

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T Nos 5044 and 5110 of 1994

IN THE MATTER OF applications by
the Health Services Union of
Australia, Tasmania No. 1 Branch
and the Tasmanian Chamber of
Commerce and Industry Limited to
vary the Welfare and Voluntary
Agencies Award

re Clause 7 - Definitions and
restructure of the award

DEPUTY PRESIDENT ROBINSON

HOBART, 5 August 1994
continued from 4/8/94

TRANSCRIPT OF PROCEEDINGS

Unedited

DEPUTY PRESIDENT ROBINSON: Thank you, Ms Harvey.

MS HARVEY: Yes, Mr Deputy President. Yesterday you indicated that you wished to discuss dates with the parties this morning. I wonder whether it is appropriate to do so now, and perhaps if it appropriate to go off record to do that?

DEPUTY PRESIDENT ROBINSON: Well, I hadn't, but it was on my mind. Would it be appropriate to discuss inspection dates at this stage, Mr Fitzgerald?

MR FITZGERALD: I think it would. Yes, we are happy to do that. It would probably be easier off record, I would suggest.

DEPUTY PRESIDENT ROBINSON: Alright, let's save some of our precious tape.

OFF RECORD

DEPUTY PRESIDENT ROBINSON: Well, we seem to have settled some future dates for hearings.

MS HARVEY: This morning, Mr Deputy President, I intend to call a witness, a Ms Leeanne Brady, in support of my submissions in relation to public interest. So if I could now call Ms Brady?

DEPUTY PRESIDENT ROBINSON: Thank you, yes.

MS LEEANNE MARGARET BRADY, sworn:

MS HARVEY: Ms Brady, could you please state your full name and address for the record?... Leeanne Margaret Brady. RSD 1192, Skyfarm Road, Cygnet.

At this stage, Mr Deputy President, I would like to hand up an exhibit which contains Ms Brady's statement which you already have, which is WS.8.

DEPUTY PRESIDENT ROBINSON: Very well, we will mark this WS.8.

MS HARVEY: If I can just point out, Mr Deputy President, Ms Brady already has a copy of her statement with her. I am more than happy for Mr Fitzgerald to look at it if he wants to ascertain that there are no markings on it.

MR FITZGERALD: Sorry, I - ?

MS HARVEY: Ms Brady brought in her witness statement with

her. If you want to have a look at it to make sure that she hasn't got secret notes, you are more than welcome.

MR FITZGERALD: No, that's fine.

DEPUTY PRESIDENT ROBINSON: We'll take it as read that it is the same document that the rest of us have.

MS HARVEY: Ms Brady, perhaps if you could just refer to this document. What is this document?... It is the witness statement that I have prepared for this hearing.

Okay. If I can refer you to the first page of your witness statement. Perhaps if you could start reading from your personal details after your address?... I've worked in the disability services industry for about 17 years. I'm currently employed as the support worker coordinator for Speakout which is a self-advocacy organisation for people with intellectual disability.

If I could just refer you - you have attached your resume' at TAB 2, or your CV. Perhaps if you could take the commission to the main parts of your CV?... I have an Associate Diploma of Developmental Disabilities from TAFE, and a Certificate of Developmental Disabilities from the Burwood Institute of Special Education in Melbourne - which is where I came from. I am currently employed at Speakout, and prior to that I was an Acting Project Officer in what was then Disability and Community Support Services, Head Office, where I worked on the Disability Grants Program, and prior to that I was the Senior Social Trainer Acting Coordinator at the Community Living Service for Disability and Community and Support Services. And while I was there I was also the Client Services Coordinator attached to the Community Integration Program at Willow Court. I was responsible for moving the children out of Willow Court. When I went there to work there were 18 children living at Willow Court and our job - there were two of us - was to find them group homes in the community and set up those group homes and develop the services for them.

Could you just explain what a social trainer is?... Well, at the time social trainers were employed by the department and our job was to support people who were living in the community with families or independently, and our major role was to stop people entering Willow Court. So it was to provide skills to allow them to live more independently in the community, and to provide services in a crisis situation to stop them entering Willow Court. That was the main role then of the community support team, to stop people entering Willow Court.

Right. I'll take you over the page to page 2?... Right. When I first moved to Tasmania I was employed as the senior social trainer for the then Mental Retardation Services, which was part of the Mental Health Commission. And I was involved with

setting up a life skills program on the eastern shore which provided day services for people - up to 18 people - which was then run by the department. So I, as well as coordinating the community support team, coordinated the day service program for up to 18 people on the eastern shore. And prior to that I was working in Melbourne at sheltered workshops and at Kew Cottages which was then an 800 bed institution for people with intellectual disabilities.

DEPUTY PRESIDENT ROBINSON: Intellectual only and not physical?.... No, they were multiply disabled but the major focus such - it is the same as at Willow Court where there are people who are physically disabled but the major criteria is the intellectual disability, so that people can have multiple disabilities but they also need to have an intellectual disability to live there.

You are not talking about people with mental illnesses?.... No, people with intellectual disability and physical disabilities. There are some people who have, what is called dual diagnosis, so psychiatric illness as well as intellectual disability, and that is what is called a dual diagnosis, but the intellectual disability comes first. Does that make sense? And they develop the psychiatric illness afterwards. So there are some people at Willow Court who may have what is called a dual diagnosis and there are some people with intellectual disability.

There are some children at Willow Court?.... No, there are no children at Willow Court. Part of my job was to move the children out of Willow Court so that everyone under the age of 18 - that there was no one under the age of 18 in Willow Court.

MS HARVEY: Perhaps if you just take us to your other activities?.... I am on the Board of Management of Community Hostels which is a hostel that provides residential service for people with a psychiatric illness and who are coming out of Royal Derwent and there are 26 residents at community hostels, 8 of those people have an intellectual disability but the rest are from Royal Derwent and we also run a SAF funded service for homeless girls, so Community Hostels does that. I am also on the Board of Management of Plane Tree Studio which is a funded service under the commonwealth that provides - as a sheltered workshop, but it is an art studio for 8 people with moderate to severe disabilities and I teach at Warrane TAFE, contemporary issues in disability. I am also - which I haven't listed here, a national councillor for ASSID which is the Australian Society for the Study of Intellectual Disability and I am a Tasmanian councillor on the National Council for ASSID.

So if I could just take you back to those two committee of management. Are they sort of like the employer -?.... Yes.

Community Hostels, yes, it is the employing body. It is the employing body - it's the governing body of - it's the body that governs the everyday running of Community Hostels and it is the same for Plane Tree Studio, that it's a - they are non-paid positions.

Okay. Mr Deputy President, the purpose of taking Ms Brady to her CV in some detail is that we would certainly contend that she is an expert witness in relation to the field of disability. I don't know if Mr Fitzgerald has any objection to that at this stage.

MR FITZGERALD: I am not sure how to respond at this stage without hearing the evidence. In terms of qualifications and experience, it is a bit difficult to concede at this stage, Mr Deputy President. I do not think I am in a position to be able to concede that.

DEPUTY PRESIDENT ROBINSON: You may reserve your rights in that regard, Mr Fitzgerald.

MS HARVEY: Right. Okay Ms Brady, if I could just refer you back to your witness statement. We were discussing your CV, in the second paragraph, if we could now to the third paragraph there which starts, 'I am currently employed'?... I am currently employed at Speak Out as the support worker/coordinator. It is funded through the Commonwealth Department of Health and Human Services and we also receive funding through the state department and we act as a self-advocacy organisation, so it is about developing skills for people to advocate on their own behalf. So our job is to support people to advocate for themselves, people with intellectual disability and we are recognised by the commonwealth as the peak body for consumers and we are tied to the National People First Movement, which is classified nationally as the peak body for people with intellectual disability.

DEPUTY PRESIDENT ROBINSON: Sorry, what was the name of that?.... People First.

MS HARVEY: You have actually got an organisation chart in Tab 3. Perhaps you could take the Commission to that?.... Speak Out is an organisation for people with intellectual disability. To become a member of Speak Out you have to align yourself with having an intellectual disability, so to have full voting rights in Speak Out, you align yourself with having an intellectual disability. Only those people have voting rights within the organisation. For other people, they can become associate members but have no voting rights. We have an AGM every September and from that is elected a committee of management with an executive and two representatives from every region and they have divided Tasmania into the North-West, North, South and Willow Court

because of the size of Willow Court. So, there are 8 regional representatives and an executive on the committee of management.

DEPUTY PRESIDENT ROBINSON: Where are the committee of management persons drawn from?.... People with an intellectual disability. So the full membership votes for the committee of management and everyone has an intellectual disability on the Board of Management and they receive funding through the Commonwealth Government to employ us. I coordinate the support workers and do support work myself. We have 3 support workers and an office person in the Hobart office and an office in Burnie with a support worker, all funded through the Commonwealth Government.

MS HARVEY: How many clients do you currently have?... We would see and support approximately 300 clients throughout Tasmania and we do that through a number of ways, that we support workers' committees inside supported employment or sheltered workshops, so as part of their funding agreement, sheltered workshops need to have a workers' committee, so part of our job is to support those workers' committees to provide physical support and the same with residential services. We run courses - we have developed training courses for people. One of those is a legal rights for people with intellectual disability, which we offer; an introduction to self-advocacy; a consumer rights course, which is about when you are consumers of services for people with disabilities, how do you get your rights. We also run assertiveness groups for women and men and a number of training courses and we work on a one-to-one with individuals with an intellectual disability who may come through a whole variety of reasons and just need some support or some specific skills. So, we give that on a one-to-one, and we also work with organisations in their grievance procedures in that most services have a grievance procedure and we act as a support person for the individuals with disabilities within that grievance procedure.

If I can just clarify, when you talk about workers' committees and support employment, are you talking about the clients?... Yes, the people with intellectual disability, the people on disability support pensions.

DEPUTY PRESIDENT: Who would they address, perhaps through yourself, their complaints to?... Well, it is not just complaints, I suppose, that workers' committees are about a whole range of improving work for people and so it is also suggestions and they are a formal group in that they would refer to management. For grievance procedures in organisations it would be that people could talk to the staff person, or to the management of that service and if they feel uncomfortable or feel they do not have the confidence to do that, then we can support them to do that. We can practice it beforehand, we can physically support them through it. There

is a whole range of ways of doing it. If they are still unhappy, we support people to go to the boards of management of those services, or to the department, or to the Human Rights Commission. In a couple of cases we have supported people to go to the Human Rights Commission with grievances against -

Thank you very much.

MS HARVEY: Just referring back to your statement there where you talk about your grievance procedure - perhaps if you could read from there?... Speak Out is on a grievance procedures for a majority of services in Tasmania. We have approximately 4 residential referrals a week, so that would be - we have about 4 people referred to our services a week who have a grievance against where they live, and so part of that is trying to support people through their grievance procedure. We have about two abuse, so that where abuse has occurred against an individual. A lot of those people are referred by other staff in the organisation, or by management of the organisation who will refer people to us for support. They say, we think that something is happening to this person, that they need support from outside our service, so they refer people to us. So, management of services use us as well, especially residential services, CIP Services. And in supported employment, we would see about three grievances a week and that is often through our work as committees, in that we will support people who have a grievance against staff where they work. In day support services, there is probably about one every two weeks. By day support services, I mean the services that are supporting people in the community integration programme.

So, service is like independent living services?... Yes, and occupational support services and Morgan Scott and those sorts of support services that provide day support for people.

Thank you, you can keep going there?... In the statement I want to cover some main points about how services could be improved to clients and some observations about staff. There is a big variety of dependency levels. My experience is that the skill needs of staff to support clients with different dependency levels are very different but all intense. I think we are providing better services to people with higher physical needs than those who need social skill support.

Could I just stop you there - could you just expand on that and explain what you mean?... In some ways it is really easy to provide services to people who need physical support because you can see what needs to be done - it may be helping people to dress, bathe or toilet, but to people with no physical needs but the social skills - for people who often work in supported employment and live in some group homes, what their needs are is some social support about all those

things that we go through. But because people have an intellectual disability, they miss the really subtle social cues that other people pick up about how you behave and all those sorts of things, so that what we need to be doing is building people up to develop those skills, about how you tell someone you like them, or how you go out with someone, or if you are not happy and you are living at home - you might be 25 and you want to move out of home, but how do you tell your parents, and all those sorts of things. And often for people who work with that group of clients, it is a really hard job to do because you are actually dealing with those sorts of things and supporting people - they are really awkward and often staff feel really uncomfortable with it, and often it is supporting people to go to Family Planning, about sexuality problems and all those sorts of things. We rely on staff to be able to do that and feel comfortable. It is very easy to teach staff and to support staff with the physical needs, but those social needs are much difficult and they are much more subtle, and so, yes, I just think that we don't -

DEPUTY PRESIDENT ROBINSON: Do you find though, in your experience, that staff in the various areas do have the necessary understanding and skills to give social support?... No.

They don't?... They try, the best that they can. I am not saying that staff don't, and I think staff would recognise that, that they don't have all the skills and that they are asking for help. And they will ring up and say, where can we send someone, or where can we refer someone, and things that staff want to know how to do their job better.

How could they improve themselves in that area?... Well, that is the million dollar question, I think. We need to be supporting staff to develop those sorts of things and -

I am asking how?... Well, I think part of it is teaching and part of that is happening. Family Planning are running sexuality courses for staff and it is not about staff sexuality, it is how you support individuals when they are going through that process. Family Planning have just received more funding from the department in the last couple of weeks to develop that even further with direct care staff, about developing policies in residential services, for that sort of thing.

Are organisations like Family Planning equipped to deal with the problems which people with intellectual disabilities have, rather than able-bodied, if that is the expression, community people?... No, and they recognise it as a problem.

Well, what is the good of calling them?... Well, last year they received some funding and did a six month project on

sexuality and people with an intellectual disability and that looked at the needs in the human relations area Tasmania-wide in that field and developed four training programmes and those training programmes -

Who was training the trainers there?... Well, that is the person that they employed has been doing that. Does that make sense - they employed a person to do that.

Yes, but what was it -

MS HARVEY: To train support staff?... To train the support staff, and that was part of the funding they got and they have just received further funding through the Commonwealth Government - through the State Government to do that more throughout the state.

DEPUTY PRESIDENT ROBINSON:: Well how far off is it in achieving the objective in that regard?... Well, it is hard to know. Because you have such a high turnover of staff, you need to keep doing it.

Which staff?... Residential staff.

MS HARVEY: I do not want to interrupt the free flow in any way or constraining it but we have gone to some effort to try and put all this in a sort of logical order in the witness statement -

DEPUTY PRESIDENT ROBINSON: Yes, but we do not want to miss some of these points.

