

REPORT ON PROCEEDINGS BEFORE

PUBLIC ACCOUNTABILITY COMMITTEE

**INQUIRY INTO THE NSW GOVERNMENT'S MANAGEMENT OF
THE COVID-19 PANDEMIC**

CORRECTED

At Macquarie Room, Parliament House, Sydney, on Friday 12 June 2020

The Committee met at 10:00

PRESENT

Mr David Shoebridge (Chair)

The Hon. John Graham

The Hon. Trevor Khan

The Hon. Tara Moriarty

The Hon. Adam Searle (Deputy Chair)

The Hon. Natalie Ward

The CHAIR: Welcome to the fifth hearing of the Public Accountability Committee's inquiry into the Government's management of the COVID-19 pandemic. The inquiry is intended to provide ongoing parliamentary oversight to the Government's response to the unfolding pandemic. Before I commence I would like to acknowledge the Gadigal People, who are the traditional custodians of this land. I would also like to pay respect to the elders past, present and emerging of the Eora nation and extend that respect to other Aboriginals present. Today we will hear evidence from witnesses from the mental health portfolio in the morning—including the Minister for Mental Health, Regional Youth and Women—and from the better regulation and innovation portfolio in the afternoon. The COVID-19 crisis has touched our lives in nearly every way. While primarily a public health emergency, the massive social and economic disruptions the pandemic has brought play out in more subtle and insidious ways in the mental health and wellbeing of our communities.

Public policy and health interventions must therefore look beyond narrow definitions of physical health in order to address far-reaching impacts on people's mental health and wellbeing, especially for the most vulnerable and disadvantaged in our community. In times of crisis it is incumbent upon governments to provide additional support for individuals and families experiencing psychological distress, however it may be manifested. Indeed, some of the most vulnerable in our community at this time are those who rent. With many people being stood down, losing their jobs or having their income cut, renters are facing many uncertainties and pressures, especially with the prospect of income support schemes such as JobKeeper being abolished or discontinued in the near future. The Government's policy response to these issues is a matter of significant public interest. These are matters that will be considered at today's hearing.

I would now like to make some brief comments about the procedures for today's hearing. Today's hearing is being broadcast live via the Parliament's website. A transcript of today's hearing will be placed on the Committee's website when it becomes available. In accordance with the broadcasting guidelines, while members of the media may film or record Committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I also remind media representatives that they must take responsibility for what they publish about the Committee's proceedings. It is important to remember that parliamentary privilege does not apply to what witnesses may say outside of their evidence at the hearing. I urge witnesses to be careful about any comments they make to the media or to others after they complete their evidence as such comments will not be protected by parliamentary privilege. The guidelines for the broadcast of proceedings are available from the secretariat.

All witnesses have a right to procedural fairness according to the procedural fairness resolution adopted by the House in 2018. There may be some questions that a witness could only answer if they had more time or with certain documents to hand. In these circumstances witnesses are advised that they can take a question on notice and provide an answer within 21 days. I remind everyone here today that Committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. I therefore ask that witnesses focus on the issues raised by the inquiry terms of reference and avoid naming individuals unnecessarily. Witnesses are advised that any messages should be delivered to Committee members through the Committee staff.

To aid the audibility of this hearing, I remind Committee members and witnesses to speak into the microphones. The rooms is fitted with induction loops compatible with hearing aid systems that have telecoil receivers. In addition, several seats are reserved near the loud speakers for persons in the public gallery who have hearing difficulties. All witnesses from departments, statutory bodies or corporations will be sworn prior to giving witnesses. Minister, I remind you that you do not need to be sworn because you have already sworn an oath to your office as a member of Parliament.

Mr DAVID PEARCE, Executive Director, Mental Health Branch, Ministry of Health, sworn and examined

Dr MURRAY WRIGHT, NSW Chief Psychiatrist, Ministry of Health, sworn and examined

The CHAIR: Minister, thank you for attending today. You now have an opportunity to make a brief opening statement.

The Hon. BRONNIE TAYLOR: I am happy to make a statement, but would you all prefer to start asking questions? What has been the process so far?

The CHAIR: Minister, brief statements have been made before. That might be a useful introduction.

The Hon. BRONNIE TAYLOR: Thank you for having me here today to talk about such an incredible time in our history during the period of COVID-19. There have been many challenges and many things written about the potential mental health impacts and the real mental health impacts in terms of COVID. The State has seen quite an unprecedented time in 2020 in terms of the fact that we have had drought, bushfires and now COVID. As the Minister responsible for mental health I am really proud that we have been able to implement a \$73 million injection into the mental health system. In addition to that—which actually brings the total to \$79 million—was \$6 million for Lifeline. We know that the number of calls to Lifeline has increased, so it has been really great that we were able to pre-empt that with the investment to increase its capacity.

We have had some really great programs in terms of the \$73 million that we announced. I would be really happy to elaborate on those programs further during the hearing. We have had terrific responses to our Police, Ambulance, Clinical, Early, Response [PACER] program. We have had terrific responses to the fact that we are going to put 180 new mental health expert clinicians into the field in terms of primary health care. That 180 plus the 36 will bring that to 216, including the PACER clinicians that will be going out as well. That is a massive injection into our mental health services. I am particularly looking forward to the evaluation of our virtual mental health teams. Being able to put one virtual mental health team into every single local health district [LHD] is a really good thing. It is something I feel really strongly about, being someone who lives in a rural community. It is great to look at different ways of providing services. That is one opportunity that COVID has provided to us. It has provided us with the ability to see how we might be able to do things differently and implement those changes.

Of course, our suicide prevention strategy was already going. I am really hopeful that is going to see some good results. The timeliness of it was really paramount in terms of heading into this period when we have had so many external stressors on people. Things like our pop-up services and our alternatives to the emergency department are going to make a real difference. I am not the sort of person who is going to say that one fix will fix them all, but I am really pleased that we have been able to make the investment to increase the capacity. I look forward to seeing how these things work and how they help people who are living with a mental illness.

One thing I would like to say in concluding my opening statement is that the way that some of us have been feeling during the drought, during the bushfires and during COVID-19 is often how people with mental illness feel every single day of their lives. They do not want to get up in the morning and they feel like everything is spinning so fast around them that they cannot break free of that circle. I would like to think these things have allowed us the opportunity to think about how those people feel every day and actually have more empathy and a better ability to say that we need to do more and can do more.

The CHAIR: Thank you, Minister. It has been a dreadful year in many ways. I thank you for your opening comments. I pass now to the Opposition.

The Hon. TARA MORIARTY: Thank you, Minister, for your opening comments. They were a good broad overview of some of the announcements that have been made. Can you just take us through some of the specific details within that bucket of money that you referred to that are related specifically to the pandemic—the programs that have been put in place? What out of the \$73 million injection into the mental health system is related to COVID?

The Hon. BRONNIE TAYLOR: I would love the opportunity to answer that. Thank you very much. We will start with the enhancement of the mental health line—that is the 1800 mental health number. In any health system the most important thing is the access point to get into system to then be triaged and referred off to where you need to go. That is what our mental health line does. We predicted that there would be a need for increased capacity during the COVID-19 pandemic. We knew that we had to get that part of the service to be really robust and really firing. By making that additional investment into the mental health line we are allowing the capacity to pick up an extra approximate 60,000 calls. That was something that we really, really needed to do because we needed to make sure that that capacity was there within the system.

Then there is the virtual mental health expansion to all local health districts. Living in a rural community, I know how important it is to have access to the right services at the right time. We know that often we do not have the same capacity to recruit and we do not have the same capacity in terms of the number of health workers working in some of those communities. The ability to do virtual mental health care is a really exciting development in a really exciting space. We have come such a long way from when I first talked about telehealth. It was very different in my nursing context than it is now, when we are talking about virtual mental health services. There are specific people working in those virtual mental health teams within each LHD. It is their sole focus and job to do that virtual mental health work. And it is not only about making sure that the people who need those services get access in a timely manner; what it actually provides is educational opportunities for our clinicians and the people delivering these services.

As a clinician, there is nothing better than being able to talk with other clinicians, look at different models of care and see how what might work in one community can be fixed to work in your own community. There is no way that one size fits all. That is a really big mistake that people sometimes make. We have seen that. Dr Wright and I were discussing only this morning his experience of that when he was the mental health director for southern New South Wales and people decided that something that worked well in the city was going to work really well in the country. It is a big mistake and does not get good outcomes. We are able to be really flexible. Mr Pearce, who can elaborate, has also been a mental health director and is now head of my branch. This is his first hearing today. I am very pleased that he is here with us. But he has firsthand experience of that as well.

Being able to provide educational opportunities to clinicians will only embed their expertise, give them more confidence in their practice and end up having better outcomes for our people who require mental health services. We are also supporting first responders in the PACER program. That was a trial that was rolled out in Kogarah. It has had really incredible results and we are really pleased with it. There has been a 10 per cent decrease in people presenting to emergency departments and a 14 per cent decrease in police scheduling under section 22. That has been really important. The two clinicians who have pioneered that out at Kogarah, Fiona and Felicity, have been champions, as have the police officers out there. They have so much respect when they speak about these two women and the incredible impact they have had out there.

Again, when the modelling showed what the worst outcomes of the pandemic could potentially bring we knew we had to do something in terms of first responders. That was really good. That is that program. We also brought in an enhancement of diversional therapy activities in acute units. That came directly out of the COVID response. We and Dr Wright, as the lead for psychiatry services in New South Wales, had to make some really tough decisions in terms of mental health inpatient units. The decision, made in agreement with all mental health directors and Dr Wright, was that leave would have to be cancelled during this pandemic time to protect the people who were in there and protect the services. We had to consider if that was going to happen and people could not have leave that there were going to be some potential issues that we would face.

Those issues were that people may become frustrated and that it could be more difficult on our mental health clinicians and our staff. We did put money into every single inpatient mental health unit for diversionary therapy. That can be different things to different people. In some units they might have wanted to more lifestyle and life skill courses such as cooking, while other places might have wanted to do art and others might have wanted to do other types of diversional therapy. That allowed the opportunity for that.

The CHAIR: Minister, we may need to move on to the second question.

The Hon. BRONNIE TAYLOR: I am sorry, Mr Shoebridge—

The CHAIR: I think your enthusiasm is extraordinary and I am not trying to cut you off. But I think we might go through some of these things more thematically. I will let you wrap up.

The Hon. BRONNIE TAYLOR: Correct me if I am wrong, but the question was: What are the programs—

The CHAIR: It was a very broad question.

The Hon. BRONNIE TAYLOR: Yes, so I am just trying to answer it.

The Hon. TARA MORIARTY: There was a point to it. The question was broad but there was a specific part to it that deals with where I want to get to, which is: What is specifically directed to COVID?

The Hon. BRONNIE TAYLOR: As I just said, there is the diversional therapy and the increased capacity of the mental health line. We were expecting extra calls so we bumped it up. I also talked about the virtual mental health expansion. We know that we need to look at different ways of doing things when we cannot see people face to face. I think I did directly answer the question.

The CHAIR: Minister, I am not suggesting that your answers were not relevant.

The Hon. BRONNIE TAYLOR: I am happy to keep going on all the other initiatives and how they relate to COVID, as the question asked me to do.

The Hon. TARA MORIARTY: We are going to go through each one of them. Do not worry about that.

The Hon. BRONNIE TAYLOR: I am excited.

The Hon. TARA MORIARTY: We will talk about each one more specifically. I am happy to get the broad overview—

The Hon. BRONNIE TAYLOR: Would you like me to finish answering the question you asked?

The Hon. TARA MORIARTY: No, I am happy to jump in. It is directly relevant. This is an inquiry specifically about COVID and the response of the Government in relation to the pandemic. There have been a number of announcements and a lot of dollar amounts have been thrown around in terms of mental health. I am interested in understanding more broadly what money is specifically related to this pandemic and what money would have been spent otherwise. Some of these programs—we will go through each one of them—will not necessarily relate to COVID. I am interested in what the timelines for these programs are.

We will start with PACER because that is the topic of this week. That is fine. I note that the money for the program, which has only been rolled out in Sydney—so not regional New South Wales—has been reported as coming out of the money the Government announced for COVID-related funding. Can you explain how it relates to COVID? What is the time period for this to be put in place? In the longer term will it come out of mental health funding or police funding? How is it going to work? It seems like a broader program than one that is only COVID related?

The Hon. BRONNIE TAYLOR: I would have thought that any program that enhances mental health services is a really good thing. But I will answer your question.

The Hon. TARA MORIARTY: It is not a criticism of the program; it is a question about where the money is coming from.

The Hon. BRONNIE TAYLOR: I must correct you because I understand that yesterday you put out something about the program not being in rural and regional areas. That is incorrect.

The Hon. TARA MORIARTY: It is not.

The Hon. BRONNIE TAYLOR: You are actually wrong. That is the truth of the matter.

The CHAIR: Minister, now is your opportunity to explain that.

The Hon. BRONNIE TAYLOR: Yes, and I am very happy to do that.

The Hon. TARA MORIARTY: Could you please tell us which areas it has been rolled out in outside of Sydney?

The Hon. BRONNIE TAYLOR: Let me answer the question. This morning I was on the radio in the Illawarra because there were comments made about how there were no services down there in relation to this pilot program. There has actually been a trial running in that area since April. We have been doing that in conjunction with the Illawarra to look at how we can do things. To say that it does not exist is incorrect.

The Hon. ADAM SEARLE: Where in the Illawarra?

The Hon. BRONNIE TAYLOR: We have done the proof of concept for the mental health, ambulance and police project as well, which is the same—

The Hon. TARA MORIARTY: Are we talking about PACER? It is a specific question about the PACER program, which you announced this week.

The Hon. TREVOR KHAN: Point of order: The Minister seems to be being directly relevant.

The CHAIR: I accept the point of order. The Minister needs to be allowed to finish.

The Hon. BRONNIE TAYLOR: Thank you, Mr Shoebridge. Just to give you the absolute facts and the actual numbers on that, the results are: 16 calls from police for potential community assessments, 14 consumers have been assessed in the community by mental health clinicians and seven admissions to the Wollongong emergency department have been avoided. That is one program. I understand that yesterday one of the local members said that there was nothing happening in western New South Wales. That is also incorrect. There is a

trial that is ready to go in western New South Wales to pull out to Cowra. That was due to start in January but because of COVID had to be pulled back.

The Hon. ADAM SEARLE: So it was not COVID related.

The Hon. BRONNIE TAYLOR: That particular one, no. But we have been working on this pilot for quite some time. What we knew with the pandemic was that we potentially would have an increased number of people being very distressed. When people become very distressed and they have a mental health issue they can have difficult situations in the community. What it has allowed us to do is to rollout a program where we have done a trial, and we have announced that—sorry, we did not announce the trial we announced the pilot, which is across metropolitan Sydney. This was solely developed for metropolitan Sydney. The worst thing you can do in health, the worst thing, is to take something that suits a metropolitan area and say, "This is how you are going to do it in a country area." It does not work. We all know that. This is about the fact that we are working on these things all the time. And Mr Pearce might like to—

The Hon. TARA MORIARTY: But Minister, with respect, back to the question; you just accused me of putting out a statement yesterday that was wrong, because you are saying the program is not only based in Sydney. Your announcement, the announcement that came from your and the police Minister's office was that this has been rolled out in police districts in Sydney only, and that at some future point you might look at it in regional New South Wales. And now you are telling me that there is a program—

The Hon. BRONNIE TAYLOR: No, no, I am actually telling you that you are incorrect—

The Hon. TARA MORIARTY: Then can you give us details—

The Hon. BRONNIE TAYLOR: You are incorrect.

The Hon. TREVOR KHAN: Point of order: I take a point of order directed at both sides.

The CHAIR: I suggest that this works best where we have question and answer, not bouncing back and forth. I understand why it is bouncing back and forth, because I think it is with you, Minister, to explain, given the announcement yesterday which said that the program will operate in Campbelltown, Nepean, Northern Beaches, Sutherland Shire, Blacktown, Eastern Beaches, Ku-ring-gai, Metro Combined—which is Kings Cross, Surry Hills, City of Sydney, South Sydney and Bankstown police—given that was the announcement yesterday I think it is reasonable to expect some clarity, given the announcement only mentioned metro regions.

The Hon. BRONNIE TAYLOR: Yes.

The CHAIR: I think it is fair to ask.

The Hon. BRONNIE TAYLOR: Sure, Mr Shoebridge.

The CHAIR: The member is trying to understand if PACER is outside of that list that was provided yesterday.

The Hon. BRONNIE TAYLOR: I am very happy to answer that. What we were announcing was the metro expansion of the PACER program in relation to COVID. When you want to find out about what is happening in local areas, it is really helpful if you want to ring the local mental health director. If you rang the local mental health director in western New South Wales, who is based at Orange, they would tell you that we have all been looking at this program because the results initially are extremely exciting for us in the mental health space, extremely exciting. That is what has been happening in the metro area. Of course people are watching things and looking at that all the time.

That was a trial that has now become a pilot program across metropolitan New South Wales. But it also is the fact that there will be two regional trials, and they will be announced in time. The reality is that already at the moment this is going on. If people just checked and enquired and talked to people on the ground in those local communities, they would know that.

