZ: The stated reason - it was abandoned due to
42 COVID-related budget pressures. That appears from a
43 document that I'll take you to in about 10 or so minutes.

44

45 COMMISSIONER: Yes.

46

47 MR DIAZ: But that is as much as we've been able to

1 discern as to why that was abandoned, and no doubt it will
2 be a matter we explore with some of the witnesses.

3
4 COMMISSIONER: Yes.

5
6 MR DIAZ: So, notwithstanding that it was abandoned, you
7 have the review of those different strategies. They're
8 described as - and this is a quote - "credible and evidence
9 based", and the explanation is that they target supply
10 pressures for low-cost placement options, which is the
11 increasing of foster and kin care, and by extension they
12 alleviate reliance on high-cost residential care and offer
13 opportunities to transition children out of residential
14 care into these lower care cost options.

15
16 COMMISSIONER: Lower cost.

17
18 MR DIAZ: I apologise.

19
20 COMMISSIONER: Not lower care.

21
22 MR DIAZ: Lower cost care options.

23
24 COMMISSIONER: Yes.

25
26 MR DIAZ: Thank you, Commissioner. Page 17 then - you'll
27 see over the following slides there is a number of visual
28 representations that certainly we'll come back to in due
29 course, at least as time permits, but those culminate in
30 what's called a cost driver analysis on page 17, or that's
31 165 of the bundle.

32
33 COMMISSIONER: Yes.

34
35 MR DIAZ: And that's basically a summary of what follows
36 on the subsequent slides, which is a detailed analysis of
37 what is in fact driving cost in the out-of-home care
38 system, and you'll see that each of those hypotheses is
39 marked as either true, false or with some narrative
40 explanation, and interestingly for present purposes one of
41 the matters that QTC considers is whether complexity of
42 children is driving cost - that's hypothesis D - and at
43 that stage actually says there's insufficient evidence to
44 draw that conclusion.

45
46 Then you'll see a series of other factors that will all be
47 familiar to you, things such as E and F, the cost of

1 placement types has increased, fee-for-service cost is
2 greater than outsourced service delivery, and there's
3 increased reliance on such agreements, shortage of low-cost
4 options, so on and so forth.

5
6 COMMISSIONER: I note that on the supply side of the
7 matters identified in the hypotheses that one proposition
8 that is interrogated is "capacity in OSD not effectively
9 used", and that's characterised as "false overall but small
10 opportunities".

11
12 MR DIAZ: Precisely.

13
14 COMMISSIONER: I'm not sure what that means, but that can
15 be explored no doubt.

16
17 MR DIAZ: It essentially concerns the occupancy rates in
18 outsourced service delivery. One of the matters that QTC
19 considered was whether there was too much surplus OSD
20 capacity, and it's in that context that you won't be
21 surprised to hear that they concluded that was not a major
22 issue, although there may have been some placements that
23 could be better optimised.

24
25 COMMISSIONER: I see. So the reference to "capacity in
26 OSD" not being - "not effectively used" is really - poses
27 the question of whether occupancy rates are too low?

28
29 MR DIAZ: Exactly, and you'll see there's some analysis,
30 and the detail is lost on me, but it's in the order of
31 occupancy rates for different services, and I see on
32 page 23, for instance, you get the occupancy rate for
33 residential care at 91.4 per cent. So there is some
34 surplus, unused OSD capacity. No doubt one of the things
35 we'll explore through the witnesses is what is a suitable,
36 if you will, surplus of OSD capacity to carry at any given
37 time, because of course a relevant consideration for the
38 department will be that if it chooses to invest in more OSD
39 supply it may need to carry some surplus capacity, and so
40 the relevance of those considerations will be tested.

41
42 COMMISSIONER: Yes.

43
44 MR DIAZ: Then at page 30 and following this is the
45 analysis of the investment plan, which is that reference to
46 the CSIP. This is in particular at 179 of the PII bundle.
47 You'll see that QTC tested or analysed four strategies, and

1 what I understand - when they say "in the department's
2 investment plan" I've inferred that to be the department's
3 care system investment plan, the CSIP, because of the
4 commonality of the proposals.

5
6 What's particularly interesting is what follows on pages 34
7 and 35, which is at 182 and 183 of the PII bundle. You
8 will see that, to take, for instance, the analysis on
9 foster care, QTC did some modelling and concluded that
10 recruiting additional foster carers would involve a cost,
11 and this is cost, for instance, in training, in targeting,
12 in supporting them in payments and so on - would include a
13 cost of \$24.5 million, and the net benefit to the
14 department would be - and there's some modelling which
15 supports this over the forward estimates - a net saving of
16 almost \$75 million, just under 73.2, and similar modelling
17 for kinship care, the basic premise being that QTC was
18 supportive of upfront immediate investment in family-based
19 care options with a view that that would in fact save the
20 department substantial sums of money over the forward
21 estimates.

22
23 You see that in the next slide, which is "Net benefits over
24 the forward estimates", and, Commissioner, you will no
25 doubt appreciate this is at a time when the care system is
26 smaller, so everything is obviously proportional, but the
27 savings forecast over the forward estimates are of almost
28 \$200 million, 181 to be precise, and that's from
29 implementing these various proposals around foster care,
30 kin care, individualised tailored support, and then the
31 therapeutic foster care Oregon program that's been the
32 subject of some earlier evidence in these hearings, or in
33 previous hearings.

34
35 COMMISSIONER: Yes.

36
37 MR DIAZ: Then at - this will be the last matter I think
38 I'll take you to in respect of the phase 1 review. At
39 page 37 and following there's some short-term - pardon me,
40 short to medium term initiatives that are proposed the
41 department can take straightaway, and I think at various
42 junctures these are described as no regrets options.
43 You'll get a flavour as to those by flicking through the
44 slides that follow, but they concern matters such as some
45 modelling that QTC does at page 42, which is 190 of
46 the bundle, some modelling about price variance between
47 different providers, and how some of that could be smoothed

1 over so that they're essentially tendering at a more
2 competitive market rate.

3
4 Now, phase 1 then leads to phase 2. We'll explore further
5 through the evidence exactly how it came to be that there
6 were these two phases and what was meant to be the intended
7 focus of the particular phases. My understanding is that
8 phase 2 was intended to test further some of the material
9 in phase 1 and essentially offer a roadmap moving forward
10 for the department.

11
12 COMMISSIONER: Yes.

13
14 MR DIAZ: And I should have just said at the outset
15 I further understand the background to this QTC review to
16 be a joint effort between Treasury and the department to
17 address that looming budget deficit that I took you to in
18 the briefing note to the Director-General.

19
20 So at tab 8 of the PII bundle starting at page 231 is the
21 phase 2 report, which, as I said, was completed in August
22 2020. Just a couple of matters on the phase 2 report. So
23 at page 4, which is 234 of the PII bundle, there's a
24 summary of some of the investment and commissioning
25 challenges the department is experiencing at that time,
26 and, if I may say so, some of those observations are
27 prescient in the modern day. Procurement is inflexible and
28 the contract specifications are unclear; the department is
29 not in a position to attract sufficient family-based care
30 placements and doesn't adequately leverage its information
31 to optimise out-of-home care service delivery; and
32 crucially there's reference to avoiding considerable costs
33 by identifying supporting and retaining those family-based
34 carers. So the message coming out of QTC is quite clearly
35 one of upfront investment in family-based care.

36
37 Page 5, which is overleaf at 235, then has yet another one
38 of these charts or graphs that I've been referring to, and
39 it points out quite clearly the sort of budget pressure
40 that the department is stepping into, and you'll see
41 represented on this graph on each of the bars there's a
42 kind of green overflow, which is the annual deficit, and
43 the deficit you'll see is quite stable in 2015/2016,
44 2016/17. Then in percentage terms it essentially doubles
45 2017/18. The step change to 18/19 is not so substantial,
46 but that's because in part there's some additional approved
47 funding, and then as you get to 2019/20, which is the

1 financial year that's just concluded when phase 2 is
2 published, you'll see that the department required at that
3 point, so 2019/2020, additional top-up spend of
4 \$70 million, and on top of that there's a deficit of
5 \$70 million as well. So that's all broadly in line with
6 the briefing note to the Director-General as well that
7 I took you to earlier.

8
9 COMMISSIONER: Yes.

10
11 MR DIAZ: And then if you go through to slide 9 and 10,
12 which is at 239 and 240 of the bundle, these are the
13 recommendations by QTC. I won't labour the point, but
14 recommendations 1 and 3 are particularly important. 1 is
15 around long-term commissioning for known demand and
16 complexity, ie finding family-based care or OSD-funded
17 residential care, and the number that QTC puts on that is
18 avoided costs of \$10 million per annum. And then there's
19 reference to optimising NDIS packages. Overleaf you see
20 reference to increasing investment in family-based care,
21 and, though I cannot presently locate it, I understand that
22 has forecast avoided costs of \$38 million. Oh, yes, I see
23 that's in fact on the first slide that increasing foster
24 care and kin care - that's slide 9 - relative to
25 residential care would lead to avoided costs of
26 \$38 million.

27
28 I'll come back to this report at different times with some
29 of the witnesses, but there's a great deal of detail about
30 findings and conclusions that you find at 246 of the PII
31 bundle and following, and some really detailed analysis
32 that supports the high-level conclusions I was just
33 referring to.

34
35 If I can just for present purposes take you to page 40,
36 which is at 270 of the PII bundle. The conclusion at
37 page 270, or slide 40, is essentially that the current
38 procurement model means increasing demand for placements
39 will always outstrip supply, and really crucially at
40 finding 4.1 what QTC is highlighting here is there is a
41 lead time involved in increasing supply. None of this was
42 going to happen overnight, and so when I and Mr Forrest
43 have spoken of a window of opportunity this is the sort of
44 document that leads one to have the impression there was a
45 window of opportunity because QTC were saying, "There's a
46 budget deficit on the horizon, and it's going to get bigger
47 and bigger every year. These are the types of solutions

1 that might abate that problem, but you need to do them now
2 because you won't realise the avoided costs until you're
3 well into the forward estimates."
4

5 Now, the next document I wanted to take you to is at tab 13
6 of the PII bundle. This is I think one of the documents
7 the subject of the parliamentary privilege point. It is or
8 we're told at least that it's been prepared for
9 Parliamentary Estimates in December 2020. That is shortly
10 after Minister Linard has taken over the portfolio. What
11 you see - this is at page 357 of the PII bundle under "Key
12 figure section", in particular the third dot point, you'll
13 see that the cost of residential care has increased
14 30 per cent from the previous financial year, and then
15 there's some detailed particulars on the subsequent page
16 around the cost per annum of residential care, which at
17 that point was just north of \$300,000 and, as we now know
18 from my opening, is in the proximity of \$500,000 per annum.
19

20 COMMISSIONER: That's the average cost per child or young
21 person per placement?
22

23 MR DIAZ: Precisely.
24

25 COMMISSIONER: Yes. And this was 2020?
26

27 MR DIAZ: That's right, December 2020.
28

29 COMMISSIONER: So between that period or, let's say,
30 December 2020 and the present period, financial period, the
31 increase has been from about \$312,000 per annum per child
32 to around a half a million dollars per annum per child?
33

34 MR DIAZ: That's right.
35

36 COMMISSIONER: Yes.
37

38 MR DIAZ: So maths isn't my strong suit, but I think
39 that's a 66 per cent increase over essentially five years.
40

41 COMMISSIONER: Yes.
42

43 MR DIAZ: Then you'll see at - so there's the particulars
44 that explain that increasing cost and there's - including
45 some analysis on a per night cost basis and the like. Then
46 relevantly for our purposes when you get to page 360 under
47 a heading "High-cost emergency placements" there's a

1 reference to demand for such placements continuing to
2 exceed supply, and what it seems to be - though they are
3 described as high-cost emergency placements, based on some
4 of the other data that I took you to about the overall IPS
5 budget in the CSIP report, it looks like this is just a
6 summary of the IPS expenditure as at December 2020, and
7 you'll see in particular in 2020/2021 the CRC-PaS budget
8 totals almost \$150 million, and you'll see what is
9 particularly notable is that projected expenditure is
10 almost going to double in the 2020/21 financial year, the
11 point being the writing was on the wall that IPS
12 expenditure was going up at a very significant rate.

13
14 COMMISSIONER: Should I infer from that description of the
15 modelling in relation to this type of care as - and
16 referred to as emergency placements - so "High-cost
17 emergency placements" is the heading - that the IPS - what
18 is now known as the IPS funding was intended for precisely
19 that, that is to say emergency placements, not for - can
20 I put it broadly this way, not for general use?

21
22 MR DIAZ: I think that's right with the caveat of course
23 that it might not just be emergency placements but also
24 particular needs that can't be adequately catered for in
25 the OSD system, if there are such cases, and we'll explore
26 that through the evidence. But it should be said this is,
27 it seems, simply a document prepared for Estimates. We
28 don't know that this necessarily originated from the
29 department, and I don't know that the heading can be put or
30 too much can be put into that particular heading.

31
32 COMMISSIONER: No.

33
34 MR DIAZ: Then the next document I want to take you to -
35 and I'm looking over at my learned friend because I wonder
36 if this is one that is the subject of the redactions. It's
37 at tab 15 of the PII bundle. If you'll just bear with me a
38 moment, Commissioner.

39
40 COMMISSIONER: Of course.

41
42 MR DIAZ: I'm told that it's at tab 84 of the master
43 bundle.

44
45 COMMISSIONER: So should I move from tab 15?

46
47 MR DIAZ: Yes. You should instead go to tab 84 of

1 the master bundle. That will be the document I speak to.
2
3 COMMISSIONER: Certainly.
4
5 MR DIAZ: And if it assists, Commissioner, tab 84 is --
6
7 COMMISSIONER: I have it.
8
9 MR DIAZ: You have it. I think it's --
10
11 COMMISSIONER: It's in volume 3.
12
13 MR DIAZ: -- volume 3.
14
15 COMMISSIONER: Yes.
16
17 MR DIAZ: And, if you turn to page 2013, this is a budget
18 brief - so now we're two months fast-forward in February
19 2021 - that has been prepared for a meeting with
20 the treasurer.
21
22 COMMISSIONER: Sorry, just to be clear, page 2013?
23
24 MR DIAZ: Yes, that's right. It will look like a
25 PowerPoint presentation.
26
27 COMMISSIONER: Yes. And it's tab 84?
28
29 MR DIAZ: Yes, exactly.
30
31 COMMISSIONER: Yes, I have that.
32
33 MR DIAZ: So this is one of the "hybrid" documents that
34 I was talking about as concerns the somewhat
35 visual/somewhat written nature of the way information was
36 communicated to relevant ministerial staff.
37
38 Just to set the context, you'll see in the overview at 2014
39 it's very high level but you can get some sense of the
40 magnitude and importance of child safety in the overall
41 budget of the department. So the department's overall
42 budget is almost one point - is \$1.475 billion, and if you
43 go to the row headed "Expenses breakdown children" and you
44 focus your attention on the OSD, you'll see that that makes
45 up \$825 million, so 56 per cent of the budget, and I can't
46 tell you where the IPS falls, but I think it's either in
47 the "Grants and subsidies for other supplies and services"

1 column - pardon me, row.
2
3 COMMISSIONER: I'm sure we'll be able to clarify that with
4 a witness in due course.
5
6 MR DIAZ: Indeed. The point being child safety at this
7 point was in the order of 60 per cent or thereabouts of the
8 overall budget. So quite a --
9
10 COMMISSIONER: Overall what - which budget overall?
11
12 MR DIAZ: I apologise. The overall budget of the
13 Department of Children, Youth Justice and Multicultural
14 Affairs.
15
16 COMMISSIONER: Yes, I see.
17
18 MR DIAZ: Being the portfolio that at that time Minister
19 Linard was responsible for.
20
21 COMMISSIONER: Yes, I understand.
22
23 MR DIAZ: Then on 367 you'll see some projections around
24 where the deficit is heading. This is really just a
25 continuation of some of the earlier documents --
26
27 COMMISSIONER: So the next page is 2015, isn't it?
28
29 MR DIAZ: Yes, it is.
30
31 COMMISSIONER: Okay.
32
33 MR DIAZ: The next page is 2015 of the master tender
34 bundle.
35
36 COMMISSIONER: You said 367 or something.
37
38 MR DIAZ: I apologise.
39
40 COMMISSIONER: No, that's all right.
41
42 MR DIAZ: That's because I'm referring to my notes, which
43 are referable to the PII bundle.
44
45 COMMISSIONER: That's perfectly fine.
46
47 MR DIAZ: So that won't work. Quite right. On 2015

1 that's a projection of where the deficit is going in line
2 with the numbers we were discussing, that the projected
3 deficit is moving up into the territory of \$200 million.
4

5 COMMISSIONER: It's interesting that the department's
6 projected deficit is significantly lower than the
7 Treasury's projected deficit.
8

9 MR DIAZ: Quite. I can't tell you why that's so.
10

11 COMMISSIONER: No. Wishful thinking maybe.
12

13 MR DIAZ: Perhaps. Then moving through to 2017 you see at
14 a high level - and I stress high level because there's not
15 much detail there, but some of the demand drivers that you
16 will see are dealt with at much greater length in QTC's
17 report and other documents. Then we come on 2018 to the --
18

19 COMMISSIONER: It's worth noting those because there's
20 been a good deal of evidence in various contexts throughout
21 the hearings and throughout this Inquiry about the demand
22 drivers. "Growing complexity", I'm not sure what that
23 means, but "use of methamphetamine" is very clear. "Impact
24 of domestic violence", "COVID-19", "parental imprisonment"
25 seem to be the then identified factors. It's - well, of
26 course the COVID-19 impact abated over time, but the other
27 demand drivers are very much likely to have ongoing impact.
28

29 MR DIAZ: Indeed. And the "growing complexity" reference,
30 I understand that to be shorthand for growing complexity of
31 the children that are entering care.
32

33 COMMISSIONER: I assumed that, but yes.
34

35 MR DIAZ: And it's worth noting that some of these
36 explanations are either inconsistent or disputed,
37 contested, in QTC's work. So, for instance, QTC says
38 there's not sufficient evidence to say that growing
39 complexity is driving demand, and - yes, Mr Hastie rightly
40 points out that's different from saying it's contested.
41 QTC concludes that there was insufficient evidence to
42 support the hypothesis.
43

44 COMMISSIONER: Yes.
45

46 MR DIAZ: Now, that doesn't mean it's either right or
47 wrong, but I simply point out that it's one of the aspects

1 of inconsistency. The other aspect is we will have seen
2 from some of the documents I took you to initially that
3 demand was already surging at the same sort of rates of
4 growth before COVID-19 as it has been or had been since
5 COVID-19, so --

6
7 COMMISSIONER: It's important to note that some things
8 were the subject of, one might say, reasonable
9 disagreement, other things not so much. They were sort of
10 clearly known and understood and accepted by those
11 interrogating the likely forecast demand and cost, as
12 against supply, of course.