MS HARVEY: No, certainly not. I would not want to constrain it in any way. We are coming to some of it through the witness statement.

DEPUTY PRESIDENT ROBINSON: Are you?

MS HARVEY: Yes.

DEPUTY PRESIDENT ROBINSON: All right.

MS HARVEY: Ms Brady, if I could just ask you to comment - you were talking about the dependency levels of people with different dependency levels. Could you actually comment on the different dependency levels of people in Willow Court as opposed to community clients?... I think that part of the CIP programme, which is the Community Integration Programme at Willow Court, and prior to that, there are people in the community with as high a physical support needs as there are still residing in Willow Court, and there are also people with, what people may call, behavioural management concerns living in the community. So, there is no difference. Part of the thing at Willow Court is that you have grouped people

together and so it may appear that, but if you looked at people who are supported in the community throughout Tasmania, they do not have any less disabilities than those living at Willow Court and the same for behaviour management concerns.

Just in terms of the number of services in this state, do you have any evidence on the number of able-bodied support staff employed in accommodation and independent services, as opposed to supported employment?... Not really, but I think there is about 400 clients supported through the CIP and CSDA in residential services and I think there is about 300 people employed in sheltered employment, or supported employment options throughout the state. So, I am not sure about the staffing ratios but I would imagine staffing ratios are much higher in residential services than they are in supported employment services.

So, in your experience in supported employment, what is the ratio between support staff?... I would imagine from about 1 to 8, to 1 to 10 maybe. I am not an expert on that, but I would imagine that would be about it - employed as supervisors rather than employed as other workers within the workshop.

Okay. So, if you would not mind continuing with your statement about Outcome Standards?... The outcome standards set by State and Commonwealth Department for services are needed and are appropriate to client needs. We have a major concern about compliance with the standards. The objectives of community integration are supported by the standards, however they are undermined by the lack of support given to staff.

Could I just stop you there. Could you just expand on that, in what way they are undermined?... Because we are not providing the support that is needed to staff in the way that - because often it is a fairly stressful job - so, not only are we not giving staff skills, we are still employing staff off the street and giving them very little skills before they begin for a whole number of reasons. Then to meet the standards set down by the state or commonwealth, people do not have the understanding that is needed to realise the importance of standards in people with disabilities lives. Because we don't support staff properly, they then don't know how to support clients or consumers properly. I think standards are really important, but we don't do them properly and so therefore they are fairly worthless unless they are done properly.

DEPUTY PRESIDENT ROBINSON: Who's rather worthless?... The standards.

The standards?... Unless they are carried out properly then there is no point in doing it. The standards are, if you are a funded service, the commonwealth

and state set down a book of standards that you - and you do it yourself - you have to fill it in and send it back.

Yes, we have been apprised of a lot of the standards required?... And my service has to meet both those standards. Because we receive funding by both state and commonwealth we have to comply, the service I work for, in both those standards.

MS HARVEY: Okay?... So if we don't provide a good level of support in the community we have just moved clients from a big institution to smaller institutions and that because we moved people from Willow Court into group homes it doesn't mean that they're integrated, it doesn't actually - they may be physically integrated in the community but has life changed for them? Are they integrated into the local community, and our concern is often that they're not.

Okay, keep going?... The individual program planning process is very critical to client support. The consumer input into this process is important but it is limited by the skill of staff and their level of training. IPP's don't work if staff don't understand them, their role in the plan or the importance of them. Often they are not reviewed regularly enough and are not properly communicated to other staff and to the client themselves.

Right?... Because staffing for good service delivery, because services for people with disabilities are labour intensive the quality of the service depends on the quality of the staff, staff mixes. There should be a mixed staffing model. The best result for clients would be staffing mixes based on the following procedure. We set out the standards needed to meet objectives for clients. You identify the competency staff need to meet those standards and make sure that each service has a mix of staff that have the appropriate competencies. Not everybody has to be great at everything. The HSUA's application would make this process easier. Services and funding bodies would have a clear base for negotiating staff mixes.

Do you want to expand on that?... What we need to be looking at is what - the individual that we're working with, what they need, so we need to be saying this person needs this, this and this. How are we going to meet that for this individual? All right, this is how we're going to do it. What do the staff need to know to be able to do that? And I don't think that you can expect staff to be great at everything. And so what you need is a mix of staff who can offer people different things. That instead of expecting one or two staff to meet everyone's needs but we need to offer them a range of people so not only do their staff but they also have different models that - what is often really important, especially for people with less severe disabilities is the role model aspect

of staff in that - because people have often been institutionalised or been segregated from mainstream society is that they model themselves very much on staff. And so that we need to provide a range of positive role models for individuals and that is staff. Whether we like it or not that's what staff are there for a large amount of the time and the way they act is how people will often react because they model themselves on what they see staff doing.

Great. Over the page?... Professional support. The industry needs to employ more professional staff. It is not satisfactory to just access generic services. It has been fantastic since the department has employed therapists as they can work with clients from an early stage.

Could you just expand on that and give us an example of how that relationship works?... Well I suppose part - when I started working for the department in Tasmania there were no - there was a social worker and that was it. We had no speech therapists, no occupational therapists and no psychologists. And so we would have to try and access generic services such as the hospital or mental health and things and that often people with an intellectual disability were placed - were not seen as having great importance in accessing those often scarce resources. So that once the department started employing those people for themselves it has made a big difference because often people like psychologists would be called in when the situation had broken down, when it had reached crisis stage for individuals, when whatever had happened had broken down. Now you can call in people at a very early stage and we use the speech pathologist from disability services a lot when we're working with clients who may be not verbal or who use other forms of communication systems, that you can call them in and they can work with you and with the client in developing a communication system so that it stops a lot of people becoming more frustrated because staff and everyone can understand what they're trying to say. And it's just made a difference on that sort of level for people I think.

Okay?... We need to use more professionals and not just at crisis times. There needs to be a much stronger intermingling between non professionals and professional staff. This could help with development work.

Actually, I was just wondering if you could give an example of that?... Well for us as an organisation and working with some residential services that we will often work with the speech pathologist or the psychologist in developing a system for someone and with - a communication system and so that what happens - and the psychologist for people who are in danger of losing their residential services because of their behaviour we can support the staff and we can call in the psychologist - and they can call in a psychologist and the speech pathologist

who can then develop programs that staff can carry out. So it's not a matter of the psychologist needing to be there 24 hours but because - we can skill up staff to be able to do those programs with people and so to support them where they're living now, and I think that's really important.

Do you think that all services understand the role of professional ?... No, I don't and I think that's something that the south seems much better off than the rest of the state for those services in that the disability services do employ some professionals but they have trouble filling those vacancies throughout the state. But not all services understand the importance and some services, yes, still wait for crisis time, often that they don't like to think that maybe they're not coping or something and that it's important not to call in outsiders. We need to educate and I think part of that is when we're giving training to staff we can talk about how all these other people can help staff and therefore support the client and help the client in the long term that it's not a matter of failing by saying you can't do it. So - do you - yes - so - yes, and we can just give people those skills to say, 'This is beyond my expertise. I can't do this. I need to get some support in', and that's a really big step for staff to be able to say, 'I can't do this. This is beyond my expertise. We need to get in help'.

Okay.

DEPUTY PRESIDENT ROBINSON: I suppose sometimes people might not - if they're not trained - not recognised that even - that they have a problem?... That's right, and they might not know that those services exist. They might not know that they can call the speech pathologist or the does that -

They'd know that surely?... Well not always. Unless you know that those people are around and you can use them, that's - then how do you know you can access them.

MS HARVEY: Perhaps if you could give the example of the - oh I didn't mean to say that; I retract that - a - an example I think you were -

MR FITZGERALD: You've given the answer

MS HARVEY: No - it was really useful in explaining what I'm trying to do and I recognise that, you know, it's probably leading a bit -

MR FITZGERALD: A bit.

MS HARVEY: No, I recognise that. I'll put it - I'll say it myself if you prefer.

MR FITZGERALD: Preferably not.

MS HARVEY: Oh, I was thinking of the example that you gave about a particular service who - on speech pathology?... A particular service that we did some work with said when there was a speech pathologist, 'But we don't need a speech pathologist because no-one here speaks', and it was that they didn't recognise that speech pathologists do more than help people speak and that was a real concern that they weren't aware of what those sorts of professionals can do and how they can support our client base.

Okay?... Yes. So -

You were up to 'we often - ?... We often don't call in the professionals until it is too late and we already have a crisis.

Does - Lee, you've mentioned -

DEPUTY PRESIDENT ROBINSON: When you mean 'we' or 'they'?... Well, they and - well where - we - I mean about people who work with disabilities and I put my line into that. I work for people with disabilities also so that they don't call in people to support until it's already - they already have a crisis on their hand and the situation's at breakdown point and -

MS HARVEY: Lee - ?... - and there I suppose I'm referring to residential services.

Thank you. You mentioned the department's teams. I understand there's some changes. What - could you explain to the commission how their - ?... That there is a move afoot in the state department to change what was called the resource team which did this sort of work into a behaviour inter - what's called a 'BIST Team' which is a behaviour, intervention support team and so those - a large amount of that time - and we have a real concern about that - that those people who are - have been able, on a very proactive basis, to work with individuals are now going to do a large amount of their work on what's called behaviour intervention support team, so that often when places get to crisis they will be called into to fix the problem up, so that for some services it will lessen the access they have on a proactive basis to those professionals.

DEPUTY PRESIDENT ROBINSON: Wouldn't it appropriate for - whenever a client is moved - and I guess that's the trigger - for a complete assessment to be made of that person's needs right from the beginning and it would be - ?... I think it would.

- kept and then checked and - ?... I think that's -

- made subject programs?... - and it's not even just before they're moved, but if people are concerned that something's happening in a - then we need to do that before it gets to that stage, I think, but -

You're not saying, are you, that people subject to the CIP have just been moved and it's hoped that they make out in their new environment, whether it be residential or what?... That -

I mean, it's a matter of degree, isn't it? You're not saying - is that the whole system is just not working at all?... No, I'm not saying - I'm saying that there are some -

No. You're saying it's not working enough?... That's right.

Mm?... It's not working enough for individuals in that -

Yes. And that - I suppose there must be - and you - and it's a question - there must be areas that are working better than others?... Yes, I think that there are -

Right?... - and a lot of it depends on the staff who are working within those areas. -

Yes?... - that some services are working - I shouldn't say 'working much better', but are seemed to be - that client outcomes are improving. Does that - and often it has got to do with the - not only just the skills of the staff, but the support the management of that organisation gives those staff.

I guess it's difficult, isn't it - I mean, we must be careful not to generalise too much?... That - yes, that's right.

Is that right?... Yes, that's right, and some parts of it are working better than others and for some individuals it's working for some - and when I talk about individuals I mean people with disabilities. It's - the program is working then for all people generally.

Yes. Right.

MS HARVEY: Okay?... In my -

Sorry, you're up to the last paragraph of?... Sorry. There is a capacity for services to get together and employ professional staff as a group. In my opinion, staff support and training is done on an ad hoc basis and usually only happens when there is a crisis. There is a very inefficient - this is a very inefficient and ineffectual way of providing services, and I think here I am talking rather than - about employment services, but about the CIP and this residential and support services rather than the longer standing employment services, sheltered workshops and some CSDA

residential services. I've observed a real difference in the level of skills and staff who have undertaken training, for example, the TAFE development disability course. They have a better understanding of what they are doing and are able to analyse what is happening around them. This reduces their sense of isolation and stress.

Could you just expand on that?... I think that for people who are working in group homes often with clients who may have fairly challenging behaviours it's really easy to take it personally that this person doesn't like me, this is why they're not doing what I ask them to do or what I'm supporting them to do. But for skilled staff usually can step away from that and say: It isn't me that the person is reacting to; it's a whole range of influences such as they may have just moved from somewhere where they've been for 20 years. So there's a whole range of environmental influences that influence a person's behaviour. Staff need skills to be able to see all of those - to see the greater picture for an individual.

DEPUTY PRESIDENT ROBINSON: Yes, I understand what you're saying but surely most people with training or not wouldn't interpret behaviour of a person with a disability as something that they would take personally?... I've done it as a professional.

I mean, we've moved around, we've seen a bit - pardon?... I've done it as a person working as a lone worker. Sometimes you just think: Why is this person doing this to me?

Really?... Yes, I mean, I just think that there are times that staff are stressed and that it's just often -

But people have got an understanding and a recognition, haven't they, that a person that they're dealing with as a client has some disabilities, behavioural disabilities as well as physical, intellectual, maybe psychological and therefore right from the time you first know that that person has a disability, surely the average person would make some concessions towards that and not take everything as personal?... Yes, that's true but there is still a degree that that doesn't happen. For most of the time that does happen but there is still - part of my concern is that we're not - that staff aren't supported and don't have the skills to be able to do it properly, that we need to look at the whole of someone's life and say: These are all the things that are happening for people, for an individual.

Yes, but surely coming back to your point about people - staff working with people with disabilities who take things - behavioural matters as personal are in the wrong job?... They might be but they're there.

Are they? Whereabouts?... They don't do it all the time but I'm saying for some staff it does happen and they're still working.

What percentage would you say?... Maybe 5 or 10 per cent. If you talk to staff over - if you could talk to staff about what's happened in their past there are times when they would do that.

Five to 10 per cent?... Yes.

In your estimation?... Yes, and that is a very rough estimation.

Right.

MS HARVEY: I was just going to refer you back to where you got up to in your statement. You were up to 'In my experience'?... In my experience the level of turnover is much higher amongst untrained staff and there is a very high turnover in direct care.

Why do you think that is?... Often there's a whole number of reasons and often people are attracted to the position because they think it would be a nice thing to do and when they get into the position it's actually not quite what they envisaged it to be. But also is that there is a high amount of expectations placed on staff. It happens and for us that is a real concern because for the client - my organisation has a real concern about the amount of turnover and what happens to people as a result of the high amount of staff turnover in that people often have people supporting them to do very private things such as bathing, toileting and all that thing, and that if you continue to have new staff doing that all time, if you often have staff that you haven't built up a rapport with, helping you with those sorts of personal things that it makes you expect that strangers will come in and do that basically. And when I say strangers it's people that you might have only met once or twice before helping you do those things that are very personal. And it also makes people very vulnerable, that people with an intellectual disability are a very vulnerable group in our society and that because - for some people they're used to having people who they don't - know very well doing those sorts of personal care needs that when strangers or when people - not just strangers but when people do things that we may consider to be abuse or may consider to be stepping over the bounds of what is agreed, they don't think that there's anything wrong with it because they're used to staff doing those sorts of things. And that is a real concern to us, that we are often by having such a high turnover we are making people more vulnerable because just the turnover of people who are doing that sort of personal care stuff - it makes them more vulnerable.