The Hon. TARA MORIARTY: Minister, with respect, that is kind of what we are doing here. It is an inquiry into what the Government is doing in relation to COVID.

The Hon. BRONNIE TAYLOR: With respect, it is not what you did yesterday.

The Hon. TARA MORIARTY: There is no need to be offended by the questions.

The Hon. TREVOR KHAN: Point of order—

The Hon. TARA MORIARTY: I am asking questions. That is my job here.

The CHAIR: I think the point of order is already well made. This is not about everybody trying to explain their position one way or the other. It is about questions and answers. I ask both the Hon. Tara Moriarty and the Minister to try to respect that process because it is easiest.

The Hon. TARA MORIARTY: Sure. I am happy to accept that.

The CHAIR: I am handing over to you for a question.

The Hon. TARA MORIARTY: Sure. I am very happy to accept that. I am genuinely not trying to argue with the Minister. This is my question. I have asked a question in relation to this program. So far the answer has been that the program is outside of Sydney and the answer has been that it is not yet outside of Sydney but people are looking at it. Where is the program operating outside of the announcement that was made by you and your fellow Minister yesterday, or Wednesday?

The Hon. BRONNIE TAYLOR: What a great announcement. As I said to you before in your previous question and my previous answer to you, which I am sure *Hansard* will reflect, I spoke about two trials that are undergoing at the moment. They are not pilots, they are trials. We are trialling them. We are trialling to see how they are working, how we can do things differently. If you look at Kogarah, where it started, and look at the local area command, they have three police stations within that local area command, so two clinicians, Fiona and Felicity who are based there who cover that area. If you look at something in western New South Wales, take the Chifley Local Area Command, there are over 20 police stations in that area. If we had two clinicians in one place, if we put them out at Cudal, for example, they might have one call-out every fortnight or every month. We have to look at how we can do that differently, and that is exactly what we will be trialling. It is not a pilot yet. It is a trial.

The Hon. TARA MORIARTY: So it is not happening yet.

The Hon. BRONNIE TAYLOR: It is happening.

The Hon. TREVOR KHAN: Point of order—

The Hon. TARA MORIARTY: I am not getting an answer to my question.

The Hon. NATALIE WARD: You are not here to argue.

The Hon. BRONNIE TAYLOR: You do not like the answer.

The Hon. TREVOR KHAN: One is not entitled to make editorial comment as the Minister is answering.

The Hon. TARA MORIARTY: I am trying to get an answer to my question.

The CHAIR: We have plenty of time this morning. Minister, I ask you as best as possible to be relevant to the question, and I think you are endeavouring to do that. We have got plenty of time, we will let the answers conclude and then you can have your follow up. I think it is quite legitimate, you are wanting to have a follow up, but let the answer conclude and then do the follow up.

The Hon. TARA MORIARTY: Okay.

The CHAIR: Minister, the ball is in your court if you want to finish your answer.

The Hon. BRONNIE TAYLOR: Yes, Mr Shoebridge. With respect, I feel I cannot be any more directly relevant than say that we are trialling that in this area. I actually talked about the numbers of people already who have been seen. I cannot be more directly relevant to say that we are ready to go with a trial in western New South Wales, and that site will be Cowra. Mr Pearce may like to elaborate on that for you, but those are the facts and those are the numbers. Mr Pearce, would you like to elaborate further?

The Hon. TARA MORIARTY: No, but, can I just, my question—

The CHAIR: I think the Minister is allowed—

The Hon. NATALIE WARD: The Minister is entitled to—

The CHAIR: We will hear what Mr Pearce has to say, and then we will come back to you.

The Hon. TARA MORIARTY: Okay. So, I will just sit back and wait for this, if I cannot get the answer.

The CHAIR: Sit back and wait for the answer.

The Hon. TARA MORIARTY: Go for it.

Mr PEARCE: I would be happy to provide a bit of context to answer the question. In this \$73 million package there is funding across the State to support first responders, ambulance and police. There is a particular model that predates COVID, the PACER model, which was trialled in Kogarah, which showed great success and enthusiastic support by police. The Minister has announced that model for metro Sydney. In terms of the broader theme of support for first responders, police and ambulance, the point the Minister was making is there are various models which are more applicable in regional and rural than the model that was applied to metro. The reason for the particular approach in metro of embedding mental health clinicians in a police station is small geography, large volume of call-outs, so those positions are effectively utilised based working with police.

In rural and regional New South Wales that certainly is not always the case. As the Minister made the point, there are multiple police stations that individually have small call-out activity in relation to mental health clients. Under our funding bucket of virtual mental health there have already been models trialled, as the Minister said, in western New South Wales, in Illawarra, Shoalhaven local health districts, that have applied for funding under the virtual mental health component of our package. That will provide support for first responders, so PACER-like models that are adapted for regional and rural. That will enable assessment in the community via technology rather than necessarily having a mental health clinician in person with the police at every location across a wide geography.

The context of COVID, which makes this really important, is that it does two things; first, anticipated rise in demand of police call-outs for mental health issues; and secondly, reduces presentations to emergency departments. Our concern in the COVID pandemic was trying to reduce wherever possible avoidable presentations to emergency departments to free that up for necessary and anticipated increase. I guess in summary what we are saying is that the PACER model specific to metro that works well in metro utilising the virtual mental health component of our funding, we are going to fund ongoing trials in Illawarra, Shoalhaven, western New South Wales and there are other districts like northern New South Wales where the directors have expressed interest and will be supported. So, statewide approach to supporting first responders that appropriate models for rural, regional and metro.

The CHAIR: We will come back to you, and feel free if you want to address anything in the middle of this.

The Hon. TARA MORIARTY: I will.

The CHAIR: The New South Wales PACER program has relied in large part upon the experience in Victoria in terms of establishing. Is that right, Mr Pearce?

Mr PEARCE: No, it was really the trial in Kogarah. But there are published models both international and interstate that were referred to.

The CHAIR: As you know Victoria has had a PACER program since at least 2012, or before that, and including successful programs in regional Victoria. Have you looked at the Victorian model, which all the data says achieves similar positive results to rollout regional mental health services? Have you looked at the Victorian PACER model?

Mr PEARCE: Yes.

The CHAIR: Why have we not implemented the Victorian PACER model?

Mr PEARCE: Well, we have, we have. We have adapted it to our requirements. But, as I explained, in regional and rural New South Wales the approach requires virtual mental health rather than necessarily in-person clinician with the first responder at the scene.

The Hon. BRONNIE TAYLOR: Also, Mr Shoebridge, may I contribute to this?

The CHAIR: Indeed.

The Hon. BRONNIE TAYLOR: In terms of rural and regional Victoria, it is often a very different landscape to rural and regional New South Wales, particularly when you look at western. Their towns do tend to be closer together than ours do in many parts of rural and regional New South Wales. Victoria has done some terrific programs. I have been down there myself and I have worked really closely with the Labor Minister, Martin Foley. I think that some of the things that they have done have been really good and that is what we are looking at with some of our suicide prevention strategies as well. We are not, not looking at other things, we are working really collaboratively with Victoria. What we have to do is what is right for New South Wales and we have to take the time. That is where COVID, as I said in my opening statement, has provided some opportunities

for us in the mental health space, because it has allowed us some opportunities to look at things a little bit differently and to be able to expand some programs.

The CHAIR: Minister, I accept that. In fact it is a terrible crisis but it has forced governments to be more nimble than otherwise would be. One of the positives of that is the expansion of the PACER program, a program, to be quite clear, I have supported from the outset.

The Hon. BRONNIE TAYLOR: It is a great program.

The CHAIR: The concerns, and I think the Hon. Tara Moriarty was raising this in her questions, are that if the expansion of the PACER program is funded out of COVID money, what happens when that bucket empties? Are we going to commit to at least the footprint that we have at the moment on PACER being a permanent footprint?

The Hon. BRONNIE TAYLOR: That is a reasonable and valid question, Mr Shoebridge. At the moment I can only answer the questions with the information which I have. I was able, with the New South Wales Government, to secure this injection of funding for COVID. Your question is directly relevant and it is a very important one. When we come to budget estimates you will be able to grill me about what we are going to do going forward. We know that this money is available now. We are going to use it. We are going to be really laser focused on how we look at the outcomes of these programs and the results of what we are doing. Then it will be my job, and I take responsibility for that as the Minister for Mental Health. I cannot sit here today and guarantee you forward things with the budget because I am going to have to make my case like every other Minister to do that.

The CHAIR: How long is the PACER program budgeted for? What is the current budget time frame?

Mr PEARCE: It is for 12 months through to June next year.

The CHAIR: In terms of funding for a trial, this is the trial in the central west, is that the same funding envelope for the trial to be concluded and anything to be implemented over the next 12 months? What is the funding envelope for the central west trial?

The Hon. BRONNIE TAYLOR: That trial in the central west was going on and ready to be launched pre COVID. That was coming from existing funds that we had looked at already. Western New South Wales and the mental health director out there is really innovative. He was looking at this stuff—

The CHAIR: But that is a different bucket of money and it is not tied to the COVID funding.

The Hon. BRONNIE TAYLOR: That is correct, yes.

The CHAIR: Minister, how were the 10 police area commands [PACs], the metro police districts, chosen for the expansion of the PACER program in metro Sydney, and did your office have involvement with that looking at mental health reports and mental health data? How were they chosen?

The Hon. BRONNIE TAYLOR: I can start to answer, then I will hand to Mr Pearce. When I went out to Kogarah to look at the PACER program before COVID hit, we had people from other local area commands who came as well, because there has been such huge interest in this from the police in terms of how it was working and the way it was playing out for their officers on the ground. What we did was we worked with the local area commands and the police local area commands to make sure that they were the ones that looked like they wanted to have it and they were agreeing to give it a really good go. Because what is really fundamental here with this program is that you have to get the mental health clinicians right, and you have to get the police—

The CHAIR: Were these 10 PAC's where the police put their hands up and said, "We want this"?

The Hon. BRONNIE TAYLOR: This is my understanding.

The CHAIR: Was that how it was chosen, Mr Pearce?

Mr PEARCE: Two issues. One is data-informed, so the police looked at the higher volume call-outs for mental health-related issues. Secondly, and critical, is we needed active support and endorsement by the police area commands that they wanted to take it on. So, those two components.

The CHAIR: Minister, I accept why that may have been chosen as the starting point, but do you accept this proposition, that it is in those police area commands where the leadership has not put their hands up and acknowledged the benefits of PACER that probably there is the greatest amount of work to be done? Because I would have thought anyone in a position of leadership in the Police Force would look at the results at Kogarah and if they are not putting their hand up and asking for some of that, then we have a problem, do we not?

The Hon. BRONNIE TAYLOR: We do, Mr Shoebridge. But, to be fair, I am not the police Minister and I do not spend a lot of time in police stations.

The CHAIR: I try to avoid it myself, not always successfully.

The Hon. BRONNIE TAYLOR: You are more experienced than me, Mr Shoebridge, and I would like to keep it that way. All I can comment on is what I have seen. That is how I operate. I think it is from years of being a nurse, I have to see things and I have to observe them and I have to feel them to know if they are effective. Obviously then I have all these amazing people who work with me who look at the data and we work out the best approach. What I can categorically tell you is that when I sat in that police station at Kogarah the respect that the police officers had for the mental health clinicians would warm your heart. It is incredible. So, absolutely to answer your question as well, would I like to see PACER in every single local area command across New South Wales? Yes, I would. Will I work very hard every day to make sure we do that? Yes, I will. But what I have to see, Mr Shoebridge, is the data and the results. We have had really great results in one spot. I am really confident that can rollout, but I cannot categorically tell you that.

That is why we need to do these pilot programs to have a look and see how we go and see how it pans out. I think, to be fair, if I may say, and what I have been directly told by the police officers, is how much it has helped them. They were very open with me about the fact that they have been trained to do things, but that mental health is a really complex area with people with very complex needs. To see them now working together in that space, and it is not only when they go out physically to the place that they need to be, it was watching these clinicians work within the confines of the station. It was just incredible. I would really love you to go out and have a look and talk to Felicity or Fiona and see the incredible work that they have done.

The CHAIR: Minister, all strength to you in asking for additional budget to deal with PACER, but surely if the PACER program reduces the need for police interventions, reduces the time that police spend attending people in their local area command who have mental health concerns, reduces court costs, surely the funding for that program should come out of the police budget, not out of a separate bucket. Surely if it is having that direct effect on reducing, as we would hope to see, the need for police, that is where the funding should come from, should it not?

The Hon. BRONNIE TAYLOR: Mr Shoebridge, I may only comment on my own work and my own budget. If you would like to direct those questions to the police Minister I would be very grateful, because I think you make a very strong and powerful point. Any collaboration, any help I would be most thankful.

The CHAIR: Minister, I know there is a \$73 million bucket of money. How much of that is being spent on the PACER program, so we can get an idea of how much that is actually costing? If you have the figure at hand, that is great, but if you would not mind taking it on notice, what would be the cost of expanding the PACER program across all of New South Wales?

The Hon. BRONNIE TAYLOR: The amount allocated to the PACER program from the \$73 million COVID money injection is \$6.1 million.

The CHAIR: Do you know what it would cost to expand that over the State?

The Hon. BRONNIE TAYLOR: I would have to take that on notice. It would be really difficult, to be really honest and upfront, to tell you exactly because we are not entirely sure how the models are going to look in different areas as well. We know for the city and for the high volume, as Mr Pearce said. We are going to see.

The CHAIR: Perhaps if you cannot answer it across the whole of the State, how much it would cost to expand it to all the metro commands?

The Hon. BRONNIE TAYLOR: Sure.

The CHAIR: That would be a useful figure. If you will take that on notice.

The Hon. BRONNIE TAYLOR: Yes, I will.

The CHAIR: You said at the outset there has been a series of blows to people's mental health and physical health this year. We had the drought, we had the fires, now we have had the pandemic and the lockdown. Have you been keeping track of data on some of those awful indicators that we do not really want to talk about, but including on suicides? Have you got some data or response to the data on that that you can share with the Committee.

The Hon. BRONNIE TAYLOR: In terms of the suicide data, that is something that we are working on getting in a much more timely manner. I will ask Dr Wright to comment on this because that is very specific, but

I will start by saying that all the indications are not showing us an uptake in that. That has been very interesting because when you look at some of the modelling that has recently come out, it was almost—I do not want to be alarmist and say catastrophic, but it was very, very concerning. One of the really interesting things that has come out of this too has been a decrease in presentations to emergency departments for mental health concerns. In some ways I think that is a positive, but then I know, as Dr Wright will explain, we were concerned—

The CHAIR: There are complex drivers.

The Hon. BRONNIE TAYLOR: —yes, about that, that we were going to see something, and history would tell us that the really important time is going to be in the following six months. If I may, I will ask Dr Wright to elaborate on that because he is the expert.

Dr WRIGHT: We track some data very, very regularly and have done for a number of years, and we have been looking closely at some of the activity data during the pandemic period and we have increased the frequency of some of the reports so that we can see what is happening on a week-to-week basis. I will preface my remarks on the particulars of New South Wales by saying that we also stay in contact with our jurisdictional colleagues from elsewhere in Australia and in New Zealand and the experiences have been very similar across all the States and in New Zealand.

The first one, as the Minister has already mentioned, as has been the case in general health, for mental health there has been a reduction in emergency department attendances. We do not see that as a good thing because I think that—you mentioned complex drivers, and to be very specific, I think that some of the reasons that people are not attending are that they might be concerned that they are going to be at risk of catching an infection, so they stay away with matters that should receive attention. The second one is that people will stay away because they feel like the system is so overburdened but they do not want to increase that burden. Our concern has been, and it has been an experience in general practice as well across the country, that people may be not receiving early attention for mental health issues, and we all know that early attention is much more effective than waiting until things get out of hand.

It is one of the reasons that some of the initiatives around virtual health care become really useful because both in the public and the private sector across the country we have switched to the use of virtual health, telehealth to conduct a very large proportion of our assessments. Mental health is one of those aspects of health where you can actually conduct almost all of a clinical encounter, including the giving of advice and the issuing of scripts if necessary, using telehealth. We do not necessarily have to have the person physically in the room. There are mixed messages in that reduction in emergency department attendances. We also saw a reduction in our bed occupancy in the early part of March and April, and we saw, as I have just mentioned, an increase in the use of telehealth and also telephone to conduct assessments in the community. Those changes have actually normalised over the last few weeks, so if you like there was a dip from what we expected year-on-year and that is heading back to normal.

Again, that is very similar to what is happening in the other States and we are seeing that as part of, a reflection of the fact that hopefully the community is trying very hard to return to normal activity, including the seeking of appropriate health. We are hearing of a significant increase in accessing telephone support lines. It is difficult for us to tell how much of that is people who are reaching out because of the, if you like, general stress and distress that is associated with the restrictions that have been created for all of us through the pandemic and the fears for what might happen in the future and those kind of contacts are able to be resolved and receive appropriate support over the telephone, and how much of those are people who would otherwise be accessing our services.

I think that is why any kind of package to support people's mental health during the pandemic has to match up, both at a State level and at a Commonwealth level, the telephone support services, the community-based messaging, which I think is also an important part of a mental health response, and also the access to our specialist level services.

