

Draft Transcript

NDIS Commission Adelaide meetings – Public webcast

Monday, 20 July 2020 at 9am ACST

About This Document

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Draft Transcript

MR ROBERTSON: Welcome to everyone, those in Adelaide who I hope can hear me and those accessing via the video stream. These hearings of this independent review have now begun.

I will give you first some background. This independent review was set up by the Commissioner of the NDIS Quality and Safeguards Commission and announced on 26 May this year. My independent review is non-statutory which has important procedural consequences which I will touch on.

Those who are going to be speaking to me, have spoken to me, have agreed to speak, have done so because they've agreed. There's no compulsory process involved.

Also relevant is the other investigations and reviews that are currently taking place, both in relation to the death of Ms Ann Marie Smith on 6 April this year and broader issues arising in relation to the NDIS Quality and Safeguards Commission. So there's, in particular, the investigation by the South Australian Police criminal investigation, broader issues are being looked at by a number of bodies which include the joint standing committee of the Commonwealth Parliament where submissions were closed at the end of this month, I think, and then hearings will be in August, or some hearings will be in August, and also, of course, there's the royal commission chaired by the Honourable Ronald Sackville into the issues of disability more generally.

When my independent review was announced, as I've referred to, the Commissioner, Mr Head, said he'd appointed me to conduct an independent review into the NDIS Commission's regulation of the provider of NDIS supports and services to Ms Ann Marie Smith who was an NDIS participant. He said that she'd died in appalling circumstances and it was imperative to get to the bottom of what happened. Her death raises questions about her particular vulnerability, in particular 1 July 2018 when the NDIS Commission commenced regulation of NDIS supports and services in South Australia. He said it also raised wider questions around the approaches to safeguarding of people with disability and their rights as valued members and contributors to society.

He, the Commissioner, said that he will be publishing the report of my review, the report due on 31 August this year, subject to redactions necessary to avoid prejudice to any legal proceedings or that are otherwise necessary or appropriate as determined by me.

So an important part of my terms of reference, which I won't read out, is that I'm to conduct the review in a manner that avoids prejudice to any pending or current criminal or civil proceedings. So for that reason, some, not all, but some of the matters that will be spoken about today will have to be done in non-public session.

Draft Transcript

I've mentioned not prejudicing civil or criminal proceedings and it's in those circumstances that neither Integrity care SA limited, Ms Smith's service provider, nor her carer, Ms Maione, have agreed to assist my review.

Also relevant to the restrictions on what can happen in public and what can't, is the concept of protected Commission information which, broadly speaking, is information about a person held by the commission. But within these restrictions I take the view that a beneficial by-product of these interviews in Adelaide is educational, as I've come to the view that the different powers and functions of the Commonwealth entities, primarily the NDIS Quality and Safeguards Commission on the one hand, and the agency, the National Disabilities Insurance Agency, are not well understood and neither is the relationship between the Commonwealth scheme on the one hand and the continuing and important work done by State agencies, South Australian agencies, on the other hand.

I will outline in a moment the course of events over today and tomorrow but I should explain why these interviews are being done remotely. I had hoped, and I would have preferred, to travel to Adelaide today and tomorrow to speak to people face to face. That was in prospect until the other day when the date for interstate travel, because of the coronavirus pandemic, the date for interstate travel was pushed back in light of the state of the pandemic and events in Victoria and then in NSW, and the next best thing is the technology we're using today, and I'm grateful to the staff of the Commission and the operators of these studios for working to permit that to happen.

So turning then to the program for today and tomorrow. It involves, as I've suggested, both public material and material which the person being interviewed has told me they desire shouldn't occur in public for one or both of the reasons I've outlined, that is prejudice to legal proceedings and/or personal information held by the Commission.

So first, after I've finished speaking in a moment, will be Ms Samantha Taylor, the NDIS Quality and Safeguards Commission registrar, and she will be in the studio here in Sydney. Then the approximately 10:00am Adelaide time, will be Professor Grant Davies. He will be in the studio in Adelaide. He is the South Australian Health and Community Services Complaints Commissioner, a post to which he was appointed in late February 2018. He, as I've explained, is an official of the South Australian Government, which the State agencies have a continuing role continuing to look after, for example, worker screening, providing supports to people with a disability who are not NDIS participants, and one of the things I hope he will address is the flow of information between the Commonwealth agencies on the one hand, the State agencies on the other, and how a concerned relative or member of the public can access the system, which I think it's generally agreed is a complex system. So I'm not sure how much he can say in public, that will be a matter for him.

Draft Transcript

Then after he's spoken, there will be three people from Baptcare, which is a local area coordinator, or LAC, engaged by the National Disability Insurance Agency to work with participants in certain areas of Adelaide and Ms Viney will be speaking from Tasmania and then other officials of Baptcare will be speaking but that will be in relation to personal information about the late Ann Marie Smith so that will have to be in closed session.

I had been hoping to speak this afternoon to people from a disability advocacy service in South Australia, but events have made that impossible. So today's interviews and sessions will probably finish around lunchtime Adelaide time.

Then tomorrow, beginning at 9:00am Adelaide time, first will be Dr David Caudrey. That will be in public session. As I understand it, from January last year, 2018, Dr Caudrey has been South Australia's State disability advocate, part of the Office of the Public Advocate. He's also cochair of the State Safeguarding Task Force, another body looking into events related to Ms Smith's death and that body is to report by 31 July 2020 to the State Government, the Minister and the Premier, and so he's a busy man and I'm grateful to him for making an hour of his time available.

Then after Dr Caudrey, will be Ms Lois Boswell. She's the acting chief executive of the Department of Human Services, another agency of the Government of South Australia. I think all that she wishes to say will be in private session. And then after the lunch break tomorrow there will be Professor Richard Bruggemann who has worked in the disability sector for many years and was, for example, the chief executive officer of the Intellectual Disability Services Council from 1984 until 2006 and I understand that he will be speaking in public session and that will probably finish around 3:30pm tomorrow. All of these times are, of course, approximate.

As I've indicated, I now invite Ms Samantha Taylor to speak, first to identify her position within the NDIS Quality and Safeguards Commission and then to address certain topics about the regulatory framework, the principles of the NDIS versus the scheme that it replaced when the transition took place for South Australia in middle of 2018, and I hope, as well, she will be able to touch on the complaints handling and reportable incidents, both of which are statutory functions of the Commission, under the Commission's legislation.

So, Ms Taylor, would you first tell me what your role is as registrar of the NDIS Commission?

SAMANTHA TAYLOR: Thank you, Mr Robertson. Good morning, everyone, I would like to acknowledge, firstly, that we're meeting on Aboriginal land, although in different locations and pay my respects to elders, past, present, and those emerging in those places that we're meeting.

Draft Transcript

My role is as the registrar of the NDIS Quality and Safeguards Commission. In that capacity, my job is to register providers that are required to be registered under the National Disability Insurance Act of 2013 and to monitor compliance with conditions of registration. My job is to, as delegate of the Commissioner, to satisfy myself that the providers that are operating in the NDIS are suitable to do so.

I also oversee the operations of the Commission's State and Territory offices and manage the oversighting of NDIS market, as it pertains to quality and safety. That includes strategy around compliance, policy, and regulatory intelligence, mainly from other national regulators with local regulators engaging mainly with our local office.

I thought I might, this morning, run through, for everybody, the functions of the Commission, and as Mr Robertson as said, the differences between what the NDIS provides people with disability and how that differs from previous State and Territory systems as well as taking you through the functions of the Commission and how our local to national arrangements operate.