DEPUTY PRESIDENT ROBINSON: Would that be a reflection upon the selection of staff then?... To a certain degree, yes, I think so. And it's that greater thing about the way the CIP program is set up in that they tend to move people out in blocks so they set up houses all at the same time so that instead maybe spacing them over a year and opening a group home a month, they have tended in the past to open blocks of group homes so that at the end of the financial year there will be quite a few group homes opening so they're all needing staff. Yes, they're just drawing on a wider staff.

Yes. Is the CIP program then, in your view, working at a rate - at a pace which is inappropriate?... Some people may have seen an article in last week's paper which myself and another advocate from Tas. Advocacy about we felt that the CIP program was in a mess and needed to be halted for a while so we could stop and look at what's happening. And we need to stop and we need to say this is how many people we've moved out, what is actually happening for those individuals, has life improved greatly for them, and what's the best way of continuing it. And I think that we need to reassess what is happening within that program. And it's been interesting because that happened on Sunday that we've had about - in our office about six phone calls from direct care staff who we haven't known who thanked us and said: Look, it needs to be done. So that there is a feeling amongst direct care staff that things aren't going okay either.

What sort of problems are being created then?... My concern is that we're actually isolating people in the community. We're setting up mini institutions if we're not careful in that often people who lived at Willow Court had things - because they'd lived there for a long time they had the freedom of the grounds and they could come and go in New Norfolk, that shopkeepers knew them, that the locals knew them, that people would wander up the shops and wander back, that because staffing ratios were higher that people could wander off. But often in group homes the staffing ratio is much lower and staff always know where someone is, and so that people don't have that same sense of freedom and because the physical location of Willow Court is that there's no busy roads between them and the New Norfolk shops. But here often people are isolated and staff are concerned about people crossing busy roads or, you know, strangers and things like that. So they don't give - they don't allow people that sort of freedom.

Don't they?... And because of a whole number of concerns in that the duty of care issue for staff, and that's a really important one.

But doesn't the program require that they be encouraged to participate in the community, use generic services, buses - ?... But there's a difference between participating and being present. That a part of our concern is that often people are

present in the community so they may be at the football match but what interaction do they have with the other non disabled people in their community?

I don't know, you tell me?... Very little, and that's something that we've been talking about in the course that I teach because a lot of the students that I teach - I teach the part timers and so they're people who are already employed. And we talk about what social networks individuals have with people with non disabilities and very few of them have any sort of social networks outside professional staff who are paid to be with them.

Has there been any official approach to those who have got control of the CIP to make them aware of these problems, other than putting an article in the paper?... Oh, no - yes. And we at the moment are undertaking with the department - well, we're negotiating with the department for some options in that

Do they recognise and agree with you?... I think privately some people do.

Well that's not much good, is it?... No, I think that they recognise that there are some problems with the CIP program. And the other thing that hasn't ever been done but there is a residential service on the north west coast that's doing it, is looking at a quality of life thing to actually ascertain people's quality of life, that no formal studies have been done since the CIP program began to look at what is actually people's quality of life once they move out. There is a service - a CIP funded service on the north west coast that is doing that, off their own back, for their own interest. But there's been nothing - no formal mechanisms done like that.

MS HARVEY: I think - sorry, if you could - just following up the comments that you're making, I just wanted to be clear: is your organisation supporting CIP?... Yes, most definitely, our organisation supports CIP. That everyone has the right to live in the community, most definitely. Yes, that people have the right to live in the community but our concern is because people are physically in the community doesn't mean that they're in the community, it doesn't mean that they're a part of the community.

So it could be improved?... Yes.

Okay. You're on page 3, the last paragraph there?... There are few issues - ?

Page 3 - ?... In department services there is room - there has been a minimum requirement for social trainers to have an advanced certificate in developmental disability. Parents in the past have shown a clear preference for these services.

Do you want to just expand on - ?... When I worked in the department and we were working with respite, which is a short term support service people could go from an afternoon up to 3 weeks and the department runs a children's respite service and an adult's respite service in the south. There was some talk about that going to the non government sector, that parents were very vocal in that they wanted the department to continue running those service and part of that was because the department employed social trainers, that the department had the Social Trainers Award and that they were skilled staff.

DEPUTY PRESIDENT ROBINSON: Was this for clients who are living - ?... In the community.

Yes, but with parents or family?... Yes, the respite services will - don't cater for people in the CIP program except in emergencies. The respite services run by the department are for people who are presently living at home.

Yes, to give the carers a ?... Well that's right, and to give the people themselves a break and away from home or away from whoever they're living with. It's a really important service - the respite service.

Yes. I'm sure it is?... And now there's a 4-month waiting list for it.

MS HARVEY: That - ?... Particular issues -

Yes?... Particular issues of concern about client servicing. There are a few issues which I want to comment on. These are current concerns which I believe could be addressed by better levels of staff skill and a systematic approach to training. Communication between services. Communication between services is not as good as it should be and the client misses out.

Could you give an example of that?... Often, with the CIP program, we've discovered that day support services and residential services do not speak to each other. There seems to be some sort of - and we talked about this in the article in the paper - and the department recognises that this is a major problem that there's a sense of ownership that they are ours when they are here and they are yours when they are there and never the twain shall meet and there's an argument about transport and buses and who left the car dirty and all those sorts of things, so - but it's the client that misses out because often we have people who may have poor verbal skills or a whole range of things and that staff need to talk to each other more so that staff know what the person's been doing so they can then talk to the individual about what they've been doing. So is someone's been out with a day support services, staff at the residential service, I believe, need to know

what's been happening to that person during the day so that they can build on it so that it's some way of relating.

Could you give a concrete example of that of a client where that's happened in your experience?... With arguing?

No, with the communication issue?... We were in - it - well I know of a - we were - we supported a client that was out shopping with the day support service that he attended and saw a shirt that he really wanted and put it on lay-by and this is a person who is non verbal and has a fairly severe physical disability but is very aware of what is happening. He's a member on our management committee and he saw this shirt that he desperately wanted and got the day support - he had the money on him and so the day support said, well, - you know, he wanted to put it on lay-by and he made the fact very well known and the residential service were furious because it was their role to provide - to support the client with clothing. It wasn't the day support services' role, and so there was just this big fight with the client who actually wanted that new shirt, caught in the middle of these two services fighting about whose role was it to support this person buying clothing. It was just - in the end, the day support service just paid for it out of their own money just to stop the argument. But it was just this thing about - this client had clearly indicated to the day support staff that he wanted to buy this shirt and put it on lay-by; he had the money; he'd worked it out, but because it's a residential service job to support people with clothing, that there was just a fight.

Okay?... Non verbal communication skills are not difficult in terms of the signs themselves but the skill is in teaching clients what they mean. Staff in the industry are training themselves or attending courses in their own time. What I mean about that is things like using COMPIC which is computer pictographs which is a very common - now I think with CIP and since we've had speech pathologists are communication symbols used to - for people who don't have reading skills or who are non verbal that you can - they can have wallets with COMPIC so they can indicate what they might want at a shop or they'll have the COMPIC book that often it's - what we need skills in is so that clients know that they mean, that the computer pictographs themselves aren't hard, but that - that there are skills needed in teaching clients in that - well I recently did a course in signing just to upgrade by signing at work, and it was offered by the speech pathologist and there were eight staff there from - from CIP group homes and five of them doing it in days off - that out of ten of us, there were two from my office and the rest were from a residential service and five of those staff were doing it in their days off, that they weren't employed. It was because residential services don't work between 10.00 and 3.00 - they were doing it in their own time because they felt it was important that they could sign with clients and I just thought it was great -

I mean, I thought it was fantastic and I also thought that we needed to recognise that this is part of your job, that you need to do it as part of work.

Okay?... Sexual abuse. Speak Out is very concerned about the level of sexual abuse in group homes, and that's - yes. This is not necessarily from staff, but what worries us is that the level of turnover and lack of induction, including introduction to clients means that clients get used to people they don't know doing very personal things for them. We need to reduce turnover which is linked to higher wages, better training and more support for staff. We need better induction processes and unskilled staff need direct supervision.

DEPUTY PRESIDENT ROBINSON: Would you be opposed to the use of casual people then as staff?... I would like to limit it for those reasons, but maybe what we - maybe what services can do is a pool of casuals that are well known, that they can call in yes - I mean, I understand that there is a need for casual staff, that people are sick and that people are away and people don't come to work every day, but maybe what we need to do is to develop a pool of casual staff that is used regularly and I think a lot of services are trying to do that.

MS HARVEY: Okay. Medication?... Staff should be using dosette boxes. This is not always happening. It is common for staff not to use dosette boxes or that they fill the boxes themselves, which is actually against the Poisons Act. Staff don't need to be nurses or pharmacists, but they do need to have some knowledge of contra indications and side effects of medications. They need to know when to refer to other professional staff. Staff - and in some residential services staff make discretionary decisions on medication, PRN medical - as required medication, such things as Valium and stuff. So staff are expected to make those sort of discretionary things if people need a Valium for a whole number of -

DEPUTY PRESIDENT ROBINSON: Are they making mistakes to your knowledge?... I think sometimes they walk a very fine line. And I couldn't say that they're making mistakes but I know there has been concern expressed recently about those sorts of things.

But why would there be concerns if there are no instances of mistakes being recorded?... I think that there are still areas of concern even though there mightn't have been mistakes in that do we wait for something bad to happen before we express - before we do something about it or do we set things in place now so those things can't happen.

You see - and you'll pardon my interruptions, but I need to operate on the basis of having hard evidence to convince me as to what supports a particular case and what doesn't.

Generalisations, expressions of theories have their place but they don't give me the sort of evidential material which would be of most help to me?... Well I can't talk about that any further. The union might be able to.

MS HARVEY: Yes, I mean, perhaps if you could just explain to the commission the basis on which the comments that you're making are made. I think that may be helpful, in terms of your experience and your contact with the industry?... Well as an individual I'm working within group homes every week in that I'm supporting residents in group homes in that I support not only a number of residents' committees but a number of individuals within group homes. And that I would visit on regular basis a whole number of group homes and other residential services and so that you see things that are happening that I don't feel very comfortable with and that often I'd follow up with management of those services.

DEPUTY PRESIDENT ROBINSON: Like what?... Well things like I recently visited a group home where they weren't using dosette boxes, that staff were giving medication out of bottles and things like that. And I talked to staff then about the risks and then we talked to management about those risks.

Could it be that there are differing views about the necessity to use dosette boxes?... Oh, I think that there are and I think there are problems that because you need to take them to a pharmacist to fill them but I think that there are also some concerns that with dosette boxes if you have clients it's much - it's much less easy to make a mistake using a dosette box that you know has been filled by a pharmacist on a regular basis. The risk of maybe making a mistake with medication is a lot less. And that if we're talking about developing skills and if we're talking about people developing skills for themselves it's much easier to teach people about taking medication when they use a dosette box so that you can teach people that, you know: you need to just open it and take that one out than trying to say: you need one from that bottle and one from that bottle and one from that bottle. So if we're talking about developing independent skills in people that it's much easier to teach them about things like the importance of tablet taking when it's done in a dosette box.

Is it an official departmental requirement that those dosette boxes be used?... It's not departmental; I think it's Health Department - it's the Poisons Act. There's a Poisons Act or something that they need to be filled by pharmacists and that staff that aren't doing it are breaking the Poisons Act.

Are they?

MS HARVEY: That's true. Okay, behaviour management?... Successful behaviour management is really important for clients. It can be very subtle, particularly if you have a

commitment to client empowerment. Behaviour management happens all the time in services. It could be improved hugely with more staff training and support. There is a lot of stress for staff working in the disability services industry and I want to comment on some of those.

Yes - ?... That there is a lot of stress and not just with behaviour management but that staff have a lot of responsibility placed on them and for anyone working with other people that it is very important. Just in the last week or so visiting some services that the majority of services I've been visiting have at least one staff member off on stress. That the other advocacy organisation in Hobart has two staff off at the moment on stress leave. That the majority of the occ. support services all have at least one person off on stress leave presently. I was talking to them yesterday. And that a large number of CIP residential houses have staff off on stress leave at the moment.

DEPUTY PRESIDENT ROBINSON: Has any work been done getting some figures on how health support workers compare with other working groups in the community, like parking meter attendants, police, ambulance personnel?... Well not that I know of and that very little work - it seems to me that very little of that sort of work has been done in the disability field overall in Tasmania anyway. I know that in other states there has been a lot of work done on stress management for people.

Yes. So you're not able to say whether there is a high, medium or low incidence of stress in the area that you work in?... No, but I could get you the figures for other states and the ASSET, which is the Australian Society, of which I'm a member, has a number of papers on stress levels for direct care staff and they're usually done in the states of the people and I can get you those journals with those papers in them if you'd like to have a look at them.

Well we'd need to have it introduced in this part of evidence?... Sorry. Yes, but I can make those available.

But I'll certainly be interested in that sort of information?... Yes.

MS HARVEY: I'll follow that up?... Yes, I can make those available for you.

Okay, 5.1?... The staff need a huge number of skills. Often this isn't recognised by management. Things which can appear quite simple can be very complex. Failure to recognise this undervalues the workers and demoralises them. This ultimately has an inverse - adverse impact on services for clients. There are very large expectations of staff, particularly those in group homes and they are given very little support. Group

homes staff usually work alone. When things go wrong they carry the can. Staff feel like they fail when clients fail. They are often left high and dry. So often when - what I mean is that there have been a few situations in the CIP where people have gone back to Willow Court. They've been re-admitted for a number of reasons back to Willow Court and often when we've talked to staff, often because we've been involved towards the end of that to try and give some support to the client, in that staff feel like they've failed because the person is going back to Willow Court.

DEPUTY PRESIDENT ROBINSON: Should they do that?... In some circumstances I think maybe they do but in some I don't necessarily think it's one thing that has sent someone back to Willow Court. Does that - there's a whole variety of reasons and that it concerns me that staff feel they are the reason that people have gone back, because they've failed the individual and that -

Is that part of the lack of their training, that they have this immediate reaction of guilt and blame themselves for everything that happens?... I don't necessarily think it's a lack of training. For some people it's a personal - that some people just personally feel that. But often you find with people who are trained develop networks, support networks for themselves in that these days a lot of services demand that staff sign documents that they won't talk about anything that happens at work, even to partners. That some residential services demand that staff - so that staff don't have those - where often where you have a bad day at work you can go home and you can spill it out, that you can -

Yes, don't staff or isn't it possible, within your knowledge, that staff might work as a team and be mutually supportive and go through debriefing at the end of bad days?... Yes, and I think that's really important but it doesn't happen overall.

Doesn't it?... No.