The CHAIR: One of the parts of my question was, what is the data on suicides? If the answer is you do not have timely data, then let me know. Do we know what the situation is on that?

Dr WRIGHT: We do not have current data today on what the suicide rate is. We do have data on emergency department attendances with self-harm, and those attendances have not significantly increased during that period.

The CHAIR: That is where you said there was a dip in those first few months.

Dr WRIGHT: Correct, yes.

The CHAIR: But it is now returning to what we would—

Dr WRIGHT: It is.

The CHAIR: A more normalised level, is that right?

Dr WRIGHT: Yes. And I think that is an important marker, because suicide is the devastating terminal event of a range of mental health problems. So what we are endeavouring to do is to identify and respond to increasing levels of distress, including levels of self-harm. Monitoring the instances of self-harm and people presenting for self-harm is an early indicator of what could then end up in either an increase or a reduction in the suicide rate.

The CHAIR: Minister, are there arrangements being put in place for some realtime data reporting on these kinds of measures? Many other departments have a dashboard where you can get realtime regular reporting. We do not see that in the mental health space. Is that part of the projects you are putting in place? That would then assist other government services, non-government organisations, and the like to know what is happening on the ground and respond in a nimble fashion. Are we going to get realtime reporting?

The Hon. BRONNIE TAYLOR: You are exactly right, Mr Shoebridge, and realtime reporting on suicide data is a challenge across Australia and it is something that—

The CHAIR: And on presentations?

The Hon. BRONNIE TAYLOR: Yes. I completely agree with you, you are completely right on that. The problem is often that the coronial process takes time, and you would know that better than me, about determining causation. That has been a challenge. It is something that the Federal Government is looking at in terms of national mental health objectives and it is definitely something that we are looking at. I cannot give you exact data at the moment and it does not take in a lot of the COVID time but we should have some really impressive things to release about overall suicide data very soon. We are just making sure that that data is spot-on. The branch and people out in the mental health space have been working really, really hard on suicide prevention. That is, I am hoping, going to serve us really well in the next six months that we have embedded quite a bit of this in. We have got a long way to go, but we have started.

The CHAIR: I will hand back to the Opposition.

The Hon. TARA MORIARTY: I will continue with that theme for a second before I come back to where I was before. I am interested in getting some details generally about the collaboration between New South Wales, Victoria and the Commonwealth. To follow on from Mr Shoebridge's questions, I understand part of that is about the collecting and sharing of data. This is stuff that we have been through before in terms of what kind of data there is in this space. I understand that is an issue. It is great that something is happening with that but it has been reported that it is more of an issue than we realise. A lot of the Federal money—and I get that you are the New South Wales Minister but you are part of this collaboration with the Commonwealth, and money has been announced for funding research into the effects of this, as well as suicide statistics.

It has been reported that we will not get any of that kind of information until 2022. You are saying six months from now. What is the issue with that? Happy to take some details about the Federal collaboration if that helps, but six months you are saying, the reports from the collaboration are 2022.

The Hon. BRONNIE TAYLOR: There are two parts to your question, if I may, so I can think it through. You are asking about the collaboration between New South Wales and Victoria and all the other States. I think that is referring to the national pandemic plan. Then your question is also about the suicide data, and as you rightly said the complexities and that it is not in realtime. Dr Wright, you have been around this a lot longer than I have in terms of suicide data, would you be able to address that part of the question?

Dr WRIGHT: Yes. I think that one of the issues that has been up for discussion for a number of years has been the potential value of a suicide register. I think that is both at a national and State level. There is a real interest in trying to develop that capability up. There are suicide register models already in existence in both Victoria and Queensland. They are quite different models. I think that as part of the suicide reduction initiatives in New South Wales there is a serious consideration about what we might be able to do to actually improve, not just the timeliness of the data but the completeness of the data, because it is often data from different sources. Just as an example, there is actually very useful data that can be made available from police, because they go to thousands of incidents per year, which are mental health incidents.

One of the great things—and there are some good benefits out of our entire focus being shifted to the pandemic—has been a willingness at a State level to share some of that data so that we can put together comprehensive sets. It does not solve the entire problem, but it is a piece of the jigsaw. The part of the ministry which helps with our mental health data, their director showed us yesterday some of his modelling, which includes

inputs from the police data on presentations. It just makes us a little more confident about the sorts of conclusions that we are drawing when we have all the available data there. Barriers to sharing that data, which have existed for many years, have been able to be overcome quite quickly during the course of the pandemic and we are all quite determined to make sure that the benefits that we have had in that space, that we can maintain those going forward. These are important things, not just during the course of a pandemic, they are important for our mental health services for the future as well.

The Hon. BRONNIE TAYLOR: Currently as part of our suicide initiatives, this initiative was before COVID, it is not out of this COVID funding of which the inquiry is about, but I am happy to share that we are collaborating with the Department of Communities and Justice to look at a New South Wales suicide register. It is in its very early days at the moment, and I am happy to update you as that progresses and what happens. It is really important. Your question is a really good one, as was Mr Shoebridge's. We are working on it. Have we got a way to go? Yes, we have, and that is because of the challenges within that.

The Hon. TARA MORIARTY: The collaboration between the States, I acknowledge both of your answers in terms of working and sharing data as part of the national pandemic plan, I understand all of this is somewhat of a work in progress. Based on what you have just said the Commonwealth Senate inquiry into the response to COVID has said that all States have agreed to share this data, but New South Wales has not. Has that changed? General discussions, you have just talked about, but an actual sharing of data going forward so we have a real picture of what is happening across the country, is that something that New South Wales is going to participate in?

The Hon. BRONNIE TAYLOR: I am certainly not aware, and Dr Wright just said to me too, that we have said that we will not share the data, so we will have to take that on notice. We will have to verify that, respectfully I say that. As Dr Wright pointed out, another opportunity that COVID has provided is that ability to share data across agencies and through the Data Analytics Centre that Minister Dominello has championed for years. I have always been on that bandwagon. My first inquiry when I came in here was on service coordination. It is something I feel really strongly about. The more that we can share that information, share the data, the better our outcomes are and I am sure you would agree. In terms of the national pandemic plan, that was just brought about by Victoria and New South Wales. That was brought about because I had heard about some really fabulous things that Victoria was doing. I picked up the phone, I spoke to your counterpart in Victoria, who is just a terrific bloke and really cares about mental health, and we decided that we would put politics aside.

I went down there and I looked at some of the great programs that they are running, particularly at their St Vincent's centre with their Safe Haven Cafe, which we are copying. I am sure he would not mind if I called him Martin, Martin and I are in regular contact via phone, via text message, looking at that. He has been in the mental health space a lot longer than myself as the Minister. We were able to bring all the Ministers across Australia to the table, which has never been done before. In some States your Minister for Health is also your Minister for Mental Health, but for Victoria and us and other places it is different. In the Australian Capital Territory the Minister for Mental Health is a member of The Greens, Mr Shoebridge.

The CHAIR: I know, very good.

The Hon. BRONNIE TAYLOR: He is a very nice person. We all worked together. It has been one of the really great things to come out of this as well. Although I had done that previously with Martin, we are really keen to work together. We are having another meeting hopefully next week. Trying to organise diaries is another challenge. I think it is really important because if we can share all of that, not just the data but the information and about what works, we will get better outcomes. If we are all to be really honest with each other, and it is something often that the upper House is so much better at than the lower House, is that when we work together on getting really good policy solutions we do get some pretty good outcomes.

The plan and what we are doing about it, one of the things it stresses is to use people with lived experience and carers. In terms of designing and delivering responses, that is what we do with everything that we are doing, particularly in this COVID package. A part of the COVID announcements as well was a Warm Line—and I know you are familiar with Being—that they are running and trialling. We are really excited about that because that is about looking after people who need help in the mental health space but actually using people with lived experience to answer the phone. I am really excited about this program. So we will wait and see. I would encourage you to keep an eye on that one as well. I think it is going to be a really positive one and it directly relates to the national pandemic plan.

Another thing that the national pandemic plan also says is about community-based approaches. We have demonstrated that with our commitment with 180 new community-based physicians¹, 216 if you want to include the PACER clinicians as well, and it also talks about implementing new models of care and I think that is exactly what we have had the ability. We have probably been able to fast track a little bit with COVID. Some people say you should not say that but I am proud of the fact that we have been able to rollout all of these programs and that is one opportunity that it has provided, because we have had to be faster in our outlook and our delivery. That, I think, is really positive.

It also talks about flexible solutions and that is what we are trying to do as well. That is why we are looking at models. I will never, as long as I am privileged enough to sit in this chair as the Minister for Mental Health, use a one size fits all on things for models of care because I know as an ex-clinician that it simply does not work. I think that a flexible model of care is one of the most important things that we can do. We cannot say that this is going to work in Kogarah so it will work in Cowra or if it works in Bondi it will work in Broken Hill, we know it does not. Those flexible models of care are really important. I am happy with the national pandemic plan. It has a way to go. It is a good start and it is great to see mental health at the table and national cabinet and people talking about mental health and us collaborating. Long may it last. I think it is the only way forward.

The Hon. TARA MORIARTY: What is the time line for it?

The Hon. BRONNIE TAYLOR: Well, it is out.

The Hon. TARA MORIARTY: How long to put in place the plan, the collaboration, the formal arrangements between Victoria and New South Wales?

The Hon. BRONNIE TAYLOR: It has only just started. We only had that one meeting between New South Wales and Victoria. To be fair it is my team and Martin's team that just burned the candle to try to get this going. I consider David Pearce and Dr Murray Wright part of my team. We did that and we had agreeance from the States as well. As I said, we are planning to meet again next week. Minister Hunt has come out and shared a very personal story of his own which probably influences the gravitas that he places on mental health and I think that is a really good thing. In terms of how long is it going to last, what is it going to do? I do not know, it is really early days, but I am going to do everything I can in my position to make sure that it does and I know Martin feels the same.

The Hon. TARA MORIARTY: Has there been discussion about how long it is going to last and what it is going to do?

The Hon. BRONNIE TAYLOR: Well, how long is the pandemic going to last? It is the pandemic.

The Hon. TARA MORIARTY: What resources are allocated from New South Wales to this plan?

The Hon. BRONNIE TAYLOR: Our resources, out time. We have not added any extra resources to this plan. The plan directly reflects the \$73 million that has been injected.

The Hon. TARA MORIARTY: New South Wales has signed up to a national pandemic plan with Victoria and the Commonwealth but we are not putting additional money in or out. Of the \$73 million how much of it is going towards the national plan?

The Hon. BRONNIE TAYLOR: New South Wales has invested more in the COVID-19 pandemic response, in terms of frontline services, than any other State: \$79 million. Maybe I misinterpreted your question. I thought you were speaking of admin and things like that with the pandemic plan. We have been helped by COAG, which I do not think is going to exist anymore, in terms of setting up the teleconference, but our investment in mental health directly reflects the national pandemic plan. We have put in \$73 million. The plan is principle based, it is not talking about certain services that you need to implement, and that is why I talked to you then about the principles of lived experience, community-based approach, new models of care and flexible solutions, which is exactly what our investment reflects.

The Hon. TARA MORIARTY: That is welcome. I have said before any collaboration around the pandemic is welcome, of course States should be sharing ideas and working with the Commonwealth but I do not

¹ In [correspondence](#) to the committee received 9 July 2020, Hon Minister Bronnie Taylor MLC, Minister for Mental Health, Regional Youth and Women requested correction to her evidence replacing the words "180 new community-based physicians" with the words "180 new community-based clinicians".

really know what this answer is based on. If it is really New South Wales, Victoria and the Commonwealth getting together to share what is happening in both of those States and the Commonwealth what is the point of it?

The Hon. BRONNIE TAYLOR: What is the point of the national pandemic plan?

The Hon. TARA MORIARTY: Yes.

The Hon. BRONNIE TAYLOR: Have you seen the national pandemic plan?

The Hon. TARA MORIARTY: Yes.

The Hon. BRONNIE TAYLOR: It is a plan that allows everyone a way forward looking at key principles that we know will have the best results for people. When you say, "What is the point?", you said previously and you have acknowledged this before, that all of the States and Territories working together in one space is a really powerful thing.

The Hon. TARA MORIARTY: Sure, I am not critical of that. I think it is great that two States and the Commonwealth are working together.

The Hon. BRONNIE TAYLOR: It is not two States; it is all States and Territories.

The Hon. TARA MORIARTY: Maybe a better way to phrase it is what is the point for New South Wales? What is New South Wales getting out of being part of it? And/or what is New South Wales contributing to it?

The Hon. BRONNIE TAYLOR: The point is that when you want to make real and meaningful change you work together and you have a seat at the table, which is actually the point.

The Hon. TARA MORIARTY: Minister, what I am asking on behalf of the people of New South Wales is what does "real and meaningful change" mean?

The Hon. BRONNIE TAYLOR: What "real and meaningful change" means, as I have said to you before, and I am not sure how I can better explain this, maybe I will have to ask Dr Wright. We looked at the guiding principles and those guiding principles are the lived experience. You know from your time in mental health how important that is. What have we done? I just talked about a Warm Line that has been created through being about people with lived experience. We talk about a community based approach and how important that is. What have we done? We have put 180 new clinicians into community based services. You asked what the point of new models of care is.

New models of care are important and that collaboration between States means you can share information, it means I went down to Victoria and I could see how well that system was working and that we are going to do that here. I think to say "What is the point of a national pandemic plan?" is quite an incredible statement.

The Hon. TARA MORIARTY: Can I clarify, it is not a statement. I said I am supportive of States working together and I have said it repeatedly.

The Hon. BRONNIE TAYLOR: The question was: What is the point?

The Hon. NATALIE WARD: Point of order—

CHAIR: I can tell you how this point of order is going to go.

The Hon. NATALIE WARD: I have sat very quietly but it behoves us all to revert to question and answer without commentary.

The Hon. ADAM SEARLE: To the point of order: The Minister was again taking issue with the question rather than simply answering it. The Minister had given an answer and there was a barb at the end, which frankly was unbecoming a Minister of the Crown.

The Hon. NATALIE WARD: Further to the point of order: No-one comes to this court with clean hands, with respect.

The Hon. ADAM SEARLE: I have not said anything all morning.

CHAIR: I have the gist of the point of order and the response to the point of order.

The Hon. NATALIE WARD: My point was can we revert to some civilised questions?

CHAIR: There is merit in both arguments. Minister, best if you do not take issue with the question and just address the question as best you can. You are allowed to critique where it comes from but if you take issue with the question you are going to invite the Hon. Tara Moriarty to take issue with you taking issue and that is what happens. The Hon. Tara Moriarty, I invite you not to bite. Dr Wright was going to provide some actual information.

Dr WRIGHT: I think the question is: What is the point of the national pandemic mental health plan? It is a fair question. I think that there are some things during the pandemic that have changed dramatically and we have been unable to do things that we have previously done. But, there are a number of things which we have been doing and reforms that we have been enacting over a period of time that the pandemic response encourages us to actually speed them up. What the pandemic plan does is it shows us where the emphasis ought to be in terms of our services. The pandemic, it goes without saying, is a whole of community problem and the best approach is a population health approach.

The mental health services are looking at how we do that from a population health perspective. And that requires that the State run services and the traditionally Commonwealth funded services and the other parts of government and community which have a stake in mental health and wellbeing all work to the same plan. The only way to do that, because of the way our services are tiered, is to have an agreement between the Commonwealth and the States, and that is what that plan is. We will not be able to manage what we anticipate is some increase in demand for our services over the next months and years if we do not have very clear understanding and cooperation between the services that we are collectively responsible for and the private sector and the primary health sector which is funded by the Commonwealth.

It is absolutely essential that we all literally have the same script. That is what the plan is. The plan does not exist in glorious isolation. It builds on the Fifth National Mental Health and Suicide Prevention Plan and it is stated within the national pandemic response plan that some of the key aspects of the fifth national mental health plan are absolutely perfect to respond to the demands of the pandemic. Particularly those aspects which are about localised integrated planning of services built around primary health networks, local health districts and other providers in those local areas.

It builds on what is already there. It is absolutely consistent with the things that have been happening both from a reform perspective within New South Wales, but also in the specific responses to the pandemic. It also shows us where we need to go. You will be pleased that the issue of better and more comprehensive data is actually one of the three big ticket items in that plan. I do think it is a very important and necessary development. It also gives us the opportunity through the COAG link structures at a mental health level to share success and problem solve with our interstate colleagues as we make our way through what is still essentially uncharted territory.

CHAIR: Minister, what, if any, input did your office have when the first set of public health restrictions were being put in place and there was a great deal of uncertainty in the community about what that meant in terms of visiting friends, visiting partners, showing support for people who might need it in the community. What, if any, role did you have when that initial set of public health orders were being crafted and then communicated?

The Hon. BRONNIE TAYLOR: As you know, Mr Shoebridge, the health Minister has given evidence before this Committee. Those public health orders are signed by him as the Minister for Health. You asked me about my office and myself in terms of conversations and input. I have spoken to the health Minister regularly over this period of time. He has a real commitment to mental health and to the wellbeing of people. I have constantly raised things with him. That is how the new mechanism of Government works. He is the cluster lead in the cluster of Health and I sit in that cluster. It is my responsibility to have that communication with him and to tell him that.