13
14 MR DIAZ: Precisely. And where I was was turning to the
15 deficit mitigate strategies, as they're called. Now, what
16 seems to be picked up in this, but we'll certainly have to
17 interrogate it further, is there does seem to be reference
18 to the funding of 200 new family-based carers, and you'll
19 see that's \$73.2 million over three years. That does seem
20 to flow through all the way from the CSIP through QTC's
21 review, and the same savings and the same figures are
22 picked up in this deficit mitigation strategy. Now, it's
23 not clear whether those carers were in fact recruited and
24 whether those savings were in fact achieved, but that's
25 something we'll explore. And what's also noticeable about
26 this particular slide is there are what I will describe as
27 fairly light-touch deficit mitigation strategies on
28 residential care, which is the key driver of cost in the
29 out-of-home care system generally.

30
31 COMMISSIONER: Light touch, what, in the sense that the
32 reference to the foster care Oregon pilot is to provide 14
33 home-based therapeutic care places?

34
35 MR DIAZ: Yes, what --

36
37 COMMISSIONER: Light touch in the sense of an order of
38 magnitude; is that what you mean?

39
40 MR DIAZ: Yes, "light touch" is a rolled-up and not
41 particularly useful expression. What I particularly meant
42 to suggest was they are projects that in the scale of
43 investment in residential care a saving of \$3.6 million,
44 though important, is relatively de minimus, and the balance
45 of the proposed deficit mitigation strategies - I don't say
46 these aren't otherwise worthwhile propositions or
47 proposals, but they don't particularly move the needle as

1 far as deficit mitigation is concerned.

2

3 COMMISSIONER: Yes.

4

5 MR DIAZ: And there is some more detail, in fairness to
6 the author of the particular document, on the subsequent
7 page, which is 2019, about the things that could be done
8 from a procurement and commissioning reform perspective,
9 and that includes, among other things, reducing placement
10 churn, and there's also some reference there at the second
11 row to converting short-term contracts to long-term
12 contracts, which again I think is a rolled-up way of
13 describing the conversion of IPS to OSD agreements.

14

15 And finally on this particular document at 20 --

16

17 COMMISSIONER: I do note, and this will be of interest to
18 a number of parties, that one of the proposals was
19 "co-design new ATSI kinship care model with QATSI CPP".
20 Yes.

21

22 MR DIAZ: Quite. And there are lots of good initiatives
23 that are put forward in this, but one might at least leave
24 open for question the extent to which they were substantial
25 measures to move the deficit or mitigate the deficit, as is
26 suggested.

27

28 Then lastly there's what the report entitles "The solutions
29 phase", which comes at 2022, and again this is highly
30 relevant in the present context. You'll see that there's a
31 number of references to creating a contemporary
32 commissioning framework - I hasten to guess that that won't
33 be the last time you hear that expression - and what you'll
34 see is development of a significant procurement plan, a
35 number of other initiatives that are along the lines of
36 what we've discussed around tinkering with the way that the
37 department commissions these services.

38

39 COMMISSIONER: Yes.

40

41 MR DIAZ: Now, if one then goes from the budget brief to a
42 document that I just left, which is the significant
43 procurement plan, that's in volume 2 of your master tender
44 bundle at tab 61.

45

46 COMMISSIONER: Yes.

47

1 MR DIAZ: I intend to be reasonably brief with this
2 document, in part because you'll see from the front page at
3 1185 of the master tender bundle that the project lead for
4 this was Natalie Wilson, the first witness to be called,
5 and the financial delegate was Deidre Mulkerin, and so
6 certainly we'll have the opportunity to discuss this
7 document with them further in the running.

8
9 COMMISSIONER: Yes, thank you.

10
11 MR DIAZ: Just one quick or perhaps a couple of quick
12 points to note. On page 7 of the significant procurement
13 plan, which is 1191 of the bundle, there is what I would
14 describe as a very helpful set of similarities in the
15 conclusions and recommendations in the CSIP and QTC
16 reports, and it essentially encapsulates all of the points
17 that I just took you to in quite some detail, and paints
18 quite an effective picture of what the department
19 understood to be the issues as at that given time and what
20 it understood to be a path moving forward by way of
21 recommendations.

22
23 COMMISSIONER: That is about halfway down the page, "There
24 are similarities in the conclusions/recommendations from
25 CSIP and QTC reports"; is that what you're referring to?

26
27 MR DIAZ: Exactly. And, to take just a couple of
28 examples, the number of OSD-funded places remains
29 insufficient for those that require a funded place. Then
30 there's reference to the increasing complexity point;
31 that's the fourth point. Again - I mean there's many such
32 points, but "Family-based care remains the mainstay of
33 the placement system", that's an allusion or a reference to
34 the earlier points around investing in foster and kin care,
35 and so on and so forth. And you see - well, perhaps most
36 starkly - "The current placement system is delivering
37 suboptimal outcomes for many children."

38
39 Now, there's reference then to something called the "Our
40 way" strategy. That is not something that I intend to
41 focus on at the moment but may be a matter that comes into
42 focus with Deidre Mulkerin, who led this particular
43 initiative, which is relevant to disproportionate
44 representation of Aboriginal and Torres Strait Islander
45 children in care.

46
47 And just to highlight some quick points on this document,

1 turning over at 1192, "Objectives of procurement", this is
2 a particularly important part of the significant
3 procurement plan. What you see - and this is,
4 I understand, a directive that came all the way down from
5 either the Director-General or the government of the day -
6 an objective of halving the number of children and young
7 people in residential care by 30 June 2026, which in
8 practical terms that seems to then turn into an
9 aspirational target that we see time and time again of
10 having 7 per cent of children in out-of-home care in
11 residential care and, as you know from my opening,
12 Commissioner, today there are almost 20 per cent of
13 children in out-of-home care in residential care. And then
14 there's reference to doubling the proportion of children
15 placed in a care arrangement with kin by the same date.

16
17 COMMISSIONER: And do we have the comparative data between
18 the aspiration as expressed in 2020 and the present actual
19 state of affairs?

20
21 MR DIAZ: For kin carers?

22
23 COMMISSIONER: For kin?

24
25 MR DIAZ: Not off the top of my head, but we'll follow up
26 and revert with that in due course.

27
28 COMMISSIONER: Yes. Thanks. Thank you.

29
30 MR DIAZ: Now, the other aspect of the significant
31 procurement plan, at pages 9 to 14 - just to guide you -
32 you'll see some quite detailed analysis of the market which
33 is very helpful but we don't need to dwell on for present
34 purposes. And then you come to page 17 which, to use the
35 numbering from the bundle, is at 1201. And there's a
36 number of recommendations around the suggested procurement
37 strategy to be adopted in this situation. One I would just
38 like to highlight is under the recommendation at
39 paragraph 13 which in substance - it can be a bit lost in
40 the detail under subheading 13.1, but is to convert IPS
41 agreements to OSD contracts and establish more OSD supply,
42 especially where the evidence suggests that there is only
43 one particular supplier in a region and therefore, I think
44 the rationale is, that it makes sense for that supplier to
45 be on an OSD contract because you know it's very likely
46 that you'll continue to need that provider into the future.

1 COMMISSIONER: And this again was back in 2020?
2
3 MR DIAZ: This particular document now is at 2021.
4 I omitted to take you to it at the outset.
5
6 COMMISSIONER: That's all right.
7
8 MR DIAZ: You'll see, though, that it builds on those two
9 earlier reports, and then it's approved I think finally in
10 November 2021.
11
12 COMMISSIONER: Yes, but at the bottom of the page it says,
13 "Approved December 2020".
14
15 MR DIAZ: I'll just have a look at that. I seem to
16 have --
17
18 COMMISSIONER: It's on the bottom of each page, I think,
19 of the document.
20
21 MR DIAZ: I'm told, yes, it's on 1186. I'm indebted to my
22 learned friend. That's page 2 of the plan. You'll see the
23 dates on which it was approved by relevant people, the
24 document history. And it seems --
25
26 COMMISSIONER: I see.
27
28 MR DIAZ: -- we don't have in this reference to the final
29 approval from the Director-General. My understanding is it
30 was in fact finalised - this is just the version that we
31 have - and that's on 2 November 2021.
32
33 COMMISSIONER: In any event, it's a plan with specific
34 reference to an objective of converting what is now called
35 IPS funding to OSD funding which was identified
36 specifically as early as no later than 2021.
37
38 MR DIAZ: Yes, and we would say was identified at the
39 latest by the QTC report in April 2020, if not by the care
40 system investment plan that I took you to right at the
41 beginning.
42
43 COMMISSIONER: Yes, I see.
44
45 MR DIAZ: Then from here tracking precisely the things
46 we've been discussing there is a due diligence audit
47 concerning IPS financial matters. That is in volume 2 as

1 well behind tab 63. Now, the findings of this audit are
2 reasonably detailed, but it's explained at page 1337 --

3
4 COMMISSIONER: Yes.

5
6 MR DIAZ: -- that in February 2022 the department
7 finalised an internal financial audit in relation to IPS
8 packages and agreements, and that's no doubt a reflection
9 that they were being used increasingly over that period of
10 time. And the background to the audit explains as much
11 when it identifies that the number of IPS agreements had
12 been increasing from 800 in August 2020 to more than 1,300
13 in August 2021; so a very substantial increase in the
14 number of IPS agreements over a 12-month period. The
15 findings, as I say, are rather detailed so I'm not going to
16 step through each of them, just to highlight a couple of
17 interest.

18
19 At page 4, which I think is at 1340 - pardon me, I withdraw
20 that. I think it's 1338.

21
22 COMMISSIONER: 1338?

23
24 MR DIAZ: Yes. There's reference to the significant
25 increase - this is down the bottom in the audit
26 conclusion --

27
28 COMMISSIONER: Yes.

29
30 MR DIAZ: -- before I come to specific finding, the audit
31 conclusion is that there's been a "significant increase in
32 IPS arrangements" - crucially - "together with a lack of a
33 computerised system to manage those and that's made it
34 increasingly complicated for the regions to comply with"
35 their requirements. And then, "While business rules have
36 been issued" - and we'll speak no doubt about the business
37 rules a number of times to come - "regional practices for
38 administering those vary. A number of positive
39 observations were made during our review and they have been
40 highlighted against each of the detailed findings."

41
42 And then again on the IPS business rules if you turn over
43 to 5, which is at 1339, and you see the second paragraph,
44 "Business rules have been developed by Investment and
45 Commissioning to strengthen guidance around the IPS
46 process. Our audit has identified these are not being
47 complied with." And then there's associated reference to

1 non-compliance with financial delegations and --

2

3 COMMISSIONER: And should I take the reference to
4 compliance with business rules to refer to the rules for
5 the use of IPS funding as opposed to other models of
6 funding, specifically OSD funding?

7

8 MR DIAZ: Not quite. The IPS rules really guide - once a
9 decision has been made to enter into an IPS contract
10 because, for instance, a child is deemed to be particularly
11 high need or there's no OSD supply, in procuring the IPS
12 agreement those working in the regions, in my
13 understanding, are meant to follow the IPS business rules,
14 and one of the aspects of the IPS business rules that I'll
15 come to in fact very shortly is that they include guidance
16 around the price at which the services are to be acquired.
17 And what you'll come to see is that price guide hasn't been
18 updated for many years. It seems in any event that the
19 staff in the regions at least at this time weren't in fact
20 following the rules.

21

22 COMMISSIONER: Do they also specify - we'll come to it,
23 I don't want to hold you up, but do these rules also
24 specify the circumstances to which IPS funding might be
25 directed?

26

27 MR DIAZ: Yes, I think they do.

28

29 COMMISSIONER: Yes.

30

31 MR DIAZ: Yes. I haven't memorised them, but I tend to
32 recall that such information is included in them, and in
33 any event I'll come to them very soon so we'll be able to
34 see that.

35

36 Now, following this audit and it seems directly related to
37 the same, there's a reference group created and it's called
38 the IPS re-design reference group. It's essentially,
39 I understand, a working group or a committee to look at
40 what's happening with the use of IPS agreements within the
41 department. And there are three documents - conveniently
42 they are right next to each other in the bundle - that
43 I want to take you to at 65, 66 and 67; that's tabs in
44 those numbers.

45

46 COMMISSIONER: Yes, I have those.

47

1 MR DIAZ: And it's actually - somewhat unhelpfully, we
2 have to start with 66 or I propose, rather, that we start
3 with 66 --

4
5 COMMISSIONER: That's all right.

6
7 MR DIAZ: -- which is at page 1395. We weren't able to
8 locate a version of this document without the comment
9 bubble included, but I don't think there's any question
10 that this is the final version or records what's in the
11 final version of the IPS minutes. No doubt someone will
12 tell us if that's not the case.

13
14 But, what is important, you'll see that the first meeting,
15 the inaugural meeting, is on 17 August 2022. And there are
16 a number of observations by the chair, which was the then
17 Senior Executive Director of Investment and Commissioning.
18 So that's the equivalent of the title that Natalie Wilson
19 is presently acting in. And you'll in fact see that
20 Natalie Wilson and Michelle McNamara, our first two
21 witnesses, attended this meeting.

22
23 COMMISSIONER: Yes.

24
25 MR DIAZ: And in the "Background and scene-setting"
26 crucially it said, "IPS has grown from its original intent
27 that was a small allocation of funds to top up arrangements
28 with support" - so that's I think a reference to topping up
29 existing OSD packages with some additional IPS funding -
30 "and to care for children and young people who are not
31 suited to family-based care." So I understand that to be a
32 pithy and quite incisive summary of what the original
33 intent of IPS agreements was meant to be.

34
35 Then there's reference to investment in OSD packages not
36 keeping up with demand, and that being a significant factor
37 leading to the reliance on IPS packages.

38
39 And then there's an interesting point, which is, "While we
40 would expect to see a reduction in the reliance on IPS as
41 we hit the DG reform goals" - now, I understand that to be
42 a reference to the earlier reform goals I took you to half
43 the number of children in residential care to 7 per cent,
44 and I think the idea being that if you can achieve those
45 goals that itself takes a lot of the heat out of the
46 system, and then it says - "IPS will always be part of our
47 system but will need to operate within compliance."

1
2 Now, under the "Purpose of the re-design project", that's
3 the final subheading for agenda item 1, it's said, "The
4 project will aim to reduce the administrative burden and
5 establish statewide streamlined and consistent arrangements
6 that comply with our financial delegations, procurement
7 procedures, regional accountability and oversight." And
8 I specifically raise that point because something I think
9 we expect to hear through the evidence is that the enormous
10 surge in IPS agreements has led to a flow-on effect that
11 there's a considerable administrative burden being imposed
12 upon those working within the department and in the regions
13 who have to do a whole lot of work to approve those
14 agreements, to monitor them and so on and so forth.

15
16 COMMISSIONER: Do you mean the approval of the IPS
17 agreements?

18
19 MR DIAZ: Yes. And I don't profess to have the approval
20 structure fully at hand, but I understand that there's sort
21 of an interim approval, then there's a regional IPS panel,
22 and sometimes there's approvals required after that if the
23 package is of a value that can't be approved by the
24 regional executive director or someone of equivalent
25 seniority.

26
27 COMMISSIONER: So financial delegation limits come into
28 play?

29
30 MR DIAZ: Exactly. And then accompanying this particular
31 meeting was a presentation, and that's at tab 65, so
32 working backwards. You'll see that the date is the same.
33 The page number is 1387, I believe.

34
35 COMMISSIONER: Yes.

36
37 MR DIAZ: I trust you have a copy that's printed in
38 colour, I should say?

39
40 COMMISSIONER: I do. It's a very well-organised bundle of
41 papers. I think there are individuals at the secretariat
42 that deserve recognition for how well this is all put
43 together.

44
45 MR DIAZ: Quite, especially after many sleepless nights.

46
47 COMMISSIONER: Yes.

1
2 MR DIAZ: And so this particular document, this
3 presentation at tab 65, there's a notation if you go to
4 slide 4, so that's at page 1390, and it's this kind of big
5 arrow so you almost can't miss it, an arrow pointing east
6 and west, and pointing east, "The volume of IPS
7 arrangements is not sustainable within the current
8 process."
9

10 And you then see at page 5, which is the next slide, "Where
11 we are now. A number of issues are identified with the IPS
12 procurement process as at this time." So I just reiterate
13 this is August 2022. Each of them are relevant, but I'll
14 just call out some of them. "Investing beyond increasing
15 budgets." So at the moment the department is - or at this
16 particular point in time the department is having to invest
17 in IPS agreements in particular that exceed its budget to
18 make up for the increasing demand. There's multiple
19 audits, and yet still not aligning with policy and process,
20 which is something we'll see repeatedly occurs. There's a
21 high number of unlicensed providers. So already at this
22 point, when the market looks quite different to what it
23 does today, the department was concerned about the number
24 of unlicensed IPS providers. There's reference to
25 unplanned demand not appropriately forecast leading to
26 reactive procurement; and reference to suppliers driving
27 the market, which is this idea that the department has
28 essentially become a price taker, not a price maker.
29

30 COMMISSIONER: With the observation, "High risk when a
31 small number of suppliers provide half the budgeted
32 services."
33

34 MR DIAZ: Exactly. And I'm not going to take you back to
35 the KPMG report because time is getting away from me, but
36 what you'll see is three of the observations in this
37 particular document interestingly find their way back into
38 the KPMG report, which speaks of the concentrated market,
39 that you'll see there's some analysis in this presentation
40 in the slide entitled "The statistics", which is the second
41 substantive slide, and that shows the way the market is
42 concentrated, and otherwise the observations that KPMG
43 makes about the number of unlicensed providers and the
44 absence of an incentive for providers to convert their IPS
45 to OSD agreements are the types of observations that the
46 department itself was making many years ago.
47

1 COMMISSIONER: I mean, on one view there's absolutely
2 nothing new in latter analyses of the concurrent range of
3 inputs to the outcome of increasing demand and increasing
4 unmet demand between, let's say, roughly 2020 and the
5 present time.