Are you in a position to know that?... Yes, through personal experience. For people working in - we've been involved in a number of cases in CIP group homes where that hasn't happened.

Would you categorise that as poor management practice?... Yes, I would categorise that as poor management practice.

MS HARVEY: Okay. You just have the last paragraph there?... Nearly every -

Sorry - ?... Oh, the level of responsibility is very high. The duty of care is always pushed with staff but there is very little training. That often what we hear these days is duty of care for staff but staff are really unsure and are caught in the bind between duty of care and client rights. That that

is a very fine line. Staff are totally responsible when they are on shift and they are usually alone in residential care. Of course management bears some of the blame for letting situations develop but it is often the direct care worker who has to live with the moral consequences as well as most of the responsibility.

I think you've actually skipped a bit there, Ms Brady. You were in 5.2 and the second paragraph - ?... Sorry, I did. It is stressful work -

Yes?... - for untrained staff - sorry about that - and induction in the industry is very poor and ad hoc. Violence is common in the industry that often staff are subjected to going to work where violence occurs within group homes through client behaviours. And staff are often stuck in the middle of a conflict between parents, clients, advocacy groups, management and departmental policies. Nearly every residential service I go to has at least one staff member off on stress leave. There is a direct relationship between stress and the level of training and support staff receive. The level of responsibility of staff is a stress factor in itself and the level of responsibility is very high. The duty of care is always pushed with staff but there is little training and by that I mean is about the duty of - very little training about what duty of care is opposed to client rights and empowerment. Staff are totally responsible when they are on shift and they are usually alone in residential care. Of course management might bear some of the blame for letting situations develop but it is the direct care worker who has to live with the moral consequences as well as most of the responsibility.

DEPUTY PRESIDENT ROBINSON: Could I interrupt you there?... Yes.

And I apologise for interrupting you so often, but I'm very interested in what you have to tell us. You say that there at the top of page 6 that staff are totally responsible on shift and they are usually alone in residential care. Don't they have any backup whatsoever?... They do. I mean, you can ring up the senior or staff but when you're on shift you're in charge. Does that - so that for staff they're on shift so they are responsible unless something dire happens and you need to ring in in an emergency - you need to ring up for some advice. But still if something happens even though it may - yes, so that staff are totally responsible for the day to day - for the shift. Yes.

Totally responsible with some backup?... Well no, what I'm saying when I talk about totally responsible is that for things that happen on that day they mightn't be responsible for the overall planning of the service but for the things

that happen on the shift they're responsible for them. So it may be if you're taking people out or -

Well is that wrong, that they have responsibility for their duties?... No, I don't think it's wrong. I think it's really - I think that it's really important that they have responsibility, but I think that we also need to be aware of that sort of responsibility and what it can mean if something goes wrong.

Well are you saying that it's an unreasonable demand upon people that they - that the extent of responsibility that people have?... No, I don't think it's an unreasonable demand, but what I think is that we need to support them and make sure they have the skill so they feel comfortable with it.

Well you've partly answered the question I was going to ask. How would we improve the situation. You've mentioned training?... I think that if we give people - if we can train people up - we need to be able to give them skills to be able to cope with a whole variety - and I know that you can never anticipate everything that's going to happen or someone's going to hit someone or - you can never anticipate every situation. Part of those sorts of things though is that - and it's taught as ABC - behaviour and consequences that often staff need to be aware of perhaps - of being aware of the signs that clients may be feeling uncomfortable, that something's about to happen, that if they keep doing something that it may set something off. The to a behaviour and - I mean, that's how it's taught, the ABC of behaviours, but it's also that - yes, and so we need to give them those sorts of skills and we also need to give them the skills about - for group homes - and I'm talking about weekends and stuff, about what - because staff are also expected to do lots of those leisure activities with people. I mean, that for me is their job. Do you know that sort of -

Sure, sure?... - going out - and staff - but people need to be aware of where they can go and how they can do it, and I work in a group - I work with a group home in Huonville and staff don't join in in the local community. They don't know - you know - and I was saying to them: well - because I live in Cygnet and so I have some awareness of what happens around there and you can say, 'Well, there's a dance this Saturday night at the town hall, you could - you know, this person might like to go to it', but staff don't know it's on, so they're not -

They don't?... No.

They don't read the paper or what?... Well they just don't have - no, they don't seem to - I'm not sure whether they would see that as important for people where I see that whole community stuff has what makes people's lives important - or

for me what I do in my spare time is really important, that I am - and I expect that to be the same for the people I work for and - yes, but staff - we don't - staff - I don't - and I - it's a really hard thing to teach, but we need to be able to give them those skills to look wider, to not just look at other disability services, not just to go to the COSMOS dance, but there's a dance at the town hall, let's take them to the Huonville Town Hall and things like that.

MS HARVEY: Okay. If I could take you to 6.0?... Sorry.

No, you're right?... 6.0 Cost implications of the HSUA's application. There are cost implications if the HSUA's application is successful. Speak Out believes that the community needs to face this. We can't keep trying to run services on the cheap by skimping on staff wages and skill levels. This just means clients suffer in the long run. More funding is needed. The government has to be forced to face this. The non government disability services sector shouldn't be just a cheap option for governments. It should be about providing a high level of service. If the award increases costs and the government's response is to cut services then they will have to be politically accountable. The award process gives us a one off chance to reform the disability services industry and I don't think we should let the government off the hook any longer. The benefits of a skill-based award, training and decent wages outweighs the danger of losing services. Staff are fantastic in the main. Staff really try hard, but clients are getting a piecemeal service. Whatever happens is because of the goodwill of staff and because they are dedicated. I suppose I'm really aware that I'm not putting down the rec care staff. I think that they do a fantastic job -

DEPUTY PRESIDENT ROBINSON: But they just don't know what's going on around them half the time, you are saying?... That's right. That's exactly right and that often they work in isolation and when you talk to staff that's how they feel, and staff will talk about feeling like mushrooms.

Do they ever talk about anything positive?... They talk - not often - and I mean that's a really terrible thing and maybe because - often if we're in residential services it's because nothing - something negative has happened. Does that make - often we are called in when something negative happens for a client.

Do you find that all depressing?... Oh, I do. Yes, and we have a very good stress management in our team, it's called 'cups of coffee at the cafe next door'.

Oh, well, we won't question you further on that.

MS HARVEY: Okay. At this stage, I have no further questions, Mr Deputy President.

DEPUTY PRESIDENT ROBINSON: Right. Are you ready, Mr Fitzgerald?

MR FITZGERALD: No, not quite ready given the extent of evidence, Mr Deputy President, but I just wonder whether we could request, in this instance, 30 minutes adjournment before we seek to put questions in cross-examination?

DEPUTY PRESIDENT ROBINSON: Well, being very reasonable at all times, I will grant that request. I don't think there's any objection. We'll adjourn for half an hour.

SHORT ADJOURNMENT

DEPUTY PRESIDENT ROBINSON: Was there a sort of a preliminary matter anyone wanted to raise?

MS HARVEY: Oh, yes, there was. Sorry, I forgot. You - Mr Deputy President, there was part of the transcript which I would seek to delete from the previous question. It was when I mentioned the name of a service which, if I mention it again, will be on the record again.

DEPUTY PRESIDENT ROBINSON: Well if you don't mention it we won't know what has to be erased from the transcript.

MS HARVEY: Well I - okay. I mentioned the service by name and I would ask that all reference to that service be deleted. I don't think there's anything gained from it on the record and I don't - you know, I apologise for having done it. I shouldn't have done it. And I've mentioned my concerns to Mr Fitzgerald and he's agreed to my request that all reference to that service by name be deleted.

DEPUTY PRESIDENT ROBINSON: Right. Is that - you agree, Mr Fitzgerald?

MR FITZGERALD: Yes, I can certainly confirm that we consent to that reference being deleted.

DEPUTY PRESIDENT ROBINSON: Well since it's an agreed matter I consent to the record showing the names concerned should be left blank but the rest of the wording could remain. Okay?

MR FITZGERALD: All right. Thank you.

DEPUTY PRESIDENT ROBINSON: Very well.

MR FITZGERALD: All right to continue?

DEPUTY PRESIDENT ROBINSON: Whilst you are on your feet, yes.

MR FITZGERALD: Thank you. If I could just ask a few questions in cross-examination, Ms Brady. I'll just take you through your statement point by point so I'll refer - if you'd like to refer to the statement when I come to the particular points. If I could just take you to point 1. You referred to instances of matters being referred to you. You said there are four residential referrals per week, two would be for abuse. In supported employment we would see three a week. It doesn't outline the nature of them. Could you outline, without breaching any confidentiality, what you mean there?... About work services?

About the nature of referrals to you?... Right. The nature of referrals to me refer to people may being unhappy where they are situated residentially, so they don't like living where they are living for a number of reasons because they don't like the location or they don't like the people that they happen to be sharing with and so part of our job is to support them through that process of trying to get some change. Or that they just may be unhappy with an incident that has happened in the house. Yes, and in employment services often it's - they may be unhappy with something that has happened in their work or they're unsure about things such as pay and they need some support when they're talking to staff about how they pay is worked out, about they want to change jobs and they feel like no-one's listening to them, so part of our job - part of my work or our work as support workers is to support them through that.

Right. So, the aspect about abuse is referring to residential services only, is that - ?... Yes.

Right. Okay?... We have taken a case to the Human Rights Commission from a supported employment where there was sexual harassment occurring in the workshop and that was resolved in the Human Rights Commission before the commissioner.

So, would it be true that most referrals come through in respect to residential services rather than supported employment?... Yes.

Right. What percentages would you see there?... I would say about 90 per cent or so of our referrals are for concerns about being unhappy with the service of residential.

Right. I just can't quite see how the figures quite line up when you say four residents - ?... Well because -

- if I could just finish the question?... Yes.

You say there is four residential referrals per week and three supported employment per week. How does that align with the percentages you just outlined?... Because not all the referrals that we get for employment are about being unhappy. Just need some support in needing matters cleared up and I wouldn't classify that as abuse or it may mean that they want support to do something else at work and/or finding alternate - but most of the referrals that - about people that are unhappy or have a grievance would be from residential services and we've just found - we've been doing a survey recently at work - keeping some data about the amount of our referrals from CIP are greatly increasing.

Okay. Could you explain your understanding of the CIP and CSDA programs, please?... Well with the DSA - the Disability Services Act - and the signing of the CSDA several years ago, that the commonwealth took responsibility for employment services so that was workshops, supported employment and the agencies which are the training placement agencies for placing people in open employment and advocacy. The department took over the majority of responsibility for advocacy organisations. The commonwealth and any accommodation services that were being funded at that time by the commonwealth were given to the state in the CSDA that the state now has responsibility for accommodation, as well as they have responsibility for advocacy and research development jointly with the commonwealth. That's a joint responsibility.

Are you aware of funding - the extent of funding in respect to both services - CIP?... Not the amounts.

Right. But in terms of the extent of funding - is CIP fully funded or - ?... CIP is - do you mean that are services fully funded for CIP?

That's right?... Yes.

What about CSDA?... I'm not sure about that.

Right. No, I just thought that your position as an advocate for appliance in the industry you'd have some understanding of CSDA?... I am aware that employment - I'm - well, I do know - I mean, that I'm aware that services - I mean employment services aren't a hundred per cent funded and I really am unsure about accommodation services under CSDA. That actually doesn't affect the work that I do with clients. The amount - where the funding comes from isn't what I am concerned about when I'm working with individuals.

But is it so that the thrust of your evidence is in fact in relation to CIP projects?... Yes, I would agree with that.

Right. Not CSDA?... That's right.

Okay?... And I said that a few times throughout.

Right, okay. So in terms of Ms Harvey putting you as an expert witness, that is in respect of CIP projects only, is it?... Well I suppose the part of my - why I think that Ms Harvey called on me is that the work that I do with consumers is that it's very hard to expect a consumer to up here to give a consumer perspective in this sort of thing, and that they asked if I could perhaps present the consumer view.

Sorry to interrupt you there. But to clarify, they are consumers in respect to CIP project?... No, we work with consumers with CSDA also and the department's supported employment - health and human services.

But I think you just indicated before the thrust of your evidence is in respect to CIP?... Yes, but we still work with CSDA clients - consumers.

You make the statement at the bottom of page 1 where you say: I think we are providing better services to people with higher physical needs than those who need social skills support. I mean, is there any evidence you have in making that statement?... Not hard evidence but if you talk to staff which I do on a regular basis during my work in residential services and employment services and with teaching, that staff feel really unsure working with people about those social skill levels, that stuff about - and that's part of the program that we've been working with family planning on about how you help people know someone likes them, all that sort of - those subtle social things that people need help with.

So it's more anecdotal evidence you have rather than hard evidence?... Yes.

I mean, could it be that services are in fact providing adequately in terms of social support needs?... I don't think so, in my experience.

But you have again no hard evidence on that?... No.

In respect to individual program, IPP's, which I think we've become aware of given our inspections, who's involved in that process?... The direct care staff who may have the - well I don't know what all services call them but often services have a person who is responsible for a client so hopefully the major players in that person's life. Often we are called in to support the consumer through that process.

Anyone else particular involved in the process?... I would say the major players in the person's life so that maybe residential, that may be day support or work, it maybe family members, if people have family members.

Well in respect to - and you say there's inadequate training in respect to IPP's and their formulations. If family members are involved are they - in your experience, are they provided with any training?... No, but either are the consumers and a lot of my concern is about the amount of training consumers get to participate in IPP's because they're the things that often affect - will direct where the service is going with someone and if a consumer is unsure about what it means or they don't have the - they feel intimidated within the setting then they don't participate fully and so that we don't get the most benefit out of plans for consumers because consumers are unsure about how important they are. I think that they're necessary but we don't support staff and we don't support consumers especially. And part of that supporting consumers has to fall to staff because that's part of their job. I mean, part of staff's role is to advocate for clients and -

I think you've adequately answered that, thank you. In terms of staff mixes, you make the statement that the HSUA application would make the process easier. Couldn't a mix, an appropriate staff mix be provided with or without an award or appropriate award structures in your view?... I'm not an industrial expert. I suppose I'm here to support clients and for us we need to get the best outcomes for the individuals that the services are being designed and delivered for and people need a whole variety of role models and staff models and a whole variety of staff with different skills.

Just let me get back to the question. How does the HSUA application, in your view, make easier - make the process easier?... Because it provides different levels so staff with less skills are not left, that they have supervision at all times and that by doing that we have a career path so we'd also encourage a staff to stay on so that the turnover is much less for people. And that's what's really important in people's lives, to have that continuity of staff.

In respect to 3.2 - Professional Support, are you aware of the government's policy currently in respect to the use of generic services?... I am. I don't necessarily agree with it because I don't think - well am I allowed to expand on this?