I have had numerous conversations. I was also dialling in daily to the teleconference that NSW Health had, so I was hearing all of those aspects. It allowed me, as the Minister for Mental Health, to use that mental health lens over that whole health response. There is no doubt, I say this very honestly, that the entire Cabinet and particularly the health Minister have had a focus on mental health. He was very supportive and instrumental in this package we were putting forward.

CHAIR: My question is directed to what was two months of uncertainty in the community about the circumstances in which someone could visit a friend who might be having significant mental distress; go and visit a partner who was living in a different house; or go and visit an elderly relative who was feeling isolated. There was a lot of uncertainty in the community about the circumstances in which they could provide that peer-to-peer support. There were no guidelines in place to direct us. How did that slip through the cracks? Why was there so much uncertainty when we know people need that kind of support?

The Hon. BRONNIE TAYLOR: Mr Shoebridge, I hate to disagree with you because I have seen what happens. The public health orders had direction to them and certainty about what you could and could not do. I think if they had not we would not have had the phenomenal results we have had in terms of people looking at those public health orders and what they could and could not do. That was a national approach. They were done on a national level at national cabinet and discussed at those levels.

CHAIR: Minister, for example, visiting a close friend who needed significant support for mental health, we had the Commissioner for Police suggesting that may come under one exception, we had the Attorney General suggesting it might come under a different exception, nobody could point to any clear part of the public health orders that allowed for that kind of visit to happen. There really was a large amount of uncertainty in that space. I am not suggesting that every response from a Government will be perfect, it was very complex. But, looking back do you think maybe there was a need for a greater set of guidelines around those sorts of things to give people that kind of direction? It is easy in hindsight, I accept that. It is complex.

The Hon. BRONNIE TAYLOR: I understand your question. It is a good question. I think it really needs to be directed to the Minister for Health or, as you mentioned, the Attorney General or the Minister for Police. I certainly was not making comment on it and I have not. In terms of looking back in hindsight and the second part of your question, hindsight is always a great thing, isn't it? What you have to look at is that the number one priority for the New South Wales Government in putting in those health orders, which were really difficult for people to adhere to. I know how I felt about not being able to see mum and everyone in this room would feel the same way.

I have a husband with a terrible dodgy chest and I did not want him to get it and that meant that we had to be really careful managing the girls. I do understand. The Government's absolute number one priority was to keep people safe. Although some of those things, in hindsight, might have been hard. You used the word "uncertain", we absolutely did the best that we could at the time. I think that is reflected in the results.

CHAIR: Minister, as I said to you, nobody is suggesting you get everything absolutely right. Decisions were being made as data was coming in, it was a novel crisis that people responded to. This is not a criticism that everything had to be right, but you talk about keeping people safe and part of keeping people safe is making sure people's mental health concerns are addressed, it is every bit as important as keeping them physically safe. Will there be a review of the extent to which those mental health concerns were picked up and actively communicated and addressed. Is that kind of review going on?

The Hon. BRONNIE TAYLOR: Mr Shoebridge, I cannot answer if there is a review because I think we are still in it, we are still looking at it. Providing care for people was always an exception and people could receive care if they needed to and you were really concerned about someone. Our government and nongovernment sector did an incredible job during that period in terms of looking out for people with mental health issues and making sure people were looked after. I was not involved in the health decisions, if that is what you are asking me, Mr Shoebridge. My contribution was to speak regularly with the health Minister and put that lens across. My representations always with all of the people in positions that were making those decisions was to make sure that those things were considered.

CHAIR: Do you think there would be benefit if we have a second wave or there is a further lockdown, in addition to the quite dry and hard to interpret health orders, there be a set of clear Q and As and guidelines and one of those guidelines being the circumstances in which you can provide peer to peer mental health support in a lockdown? That, I think, was one of the missing parts. Nobody knew, there was no clarity in the circumstances in which people could provide that peer to peer mental support during the lockdown.

The Hon. BRONNIE TAYLOR: My understanding and my information is that people had to access support in different ways. That is what we had to do, we all had to look at different ways. In terms of your question about a review, I think it is always really beneficial to look at things and look at how they have been done and we will certainly be looking at that from a mental health perspective, absolutely.

CHAIR: Just to be clear, we put up early on a series of explainers about how it was working and if there was one area where we got hundreds and hundreds of questions it was about this issue. I can tell you my experience in communicating with the public was they did not know what they could and could not do and it was an area of unnecessary uncertainty.

The Hon. BRONNIE TAYLOR: I can only take what you are saying to me and I think to be fair there was that level because we had never done this before.

CHAIR: Minister, this is not saying that necessarily means it was bad decision-making I am just saying that was a gap and I am asking if you could review it and maybe consider addressing it, because it was complex and hard.

The Hon. BRONNIE TAYLOR: Certainly from a mental health perspective I am going to be looking at everything because I think there is a lot to learn from this.

CHAIR: Minister, we saw thousands of fines issued during the lockdown, and this is not the time to have a discussion about the role of policing in lockdown, I know this is a mental health inquiry. Have you had any conversations with the police Minister or the Commissioner of Police about how those fines are reviewed and considering whether or not people's mental health may have been a driver in their behaviour which led to them breaching the guidelines? I say this because even a cursory review of some of the conduct clearly showed there were some quite distressed and disturbed people who received quite significant fines.

The Hon. BRONNIE TAYLOR: Mr Shoebridge, I say this with the greatest of respect, you would know that I am the Minister for Mental Health, I am not the Minister for police and I am not the Attorney General.

CHAIR: I understand.

The Hon. BRONNIE TAYLOR: As you so rightly said, this is an inquiry into the COVID-19 pandemic. My understanding is that there were fines that were waived as well from the commissioner. Your question was have I spoken to them. No, I have not spoken to them personally about these things.

CHAIR: Do you think there would be merit in opening a dialogue with the Commissioner of Police to ensure that if there are reviews being undertaken of fines related to the COVID-19 that we are not criminalising somebody's mental illness as opposed to policing the pandemic; we are not policing someone's mental illness?

The Hon. BRONNIE TAYLOR: It would be my absolute expectation that would be the case. If you presented me with a case where you felt that was not adhered to I would 100 per cent look into that and make representations.

CHAIR: Minister, I will send you the correspondence first thing next week—

The Hon. BRONNIE TAYLOR: My door is always open, Mr Shoebridge.

CHAIR: —with the cases I think clearly demonstrate the conduct arose out of mental illness, just on a cursory review of the facts.

The Hon. BRONNIE TAYLOR: You can tell me this in an inquiry, but you need to provide me with the information and you need to provide me with the chance.

CHAIR: I understand that. My question was whether or not you had had those meetings with the commissioner?

The Hon. BRONNIE TAYLOR: No.

CHAIR: I have that answer. There is a way forward.

The Hon. BRONNIE TAYLOR: I have always been like that here, my door is always open and I would rather know than not know.

CHAIR: Minister, were you consulted about the mental health impacts of reopening poker machines in New South Wales given we know what a disastrous mental health impact poker machines have on many people's mental health?

The Hon. BRONNIE TAYLOR: No, Mr Shoebridge, I was not.

CHAIR: Do you think before a decision like that is made that you should have been consulted as the Minister for Mental Health, knowing that so much of the harm that is caused by poker machines arises out of people's mental illness and addictive personality traits?

The Hon. BRONNIE TAYLOR: I think for me, in terms of mental health, one of the most important things that we can do is we need to, in a timely and safe manner, lift the restrictions that we have. We have people out there with no jobs. We have people out there whose income has been cut in half or been cut completely. That really concerns me about their mental health. As much as I can do as the Minister for Mental Health in New South Wales we have a situation where we have people that are going to be out of work for long periods of time. People who work in clubs in rural and regional New South Wales, their entire livelihoods depend on those jobs. I am going to be looking at quite an extensive and high rise curve.

My focus is that we know that economic situations and economic stimulus are one of the biggest drivers of mental health issues. One of the things that I want to see happening is that we start to get back to life as soon as is safely possible and that is my objective.

CHAIR: I accept the financial costs that we have seen, people facing some catastrophic collapse in their income. How is that in anyway helped by opening up poker machines where people can put their more limited income straight down a poker machine at a time when surely they need financial support and to be protected from that? How is anyone helped, other than the clubs who reap the profits? How is anyone helped by opening poker machines?

The Hon. BRONNIE TAYLOR: This is an inquiry about mental health and COVID-19, not about poker machines. I am very well aware of your strong stance on gambling and poker machines but that is not something that comes under my remit as the Minister for Mental Health in New South Wales.

CHAIR: Minister, could I suggest that it does, and most people would expect it to come under the responsibility of a Minister for Mental Health because we know a substantial amount of the damage done through poker machines comes about through mental illness—

The Hon. NATALIE WARD: Point of order—

CHAIR: Let me finish the question and then I will take your point of order—comes about through mental illness and addictive personality traits, and why are you not working in that space?

The Hon. NATALIE WARD: I accept it is a very important topic and I think that the Minister has genuinely attempted to answer the two previous questions that were in a similar vein and said it is not for me. It is also conjecture about what may happen in the future. I am not sure the Minister is able to answer. I am sure she will very capably answer in the best way possible but I have seen the other questions go through. I ask that the questions be drawn back to the inquiry and the Minister's portfolio responsibility.

The Hon. ADAM SEARLE: As we are so often reminded in these sorts of hearings, how the Minister answers is a matter for her. The question seems entirely in order to me.

The Hon. NATALIE WARD: That does not address the point of order.

The Hon. ADAM SEARLE: It does. You have taken a point of order on the question; there is no point of order.

The Hon. NATALIE WARD: With respect, it does not at all.

CHAIR: I have heard the point of order. I have to be frank, when the point of order is to my question I do appreciate another view, it is a bit surreal. I believe the question relates to the terms of reference and I believe the Minister can answer the question as she sees fit and she has shown herself capable of doing that.

The Hon. NATALIE WARD: I have no doubt about that.

CHAIR: I believe it relates to the terms of reference and it was in order.

The Hon. BRONNIE TAYLOR: Mr Shoebridge, I have answered your question in the best way I am able to as the Minister for Mental Health in New South Wales.

CHAIR: My last question is this: We saw thousands and thousands of families who have finally got relief from the damage being done by poker machines, who had months where pay cheques were not just being eaten up by the local poker machines. Surely this was a chance to break that addictive link. Why weren't resources put in place, even if you were opening up poker machines, to give people mental health support to break that addictive link?

The Hon. BRONNIE TAYLOR: I understand the point you are making and it is a valid one. I am the Minister for Mental Health in New South Wales, if individuals are having issues with gambling there are support services in place to help them. Not everyone who chooses to do that has a mental illness and it is the same thing if you ask me was I consulted on going back into pubs. That is a question you can ask of the Minister who has oversight over clubs and gaming. I understand the point you are making, I appreciate that it is a valid one, I appreciate it is a problem. I know myself how I feel when I have seen people I know are very vulnerable put that money through the poker machine, but it is not in my remit as the Minister for Mental Health in New South Wales. I thank you for your question.

CHAIR: Could you provide an itemised list of how the \$73 million package has been spent? Do you have an itemised list of where it will be spent and secondly how much has been spent to date?

The Hon. BRONNIE TAYLOR: I can give you an absolute itemised account of where, I have the graph in front of me of what we are spending on each thing that we have announced. In terms of the money we have spent to date we will take that on notice.

CHAIR: Can you do that in two parts?

The Hon. BRONNIE TAYLOR: Yes. I will give you the first part that gives you an exact breakdown of where we have spent the money and allocated it.

CHAIR: You can read it on.

The Hon. BRONNIE TAYLOR: Enhancing the capacity of the mental health 1800 line we will be putting in \$16.4 million; the virtual mental health expansion to all local health districts across New South Wales will be \$20 million; supporting first responders, which we spent a great deal of time talking about this morning, will be \$6.1 million; enhancing diversional therapy activities in acute inpatient units right across New South Wales, so that is every unit that will receive part of that funding, the total package is \$6,050,000; enhancing the capacity of community mental health services, and that is including support for at risk groups such as older persons, youth and people with a disability, will be \$21 million; we are implementing the Tresillian sleep well baby program for six months during the pandemic, that will be \$1,440,000; we have contributed \$1 million to an organisation to establish residential supported living with the Habilis model, something that we have also borrowed from our friends in Victoria; we will be looking at a Warm Line, which we talked about, for people with a mental illness run by people with lived experience of \$800,000; and we are also looking at half a million dollars into psychiatric assistance dogs.

CHAIR: The spend to date you will provide on notice?

The Hon. BRONNIE TAYLOR: Yes. Mr Pearce would like to comment.

Mr PEARCE: Quick early advice that the allocations of the funding have been advised to all the local health districts and the focus will be on July through to June next year for that expenditure. There has been minimal expenditure against those programs. In fact, the package has only been announced a little over a month ago and there is some recruitment for some of those strategies.

CHAIR: So we would look to have expenditure commencing 1 July realistically?

Mr PEARCE: Yes.

The Hon. BRONNIE TAYLOR: I am happy, if you think it would be helpful, to keep you updated on the progress of that. I did forget to mention that we also gave \$6 million to Lifeline. That was in addition to the \$73 million and that actually brought the package up to \$79 million, but we announced that before.

CHAIR: I think my office and the office of Ms Cate Faehrmann would appreciate that update.

The Hon. BRONNIE TAYLOR: We do update the office of Ms Cate Faehrmann but I am very happy to include you, Mr Shoebridge.

The Hon. TARA MORIARTY: What about me?

The Hon. BRONNIE TAYLOR: I always include you.

The Hon. TARA MORIARTY: Just to clarify, Mr Pearce, this is money allocated for the next financial year?

Mr PEARCE: Correct, the vast majority. Some of the one-off announcements that the Minister made, like to Tresillian, is a grant to those organisations. Our local health districts that are going to enact most of the key strategies, that funding is from 1 July.

The Hon. BRONNIE TAYLOR: And Lifeline has gone out as well.

The Hon. TARA MORIARTY: Yes. I am grateful for the list you just read out of the breakdown of the money but essentially none of these are committed to or guaranteed past the next 12 months?

The Hon. BRONNIE TAYLOR: It is specific COVID money that has gone out for that, that is correct.

The Hon. TARA MORIARTY: In the list you read out you said 180 positions?

The Hon. BRONNIE TAYLOR: That is correct, 180 community based positions, but if you add in the 36 PACER that brings you to 216.

The Hon. TARA MORIARTY: The police positions are separate. Where are the 180 positions? What are they and where are they going to be based?

The Hon. BRONNIE TAYLOR: Mr Pearce can elaborate. We are working on that at the moment. What I wanted to make sure that we did, Mr Pearce shares my passion for this, as I mentioned before, I am not the sort of person that says, "This is what we want you to do and this is what we are going to give you and this is what you have to do with it." Every area in New South Wales is different. To explain that further, take St Vincent's in Sydney's eastern suburbs, one of the things they were really concerned about during this time of COVID was that they have a high proportion of people that suffer from a mental health illness that are homeless. They really want to target their extra full-time equivalents [FTE], their extra capacity to build, on helping those people and dealing with those mental health issues that solely relate to that.

In northern New South Wales it may be completely different and in some of the communities that I live close to it might be the fact that they have actually just been through bushfires and now they are struck with COVID and they want to tailor those positions for that. That is my directive to Mr Pearce and he has been very supportive of that. Mr Pearce, would you like to elaborate further?

Mr PEARCE: I am happy to give you approximate figures against the key strategies. Enhancing the capacity of the mental health line, that was \$16.4 million, approximately 30 new staff there. The virtual mental health expansion, a significant proportion of that will be expended on technology with approximately 50 new staff. Then there is the specific 100 additional staff across all LHDs to support vulnerable groups. We have invited each of the LHDs to provide submissions back to us. We have indicated what funding each of them will receive and we have asked them to identify from their local intel the vulnerable groups in their community. Just by way of example, you can imagine in Far West New South Wales the Aboriginal population is a particularly vulnerable group that would need focussed support. For inner city we have invited them to consider homeless people, rough sleepers, as a key group that they might want to focus on, by way of example. They will come back to us in the next couple of weeks with their recommendation around how they are going to attribute their proportion of that 100 FTE in their district.

The Hon. TARA MORIARTY: The timeline for those districts and the areas of interest is the next couple of weeks, have any of the positions been filled yet?

Mr PEARCE: No. This is funding from 1 July. They have all been given advance notice on the positions they are getting and the funding they are getting. We have asked them to do that piece of work and get back to us as soon as possible.

The Hon. TARA MORIARTY: Just to clarify, they have been told what positions they will be getting and the funding, but they decide what to do locally?

Mr PEARCE: Correct. The quantum of positions and the funding they are getting and they will identify the vulnerable communities they are going to support within that funding envelope.

The Hon. TARA MORIARTY: It would be fair to expect those positions to be filled in July?

Mr PEARCE: To be advertised as soon as possible. The only rider put on that, of course, is with all recruitment processes that takes time. They are funded from July.

The Hon. TARA MORIARTY: But only for one year?

Mr PEARCE: Correct.

The Hon. TARA MORIARTY: Will they be permanent positions for one year? What type of positions will they be?