So the Commission exists to support the Commissioner as the statutory officeholder. The function of the Commission is to uphold the rights of people with disability and to promote the health, wellbeing and safety of people with disability, those that are participating in the NDIS. And our job is to do that by delivering a nationally consistent approach to quality and safety and really that involves holding to account the provider that is are delivering supports to people with disability within the NDIS and the people who work for those providers or who are the workers employed directly or otherwise engaged by those providers to deliver those important supports.

We commenced in South Australia on 1 July 2018, so we're just over two years old in South Australia and we will achieve national coverage when we commence in Western Australia on 1 December of this year.

The Commission follows State and Territory transitional quality and safeguarding arrangements that were in place during the period that each State and Territory was transitioning people and service systems into the new national disability arrangements under the National Disability Insurance Scheme.

We regulate all providers. So whilst my role is to register certain providers where they are required to be registered, not all providers and workers operating in the NDIS are required to be registered. It's an important element of the NDIS which is about choice, control, and building of capacity of people with disability to live independent lives and to enhance their social, economic, and community contribution. That means that some people in the NDIS can

Draft Transcript

manage their own arrangements and can choose to do so through a couple of mechanisms. They can directly manage all of their affairs in the NDIS, all of their funding arrangements and make all of their decisions independently about who provides their support, what those supports are. They can even employ their own workers.

There are other people in the NDIS who choose to have their arrangements managed by the National Disability Insurance Agency and it's those people who must choose providers who are registered by the Commission. Other providers who must be registered are those who might be delivering supports to people where there is the use of a restrictive practice involved in their support as well as providers of specialist disability accommodation.

We are a separate statutory body. It's, again, an important distinction. The Commission is not part of, nor do we regulate the National Disability Insurance Agency. We are entirely separate, although together with the National Disability Insurance Agency, we share the same principles and objects under the NDIS Act to uphold the rights of people with disability.

The Commissioner must perform his functions independently and he has certain obligations about how those functions are performed under the act and also a series of rules that also set out not only responsibilities for the Commission in managing some of the statutory functions such as complaints handling and reportable incidents, but also establish conditions on providers who are registered within the NDIS.

The NDIS is fundamentally different to what went on in States and Territories prior to its commencement. It places the resources for the acquiring of supports and services in the hands of people with disability. Previous systems placed those obligations in the hands of governments, made choices about programs, and the nature of supports that could be delivered to people, service providers were funded to deliver those supports in the way that they thought was appropriate within the constructs that had been determined by the programs that they were funded for, and people with disability accessed those supports based on what was defined and available to them. There was little choice in those systems and the NDIS is designed to bring an innovation into the specialist disability system that empowers people with disability to receive the supports that they want from the providers they want in the way that they want.

The way that the Commission performs its functions is very much attuned to those principles within the Act and people with disability are absolutely central to our activities and whilst many commentators in this space do talk about the Commission focussing on providers more so than participants, we are the regulator of the providers that provide supports to participants, so, indeed, we

Draft Transcript

do have a focus on those providers and our focus is on making sure they are doing what participants are wishing and, in fact, purchasing from them.

Provider obligations across the whole of the NDIS and worker obligations are set out in a new code of conduct that includes some very basic things that I think most people when they read the code are surprised that there's a requirement to set out such things such as upholding people's rights, the rights to privacy, their rights to freedom from abuse, neglect, exploitation, and violence. A range of things that, for any person living in the community of Australia, would not be required to be spelt out.

MR ROBERTSON: Can I interrupt you a moment, Ms Taylor? This code of conduct, can you just explain who that applies to? Does that apply to both service providers and to those engaged by the service providers? Who does it apply to?

SAMANTHA TAYLOR: Yes, it does. It applies to both providers of supports and the workers that they employ or people they otherwise engage. So to anyone who is involved in the delivery of an NDIS support or service to an NDIS participant, the code applies to how they undertake their work.

MR ROBERTSON: Do you think that's well understood by either, on the one hand, the service providers, perhaps better understood by them, do you think the people engaged by the service provider, people you've referred to as the workers or - that would include the carers, do you think they well understand the code of conduct and its requirements?

SAMANTHA TAYLOR: With South Australia and NSW two years in, I would certainly expect that to be the case. The Commission launched an orientation module to the code of conduct in the middle of 2019 and we've had over 250,000 people across Australia complete that module. It takes 90 minutes and it takes people through - it's targeted to workers principally, but it takes people through every single element of the code and demonstrates and in fact tests people, on their understanding of the code. So that's a significant number of individuals and reflects to us a significant uptake and therefore understanding of the code. It's a requirement of providers as part of the practice standards to make sure that their workers do use the mandatory orientation module and encourage and promote that within their workplaces.

MR ROBERTSON: Perhaps you will come back later to describe briefly what happens if you, as the Commission, finds out has been a breach or a potential breach of the code of conduct, what powers the Commission has in those circumstances. But do it in the order that you had in mind.

SAMANTHA TAYLOR: Certainly.

Draft Transcript

The Commission's a different type of regulator to many that have existed in the social services space in Australia. We register providers but we also have a complaints function, a very significant complaints function. So we can take complaints from anybody about NDIS supports or services. We can take complaints from participates themselves, which we really encourage. It's an important part of building people's confidence and understanding of their rights to be able to complain. We can take complaints from any member of the community who might be concerned about a person who might be participating in the NDIS, and if someone makes a complaint to us that isn't within our role and function, we have a policy and practical processes for assisting those people to take their complaints to the right place. So, for example, if someone were complaining about a support or service that was not within the NDIS in South Australia, then we would be referring to the relevant body in South Australia which you will hear about later on this morning.

We use complaints as an important tool to understand how people are viewing the supports and services generally in the NDIS. We can connect complaints up about individual service providers with other information that might be available to us and we use complaints as well to determine whether or not providers have the requisite complaints management systems and approaches within their own organisations because, of course, the first principle is that a person with disability should be able to openly and reasonably make a complaint directly to the provider that is providing their supports and expect for that complaint to be taken seriously and working with the participant to resolve that complaint.

If that doesn't occur or the person is nervous about making a complaint to their provider, that is where we step in.

There's only one way that we think about regulating providers and getting information about providers is through the complaints function. The other obligations that are on providers are around meeting not only the code, but, of course, where they are registered we have a very thorough set of National Disability Insurance practice standards that we assess providers against using independent third party auditors the providers themselves engage but whom the Commissioner approves. So only auditors that have been approved through our scheme can be used by providers to undertake audits which are necessary for them to maintain their registration.

MR ROBERTSON: Can you just explain a little bit about how that works or how often that works? So when, I assume, a service provider, if it needs to be registered is first to be registered, then presumably there's an audit required and then how often would that happen after that? What's the-style? Is it a two-year cycle?

Draft Transcript

SAMANTHA TAYLOR: I might start by describing how it is that the Commission started to register providers in South Australia and explain the transition and then what's involved in undertaking a registration process.

So when we first commenced in South Australia on 1 July 2018, on 30 June 2018, the providers that were working in the NDIS were registered by the National Disability Insurance Agency. They may have been registered through previous arrangements under the South Australian Department's arrangement, or they might have been new to the NDIS.

On 1 July 2018 there was a transitional arrangement where those providers moved from the National Disability Insurance Agency to the commission. We did that because we wanted providers to have an opportunity to understand what would be required of them as registered providers and to take some time to prepare themselves for the process that I will outline that is required for registration.