6
7 MR DIAZ: That is an encapsulation of the purpose for
8 which I wish to take you to all these documents, and
9 I describe it as a known problem with known solutions.
10 Now, that belies the complexity of the solutions and all
11 the matters that we'll no doubt deal with in a more nuanced
12 way throughout the course of the hearings. But the
13 impression one gets as a third party reading these
14 documents is that these are known problems, problems that
15 were foreseen, and the solutions were somewhat understood
16 as well. And so the question that we'll seek to unpack is:
17 why was this not able to be prevented earlier?

18
19 COMMISSIONER: Yes.

20
21 MR DIAZ: Now, there are some solutions again referred to
22 in this particular presentation at pages 1393 and 1394
23 which I won't labour the detail but essentially either
24 approving longer term IPS agreements, which might be a
25 viable option because you can have some cost certainty in
26 that process and you reduce the associated administrative
27 burden and the creeping costs that one finds when IPS
28 agreements are constantly re-negotiated, or this kind of
29 idea of just simply converting the agreements.

30
31 Now, there is finally in this suite of documents relating
32 to the 17 August 22 bundle at tab 67, there's a decision
33 paper. And the decision paper is submitted by Michelle
34 McNamara, the second witness we'll call at these hearings,
35 and Ms McNamara I assume is the author of this document
36 but, whomever it is, there's a "Key issues" section which
37 you'll find at 1402 of the master tender bundle. And what
38 you see under the "Key issues" in the decision paper is
39 that IPS providers are not required to submit performance
40 or financial reporting information and are not subject to
41 requirements that exist under an OSD contracts, including
42 to be licensed under the HSQF. That's the second dot point
43 there. And those again fall precisely into that category
44 of known problems, in some instance, problems that persist
45 that we'll explore through the hearings.

46
47 COMMISSIONER: And the observation in the preceding dot

1 point, "The increasing volume of IPS arrangements is not
2 sustainable within the current process."
3

4 MR DIAZ: I lament that you'll see the observation
5 hundreds of times, Commissioner. Clearly enough, there was
6 an understanding of that within the department.
7

8 Now, if I can take you to the public interest immunity
9 bundle again.
10

11 COMMISSIONER: Yes.
12

13 MR DIAZ: And in particular tab 29 of that bundle, which
14 is at page 501. Now, this is what's described as a
15 parameters-based funding model high-level walkthrough.
16

17 COMMISSIONER: Yes.
18

19 MR DIAZ: And this is around the time that the PDFM
20 funding model was being developed in conjunction with
21 Treasury. The aspects of this document I wish to take you
22 to are at pages 504, and there you'll see the variables
23 that influence placement costs at a reasonably high level
24 but it's a useful illustration of the point - essentially
25 demand, supply mix and price, of course demand being a
26 variable that the department has limited control over at
27 least at the tertiary phase where we're focused, and then
28 supply mix and price, where there's a greater ability to
29 influence cost. And you'll see that demand is essentially
30 the number of children entering care, supply mix is are
31 they going to family-based care or non-family-based care,
32 and the cost per placement is self-evident.
33

34 Over the page, 5, there's some further modelling and it
35 picks up the language I have to say I'm quite fond of
36 because I think it vividly shows the problem, it's that of
37 avoided costs. And I didn't mention this in opening
38 because at the time this was a document subject to PII, but
39 this is a document that shows if they had been able to
40 achieve their aspirational targets of 7 per cent of
41 children in residential care the avoided costs over the
42 forward estimates through to 30 June 2027 would have been
43 in the order of I think it's been \$700 million.
44

45 COMMISSIONER: To pick up that do you have to be able to
46 read the graph with the very tiny writing on the left-hand
47 side; is that where you've got that from?

1
2 MR DIAZ: I apologise, this is on --
3
4 COMMISSIONER: No, I know which page. You're referring to
5 page 505.
6
7 MR DIAZ: Quite.
8
9 COMMISSIONER: Right. But to pick up the quantum of the
10 avoided costs where is that revealed? You need to look at
11 the graph, don't you?
12
13 MR DIAZ: Yes, it may not be in the text as it's in the
14 bottom right graph, which is the blue. It's easier to blow
15 up on a computer.
16
17 COMMISSIONER: I see. Well, actually, it is referred to
18 I think at the top of the box, "Achieving these targets
19 would allow DCYJMA to avoid 692 million."
20
21 MR DIAZ: Precisely.
22
23 COMMISSIONER: So it is expressed. That's helpful.
24
25 MR DIAZ: Thank you. And you then see a particularly
26 helpful representation on the next page, which is 506, and
27 that's I say a particularly useful one because it
28 demonstrates the way that this supply mix influences cost.
29 And what is modelled - I again appreciate the writing is
30 very small, but a 1 per cent deviation in non-family-based
31 care or family-based care represents a cost at this
32 particular time of \$38.4 million. And just bearing in mind
33 again this is I think February 2023.
34
35 COMMISSIONER: So conversely a saving of 38 million per
36 1 per cent deviation?
37
38 MR DIAZ: Exactly. So that was as at that time. And what
39 you'll see from the evidence of Danny Short, and this will
40 be explored no doubt in greater detail, is a 1 per cent
41 deviation now reflects a cost saving or cost impost,
42 depending on which way the deviation goes, of \$50 million.
43
44 COMMISSIONER: So 1 per cent of the number of children and
45 young people presently in residential care?
46
47 MR DIAZ: In out-of-home care, generally.

1
2 COMMISSIONER: But out-of-home care would include foster
3 and kinship care, would it not?
4
5 MR DIAZ: Exactly, because it's a change to the supply mix
6 of family based and non-family based.
7
8 COMMISSIONER: Are we able to unpick the impact of the
9 deviation specifically referable to the number of children
10 in non-family based residential care?
11
12 MR DIAZ: Yes, I've done these calculations. I don't have
13 them to hand. But I will ask my diligent instructor, who
14 I think may be able to get that information.
15
16 COMMISSIONER: We can come back to that in due course.
17 It's just obviously the key variable is demand or number of
18 children in out-of-home care. Then drilling down to a
19 deeper level you can interrogate the cost impact of the
20 placement mix as between family based or non-family based
21 out-of-home care.
22
23 MR DIAZ: Exactly.
24
25 COMMISSIONER: Right.
26
27 MR DIAZ: And if I could then go back to the master bundle
28 and in particular volume 3 of that bundle.
29
30 COMMISSIONER: Yes.
31
32 MR DIAZ: So, just keeping in mind the document I just
33 showed you was from February 2023, we've now moved to at
34 tab 87 a document dated 20 March 2023, so a month later.
35
36 COMMISSIONER: What document number again?
37
38 MR DIAZ: It's at page 2035, tab 87.
39
40 COMMISSIONER: Thank you.
41
42 MR DIAZ: Now, this is a briefing note that is noted, to
43 use the formal characterisation, by the Deputy
44 Director-General of Strategy, Kate Connors.
45
46 COMMISSIONER: Yes.
47

1 MR DIAZ: And what you'll see on page 2, which is at 2036,
2 at the fourth dot point - just bear with me one moment,
3 Commissioner.
4
5 COMMISSIONER: That's all right.
6
7 MR DIAZ: Just one moment, Commissioner.
8
9 COMMISSIONER: Yes, of course.
10
11 MR DIAZ: I'm told there may be a confidentiality issue
12 with this.
13
14 COMMISSIONER: Yes, sure.
15
16 MR DIAZ: So if it happens to be - I can't see what's
17 being displayed on the screen, but if it happens to be that
18 the document is up on the screen if it could be removed.
19
20 COMMISSIONER: Yes. Can we remove the document from the
21 screen if it is there? I can't see the screen with
22 the documents. It's projected on the screen to the rear,
23 is it?
24
25 MR DIAZ: I understand the document is marked
26 commercial-in-confidence. Look, I see the document is
27 marked commercial-in-confidence. I don't need to have it
28 shown on the screen. So if my friends are content for me
29 to discuss the document without having it shown on the
30 screen I'll proceed in that way.
31
32 COMMISSIONER: Yes. Has it been taken down from
33 the screen presently?
34
35 MR DIAZ: Yes, it's not on the screen.
36
37 COMMISSIONER: All right.
38
39 MR DIAZ: I see the marking is commercial-in-confidence.
40 The relevance of it for me is not as concerns matters that
41 might be commercially confidential, and so I'll be able to
42 take you to it without making reference to any material
43 that I think might disclose otherwise.
44
45 COMMISSIONER: Yes.
46
47 MR DIAZ: So where I was was at page 2, dot point 4, and

1 you'll see, "While progress has been made towards ensuring
2 compliance with the department's requirements" - this is
3 around improving the way it's contracting especially with
4 IPS packages - "many of the 'fixes' have inadvertently
5 added to the administrative burden for the regions and for
6 investment and commissioning staff and for the senior
7 executive director." And again "many of the 'fixes'" - and
8 I note that it's in quotation marks - "have not dealt with
9 the impact of growing complexity in need or the increase in
10 the number of children and young people entering care".
11 I'm told that there's no confidentiality issue with
12 the document so it can be displayed on the screen and it's
13 at 2036.

14
15 COMMISSIONER: Yes, very well.

16
17 MR DIAZ: And so sticking with this page 2, now going the
18 fourth dot point from the bottom, the paragraph starting,
19 "Expenditure in IPS", you'll see, "Expenditure in IPS has
20 exceeded budget year on year and is now exceeding the
21 investment in non-family based OSD placement services."

22
23 COMMISSIONER: It will be necessary, I think, to
24 understand what is meant by "growing complexity in need".

25
26 MR DIAZ: Yes.

27
28 COMMISSIONER: Because "need", one would have thought, and
29 the variety of need or needs would be expected at any
30 particular time. And so what is it that leads to the
31 conclusion that need is growing in complexity? Is it a
32 change in definition or the sort of taxonomy of the way in
33 which "need" is classified? That's something worth
34 understanding because it seems to be an explanation that is
35 given from time to time about the reliance upon what is now
36 called IPS funding. But I think we need to understand what
37 the content of this expression "complexity" means in this
38 context.

39
40 MR DIAZ: I agree entirely.

41
42 COMMISSIONER: Yes.

43
44 MR DIAZ: And the point that this particular dot point
45 goes to is quite extraordinarily the IPS budget has now
46 exceeded the investment in OSD funded placements, or so
47 much is relayed to the Deputy Director-General. I've seen

1 some data that's not quite entirely on all fours with that.
2 But, in any event, we know that IPS funding is increasing
3 very substantially. The number of children requiring a
4 paid placement has increased 42 per cent in the six years
5 from 2016 to 2022. Again that's data that somewhat flies
6 in the face of the COVID-19 theory because it's clear
7 demand has been increasing for quite an extended period;
8 it's not just a phenomenon that starts to take force in
9 2020.

10
11 COMMISSIONER: This dot point, this is the sixth dot point
12 on that page, indicates that at this point in time the
13 department had a very granular and detailed understanding
14 of the increase in the use of IPS funding relative to OSD
15 funded places, and also in the aggregate increase and
16 therefore percentage increase in the use of that funding
17 model.

18
19 MR DIAZ: Unquestionably so. The department, I think the
20 documents show, has had that understanding all throughout
21 the period I've been dealing with from 2020 through to now,
22 2023, and it probably does become slightly more
23 sophisticated over time. But this isn't new data. In fact
24 the first document I took you to, the CSIP, shows that the
25 department has that understanding. It's just simply that
26 at that point IPS represents a relatively small proportion
27 of the overall budget; that it's not in focus the same way
28 it is in 2023. And the really I think critical point here
29 is the final sentence of that dot that we're discussing
30 and --

31
32 COMMISSIONER: Yes, I was just reading it.

33
34 MR DIAZ: I'm sorry, Commissioner?

35
36 COMMISSIONER: I was just reading that sentence.

37
38 MR DIAZ: Yes. So this is page 2036, the final sentence
39 in the sixth dot point. It says, "In the same period" -
40 that's 2016 to 2022 - "the number of OSD funded placements
41 has increased from" - 6,000, almost 7,000 - "to 9,410, and
42 the shortfall between the number of children requiring a
43 placement and OSD funded placements has increased
44 134.5 per cent." So, if we accept the department's
45 explanation that IPS is there to cover the shortfall, when
46 you have the shortfall increasing by 134 per cent over a
47 six-year period it's not hard to see why there was a

1 burgeoning reliance on IPS agreements.

2

3 COMMISSIONER: Well, it manifests that burgeoning reliance
4 and the consequence is a ballooning deficit or ballooning
5 costs.

6

7 MR DIAZ: Quite. And so I'll skip over some other minutes
8 from the IPS re-design reference group meeting that we can
9 come back to in due course. The only thing that I just
10 note at the moment for the transcript and for the
11 assistance of my learned friends as well is there's a
12 document at tab 70, which is a document ID ending in 0216,
13 in which the Acting Director of Investment and
14 Commissioning makes some comments as at May 23 about the
15 state of the IPS expenditure, and she says in those
16 comments, "If we can move away from a state of desperation
17 through IPS to OSD conversions we might actually be able to
18 get a hold of the market," and there's some reference in
19 those minutes that we can come back to in due course about
20 the need to actually be proactively shaping the market,
21 managing the supply of OSD agreements, and growing market
22 participants among small and medium-sized providers.

23

24 COMMISSIONER: Do you want to take me to that document now
25 or --

26

27 MR DIAZ: I won't because I'm mindful of time and eager to
28 get our witnesses into the box. After all, it's them we're
29 here to hear from.

30

31 COMMISSIONER: Indeed.

32

33 MR DIAZ: Moving just a little bit more quickly through
34 some documents that are relevant contextually, so there's
35 then a briefing note which is at volume 3 of the master
36 bundle, tab 115. This is a briefing note that's attached
37 to an email, but the email is really there because the
38 briefing note, I tend to recall, isn't signed but the
39 covering email, which is at 2375 --

40

41 COMMISSIONER: Yes.

42

43 MR DIAZ: -- very much suggests that this is the final
44 briefing note. Now, as I mentioned, this is a briefing
45 note to the Director-General entitled "Approach to
46 reimagine non-family-based care", and at paragraph 7, so
47 the next page at 2376 - I'm told that names of email

1 addresses are going up. I'll endeavour as best as I can to
2 avoid that occurring.

3

4 COMMISSIONER: That is a - that shouldn't occur.

5

6 MR DIAZ: I think, just in fairness, this is names of
7 people that two of whom are witnesses and the other two,
8 one of whom is the Deputy Director-General of Strategy, who
9 I've named a number of times, and the Senior Executive
10 Director of Investment and Commissioning, all of whom are
11 centrally important to the narrative I've been discussing.
12 So I don't think this is the type of document where that
13 legitimate concern is --

14

15 COMMISSIONER: All right. But it is reasonable to be
16 careful about the personal information and contact details
17 not being disclosed.

18

19 MR DIAZ: Quite. And I will continue to endeavour not to
20 do so.

21

22 COMMISSIONER: Yes.

23

24 MR DIAZ: So the substance of the document which is the
25 relevant part is at 2376, and what you get at paragraph 7 -
26 contextually, Commissioner, it's important to note there's
27 just been a change of minister. So Linard is no longer in
28 the portfolio, Minister Linard, and now we have Minister
29 Crawford, and the first thing he does when he comes into
30 office in substance is to announce a high-level review into
31 residential care, that's at paragraph 7, and that's to be
32 led by QFCC.

33

34 Then there is a pithy summary of the issues which
35 I gratefully adopt at paragraphs 8 to 13. Again, I won't
36 labour it but demand for non-family-based care placements
37 continues to exceed supply. There's been a rapid increase
38 in the number of new and unlicensed providers. This has
39 potential to reduce quality of care. Increased pressure on
40 non-family-based care services, in particular to provide
41 stable therapeutic care; concerns about value for money,
42 and the fact that this surge in growth is absorbing the
43 department's resources because its full-time equivalent
44 staff isn't increasing at the same rate that the sector is
45 increasing. So it doesn't have the staffing to deal with
46 these issues, and that is making it difficult for it to,
47 quote/unquote, have an innovative or to enable innovative

1 systems and practices to be developed, which is I take to
2 essentially be shorthand for, "We can't implement some of
3 the reforms that we need to because we're really
4 stretched."

5
6 COMMISSIONER: Yes.

7
8 MR DIAZ: And then just briefly at paragraph 18 - and,
9 again to labour the point on this, this is now July 2023,
10 so we've now had a 36 to 42-month period from the initial
11 documents I took you to - you'll see "the future planning
12 of non-family-based care services needs to include" and
13 what you get is very much the say things you saw in all of
14 the earlier documents around transitioning children out of
15 non-family-based care to reunify with family or kin, better
16 measures to commission these services, more foster carers,
17 so on and so forth. So a lot of the same proposals that we
18 saw in that earlier period are now being suggested as part
19 of the future planning of non-family-based care.

20
21 COMMISSIONER: And I note also measuring and monitoring
22 outcomes. One of the issues that has arisen and has
23 certainly been considered by the Commission is the what
24 sometimes is called feedback loops in aid of understanding
25 and evaluating the performance of particular activities or
26 initiatives and for the purpose of identifying the
27 effectiveness of any particular program, and that seems to
28 be an ongoing issue within the operations of the
29 department.

30
31 MR DIAZ: Quite. And at tab 72 of volume 2, after
32 Minister Crawford announces the review into residential
33 care, you get the roadmap for residential care being
34 published, or a roadmap.

35
36 COMMISSIONER: Yes.

37
38 MR DIAZ: Which is at 1590 in particular.

39
40 COMMISSIONER: Yes.