Sorry, I think - you know, if you just concentrate on answering the question, please?... That I am and I know that the department is pushing but I also think that that also can be unrealistic. That those generic services do not welcome with people, that we did a lot of work with services such as family planning so that they felt comfortable dealing with people with intellectual disability and that generic services don't feel very comfortable often dealing with these client groups for a whole range of reasons. And that they'd give them low priority.

Right. Do you support the government's policy in respect to the use of generic services?... I do, but I also - I do support the use of generic services but I also think that what we need to do is be realistic in our approach.

Isn't the thrust of your evidence in contradiction to that policy?... I think that the thrust of my evidence is about the hard facts about what's happening for people now and that people aren't accessing generic services for a whole range of reasons. And we have to realise that that's happening so we have to do what we can to improve life.

Just let me take you to your statement. You said that you support the government's policy currently on the use of services, yet you say the industry - in your statement - the industry needs to employ more professional staff?... They do because generic services aren't coping with what they've got now without adding this extra load and they're not - people don't have the skills to necessarily work with people with intellectual disability. And that what we need to do is - the professionals not only to work directly but also to train up other professionals so that they feel more comfortable.

But you say 'employ', is that actually engaged by those particular services? Is that what you're meaning there?... In that there is a capacity for services -

No, no, just the first statement: the industry needs to employ more professional staff?... Yes, I do.

Right. But isn't that just - again I put that question to you, isn't that in contradiction - direct contradiction of the government policy in services - in using outside services?... I think that what it's realising is that it's not working using generic services.

What evidence have you of that?... Because people are falling by the wayside, that before the department employed therapists, such as speech pathologists, et cetera, people weren't accessing those sorts of services, but now, especially in the south where there are speech pathologists employed, people are having far better access and not - to improve communication systems, that it wasn't happening before and there's been a noticeable increase by residential services in accessing those speech pathologists to help them help clients communicate.

Okay. You talk of - just in your - the last sentence of 3.2: there is capacity for services to get together and employ professional staff as a group. What do you mean by that?... I think that may be what would be a good thing to do is that if - that - especially if there is still a lack of - I think that the southern region has 350 clients on their books - the southern region of disability services - that what - and there

is one speech pathologist employed in the community and one at Willow Court, that maybe if there's a big need that some money can go to employing a speech pathologist to work specifically if the can't get access to the ones already there, that we need to look at different ways of accessing those sorts of things.

Right. Well how would this grouping of services be funded, in your view?... I think through the department - that - what happens now is that we're now - the department now looks at tying dollars to individuals, that it's - that - the department now doesn't talk about funding a service; it talks about servicing an individual and what the service does with those dollars is very much up to what happens with the IPPs and the service coordination plans, so that we need to maybe be a bit more flexible in the way we think about how we spend that money and that - if this is a person's greater need, then this is how we spend that money that we -

Right. So the capacity is in respect to funding?... Yes.

There is a capacity - there is a funding availability in your view - ?... For some, especially in the CIP if you -

So - yes, okay. What about other services?... It's matter perhaps of them prioritising what's important for a client and if they see that this is the important thing for a client, then this is what we need to do.

Just to move onto 3.3, staff training, you say that training is ad hoc and usually only happens when there is a crisis. Are you aware of external and internal courses offered by the particular services at all?... Yes, I am, and we participate those - we have a staff training person who we employ to train staff in those programs on client rights and on values based training. We have a staff member devoted to staff training of other agencies.

Well what actual hard evidence and research have you in respect to that statement?... I have - well I haven't with me; I can provide through the union research done on training, not necessarily in this state. There is very little research been done in this state, but we are still having staff who are employed working on shift who haven't had training -

Okay. But - ?... - and for us that's our consumer group that's suffering.

But are you aware that there are services which offer external - ?... Yes.

- just let me finish the question if I could - external and internal training courses?... I think that they don't offer

external. They offer staff the chance to participate in external courses.

Right. Okay. Yes. All right. That's - but there are services - ?... There are.

So that - in your view, that could be a very general statement you make there?... I can, but even if you talk to the people who provide that training such as TAFE, they are concerned about the amount of ad hoc training that is done.

Right. Are you again referring only to CIP programs?... The majority of this is about CIP because that is a large percentage of where the funding money goes to at the present.

Right. So, you have no knowledge in respect to supported employment training offered in those services?... I am fully aware of things like the training and development officers within workshops.

So it could be that - could it not, that there is adequate training support in those services?... From what our consumer group is telling us, they aren't that happy with it and I mean a lot of this is based - and I talk to my committee of management which is consumers before I came here and got their okay, they're not happy with everything that happens in workshops and a lot of it is their concern about the skills staff have.

Okay. You refer to high turnovers in the industry - high staff turnover. Which services particularly are you talking about there?... That would be CIP.

Right. Okay. Is it common in your view that - like - with any job, that the initial probationary period, if I can call it, that some individuals may choose not to further their employment in this area?... Oh, and I talked about that, but that is still a concern for us because you have people entering people's lives for a very - even if it's for a very short period of time and that's just adding to that cause what we're actually talking about is people's lives. These people working with, that these are the major carers in someone's life and that we need to try and stop that high staff turnover.

All right. Just let me move on. You talk about - in 3.3 - where you say: parents in the past have shown a clear preference for these services. Is that principally because those services were fully funded. Was it a funding issue in your view?... A part of that was a funding issue and when I worked in the CIP Program some parents - when I worked it was not called the CIP Program when I worked - but staff were very concerned - parents were very concerned about moving their child out of Willow Court into community non government houses

because they were concerned that the department may withdraw funding - a hundred per cent funding in a couple of years and they would be expected to fund raise.

So that the - ?... And it was also about - with respite it was very much about the skills of staff and parents feeling comfortable leaving people who had never been away from home with strangers. Often you had people who are using respite for the first time and they'd lived at home for 35 years and that parents were very concerned about would this person adequately be able to care for my child even though the child may be 35 or 40, that parents had no respite -

Right. So - but you would concede that that issue was still very much a funding issue rather than - ?... Yes.

Okay?... And a professional issue about the skills staff have to be able to cope with their parents.

Okay. Thank you.

DEPUTY PRESIDENT ROBINSON: Have you got much further to go, Mr Fitzgerald?

MR FITZGERALD: A bit further, yes.

DEPUTY PRESIDENT ROBINSON: I -

MR FITZGERALD: I'm happy to proceed, but obviously it depends on your commitments.

DEPUTY PRESIDENT ROBINSON: Well I mean, if you're going to go for another half an hour or something - I mean, we have to consider -

MR FITZGERALD: - staff -

DEPUTY PRESIDENT ROBINSON: - other people's commitments.

MR FITZGERALD: Excuse me for a moment. Yes, I was just thinking about the extent of re-examination. I don't want to labour the points too much and I'd like the answers to be a bit brief if I could and I think we could shorten it to, say, another 15 minutes.

DEPUTY PRESIDENT ROBINSON: Very well.

MR FITZGERALD: Okay. Thank you. If I could move on. The communication between services, 4.1. Is it true that that problem has occurred more recently because of the existence of brokerage services?... Yes.

Right. And prior to that, there were no problems, in your view - ?... I wouldn't say that there were no problems.

Right. Are you aware of a review in respect to the role of brokerage services play in the industry?... Yes. Well it's a review of support services rather than brokerage services.

Right. So these problems in respect to communication services could be address and could in fact be rectified?... To a certain extent, but a lot - can I just - a lot of that was because previously to the CSDA's that some traditionally services had not only employment, but they also had accommodation under the one umbrella organisation and with the DSA and CSDA they were forced to break those off and so when - in historically because services would run as someone's accommodation support and someone's leisure options and someone's employment or day support services, that communication was much easier within one organisation but with the CSDA services have been forced to break that off because it's contrary to commonwealth policy.

Just on 4.3, sexual abuse, just to clarify. Are you saying that staff are not sexually abusing clients?... I'm not saying that all abuse is by staff.

Could you clarify what you meant?... Well the accepted figures and this department accepts those figures from a - there is a study going on from Newcastle University at the moment, but the figures from Canada, UK, and New Zealand study that the Australian Government and the Tasmanian Government that 74 per cent of people who live within a residential service will be abused at some stage. The majority - that - and I think the figures are - I'm really not sure, but it's 40 per cent would be by residential staff or by people who are known closely to those people.

Have you any evidence that that reflects the trend in Tasmania?... No, but there is a - currently - that accepted by the Tasmanian Department of Community Services as a general figure and they are currently -

Where's that acceptance been indicated?... Through the regional manager of disability services, Jim Woodworth, and they are currently undertaking - Peter Holt who is the acting head is currently participating in a study by Newcastle University into abuse figures throughout Australia.

Right. Is Mr Holt still employed by the department?... I'm not sure.

Right?... I think that he's acting head because Mr he was acting in Mr Francis' - when Mr Francis left as program manager.

Your not certain that Mr Holt in fact still holds a job in the department?... Well I'm - well he had as last week I'm not sure.

Okay. All right. Just - sorry I just need to take you back out of order a bit. You talked about staff training themselves in their time. Isn't that a common thing in industry generally, that there's a joint commitment to training where management might provide some of the time and staff do some in their own time?... Oh, I agree and I don't think that we should say that all training has to be done - people need to further their professional interests, but with something as basis as communication, that are we going to leave it just to let staff take it on -

Okay. You mentioned a few instances. Were you any - aware of any arrangements in respect to those staff such as time off in lieu?... The staff's indicted to me that they were doing it in their own bat.

Okay. But could there necessarily be that there'd be some time off in lieu arrangements and - ?... There could be but that's not what staff indicated.

Right. In terms of medication. Are you aware of how many services aren't using dosettes?... No, but I know of two residential services that I visited that don't.

Are you referring again to CIP and CSDA projects?... No, CIP.

Okay. Are you aware of how many services which are using dosettes?... No.

Right?... I would expect most services that have people on medication would use dosette boxes because of the Poisons Act.

Just in terms of the Poisons Act, I think you said something about the Poisons Act or something, I think your evidence says that?... I don't know what the Poisons Act's classified under but it is the Poisons Act.

Right. Well in terms delivery - in terms of medication, what is the Poisons Act's requirements, in your view?... Well as far as I know - and I'm not an expert on this - is that pharmacists are to fill dosette boxes. That staff themselves do not do that. And that the doctor is to communicate with that and that the pharmacist is to see those. And the residential services that I work with take the dosette boxes down to the pharmacist to fill.

Did you say that it was illegal - well management were in fact breaking the law by - ?... It is under the Poisons Act and there was something in the paper a few months ago about that.

Again which services are you talking about where there might be some breaches?... Well it was the CIP.

Okay. And to what extent in terms of what numbers of CIP projects?... I don't know. I mean, I'm not in CIP houses all the time when people are getting medication but it is a breach of the Poisons Act for staff to do that.

But you're giving a fair bit of evidence here about practices in CIP homes?... Yes.

I mean, are you certain about that evidence, if you're not in CIP homes all the time, as you just said?... What do you mean? I don't understand.

Well could it be speculation in terms of practices?... No. Well I've been there when medication time and people haven't used dosette boxes.

Are you aware of organisations which have very strict regimes on - ?... I am, yes. And I would say a large majority do recognise that importance but my concern is there are still some organisations that don't.

So your evidence in that respect is in respect to the minority only?... Yes, but that's enough. I mean, that's affecting people's lives.

Now in terms of these illegal practices, as you say, have you, as a head of an advocacy organisation, taken it up with the department?... Yes.

All right, and what response have you received there?... The department is aware of what is happening and tries to - the department feels - well the response that I've had is that they will talk to management of those services, and I have also spoken to the management of those services.

Right. You talk about stress at point 5, what evidence do you have of supporting that general statement about there's a lot of stress in the industry?... Well I was talking about the services that we work with but that I will provide the things that are done, not necessarily in this state because there's been very little done on this state, from ASSID journals.

So there's no factual evidence in respect to Tasmania - ?... No, but I -

- in any particular area - industry sector?... I don't think that anyone's ever bothered to do it.

In terms of 5.2, I mean, have you any evidence of individuals being off on stress because of non work issues, domestic issues, in other words?... I can't say that. I mean, if

people are on stress leave from work they're usually on compensation. I mean, I can't say what causes a person's stress leave.

All right. How many services would you visit statewide?... As an organisation?

Yes?... Twenty or 30.

And that's statewide as well, is it?... Yes. The majority in the south, very little in the north and some in the north west.

So again the evidence of stress which you've seen is only in respect to CIP programs?... A large majority of our time is spent with CIP.

You talk about violence. Can you give us some examples of that?... I'm talking about clients' violence towards either other clients, towards physical things or towards staff.

You say it's a daily occurrence. Could that not be - ?... For some people it is a daily occurrence.

But in some other organisations it may be completely violent free?... Yes.

What about supported employment services, do you know the incidence of violence there?... No. I would imagine it's very little because unlike residential services it is much easier for supported employment services to either suspend a client or to say that they are not suitable to this service because of their behaviour. But if it's a CIP house those services don't have that luxury.

You talk about the difficulty staff confront because of the confidentiality aspects and the inability to debrief themselves, I suppose?... Yes.

Isn't that common with many professions, such as nurses - ?... I don't know. I mean, I -

- bank officers, for instance?... I really don't know. I've worked within this service for the majority of my working life and I know that it is hard to debrief when things are happening and you can't actually talk about it with anyone. And especially when some services are demanding that you don't even talk to your partner.

Well wouldn't that be the same for a nurse who is undergoing stress because one of her patients dies? Isn't that the same situation?... I don't - I really couldn't tell you but I would imagine - I know for people who work in units where that

happens that often hospitals provide that sort of ongoing counselling for staff.

Okay. In terms of - and I'm coming to the end, Mr Deputy President, so I won't -

DEPUTY PRESIDENT ROBINSON: I don't want to deprive you of the opportunity. It's just a question of timing, that's all.

MR FITZGERALD: No, I think our estimate was fairly accurate.

In terms of point 6, you said the - in terms of the cost implications to what extent are you aware of cost implications of the HSUA's application?... I'm not an industrial advocate and I understand that there'll be some cost increases overall. But I think that as a community people deserve the best and that we need to force the - we need to make it a much more public issue. And that I'm not talking about services having to fundraise; I'm talking about services needing not to fundraise, that they are properly funded.

So you have no idea what sort of percentage increase - ?... No.

What about for your own service, have you - ?... We're 100 per cent funded.

Right, yes, okay. But in terms of the cost implication for your own service - ?... We're not covered by this award. We're not covered by the HSUA award. As an organisation we come under the Community Services Award. We're not an HSUA - WAVA Award so this is of no benefit to us as workers.