So to be registered, whether a provider is renewing their registration, which would be the case for providers who had transitioned to the NDIS Commission, we would require them to reregister under the new arrangements. We require people to do a self-assessment against the practice standards that apply to the supports or services that they are seeking to deliver, or to register for. We then require them to, using a scope of audit that the Commission issues to them, acquire an auditor, as I said, an approved quality auditor, and to have that auditor undertake an assessment against the standards that they are - for the classes of support they're registering for.

The self-assessment, together with the auditor, and a significant amount of information that we require about the organisation itself and to their key personnel, is submitted as an application to the Commission and we assess that application. The audit report tells us whether or not a provider is in compliance with the standards that they are required to comply with in order to be registered and the information that we get from the provider around their key personnel and other information about their organisation allows us to do a separate suitability assessment to determine whether or not those key personnel and the organisation itself are fit to operate within the NDIS, and that includes determining whether or not there have been any previous adverse findings, for example, from other bodies, national bodies as well as local bodies, against those key personnel or the provider itself.

That process is the same for transitioning providers, as I said. We require every provider that came from the NDIA to us to undertake that process and we also require any provider who is new seeking to operate newly in the NDIS to undertake that process before they can provide NDIS supports where they are required to be registered to deliver those.

Draft Transcript

MR ROBERTSON: Can I ask you this: You've got a system of registration, so there's a question should this person be registered or should they not as a service provider, registered service provider, but you also, I think, have a power to impose conditions as part of this registration process or is it right that you can impose conditions as between registrations, if a matter comes to your attention?

SAMANTHA TAYLOR: Yes, that's correct. So when we've assessed an application for registration and determined whether or not the provider can be registered, we then apply in the issuing of a certificate of registration certain conditions on that registration. The standard conditions would be complying with the practice standards against which the provider had been assessed, and undertaking certain other things such as meeting conditions around the screening of workers, around the compliance with behaviour support obligations where supports are being delivered to people that involve the use of a restrictive practice, conditions to have complaints management system and an incident management system, and any other conditions that we might apply that, as you point out, might be - might be required in order to ensure a provider does certain things.

We can apply conditions at the point of registration, so into the certificate we include those standard conditions plus any others that we consider are warranted based on what might come through that assessment or other issues that we're aware about with that provider or we can apply a new condition of registration at any point during the registration period.

Registration periods are generally three years in duration and in the middle of that period for which registration is in force, providers are required to, where they are providers that attract a certification audit, which I will come to the distinction between the different types of assessments that are required in a moment, they are required to undertake a midterm audit that assesses particular standards that are established by the Commissioner. Those standards that we require to be covered in a midterm audit may relate to things that we've observed through our interactions with providers following their registration or, indeed, during the process of registration.

There are two types of assessments that the Commission requires and these are set out in the provider registration and practice standards rules. A certification audit is a full on-site audit that involves assessment of the core practice standards and any specialist modules that may be required depending on the specialist supports that may be - that a provider may be seeking register to provide.

It happens in two stages. There's a review of policies and practices through the first stage, any noncompliances, minor nonconformities that might be identified in that first stage are advised to the provider who then has the

Draft Transcript

opportunity to remediate those before an on-site stage 2 audit occurs. The stage 2 audit reflects on the matters that might have been identified in the stage 1, ensures that they have been resolved and that there are no further nonconformities. It also, importantly, involves contact and interviews with NDIS participants. That is a really critical component of our audit. We do not rely on the view of the provider alone and we certainly do not rely on the provision of information solely by the provider in undertaking that particular certification audit. The input of NDI's participants into that process and their experience of the supports delivered by the provider is critical and it's reflective of the nature in which the standards are cast.

The standards in the NDIS, the practice standards are exactly that they are about practice and they are about the experience of a person with disability in receiving those supports. So they are cast through the lens of the participant and the expectations of which each participant receiving supports from that provider will experience.

MR ROBERTSON: Is that a sampling process, as the term audit suggests, so that a sample of participants where the service provider being audited, they are spoken to, interviewed by the auditors. Is that how it works?

SAMANTHA TAYLOR: Yes, that is how it works. There is a minimum sample and, of course, we don't require participants to be involved but certainly we are advised by the auditors we have no shortage in participants wishing to put their views forward in those processes. So the minimum sampling size can be exceeded. There are various ways that auditors can get that feedback. They can do it in a one-to-one interview scenario, they can have group conversations with participants and those conversations are all independent of the provider.

MR ROBERTSON: And I think it's implicit in what you've said that a small service provider - well, can I ask you this: What's the range of size of service providers measured by reference to the number of participants? In other words, what's, in general terms, what's the minimum number of participants that a service provider might have? Would it be 5 or 10, going up to 50 or 60 or what's the range?

SAMANTHA TAYLOR: Any number. There are providers who might deliver a support to one NDIS participant because they might have a business that spans many other sectors, for example, or provides support to people with disability or older people outside the NDIS. Any number. This is a very varied marketplace and quite different to the arrangements that were in place in States and Territories previously where there would be tens, hundreds, in some cases thousands of participants that were supported by particular providers.

Draft Transcript

So we have anything in the NDIS through to sole traders through to very, very large not-for-profit organisations and anything in between that.

The other form of audit that we have is a verification audit. That attracts to lower risks supports and services in the NDIS. These are supports and service that is are more transactional in nature. For example, the provision of equipment, but also the provision of certain therapies, for example, where there is a pre-existing regulatory arrangement for other services. So, for example, there are in transportation, for example, transport, there is regulation, of course, around who can drive and what form of vehicle people can drive. In allied health, there is a very significant regulation around allied health professionals and other health professionals such as nursing supports. We rely on the existence of those other regulatory bodies in those lower risk services to assure ourselves that a provider or a person has the requisite qualifications to work within the NDIS. And in a verification assessment, we add, on top of that assurance around existing qualifications, which are regularly checked and verified by other regulators, that certain things within - that are important within the NDIS are also in place and that is incident management, complaints, risk management, the rights of people with disability.

I might go now to the difference between complaints and incidents which is quite a complex distinction.

MR ROBERTSON: So when you say incidents, you're talking there about reportable incidents under the legislation, are you?

SAMANTHA TAYLOR: Yes, I am. So I mentioned before that it is a condition of registration that providers have incident management systems in place. We know that events occur in disability supports that affect people with disability, and it's absolutely fundamental to this scheme that providers have good systems for identifying and having reports within their organisations about incidents that might occur so that they learn from those incidents and avoid them occurring again. And that links very, very strongly to their risk management arrangements.

There are certain incidents, though, that are required under the framework that governments agreed to for quality and safeguarding in the NDIS, that are reportable to the Commission and those incidents are serious incidents of abuse, neglect, harm, death of an NDIS participant. The rules set out precisely what those incidents involve.

They also include reports of the use of a restrictive practice on a person with disability where that practice of restriction is not authorised by a State or Territory arrangement or where there is not a behaviour support plan in place

Draft Transcript

to manage that particular - and guide the management of that particular restrictive practice.

Not all matters that are reported to us as reportable incidents require investigation by the Commission. The first port of call for the management of incidents is the provider and there is an expectation through those very clear conditions of registration that a provider will manage an incident and if, for example, that incident involves a criminal act or an allegation of a criminal act, that they will report that to the police as well as to the Commission and they will manage the consequences of an incident carefully and appropriately with the person with disability who is affected by that incident and the people around them, as well as avoiding any risk of harm to anybody else who might be at risk as a result of the issues that came to light through those incidents.