Mr PEARCE: They will be positions funded for one year.

The Hon. TARA MORIARTY: These are serious issues across each of these areas.

The Hon. BRONNIE TAYLOR: They certainly are. And it is the same with the bushfire response as well and the fact that we had to fund extra positions to ensure that we increased our ability for our capacity to be increased. That is exactly what we have done in the potentiation of COVID. What I am expecting, and I do not know because I have not seen it yet and we are only just starting this, is that these positions will end up being essential to the overall services of mental health being provided. The great thing now is that we can have these positions. We can put them on the ground. We will assess them, we will look at them, and Mr Pearce and I will keep our laser-sharp eye on those appointments and those processes to ensure they are done in a timely manner.

We will look at them and if we find we need to keep those positions to meet that need then that is certainly something I will be advocating for and I am sure you will have great interest in asking me questions about it during the budget estimates hearing I would imagine.

CHAIR: When are we going to get a budget?

The Hon. BRONNIE TAYLOR: Mr Shoebridge, that is something you will have to ask the Treasurer.

The Hon. NATALIE WARD: This is not estimates.

CHAIR: A highly predictable answer.

The Hon. BRONNIE TAYLOR: You were quick out of the blocks there.

The Hon. TARA MORIARTY: Minister, can you give us an idea what type of positions they will be: nurses, doctors or admin? What is the breakdown?

The Hon. BRONNIE TAYLOR: That is a really good question, but something again I feel adamant the local health districts need to come back to us with what their needs are and where they think that is going to help. We are not going to be prescriptive, we have just said expert mental health clinicians. It is really interesting because when you look at Felicity and Fiona at Kogarah, one is a mental health nurse—and interestingly enough an English trained mental health nurse so that is her complete specialty, mental health nursing—and then Felicity, who is an OT.

Five years ago if you had asked me what involvement OTs had in mental health, to be hand on heart, I would not have thought that was—because I did not know as much about it as I do now. She does an incredible job as an OT and it is a real expertise. I think it is important for us to hear and that is what Mr Pearce has been doing. He has been going out to the local health districts, he has run an LHD himself, so he understands that and then we are going to ask them what they need. I may be presumptuous in saying that you would be supportive of the fact that we do not want to tell them what they have to do because I do not know what the needs in Lismore are and I do not think that the mental health branch in Sydney should be telling people what their needs are wherever these positions are. They need to tell us where they need to base these positions, how they will target the most vulnerable people and how they will get the best outcomes.

The Hon. TARA MORIARTY: I think that is perfectly reasonable. I think it is very useful to these local areas to ask for their input on what they think they need, but they will be constrained by the budget that you have allocated. They have already been told what budget they will have for how many staff—they just get to determine within it what positions they can fill. Presumably, if every single area wanted a psychiatrist or a psychologist, the budget would be blown pretty quickly, so there must be some idea of what is going to be allowed.

The Hon. BRONNIE TAYLOR: If every area could get access to a psychiatrist I reckon we would find them but there is a national shortage. It is going to depend on where they think—to be fair, too, your point is correct, but some people also might think that they want to have four peer support workers with lived experience. That will be up to them and for them to come back. We will allow that to happen and we will look at all of those needs with our funding. Did you want to elaborate any more, Mr Pearce, on that?

Mr PEARCE: Just from experience, we have allocated quite generous funding for the FTE and you would have noted I said approximate FTE because, in a sense, that is potentially a minimum rather than definitive. As the Minister just mentioned, a really important component of the workforce is the peer support workforce, as well as clinical positions; it averages out. We will get advice back from each district—there will be some nurses in there, there will be some allied health, there will potentially be some peer support workers and there might be some psychiatry support. But we provide them the funding envelope so that they can work from that in order to do accurate costings of what their staff profile will look like with that amount of money.

The Hon. TARA MORIARTY: Sure.

The Hon. BRONNIE TAYLOR: May I add one more thing? Mr Pearce actually said to me as well that the feedback from the local mental health directors about this funding has been overwhelmingly positive. They are really on board and you can test all that and ring them—I am not just saying that, this is what Mr Pearce directly told me.

The Hon. TARA MORIARTY: I will.

The Hon. BRONNIE TAYLOR: We are actually really—you know, that is a good thing.

The Hon. TARA MORIARTY: Can I just come back to—I think we touched on this before and I want to clarify it. I think Mr Shoebridge was asking questions or, perhaps, Dr Wright, you were talking about whether

there has been an increase in presentations to emergency departments. So, just to clarify, I think you said that there was not?

Dr WRIGHT: No, during the second part of March and April there was a reduction in mental health presentations based on a comparison year on year. That reduction has returned to normal over the past few weeks.

The Hon. TARA MORIARTY: Has there been an increase in mental health patients going into inpatient care during the period?

Dr WRIGHT: No, there was a similar reduction in admissions and bed occupancy and, again, that seems to have normalised.

The Hon. TARA MORIARTY: Have steps or measures been taken to prevent COVID from entering into mental health inpatient wards?

Dr WRIGHT: Yes. That is a rather complex answer. One of the things that happened across the whole of Health in the beginning of March was the restructuring of our operations, which is what happens whenever there is a pending disaster. The operations centre moved to Homebush and there was an establishment of a Public Health Emergency Operations Centre, which is run through Kerry Chant, the Chief Medical Officer, and that deals with all the public health issues. On the operational side there is the State Health Emergency Operations Centre [SHEOC] run by one of the deputy secretaries, Susan Pearce. That looks after the operational requirements, which is what your question is referring to. The mental health branch had a presence in the SHEOC and has a connection back to the mental health branch and to my position.

Simultaneously, we did something novel—an innovation—which was the creation of communities of practice across the whole of Health. That is 30 different clinical streams, including a mental health stream, which I co-chair with another senior psychiatrist. That group at the community of practice was in order to quickly identify clinical challenges and quickly achieve a consensus on what those challenges meant and how we should respond to them. The membership of that group was all the directors and all the clinical directors for mental health services across the State, because we were very conscious that we needed to make sure that what was being worked on in one district was also known about in another district because there are often lessons to be learned from different parts of the system. We also have a mental health pandemic response plan and that is very similar to the disaster response plan.

One of the fundamentals in a pandemic response is to have contingency plans for what to do in the event that infection occurs in your community and even infection in amongst your patients and in your facilities—what to do if that happens and what to do to try to prevent that happening. So, every district has a pandemic response plan and we had every district submit those plans to our community of practice. We put them on a SharePoint so that they could all see each other's plans—again, for the purposes of complete transparency and also the potential for learning between the districts. The issue that you are touching on here at the heart of this, which is about doing everything we possibly can to minimise the risk of infection getting into our inpatient services, is probably the issue that caused the most focus amongst all of our services during that two- to three-week period in March.

There was a very high level of anxiety to make sure that we did everything we possibly could, learn everything that we possibly could from what was happening overseas and to also rapidly share what the solutions might be. There is a much stronger alliance between the mental health services and the public health and infectious diseases services at a local level and some of the issues are really quite straightforward. Obviously, screening is important and then there is the use of personal protective equipment in situations where there could be the risk of infection. But we also had to develop some restrictions on both visiting and leave for inpatients. In mental health services that is a really challenging and fraught issue to consider because, as you well know, when someone is admitted to an inpatient unit, we try to help them get to a position where they can normalise their life as quickly as possible, which includes going back out into the community.

However, when you have concerns that there is an exposure to infection by someone going out into the community, you then have to factor in that if a person is inadvertently exposed on a period of leave and inadvertently brings that back into an inpatient unit, that is catastrophic.

The Hon. TARA MORIARTY: Can I ask a specific question about this? All of that is very useful but I have a particular question about what I think was a directive from Health in relation to—and correct me if I get the language wrong, but I think it is described as "leave" or "breaks", which I understand to be about people leaving, also visitors coming in. My specific question is in relation to restrictions placed on patients in care, for example, cigarette breaks. Was there a policy in relation to restricting patients? I understand the need to stop COVID from getting into these facilities but if this policy is correct, why was it put in place? Were there fewer staff in place? Why couldn't patients go and have cigarette breaks when they wanted to? If you like I can get

straight to the point because I am going to run out of time. I am particularly interested in—I do not expect there to be a discussion about the incident at Liverpool Hospital—

The Hon. BRONNIE TAYLOR: It was pre-COVID.

The Hon. TARA MORIARTY: I want to get an understanding of the policy that was in place in relation to breaks or leave, if that is the correct terminology.

The Hon. NATALIE WARD: Was this during COVID?

The Hon. TARA MORIARTY: Correct.

The Hon. NATALIE WARD: Is the question confined to the COVID period?

The Hon. TARA MORIARTY: It is a policy that was specifically related to COVID.

The Hon. NATALIE WARD: Thank you.

The Hon. BRONNIE TAYLOR: But not the patient that you are talking about.

The Hon. TARA MORIARTY: I am talking about the policy.

The Hon. BRONNIE TAYLOR: That is fine; I am just clarifying.

Dr WRIGHT: The only policy is the no-smoking policy. NSW Health facilities are all no-smoking environments. That is the policy. It has been in place for a number of years and it is a very challenging policy to remain true to in mental health inpatient services. There is a whole complex of literature and understanding behind how we best do that. The concept of smoking breaks is not one that I endorse, but—

The Hon. TARA MORIARTY: I accept that and I do not want to cut you off but I want to get to my specific question here. I fully understand and appreciate that Health has a no-smoking policy across the board and that is a policy that has been in place for quite a long time—I get that. I am not talking about that, I am asking about a specific policy that was put in place across Health, certainly in inpatient care, in relation to what patients could or could not do in terms of taking breaks.

Dr WRIGHT: That is not a policy. What actually happened is that one of the very early issues that was discussed in the community of practice—and, again, it is difficult for us to remember what the thinking was in the middle of March because so much has changed. But the thinking in the middle of March was: We are about to be overwhelmed in the community and in our hospital system by the pandemic and our major concern—and this is a really serious concern—is that if infection gets into our units, we will be unable to provide continuity of care. That is a catastrophe. So, that is what we were trying to avoid. At the community of practice, the purpose of the community of practice is to identify issues and then to use the intelligence and the experience in that community to develop consensus.

The issue was that some districts, based on what was happening in their facilities—generally, not just in the mental health units—had already made a decision because they had concerns about the level of community infection in their districts. For instance, the Eastern Suburbs of Sydney made a decision to suspend all leave. It naturally came up at the community of practice: What is everyone else doing? We had a conversation about why they were suspending the leave, because that will have consequences for some patients and for their families. They said, "Because we have this major concern and we believe the absolute priority is to prevent infection getting into our units." The consensus was easy—that has to be our major concern. In suspending leave, what that then did—we wrote a memo and said it was advice. We did not say that that was mandatory, it was an advice to the system that the consensus is that preserving the integrity of inpatient units and preventing infection getting into those units should be seen as an absolute priority.

I still believe that to be the case. I would return to that perspective if we had significant community virus at any point in time. What that exposed was that in some facilities there was a workaround to the no-smoking policy, which was to provide people with periods of leave in order to allow them to satisfy their need for a cigarette. However, there is also a very strong national and international literature which says that if you properly address someone's nicotine dependence at the point of admission, you can eliminate the need for them to have to have cigarette breaks. So, the use of smoking breaks is not universal and the implementation of good consistent practice around nicotine replacement is also not universal. It became a serious issue to address—

The Hon. TARA MORIARTY: Sorry, I do not want to cut you off, but I am out of time.

The CHAIR: We will let Dr Wright finish and then you will be in my time—

The Hon. TARA MORIARTY: Because otherwise I will wrap it up but I just wanted to get a clarification.

The CHAIR: No, we will let Dr Wright finish and then I am more than happy to use a small part of my time, which otherwise I will not use, if you have any follow-up questions. So, we will let Dr Wright finish.

The Hon. TARA MORIARTY: What I can do to wrap this up is, if the Committee can be provided with a copy of the memo or policy—or however you want to describe it—then that would assist.

The CHAIR: The advice, I think it was described as.

Dr WRIGHT: There have been three memos.

The Hon. TARA MORIARTY: Can we get a copy of all of them, please?

Dr WRIGHT: Each one supplants the previous one; this is a moving target. The current memo basically says that each district mental health service ought to be liaising closely with their local infectious diseases and infection control experts to identify what the current risk in their community of the virus is and adapting their leave according to that. So, the initial one is no longer in place.

The CHAIR: I understand. Minister, the request is: Can those iterations be provided?

The Hon. BRONNIE TAYLOR: We will take that on notice.

The CHAIR: Any final question, Tara?

The Hon. TARA MORIARTY: No, but I would like to have a discussion about how we formally deal with that at some point.

The Hon. TREVOR KHAN: Sorry, deal with?

The Hon. TARA MORIARTY: It is a genuine question because I do not know.

The CHAIR: No, it has been addressed. The Minister said she will take it on notice and will—did you say you will provide them on notice?

The Hon. BRONNIE TAYLOR: I said that I would take it on notice and have a look and if they are publicly—

Dr WRIGHT: We can provide it.

The Hon. BRONNIE TAYLOR: Yes, absolutely.

The Hon. TREVOR KHAN: They are GIPAA-able.

The CHAIR: We are trying to avoid going through the Government Information (Public Access) Act [GIPAA] process. If they could be provided as soon as possible, that would be appreciated.

The Hon. BRONNIE TAYLOR: Mr Shoebridge, yes, they will be provided as soon as possible. If there is any delay or any reason why we have to question that, then I will come back directly back to the Committee. We do not foresee that and we should be able to provide that in a very timely manner.

The CHAIR: Thank you, Minister.

The Hon. TARA MORIARTY: Sorry, I am not trying to cause trouble, I just do not know; I was just checking.

The CHAIR: Can I say, Minister, we are grateful for the cooperation. I think time has concluded, unless you had any final questions, Tara?

The Hon. TARA MORIARTY: No.

The CHAIR: Minister, I know you would like to stay with us for longer but, unfortunately, questions from the Opposition and the crossbench have concluded. There is an opportunity for the Government now to ask some questions.

The Hon. TREVOR KHAN: No.

The Hon. NATALIE WARD: You do not speak for me, Mr Khan. On behalf of the Government, I thank Minister Taylor and, in particular, Mr Pearce and Dr Wright and all of your teams for the incredible work you have done. I accept it is more of a statement than a question and I thank the Chair for his indulgence. These are extremely difficult times and your responses and incredible work—I am sure this is not what you envisaged

you signed up for but we are very appreciative of the commitment you have made to the people of New South Wales and your work during this time. Thank you.

The CHAIR: That concludes the hearing. Minister, thank you again for your attendance and cooperation today. Dr Wright, Mr Pearce, again, thank you for your attendance today and the work you do. Some questions were taken on notice and the commitment to provide some documents on notice. There is a maximum period of 21 days for those responses.

The Hon. BRONNIE TAYLOR: Mr Shoebridge, I will try to reduce that maximum with all of my ability for you.

The CHAIR: Thank you, Minister.

(The Minister withdrew.)

(The witnesses withdrew.)

(Luncheon adjournment)

ROSE WEBB, Deputy Secretary, Better Regulation Division, and Commissioner of Fair Trading, Department of Customer Service, on former affirmation

JOHN TANSEY, Executive Director, Better Regulation Division, Department of Customer Service, on former affirmation

ANDREW GAVRIELATOS, Executive Director, Community Engagement, Better Regulation Division, Department of Customer Service, on former affirmation

The CHAIR: Welcome to this afternoon's hearing of the inquiry into the Government's management of the COVID-19 pandemic. This afternoon we will be hearing from four witnesses: Ms Rose Webb, the Deputy Secretary of the Better Regulation Division, and Commissioner of Fair Trading, Department of Customer Service; Mr John Tansey, the Executive Director, Better Regulation Division, Department of Customer Service; and Mr Andrew Gavrielatos, the Executive Director of Community Engagement, Better Regulation Division, Department of Customer Service. We will be joined by Mr Peter Dunphy, the Executive Director, Compliance and Dispute Resolution, Better Regulation Division, Department of Customer Service, when he concludes his obligations in another hearing this afternoon. Ms Webb, Mr Tansey and Mr Gavrielatos, as you have all been previously sworn in this inquiry, we can get straight into it. Did you have a brief opening that you wanted to put on record, Ms Webb?

Ms WEBB: No, Chair. The only thing we wanted to mention was that as Mr Dunphy will be coming a bit later, there may be some questions we might have to ask the Committee's indulgence that we wait for him to come.

The CHAIR: That is okay. That can be taken on very brief notice.

The Hon. ADAM SEARLE: Ms Webb, are you aware of correspondence from the shadow Minister to the Minister in relation to calls by CHOICE for action to introduce consumer protections to stop price gouging on the sale of essential items during the pandemic situation?

Ms WEBB: Yes, I have seen that correspondence. I have seen the correspondence from CHOICE, but I do not know if I have seen the letter from the Opposition Minister.

The Hon. ADAM SEARLE: Well, I think you can assume that it is supportive of the CHOICE trajectory, if I can put it that way. What initial responses does the agency have to the proposals from CHOICE?