41
42 MR DIAZ: It commences at 1587, but the part I want to
43 begin with was the minister's message.

44
45 COMMISSIONER: Yes.

46
47 MR DIAZ: And in the second paragraph the minister records

1 in his message, "I listened to the concerns raised by the
2 community about the growing number of children and young
3 people living in residential care and I requested a review
4 of the system." And then the fourth paragraph, "The review
5 identified opportunities to reduce the number of children
6 placed in residential care with a priority of keeping them
7 with family or, if they couldn't be with their own, that
8 they be placed in family-based care" - the same types of
9 things we're talking about. "For the small number of
10 children and young people for whom residential care is most
11 appropriate" - and I think we'll hear some evidence that
12 there are a small cohort of children for whom that might be
13 the case - "I want to ensure their needs are met by a
14 sustainable, flexible and caring system."

15
16 Now, there's at page 7 and following of this roadmap, which
17 is at 1593 of the master tender bundle and the pages that
18 follow, you get first a graphical representation of the,
19 quote/unquote, domains for change on 1594, which is simply
20 a way of depicting visually the five focus areas in the
21 roadmap. I will just focus on two of those particular
22 areas that are most relevant to the terms of reference.
23 The first is at page 1597 of the tender bundle, and that's
24 about establishing the right models of care. And you'll
25 see that there's reference to --

26
27 COMMISSIONER: The most relevant to the specific topic of
28 inquiry at present.

29
30 MR DIAZ: Yes.

31
32 COMMISSIONER: The graphic depiction of the various
33 domains for change, as described, each refer to matters
34 which have been ventilated in one way or another in the
35 course of this Inquiry.

36
37 MR DIAZ: Yes, thank you for that clarification.

38
39 COMMISSIONER: No, that's all right. We're focusing on
40 the --

41
42 MR DIAZ: The financial aspect of residential care.

43
44 COMMISSIONER: And the close look at residential care and
45 the way it's delivered.

46
47 MR DIAZ: Yes, precisely.

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COMMISSIONER: Thank you.

MR DIAZ: I don't suggest that the others aren't relevant.

COMMISSIONER: No, no, I just wanted to clarify that, lest it be thought that the Commission is not interested in the other interrelated matters that are well summarised in that diagram on page 1594.

MR DIAZ: Yes. And so what is recorded at 1597 is the sorts of observations that Minister Crawford - well, more specifically the department and QFCC and those that assisted with the roadmap heard, and that's around children and young people - this is under the heading "What we heard", the second dot point, "Children and young people with complex needs in residential care require specialised and therapeutic treatment," and all sorts of observations that have no doubt been made countless times throughout the course of the hearings that the Inquiry has held, including that each young person needs a trusted adult who is available to them and so on.

Then you get on page 12, which is 1598 of the bundle, a table that essentially summarises some actions or steps, and one of them that's particularly relevant for present purposes is the second action which is, "To review service delivery to develop a contemporary approach to quality that is fit for purpose." That is a concept that we'll come back to whether the department has been able to develop that contemporary commissioning approach that is now in fact fit for purpose; and again something that you picked up on, Commissioner, the outcomes focused aspect of residential care developing the performance and outcomes framework to maximise that investment.

The other aspect of the roadmap I wanted to specifically mention, and it only needs to be in a passing way, is at page 1603, and it's simply to make the point I think I've already made many times now that the focus of 1603 is that the department needs to do a better job supporting kin carers and a better job supporting foster carers. And there's reference to providing training, opportunities, timely access to practical and financial support, and also reference to in particular on page 18 - so that's the next page - initiatives such as what they call piloting new and innovative models of foster and kin care, including, and

1 I just point out for present purposes, specialist
2 family-based care, professional care, other types of
3 initiatives that no doubt we'll discuss and are in focus
4 within the department in the present day.

5
6 COMMISSIONER: Yes.

7
8 MR DIAZ: Now, I see that I have some sort of 10 minutes
9 or so before lunch, Commissioner. There's probably about
10 four or five more documents I want to take you to. I'll
11 continue to progress, and if I need to come back briefly to
12 the documents after lunch --

13
14 COMMISSIONER: You're 10 to 15 minutes off completing the
15 review of the documents?

16
17 MR DIAZ: In the order, yes.

18
19 COMMISSIONER: That's all right.

20
21 MR DIAZ: I'll push on for now.

22
23 COMMISSIONER: Yes, indeed.

24
25 MR DIAZ: With that in mind, the next document I want to
26 come to and now there's a bit of a jump in time --

27
28 COMMISSIONER: Yes.

29
30 MR DIAZ: -- is to go to 2024 to a document that's at
31 tab 121. And I'll just ask that when this is displayed on
32 the screen that one goes immediately to page 2421 to avoid
33 the email, covering email, being included. All I need say
34 about the covering email that is relevant to one of our
35 witnesses or in fact multiple of our witnesses is that this
36 is something that was shared by the then Senior Executive
37 Director of Commissioning to Ms Wilson, and under
38 understand Ms Wilson may be able to speak more to this
39 document in due course.

40
41 COMMISSIONER: Yes.

42
43 MR DIAZ: Now, the document is what's called a draft
44 options paper for improving --

45
46 COMMISSIONER: What page should I go to?
47

1 MR DIAZ: I apologise, it's at 2421.

2

3 COMMISSIONER: Yes, I see, "Improving the regulation of
4 care services".

5

6 MR DIAZ: Yes. And what you can understand this document
7 to be, Commissioner, is essentially a proposal - I think
8 there is something in the order of 50 recommendations or
9 thereabouts - as to how the department could improve its
10 licensing processes. And as far as we're aware, and this
11 will be tested through the evidence, this paper never moved
12 beyond the draft phase. I think this was circulated in
13 December 2024, as is suggested by the first slide. And
14 perhaps it might be editorialised that's somewhat
15 lamentable because I think it has much to offer in terms of
16 contribution to considerations that are relevant to the
17 licensing of care providers.

18

19 COMMISSIONER: Yes.

20

21 MR DIAZ: I'll skip over some of the background which
22 helpfully explains what the process is for licensing of
23 providers, and you'll see in particular section 2 at 2425,
24 which is the overview of the current system, and on the
25 pages that follow you get detail about what is the process
26 for actually obtaining a licence.

27

28 And if I skip again just to note only at 2431 you get all
29 sorts of visual representations about how the licensing
30 issue has come into focus because there's been a
31 significant growth in the number of IPS suppliers providing
32 residential care placements.

33

34 And then, this is page 12 of the paper commencing at 2432,
35 you get a series of what are described as obstacles - which
36 is language deliberately chosen by the department but it
37 means issues - and they're essentially problems that have
38 been identified in the licensing process or the licensing
39 of providers. I'm just going to mention three of them at
40 the moment in the interests of time because we'll have the
41 opportunity to go to this document on many other occasions.

42

43 But the three I want to mention are on 2432 there's
44 reference to inadequate regulation of care provisions for
45 the growing number of unlicensed providers. On page 2435
46 there's reference to suitability and screening requirements
47 for care services not being sufficiently outlined in

1 legislation or policy. And at 2439 there's reference to an
2 increasing number of suppliers being deemed in scope. And
3 as much as I need to say about that at the moment is for an
4 unlicensed provider the default position is they don't
5 start in scope of licensing, which means they have to go
6 through a process which essentially involves continuity of
7 care and an increase in placements over a period of, say,
8 nine to 12 months before the department deems them in scope
9 and invites them to apply for a licence.

10
11 And the point being made here is the increasing number of
12 suppliers being deemed in scope has become unsustainable,
13 is the language the options paper uses, for the child
14 safety licensing team, which I understand is resourced by
15 relatively few staff but again we'll explore that, and for
16 investment and partnerships, which needs to manage all of
17 this licensing process.

18
19 So a theme we will explore is whether part of the issue -
20 and it remains very much unclear based on the documents
21 I've seen, but whether part of the reason that there has
22 been a relative lack of new licensed providers is
23 resourcing constraints within the department.

24
25 COMMISSIONER: And the significance of having a licence or
26 not has a bearing upon the capacity to transition from IPS
27 funding to OSD funding because, as I understand it, to be
28 an OSD provider one needs to be licensed.

29
30 MR DIAZ: Yes, there's one minor qualification to that,
31 Commissioner, which is once you enter into an OSD contract
32 I think you have 18 months from the point of entry into the
33 contract to become licensed. So at that point you may
34 still be unlicensed, but you then need to be on the way to
35 becoming licensed.

36
37 Now, we will explore the merits or otherwise of having a
38 system like that. My understanding is it has much to do
39 with the fact that you need to go through the external
40 audit process, and that may take many months. And you will
41 hear about the many processes that are involved before one
42 becomes licensed. All of those matters are certainly
43 within the scope of the terms.

44
45 COMMISSIONER: I'm sure you're right, Mr Diaz, but my
46 understanding was one needed to be licensed in order to be
47 engaged on an OSD contract. But we'll confirm that I'm

1 wrong about that.

2

3 MR DIAZ: One of the documents that I'll take you to, it
4 may not be until after lunch, but I wanted to show you the
5 standard form OSD agreement and the standard form IPS
6 agreement, and I believe we'll find in the standard form
7 OSD agreement the provision that explains the licensing
8 requirements.

9

10 COMMISSIONER: All right. Thank you.

11

12 MR DIAZ: I'll just take you to - well, I'll flag one
13 document and take you to two further ones.

14

15 COMMISSIONER: Yes.

16

17 MR DIAZ: The document I wish to flag is at tab 123. It's
18 an email. So if I could ask that the document be shown up
19 at 2474. In any event, it's an email between two or three
20 participants who are witnesses; so they're not irrelevant
21 people. But if the document could be shown up at 2474.

22

23 On the previous page there's reference to the fiscal
24 environment being one in which appropriated levels of
25 funding are not sufficient. But just very briefly to
26 mention this is the document that we'll come back to in due
27 course because it includes language that was added, and
28 this is under the headings, "OSD contracts" and "IPS
29 agreement", it includes language that was added to the
30 standard form or the general funding memoranda for
31 approval, and not added, I might add, until somewhere
32 around mid-2025, which enabled those making decisions to
33 enter into contracts to approve long-term OSD contracts
34 even where doing so might breach the obligations under the
35 Financial Accountability Act or other similar financial
36 delegations.

37

38 COMMISSIONER: And that's in relation to delegation
39 limits?

40

41 MR DIAZ: Exactly.

42

43 COMMISSIONER: Financial delegation limits?

44

45 MR DIAZ: Exactly.

46

47 COMMISSIONER: Where exactly on page 2474 do I find that?

1
2 MR DIAZ: Yes, so you'll see the explanation of why it was
3 done under the headings "OSD contracts" and "IPS
4 agreement". The proposal balances the department's
5 obligation under various agreements and so forth. I think
6 in fact the actual language that was inserted is in another
7 document. We'll come to it in due course.

8
9 COMMISSIONER: All right.

10
11 MR DIAZ: But the key point is there was at that point, if
12 you will, explicit authorisation to enter into long-term
13 agreements.

14
15 COMMISSIONER: Yes.

16
17 MR DIAZ: There are two more substantive documents I want
18 to come to. One is an EY report and another is an internal
19 audit, and I was hoping to take you to the standard form
20 agreement.

21
22 COMMISSIONER: Yes. Though I'm conscious of your opening
23 on the documents is delaying the hearing from the first
24 witness, nevertheless I think it's a very useful process
25 and contextualises the issues that arise and will be of
26 assistance both certainly to me and I think to those
27 seeking to follow this evidence. So I shan't hurry you,
28 Mr Diaz. We'll adjourn shortly until 2.15. I think you
29 should feel free to continue opening on the documents and
30 as soon as possible thereafter we'll hear from the first
31 witness.

32
33 MR DIAZ: Excellent.

34
35 COMMISSIONER: Adjourn until 2.15.

36
37 **LUNCHEON ADJOURNMENT**

38
39 COMMISSIONER: Yes.

40
41 MR DIAZ: Commissioner, during the course of running this
42 morning and into the early afternoon you raised with me
43 three matters for further consideration over lunchtime.
44 Two of them I can address briefly now. The first concerns
45 a question you raised regarding the supply mix variance or,
46 if you will, the sensitivity of a variation in 1 per cent
47 of the proportion of children in family-based care and

1 non-family-based care. Assisted, as I have been, by an
2 accountant working for the Commission of Inquiry over the
3 lunch break, I've been able to determine that a 1 per cent
4 change in the supply mix using data from March 2025, which
5 is some of the best data we have, would mean that, if 127
6 children were moved from residential care into family-based
7 settings, that would represent a cost saving, or the other
8 side of the cost impost, of \$50 million per annum. So
9 that's 127 kids basically moving from non-family-based care
10 to family-based care.

11
12 COMMISSIONER: 127. And these are presumably average
13 figures?

14
15 MR DIAZ: Exactly. These are based on average figures,
16 and there's a number of assumptions. Of course each
17 child's package might be different, but in global terms it
18 gives you a rough idea of the supply mix variance
19 sensitivity.

20
21 COMMISSIONER: Thank you very much.

22
23 MR DIAZ: The other matter you raised with me concerned
24 the targets for kinship care. We've not been able to
25 resolve that with the same level of precision, but some
26 data that we do have which comes from QFCC - so you'll
27 recall those targets are set in 2021, and the target is to
28 double kin care. The best data I've been able to find in
29 the time available indicates that between 30 June 2020 and
30 the end of 2024 kin care placements increased 30 per cent;
31 so quite a long way from being doubled. We haven't been
32 able to, though I suspect we will with a little bit more
33 time, find out exactly how the numbers have moved from that
34 point to today.

35
36 The other matter you raised with me for clarification
37 concerned licensing of OSD arrangements. I'll come back to
38 that when I open on the OSD standard form contract.

39
40 COMMISSIONER: Yes. Thank you.

41
42 MR DIAZ: Before lunch I indicated that there were two
43 more substantive documents to open on before I come to the
44 standard form agreements. The first of those is at
45 volume 3 of the master bundle, tab 76, and you can find the
46 relevant report behind page 1763. Now, this is a report --
47

1 COMMISSIONER: Tab what?

2

3 MR DIAZ: I apologise, tab 76.

4

5 COMMISSIONER: Yes, thank you.

6

7 MR DIAZ: This is a report that was commissioned by the
8 department shortly following the announcement of the
9 Commission of Inquiry, and you'll see recorded at page 4,
10 which is page 176 of the bundle, the objective and context,
11 relevantly that what the department was requesting was a
12 current state assessment of the contract management
13 arrangements for unlicensed providers in residential care,
14 particularly given their increasing market share, and
15 I should just say - I don't think I mentioned a specific
16 date - this was August 25.

17

18 COMMISSIONER: So you said before the - this is post the
19 announcement of this Commission?

20

21 MR DIAZ: Yes, unless I've got my dates confused, but
22 I think this was - in fact it's recorded that in other
23 documents this was commissioned as a part of
24 the department's initial response to the Commission of
25 Inquiry.

26

27 COMMISSIONER: Yes, I see.

28

29 MR DIAZ: And what you'll see at - if you go overleaf a
30 couple of pages to the page with the heading "Overall
31 assessment", which is 1768, that just records EY's
32 high-level conclusion that there are gaps in the design of
33 procurement and contract management processes for IPS
34 unlicensed residential care providers and that these gaps
35 impact the department's ability to proactively and
36 consistently confirm child safety and quality standards are
37 being met, and to manage contract performance and confirm
38 contractual requirements are being adhered to during a
39 placement.

40

41 And you'll see they've broken up their analysis into a
42 number of sub-areas, if you will. The first concerns
43 procurement. Now, we'll hear more about the witnesses as
44 concerns this particular matter, but I understand ICA
45 stands for some sort of interim agreement that's put in
46 place with providers I think for a limited duration of
47 something like 42 days, and I understand that EY did an

1 analysis of those particular agreements as well. But
2 I think it's fair to treat them as a species, if you will,
3 of IPS agreements.
4

5 And the point being that EY concluded the current processes
6 do not enable the department to adequately assess providers
7 for suitability, capability and capacity to undertake a
8 placement. And there's some other conclusions that we'll
9 come back to in due course around the absence of central
10 oversight for unlicensed providers and a point I've made
11 already which comes up from the options paper, which is
12 that the placement services unit, the people working in the
13 regions, they often don't have the capacity or capability
14 or, for that matter, training to consistently undertake the
15 types of procurement and contract management activities
16 that they are asked to do.
17

18 You will see at page 1772 of the bundle that there's a
19 recommendation implementation timeline. That timeline is a
20 visual representation of the point at which various
21 recommendations in EY's report were proposed to be
22 implemented. You'll see auspiciously the reference to the
23 final date for the Commission of Inquiry's report, which
24 has of course now been moved forward, but the point being
25 this will provide quite a useful point-in-time analysis for
26 us to ask various witnesses how those reforms are
27 progressing.
28

29 COMMISSIONER: Yes.
30

31 MR DIAZ: The detailed findings follow at pages 11 to 20.
32 I won't dwell on them at this stage.
33

34 The other substantive document that I wanted to take you to
35 is just a couple of tabs over at tab 78, page 1855 of
36 the bundle. It is an internal audit on private providers
37 of child safety residential care services. This particular
38 report, though it is all on department branding, my
39 understanding is Deloitte as the internal auditor for the
40 department assisted with the preparation of this report and
41 may in fact have authored its contents. In any event, it's
42 described as an internal report.
43

44 If you go to page 1857 you'll see that the executive
45 summary records - and this is the theme we've heard
46 repeatedly throughout the course of the morning - that
47 there's been a significant increase in private sector

1 providers entering the market and the department is
2 concerned about the third-party risks associated with these
3 arrangements, including not least risks associated with the
4 wellbeing of children in the care of the Chief Executive
5 and the adequacy of their key financial procurement
6 contract management processes and other such controls.

7
8 Now, at page 1860 of the master bundle you get the summary
9 of findings. As I've done throughout I'll just identify a
10 couple of those of particular relevance. At finding 2, and
11 this is 2.1 and 2.2, you see a number of challenges in
12 relation to aggregated reporting and integrating OSD data
13 from one system, called Procure to Invest, with what
14 I understand to be manually submitted IPS data. And this
15 observation is particularly relevant because it mirrors
16 similar observations that were being made in the context of
17 the IPS financial due diligence audit. So even today the
18 department continues to have some difficulties with the way
19 that this information is reported up, and the timeliness of
20 that data affects its ability to procure on a
21 value-for-money basis.