MR ROBERTSON: You mentioned, if I can just draw you out on this, you mentioned in passing just now, I think, allegations. So reportable incidents can include allegations of harm, abuse, etc?

SAMANTHA TAYLOR: They can. Yes, they can include allegations. They can also include situations where harm to a person has actually been avoided. So they are varied and the point of that function is for the Commission to assess and observe whether or not providers are managing very serious incidents in accordance with their obligations under the conditions of registration as well as where we think that has not occurred, or where the provider or a worker, perhaps, involved in the incident is at fault and therefore perhaps in breach of the code of conduct that we can take action against the provider for not managing the incident in accordance with their obligations or for a worker in not keeping someone safe or, indeed, contributing to harm of that person if that is what has occurred.

You asked me before what we could do if we identify a breach of the code including if someone failed to keep a participant safe from harm and it was reasonable to expect that that - that they could have done so. We have a range of powers, both under the NDIS Act and also as a regulator, a Commonwealth regulator under the regulatory powers act to take a range of actions. We talked about establishing conditions of registration to require a provider to do certain things, also we can impose a compliance notice on a provider, we can investigate and we can even ban people, providers, workers, from operating in the NDIS if we think that they have breached their obligations under the code or conditions of registration.

MR ROBERTSON: Is there a process involved in that? Does the Act require there to be a notice to be given and then, what, an opportunity to be heard and then decision making after that? Is that how it works?

Draft Transcript

SAMANTHA TAYLOR: Yes, the Act does require us to take a number of quite intricate steps in our compliance and enforcement action. So at every point we, in imposing conditions, we can impose conditions on registration without a process of response from a provider, but in taking steps, to remove a provider from the marketplace either by revoking their registration or by banning them or by removing an NDIS worker from the system by banning them, we are required to set out very carefully what the reasons are for forming a view that that should occur and giving the provider or the person an opportunity to respond, to give that response due consideration and to then form a decision based on all the information available to us.

MR ROBERTSON: Can I ask you, there's a bill, I think, before the Commonwealth Parliament to strengthen the Commission's powers, at least in relation to, I think, workers. Could you summarise that in a sentence or two, what was the gap that that's proposed to address?

SAMANTHA TAYLOR: Certainly. So the NDIS was amended to establish the Commission. So the Commissioner doesn't establish his own powers, the Parliament does that. When we commenced it became clear that there was a gap in the legislation and that gap was that we could not take action against a worker particularly, who was no longer employed or otherwise engaged with an NDIS provider.

So it is often in this system that where a worker has been found to be at fault by their employer, that their employer terminates their employment and in terminating their employment, that means the Commission cannot take further action against that particular worker. Equally, where an organisation, for example, ceases to operate, we can't. And so the Government has decided to strengthen the powers of available to the Commissioner to enable him to take action against a worker and any providers that might have - might be no longer employed or engaged or, in fact, may have exited the NDIS in another way.

MR ROBERTSON: Could I just pause there. Screening of workers, police checks and so on, is that still a State agency function or does the Commission have any role in relation to the screening of workers so that certain people just can't be in the industry at all?

SAMANTHA TAYLOR: No, the Commission does not have a role in screening of workers. The role that we have at present is to require providers who are registered to screen workers through State and Territory screening mechanisms. So many States and Territories, indeed in South Australia there is an existing worker screening arrangement.

We are working - the Commission's job is to support States and Territories together in moving towards a nationally consistent approach to screening of

Draft Transcript

workers within the NDIS, and that's important because the criteria for screening and determining who can work within the NDIS must be consistent in a national scheme because people do move about across jurisdictional borders and it's important that we have a consistent way of determining the thresholds for what constitutes a worker who would be able to safely support a person with disability.

Most States and Territories have introduced new legislation to commence those new national screening arrangements that will now commence from 1 February 2021. The role of the Commission will be to hold a database that contains the clearance information and very high-level information about every worker that has been screened in the NDIS. That's a service effectively to help NDIS providers comply with their obligation, their screening obligations. Providers will be able to use that database to associate themselves with workers and to identify whether or not those workers have been screened, or to verify that screening as well as having the worker themselves provide their screening clearance to their provider. So we are very much looking forward to those arrangements that are a nationally consistent approach to screening and in South Australia there will be some adjustments to the arrangements to meet those nationally consistent approaches without diminishing the requirements that are in place now.

In the lead up to those national arrangements, though, each State and Territory has specified to the Commissioner the transitional arrangements, or the interim worker screening arrangements that they wish the Commissioner to impose upon NDIS providers until the date that the new national arrangements come into place and certainly there are arrangements that have been set up by the South Australian Government about how screening should occur to comply with the laws in South Australia.

MR ROBERTSON: So the database that the Commission will have, we're talking now February 2021, the service providers will be able to have access to that. Will the various State agencies have access to it as well? Is that how it will work?

SAMANTHA TAYLOR: Yes, so it will take data from State and Territory clearance agencies. They will feed the data in realtime into that database. It is a realtime monitoring of clearance records within the NDIS. They will have screening units across the country. They'll have relationships with each other to share information as well as sharing information arrangements between each worker screening unit and the NDIS Commission. We are working and have in place many information sharing arrangements already in the States and Territories and are working with South Australia on those arrangements from 1 February and also formalising arrangements for information sharing to meet the conditions that have been established through revisions to rules that occurred on 1 July 2020 around worker screening.

Draft Transcript

MR ROBERTSON: Thank you.

SAMANTHA TAYLOR: I might just go back to reportable incidents before I move onto our role with other regulators and what our footprint in South Australia looks before I close, if that's alright.

So we receive reports of incidents that providers are required to notify us of, and what they're required to notify us of is not only the incident, but what they're doing about the incident. So what they're doing, they must report to us within 24 hours of an incident that is reportable but which is not a restrictive practice and that's an immediate notification that says this event has happened and we are doing these things to respond to that incident.

They are then required, within five days, to follow up with a more fulsome report to the Commission about what they have done to manage the incident, to support the person with disability, others around them, and to resolve the issues that led to that incident so it doesn't occur again.

If we require further information, the Commission constantly goes back to providers seeking further information, if that is necessary for us to assure ourselves that that incident is being managed and that risk of harm to any other participant is being avoided. We can require if a more detailed investigation is warranted, we can require a provider to undertake a more detailed investigation. We can require a provider to then report to us on that more detailed investigation and, as I said earlier, we can also undertake our own investigations where we believe that the provider has failed in their obligations or a worker has failed in their obligations under the code.

MR ROBERTSON: Does that involve sometimes the Commission dealing directly with the participants, say, if it's a complaint of that nature or how is that done?

SAMANTHA TAYLOR: Sometimes we will engage with the participant if we think that it's important to engage with the participant because we think that they will bring a perspective to our investigations. Certainly, I'll be honest and say we're not obviously in incidents where there has often been a very traumatic experience for a participant. We would not - our first port of call would not necessarily be to that participant, although we would want to assure ourselves that there were people who were significant in the life of that participant involved with their direct support. Often people don't want the regulator there when something bad has happened to them but certainly where people are wishing to speak to us we will absolutely make ourselves available or reach out.