Ms WEBB: As I understand it, CHOICE wrote to all the Australian jurisdictions and the Commonwealth. We have been discussing it in the context of the Australian Consumer Law agencies' committees that have been dealing with COVID-related matters, to make sure that we did a joined-up response across all the jurisdictions. We recognise that most agencies have indicated that there is some Commonwealth law relating to specific items and price gouging in relation to those specific items—hand sanitisers and some other products like that. The agreement is that those matters would be referred to the Federal police and that is the way that they would be dealt with under that very specific Commonwealth legislation.

In relation to price gouging more generally, we have just considered what avenues there already are under the Australian Consumer Law to take action. There is some opportunity if people are being misled or deceived about the circumstances in which the pricing has changed or has been increased. Potentially, it could be unconscionable in certain circumstances but the agreement between the Australian Consumer Law regulators is that apart from using those provisions at this stage, we were not going to propose to the Ministerial Council on Consumer Affairs that there be any change to the law.

The Hon. ADAM SEARLE: Okay, can you just step me through that Federal dimension? What are those items and why is it a Federal issue?

Ms WEBB: Sure. The Australian Consumer Law applies in all the jurisdictions and it applies in New South Wales—we have applied it as a law. An intergovernmental agreement that governs the way it works is that we will not go off on our own tangents making amendments to consumer-related laws, unless they are consistent with that Australian Consumer Law framework. But as best as possible, laws are changed with all of the States and Territories agreeing to the change and the Commonwealth enacting it first. That is why when we think about things such as price gouging and a general consumer application across all consumer goods, it was considered appropriate to consider it in the context of the Australian Consumer Law, rather than a State-by-State arrangement.

The Hon. ADAM SEARLE: Okay, but in the real world it is a bit hard for people to take action, particularly in the middle of a pandemic, when there is an acute shortage of certain goods. So, whether or not it is deceptive or misleading, obviously price hikes, which have been reported quite consistently during the pandemic, are very worrying. This jurisdiction has done it in relation to ticket resale and so-called scalping practices. Why not put something into the law generally prohibiting price gouging in relation to essential goods—at least linked to during a public health crisis? Why would that not be consistent with the consumer law?

Ms WEBB: My understanding is the Commonwealth identified some particular products where there was a concern about price gouging specifically related to COVID and it enacted that legislation that I mentioned before. More generally, the theory of how markets work is that you let people price as they will and people will not buy things that are overly expensive and will be able to make their own choices as individual consumers. Therefore, in theory, price control legislation is not used widely across any jurisdiction in Australia. Recognising that some of these concerns that CHOICE and others raised were temporary phenomena in relation to particular items, Minister Anderson put out a public warning and said that he would name and shame people who he found consistently and unreasonably pricing above market prices and potentially impacting consumers.

As it turned out, we have been scouring our complaints register every day to see if we have any particular consumer complaints and every single one has been of such a transitory nature, and when people overprice, people just do not buy it and the price falls down. We have struggled to find any examples that were worthy of actual regulatory action and so, I think, having regard to all those factors, we consider that the law as it is is sufficient to deal with the situation, noting, of course, the importance of making sure that we keep watching what is happening out there in the market.

The Hon. ADAM SEARLE: How does that help people in remote communities who might have less choice about shopping diversity?

Ms WEBB: I absolutely understand that people in remote communities have less choice about shopping opportunities, but that is sort of a feature that is not related to COVID—that is something that they are impacted by every day. We are very aware of that. I think what we are seeing is that the move to online purchasing has allowed people in remote and regional communities to have more choice and that might be one of the factors that is meaning that people are not complaining—that people have these opportunities now to purchase elsewhere if they need to. But we literally are not seeing it, notwithstanding our very strong regard for looking out for this type of conduct to see what we could do about it.

The Hon. JOHN GRAHAM: One of the questions I might ask you to come back to and answer is: What were those items that the Commonwealth regulated?

Ms WEBB: Yes, absolutely. I think it was hand sanitiser, face masks and things like that. But we can absolutely identify the regulation for you and show you.

The Hon. JOHN GRAHAM: The key ones that CHOICE are drawing attention to.

Ms WEBB: That is right.

The Hon. JOHN GRAHAM: The Commonwealth chose to regulate a number of those. Has there been any assessment of how effective that has been?

Ms WEBB: As I mentioned, the agreement between all the jurisdictions has been that should we come across any item of concern in that category that we would refer them immediately to the Australian Federal Police. I am not aware of any ending up with any law enforcement action being taken—I am just checking with my colleagues. We can check that and see if they have taken any action under that regulation.

The Hon. JOHN GRAHAM: So you are not aware of any action in relation to—

Ms WEBB: No.

The Hon. JOHN GRAHAM: Were there referrals from New South Wales?

Ms WEBB: I do not think so but I will double-check and let you know. I am not aware that we ended up referring anything, but I will check with our team to make sure.

The Hon. JOHN GRAHAM: But such a referral would have come through Fair Trading?

Ms WEBB: Yes, it would have been the Fair Trading team. We have the protocols that we agreed with all the jurisdictions about how the matters would move from the jurisdiction to the Australian Federal Police. They were not going to have to come via me but I can check and see whether that happened.

The Hon. JOHN GRAHAM: I am surprised to hear that after scouring the complaints register you have struggled to find any examples that required regulatory action. Can you give us some? Clearly there has been a lot of anecdotal discussion about this. I think shoppers have seen shortages and increased prices. Talk us through how big you think the problem was.

Ms WEBB: Sure. We received not so much complaints from consumers but more by observation by our staff members. We saw some circumstances in which products such as detergent and toilet paper were priced at quite a lot but, by the time someone went back down to the shop to have a look to take some proper evidence of it, the price had come down again, indicating to us that possibly it was not a very successful method for them. We certainly saw a little bit on eBay of people attempting to sell some of these products at quite inflated prices but, again, they were not very successful because the competition from other people selling the same products meant that the prices were lowered. There was a circumstance where ginger increased for a while because I think the understanding was that some people believed that was a good remedy for COVID-related matters.

The Hon. TREVOR KHAN: Don't tell Donald Trump!

Ms WEBB: That was our understanding of why ginger prices suddenly escalated in some groceries but, again, it was a temporary phenomenon and there was plenty of other consumer choice. Mr Gavrielatos has some actual figures of how many actual complaints we received, so he might be able to help you.

The Hon. JOHN GRAHAM: Yes, okay, that would be helpful.

Mr GAVRIELATOS: From the beginning of the year until about mid-May we received 47 complaints and 146 inquiries about pricing. Out of the 47 complaints that we received—these are complaints that are coming in from consumers, from people actually out and about—only two of the complaints alleged price gouging. That was not necessarily the case but I am just saying that we have only had 47 inquiries about pricing generally.

The Hon. JOHN GRAHAM: So you have given us an overall picture but what about in relation to those products which you say the Commonwealth has felt it might need to regulate and those products that CHOICE says New South Wales should specifically regulate—can you give us any picture in relation to things such as face masks, gloves, gowns, sanitiser?

Ms WEBB: No. I can recollect someone showing me one photo of some hand sanitiser at what looked like an inflated price, but, as I said, when we got down to the shop to check the details of it, the price had gone back down again. There was one relating to toilet paper but, again, it was found out that these were industrial rolls of toilet paper and the price relevant to the quantity was correct. I am not sure about face masks but we could check. I do not know that we have had any but we could find out.

The Hon. JOHN GRAHAM: So when you look across the board, even at these items that were hard to find or hard to buy over recent months, the Fair Trading view, or the agency view, is that they were temporary issues, really no problem, though?

Ms WEBB: Yes, I think that is where we landed. As I said, we were keeping a close watch on this because of interest from CHOICE but also from the public more generally. It was always a thought that if we had some demonstrated examples that price gouging was occurring on a substantial and permanent scale we would reconsider our advice to the Minister. But, at the moment, we could just not see anything that suggested that was necessary.

The Hon. JOHN GRAHAM: There were widespread—I mean toilet paper is the most extreme example, sanitiser was another one. These were just not available and no consumers are talking to the agencies—

The Hon. TREVOR KHAN: Tissues, pasta.

The Hon. JOHN GRAHAM: Sure.

The Hon. TREVOR KHAN: I went looking for them all.

The Hon. JOHN GRAHAM: Precisely. So, no-one is complaining about these, is that—

Ms WEBB: People were complaining about the lack of supply.

The Hon. JOHN GRAHAM: Right. Well, up to 47, but that is hardly anyone, really.

Ms WEBB: That is right. It was not—as I say, the Minister put out a media release and we did public warnings. The Australian Competition and Consumer Commission [ACCC] and the other consumer affairs agencies all had information on their websites about what price gouging was, what could be done and indicated

they were interested in hearing from the public. So, I do not know. I know there were a lot of anecdotes and we were very conscious of that and watching out for anything that we should take action on.

The Hon. ADAM SEARLE: This might be a difficult question for you but is it possible that this lack of public feedback reflects the view of the agency? In recent years it seems that the agency has become, shall we say, one of the so-called "light-handed regulators". Once upon a time Fair Trading used to take prosecutions for aggrieved consumers. Do you still do that?

Ms WEBB: Yes, absolutely.

The Hon. ADAM SEARLE: Okay. Again, there are a number of people I have dealt with in the past few years whose interactions with Fair Trading have not been very happy because Fair Trading essentially leaves it to the consumer to pursue their own legal remedies. I am just wondering whether this is something that you need to have a look at—about how consumers actually view the agency.

Ms WEBB: From my perspective we take prosecutions every year, we have taken civil actions, we do a lot of the remedies for consumers—

The Hon. ADAM SEARLE: How many prosecutions?

Ms WEBB: Overall for Fair Trading? I did not bring those figures because I thought we were talking about COVID-related matters, but I can get that on notice for you.

The Hon. ADAM SEARLE: Okay, during the COVID period, then. During the period of the public health orders, which is what we looked at. What are the prosecutions—

Ms WEBB: They were not COVID-related prosecutions. But how many prosecutions—

The Hon. ADAM SEARLE: How do you know? You say that, but what were the prosecutions for?

Ms WEBB: Unlicensed building, defrauding people from trust accounts—

The Hon. ADAM SEARLE: Okay. But in the traditional Australian consumer affairs?

Ms WEBB: Australian Consumer Law prosecutions? I can get those figures on notice for you on how many Australian Consumer Law related matters we have dealt with.

The Hon. JOHN GRAHAM: I accept you are putting that as the agency view but to turn to some of those anecdotes, hand sanitiser was certainly being sold at the point at which it disappeared well above market price. I did not report this to Fair Trading—

The Hon. TREVOR KHAN: Why not?

The Hon. JOHN GRAHAM: —but I saw hand sanitiser being pulled out from underneath the register to be sold for more than \$30 a bottle, for something that would have been \$4 or \$5 or, perhaps, you might now get for \$8. None of these issues have come forward to Fair Trading. I am quite surprised to hear that. This was routine in my—

Ms WEBB: Every one of our complaints officers were well and truly on notice that this was an absolute high priority for us and the Minister. We were looking out, as I said, every day, saying, "We are hearing exactly these anecdotes and the media interest", and we were being asked, "Were there examples?" We were looking for them but—

The Hon. JOHN GRAHAM: And you are aware of the examples that were canvassed in the media about mask supplies?

Ms WEBB: Yes, and followed them up when we heard about them, yes.

The Hon. JOHN GRAHAM: Talk us through those examples when you followed those up. What was specifically going on with face masks?

Ms WEBB: I cannot talk about a specific case—I will take that on notice. Generally, when we got a complaint or there was a media report about something, we would follow up and see what the pricing was and it seemed to be a very common phenomenon that the person was not successful in selling it at that high price because there was competition from other people and they put the price down. That is not to say that some consumers did not buy it at the high price—I absolutely acknowledge that. In terms of finding enough evidence of a persistent high price that we would think it was appropriate to issue a public warning for, we just did not come across an example.

The Hon. JOHN GRAHAM: In your view, just coming back to that question you were asked about the capacity of New South Wales to act alone—there is a intergovernmental agreement that provides some framework for how we might go it alone; it provides some framework for coordinated action. In your view, can New South Wales act by itself? Whether it is advisable to do that is another question. New South Wales can act or cannot act on this unilateral law?

Ms WEBB: In terms of amending the Australian Consumer Law, we could not act, but that is not to say that we could not amend some other specific piece of New South Wales legislation that might have the same effect. But I would just check the intergovernmental agreement to make sure I am exactly right about that.

The Hon. JOHN GRAHAM: And that might bring obligations to tell the Commonwealth or other jurisdictions, but we could have that effect, unilaterally, in New South Wales law if we chose?

Ms WEBB: In relation to a very specific regulatory scheme, yes.

The Hon. JOHN GRAHAM: If that is wise, is another question. But there is nothing to constrain us that you are aware of, in taking that action?

Ms WEBB: I think if we enacted something that was broad enough that it in effect amended the way in which the Australian Consumer Law operated in New South Wales, it would start to verge into being in conflict with the intergovernmental agreement. Mr Searle gave the example of ticket pricing before. Because that is a very particular scheme controlling the price in very particular circumstances where there is a clause in the arrangements—the terms and conditions—about reselling, then that particular scheme can operate in New South Wales differently to other States.

The Hon. ADAM SEARLE: Sure, but that is a question of detail. I mean, it was really on the back of sustained community and commercial unease with scalping practices that led to those provisions. Surely, potential price gouging of regular citizens in a pandemic when people lack the usual sorts of bargaining power to be able to walk to another store—I am not so sure it is apposite.

Ms WEBB: I was just using that as an explanation of how we could move away from the Australian Consumer Law in a particular circumstance.

The Hon. JOHN GRAHAM: So provided it was limited, provided it was possibly time-limited as well—

Ms WEBB: Or related to a specific type of consumer interaction we might be able to, yes.

The Hon. JOHN GRAHAM: In relation to those complaints you received, so 47 complaints and 146 inquiries—you have told us what they did not relate to. Two of them were for price gouging. What did the others largely relate to?

Ms WEBB: Do you have any more detail, Mr Gavrielatos?

Mr GAVRIELATOS: I do not have any more detail. They were pricing in general. That is all I have at this point.

The Hon. JOHN GRAHAM: So pricing. You said that some of them might be about lack of goods altogether?

Mr GAVRIELATOS: No, I did not say that.

The Hon. JOHN GRAHAM: Okay. So these were about pricing? They were not about—for example—not being able to get toilet paper?

Mr GAVRIELATOS: No.

The Hon. JOHN GRAHAM: They are not in those 146 inquiries?

Mr GAVRIELATOS: No. And I should mention that in terms of the total number of complaints we have received to date, we have had 19,067 that we have received in the year-to-date, which is up three per cent from the previous year same period. This gives an indication that people are still coming to Fair Trading to seek support.

The Hon. JOHN GRAHAM: And how many additional complaints were in the misleading and deceptive category? Presumably they are additional—

Mr GAVRIELATOS: I do not have that breakdown.

Ms WEBB: We would have to take that—

The Hon. JOHN GRAHAM: And those that are captured on the complaints register?

Ms WEBB: So sorry. I used the word complaints register in a general term there. We do have a specific complaints register that we publish each month. I meant the internal complaints data that we get every day as people ring up with complaints or put complaints in through our system.

The Hon. JOHN GRAHAM: Turning to remote communities—

The Hon. TREVOR KHAN: Wait a minute. Your time is up.

The CHAIR: Having snuck in the first syllable, I am perfectly comfortable for the Hon. John Graham to continue.

The Hon. NATALIE WARD: Just do not cut into our time.

The Hon. JOHN GRAHAM: Just turning to that remote communities question. You have given us a view about what might be one thing that is easing that. I am interested in the agency's view about whether this is still a problem at the moment and whether it was a problem in the months previous. The shortages, obviously not price gouging given what you have told us, but shortages in particular. Is that a problem? Was it a problem?

Ms WEBB: As a general proposition, people in remote communities often have less consumer choice so I absolutely acknowledge that is a problem and that prices may tend to be higher for them. Whether we had any particular reports in relation to and during the COVID-19 period, the shortages being exacerbated by that, I will have to take on notice. I know from reading the newspaper and the media reports that certainly some regional areas did have issues getting supplies so I would not be surprised if that was the case. But I would have to check whether we had specific people bringing specific examples to our attention.

The Hon. TREVOR KHAN: The education Minister referred to an example on a question without notice regarding hand sanitiser in certain schools. There was a complete back of local supplies.

The CHAIR: A price gouge. Ms Webb, Mr Gavrielatos, Mr Tansey, thank you for your attendance this afternoon. I did not get the exact number of complaints down that you said had been received. Mr Gavrielatos, I think that was you.

Mr GAVRIELATOS: In terms of total complaints in online inquiries, we have received 19,067 complaints in the year to date.

The CHAIR: That is from 1 January?

Mr GAVRIELATOS: That is from 1 January.

The CHAIR: How many prosecutions have been launched?

Ms WEBB: Unfortunately, we did not bring our general list of cases and prosecutions with us so we will have to take that on notice.

The CHAIR: There have been repeated, not just coming from the education Minister, but I think you could not have had your eyes and ears open to have not heard repeated concerns about shortages particularly in regional New South Wales. What if anything has your office done to seek to address that? It may be that you have not done anything because you have not had a formal complaint made in that regard but what—if anything—has been done?