22
23 At finding 3, which is on the next page, you'll see there's
24 a heading entitled "Assessment of annual financial
25 statements", and the observation is made that because of
26 the way that the department asks for annual financial
27 statements, which is only in the case of OSD providers,
28 that a new organisation may not have their financial
29 viability assessed until up to 18 months into a contractual
30 arrangement. Now, that's discussed at detail at page 23.
31 It's worth mentioning I think that's the outer limit on
32 which a particular provider may go before their financial
33 statements are assessed. But, nevertheless, it's
34 identified as a high-risk vulnerability for the department.

35
36 And then again, turning back to page 1861, finding 5 on
37 1861 concerns comparative pricing patterns across different
38 contract types, and in relation to an analysis that the
39 department did in respect of providers it observed that
40 private sector contracts for both IPS and OSD, as distinct
41 from those from the not-for-profit sector, typically
42 command higher median prices and show broader interquartile
43 ranges, with IPS agreements exhibiting particularly
44 pronounced variability and persistent outliers each year,
45 and --

46
47 COMMISSIONER: That's consistent, isn't it, that latter

1 finding, with the KPMG analysis?

2

3 MR DIAZ: I would say on all fours. And you see a box and
4 whisker graph or graphs, I should say, on page 1865 first.
5 Now, there's quite a bit of detail here, but you can focus
6 your attention in particular for the OSD contracts. You
7 will see there's a column in finding 5.1 for 2024/25, and
8 you see - for instance, if you take the median price,
9 you'll see that the price per placement for an OSD contract
10 was just shy of a thousand dollars per day as compared to a
11 not-for-profit, which is closer to \$800 per day. The text
12 is quite small.

13

14 And overleaf you'll see a similar analysis done for IPS
15 contracts, where the median price is observed to be \$1,111
16 per day for a private provider and approximately \$730 for
17 not-for-profit providers.

18

19 So the two key takeaways there really are the department is
20 paying more to procure services from private providers than
21 not-for-profit providers, and, similarly so, the department
22 is paying more to procure services under IPS agreements
23 than it is under OSD agreements.

24

25 COMMISSIONER: I notice the price range is quite
26 significant. Leaving aside the median, the maximum figure
27 per day I assume is \$4,392?

28

29 MR DIAZ: Which page in particular?

30

31 COMMISSIONER: I'm looking at page 1866.

32

33 MR DIAZ: Yes.

34

35 COMMISSIONER: And the table to the right you have a
36 minimum, which I assume is a nominal figure of a dollar.

37

38 MR DIAZ: Yes.

39

40 COMMISSIONER: And then the maximum - the figure I just
41 mentioned.

42

43 MR DIAZ: Precisely. And you will notice that there's
44 some difference between that figure and what seems to be
45 shown on the left-hand side, where if you were to take the
46 figure at face value it looks like there's a contract that
47 costs more than \$100,000 per day. My understanding is

1 that's to do with issues with the data that perhaps it had
2 been recorded incorrectly or otherwise. But, again, there
3 will be people that we speak to that can clarify why
4 there's certain outliers.

5
6 In any event, what the box and whisker graph very helpfully
7 shows is the upper quartile for private providers starts at
8 almost \$2,000 per day per child, and that has quite a long
9 tail that, at least taking the bulk of the sample, goes all
10 the way up to almost \$8,000 per day per child.

11
12 Now, at risk of boring the non-lawyers in the room, if
13 I could just take you to the standard form agreements for
14 the IPS and OSD contracts, and I do so because side by side
15 they paint quite a stark picture. If you take up tab 48,
16 which I think you'll find is in volume 1.

17
18 COMMISSIONER: Yes.

19
20 MR DIAZ: And I think that commences on page 623. You'll
21 see this is the standard form OSD agreement, and it seems
22 to be a - I think it is the latest version. It's dated
23 July 2025. I already mentioned some of the clauses in
24 opening, so I won't go into undue detail, but can I just
25 mention, starting with clause 3, there's - this is at
26 page 627 - an explanation of the provider's obligations in
27 respect of the use of funding, and this includes various
28 things, and there's an important point at clause 3.3 to the
29 quality standards, which you'll see is a somewhat veiled
30 reference to the HSQF, the human services quality
31 framework, and the requirements for OSD providers in that
32 regard, which I'll come to very shortly.

33
34 Then again there's some further obligations at clause 4,
35 including powers by which the department can monitor the
36 delivery of services by OSD providers. At clause 5 you
37 come to reach the various reporting obligations imposed on
38 providers, and in order to understand these you actually
39 need to have regard to the other two documents that form
40 part of the standard form contracting suite, which
41 conveniently are behind tabs 49 and 50. Now, for present
42 purposes if I could take you to tab 50, that's what's
43 called an example funding schedule, and this has been
44 provided as part of the document suite that gets executed
45 for an OSD contract. And if you go in particular to
46 page 668 --
47

1 COMMISSIONER: Is there any problem with the disclosure of
2 this detail? If it's an example of a particular provider's
3 contractual particulars, I'm wondering whether it should be
4 kept confidential.

5

6 MR DIAZ: Thank you for bringing that to my attention.
7 I had not understood it to disclose anything that would be
8 of concern, especially on the pages I'm interested in,
9 which is 668 to 669, and it's been provided by the
10 department as a pro forma example. I'm not sure - I can't
11 see anywhere on those pages that it identifies any provider
12 or any child's name or anything.

13

14 COMMISSIONER: Not on those pages, but on page 665 - don't
15 go to it - there's a service outlet number, service outlet.
16 It may not be a reference to a provider but to something
17 else. If there's not a problem I shan't worry about it,
18 but --

19

20 MR DIAZ: Unless I'm told otherwise, I don't think it's a
21 concern because it's for a particular generic type of
22 service that the department procures.

23

24 COMMISSIONER: I see. All right.

25

26 MR DIAZ: Not, say, a contract with a particular provider.

27

28 COMMISSIONER: Okay.

29

30 MR DIAZ: But I'll confine myself to 668 and 669, and if
31 we need to remove it into a different bundle we'll take
32 steps to do that overnight.

33

34 COMMISSIONER: I doubt there's a problem. All right.
35 Thank you.

36

37 MR DIAZ: The simple point here, Commissioner, is to note
38 that part of the reporting requirements for providers
39 includes providing directors' certification and then, more
40 critically for our purposes, performance measurement data,
41 some of which Mr Jefferson spoke about in his evidence, and
42 also critically here the financial statements, and those
43 financial statements are to include audited financial
44 statements and then what are called audited acquittal
45 statements. The audited acquittal statements are
46 essentially a summary of the provider's expenditure in
47 respect of their OSD contract, and those are important

1 because, as you'll come to see, there's a regime for OSD
2 agreements that enables the department to recover unspent
3 funds, and I understand that the audited acquittal
4 statements are used as part of that process.

5

6 Now, returning to tab 48 and in particular jumping where
7 I was into clause 7, which you'll find at page 632,
8 clause 7 concerns precisely that point I was talking about,
9 which is the - or, at least as we're concerned, clause 7.3,
10 the recovery of unspent funds, and you'll see in clause 7.1
11 that the funds provided by the department for OSD contracts
12 are only to be used for very particular purposes. You have
13 to work through a bit of a labyrinth of definitions that
14 I won't do so in the interests of time, but essentially
15 that has to be used for providing specific services to the
16 child and anything at least in theory that's surplus gets
17 returned to the department either by way of a refund or
18 subsequently taken into account as a reduction in a future
19 payment to the provider.

20

21 COMMISSIONER: But I assume that there is an embedded
22 profit margin for the provider?

23

24 MR DIAZ: That's my understanding, but I don't know the
25 minutiae of how this works, so it would be something that
26 we could test.

27

28 COMMISSIONER: Yes.

29

30 MR DIAZ: Then, moving through the agreement, there's a
31 number of what one might call boilerplate clauses. You get
32 to clause 12, which starts at the bottom of 636 but in
33 earnest commences on 637, and this includes a number of
34 relevant provisions, firstly that the department can
35 conduct a performance review, and then a performance review
36 is a defined term. If you follow it through to the
37 definition, it basically allows them to investigate what's
38 occurring with a particular provider and whether they're
39 meeting their requirements under the contract
40 specification, and for the purpose of doing so the
41 department can - and you see this in clause 12.2 - either
42 appoint an auditor or undertake that work itself.

43

44 And then clause 13 and many of the clauses that follow deal
45 with the circumstances in which the department can cease or
46 suspend funding, and you'll also see a number of
47 termination clauses with an associated show cause process

1 in clause 14.

2

3 COMMISSIONER: Yes.

4

5 MR DIAZ: And lastly, but very briefly, essentially for
6 the purposes of comparison, clause 20 includes quite a
7 detailed provision as concerns insurances and indemnity,
8 and there are quite prescriptive requirements about the
9 level of insurance that providers are required to maintain.
10 You'll see it has to be a policy of not less than
11 \$10 million in public liability insurance, contents
12 insurance, motor vehicle insurance and any other insurance
13 that the department requires them to hold, and then there's
14 an indemnity that sits alongside that in clause 20.3.

15

16 Lastly, but not least, is clause 27, which is a dispute
17 resolution clause that details the process to be followed
18 if there is some disagreement between the department and
19 the provider.

20

21 Now, the point of having taken you through that is to show
22 that there's quite a comprehensive set of contractual
23 protections that sit alongside the OSD agreements.

24

25 I promised you that I would return to you on the point
26 about licensing, and, pleasingly, that's addressed in one
27 of the addendum documents, which is tab 49. That's a
28 document called "The funding and services schedule". So
29 this is still part of the OSD agreement. It starts at 657,
30 and, Commissioner, if you go down to 660 that appears under
31 a heading which is entitled "Specific terms of funding",
32 and then there's a subheading which says "Certification".

33

34 Now, again, the language is a little difficult to follow,
35 but in short what it says is that if you're in scope for
36 certification and you are - it's my understanding if you're
37 an OSD provider you must achieve that certification by the
38 earlier of the completion of the first certification audit,
39 which is that external audit that I've previously
40 mentioned, or 18 months after the schedule date, unless the
41 department extends that time. So at least in theory it
42 does appear - and we can test how often this occurs - that
43 OSD providers can remain unlicensed for up to 18 months
44 after the start of the schedule start date, which is the
45 date they signed the contract.

46

47 The last document I wish to take you to is behind tab 136,

1 which will be in the third volume, I figure. And,
2 Commissioner, when you're able to pull this up what you'll
3 see is --

4
5 COMMISSIONER: I'll look at it on the screen. I have it
6 on the screen now.

7
8 MR DIAZ: You'll look at it on the screen. It might be a
9 little bit small but, provided you can follow, this is the
10 standard form IPS agreement, and this particular agreement
11 on pages 2543 - there's no details in this one, so
12 I certainly don't think there will be any issue with moving
13 through it. At 2543 to 2544 you have some basic details
14 that are filled out by the provider, and then you come at
15 2545 to the terms and conditions. Now, as I said somewhat
16 floridly in opening, this barely runs to two pages, and
17 it's quite a stark contrast from the agreement I just took
18 you to in --

19
20 COMMISSIONER: Where's the statement of the principal
21 obligations that are to be performed --

22
23 MR DIAZ: It's a good question.

24
25 COMMISSIONER: -- by the provider?

26
27 MR DIAZ: I figure they might be incorporated by reference
28 to the request for quote, which is a document that precedes
29 the IPS agreement being signed. But I am unable, on the
30 face of the document, to answer that question.

31
32 COMMISSIONER: Well, it doesn't say, "You shall do the
33 following things."

34
35 MR DIAZ: Yes. I think, as Mr Hastie helpfully mentions,
36 it does seek to incorporate the placement agreement in
37 clause 1(a), which I think is the separate request for
38 quote and the quote provided by the particular supplier.

39
40 COMMISSIONER: So that's another document that you'd need
41 to read together with these standard terms applicable to an
42 IPS agreement?

43
44 MR DIAZ: Yes. And we do have, I'm sure, some such
45 examples in the bundle.

46
47 COMMISSIONER: Well, we can come back to that.

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MR DIAZ: Quite.

COMMISSIONER: But there must be something, surely, that states what the primary obligations of the provider are.

MR DIAZ: Yes. But there are, for context, at tabs 130 to 133 the template pricing schedule - well, starting with 130, rather - in fact, that's the agreement. I'm not sure why it's in there twice. But, in any event, the accompanying documents are the IPS pricing schedule, the request for quote and the supplier's response, which are incorporated into the overall suite of documentation.

COMMISSIONER: So you've got to read, presumably, the request for quote?

MR DIAZ: Quite. But I can't see there any detailed information about particular obligations in terms of how the funding is to be used. I'm sure there will be people that - perhaps comes to mind, the chief procurement officer and others may be able to speak in more detail to how --

COMMISSIONER: Well, it's not only about how the funds are to be used; it's about what the principal contractual obligations of the provider are --

MR DIAZ: Yes.

COMMISSIONER: -- to look after the child and so forth, to provide a bed and whatever else is specified.

MR DIAZ: Yes. And, just going back to the agreement, I'll use the one at tab 136 and 2545. So it is notable that there are for the IPS agreements - and this might be said to be one of the advantages, if you will, of using such agreements - there are very broad termination powers. So 3(a), either party may end the agreement at any time. Now, that obviously also poses a contrasting risk that it also means a provider may end the agreement at any time.

COMMISSIONER: And to just return to my earlier point, given, as I understand it at least, part of the point of having IPS arrangements is to allow for flexibility, there might be a need to specify on an individualised basis the obligations in respect of a particular child. Having in mind, for example, a child with very significant

1 disabilities of one kind or another, one would expect that
2 an individual agreement would detail the scope of works, if
3 I can use that expression, in respect of the care of a
4 particular child with particular needs; that might partly
5 be the explanation for the absence of a statement as to the
6 core contractual obligations in the terms.

7
8 MR DIAZ: Yes. And there is in tab 132 - I'm sorry to
9 keep jumping across different documents, but that's the
10 request for quote document, and that does include the
11 requirements for a particular placement, and there I would
12 expect that the department specifies - this is at 2517 --

13
14 COMMISSIONER: Yes.

15
16 MR DIAZ: There I would expect that the department
17 specifies what is required in respect of a particular
18 child's needs.

19
20 COMMISSIONER: All right.

21
22 MR DIAZ: If I can continue to jump back around and go
23 again to the terms and conditions at 2545, you'll see
24 something that you're of course already familiar with at
25 clause 4(a), that suppliers providing IPS services are not
26 required to hold a licence, and there are some very high
27 level, but they're stark in their contrast to the OSD
28 agreement - some clauses at 6 and 7 dealing with compliance
29 and audit processes.

30
31 COMMISSIONER: Yes.

32
33 MR DIAZ: Lastly, clause 12 deals with liabilities.
34 Again, it's much more high level than the OSD agreement.
35 There's not the same level of particularisation and
36 specificity around insurances that are required to be held
37 and so on, and, similarly, you won't see the types of
38 indemnities and the like that we saw in the OSD agreement.

39
40 COMMISSIONER: Yes.

41
42 MR DIAZ: Those are the matters I wanted to open on by way
43 of documents. The first witness which we will call, which
44 Mr Hastie will tender her statements and the like, is
45 Natalie Wilson. She's the Acting Senior Executive Director
46 of Investment and Commissioning. She will give evidence in
47 relation to a range of matters, the primary topics of focus

1 being the changing nature of the market of residential
2 care, the increased reliance on IPS agreements which we
3 have observed through the documents over the past five
4 years, some of the difficulties associated with procuring
5 services under OSD contracts, attempts to increase the
6 availability of family-based care since 2020, her
7 involvement in relation to a number of the audits and
8 reforms that we've discussed, and matters relating to the
9 licensing of residential care providers.

10
11 COMMISSIONER: Yes. Thank you. All right.

12
13 MR HASTIE: I call Natalie Wilson.

14
15 COMMISSIONER: Thank you.

16
17 <NATALIE WILSON, AFFIRMED [2.58 pm]

18
19 <EXAMINATION BY MR HASTIE

20
21 MR HASTIE: Your name is Natalie Wilson professionally?

22 A. Yes.

23
24 Q. And you're also known as Natalie Jayne Morris-Bowley?

25 A. Correct.

26
27 Q. And you're at the moment an Acting Senior Executive
28 Director, Investment and Commissioning, in the department?

29 A. That is correct.

30
31 Q. And you provided a statement for the Commission
32 dealing with a number of matters dated 25 March 2026?

33 A. Yes.

34
35 MR HASTIE: Commissioner, that statement is document 24 in
36 the first volume.

37
38 COMMISSIONER: Thank you.

39
40 MR HASTIE: It starts on page 319.

41
42 COMMISSIONER: Thank you. Mr Hastie, the whole volume has
43 been tendered. Are you content with that for --

44
45 MR HASTIE: Yes, I'm content with that.

46
47 COMMISSIONER: All right.

1
2 MR HASTIE: That's the evidence-in-chief of this witness,
3 Commissioner.

4
5 COMMISSIONER: Thank you.
6

7 MR HASTIE: Sorry, there's one other thing. Have you also
8 prepared a resume?
9 A. Yes.

10
11 MR HASTIE: Could I tender that?

12
13 COMMISSIONER: Yes. Ms Wilson's resume will be
14 exhibit CL-95.

15
16 **EXHIBIT #CL-95 - MS NATALIE WILSON'S RESUME**

17
18 MR HASTIE: Thank you, Commissioner.

19
20 COMMISSIONER: Thank you.

21
22 **<EXAMINATION BY MR DIAZ** [3.00 pm]

23
24 MR DIAZ: Do you have your witness statement in front of
25 you, Ms Wilson?

26 A. Yes, I do.

27
28 Q. If you don't, it's at tab 24 --
29 A. 24.

30
31 Q. -- but it seems like you have a separate copy?