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So I did mention that there were incidents that are reportable to us that relate to restrictive practices. They represent around 95% of the reports that we receive through our reportable incident function. So it is absolutely true, the commentary that's been in the community recently about the volume of reports we get, absolutely that is correct. But mostly, those reportable incidents related to restrictive practices do not require our investigation. They are reports of matters that involve matters that could include the administration of prescribed medication to an NDIS participant which has the effect of moderating a behaviour of concern. They might involve environmental or restraints for a person such as locking a kitchen cupboard to prevent a person from accessing food they should not consume. There are many, many forms of restrictive practices. Our job is to work with States and Territories who are responsible for overseeing and regulating restrictive practices through an authorisation process that is State and Territory based, to work with them to reduce and ultimately eliminate the use of restrictive practices on people with disability.

The reportable incidents that come to us about restricted practices enable us to have a sense of the scale of the use of restrictive practices, to use that information to provide to State and Territory authorities, to encourage providers to meet their obligations and comply with those obligations, to have behaviour support plans in place with people with disability where those restrictive practices are in place, and to move to reduce their use over time.

So the majority of the incidents that do come through do not require that investigation, and that means that our staff, locally, can focus on investigating and assessing matters which are not regulated through other means such as authorisations mechanisms in States and Territories.

I might quickly just move to close and talk about, briefly, the information sharing arrangements we have with other regulators. The relationship we have with other bodies and States and Territories nationally is critical and it's particularly critical to an organisation such as ours which is two years old and working to understand the arrangements that have been in place and where risks lie in each jurisdiction.

We share information with regulators and we receive, importantly, information from other regulators. We do that - we receive information from other regulators, for example, in undertaking the suitability assessments that I referred to around key personnel and providers to identify where there may have, in the past, been adverse findings made by other regulators and we, as we make our own - take our own actions against providers, we have processes in place to share those things, those decisions but we also publish in realtime every decision that we take in the public domain through our provider register.

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Those relationships and the insights that local regulators have, particularly given the provider that is in the NDIS often play a role in other sectors in States and Territories, particularly where there are markets which are not particularly diverse, there may be gaps in markets, but, you know, my point is that often providers will operate in other systems, child protection systems, housing systems, aged care systems, for example, it's important that we have those relationships locally to share information or when we're jointly looking at areas of concern to discuss and work together on those areas of concern.

We also have been nurturing relationships with advocates in all States and Territories as well as national advocates who are absolutely critical input to say our functions. The Commissioner has a great regard for the intelligence and information that comes to us from advocates and also from community visitors programs where they exist in each State and Territory or not. We consider them highly informed complainants and where complaints are brought to us by community visitors or advocates, we are confident that just about everything that could be done to resolve a matter with a provider has been done and so we have a view about the complexity of the issues that then come through those channels as evident.

I might close by talking about just very, very briefly the way in which we're structured.

So we are a national organisation. We have a national office and there are some functions of the Commission that are performed nationally. Registration, for example, is a national function because we register - once we register a provider they can operate in any jurisdiction in Australia where we have coverage. Compliance action that we take about providers is published and, again, our national compliance strategy is held in the national office, however, we do have compliance officers and investigators in each of the States and Territories that we operate in and will have in Western Australia from 1 December.

The operations that occur in each State and Territory are our ear to the ground about what is happening in those localities and the staff in those jurisdictions are able to interpret and work within the many and varied residual regulatory or service delivery activities that occur around disability supports within each State and Territory, connect up with some of those ongoing functions of States and Territories such as worker screening and behaviour support, restrictive practice authorisation and work with other bodies who take complaints to share intelligence.

We have around 24 staff across our complaints reportable incidents, compliance and investigations functions in South Australia and with the recent events in South Australia and the level of activity that has come as a result of those events in South Australia, Ms Smith's death, of course, being a critical

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one that has caused great distress to very many people quite rightly in the State, we're expanding - we have expanded slightly the staffing in South Australia to be able to accommodate the increased volumes in complaints and enquiries that we've been receiving.

MR ROBERTSON: Can I ask you one last question? In one or two of the things that you've said, I gather that the Commission regards itself as having an educational role in explaining what I think is probably not as understood - as well understood as it might be, the fundamental shift between the previous systems and the present system, but more generally, is it part of the Commission's function to educate service providers, maybe participants as well, workers in the industry?

SAMANTHA TAYLOR: Yes, that is a very significant part of our role. This is new and it is extremely different and it's different not nationally but in every single place there's something - there's a nuance which needs a bit of translation, if you like.

So we have a very significant job around educating participants about our existence and particularly the focus on participants is helping them understand and to engage in what the expectations of quality and safety are, that they should enjoy in the NDIS.

We have a significant role, of course, in uplifting the understanding of NDIS providers and workers in what those expectations are about their performance, how they will keep people safe, what quality looks like and how they will continuously improve and respond to the needs of people with disability and take into account always the views and expectations of people with disability and how they provide those supports. This is not defined any longer by providers, it is defined by people with disability and their desires and aspirations and it's important that the understanding is there to uphold people's rights in exercising those choices and providers always assume the capacity of the person to make those choices, respect their rights to make those choices and support them in making those choices.

So our job is very much educative but when things don't go right, which they frequently don't, we have extensive powers to act and we have used those powers.

We have a way to go to get Australia across the issues - the differences with the National Disability Insurance Agency both from a general design and rights perspective but also from a quality and safety perspective. We take that job of education extremely seriously.

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MR ROBERTSON: Thank you. Thank you for your time this morning and agreeing to participate in this hearing and we'll now go onto the next interview.

SAMANTHA TAYLOR: Thank you for the opportunity. Thank you, everyone.

MR ROBERTSON: Now I can see on the screen in front of me, I think, Professor Grant Davies. Can you hear me?

PROF GRANT DAVIES: Yes, Mr Robertson, I can. Thank you.

MR ROBERTSON: Can you and see me as well?

PROF GRANT DAVIES: Yes.

MR ROBERTSON: I've got with me Mr Tom Liu who is assisting me. I can't see if there are people in person with you?

PROF GRANT DAVIES: I have my senior media and communications adviser with me.

MR ROBERTSON: I'm not sure how many people have taken up the opportunity to participate in the live video stream but one of the things we'll need to address early on is this issue of how much, if at all, of the matters that you want to touch on you're happy to deal with in public. Maybe the position is that you'd rather go into non-public session for the entirety of what you want to say?

PROF GRANT DAVIES: Look, I think given the topics that you want to discuss, Mr Robertson, I think we could be safe enough to have the hearing in a public forum. But if we touch on areas that I think might impinge on an individual's privacy or we go into areas that impinge on the inquiries or investigations that are occurring might demure.

MR ROBERTSON: Of course. Let's proceed on that basis and just let me know at any stage if there's a topic that you don't want to go into at all or a topic that you might think that you can add something useful, but which you couldn't say in open session, and then I think there's a pretty straightforward technology here where the live streaming can be interrupted and we can go into closed session.

So first of all, thank you very much for agreeing to participate. We have spoken on the phone before but I think it's very useful to not only see you face to face virtually, but also to allow a wider audience to understand a little bit more of the history and also a matter that I find troubling, really, which is the quite subtle relationships between the State agencies and the newer

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Commonwealth agencies. When I say troubling, I mean from the perspective of a participant, a concerned citizen, etc. So I think anything that can be done to make it clearer, for example, if somebody thinks something may be going wrong where do they turn? How do they do it? That sort of thing.

So I wonder, Professor, whether the first thing is to identify what your present role is in the South Australian Health and Community Services Complaints Commission and then maybe if it's convenient to you, maybe start with the topic I've just mentioned, which is where concerned relatives, citizens, can go in terms of government agencies.