Ms WEBB: I do not think we have had a formal complaint but I will check that. In terms of what we could have done under the pieces of legislation we are empowered to implement? I am not really sure. We cannot direct supplies of goods to go anywhere in the State. So unless we thought that the shortage was due to some genuinely misleading and deceptive conduct—or that there was some sort of market manipulation going on that we should refer to the ACCC—I am not quite sure what legislation would have empowered us to do in relation to a shortage.

The CHAIR: So if you did have evidence of a shortage and it was causing significant issues, which Government agency would you refer that problem too? Where would you send it?

Ms WEBB: We would just make some inquiries about whether the shortage was due to there being a genuine lack of the product in New South Wales and the only thing to do was to import more or produce more. If we thought there was someone trying to manipulate the market by trying to short the market in some way by some sort of cartel arrangement or something like that, we could have considered referring it to the ACCC. I have

absolutely no sense that was happening with hand sanitiser but it is known in other markets that people keep supply back in order to keep prices up. They can only do that if they have an anti-competitive agreement with other suppliers to make sure nobody undercuts them. So there would be some options there.

The CHAIR: Or if they are in regional New South Wales you do not need an agreement if you have got the only shop in town.

Ms WEBB: Yes. If you had the only shop in town and the reason you are not selling the product—if I am understanding you correctly—was because you could not obtain source from your wholesaler or because you had the product but you were not selling it.

The CHAIR: No. You are the one who has put motive and intent. That was not in my question. I was just talking about a shortage.

Ms WEBB: A shortage itself, I do not think there is any law in New South Wales that will cure a shortage as such. I think you have to work out why the shortage is occurring.

The CHAIR: So if that panic buying and the shortages have become chronic there was no part of the New South Wales Government responsible for stepping up and ensuring the supply of critical products—hand sanitiser, toilet paper—

Ms WEBB: I am not an expert in the Public Health Act. It may have some powers in these circumstances to enter into the market and direct the market a bit more but I would have to take it on notice. I have no knowledge of that. Maybe the State's Emergency Powers Act, the police or something. I am sorry I just do not know.

The CHAIR: I ask this question because in other jurisdictions, Taiwan for example, they saw early on there was going to be critical shortage in hand sanitiser and they mobilised resources to ensure adequate amount was produced. But there is no machinery that you are aware of—that you can point to now—that would have assisted that.

Ms WEBB: I do not want to sell NSW Procurement short because I understand what they did do was to mobilise some resources for people to manufacture hand sanitiser and that is why the supply increased. But I am just talking about this from my reading generally.

The CHAIR: I am more than happy for you to take it on notice.

The Hon. TREVOR KHAN: I would be surprised if Taiwan can inject themselves into the market. Their circumstances are slightly different at any tick of the clock, one suspects.

The CHAIR: Nevertheless they did it. Ms Webb, the Residential Apartment Buildings (Compliance and Enforcement Powers) Bill was assented to on Monday, is that right? Or Wednesday?

Ms WEBB: Yes.

The CHAIR: As I understand the terms of that bill, the substantive powers are now in place. Is that right?

Ms WEBB: Mr Tansey?

Mr TANSEY: No. It commences in September.

Ms WEBB: That would be 1 September.

The CHAIR: What if any arrangements are in place to ensure that there is an adequate number of authorised officers appointed to actually exercise the powers under that bill?

Mr TANSEY: In relation to COVID-19?

The CHAIR: The reason I am asking you is because it is in relation to building more generally that the issue of building and a rapid expansion of building is related to COVID-19 because that has been expressed by the Premier and the Treasurer as one of the economic responses to COVID-19—a construction led recovery. So yes, in relation to COVID-19 but by that form.

Ms WEBB: So we have done a recruitment process to engage additional people for the Building Commissioner. I did not come with a list of how many people responded to that advertisement but it was in the many hundreds I understand and the Building Commissioner is at this very moment going through the process of assessing those applications and determining who he will recruit to undertake that task. So there will be this additional team that the Building Commissioner is recruiting and that will be supplemented by officers from their regulation division.

The CHAIR: Was that recruitment for people to become authorised officers and exercise the power?

Ms WEBB: Under the Residential Apartment Buildings (Compliance and Enforcement Powers) Bill?

The CHAIR: The Residential Apartment Buildings (Compliance and Enforcement Powers) Bill. We call that the RAB Bill, is that easier?

Ms WEBB: Yes.

The CHAIR: How many positions have been recruited or are in the process of being recruited? What is the number?

Ms WEBB: Mr Dunphy has been working very closely with Mr Chandler on the recruitment process so he would be able to confirm for sure and I think I would be guessing. As soon as Mr Dunphy comes I will get him to answer that.

The CHAIR: I strongly urge you not to guess, Ms Webb. How many additional staff from the department—in addition to the recruitment—is it proposed be provided with those powers and then be subject to the direction of the Building Commissioner? It may be they are two different numbers.

Ms WEBB: It may also depend on the outcome of this recruitment process and also from now until 1 September the plan is to get all our project plans and operating arrangements in place to exercise the powers. That will indicate how many people we will need to start on 1 September. As I understand—but Mr Dunphy might be able to confirm—we are still working on exactly how many people we will need.

The CHAIR: Is it really the case that you have not even identified the proposed headcount? Is it really still at that early stage? You have not got the structure sufficiently in place that you can identify what the proposed headcount is?

Ms WEBB: I might defer that until Mr Dunphy comes. I have seen an org chart but off the top of my head I am not able to remember the numbers on it.

The CHAIR: In terms of the organisational structure, how is it intended that the Building Commissioner will fit within the organisational structure now that this Act has been passed? Are there any changes and if not what is the arrangement?

Ms WEBB: Mr Dunphy is probably better placed to explain in detail but my understanding is that he will have teams underneath him who will be allocated to particular building projects and building sites. Those teams will be a combination of some of these new recruits with the new skills and some of the people from the Better Regulation division. It will depend on the scale and size of the project, how much non-compliance or compliance they find. We are trying to be ready to deal with the different circumstances we expect to find as we go out to the different building sites where people indicate that they are about to issue their occupancy certificate. Mr Dunphy will have a bit more detail on how it all works exactly. I am sorry.

The CHAIR: Putting to one side—I will explore this with Mr Dunphy going forward—how the organisation operates from Mr Chandler down, how does the organisation structure from Mr Chandler up? Who does he report to and what is his financial autonomy?

Ms WEBB: Mr Chandler reports directly to the Secretary of the Department of Customer Service but he also has a close working relationship with me and my colleagues in Better Regulation Division. So we work very closely together but technically he reports to the Secretary.

The CHAIR: What if any financial autonomy does he have?

Ms WEBB: He has a separate budget. He has a budget for his office and then he has a budget for this project of doing this activity under the RAB Bill. Then he has another budget for various of the other pillars of his work program.

The CHAIR: What is his office budget?

Ms WEBB: I just did not come with any of that information. I am really sorry. I did not expect to be asked these questions. I will have to take them on notice.

The CHAIR: What is the RAB project budget?

Ms WEBB: Exactly the same. I will have to take that on notice.

The CHAIR: You can probably anticipate my next question. What if any other budgets does he have and what projects or work do they attach to?

Ms WEBB: We will see what we can do. The only thing I would say is because the Government has not issued a budget, we are in a slightly ambivalent position about budgets in general. We can do our best to explain what we anticipate spending on these projects.

The CHAIR: When are we going to get a budget?

Ms WEBB: Are you asking the Government?

The CHAIR: You must know. You must be anticipating a budget.

Ms WEBB: November as I understand it.

The CHAIR: You are anticipating a budget in November and that is what you are working to?

Ms WEBB: I think that was what the Government announced it was going to do as I understand it. They are making arrangements so we have money to go on with but it is not as defined as in normal circumstances when a budget comes down in May.

The CHAIR: So in terms of obtaining a budget for the Building Commissioner's work, where is that budget being allocated from? Is it money redistributed within the current department budget? Is it fresh money? Where is the money coming from?

Ms WEBB: I understand it is a combination of all of those. I will have to take that on notice.

The CHAIR: There may be two different answers so if you could provide the answer for this financial year and provide the answer for the future financial year. The design bill was also I think assented to this week. Just double-checking. Do you know what date the design bill was assented to?

Mr TANSEY: I am just on the Parliamentary website now. It was assented to on Thursday 11.

The CHAIR: Thursday, yesterday. What current resources are in place to ensure that the regulations essential for that to actually start doing its work will be put in place in a timely fashion? What is the resourcing of the regulations?

Mr TANSEY: Work is already well advanced on the concepts and leading into the process for consultation to underpin that regulation including during the period we did not have access to Parliament and the bill was not progressing. We turned our effort to starting the conceptual work and development work on that regulation. So it has already started.

The CHAIR: So it is still at the conceptual phase? Is that my understanding, Mr Tansey, it is still at the conceptual phase?

Mr TANSEY: I do not mean to suggest that it is vague.

The CHAIR: It did sound vague.

Mr TANSEY: It is not vague. Working up the key elements underneath the bill, the concepts would include for example, what are all the plans and designs that might be specified in the regulation to be captured by the bill. So those critical concepts around the plans and designs to be captured, the registration system that underpins the bill including the different categories of practitioner that will be captured, the qualifications and pathways and prerequisites, so all of the machinery elements of the bill have been developed and are in papers likely to become discussion papers to thrash out the detail with industry and other stakeholders.

The CHAIR: They are likely to become discussion papers? Is that the current status? You have got some concepts that are likely to become discussion papers?

Mr TANSEY: We have used concept papers and discussion papers all along through this process to engage with industry, to test and flesh out the elements that were in the bill and are now in the Act and will be in the regulation.

The CHAIR: You see Mr Tansey, Parliament has previously rapidly passed legislation because we were advised—and this happened as recently as 2018—that it was dreadfully necessary that your department have additional statutory powers to provide regulations for, in that case, the regulation of private certifiers. That was in 2018. We are now in the middle of June 2020. Are those regulations now in force?

Mr TANSEY: Are you referring to the certifier regulations?

The CHAIR: Correct.

Mr TANSEY: Those have been made and they will commence on 1 July of this year.

The CHAIR: So no. Those ones, in relation to which we rapidly passed legislation in 2018, are still not in force. They will come into force in a couple of weeks, is that right?

Mr TANSEY: That is correct.

The CHAIR: Can you get some sense of the frustration that the sector is feeling when—again—the Parliament has engaged with and passed the Design and Building Practitioners Bill? It was introduced on the 23 October last year and you still have not got a set of draft regulations—you still have not got a set of draft regulations—to actually show the sector. Can you see how that might cause frustration?

Mr TANSEY: If you are expressing frustration, then I can see it.

The CHAIR: I think you can probably see my frustration but let me assure you there are many, many stakeholders I have spoken to who had said from the outset that they did not think your department had the capacity to produce the regulations in a timely fashion. Sitting here today you still cannot point to even a set of draft regulations for a bill that was introduced on the 23 October 2019. So rather than address my obvious frustration, can you provide some comfort to the industry that is looking for actual action.

Mr TANSEY: The regulations have been intensively worked on. As you will appreciate, there was some uncertainty as to the final form of the bill. There were very significant elements of the bill itself that were still being debated by Parliament and therefore were in flux. But we have done serious development work around the documents that will be the subject of detailed discussion with stakeholders and with other interest holders about the precise provisions of the regulation.

The CHAIR: Some of the core work—the bulk of the core work—that is needed under the regulations about the nature of the designs, the nature of the disclosures, those aspects of the bill were not part of active amendment. Around 90 per cent of the drafting could have been done before the final bill was passed, why has none of the actual regulation drafting been done?

Mr TANSEY: We have been working consistently since the end of last year and all through the beginning period of this year, when the bill was in abeyance and every week since then and up to its passage, with stakeholders on the detailed work and we have had highly productive and constructive engagement with stakeholders. We have continued to work through it and we have had—frankly—letters of thanks and congratulations as recently as yesterday from industry stakeholders about their sense of satisfaction, not only with the attainment of the bills, but the way that all the work has been done and continues to be done. I have not had any evidence or anybody approach me expressing frustration. I have not had anybody say to me, why are we not being talk to about the elements because we have been working with stakeholders on all of those elements.

The CHAIR: Mr Tansey, you say you have these letters. I would ask you to table or provide on notice the letters of thanks that you have from the industry that underpins that assertion.

Mr TANSEY: I am happy to.

The CHAIR: I will hand it to the Opposition. All of them, Mr Tansey.

The Hon. JOHN GRAHAM: I might continue our questioning on the issues around price gouging. Firstly, I just wanted to ask the CHOICE proposes about a 120 per cent increase in price. I am just interested if there is a departmental view or any departmental discussions about what an appropriate level of price increase crosses the line to become price gouging? Have you got a view or have there been any discussions about that in the forums you were involved in?

Ms WEBB: No. I do not think we have a view. Price gouging is not defined in the law anywhere and it means different things to different people. Usually there is some sense of it not only being of the amount by which the price is increased but also the time for which that price is increased and the other circumstances of the market in which people are operating. As a personal view I think it would be quite hard to put a general percentage across the whole range of products but we have not come to a departmental view.

The Hon. ADAM SEARLE: Ticket reselling is limited to 110 per cent, is it not?

Ms WEBB: If there is a resale restriction in the terms and condition of the ticket sale then the requirement is that it be no more than 10 per cent, yes.

The Hon. JOHN GRAHAM: In relation to the shortages issue, you have said there is really not any capacity—although you will take some of this on notice—for the State to act in that instance. It is really down to supermarkets who might impose a certain number of items you can buy. Is there any backup for those supermarkets? Is there any action they can take if those systems, which are voluntary on their behalf, start to fail?

Ms WEBB: I am really feeling outside of my portfolio understanding. I assume that somewhere in public health or emergency legislation—that is not our portfolio—there might be something to allow those things to happen but I am not sure.

The Hon. JOHN GRAHAM: Let us come back to where you are more comfortable, to price gouging. One of those anecdotes, one of those stories about price gouging did relate to facemasks. It was about the facemasks normally— In particular I think it was the P95 facemasks which would normally be sold for around \$40 for about 20, were reported as being sold for \$786 by a company, Livingstone International. Are you aware of that report, that anecdote, that instance?

Ms WEBB: I cannot recall that I have heard that specific one. That is not to say that Fair Trading might not have heard about it or that I did not know about it at one particular point in time. Right off the top of my head, no I cannot recall that one.

The Hon. JOHN GRAHAM: But presumably if it had been the subject of actual referral—you said you do not think they have been referrals—it might be more familiar to you?

Ms WEBB: That is probably right but I would have to check.

The Hon. JOHN GRAHAM: Feel free to take it on notice. But I think we can assume for the moment that it has not occupied a lot of the time of Fair Trading to date?

Ms WEBB: We have not done many referrals, if any.

The Hon. JOHN GRAHAM: That is certainly price gouging though if that is what has happened. On the face of it, that is a major problem.

Ms WEBB: It is a large price increase. I am just a little bit reluctant to say it is absolutely price gouging but it would certainly attract our attention as something that we should have taken a look at.

The CHAIR: Where do you draw the line on price gouging if not there? Where is the definition of price gouging? In what multiple of a normal price does price gouging come in?

Ms WEBB: As I mentioned to the Hon. John Graham, the price plus the length of time for which the price was offered and the whole circumstances of the market in which people are operating. I am not disagreeing that that is a large price increase. I absolutely agree.

The CHAIR: But you are refusing to accept that the department's perspective, that they would call it a price gouge? I just do not understand why?

Ms WEBB: I think it would be something that if it had been brought to our attention, we would certainly have taken a look at the circumstances of it.

The CHAIR: But you are being very careful in your answer Ms Webb, not to call it a price gouge and I just wonder why?

Ms WEBB: Only because there is no definition of price gouging in the law so I am conscious of the fact that people across the board have many different views of what price gouging is.

The Hon. JOHN GRAHAM: But applying common sense—

Ms WEBB: I am not saying it is good practice or anything.

The Hon. JOHN GRAHAM: I think it is sensible to be cautious about exactly where price gouging is but common sense says if you can buy 20 masks for \$40 and it is sold to you for \$786, that is price gouging. Would you agree with that?

Ms WEBB: I think may be the operative words there are it is sold to you for. If it was offered for sale but no one bought it, is it price gouging or not? I am not sure. I do not have a strict definition of it.

The Hon. JOHN GRAHAM: Here is a pharmacist, Linda Nguyen, who says we had quotes from the company back in January costing about \$40. Now they would cost \$700 to \$800—depending on the brand—and that is still for 20 masks per box. This is Livingstone International selling to a pharmacist, regularly purchasing these items. Surely that is price gouging?

Ms WEBB: I am not trying to be obstructive here but I would want to ask what price the wholesaler was paying for them to get them and knowing what margin they were putting on them before they sold them to the retailer before I gave an absolutely definitive view on that. But I certainly absolutely think it is worth looking at.

The Hon. JOHN GRAHAM: One way to answer that question is to look at what their competitors might be selling that for.

Ms WEBB: Exactly.

The Hon. JOHN GRAHAM: Their prices were up from \$40. They were at about \$80. So double. In a very constrained market and we acknowledge that there were real problems here. So competitors were selling them for double the price but this company is selling it for \$786.