32 A. Yep.

33
34 Q. If we could just start with part 2 of your witness
35 statement, you make various observations in relation to the
36 way that the market for residential care providers has
37 evolved since 1 January 2020, and specifically in
38 paragraph 11 you say that you've observed an increase in
39 demand for funded care placement services. I was just
40 hoping we might begin by clarifying do you there mean both
41 family-based care and non-family-based care services?

42 A. Correct, yes.

43
44 Q. And have you observed that the growth in one or the
45 other has been more pronounced?

46 A. Well, so I guess in the context of this, yes, the -
47 yes, it has been more - the demand has - the growth has

1 been in the non-family-based care space.

2

3 Q. Yes. And are you aware of the degree or - I perhaps
4 appreciate you won't have the precise figures, but the
5 proportionate growth in the family-based care sector?

6 A. No, I wouldn't have a proportionate amount.

7

8 Q. No. And could --

9

10 COMMISSIONER: Ms Wilson --

11 A. Sorry, yes.

12

13 COMMISSIONER: -- could I ask you please just to speak up
14 a little. It's hard for me to hear --

15 A. Sorry. I will try, yes.

16

17 COMMISSIONER: Yes, do your best. That's okay.

18

19 MR DIAZ: And, by all means, you should feel free to
20 address yourself to the Commissioner. If it helps you
21 speak through the microphone, then I won't be offended if
22 you're not looking at me. Are you aware - so you say that
23 there's been an increase for non-family-based and
24 family-based but it's more marked in the non-family-based.
25 If we deal with each of the two types of family-based care,
26 has there been an increase in demand for both foster care
27 and kin care?

28 A. Yes.

29

30 Q. Yes. And are you aware if over that period there has
31 also been an increase in supply of those services?

32 A. Yes.

33

34 Q. There has been?

35 A. Yes.

36

37 Q. Yes. Of both foster and kin?

38 A. Yes, we've been - yes, we've been doing some work to
39 grow the kinship care arrangements.

40

41 Q. Yes.

42

43 COMMISSIONER: Can I just ask in relation to family-based
44 care the reference in paragraph 11 of your statement is to
45 increasing demand for funded care placements. Now,
46 I appreciate that foster carers and kinship carers are
47 provided with financial assistance. Is that what you mean?

1 A. Yes, and I think --
2
3 COMMISSIONER: Or is it something else that "funded" means
4 in this context?
5 A. Yes. I think I paused a bit earlier because even
6 the - and I know it's my statement - demand, and I guess
7 when I say "funded care placements" I mean in our OSD
8 space. So there's been an increased demand, like a need,
9 for those placements to be - to grow. Like, there's a
10 demand for those.
11
12 COMMISSIONER: But --
13 A. And - in family-based care and in non-family-based
14 care.
15
16 COMMISSIONER: But OSD arrangements, they don't apply to
17 family care, do they?
18 A. Yes. Yes, so family-based care - OSD is also how we
19 contract for family-based care, which is a combination of
20 foster care and kinship care.
21
22 COMMISSIONER: In relation to the allowances that are
23 paid?
24 A. No, no, for - we engage - we contract service
25 providers under OSD to support, recruit, train, engage kin,
26 find kin. So it's the - so then the allowances are a
27 separate --
28
29 COMMISSIONER: I see. So they're the --
30 A. -- investment arrangement.
31
32 COMMISSIONER: What you're talking about are the ancillary
33 costs associated with finding foster carers and kinship
34 carers, not the - I just really am trying to distinguish --
35 A. Yep.
36
37 COMMISSIONER: -- between payments directly to the
38 carers --
39 A. Yes.
40
41 COMMISSIONER: -- for their caring work --
42 A. Yes.
43
44 COMMISSIONER: -- as opposed to the organisations that
45 assist in procuring them?
46 A. Yes. So we have outsourced service delivery and, as
47 you will know through some of our notices, there's

1 different investment specifications. We have family-based
2 care or child placement protection - sorry, the placement
3 services in child protection, and those in our OSD are to
4 purchase those arrangements or places through providers,
5 and those providers can be just for family-based care. So
6 we purchase a set amount of places or children that they
7 will care for, and then they recruit - so for foster care
8 they recruit those carers and then support those carers.
9 And then separate --

10
11 COMMISSIONER: So --

12 A. Sorry, yep?

13
14 COMMISSIONER: So they're like foster care agencies?

15 A. Yes.

16
17 COMMISSIONER: Yes, I see.

18 A. Yes. And then the department pays the carer allowance
19 to those carers that are supported by those agencies; yes.

20
21 COMMISSIONER: All right. I understand it now. Thank
22 you.

23
24 MR DIAZ: We'll certainly come back to the development of
25 the investment specifications in family-based care and the
26 like in due course.

27 A. Yeah.

28
29 Q. And so - just picking up where we were - turning to
30 paragraph 12 of your statement, you do mention that you've
31 observed an increase in the need for specialised
32 disability, mental health and complex behaviour management
33 services. You might have heard some of the observations
34 I made in opening about this, what I might call the
35 umbrella group of complexity, and how complexity has
36 impacted the system. The observation you make at
37 paragraph 12, is that an anecdotal observation or is it
38 based on some sort of quantifiable data that you're aware
39 the department collects at an intake stage or something
40 like that?

41 A. It's a combination of both. So there's certainly data
42 that's collected about the needs of children in care that
43 require those sorts of supports and care arrangements, and
44 then also just from my, you know, speaking with
45 stakeholders and, you know, involvement with providers
46 and - and so forth.

47

1 Q. Yes. And, again, you may have heard this in opening,
2 but are you aware of the observations that QTC made in
3 2020 - and I should just pause for context. I understand
4 you were involved in the out-of-home care review that QTC
5 did; is that right?

6 A. Yes, at a later stage, not in the early stages, yes.

7

8 Q. Yes, I see. And I think it's recorded in your
9 statement that that included attending meetings with QTC
10 and providing some input and advice into their reports. Do
11 you recall at the time QTC testing this hypothesis that the
12 complexity of children entering care was increasing and
13 that was driving demand, or cost, rather?

14 A. Not specifically at that time. I think it's been a
15 common thread throughout the work that I've done that we've
16 seen that complexity increase.

17

18 Q. Yes.

19 A. As we have in the community, complex - you know, the
20 needs of families and children.

21

22 Q. And - I can take you to it if you need to, but I won't
23 unless you say it's necessary - the QTC report identified
24 that the two main drivers of cost were cost per placement
25 type increasing and increasing reliance on fee-for-service
26 agreements. Do you agree that those are the main - two
27 main drivers, or do you say that complexity or some other
28 factor has been the main driver for increasing cost?

29 A. Sorry, can you say that again?

30

31 Q. Yes. It was a rather lengthy question. I'll put the
32 proposition first. QTC identified that the two main
33 drivers of cost were cost per placement type and night, so
34 costs for a particular placement were going up year on
35 year, and increasing reliance on IPS or fee-for-service
36 agreements. I'm interested in your view as to whether you
37 agree that those have been the two main drivers for cost or
38 whether you say complexity or some other factor has been a
39 more important contributor?

40 A. I think both things are true. I think generally the
41 complexity of needs that a child has, presenting issues
42 that they have, will generally require a more expensive
43 arrangement, whether that's a staffing model or supports
44 that are provided to them, and, you know, I think, as
45 you're aware, some of the benchmark funding that we've had
46 has - you know, the complexity - the higher the complexity
47 associated with the needs of a child, the more expensive

1 generally the unit cost would be. And in addition to that,
2 yes, if we go to our fee-for-service providers, as we've
3 heard, having to build in some of what it costs to have
4 short-term arrangements and what goes along with that,
5 including casualised workforce and not necessarily
6 longevity of contracts, contributes to a higher cost.

7
8 Q. Yes. And you do mention at paragraph 13 of your
9 statement that you have observed limited diversification of
10 models of care, particularly in OSD non-family-based care.
11 Isn't that a problem that was foreshadowed by QTC in these
12 earlier reports in 2020, that the department wasn't
13 procuring enough OSD supply?

14 A. Yes, but I think also as I've said there, and it's
15 certainly work that we've been working through, as we saw
16 through some of those documents, is trying to develop those
17 different models of care and different types of responses
18 to respond to those children and young people.

19
20 Q. And I think you said that you've been trying to work
21 through that more recently. Are you able to explain to me
22 at least historically - and I'm, if you will, primarily
23 interested in the period from 2020, where we've observed
24 that QTC and others were indicating more supply was
25 required, through to that sort of 2023 period - were there
26 any reasons that you were able to observe as to why the
27 department was not able to procure more OSD supply for
28 non-family-based care?

29 A. Sorry, repeat the question? It sounded like there was
30 two parts to it and I think I've forgotten the first part.

31
32 Q. Yes. I'm interested to understand whether throughout
33 the period of interest, which I should say 2020 through
34 to --

35 A. Yep.

36
37 Q. -- 2023, you are able to comment on any of the reasons
38 why the department was not able to procure more OSD supply?

39 A. We would have been limited by the budget that was
40 allocated. It would have been primarily - so our budget
41 for outsourced service delivery would have been primarily
42 allocated and in contract with providers, and there would
43 have been children and young people in those placements.

44
45 COMMISSIONER: So should I understand that to mean that
46 the relevant constraint in that period was not the
47 availability of potential new participants to take up OSD

1 contracts, but rather the resources available via the
2 budget to procure such further resources? Is that --
3 A. In OSD, correct, yes.

4
5 COMMISSIONER: Yes.
6 A. Yes.

7
8 MR DIAZ: And such placements, I assume, would still have
9 to be met, there would still have to be a provider
10 contracted; is that right?

11 A. In?

12
13 Q. Well, the ones that you weren't able to source OSD
14 supply for, presumably there was still a child entering --
15 A. Yes. So if we had exhausted OSD capacity, yes, and a
16 child comes into care or there's a reason that we need to
17 then go and procure an alternate arrangement, then we would
18 go to fee-for-service or the IPS.

19
20 Q. So those were procured under IPS agreements?

21 A. Yes, yes.

22
23 Q. And, dealing with what we might describe as more
24 complex children or children with higher needs, was there
25 anything idiosyncratic about that cohort of children that
26 meant OSD supply couldn't be built up?

27 A. Well, it's - I mean, I would say, yes, that - because
28 there are particular individualised care arrangements then
29 and now that I guess I would describe as kind of off-spec
30 to what we would usually purchase with our systems level
31 OSD. But also, if I understand the question correctly,
32 we're also then limited by even if there was a child
33 presenting that could have been met within an OSD or a
34 systems level response kind of service type, if there was
35 no additional OSD funding then we wouldn't be able to
36 purchase it.

37
38 COMMISSIONER: So should I understand your evidence to
39 mean this. There were delegation limits or financial
40 limits on the funds available to the department and those
41 authorised within the department to procure OSD
42 arrangements. Once that limit had been reached, that
43 didn't mean that demand --

44 A. No.

45
46 COMMISSIONER: -- would not exceed those limits?

47 A. That's right.

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COMMISSIONER: And, accordingly, your only choice within the delegated powers that the relevant department officers had was to procure IPS arrangements?

A. That's correct.

COMMISSIONER: And, that being so, did you point out to anybody superior to you in the hierarchy that the consequence of that limit - that is to say the limit on the OSD available funding - meant that by necessity you would then have to procure more expensive IPS arrangements or was that well known so far as you're concerned?

A. I think it was well understood, as we saw through those various documents that we were taken through with briefings and different projects and those procurement activities; yes.

COMMISSIONER: Was there no ability to make an application to whomever one had to make an application to to increase the OSD financial limit so that the department could meet demand as it arose where possible through OSD arrangements?

A. Well, I'm sure there is. That's probably not for me to answer that question. It's not something that's in - that would be something for corporate services, I think, to speak to.

COMMISSIONER: Yes, I see.

A. Those processes in terms of those - you know, as we heard earlier, some of those budget processes in CBRC.

COMMISSIONER: Yes, I see.

MR DIAZ: And if I can ask you about the supply mix and in particular children that were suitable for family-based care but were going into residential care. Is that a problem that you have observed since 2020?

A. I think we've certainly been challenged by the limitations of some of our investment and its split and in the family-based care space. Some of the things that we had started to work on - and it's probably a bit back to the question you asked earlier - was the development of new investment specifications in the family-based care space, seeing some of the limitations of how our previous service types were - you know, foster and kinship care were bundled into one service type and recognising the distinction that is there for foster and kinship care. And so we started to develop those different service types so that we could grow

1 family-based care and be more targeted in how we might
2 approach that procurement and to support those children so
3 that there was more capacity to not only, like, connect and
4 find kin but then to support kin through providers that
5 chose to do that work, and then also the foster care and
6 having some standalone recruitment services as well as
7 supporting services, and we included a specialised
8 family-based care service type. I know there was some of
9 that that you went through in your documents earlier. But
10 I think there was a lot of work that we put in to
11 developing those specs from about 2020 and continuing right
12 through to today to really grow that family-based care
13 investment and those service types to be a bit more
14 tailored and responsive to the needs of those children and
15 their families.

16
17 Q. Yes. And I'm not sure whether you will have this
18 bundle in front of you, but there's a bundle that's called
19 "Public immunity interest". In fact you won't have this
20 bundle. We'll get that. We'll make that available to you.
21 I'll take you to tab 8 of this bundle, which is the QTC
22 phase 2 report.

23 A. Thank you.

24
25 Q. And this is at 231 of the PII bundle. And the page
26 I wanted to ask you about in particular is page 23 of that
27 report, which I myself will try and find. I think it's at
28 253. It seems that you're quicker than the rest of us,
29 Ms Wilson. While I locate it I think I can nevertheless
30 ask you what I was hoping to ask you about that.

31 A. M'hmm.

32
33 Q. So that part of the QTC report concludes that based on
34 regional analysis 15 per cent of IPS spending is on
35 children who could be moved into family-based care
36 immediately if there were placements available. Do you
37 know whether that figure has increased over time?

38 A. I don't know what that figure is now.

39
40 Q. Are you able to say whether it's gone up or down,
41 though?

42 A. Well, I would anticipate that if our - we've got more
43 children in non-family-based care arrangements now than
44 then that there would be probably a higher proportion of
45 those that would be otherwise placed in family-based care
46 if those options were available; yes.

47

1 Q. Yes. All right. That was all I wanted to ask you
2 about that particular document. I want to ask you, though,
3 about a different one, and this is behind volume 2 of
4 the so-called master bundle. I'll ask Marjorie just to
5 retrieve that bundle so that you're not burdened by
6 documents.
7 A. Thank you.
8
9 Q. So the document that I want to take you to in volume 2
10 is at tab 66.
11 A. Okay. That's the IPS reference group?
12
13 Q. You're quite right, Ms Wilson.
14 A. Yep.
15
16 Q. That's the IPS re-design reference group. And
17 I understand from your witness statement that you were
18 involved --
19 A. Yes.
20
21 Q. -- in the IPS re-design reference group, and so much
22 is also recorded from your attendance at the first minutes
23 of that meeting. Do you recall seeing as part of that
24 meeting or thereafter that procurement strategy that was
25 prepared?
26 A. I don't recall it, but it doesn't mean I didn't.
27
28 Q. No.
29 A. But, yes, there's been a lot of documents over the
30 years. But, yes, I saw - is that the one that you were
31 sharing earlier?
32
33 Q. Quite right, Ms Wilson.
34 A. Yep.
35
36 Q. So it's at tab 65, so the preceding tab.
37 A. Yep.
38
39 Q. And if you go in particular to 1391, which is the page
40 numbering in the bottom right --
41 A. Yes, yep.
42
43 Q. -- if that's visible. And you'll see that there's, my
44 words, a litany of issues --
45 A. M'hmm.
46
47 Q. -- identified in relation to procurement, including

1 that the department has conducted multiple audits and
2 policy and process till don't align, issues with suppliers
3 not being incentivised to enter into OSD contracts, high
4 number of unlicensed providers, and suppliers driving the
5 market. Do you agree that those types of representations
6 or those types of observations in relation to procurement
7 are still as applicable today as they were then?
8 A. Pretty much. Yes, I would say so.
9
10 Q. I didn't quite hear you. Did you say "pretty much"?
11 A. Yes. I would say so, yes.
12
13 Q. Yes.
14 A. There's still some consistent issues there.
15
16 Q. And what measures are you --
17
18 COMMISSIONER: I'm sorry, Ms Wilson, I am having --
19 A. Sorry.
20
21 COMMISSIONER: That's all right. It's a difficult sort of
22 environment to be in, sitting in a little box there. But
23 just try and speak up, if you wouldn't mind.
24 A. I will. Sorry. I'm not usually this quiet. So
25 I will try and be louder.
26
27 COMMISSIONER: Okay.
28
29 MR DIAZ: And I know that there's quite a number of
30 matters raised in that particular or under that particular
31 subheading of "Procurement". But are you aware of any
32 particular measures that have been taken from an Investment
33 and Commissioning perspective to address some of these
34 issues?
35 A. I would say from this time - because when was this?
36 Was 2022?
37
38 Q. This is dated the same date as the meeting.
39 A. Yeah.
40
41 Q. So 17 August 22.
42 A. I would say there has been work done on some of those.
43 I would say, you know, there's - certainly in terms of
44 processes, you know, the disparate processes between
45 regions is something that we are constantly trying to work
46 through to have more of a consistent approach and
47 guidelines and documentation that supports some of that.

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Q. Could you explain to us what that looks like in practice?

A. I think it's just where we - you know, we try and work together collaboratively about shared issues and how we can in central office support some of those through whether it be through our - you know, the investment approaches or the licensing pieces. So one that springs to mind for me is I think that high number of unlicensed IPS providers, that in scope of licensing process that you referred to earlier was something that we developed over - I can't remember when we actually developed it initially, but I think that was something to help us to identify and support in working with regions when we might think a provider could start to come into scope of that licensing process to address some of that.

You know, we do - we do try to work on being less reactive with our procurement. And, as you had also shown through some of your documents, the work that we try to do over the time where we have done some previous conversions of IPS to OSD where we think that sits with, you know, a region's kind of investment planning or their demand and their need, again, to be less reactive and building it into our base funding and therefore our base contracts. So, yeah. So they're certainly consistent issues that we are working through and we have done some work on.