PROF GRANT DAVIES: Certainly. Thanks, Mr Robertson. I'm in the Health and Community Services Complaints Commission. It's been in existence legislative since 2004. There have been two previous commissioners before me. We receive complaints about health and community services and we have the capacity to conciliate those concerns or investigate those concerns and make recommendations.

Since 2015, we have had a code of conduct for unregistered healthcare workers and in that area, we can investigate and, indeed, prohibit people from doing part of their work or the entirety of their work. So that relates to people who aren't registered with the Australian Health Practitioner Regulation Agency.

We receive approximately 2,500 contacts per year. That's tending to go up. We've had a 15% increase in our contacts over the last six months and about three quarters of those end up being complaints.

Since the transition to the NDIS system, our disability services complaints have decreased. We've received approximately 40 contacts this year, almost half of those, or around half of those were referred to the NDIS Quality and Safeguards Commission.

MR ROBERTSON: So if you receive a complaint in relation to by, or in relation to a person with a disability, one of the things you do, or perhaps the first thing you do is to find out whether that person is a participant in the NDIS scheme, is that right?

PROF GRANT DAVIES: That's correct. We have a very strong consultation process with the NDIS Quality and Safeguards Commission. Sometimes that requires a little bit of talking through. Clearly there aren't any sort of firm lines. We need to determine whether the person complaining or being complained on behalf of, is an NDIS participant and is receiving a service from an NDIS service provider. If that's the case, then the Quality and Safeguards Commission would have jurisdiction and we would refer the matter to them.

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If it relates to a participant who is not an NDIS-approved participant and they're receiving services from a non-NDIS service provider, then that falls within our jurisdiction. If the matter relates to a person who has been approved for NDIS services but is receiving services from someone who isn't an NDIS service provider, then we would have jurisdiction in that regard as well.

MR ROBERTSON: I see. Just in terms of people who you discover are outside your jurisdiction, you direct them to the, if they are NDIS participants, you direct them to the Commonwealth agencies, is that how that works?

PROF GRANT DAVIES: That's right. That's how it would work.

MR ROBERTSON: Alright.

PROF GRANT DAVIES: Or if we had received - we can receive complaints by the telephone, online, by email or by letter. We also receive walk ins. They're quite rare but we can. If we receive a matter electronically or in writing, we will discuss the matter with the NDIS and transfer the matter to the NDIS Quality and Safeguards Commission. We would notify the individual that we had done that.

MR ROBERTSON: So I think I've read and heard a philosophy or an approach, given the interrelations between the different parts of the scheme, as a no wrong door approach. Is that something that you applied?

PROF GRANT DAVIES: Absolutely. My view is that our officers ought to try to minimise the gaps between the regulatory pieces, if you like, and my philosophy has always been that if someone approaches us, and it's not within our jurisdiction, then we would either transfer that person to the relevant body or provide them with information about who best to approach in relation to that.

So my view is we ought to be able to not just say that it's not just us, but refer them on or refer them if it isn't us.

MR ROBERTSON: And does the same apply, in your experience, with issues, complaints, enquiries going the other way, that is that somebody goes to the NDIS Commission or maybe to the NDIA and it turns out to be not a participant matter?

PROF GRANT DAVIES: Yeah, that's our understanding. Yes.

MR ROBERTSON: And you've seen that occur as well, have you?

PROF GRANT DAVIES: I have.

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MR ROBERTSON: So in terms of South Australian agencies, then would sometimes you get, say, somebody goes first to the South Australian Police and then you've got a line of communication with them? Is that right?

PROF GRANT DAVIES: We do. They, again, they will often call the organisation that they know. So if the matter comes through from a South Australian Police Service, we will determine whether it falls within our jurisdiction and if it doesn't we would refer the matter on.

MR ROBERTSON: Yes, alright. Thank you for that. So hopefully the result is that a concerned relative, citizen, participant, even if though don't know where to go before they start, at least they're directed to the right place through the system that you've described.

PROF GRANT DAVIES: Absolutely.

MR ROBERTSON: One thing you've already touched on is the issues where either you, in the HCSCC or the State Government more generally has an ongoing role in relation to people with a disability. Are you able to talk about that a little bit more, describe who those people are or what those functions are that you have or the other State agencies continue to have?

PROF GRANT DAVIES: So our jurisdiction extends to in-kind support. So there are some individuals who are receiving services from the Department, who may be able to complain to my office in relation to the services that they've been receiving.

MR ROBERTSON: What does in-kind support mean?

PROF GRANT DAVIES: It's support that's probably best if you ask the Department in relation to that. But my understanding is it's support that has been pre-existing and falls outside the scope of the bilateral agreement between the State and the Commonwealth.

MR ROBERTSON: I see. Alright. I might ask someone else about that. Now, one of the things we've already touched on, unless you want to add to it, this no wrong door concept. I think you've probably covered that already, have you, in terms of what you've described?

PROF GRANT DAVIES: I think so, Mr Robertson, yes.

MR ROBERTSON: Another thing that's maybe partly covered by what you've said, but in terms of information sharing between your organisation, how is that done and how does it work? Can you describe that for me?

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PROF GRANT DAVIES: Certainly. So we have an agreement with the NDIS Quality and Safeguards Commission around sharing personal and health information and banning orders. So if the Commonwealth makes a decision in relation to a service provider around a banning order, they will provide that to my office. If they receive a complaint or an enquiry into relation to a service that doesn't fall within their jurisdiction, then they will provide that information to us. And the other way applies as well. So if we receive information in the form of a complaint by letter or online complaint, that doesn't fall within our jurisdiction, then we would refer all of that information to the NDIS Quality and Safeguards Commission.

It ought to be, and it is, there ought to be the capacity for us to share all relevant information so that those regulatory gaps are minimised.

MR ROBERTSON: I think you touched on banning orders, just so that I'm clear. Those are really orders preventing particular individuals from working in the disability sector. Is that what they are?

PROF GRANT DAVIES: That's correct. The reason it's important that those orders are shared is that the States and Territory health ministers have signed onto a national code of conduct for unregistered healthcare workers which is being rolled out across the country. It currently exists in Queensland, NSW, Victoria, and South Australia. And that gives health complaints commissioners the capacity to prohibit unregistered healthcare workers from practising if they've breached that code.

So it doesn't take a huge leap of imagination to think that someone who is banned in the disability sector could then pick up and start working in the health sector or the aged care sector. So I see that as being a very important piece of information that needs to be shared across jurisdictions.

The prohibition orders in the States and Territories who have the national code are reciprocally recognised. If someone is banned in South Australia, they're banned from doing the same activity in NSW, Victoria, and Queensland.

MR ROBERTSON: Is there presently, or is there about to be, I've heard February next year, a place where people who need to know the status of individual workers in this respect can go and see readily?

PROF GRANT DAVIES: Workers in which respect, Mr Robertson? I just want to be clear.

MR ROBERTSON: Say, for example, you need to know about whether a particular worker is subject to a prohibition order, where do you go at the moment?

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PROF GRANT DAVIES: In the health space or disability space?

MR ROBERTSON: Disability space primarily.

PROF GRANT DAVIES: I would require to do a search of the website, the NDIS Quality and Safeguards Commission website to find that out. However, the information sharing protocols that we have signed mean that we share that information. So there are not that many, as I understand it, providers who are banned in South Australia so it would not be unusual for us not to have - enliven that particular schedule at this point.