If in fact the HSUA's application is successful and it causes award increases, is it, in your view reasonable to expect that some services may be curtailed as a result of those cost implications?... No. I think that we need - well we need to make disability a much more public issue and I think that there's a rally happening in a couple of days or next week that is going to try and make proper funding an issue for the whole community. That we need to provide better things for people. We just need to provide the best that we can.

Well what if that is a consequence because of funding issues that services are curtailed? How would you see that in terms of clients particularly?... It's a very hard issue and that I've argued with the state department. It's a bit like because some services may be properly funded and some services are funded down here, do we bring - do we do that or do we leave some there and try and bring these services up. And my argument is we need to bring services up to a reasonable level so that anyone - so that everyone benefits. And I don't necessarily think that the department is going to stop funding

services. I mean, and I think that it's a moral issue also that we need to force them not to.

You say that the award process gives us a chance - a one off chance to reform the disability services industry. Are you suggesting that the HSUA's application is the remedy to all the problems in the industry?... No, I don't think that anything is an answer to all the problems. There's not one solution. There's a whole lot of solutions that we need to be looking at but staffing is a major concern within the industry and that we need to be doing the best things for staff to get the best outcomes for clients.

I have no further questions, thanks, Mr Deputy President.

DEPUTY PRESIDENT ROBINSON: Right, well -

MS HARVEY: Mr Deputy President, I only have one so I don't know whether we should -

DEPUTY PRESIDENT ROBINSON: One question?

MS HARVEY: Yes, maybe two, but that's it. Very little in terms of re-examination.

DEPUTY PRESIDENT ROBINSON: Well is there any reason why we shouldn't adjourn now and -

MR FITZGERALD: I was just thinking for the convenience of the witness it might be best if we just complete those two questions, if we can very quickly.

MS HARVEY: I'm in your hands.

DEPUTY PRESIDENT ROBINSON: Well if you don't need more than a couple of minutes, okay. But otherwise we'll come back.

MS HARVEY: Okay. Mr Fitzgerald asked you about whether your evidence was anecdotal. Is there any hard - in relation to - he's particularly talking about the - oh, just your evidence generally in terms of - actually it may be better, Mr Deputy President, if we just come back after lunch because I'm rushing. I would normally take a minute or two just to put this together. If the witness wouldn't mind?... Yes, that's fine.

DEPUTY PRESIDENT ROBINSON: All right, we'll adjourn until -

MR FITZGERALD: I just think before we do, I think just in normal practice that it's not open for Ms Harvey to confer with the witness during the lunch break in respect to it. And I think that's normal practice.

DEPUTY PRESIDENT ROBINSON: Well I wouldn't expect that she would tell her what to say. We'll adjourn till a quarter past two and perhaps a little bit.

LUNCHEON ADJOURNMENT

MS HARVEY: Thank you, Ms Brady, for coming back again. I just have a few questions I want to ask in re-examination. You said in response to Mr Fitzgerald's question that the thrust of your evidence was in relation to CIP. Do you have contact with other services?... Yes, with supported employment organisations or sheltered workshops, and with some CSD A group homes. In a number of CSD A group homes we support consumers of those organisations on their boards of management.

Right. Okay. And so what percentage of services are CIP and those residential services?... What's the percentage of CIP that we see?

Yes?... What percentage of CIP do we see, or -

No. What percentage of the overall services in residential are CIP?... That we see?

Yes. Well, no, just overall. Of overall services, what percentage are CIP?... A very high percentage. I really couldn't give you a percentage, and the majority of residential services that we see would be CIP. A large majority.

Right. Okay. So the problems that you identified in the CIP services, do they also apply to - ?... There are different problems. I mean there are problems but it seems to us that a large majority of these problems are occurring in CIP services, and a large majority of services are CIP.

Okay. You said in response to Mr Fitzgerald's cross-examination that the evidence of some of these problems is anecdotal. Does any hard research actually exist in Tasmania in - ?... No.

No, it doesn't?... There has been some hard research done in employment, but that's all.

Right. Okay. And, so could you just explain to the commission again on what basis your opinions are formed on this anecdotal evidence, and on what basis you have been able to form this view?... I suppose part of it is because us as staff and myself are in and out of services all the time. That's what we do for work. We visit services and we support clients and we see the staff and we do a lot of staff

training, especially within the CIP program, so a lot of it is through talking to staff. But the majority is through talking to consumers, and what we see ourselves when we visit the services.

Right. Okay. You also said that you saw 20 to 30 services - sorry, that you supported 20 to 30 - sorry, supported in a grievance procedure about 20 or 30 services and residential services. How many services would you actually have contact with, as opposed to dealing with grievances?... We would have contact with consumers from most services. Part of our role is that we run an annual conference for consumers, and last year we had 106 consumers at our annual conference over 3 days, and prior to that we run interest groups in the north west and the south and the north, and at Willow Court where they meet on a monthly and fortnightly basis and they are just a get together and we have dinner together, and those consumers are drawn from a large majority of the services in the regions.

Okay. Great. Thanks. That concludes the questions I actually have, Mr Deputy President.

DEPUTY PRESIDENT ROBINSON: Thank you very much, Ms Brady. You may step down.

MS HARVEY: Mr Deputy President, if I can just make some concluding comments in relation to public interest.

You'll recall that I have already put submissions from the bar table on the public interest, and I think that Ms Brady's evidence is actually very important in that it supports the submissions I have made in relation to public interest.

It certainly supports my contention that outcome standards are important and form part of the public interest.

She supported that there is a need to improve training and that a skill-based award actually will assist in that process of achieving standards.

And she has also provided sworn evidence in relation that the work environment and the responsibility facing staff in these group homes is very high.

Importantly, she supported the view that I put in submissions that the public interest - it is in the public interest that the award is varied - and that any danger of losing funding is outweighed by the public interest requirement to actually have an improvement in service delivery.

And, in saying this, it is not just the opinion of Ms Brady. I think it is important to stress the organisation that she works for and represents, namely Speak Out, which is the

funded peak organisation, recognised by both the state and commonwealth governments and is also part of that national body - the State Branch of the national peak organisation.

So I think it is evidence that should bear weight with this commission .

Now some may interpret Ms Brady's comments as being critical of staff. I don't believe that that is what was being said. Basically what she said was that unskilled staff do need direct supervision and that there is a problem in terms of lack of support and training for new staff entering the industry, and that efficiency and the achievement of standards could be improved by a better provision of training.

Now we believe that such an approach is consistent with the approach that the HSUA is proposing in terms of the application that is before you, and that the endorsement of the HSUA's application would result in an improvement of service delivery and also reducing stress on some of those staff who have come in with very little training or support.

In addition, the evidence that Ms Brady has given is important, because it does go to one of the differences between the TCCI and the HSUA's application, namely the definition in level 3.

And I remind you, Mr Deputy President, that level 3 is in the HSUA's application and the employer's application is a level that slots in below the trade.

So it is essentially - and the relativities that both the HSUA's application and the TCCI are proposing are not markedly different. The difference is in the definition, in the sense that the HSUA's application has a requirement that below that level there should be direct supervision, whereas the TCCI's application does not have that requirement. It makes a general comment about usually having access to senior staff.

So it is a very important difference between the two applications, and one that we believe that the HSUA's application has been supported by the comments made by Ms Brady earlier in her evidence - sorry, in her sworn evidence - today.

So I just wanted to make those comments because I think it would be very sad if what Ms Brady has said was interpreted in a way which didn't take the overall context into account.

And, clearly there is a very high level of skill in different organisations. We have taken you to that both in evidence and in inspections, but there is also a problem in the industry at the lower entry levels because of the lack of structured

training; although the level of responsibility in the work environment is still very high, and the level of skill expected of staff is quite high.

So I suppose the import of all of that is that we are certainly not dictating to services how they should organise their work in these sort of services, but what we are saying is that if services choose to employ people in very stressful work with a very high level of responsibility with expectations about skills, if they choose to employ people who may not have that high level of skill, then they really do need direct supervision to ensure that the standards are attained and that we're providing an appropriate level of service.

DEPUTY PRESIDENT ROBINSON: Are you saying two things, that employees within your claim are below 'trades equivalent level' have a responsibility - have a high responsibility - and that according to your claim they need to have direct supervision? Didn't you also say that they need training to be encouraged to get as much training as possible to operate at their level? Would they still need supervision if they were trained?

MS HARVEY: I think the question you are asking me is that within our award the intention is that there would be training for every level of the award from entry level through to degree diploma level.

The issue is not whether someone with training needs supervision. The issue is about the level of skill people have, the work responsibility and the work environment, whether that warrants direct supervision.

And, certainly, I mean for example if we put in place a traineeship at the 78%, for example, no-one would suggest that people at that level don't need direct supervision. The issue is that the level of skill and the tasks that are expected to be performed by a service, and whether in matching those two things together that below that trade rate - whilst those people have skills, and I don't retract from that statement, clearly they do - that there is at that level also there should be direct supervision, given what is expected of staff in terms of service delivery and the tasks they are expected to perform.

Now, Mr Deputy President, if I could just - you also asked the witness questions in relation to information about stress, and Ms Brady has indicated that she would make available information of research that's been done in other States on stress and research in other States on training.

I just wish to formally seek leave, or to foreshadow, that I may be presenting that to the commission after today's

hearing. I wish to foreshadow that so that it is clear to Mr Fitzgerald as well that that may occur.

DEPUTY PRESIDENT ROBINSON: Well, alright, if you want to introduce that after you've concluded your evidence and case-in-chief, naturally I would need to give the opportunity for Mr Fitzgerald also from his end of the table, to be able to respond to that -

MS HARVEY: Sure.

DEPUTY PRESIDENT ROBINSON: - out of what would be the normal sequence of speaking.

MS HARVEY: I certainly accept that, Mr Deputy President.

If I could also say in relation to the question that you put to me about the level of skill that people have. I don't want comments to be interpreted in any way that people have to have formal training to have that level of skill, nor that people within that level that we're proposing aren't skilled.

I think the point is more that we need to ascertain through the award what the skill levels are, and recognise people who may have those skills through either formal training or through experience in the industry, or through some other method, and that really once we have got a restructured award we should be able to be in a position to say ultimately these are assessed people and look at where skill gaps are, supplement training, and all those sorts of things so that it gives us the framework to do some of that work.

If I could now just address section 8 of my submissions which go to future issues.

DEPUTY PRESIDENT ROBINSON: To which?

MS HARVEY: Future issues.

Throughout this hearing we have indicated that award restructuring is not a simple exercise. Certainly my organisation has a commitment to doing this sort of exercise properly and, therefore it is not surprising that there are a number of issues that require further work.

Accordingly, I wish to formally seek leave for a number of matters to be reserved, and to avoid any confusion I will list these out.

These are, first of all, the scope of the award. There is an application before the commission which deals with one particular aspect of the scope, but I also indicated that there may be further discussion we need to have about the scope of the award due to legislative change.

And, certainly I am not in a position to put any submissions on that, and it is a matter that I have raised with Mr Fitzgerald, but I think it is important that you are aware that it may be an issue that we would seek to come back to you on.

Secondly is junior rates. And I indicated that in my submission that the HSUA's application intends to make an application at a later date to remove age-related payments.

My recollection is that leave has already been granted in relation to that particular matter.

Thirdly, the insertion of training clauses. Chris Brown in his submissions indicated that there is an ongoing agenda in the training area which will require appropriate clauses for its implementation, and if I could just say, Mr Deputy President, that that is certainly a priority for my organisation is that whole area of entry level training into this industry.

We have training available at the Advanced Certificate and Associate Diploma level, and I think there is an agenda before us to look at the entry level training provision in this industry.

The fourth matter which we seek leave to be reserved is the issue of extending the award to higher levels.

The HSUA's application believes that there is a need for levels in the award above the proposed level 7.

I do not wish to put any submissions on this matter at this stage, but we merely seek to have the matter reserved so that we can put argument at the time and that our right to do so is not prejudiced in relation to that matter.

Five, a review of the classification structure once the National Industry Training Advisory Board's competency project is finalised and registration of the standards is finalised.

I understand that this is an agreed matter between the parties, as I indicated when we discussed the translation document, because it is contained in both the TCCI and the HSUA's proposal.

And, six, the removal of Division A from the award.

Now, Division A refers to residential homes for children with intellectual disability, and my organisation has undertaken some research and we are not aware of - certainly I think I indicated earlier that Ashley Boys Home may be affected by

this award, but on further investigation I don't actually think it is.

However, we would like to have further discussion with the employers about the removal of Division A altogether so that we'd be in the position of just having one division in the new restructured award.

MR FITZGERALD: If I could just correct that? Division A is not homes for intellectually disabled children, it is just residential homes for the care of children.

MS HARVEY: Sorry, I stand corrected.

My understanding is that we did believe that Ashley was covered by that division, but I think Ashley is actually in the public sector award.

So it is a matter that the parties haven't resolved, but certainly our objective would be if it is possible to actually remove Division A so that we have just one award, having gone from four divisions down to one.

DEPUTY PRESIDENT ROBINSON: Oh, well there is no need to go into great detail other than that you're flagging that you seek to have leave reserved in relation to that and other matters.

MS HARVEY: That's correct, Mr Deputy President. I'm not sure of the formal procedure, whether that has to be determined or whether - I take your advice on that.

DEPUTY PRESIDENT ROBINSON: I will hear both parties.

MS HARVEY: Okay.

DEPUTY PRESIDENT ROBINSON: And now I can hear both parties better.

MS HARVEY: Now there is one additional matter. When I was -

DEPUTY PRESIDENT ROBINSON: Perhaps we'll deal with that. Mr Fitzgerald, have you got anything to say about the application to have matters leave reserved?

MR FITZGERALD: Well I don't really see the effect on the state jurisdiction. I can understand it in the federal jurisdiction, but as I see it it is open for parties to make applications in respect of a whole range of issues in the future, so the effect of it really doesn't - there is really no great effect - and for that reason I wouldn't see any problem with it.

DEPUTY PRESIDENT ROBINSON: Right. I suppose the only thing I can - I acknowledge that it is used, that it is not so much

common in this jurisdiction, but I could see an argument at a later stage that if somebody seeks to put in an application without having flagged the intention, that there would be an argument that that is seeking a rehearing of matters which were dealt with or could have been dealt with at another hearing.

MS HARVEY: Could I remind you, Mr Deputy President, that some of the threshold matters we had at the very hearing - at the beginning of this hearing - related to particularly this point. And so, once bitten, twice shy.

DEPUTY PRESIDENT ROBINSON: Well, okay, I accept that those six matters, those details will be noted as matters on which leave is reserved.

MS HARVEY: Thank you.

Now there is one additional - a couple of additional matters - before I turn to my concluding statements.