Q. Yes. On the licensing point, I'll come to ask you some questions about it later, but just one while it's being raised: do you know roughly how many providers have become licensed in the last two financial years, so excluding this financial year but just in 23/24 and 24/25?

A. I don't know how many. I know we have 57 licensed orgs at the moment. So there has been a bit of an increase in the last little while. But, as you know, I've been in and out of my substantive role, which is a Director in the Investment and Commissioning. So I'm not as up to date with those numbers as I would normally be.

Q. Yes. I might just take you to what's recorded in the EY report to see if you think it's accurate.

A. Yep.

Q. It's at volume 3, tab 76, and that's page 1774 of the master bundle.

A. Hang on, sorry. Volume 3. What was the tab?

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Q. Tab 76.
A. And what page?

Q. I have it recorded as 1774.
A. Yes.

Q. And - I apologise, I'll just - yes, I'm indebted to my instructor. It's at the third paragraph of 1774. It's the second sentence. It says, "Few have moved from unlicensed to licensed over the past couple of years. Two providers became licensed in 23/24 and zero in 24/25." I know that you've moved in and out of different roles, but are you able to comment on whether those numbers are accurate?
A. No, not without checking. But we can certainly provide that if needed.

COMMISSIONER: Well, I think we can assume they're accurate, can't we?

MR DIAZ: Well --

COMMISSIONER: Is there reason to doubt the accuracy of this material?

MR DIAZ: I have no reason to doubt it. And, I mean, I understand that the EY report was prepared in consultation with the department. And I take it that's your understanding as well?

A. Yes, yes. And there was an opportunity to review it, but I can't recall - and we did give some significant feedback, but I would have to check my records on whether it related to those - that data or not.

COMMISSIONER: Indeed. But, Mr Hastie, I'm going to assume that that data is accurate as the document appears to have been created as a result of consultation at least internally with the department, albeit by EY. But if it's not accurate then you're free to let me know in due course.

MR HASTIE: Thank you, Commissioner. And we might be able to bring it up to date, too.

COMMISSIONER: Yes.

MR DIAZ: And I'll come back to licensing in due course; I just wanted to clarify that one point. But in your

1 witness statement, which you have behind tab 24, otherwise
2 in loose copy it appears --

3 A. Yep.

4
5 Q. -- there's just one matter I wanted to clarify about
6 paragraph 14. You say that someone, but I don't quite know
7 who, has increased their footprint in the market. I think
8 there may just be a missing word or my comprehension may be
9 off, but do you mean that for-profit providers have
10 increased their footprint?

11 A. Yes, generally.

12
13 Q. Yes.

14
15 COMMISSIONER: Mr Diaz, just remind me which tab
16 Ms Wilson's statement is behind? I've moved --

17
18 MR DIAZ: I apologise, it's tab 24 of volume 1.

19
20 COMMISSIONER: Yes. I was flicking between tabs. Okay.

21
22 MR DIAZ: So I should read that last sentence as,
23 "However, for-profit providers have increased their
24 footprint in the market"?

25 A. Yes. Yes.

26
27 Q. And are you aware is that because there's been a
28 relative decline in not-for-profit providers or is it
29 because there's been a large increase in for-profit
30 providers?

31 A. Well, there's definitely be an increase in for-profit
32 providers. I think some of that - and I don't have the
33 data, but my sense is that some of that is related to the
34 specialist nature of some of what they provide,
35 particularly in terms of disability and some of that mental
36 health or more challenging presenting behaviours for
37 children and young people.

38
39 COMMISSIONER: I'd just like to understand that a bit
40 more, Ms Wilson, because what has occurred when one looks
41 at the trends in relation to demand and also placement
42 trends since 2020, as outlined by Mr Diaz in his opening
43 and he has taken us to numerous documents, is a very
44 significant increase in reliance upon IPS funding. And
45 that in part is explained I think by the answer you gave
46 previously to me when I asked you whether a part of
47 the reason was where the budget for OSD is exceeded the

1 only alternative is to use IPS funding. So that's one
2 explanation.

3

4 As I think you are aware, but I would like to understand
5 whether you agree with this, IPS funding was a model
6 introduced to meet particular bespoke needs and also to
7 meet unexpected shortfall in supply where there was an
8 unexpected need that arose that couldn't have been
9 anticipated - or I suppose any forecast is always subject
10 to some degree of variation to the actual. So I can
11 understand those two reasons.

12

13 The supposed increase in complexity of need, why should the
14 needs of children increase in terms of their complexity in
15 a given timeframe - in the given timeframe we're examining,
16 namely between about 2020 and the present time? What
17 reason could there be for the complexity of needs,
18 particularly an increase in highly complex needs? Why
19 would that occur in a particular timeframe? What's the
20 explanation for it? Because children are children.

21 A. Yeah, sure.

22

23 COMMISSIONER: The usual range of variability in terms of
24 need, one would think, would apply at any time. Is it
25 because of the definition of what is a complex need --

26 A. No, I don't --

27

28 COMMISSIONER: -- an appreciation of it? I don't really
29 follow.

30 A. I don't believe it's a definitional piece. I think it
31 is complexity in terms of the needs that they're presenting
32 with which may be, you know, exacerbated by increasing
33 domestic and family violence, drug and substance misuse,
34 the pressures that are being felt in the community in
35 families, housing stress, financial stress, and the flow-on
36 that some of that has for families and their care of their
37 children or their capacity to care for their children; you
38 know, sexual assault and trauma from all of those issues;
39 increasing mental health, you know, identified or diagnosed
40 in children and young people; and I think disabilities. So
41 it may not - so I take your point. I think, you know, I
42 understand the point you're making is that those issues
43 have always existed and there's always been children
44 having --

45

46 COMMISSIONER: That's essentially my point.

47 A. -- yes, those sorts of issues.

1
2 COMMISSIONER: Why is there all of a sudden - or not all
3 of a sudden --
4 A. I think - yep.
5
6 COMMISSIONER: -- but in this period what impact, really,
7 does the complexity of the child's needs have on the
8 explanation or to what degree does increasing complexity
9 explain increasing reliance on IPS funding? That's really
10 the question.
11 A. Yep. And I guess that as there's more of those
12 children in care with those higher needs, and it includes
13 disability and medical and some of that's about the
14 family's capacity, so maybe there's been an increase in
15 families being able to continue to support that themselves
16 and so they come into care, but those needs will require
17 some specialist responses and staffing models. It might be
18 that there's more staff required to --
19
20 COMMISSIONER: I understand all of that.
21 A. Yep.
22
23 COMMISSIONER: The --
24 A. Okay. So maybe I'm - sorry if I'm not understanding
25 the question.
26
27 COMMISSIONER: No, no. The question that I'm trying to
28 grapple with is why is it that in the period where we've
29 seen a significant increase in the use of IPS funding --
30 A. Yes.
31
32 COMMISSIONER: -- how does that correlate to the increased
33 complexity as a matter of fact of the needs of particular
34 children? And why would there - what's the explanation,
35 and you've given some explanation for that, for there to be
36 in a particular period an increase in, let me call it
37 broadly, complex needs? One reason might be an increase in
38 the use of particular drugs, ice or --
39 A. Yes, yes.
40
41 COMMISSIONER: -- methamphetamine; that might be the
42 reason.
43 A. Yes.
44
45 COMMISSIONER: It might also be a reason if there is a
46 spike or increase in the period we're looking at in
47 domestic violence --

1 A. Yes, yes.

2

3 COMMISSIONER: -- or other factors that together or
4 collectively with other things cause the demand for child
5 protection as a service, if you like. But it surely must
6 also come down to some evaluation of a need that can only
7 be met via an IPS funded sort of tailored care arrangement
8 or placement arrangement?

9 A. Yep. So I think some of that is about, as we've
10 talked, the limited supply we may have in OSD and the
11 capacity being exhausted.

12

13 COMMISSIONER: Well, that seems to me to be as a general
14 explanation.

15 A. Yes, yes.

16

17 COMMISSIONER: It more likely be the case that IPS, which
18 was - do you accept it was originally intended to be used
19 for meeting particular complex needs or to be there as a
20 sort of residual buffer where --

21 A. That's right. That's right. It was there to provide
22 that bit of a - you know, the overflow or that buffer for
23 where that capacity - there wasn't a placement match for a
24 particular child in OSD, and also for those more
25 individualised, very specialist responses that, as I said
26 earlier, are probably not - off-spec a bit, that they don't
27 - they're not captured in our investment specifications and
28 in our current contracting, you know, in the OSD.

29

30 I think it's also - so we can purchase IPS through existing
31 providers that are part of our OSD market. I think what we
32 have probably seen - and I don't have the data for this,
33 but I think we have seen increasingly limitations in the
34 capacity for those providers to extend their services to us
35 in that way because of workforce challenges and a whole
36 range of things that we've heard about. And so I think
37 we've seen other providers step in to those gaps, and some
38 of those have been for-profit providers who have been able
39 to stand up those arrangements and respond.

40

41 COMMISSIONER: Do you understand the rationale of making a
42 certain sum of money available with a cap for the provision
43 of placement services under an OSD arrangement but, when
44 that cap is reached, the department is required to move to
45 meet the needs of the child to an IPS arrangement or an IPS
46 arrangement? How is it that the department can use IPS
47 arrangements - what I'm really asking is it would appear

1 that there's greater latitude in terms of discretion on the
2 part of relevant people within the department to enter into
3 an IPS arrangement even though had the budget, as it were,
4 for the OSD arrangements not been exceeded an OSD
5 arrangement, if it could be entered into, would be more
6 desirable from a financial point of view? Do you agree
7 that's the case?

8 A. Some of the challenge with that - and we do sometimes
9 what we call top-ups for our OSD contracts for where, you
10 know, they might be able to accommodate an additional
11 placement or where those fees have exceeded what we may be
12 funding them for and so they can wrap those additional
13 supports around the child. However, the IPS budget is
14 something that is - it's not in our base. And so it's a --

15
16 COMMISSIONER: It's not what?

17 A. It's not in our base funding. So our OSD comes from
18 our base funding that is allocated recurrently. And so we
19 can enter into three to five-year contracts, for example.
20 For our IPS the - so the CRC-PaS is the actual - that's the
21 funding source. IPS is just the - that's what we call the
22 mechanism, is the IPS arrangement, is annually allocated to
23 us. So we can't enter into longer term contracts unless
24 there's been a conversion or transition --

25
26 COMMISSIONER: Unless it's covered by your delegations
27 within the allocated budget allowance for the department
28 for that purpose; is that what it comes down to?

29 A. And in those instances that's where over the years
30 we've done conversions or transitions of IPS to OSD so that
31 we can enter into longer term contracts. But for anything
32 we purchase out of - under an IPS arrangement using the
33 CRC-PaS funding generally won't be for more than a year,
34 and as you saw there were some recommendations in some of
35 those documents to perhaps extend those to two years. But,
36 generally speaking, they are shorter term with a maximum
37 for 12 months to align with the funding allocation.

38
39 COMMISSIONER: That's a perfectly rational explanation,
40 that there are reasons to do with budget and funding that
41 have had an impact upon the mix as between OSD and IPS.

42 A. Yep.

43
44 COMMISSIONER: So those are factors which have a global
45 application to the mix as between OSD and IPS funding. So
46 I'm wondering whether in light of those overarching
47 factors, including the constraint upon the department upon

1 exceeding its OSD funding allowance, however it should be
2 described, whether the resort to complexity of need, which
3 is at times raised as a reason to justify IPS funding as
4 opposed to OSD funding or OSD arrangements, is really the
5 real issue rather than the funding that is provided to the
6 department and the constraints that are imposed on the
7 department which prevent it from exceeding the relevant
8 caps. In other words, is the complexity issue that is
9 raised really not the central problem but rather funding
10 arrangements are more relevant to the mix as between OSD
11 and IPS? That's what I'm trying to get to.

12 A. It's both. It's both. So there are children placed
13 in OSD who have complex needs and they are being responded
14 to. So it's not just that the complex children are in IPS;
15 I just think there's been an increasing - the children
16 coming into the system and their needs have been - in
17 complexity have been increasing. And, in the absence of
18 that OSD growth and then also, you know, some of
19 the challenges of, you know, placement matching and things
20 that occur, that the IPS has grown significantly more than
21 we expected - or perhaps not. But then the needs of those
22 children are - so there are children in IPS arrangements
23 that don't have necessarily that high complexity but they
24 might be there because there just isn't capacity in OSD
25 or --

26
27 COMMISSIONER: Isn't that one of the big problems, that
28 there are many children that are being placed under IPS
29 arrangements which could just as easily be placed in
30 non-residential care under a more long-term OSD arrangement
31 with the provider? It's of no moment to the child whether
32 those providing the care are being funded under one model
33 or the other, is it?

34 A. No.

35
36 COMMISSIONER: Save for quality differences that might
37 arise because of the differences in standards that might
38 apply as between an IPS funded placement and an OSD funded
39 placement. That's a different issue. When I mean it's of
40 no moment to the child I mean what I'm really saying is the
41 child is not concerned with the funding model --

42 A. Is not aware of how it's being paid for; correct, yes.

43
44 COMMISSIONER: Yes.

45 A. And I think - so the standards are still - are
46 expected to be adhered to from a quality and response to
47 that child and the care of their child; yep.

1
2 COMMISSIONER: That's a different subject. Can I let
3 Mr Diaz come to that in due course --
4 A. Okay.
5
6 COMMISSIONER: -- if he wishes to, because at the moment
7 we're just talking about the mix --
8 A. Yeah.
9
10 COMMISSIONER: -- in terms of from the department's
11 perspective from a funding perspective. All right.
12 Mr Diaz?
13 A. And so --
14
15 COMMISSIONER: Sorry, did you want to say something?
16 A. Yeah, I was just - I was going to add I think, yes,
17 it's right that across the sort of continuum of care,
18 whether it's OSD or IPS funded, there's a complexity of
19 children all through that. It's just that I think the
20 overall increasing complexity and demand has - and because
21 we haven't been able to purchase additional OSD, it's often
22 described in that context of purchasing in IPS because
23 that's the only place we have to go to purchase those care
24 arrangements. But the complexity is across a range of care
25 arrangements.
26
27 COMMISSIONER: If one takes out the complexity issue, just
28 the increase in demand, the greater the number of children
29 the State must care for, that itself has an impact, doesn't
30 it --
31 A. Yes.
32
33 COMMISSIONER: -- on the difficulty of providing suitable
34 care for an individual child, to provide the optimal care
35 that one would like to see provided to that child. Even if
36 one takes out of consideration the complexity of needs,
37 just the raw numbers, if they increase --
38 A. Yes.
39
40 COMMISSIONER: -- the task becomes more difficult, doesn't
41 it?
42 A. Yes.
43
44 COMMISSIONER: Yes.
45
46 MR DIAZ: I might just pick up on the exchange you've been
47 having with the Commissioner. In your witness statement at

1 paragraphs 24 and following you address a question we asked
2 you to consider --

3 A. 24, yep.
4

5 Q. -- regarding whether IPS funding is still serving its
6 original purpose or intent. And now I understand from the
7 exchange you were having with the Commissioner that there's
8 really two purposes of IPS: the overflow, where you don't
9 have enough contracted OSD supply, and what you described
10 as the off-spec, which I think would also encompass more
11 complex children; is that right?

12 A. Yes. Yep.
13

14 Q. And I think I understood your witness statement to be
15 saying, but tell me if I'm wrong, that you thought IPS was
16 still serving its original intent in the present day. Now,
17 can I just take you to a briefing note. It's behind tab
18 87, but I just ask that when it be shown on the screen we
19 go to 037 to avoid disclosing any --

20 A. 87, that's in volume 3?
21

22 Q. Volume 3, I apologise. In fact we can go to 2036, and
23 that doesn't disclose. And you may wish to start at 2036
24 yourself, Ms Wilson. So you'll see this was I think a
25 document that I took the Commissioner to this morning. On
26 page 2, the second last dot point, you'll see the reference
27 there to, "The fundamental issue which has contributed to
28 current IPS expenditure relates to a placement support
29 system that is not built to grow and respond to demand and
30 also the increasing complexity of needs for children and
31 young people." Now, that's just to set the context for
32 what I wanted to ask you about. If you go over to page 3.

33 A. Page 3?
34

35 Q. Yes, which is page 2037 or page 3 --

36 A. Sorry, yes.
37

38 Q. I apologise there's so many page numbers.

39 A. Yeah.
40

41 Q. But it's page 3 of the memo.

42 A. Yes, yes.
43

44 Q. And in the first paragraph you'll see a reference to
45 the increasing cost.

46 A. M'hmm.
47

1 Q. But more relevantly what I want to take you to is the
2 sentence starting, "There is limited"; do you see that?
3 It's the third sentence.

4 A. Yep.

5

6 Q. "There is limited evidence to support that these costs
7 are purchasing higher levels of intervention, specialist
8 responses, specific assessment or treatment interventions.
9 Additionally, there are no limitations in the investment
10 specifications or funding benchmarks to argue that these
11 models could not be bought within" - I think it should be
12 "brought in OSD" or "bought by way of OSD, noting their
13 ongoing need and use." Now, just to give you the context,
14 I don't think you - there's nothing on the document to
15 suggest you authored this memo or anything like that.

16 A. No. No.

17

18 Q. The author is Michelle - I'm not sure if there's some
19 concern with me naming names, but I'll simply indicate it's
20 the Acting Director of Investment and Commissioning at the
21 time --

22 A. Yep.

23

24 Q. -- and Senior Executive Director. Do you share the
25 observation there?

26 A. I think there is a - I would - I would suggest I would
27 have a slightly different view to some of that, yes, in
28 terms of particularly the specialist responses, I think
29 particularly in the disability space. I think there are
30 some limitations in our investment specifications to
31 properly recognise some of those interventions and those
32 supports. And I think, for me, some of that comes from the
33 licensing requirements as well, that in - because entering
34 into an OSD contract automatically requires that, and it
35 might be that for some of those providers that is perhaps
36 not necessarily a value-add in terms of if they're already
37 NDIS registered and so forth. I just think there's a -
38 there's a piece there for me that probably could have
39 expanded a little bit more on that in terms of some of the
40 differentials in there. I agree that there could probably
41 be some - high levels of intervention I would suspect are -
42 could have been - yeah, they would probably sit within our
43 investment specifications. But I think - yeah.