MR ROBERTSON: Yes. You spoke a few moments ago about unregistered workers. Does that mean that you're distinguishing these particular workers from people who are registered under the other schemes such as, say, nurses or -

PROF GRANT DAVIES: That's correct, Mr Robertson. The Australian Health Practitioner Regulation Agency registered 16 health professions ranging from doctors and nurses and midwives and physiotherapists, etc. For those people who work outside those areas of registration, like masseuse, counsellors or psycho therapists, the register for workers applies.

So it was designed to enable a system of accountability, if you like, for those practitioners who aren't registered under the AHPRA system.

MR ROBERTSON: So unregistered as a concept is not suggesting that there are people who should be registered but aren't, but are just people outside the scheme that you've just referred to.

PROF GRANT DAVIES: That's correct.

MR ROBERTSON: And that - I mean going to the disability sector now, there must be a large number, if not the preponderance of people who work, say, supplying those services as carers, most of those, I would imagine, would not be registered as such under the scheme that you've referred to so they would be unregistered workers, as you've just described?

PROF GRANT DAVIES: Yes. Although I'm not aware of the figures in relation to that.

MR ROBERTSON: No, no. But I mean, for example, if you took nurses, for example, I imagine some nurses who are, by definition, registered, would provide services to participants, disability - in the disability scheme, but people providing the many other services, they are in the category of - or they may well be in the category of unregistered providers, workers?

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PROF GRANT DAVIES: I guess the corollary might be the aged care sector. So there are a large number of unregistered healthcare workers in the aged care sector. My view is that officers like mine would have jurisdiction over personal care attendants or assistants in nursing in the aged care sector because they're providing a health service.

In the disability space, I'm not familiar with the number of registered versus unregistered but my understanding is the banning order provisions of the NDIS Quality and Safeguards Commission apply to them as well.

MR ROBERTSON: Is there a uniform scheme, so far as you're aware, for the aged care sector when it comes to workers or is that being worked out or what's happening?

PROF GRANT DAVIES: My view is that the code of conduct for unregistered healthcare workers applies in the aged care sector as well. So there is some discussion in relation to registration and accountability mechanisms in the aged care sector that consultation is ongoing at the moment. But my strong view is that there ought to be scope for us, like we do with the Australian health practitioner regulation agency, liaise with the Quality and Safeguard Commission, to determine whose jurisdiction it sits within.

MR ROBERTSON: Thank you. Well, I think, Professor, I've probably touched on all the things that I wanted to talk to you about. Just excuse me a moment.

Unless there's anything else that you think I should know for my purposes, I'll thank you very much for participating and let you go, in effect.

PROF GRANT DAVIES: Thanks, Mr Robertson. Thank you for the opportunity to participate.

MR ROBERTSON: Thank you. For those in charge of the technology, I think there's a gap now for half an hour before we have Ms Viney from Tasmania and the two Bapcare people who are going to be at the Intercontinental. So I think I will probably mute the system at this end and come back in half an hour. Thank you.

ADJOURNED 10:59AM

RESUMED 11:26AM

MR ROBERTSON: Can you hear me alright in Tasmania?

CATHERINE VINEY: Indeed I can.

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MR ROBERTSON: We'll wait a few minutes because the other people in Adelaide haven't arrived just yet but as long as you can hear me and I can hear you. I thought what we might do is maybe if you were to begin by talking about what local area coordination is and what it does and then we'll go into closed session when we get to matters particularly relating to Ms Smith.

CATHERINE VINEY: Certainly. And I can do that. I'm happy to accommodate.

MR ROBERTSON: That's great. Thanks very much. We might go off the air for a couple of minutes and then resume - and then the people here, once you indicate that we're going to sensitive areas, they can just suspend the video feed and we'll go into non-public session.

CATHERINE VINEY: Alright, certainly. Are you happy if I just sit here on mute until we're ready?

MR ROBERTSON: Yes, that's good. Thank you.

Alright, now, I can see two people in Adelaide. I hope you can see me. I can see, I think, Ms Kane and Ms Greet, is that right, in Adelaide?

REBEKAH GREET: Yes.

MR ROBERTSON: Hopefully now on the telephone is Ms Viney.

CATHERINE VINEY: Yes, I'm here.

MR ROBERTSON: I might just outline the procedure. Ms Viney's going to talk first and in public session for maybe, I think, five or ten minutes, and just describe what local area coordination is and what local area coordinators do. That will be in public session. I will then ask the people here to cancel the video stream, the live stream, and we will then go into non-public session. That may involve, if there's anybody else in the room in Adelaide at the Intercontinental, beside you, Ms Greet, and you, Ms Kane, it may involve us asking them to leave the room. Is there anybody else there at the moment?

REBEKAH GREET: No.

MR ROBERTSON: Alright, that probably won't be a problem. I did explain, when I began this morning, my terms of reference, why it was necessary to have this on video link as opposed to being able to visit Adelaide and talk to everybody face to face, and I also explained the sensitivities around both what I'm required to do under my terms of reference, which, amongst other things, is not to interfere with criminal or civil legal proceedings, and also I explained the nature of personal information and how that couldn't be published either,

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and how that would make necessary going into private session from time to time.

So general information can be heard in public and then when we get to talk about the specifics, personal information and so on, then we'll have to cut the live video feed.

So any questions so far those of you in Adelaide or Ms Viney?

REBEKAH GREET: No.

AMY KANE: No.

CATHERINE VINEY: No.

MR ROBERTSON: Ms Viney, could I go to you first then and ask if you would first identify your job, as it were, what you do, and then go into what local area coordination is and what LACs do in relation to the NDIS.

CATHERINE VINEY: Alright. So my name's Catherine Viney and I work for Bapcare as the disability services manager and what that means is that I lead and support our disability market segment in Bapcare across Tasmania, Victoria, and South Australia.

In Victoria, we have exited our service provision services last year but we do still have some small map of work in residential aged care, which I provide consulting, advisory information support for. And in Tasmania, we hold local area coordination and early childhood contracts with the NDIA and in South Australia, we hold local area coordination contracts with the NDIA.

MR ROBERTSON: Thank you.

CATHERINE VINEY: And then if I just maybe start with a bit of a history of local area coordination, because I think that that's a bit important to understand then in context of what it looks like in the NDIA.

MR ROBERTSON: Yes, thank you.

CATHERINE VINEY: So local area coordination comes out of the practice of radical welfare reform where systems and people within systems are trying to, or working towards moving the power and control of service systems to the people who need those systems. So irrespective of disability or disadvantage or need for support, the movement is about moving power and control back to the individual in order to transform their lives to live what the University of Melbourne calls a good and ordinary life, which means it's not about people having, you know, month-long overseas holidays and one of the examples that

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you would use in the early days of the NDIS, parachuting and hang gliding and scuba diving, actually just living what we would all consider in our own ways a good and ordinary life.

In that respect, local area coordination is an evidence-informed way of working and it's emerged out of practice responding to the scarcity of the funding environment in Australia. The movement towards person-centred and family-directed planning, which essentially has come out of movements in Canada. It's also a response to - or a pushing back on funders and governments and experts thinking that they should have control over the lives of people with disability, or if not thinking that, unconsciously behaving in that way.

It's also then about identifying skills, strengths, capabilities that individuals and families and communities have that they can bring to bear.

So the first practice of local area coordination that we have recorded is in Albany in WA, where a particular individual was able to achieve significant results by listening, enabling and facilitating the families of people with disability and supporting those individuals rather than an older way of working which was about assessing, directing, and controlling.