One goes to an error. When I was actually preparing my conclusion I picked up an error in the HSUA's application, which I seek leave formally to amend at this point in time, and that is in relation to subclause (d)(a)(i) which is on page 18 of HSUA.4.

DEPUTY PRESIDENT ROBINSON: HSUA.4. Come again?

MS HARVEY: It was on page 18 of TAB 1: (d)(a)(i).

DEPUTY PRESIDENT ROBINSON: 'Satisfactory completion of 1976 hours', etc.

MS HARVEY: Yes. I want to add after the words 'after 1976 hours', 'or 2 years, whichever is the lesser'.

Now I would at this stage seek leave to amend the application. I'll only make a very short comment in relation to that particular aspect, if leave is so granted.

MR FITZGERALD: I am not sure of the effect. I think we will probably need to take a bit of time to discuss the effect of it, Mr Deputy President.

DEPUTY PRESIDENT ROBINSON: Well I suppose we are dealing with what the application is about. You'll certainly have plenty of opportunity to go to the merit or otherwise.

MR FITZGERALD: Yes, I understand that, Mr Deputy President. It's just given the stage we're at with submissions whether it is appropriate that leave be - well, that we make comments in respect to leave being granted. I'd just like to consider it. This matter wasn't raised with me before. I'd just like to

quickly be able to consider it. I don't think there would be any problem with respect to it.

DEPUTY PRESIDENT ROBINSON: Well, it's an application to vary that part of the application which is contained and detailed in an exhibit.

MR FITZGERALD: It's the actual application, not the exhibit. It is not an exhibit, it is the application as I understand it.

MS HARVEY: No, it's only the application. I mean, obviously all I'm seeking to do is amend my own application and obviously I accept that it's within the rights of the employers to oppose any aspect of my application.

MR FITZGERALD: Yes, well we understand that and in fact we were discussing that very point and, you know, the fact that the application is granted at this stage may not have had any great effect, because we will be putting submissions in respect to it when we have the opportunity anyway.

DEPUTY PRESIDENT ROBINSON: Yes, all right. Well leave is to reserve - leave to reserve, it's been a long week. Leave to amend the application in the manner just detailed is granted.

MS HARVEY: Thank you, Mr Deputy President. Now the reason for - it was an oversight, as I say, in the original application and the purpose is to ensure that increments do in fact occur. In our view it is not fair to have staff waiting in excess of 2 years to have access to increments.

And I just want to put an argument in relation to double discounting because a part time person - and the objective of having the 1976 hours is clearly to introduce some sort of concept of pro rata so that there's not progression purely after just 1 year of service. However I think that there is a case to argue that a discounting has already occurred. Now when a part time staff person moves up in an increment they don't get the entire increment, they only get pro rata of that increment. So in effect if there is a requirement that they attain a certain number of hours before they get the increment, they never get the full increment anyway, they only part thereof. And so therefore we believe that strictly speaking it constitutes a case of double discounting.

Now we're prepared to put in 1976 or 2 year, whichever is the lesser, so that it's not automatic after 1 year that part time people who work less than 50 per cent could actually take 2 years to reach an increment. But we think it's unfair for them to be disadvantaged any further than that, particularly when they're only ever getting pro rata of the increment anyway, not getting the full increment.

The other point that I'd make in relation to this industry, Mr Deputy President, is that there is a high incidence of part time people, that there is also a very high incidence of part time people who do a lot of voluntary work in their own time, people for example taking clients away on holidays in their own time who are working in a voluntary capacity therefore attaining skills and who are actually attaining skills, but may not be doing that in full time paid employment in that sense. And given that that is a feature of this industry then we believe it is appropriate that it be 1976 hours or 2 years, whichever is the lesser.

And if I can just cite precedence for it. This exact same provision is in fact in the Nursing Homes Award where it has this requirement that it be 1976 hours or 2 years, whichever is the lesser.

That's the only argument I intend to put in relation to that matter, Mr Deputy President. I think it's one that's fairly straightforward in terms of the logic of what we're attempting to do.

DEPUTY PRESIDENT ROBINSON: Thank you.

MS HARVEY: So the second matter is in relation to an exhibit I intended to present to the commission in terms of position descriptions and organisational charts of those services that we visited in inspection. The employers, through Mr Fitzgerald, have asked me to delay in presenting this, which I'm happy to do. They asked the delay to ensure accuracy of the most latest PD's. And I'm quite happy to do that however I reserve my right to put this exhibit forward at a later date, and Mr Fitzgerald has indicated to me that he would not oppose that. So I just thought -

DEPUTY PRESIDENT ROBINSON: Would you be seeking to do any more than just to formally introduce them? Would you want to be speaking to them in detail?

MS HARVEY: Not in detail. The reason I'd be introducing them would be to show the organisational charts and the different levels and the position descriptions, that the position descriptions include the tasks that are consistent with what the HSUA's application is. So that would be the purpose of introducing it.

DEPUTY PRESIDENT ROBINSON: Yes. I don't want us to get to a stage where it's becoming terribly confused. You've finished your evidence - you've finished your case, your primary case, primary presentation.

MS HARVEY: Yes.

DEPUTY PRESIDENT ROBINSON: And then apart from the little things we've already mentioned you're going to open up more exhibits, more arguments and then I've got to go back to Mr Fitzgerald and give you the right of reply on that.

MS HARVEY: Certainly that's not my intention and if I hadn't acceded to the request by the employers I would have been in a position to present it today. They made a request which I agreed to and I don't intend to speak to them at any great length, it would just be evidence before the commission in relation to those issues of the sort of skills that are being exercised and the sort of levels that are operating within organisations.

DEPUTY PRESIDENT ROBINSON: I see. Any objection to that, Mr Fitzgerald?

MR FITZGERALD: What, to actually present at a later date?

DEPUTY PRESIDENT ROBINSON: Yes.

MR FITZGERALD: Well as we see it, the reason why I raised the issue with Ms Harvey was that some of those documents were presented, in our view, as an aid to inspection only. And from our instructions it was in the main they were made available for that purpose alone, not for the purpose of presentation in evidence. Not just simply for the purposes of checking accuracy but we also want to get some instructions whether in fact there is an acceptability of Ms Harvey presenting those documents because, as I said, they were presented - freely presented by those involved in the services for the purposes of inspection only and not for formal evidence.

DEPUTY PRESIDENT ROBINSON: Well I wouldn't want to be laying down a too hard and fast rule as to what people can put forward in their case on either side.

MR FITZGERALD: The only thing is there is some reason why we need to check them and that is, for instance, the currency of position descriptions, whether they are current and in force. And without that opportunity to inspect -

DEPUTY PRESIDENT ROBINSON: I'm not talking about merit.

MR FITZGERALD: No, I'm not talking about merit either.

DEPUTY PRESIDENT ROBINSON: I'm just talking about the order of presentation.

MR FITZGERALD: Yes, I am too, Mr Deputy President. I didn't want to be at cross purposes there. But we have indicated to Ms Harvey that we would come to her in respect to those

documents which were presented informally during inspections as to whether the employers agree that they can be presented as formal exhibits before the commission.

Now that being the -

DEPUTY PRESIDENT ROBINSON: Well when are they - whether they can be presented.

MR FITZGERALD: Well as I indicated, Mr Deputy President, -

DEPUTY PRESIDENT ROBINSON: You can indicate whether or not they agreed or contest it, surely.

MR FITZGERALD: Well the documents were presented by employer representatives of those organisations on that the basis that they were - would assist inspections. They were not presented willingly to Ms Harvey on the basis of presentation to the commission.

DEPUTY PRESIDENT ROBINSON: Would you present them and - at a later date and allow Ms Harvey to address them in her right of reply.

MR FITZGERALD: That's certainly the possibility, Mr Deputy President. I can't - I mean, I can't be certain because in terms of some of those position descriptions I need to get instructions as to whether they are current position descriptions for instance and organisational charts and the accuracy of those organisational charts.

Now I think it's - given the sequence of events, the position we're taking on this is not unreasonable. It may be - it may well be that those documents can be presented to the commission as exhibits without any problems whatsoever, but without first having an opportunity to check, particularly one service and the general manager of that service is currently out of the state, it's necessary that we have those confirmed.

MS HARVEY: First, all I'm seeking to do - in fact the reason I put it off, Mr Deputy President, was I - precisely so we wouldn't have this sort of problem, in the hope that perhaps we'd reach agreement and wouldn't have to debate So all I'm seeking - I acceded to their request that we wait to confirm and I'm just, you know, trying to ensure that I'm not going to end up on a situation where having met that request, my right to present it will be objected to. That's all. I'm not quite sure of Mr Fitzgerald's position. I'm assuming that he is saying what I've said to you is correct and - but in some way he's reserving right at future date to oppose me putting the submissions - putting the evidence on the grounds of accuracy rather than my right to come back and put it. That's a bit

DEPUTY PRESIDENT ROBINSON: Well I think he was reserving his rights on both, to oppose the introduction of those charts at all as well as of course the right to disagree as to their content and whether or not I take it permission had actually been given from other people who prepared those things for them to be used.

MS HARVEY: I have checked with all of them except one which is a service that Mr Fitzgerald has indicated is away, but I mean, the point is - what I suppose I'm saying is I'm asking Mr Fitzgerald to forfeit his right of opposing it on the grounds that I'd finished my submissions. Not - I'm not asking him to forfeit his right in relation to any other matter. Obviously he's free to argue whatever he wants at that point.

MR FITZGERALD: Mm, that's fine.

MS HARVEY: I was trying to avoid an unnecessary brawl if he says - comes back to me and says, 'Fine, no problem'.

MR FITZGERALD: No, I can't see any problem with that.

DEPUTY PRESIDENT ROBINSON: Okay.

MS HARVEY: Yes. Now the only other matter that is - as I mentioned before is the two documents that Ms Brady indicated that she would make available through myself to the commission in relation to stress and training.

So, having made those comments, Mr Deputy President, I'd now like to conclude my submissions in support of the HSUA's application and in doing so, I think it's fair to say that the HSUA's application does represent a fundamental review of the award under the structural efficiency principle, that it has been an ongoing process. We've had fairly fundamental change already within the award when you consider we've gone from four divisions to two, that we've rationalised numbers of conditions, matters that we've dealt with, facilitative divisions; we've made flexible many of the requirements of the award and that this is the next step, is putting in place a classification structure and as I've indicated, there's an ongoing agenda and that this is not something that's just going to finish with the finalisation of a classification structure.

We've presented a great deal of information in submissions, evidence and inspections to support every aspect of our claim. Without limiting in any way the evidence I've presented, I think it is appropriate to give a summary of the major points of the submission.

Given the early agreement about procedure, I reserve my right to respond to Mr Fitzgerald - to submissions that Mr

Fitzgerald may make in relation to his application. I point out that at this time it's not possible for me to respond to those submissions for two reasons; first of all, we're not a hundred per cent sure of what the TCCI's application actually is given the commitment they previously gave to respond to the differences document that the HSUA prepared, and secondly, he has not made his submissions yet in relation to his application which is different to mine, so in that respect, I may have to put further material following Mr Fitzgerald's submissions.

Therefore, in terms of these concluding comments, I will restrict myself to summarising the submissions put in support of the HSUA's application.

In terms of - we provided evidence to you, Mr Deputy President, in section 2.0 of my submissions, in terms of the outline of the industry and it may actually assist in this process if I could just refer you to HSUA.1 -

MR FITZGERALD: Could I - sorry, just to interrupt - just in terms of that submission made by Ms Harvey a moment ago. If there is - if there are - and just as a matter of confirming the procedure, Mr Deputy President, if Ms Harvey makes submissions in respect to our application - or in response to our application and submissions in support of our application, then I trust that the commission would grant us a right of reply to those submissions of Ms Harvey. It's a curly one.

DEPUTY PRESIDENT ROBINSON: I'm revisiting the teachers case.

MS HARVEY: My view on the matter is; we discuss procedure at the beginning, that we'd try as much as possible to have my case, then the employer's case, and the right of response. I would only be seeking to put - if I put any new evidence at all, and I have tried to sort of anticipate what Mr Fitzgerald's submission might be, is that I would have to - could only restrict - putting any new evidence in relation to respond to his case, that I couldn't put any new evidence in relation to my own case and if I indeed did that, then obviously I would accept that Mr Fitzgerald would have the right to respond to that, but for ease I will try and restrict it.

DEPUTY PRESIDENT ROBINSON: Yes. If I understand what's been said; the procedure thus far has been that the HSUA have presented and spoken to its claim and covered all aspects of those - of that claim, and that Mr Fitzgerald will respond to the HSUA application and also speak to the TCCI application.

And then in the right of reply the HSUA has technically got the right to respond to any material introduced by the TCCI as part of their case.

So long as that is restricted to matters raised and not new matters, really, so far as the HSUA is concerned, only in responding. Then I guess we can tidily accommodate that sort of procedure.

There will always be the instance I am sure where someone will say, yes, but, could I put in another word? I'm overly-generous quite often, but if it gets too raggedy I might show that other side of myself that I don't like.

MS HARVEY: I'm happy with that.

Mr Deputy President, it may assist in following my concluding submissions if I can refer you to HSUA.1, and in summarising my submissions I will address section by section in the main points of my submissions.

So I was saying that in terms of section 2, an outline of the industry, I have provided information to the commission on the nature of the industry, the funding arrangements, the legislative framework and the outcome standards requirements.

The outcome standards are set by departments that fund the services.

We have presented sworn evidence that ultimately services are required to meet these standards, and if they do not meet the standards that they would be defunded.

We've also had sworn evidence that standards are appropriate and needed in the public interest, and that the standards provide the basis for professional individual service for clients to give them the skills and the rights and entitlements to live in the community to the best of their ability.

The standards also emphasise the need for trained and skilled staff.

In section 3 of our submissions we gave you a history of the negotiations that have occurred in relation to award restructuring in this industry, and we outlined the processes including the minimum rate adjustments that have already occurred and the commitment given to the appropriateness of the metal industry relativities.

And I will remind you that we presented both transcript and decisions - reason for decision - where that agreement was recorded that it was an ongoing process and in relation to the classification structure and that there was a process based on the metal industry relativities.

We also outlined to you the process by which the State Negotiating Committee set up and established a process for a

skills analysis to provide the basis for negotiating a new the classification structure, and that in the process the consultant was in fact directed to use the metal industry relativities as the appropriate relativities for setting up a new the classification structure.

Now, in terms of the issue of the commitment to the metal industry relativities, I cannot force the employers to now agree that the metal industry relativities are the appropriate relativities for this award.

However, I do believe that the commission should give weight to the fact that an agreement existed for a very substantial period of time, and in relation to the appropriateness of those relativities, and if the TCCI were to put a submission saying that they were not appropriate, then clearly one would be entitled to ask the question of why the sudden change, why were they appropriate for 3 years and all of a sudden no longer.