44

45 COMMISSIONER: Just remind me what was the date of this
46 document?

47

1 MR DIAZ: This document I think is dated 20 March 2023,
2 and it's been noted by someone who I understand is the
3 Deputy Director-General of Strategy --
4

5 COMMISSIONER: Yes.
6

7 MR DIAZ: -- which is now - and Ms Wilson might assist me
8 if I'm wrong about this, but that's the equivalent of
9 the Deputy Director-General of Commissioning in the modern
10 structure of the department.

11 A. In terms of level, yes. But it was a different
12 structure at that time.
13

14 Q. Yes, a different structure of the department at the
15 time.

16 A. Yes.
17

18 Q. But responsible for, among other things,
19 commissioning?

20 A. Yes, yes.
21

22 COMMISSIONER: Ms Wilson, I haven't seen a document, or at
23 least so far, that defines the circumstances under which it
24 would be desirable and necessary or necessary and desirable
25 to have an IPS, let me call it, bespoke arrangement for the
26 care of a child. I can conceive of there being
27 circumstances where that would be noted because of
28 particular special needs of whatever kind. But if the
29 department is considering the use of either an IPS
30 arrangement or an OSD arrangement - leave aside the
31 budgetary constraints --

32 A. M'hmm.
33

34 COMMISSIONER: -- let's assume they don't apply, so that
35 you could make a rational allocation in terms of placement
36 as between an IPS specific bespoke arrangement on the one
37 hand and a more long-term, one would have thought, more
38 financially viable arrangement via an OSD contract, one
39 would need to have some criteria developed to enable the
40 decision-maker, the hypothetical decision-maker, to
41 determine whether to use an IPS arrangement because it's
42 necessary or place the child in an OSD arrangement. Is
43 there such analysis available? I mean, how does the
44 decision-maker make a rational decision without such
45 guidance as to when IPS is appropriate as opposed to when
46 it is the only choice for funding reasons?

47 A. I think - like I was saying before, I think some of it

1 is the limitation, I believe - as I said, that's my view;
2 I know it's a bit inconsistent with some of that paragraph
3 there - that there are some of those highly specialised
4 individualised arrangements that are not - would not be
5 well reflected in our current investment specifications.
6

7 COMMISSIONER: Well, I'm certainly prepared to accept that
8 one would expect that there would be out there amongst the
9 universe of need --

10 A. Yeah.

11
12 COMMISSIONER: -- particular specialist needs that need to
13 be met in a particular way.

14 A. Yep.

15

16 COMMISSIONER: But in order to make a decision about
17 whether an individual child --

18 A. Yep.

19

20 COMMISSIONER: -- falls within that category there must be
21 some shared understanding about --

22 A. Sure.

23

24 COMMISSIONER: -- what falls within that high-end category
25 and what falls outside it.

26 A. I think --

27

28 COMMISSIONER: Is there?

29 A. I don't know that there's documentation as such that
30 guides that. I think - and it's probably more of a
31 question for - from a practice perspective in terms of
32 frontline and the assessment of that particular child's
33 needs from a practice and frontline perspective.

34

35 COMMISSIONER: Well, but --

36 A. Some of that would be, I would anticipate, quite
37 obvious that those children would be very - would sit very
38 much outside a usual or a system level response and might
39 have to have some particular supports, arrangements put
40 around them that might require some types of exemptions
41 from our usual ways of operating.

42

43 COMMISSIONER: Well, again, I accept that the realistic
44 possibility of children with particular --

45 A. Yeah.

46

47 COMMISSIONER: -- specialist needs or that need bespoke

1 arrangements. But isn't it the case that you just don't
2 get to that question of qualitative evaluation of the needs
3 of the child vis-à-vis where the child should be placed if
4 you've exhausted your budget for OSD contracts and
5 therefore there isn't actually a decision to be made
6 because there is no longer any option; the only option is
7 IPS funded placement not because it's driven by a need but
8 because you've exhausted your budget for OSD?

9 A. I think --

10
11 COMMISSIONER: But then you don't need to make the
12 arrangement - I mean, you don't need to make the
13 assessment, do you?

14 A. I think that would primarily be the circumstance. But
15 I think even if there was, say, a vacancy available in OSD,
16 it still might be the decision that that is not the best
17 for that child. And so --

18
19 COMMISSIONER: Well, I understand that.

20 A. Yep.

21
22 COMMISSIONER: So in that circumstance you need to have a
23 basis for evaluating whether you should instead of choosing
24 to place the child in the hypothetically available OSD
25 placement there's reason, according to some criteria, to
26 place the child instead in some more specialised, tailored,
27 bespoke arrangement pursuant to an IPS funded arrangement
28 with the provider. So I understand that.

29
30 But when you have that choice to make you have to
31 presumably make that choice according to some criteria;
32 that's my first proposition. But my second proposition,
33 which I think you - that I put to you just a minute ago was
34 that question just doesn't arise if you don't have the
35 choice, because you've run out of OSD arrangements.

36 A. And I think it's also not just because we've run out
37 of the OSD. As I said earlier, I think there would be some
38 children in arrangements that our investment specifications
39 and therefore a contract under OSD would not meet their
40 need. It would not be specific enough or the nature of it
41 would not respond to that child's needs. So I think there
42 will always be that category that will sit outside of our
43 OSD system's level response, even if there was --

44
45 COMMISSIONER: I'm not debating that proposition with you.

46 A. Okay, sorry

47

1 COMMISSIONER: In relation to that circumstance --
2 A. Yep.

3

4 COMMISSIONER: -- my proposition is, and I invite your
5 comment, that if you are in a position at a practical level
6 to make a choice between IPS and OSD you need some criteria
7 by which to make that decision if you are going to choose
8 the more expensive option of the IPS model which would be
9 justified if there is a need. But to assess the need you
10 need some criteria against which to assess it, don't you?

11 A. Yes. Yes. And again I think it's probably - I think
12 there's something in there around the practice piece and
13 the decision-making that happens at the regional level on
14 the assessment of those children. And there certainly
15 would be - you know, there's criteria that supports that in
16 those decision-making - that decision-making. But it's
17 not - that's the primary purpose of that as opposed to the
18 contractual arrangement. Then the contractual arrangement
19 is developed to support the needs of that child and the
20 assessment that has been made by our frontline staff around
21 the needs of that child.

22

23 COMMISSIONER: All right.

24 A. So I think it's a - yeah, I think they're connected
25 but separate, I think.

26

27 COMMISSIONER: Yes. Very well.

28

29 MR DIAZ: And just dealing with these two different
30 aspects of the intent of IPS agreements, so the overflow
31 and the off-spec, are you able to say as a matter of
32 proportionality how IPS agreements are being used today?
33 And if I could probably put a more specific question to
34 you: is it right, as we understand it, that they tend to be
35 used more often as overflow rather than as specialised
36 responses?

37 A. I don't know the proportionality. But I would say
38 based on my limited understanding, because obviously
39 there's procurement processes happening with some of the
40 transition work that's happening now, the fact that they
41 are able to be transitioned tells me that they probably are
42 more aligned with what we can purchase under OSD
43 specifications.

44

45 COMMISSIONER: Sorry, I didn't hear the end of your --

46 A. Sorry. Sorry. Sorry.

47

1 COMMISSIONER: That's all right.
2 A. I was just saying that, I guess, the short answer is
3 is I think that they - proportionally there probably is
4 more sitting in IPS at the moment that would normally -
5 would be something that we could purchase through OSD if
6 the investment was there, and part of my assessment of that
7 is because I understand there's a number of those
8 arrangements that are being transitioned currently.
9
10 COMMISSIONER: Yes, I see. Thank you.
11
12 MR DIAZ: And if I could just ask you some questions on
13 this kind of more broader philosophical point about the
14 role of residential care in the system, the out-of-home
15 care system, generally. And, to help orient you, you spoke
16 about some of these things in part 3 of your witness
17 statement. Just in general terms are you familiar with a
18 goal that was set by the department in or around 2021 of
19 having only 7 per cent of the out-of-home care population
20 in non-family-based care?
21 A. Yes, I am.
22
23 Q. And why or how do you have that familiarity?
24 A. The role I would have been in at the time, I would
25 have been in my substantive role, I anticipate, as a
26 Director in Investment and Commissioning.
27
28 Q. And was that something that was set by the
29 Director-General or otherwise as a matter of government --
30 A. Yes, yes.
31
32 Q. It was set by the Director-General?
33 A. I believe so.
34
35 Q. Yes. And I think you point out in your statement -
36 properly, if I might add - that non-family-based care isn't
37 limited just to residential care.
38 A. Yep.
39
40 Q. This is sort of paragraph 16 and following.
41 A. Which is it? Paragraph 16? I've lost track of where
42 we were up to. Yep
43
44 Q. And just to remind you, Commissioner, this is at
45 tab 24.
46
47 COMMISSIONER: Yes, I have it. Thank you.

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MR DIAZ: Now, you point out that there are other options like therapeutic residential care, supported independent living, safe houses and the like. Do you know what proportion of non-family-based care goes to the other options that aren't residential care?

A. Not off the top of my head, no, sorry.

Q. Are you able to say in rough proportions?

A. No. I mean, it would predominantly be residential care.

Q. Yes. And are you aware that the department has stopped funding therapeutic residential care as a separate investment specification?

A. Yes. Under OSD, yes.

Q. And what was the reason for that?

A. So some of that was related to - that service type when it was developed was - had properties associated with it. So it was a standalone service type that was funded at a higher level than general residential care, for just want of a better word what we would call more general residential care, and generally had properties that were either purpose-built or were renovated to provide what was a therapeutic residential care model. This was a bit before my time. And my understanding was there was one in each region.

I think over time and probably related to the placement pressures that we've talked about, particularly in the availability of OSD, that it's very difficult to quarantine those places for those particular children and it wasn't - I don't know the number of places that was associated with the therapeutic residential care that was outsourced at that time, but I would anticipate if it was perhaps, you know, one house in a region it might have been a maximum of four children or some per house or - four or five. So not large numbers. But again it's very difficult to quarantine it just for that child that had that level of - coming back to that level of complexity. It was based on children needing, you know, something a bit more intensive, a more significant staffing model, and it was funded at a higher level based on the qualifications of staff that would be employed to support those children and young people and provide those interventions.

1 So I think some experiences of regions and, again, you
2 know, I can't speak on behalf of regions, but my
3 understanding was that some of those places were then
4 occupied by children that probably didn't require that
5 level of support or intervention because it was the
6 available place at a time that it was needed. And then if
7 those children did come into care or required that place it
8 would have to be purchased elsewhere or topped up. So
9 there was sometimes a mismatch of referrals to those
10 services because we couldn't just hold vacancies waiting
11 for those children to be the ones to be referred. And I
12 think --

13
14 Q. But you must accept that there are lots of kids
15 entering residential care that require therapeutic types of
16 supports?

17 A. So, yes, yes. And so I think --

18
19 Q. So isn't --

20 A. I think that was the other part of it, was that there
21 was a growing recognition that all residential care - in
22 fact all care arrangements should be therapeutic in nature
23 and trauma-informed; and so around the same time the
24 development of the Hope and Healing framework, probably
25 even a bit earlier to that, commenced to have that baseline
26 of service response that provided a therapeutic response
27 regardless of the nature of the residential care or the
28 care placement. That's extended into family-based care as
29 well now in terms of those training modules.

30
31 So I think it was a combination of recognising, yes, that
32 there would be more children than those ones - than those
33 number of places that required that sort of response as
34 well as just then, yeah, the referral process. And I think
35 at times there were - because they were large properties,
36 sibling groups would be referred there. So I think in
37 recognition of - it was a bit of a combination, I think.
38 Some regions' providers relinquished those services because
39 they were not able to provide them in accordance with the
40 contract, and in some as they came to a close they were not
41 renewed by the department.

42
43 COMMISSIONER: Ms Wilson, in answering that question one
44 of the things you mentioned in relation to these more
45 specialised services was that you couldn't just leave a
46 vacancy where there was a demand, you know, for a
47 placement. My question is directed more broadly than

1 simply those specialist or more therapeutically focused
2 placement arrangements and is directed to the question of
3 vacancy levels.
4

5 If have you a model - and here I'm talking about the OSD
6 context - which requires forward planning, longer term
7 contractual commitments with the provider, don't you need
8 to work out a reasonable level of vacancies that need to be
9 carried to put the department, as the acquirer, in a
10 position to reasonably meet demand without being forced at
11 a practical level into accepting the spot market, which is
12 IPS funded placements?
13

14 If that reasoning is broadly correct, does the department
15 in its planning for OSD arrangements have forecasts and
16 make allowances for a reasonable level of vacancy that
17 needs to be carried in order to avoid being ultimately
18 hostage to just-in-time spot market like activity which
19 seems to be what's occurring in relation to meeting demand
20 presently via the IPS funding arrangements?
21

22 I know that was a long question, but I hope it explained
23 what I'm really driving at. Do you accept a need in the
24 planning for OSD arrangements to accept a degree of vacancy
25 or project a particular occupancy level that is desirable?
26 A. Ideally and practically I don't think - I can't recall
27 where we've actually, you know, definitively determined
28 that ahead of time in our planning. I think we recognise
29 that in practice that is the case, that there will be times
30 where there are vacancies because of particular - you know,
31 again the placement matching or where a provider may be
32 not - yeah, basically we might allow some of that if
33 there's other things going on for a child, or we might hold
34 a vacancy, or where there hasn't been - you know, we might
35 hold - we might not completely fill particularly in resi
36 care because of just the arrangements or the children that
37 are there currently and, to put another child in there,
38 then there's not a placement match, there may be some
39 challenges. So I think in practice we accept that that may
40 be the case. But in terms of planning for an oversupply --
41

42 COMMISSIONER: I'm not suggesting you should plan for an
43 oversupply. But isn't the reality that, because the
44 government is seeking to meet a demand that it knows is
45 being forecast to rise --

46 A. Yeah.
47

1 COMMISSIONER: -- but won't know with precision what that
2 demand is in particular area, if that demand is to be met
3 by more stable OSD-like contractual arrangements with third
4 party providers, meeting demand in that way, providing for
5 the needs of children in that way, doesn't that necessarily
6 entail carrying some degree of vacancy?

7 A. Yes, yes.

8

9 COMMISSIONER: Because, without some margin for unexpected
10 demand, you're back in the position where you're acquiring
11 these very short-term arrangements, and they come at a
12 cost?

13 A. Yes.

14

15 COMMISSIONER: Allowing for a degree of vacancy or
16 determining, if you like, to put it the other way, an
17 optimal occupancy rate, isn't that part of the necessary
18 planning and forecasting that you need to do - or occupancy
19 rates, the other side, vacancy rates are two sides of a
20 coin that are relevant in terms of forecasting what one
21 might need in the way of more stable OSD funded placements,
22 isn't it?

23 A. Yep. Yes. And I guess even with that I think there
24 will still be a continued need for IPS to still pick up --

25

26 COMMISSIONER: That I can understand.

27 A. -- to a degree. I think - I hope and I think the
28 intent is that with the transitions occurring now that we
29 will be closer to achieving that which you're describing
30 which is enough in OSD to also have some of that buffer.

31

32 COMMISSIONER: And that will come at a cost also, won't
33 it --

34 A. Yes.

35

36 COMMISSIONER: -- because if you're budgeting for an
37 occupancy level that is less than 100 --

38 A. Yes.

39

40 COMMISSIONER: -- you are carrying that --

41 A. Yes.

42

43 COMMISSIONER: -- those unoccupied places --

44 A. Sure.

45

46 COMMISSIONER: -- as a contingency, aren't you?

47 A. Yes. Yes.

1
2 COMMISSIONER: And that will cost something.
3 A. Yes.
4
5 COMMISSIONER: So when one is comparing the cost of OSD to
6 IPS, if you were to make a genuine like-for-like
7 comparison, you would have to amortise in some appropriate
8 mathematical way which is beyond my ability the carrying of
9 a rational vacancy level --
10 A. Yeah.
11
12 COMMISSIONER: -- as an imputed cost to the OSD contract
13 overall.
14 A. And that's exactly - yes, as you were saying, that's
15 where my mind went to as well. What that would look like
16 practically in terms of contracting for that as well,
17 I think, is challenging because you would have to have it
18 across really all - you know, how you would - yeah, how you
19 would calculate what that would look like because it would
20 be - would all providers have that?
21
22 COMMISSIONER: I think that would be a matter for the
23 decision-making acquirer to determine in relation to how
24 many --
25 A. Yes.
26
27 COMMISSIONER: -- places to buy --
28 A. Yes.
29
30 COMMISSIONER: -- effectively buy --
31 A. Yes.
32
33 COMMISSIONER: -- what amount or percentage of vacancy
34 should properly be carried and, once you've decided that,
35 how do you distribute the cost of that --
36 A. Yes, yes, yep.
37
38 COMMISSIONER: -- when comparing it to the alternative,
39 which is a sort of spot market approach to acquiring
40 short-term IPS funded arrangements.
41 A. Yes.
42
43 COMMISSIONER: Now, you're not aware of any modelling or
44 assessment that's done by the department in relation to
45 what's a desirable sort of vacancy rate or, conversely,
46 occupancy rate?
47 A. Not that I can recall. No.

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COMMISSIONER: All right.

MR DIAZ: I note the time, Commissioner. I probably have five minutes on this topic. I'm content to carry on or --

COMMISSIONER: Well, I think that there might be others who wish to ask questions. So --

MR DIAZ: I should say five minutes on this topic, not five minutes with the witness overall. I apologise that's so, Ms Wilson.

COMMISSIONER: Then I'm fortified in my initial reaction that we'll adjourn until 10 tomorrow if that's convenient.

MR DIAZ: All right.

COMMISSIONER: I'm sorry, Ms Wilson, to ask you to come back tomorrow, but we'll try and limit it as quickly as possible.

A. That's okay. No problem. I understand.

COMMISSIONER: All right. Very well. Then we'll adjourn until 10 tomorrow.

THE HEARING WAS ADJOURNED AT 4.17PM UNTIL THURSDAY, 9 APRIL 2026

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