The success that was experienced there led to a sort of slow progressive roll out of that approach. In WA, in their disability services area, and gained currency because of successive reviews by the WA Government on that approach. What the reviews found was the capacity of individuals and families to cope with the challenges of living a good and ordinary life were improved, communities that those people lived in became more responsive to the needs of those individuals and families and became more inclusive. Then, I guess, in terms of some of the constraints of government, the requirement for funding supports became less because people were doing more themselves.

Trials of programs and ways of working were then replicated in Queensland, NSW and in Tasmania and Bapcare commenced our work in local area coordination when it was introduced in Tasmania. In the State Government in Tasmania's context, our experience of that work was that it was focused on enabling capacity building, it was person and family led, it increased the value of the funding available from government and so we do have some work that shows that the investment that government put in, the local area coordinators were able to leverage about three times the value of that investment just through working with individuals' families and communities to build capacity, which meant that government funding could be targeted and prioritised in a much better way.

Then local area coordination, as a way of working, has subsequently been adopted in the United Kingdom, in New Zealand, and now in Singapore, and much of that work has been led by a fellow named Eddie Bartnik who resides

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in WA and was a key player in the local area coordination context in WA, and a fellow named Ralph Broad who is leading much of that work in the UK and internationally.

Local area coordination has become a key way of delivering the NDIS and the NDIA, so NDIS being the scheme, NDIA being the agency, contracts what they call Partners in the Community to undertake local area coordination work. So Partners in the Community is the funding program and local area coordination is one of those elements of that funding program.

There's lots of information about Partners in the Community and the local area coordination approach from the NDIA website. Essentially what it says is local area coordination helps people to understand and access the NDIS, help people to gather information and create a plan, including understanding of current situation, supports involved of individuals and converging that into the language of the scheme.

MR ROBERTSON: So can I just ask you this, Ms Viney, so one of the things that the LAC can do is to help someone to put in an access request to the NDIA?

CATHERINE VINEY: Yes, certainly. So people don't need to come to a local area coordinator to assess or test their access, and to submit an access request. They can do that in a number of ways. But one of the ways they can do that is with the support of a local area coordinator.

Certainly, where people are already in receipt of State Government funding, the process is often supported through a local area coordinator. But where people may have - may be new to the funding environment, so a child, a baby, or someone newly diagnosed, or someone who hasn't accessed funding before, they can test their access independently of local area coordinators, so they don't have to use a local area coordinator.

MR ROBERTSON: So just assume then the access to the NDIS is approved, then what happens? Is that individual put in touch with a local area coordinator? What happens then?

CATHERINE VINEY: So in some circumstances they are. In most circumstances they are. So there is an assessment undertaken in terms of the person's likely support need and they are - in respect to that, people who have the NDIA classified as general and supported, they just need general bit of funding, they come to local area coordinators and referred to local area coordinators for the information gathering process and everyone who has access that is identified as being general and supported, that bracket of support type, will come to local area coordinators.

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For people who are classified as intensive or super intensive, their plan - or their information gathering and planning is undertaken by the agency. Sometimes, in some contexts, the intensive participants will come to local area coordinators but in South Australia, for the most part, they stay with the agency.

MR ROBERTSON: Alright. So the outcome of all that is that there's something called a CRM client relationship management system and that is used to work out the type of funding and the level of funding the individual requires, is that right?

CATHERINE VINEY: That's one outcome of the CRM. Certainly the CRM goes through a process or leads the local area coordinator through a process of questioning and identifying the types of informal and community supports that the person has around them, the type of - what their goals and ambitions are and then what they need to do in order to - or what supports need to be in place in order for them to achieve those goals.

There's an element of discussion about what increased community supports need to be in place and then a discussion about what funded supports might need to be in place and those are all guided by the NDIA's CRM.

MR ROBERTSON: Alright. Then sometimes the LAC helps put the plan together or build the plan. Is that right?

CATHERINE VINEY: So the LAC has a capacity, an enabling function, rather than a plan approval function. In the case that you're inquiring into now, we weren't required to build a plan at that stage. But subsequently we do now build the plan. So it depends on what the NDIA require of the local area coordinator, or the partner in the community in the programmatic sense. We never approve. So under the legislation, we aren't able to approve but we can gather information, build a plan and then submit that plan for approval to the agency.

MR ROBERTSON: We won't go into the specifics but could you just help me with one last thing, which is what's involved in building the plan? Is that a technical term or how would you describe that, in general terms?

CATHERINE VINEY: Sure. It's really about taking the information that has been inputted into the CRM and then assessing that information against the legislative and programmatic, I guess, categories that have been determined and then turning those into a funded response and then that is what dictates the funding that the person then receives advice about.

MR ROBERTSON: And then say you've got the plan, the plan's been built, say the NDIA has approved the plan, the delegate has approved the plan within the

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NDIA, does the local area coordinators, do they have a role after that in any case, or not?

CATHERINE VINEY: Yes, they do. People don't need to use their local area coordinator to implement their plan but that option is made available and most people seem to want some support in terms of implementing their plan, to some extent. It could be just about helping to unpack the language that is in the plan when they receive it, or it could be to the extent of saying I don't even know how to contact the provider, how do I do that?

Where people need significant support we are likely to have, in the information gathering, suggested to the agency that support coordination is funded and support coordination is a separate funded role to the LAC and support coordinators are able to develop a much deeper relationship with an individual and their family and are also able to work in a slightly different way in order to support someone to implement their plan and that's mostly when the issues surrounding that individual's context are more complex. So LACs will support implementation when there's not a significant level of complexity.

MR ROBERTSON: And that can be flagged at the point of time when the plan is being put together?

CATHERINE VINEY: Yeah, when the information gathering occurs is when LACs would normally make an assessment about whether there's a requirement for support coordination or whether we are best placed to undertake the implementation.

MR ROBERTSON: Alright. Thank you, Ms Viney. Now, is there anything more you want to add which you can add in this public session or -

CATHERINE VINEY: I think there's probably three things that are key to local area coordination, because it's such a new way of working. So the first is that we're not front line service providers, that we've got enabling and capacity building function rather than being a service provider in the traditional sense.

LACs don't make funding decisions. What they do is gather information and build the plan and make a recommendation to the agency. It's the delegate or the planner that assesses that information and then approves that plan based on a range of things.

And then finally, we don't make decisions about service provision. What we do is we support people to make those decisions about who they want their service provider to be. And where we think people might need significant support to actually make the decision, we're likely to have requested support coordination early up. So I think there's a sort of nuanced role there between

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what the planner and the delegate and the agency does and then what service providers do.

MR ROBERTSON: Thank you very much for that. Now, what I propose now is that we go into non-public session because we're about to go into areas that involve personal information and areas that as well might have something to do with civil or criminal proceedings.

So, Ms Viney, what the intention is is that you stay on the line and you can hear what's being said. I obviously can hear the Baptcare people in Adelaide, but I will just ask the technical people here to stop the feed, which they've done. So we're now in private session. Thank you.

So we're now back in public session. I don't know whether anybody's still accessing the live video stream but where we've got to, as I indicated this morning in my opening remarks, was that we have reached the end of the interviews and conversations for today and tomorrow the program is to resume at 9:00am Adelaide time and - sorry, let me just get this straight, 9:00am Adelaide time when Dr David Caudrey will be there in Adelaide, and I think his session will be public and webcast to the public. Then after him, around 10:00am Adelaide time, Ms Boswell of the department, acting CEO. That, as I understand it, will not be web cast to the public. And then after the lunch break there will be Professor Richard Bruggemann and his session will be webcast to the public.

So that will be the end of today's proceedings. Thank you.