So I say no more in relation to that matter, Mr Deputy President, but to re-emphasise that it has been the agreed procedure for a very lengthy period of time, and I think it would be totally inappropriate.

Certainly I don't believe the submissions of an employer advocate to say that they should have no relevance would have much weight when they have been considered to have relevance over the last 3 years.

In terms of the claim, I presented an exhibit which includes the application and the summary of the application in section 4 of my submissions.

I also presented an exhibit, 4.1A, which was a different document prepared by the HSUA's application which showed the differences between the two applications.

I sought leave to amend my application to the extent that some of the matters in the TCCI's application were acceptable to the HSUA.

I also gave you a commitment that once we had a response from the TCCI to HSUA.4.1A that I would present a final application, rather than present you with a series of amended applications. So that commitment I intend to fulfil once we have that response.

I wish to remind the Industrial Commission of the major differences between the two applications.

These were presented in section A of Exhibit 4.1A.

The main differences were skill-based progression versus appointment by the employer.

You will recall that the HSUA's application requires progression on the basis of people utilising the skills of the next higher level, whereas the employer's application requires the employer to completely control that and to not appoint people to a higher level unless such a position is available, regardless of whether they are using the skill or not.

And I put extensive submissions to you in relation to that matter, and how the HSUA's application was consistent with the structural efficiency principle and the approach of a skill-based award structure.

In terms of - the second major difference between the parties went to relativities - and we prepared for you a comparison of the HSUA's relativities compared to the TCCI's relativities.

The third difference went to accelerated progression.

The fourth difference was compression of management responsibilities.

The fifth difference was in relation to incremental progression.

The sixth difference was the use of the word 'may' as opposed to 'shall' in each of the definitions.

And the seventh difference, which I believe is a very significant difference, is the difference in the level of supervision required in level 3.

Now I don't intend to revisit all the arguments about that again. I have already done that. I have put significant submissions to you, Mr Deputy President, in relation to all of those matters. I just merely in my concluding comments wish to draw your attention again to those matters of significant difference.

I also addressed the Industrial Commission on arguments in support of the HSUA's application, which was done in section 5 of my submissions.

In particular, in section 5.1 I addressed the wage fixing principles.

The HSUA contends that our application is consistent with the wage fixing principles.

We are processing a claim under the structural efficiency principle and this subsumes any work value change to the

extent that it has occurred, that the two things are - and that is consistent with the principles of this commission.

I cited aspects of the structural efficiency principle and how this application is consistent with it. For example, the need to look at skill-based career paths, the need to look at incentive to train, establishing appropriate relativities both within and between awards, addressing discrimination.

We submit that every aspect of our submissions in evidence can and should be seen as supporting consistency with the structural efficiency principle.

You will recall there was debate as to whether we can restructure an award once the minimum rate adjustment process had begun.

I demonstrated that there was an agreement at the time of the minimum rate adjustments going into place that there was a requirement for further work to be done on the classification structure, and I took you to both the transcript of that hearing and also the reasons for decision which reinforced the submissions that I put to you.

I also cited the most recent national wage case decision which was adopted in full by this state full bench when it considered the consequent state wage case, and that full bench decision specifically refers to the need for an ongoing process of restructuring and, indeed, you will recall the full bench offered its services to the parties if they were required to restructured awards that had already been restructured themselves.

And so, therefore, we submit that our application is consistent with the wage fixing principles and that we have met every requirement in that respect.

In terms of section 5.2 which is the requirement of the HSUA to establish that the relativities are appropriately established within this application by reference to other awards and internal relativities.

And you will recall that the three factors that we are required to address are the level of skill, the environment in which the work is normally performed, and the level of responsibility.

We have presented evidence from witnesses in submission that have shown that there is a need for this full scope of the levels that is contained in the HSUA's application in this industry and that the HSUA has membership at all levels.

We have reinforced - that has reinforced - that the skill levels and training needed - skill levels and training

contemplated in the HSUA's application is required - and we did this by demonstrating to the Industrial Commission that the industry itself is seeking the sort of skill levels that are reflected in our application, and you'll recall that we tabled advertisements that went back over the last 12 months that showed that employers themselves were seeking appropriately skilled and qualified staff, which was consistent with the HSUA's application.

In relation to the skills analysis we presented sworn evidence to you, Mr Deputy President, from the consultant who undertook the report that it was a joint process, that there was a thorough methodology and that the use of the metal industry relativities had been agreed with throughout the process.

We showed that the HSUA's application was in effect a broadbanding of the skills analysis done by the State Negotiating Committee. An approach which you will recall was endorsed by Ms Jones as overcoming problems she had in her project of distinguishing skill levels when people brought greater skills to the work they did, even though they may have been doing similar tasks. An approach which she endorsed as being more appropriate to this industry.

She also commented, you will recall, that indeed the HSUA's application and the way that we have structured it indeed resulted in more employer control over advancement of their employees because the access was more restricted, because people weren't automatically moving up on the basis of acquiring applications (sic) that there were very strict tests in terms of the actual tasks that they are required to do before they can utilise the skills and are able to progress.

You will recall that the HSUA made very lengthy submissions in relation to this matter about that we are not seeking to wrest control from employers about the way their work is organised, and there is nothing in the HSUA's application which could possibly result in everybody ending up at the top of the structure.

We made it quite clear to you - to the commission - that we accept that work organisation - that a properly managed organisation would have position descriptions and that an employer should be able to determine what level of skill is required within their organisation.

However, we did say that it was totally inappropriate for employers to unilaterally determine whether someone can progress up a career path on the basis of them deciding whether a position is available.

The test should, and must be, that the skills are actually utilised.

In establishing the appropriate relativities, we compared the HSUA's proposed relativities with three different tests, if you like. The first test was the skills analysis done by the state negotiating committee; the second test was against the Metal Industry Award and the third test was against other relevant awards from state and federal jurisdictions. So, we provided a 3-way testing of the relativities contained within the HSUA's application. We then went to compare with the Australian standards framework, so hence we have presented a 4-way check on the appropriateness of the relativities within the HSUA's application. On all accounts the HSUA's application was conservative, in terms of setting relativities.

We have demonstrated that the HSUA's application is consistent with this requirement, in terms of the wage fixing principles. In Section 5.3 we went to the training reform agenda and provided extensive submissions on the training reform agenda and the implications for the industry and for award restructuring. Mr Brown explained the training reform agenda and the importance of competency-based approach and the connection with skill-based award.

We demonstrated that the HSUA's application is consistent with the training reform agenda and future directions. This is important as a training reform agenda is the means by which we can be sure that our application meets the structural efficiency principle requirements of career pathway progression and competency attainment. We demonstrated that the HSUA's application, as I have already stated, was consistent with the Australian Standards framework, that framework being a nationally recognised hierarchy of skills and you will recall that the Sex Discrimination Commissioner recommended this as an appropriate approach to guard against gender bias in classification structures.

We also demonstrated the qualifications currently in place are appropriately accredited. We called Mr David Kearney from TAFE, the coordinator of the programme, who gave sworn evidence about the fact that those courses have met the stringent requirements in terms of accreditation and further, not only were they accredited, they were accredited within the framework that allowed us to draw comparison between qualifications in other industries.

We also outlined the procedures for competency-based training and the recognition of prior learning, which is an industry approach and independent of any particular party within the industrial process. This, we believe, is extremely important for the future of the industry and for this reason we believe that the approach in the HSUA's application should be endorsed and not the approach within the TCCI application, which seems to imply that employers can determine when competency is reach

and what courses they may or may not recognise and the process for recognition of prior learning.

We have foreshadowed to the Tasmanian Industrial Commission the future work the HSUA will be undertaking in conjunction with the employers. We have indicated to you that there is a need to focus for bringing together training in the entry level area. There is a plethora of different courses provided both in-house and externally and we need to be able to accredit that, to pull it together and to ensure that it is consistent with industry requirements.

In terms of Section 5.4 of our submissions, we dealt with the issue of annual increments. We argued that annual increments were not unusual in a minimum rates award and provided the Bench with examples from other minimum rate awards. Ms Jones attested in sworn evidence that annual increments were appropriate to the industry because of the nature of the industry and the clear evidence that staff improved what they did with experience.

We noted that both the TCI and the HSUA's applications included annual increments reflecting a consensus that such an approach is appropriate in this award. Our submissions in 4.1 in relation to the arbitrary manner of the employer's proposal for annual increment progression and put argument in relation to why the HSUA's proposal on annual increments would be more appropriate.

In Section 5.5 we discussed junior rates and you will recall that the HSUA's application seeks and proposes a phased approach to the removal of age related payments. We provided evidence to the commission on the consistency of this approach with guidelines established by the ministers of Labour Advisory Council and the National Labour Consultative Council. These guidelines represent a view supported by State and Territory Governments, the Commonwealth Government, the ACTU and the Australian Confederation of Commerce and Industry.

You granted HSUA leave for the matter to be reserved in terms of future applications. In 5.6 we addressed the issue of public interest. I have addressed public interest in detail and submit that overall the HSUA's application meets the public interest test. In relation to Section 36 (2)(a) ie., the impact on employment in the industry, I specifically address Section 7 of my submission in relation to Cost Implications.

The disability service is a funded sector, however services may have independent means through other methods such as or fund raising activities. Secondly, cost savings have already occurred as a result of the non-government provision of services. I compared both government and non-government

costs per client, per day costs. This represented a total saving of \$13.2m overall provided to governments by the non-government sector. I looked at group homes as a case study of this, where we considered both sleep-over and wages, which contributed a saving of approximately \$63,000 per year, per group home in savings to the State Government.

In terms of the wage fixing principles - and I also addressed the issue of the wage fixing principles and access to economic incapacity to pay principle, which gives access to services to means of amelioration on application to the Commission.

Whilst not replacing Section 36 (2)(a) it is an appropriate way of dealing with service financial difficulties. I concluded that a narrow definition of 36(2)(a) would result in workers in funded sectors being disadvantaged by being forced to accept lower wages because governments do not choose to fund their industrial obligations. I argued that this was against the public interest as it would undermine the objective of setting a fair safety net of minimum rate awards and that such an arbitrary system of wage fixing would lead to industrial unrest. I supported this submission with past practice of the Tasmanian Industrial Commission in relation to other workers in funded sectors, either directly through employment or indirectly through funding other organisations.

I cited the teachers special case and the Tasmanian Industrial Commission in relation to incapacity to pay where the Full Bench determined that governments do have the capacity to reorder their priorities. I argued that the government would be morally bankrupt if they were prepared to accept the 40% pay rise that they gave themselves but refused to fund an increase to disability services workers who had submitted properly to an independent umpire. Many of those workers earn less than the government gave themselves in that pay rise.

In terms of addressing 36(2)(b) the impact on the economy with regard to the level of employment, I stated that the number of people employed in the industry is low with less than 1,000 employees. This compared to the total labour market figure of 195,000 employees. The impact on aggregate employment levels, which is the test not the impact on individuals would be minimal if the HSUA's application was granted.

In terms of 36(2)(c) other matters in the public interest, I contend that the whole of my submissions could be placed under this heading. The evidence of every witness submission and inspection supports the need for a new skill-based award with incentives to train in the terms of the HSUA's application. I also presented sworn evidence from expert witnesses and consumer representatives that support the HSUA's application being in the public interest. These were not just any witnesses; there was the manager of the Health Professional Services at Willow Court, and the manager of Speak Out, the

state's recognised peak organisation for consumers of services for people with disabilities.

Specifically, I argued that the HSUA's application, if endorsed, would result in an improvement in service delivery for clients, based on skilled staff necessary to meet standards, the ease of planning and the retention of skilled staff. In terms of gender relativity I argued that the industry where women predominate or work is seen as an extension of female attributes, for example caring, are often under valued. In support of this I produced evidence from the nation's leading statutory officer, the Sex Discrimination Commissioner. I presented extracts from her submission to the Australian Industrial Relations Commission Review of the National Wage Fixing Principles. She argued that even in award restructuring work predominantly done by women has in some cases been under-valued. She cited the Child Care Award as an example and a paper published by the University of Adelaide which documents the under valuing of work in that award.

I took the Commission to the analysis of the Federal Child Care Award and drew comparisons with the TCCI's application and this award. I argued that it was in the public interest to avoid gender discrimination, indeed it is part of structural efficiency principle itself.

In terms of the public interest test, I submit that the HSUA's application is in the public interest and that the benefits of the application to the community outweigh any perceived disadvantages.

In Section 6 I went to translation and presented to the Commission a translation proposal and requested that a translation process be attached as a schedule to the award. This proposal is largely consistent with the TCCI's proposals other than the operative date and annual increment. We seek an operative date of 22 April 1994 being date of application and whilst not resiling from that primary position, if it is unacceptable, we would seek an operative date of date of decision.

I adopted my submissions in relation to annual increments that I gave in Section 4.1 of my submissions. I argued that workers in this industry had already waited 6 years and that they should not be required to wait any longer for increases. In terms of cost implications, I have already dealt with - summarised my submissions in this respect and I dealt with public interest.

In terms of future issues, which was Section 8 of my submission, award restructuring does not stop with the classification structure. The Australian Industrial Relations Commission and the Tasmanian Industrial Commission have made

it clear that it is an ongoing process and I have indicated that we have a full agenda a commitment to the future of the industry. That commitment extends both to our members and to the clients of the services that they deliver.

I sought leave for the following matters to be reserved. The scope of the award, junior rates, the insertion of training clauses, extending the award to higher levels, reviewing the classification structure once the National Industry Training Advisory Board competency project is finished, the removal of Division A.

In conclusion, Mr Deputy President Robinson, we have presented extensive submissions, evidence, sworn evidence and inspections in support of the HSUA's application. I commend the HSUA's application to the Commission and seek the award variation in the terms of that application. If the Commission pleases.

DEPUTY PRESIDENT ROBINSON: Thank you. Are you in a position to respond, Mr Fitzgerald?

MS HARVEY: There is just one final matter, not in relation to my submissions that I have missed -

DEPUTY PRESIDENT ROBINSON: About future dates of hearings?

MS HARVEY: Yes. I apologise for a slight change. We are actually looking at changing the 13th and 14th October to 20th and 21st.

DEPUTY PRESIDENT ROBINSON: Do you have any argument with that, Mr Fitzgerald?

MR FITZGERALD: No objection.

DEPUTY PRESIDENT ROBINSON: That is noted and we will use some more trees to send out some more notices, correcting that which has been put out in good faith already, having regard to agreements of parties in relation to previous dates set. I think we will adjourn to the next sitting day.

HEARING ADJOURNED