Ms WEBB: That would be very good evidence that they were putting a very high margin on it which tends to show it is something like price gouging I absolutely agree.

The Hon. JOHN GRAHAM: Is the agency aware of this example?

Ms WEBB: I cannot speak on behalf of the agency but we will take it on notice and just check if we had heard of it.

The Hon. JOHN GRAHAM: This is a company headquartered in—

The CHAIR: Sorry, Mr Graham. I will come back to this in just one second. Mr Dunphy has just arrived. Mr Dunphy, your socially distanced chair is there on your left.

PETER DUNPHY, Executive Director, Compliance and Dispute Resolution, Better Regulation Division, Department of Customer Service, affirmed and examined

The Hon. JOHN GRAHAM: I was about to make the point that this is a company headquartered in New South Wales not far from here in Mascot. It has been publicly reported. It was the subject of quite a lengthy public report. Why has this not come to the department's attention?

Ms WEBB: I think I said that I was not sure whether it has or has not. I will take on notice whether it has. I will find out what we did or did not do about it and take all of that on notice and let you know.

The Hon. JOHN GRAHAM: I have to say that in the face of what we know were widespread issues, it is very surprising that the agency comes and says, firstly, we have not heard much. I think that does raise some questions as to what extent people think this is a channel which is going to be successful. But I am even more surprised that this has not been the subject of attention regulation.

Ms WEBB: We were not waiting for people to come to complain to us. We were looking for it as well because we were acutely conscious of this issue and people's interest in it. The Minister put out a media release saying he would name and shame people using his public warning powers but in the end we did not come—

The Hon. JOHN GRAHAM: I think you could tell us that the Minister certainly did not name and shame this company, did he?

Ms WEBB: No. He did not. But we were definitely looking for circumstances in which it would be appropriate for him to do that and we did not have any. I will be able to follow up that particular example.

The Hon. JOHN GRAHAM: Can you think of any reason why this would not have been an instance of price gouging?

Ms WEBB: I do not want to answer hypothetically without going back and reviewing our files. Speaking generally, the ones that did come to our attention—stories like this—when we went and investigated we found that the price, in most cases, that had been reported was no longer the price that was being offered because people had been able to get supply from somewhere else. I am not saying that is the case in this one but that tended to be what happened, that we found an example, we thought it was something we should look into, we thought it was a possibility for the Minister to issue a public warning about but the minute we tried to get some concrete evidence to show this conduct was going on, it was not there. That is typically what happened for us.

The Hon. ADAM SEARLE: Ms Webb, in relation to the issue of cladding and given that during the pandemic more people than ever before have been working from home and obviously their home has become their work environment—

The Hon. TREVOR KHAN: This is a long bow Mr Searle but anyway.

The Hon. ADAM SEARLE: What progress has the task force made in relation to removing cladding from residential buildings?

The Hon. NATALIE WARD: During COVID-19?

The Hon. ADAM SEARLE: Yes, during COVID-19.

The Hon. NATALIE WARD: Completely unrelated to COVID-19 whatsoever—

The CHAIR: Is that a point of order Ms Ward?

The Hon. NATALIE WARD: A point of order, Chair. I must be mistaken. I thought I was in the COVID-19 hearing about the Government's response to the COVID-19 pandemic. It appears that I am in budget estimates or some other alternative hearing.

The Hon. ADAM SEARLE: Not so.

The CHAIR: Is that the point of order?

The Hon. NATALIE WARD: The witness has come here today prepared to answer questions about the COVID-19 pandemic. There has been quite a bit of wriggle room given to questions but I think it is unfair to extend it to any question at any time about any matter that might occur. In fairness to the witness, I ask members to confine their questions to something that is in some way related to the terms of reference being the Government's response to the COVID-19 pandemic.

The CHAIR: I did listen carefully to the question and it was phrased in the context—and I think it is a valid context—about issues about working from home. I myself will probably have some questions about issues around working from home and SafeWork's role in that regard. So I do think it is within the terms of reference. How it is answered though is a matter for the witnesses. So the question was in order if you remember it, Ms Webb.

Ms WEBB: What progress has been made? I am not sure if Mr Dunphy came equipped with his statistics but he may be able to answer it a little bit.

The Hon. ADAM SEARLE: I am happy for you to take it on notice.

The CHAIR: Mr Dunphy, the question was action in relation to—

Ms WEBB: Sorry, Mr Tansey.

Mr TANSEY: The task force has absolutely continued to meet. We met for the 64th meeting yesterday and we are continuing to meet every three weeks routinely. I am just looking to call up the statistics and compare it for arguments sake back to whenever you might consider that we went into the COVID-19 period. Let us say February sometime. I am happy to try and get the statistics here from my files. As you know they are published every week to the cladding task force website so if you wanted to find them yourselves they are also available there. Sorry, the parliamentary network appears to be very slow.

The Hon. ADAM SEARLE: That is okay. I am happy for you to come back to that.

Mr TANSEY: I will endeavour while we are sitting to give you some comparative numbers.

The Hon. ADAM SEARLE: Mr Dunphy, is COVID-19 a notifiable incident?

Mr DUNPHY: Under the legislation there is a requirement to notify particular matters. In terms of notification of COVID-19 if it meets the definition, it would be a notifiable matter. So if it is arising from the work, it is notifiable to be notified to SafeWork and we have had a number of notifications which we have followed up in terms of COVID-19.

The Hon. ADAM SEARLE: That is okay. Before today's hearing I went to the SafeWork website and it says, notify us, business is required to notify us of serious illnesses including COVID-19. So that is pretty clear. In relation to Qantas, you are aware are you that from 27 January to 2 February, an aircraft cleaner who was an elected health and safety representative was pursuing with Qantas issues around COVID-19 and for evidence of consultation and compliance with health and safety requirements. That person met resistance over a period of time and on 2 February Qantas stood down that health and safety representative. Is SafeWork pursuing action against Qantas in relation to that matter?

Mr DUNPHY: That matter has been notified to SafeWork and the matter was raised and it has initiated an investigation which is still ongoing so I cannot talk about the details. I can talk about when it was notified. We went out and inspected the workplace at that time, around 26 February and there was an improvement notice issued at that particular time around cleaning procedures. The issues that the improvement notice was addressing was concerns about workers using wet tissues, the cleaners handling wet and used tissues, used facemasks and soiled nappies. There were questions about whether they had the appropriate personal protective equipment. We

did issue an improvement notice at that time and that has been complied with. In relation to the issue of alleged discriminatory conduct, that is an issue that is covered by the work health and safety legislation and we are investigating that matter which is still under investigation.

The Hon. ADAM SEARLE: Okay. On 5 March I think your report concluded—and this is following the standing down of the cleaner and the improvement notices—"Workers and other persons may be exposed to a risk of injury or illness from an inadequate system of work used to clean planes that may have transported passengers with an infectious disease." Does that sound like SafeWork's report on the matter?

Mr DUNPHY: That was in relation to that improvement notice and that was a matter that we followed up. As I said, the improvement notice was issued and that has been complied with.

The Hon. ADAM SEARLE: Yes. And you are aware that Qantas sent aircraft cleaners in Sydney letters threatening disciplinary action, including sackings, if they refused to work on planes that had come from China. The letters referred to the risk to workers as being negligible. Is that an assessment that SafeWork agrees with?

Mr DUNPHY: As I said, that matter is a matter that is under investigation at present so I cannot really talk about the details of that matter, but it is something that we are looking into.

The Hon. ADAM SEARLE: You would be aware that on 18 March the Fair Work Commission released a statement indicating that employees who do not work because they have a reasonable concern about an imminent risk to their health and safety are not taking industrial action. You are aware of that ruling?

Mr DUNPHY: I am not particularly aware of the details of that.

The Hon. ADAM SEARLE: Will you make yourself aware of that ruling and follow it to an investigative role you are undertaking?

Mr DUNPHY: Certainly I am sure in terms of the broad look of the investigation that probably is something that the investigation team has looked at. But, yes, we can have a look at that.

The Hon. ADAM SEARLE: Okay. Is it the case that on 27 March SafeWork served a notice on Qantas informing the airline it is under investigation and may face prosecution in relation to this matter?

Mr DUNPHY: We do not normally send notices saying "You are under investigation." It may be a matter of seeking further information so they would—normally in the process of an investigation we will seek notices requiring the provision of information or documents.

The CHAIR: Did that happen, Mr Dunphy, on that date? It is a simple question—27 March?

Mr DUNPHY: I am sorry?

The CHAIR: Did that happen on that date regarding Qantas?

Mr DUNPHY: I would need to confirm that so I cannot say one way or the other.

The Hon. ADAM SEARLE: Okay. I am happy for you to take that on notice and come back to the Committee and would ask you to produce to the Committee any notice that was issued to Qantas.

The Hon. TREVOR KHAN: This is a matter that is currently under investigation.

The Hon. ADAM SEARLE: Well, if he wants to take that point, he can.

The CHAIR: I assume Mr Dunphy will take it on notice. Is that right, Mr Dunphy?

Mr DUNPHY: I will take it on notice. In terms of if we have issued a notice I certainly can advise whether that has occurred. If it is part of the investigation obviously—

The Hon. ADAM SEARLE: Obviously I am not asking you to do anything that would jeopardise any investigation. I am just trying to find out the information.

Mr DUNPHY: Yes.

The Hon. ADAM SEARLE: You are aware, are you, of a dossier prepared by the Transport Workers Union in relation to Qantas' attitude to risks of infection from COVID-19 and that Qantas apparently has referred, in multiple communications to its workers, that the risk of infection was low and compared it to having the same sort of risk as the seasonal flu. Again, in terms of the risk factor, is that an assessment of risk that SafeWork would share?

Mr DUNPHY: I cannot comment on what was actually provided and, again, that appears to be part of the investigation so I do not want to go into the particulars of that at present.

The Hon. ADAM SEARLE: That is okay. I think on 19 May Qantas announced a Fly Well plan for a return to flying during the pandemic but had not consulted its workforce on that plan, despite Government guidelines stating that employers "must allow workers to raise and express their views on work health and safety issues that may arise directly or indirectly because of COVID-19." Are you able to advise the Committee whether that is something that Qantas has done, or whether this is something that is also covered by the investigation?

Mr DUNPHY: I am not aware of the particulars of that matter and, again, I would imagine that would part of the investigation we are looking at.

The Hon. ADAM SEARLE: Mr Dunphy, are you aware that on 21 April a SafeWork inspector issued an improvement notice on Qantas, alleging that Qantas failed to notify SafeWork NSW of a notifiable incident as required by section 38 of the Act and 699 of the regulations?

Mr DUNPHY: That is correct; yes, I am.

The Hon. ADAM SEARLE: Part of the contention was that Qantas had 47 workers that had tested positive for COVID-19 and that included workers who had received treatment as inpatients in hospital and those who had pursued workers compensation matters. Is that your understanding?

Mr DUNPHY: I do not know the particulars of the matter but I do know that we issued improvement notices at that time, yes.

The Hon. ADAM SEARLE: And you aware, are you, that at the time when the improvement notice was issued Qantas had not notified SafeWork NSW of any COVID-related notifiable incidents? Is that your understanding?

Mr DUNPHY: I think that was the basis of the improvement notice, yes.

The Hon. ADAM SEARLE: Yes. Now, that improvement notice was subsequently set aside on an internal review. Is that your understanding?

Mr DUNPHY: That is correct. The improvement notice was. There is a right of review, as with all of our notices and inspectors actions, and there was a request for an internal review. The internal review is done quite independently of the inspectorate and the review determined that the notice should be set aside.

The Hon. ADAM SEARLE: I have run out of question time. I might return to this.

The CHAIR: At any point was the Minister advised of the fact that there had been the improvement notice issued?

Mr DUNPHY: I do not have the information to hand at present. I do not believe that we notify of every matter that occurs but there may have been, in terms of general information that may have been communicated, but I would need to check that.

The CHAIR: So you will check that and provide an answer on notice?

Mr DUNPHY: I can check that, yes.

The CHAIR: And provide an answer on notice?

Mr DUNPHY: Yes.

The CHAIR: Was the Minister advised of the request for an internal review?

Mr DUNPHY: I am not aware of that. The internal review is not done within an area that I have responsibility for so I am not too sure what the arrangements were.

The CHAIR: Who does? Who has who is sitting here? Mr Gavrielatos?

Mr GAVRIELATOS: Recently that area has come into my group. I am not aware whether the Minister would have been told of that or not.

The CHAIR: Will you find out and let us know?

Mr GAVRIELATOS: I can ask that question.

The CHAIR: Did the Minister have any involvement in any of the investigation, the issuing of the improvement notice or the request for and/or obtaining of an internal review? Did the Minister have any involvement at any stage?

Mr GAVRIELATOS: Not that I am aware of.

The CHAIR: All right. But you may not be aware of that. You may not be aware of the Minister's involvement, given your state of knowledge. Is that right, Mr Gavrielatos?

Mr GAVRIELATOS: I cannot answer. It is up to the Minister to answer that question, not me, what his involvement might be. But certainly from our perspective, from the department's perspective, at least in terms of my recently taking over that area, I am not aware of anything that has gone to the Minister about that.

The CHAIR: All right. Will you check that?

Mr GAVRIELATOS: I will check, yes.

The CHAIR: Will you check on notice and provide an answer based upon the departmental records?

Mr GAVRIELATOS: Yes. Absolutely, yes.

The CHAIR: Mr Dunphy, there was a series of questions asked during your absence and the assumption was that you might have—

The Hon. TREVOR KHAN: They blamed him.

The CHAIR: I was being polite. They directed it to your empty chair, Mr Dunphy, which is now no longer empty.

The Hon. TREVOR KHAN: "It's his fault" I think was the comment, I am afraid.

The CHAIR: I think it was a bureaucratic way of assigning responsibility to you. That would be the polite description. The Residential Apartment Buildings (Compliance and Enforcement Powers) Bill [RAB], if I understand correctly, there is a recruitment process in the field at the moment for authorised officers to be appointed under that bill. Is that right?

Mr DUNPHY: That is correct. We are in the process of organising recruitment. Those positions were advertised and we are just going through the recruitment process at present to recruit authorised officers who will be able to enforce the RAB Bill, as with other legislation that Fair Trading also administers.

The CHAIR: Yes. Sorry, that last gloss has confused me a little. Are they being recruited for general work within Fair Trading or are they being recruited to perform the work as authorised officers?

Mr DUNPHY: They are being recruited to do the work of authorised officers, so particularly set up to focus on the occupation certificate audit program, which is looking at ensuring that the requirements in the RAB Bill are being complied with but also checking in terms of the obligations for the various duty holders under the RAB Bill.

The CHAIR: All right. How many positions are being recruited now?

Mr DUNPHY: At present there are 10 that are being recruited.

The CHAIR: Is that the intended headcount for those positions? Is it limited to 10?

Mr DUNPHY: From what I understand it is up to 30 so we will be doing it in batches of recruitment.

The CHAIR: So what does "up to 30" mean? Does that mean 11?

Mr DUNPHY: No. It means that the intention is to recruit 30 positions, which will be part of that team which will be doing the occupation certificate audits.

The CHAIR: So this is not like up to 75 per cent off?

Mr DUNPHY: No.

The CHAIR: This is to recruit 30 positions.

Mr DUNPHY: The intention is to get 30. We might not find 30 people but the intention is to recruit 30.

The CHAIR: All right. What is the time frame for that recruitment?

Mr DUNPHY: With the current recruitment underway at present, the intention, I think, in terms of dates—I do not think dates have specifically been set for the other next batches but we would be looking at in the second half of this year.

The CHAIR: So would you have all 30 recruited by the end of this year? Is that the intent?

Mr DUNPHY: It will be over this year so my expectation is we would be looking at recruitment of the other two in the second half, yes.

The CHAIR: The "other two" being the other 20?

Mr DUNPHY: The other 20, yes.

The CHAIR: Are there additional staff that have been brought in from within the department to do the work of authorised officers to add to the 30?

Mr DUNPHY: That other 30 that we are recruiting at present, so no. Sorry, in terms of the department there will be other people who also will be able to assist with the inspections. They will use—we will be looking at how broadly we provide those powers to other authorised officers within Fair Trading.

The CHAIR: But in terms of people whose job is ascribed to do that work on a nine to five basis, or on an 8.40 a.m. to 4.40 p.m. basis, the intent is to have 30 dedicated officers?

Mr DUNPHY: That is correct, yes.

The CHAIR: And no more at this stage?

Mr DUNPHY: And they will be complemented by the other building inspectors who also will be doing inspections that relate to the same issues of building integrity and building safety, and will also be complemented by the inspectors within SafeWork, who also will be working closely with those authorised officers to look at issues of building safety as well.

The CHAIR: Do you have an organisational chart that you can share which will show where these officers sit?

Mr DUNPHY: I believe the Building Commissioner has published one on his website. There is one that is now available which is available on the website, which I can provide.

The CHAIR: Okay. Will the 30 inspectors report directly to the Building Commissioner? What are the organisational arrangements?

Mr DUNPHY: The arrangements are essentially they report—there are dual reporting functions to the Building Commissioner and they also report through to the compliance and dispute resolution team as well.

The CHAIR: Which is whose responsibility?

Mr DUNPHY: That is my responsibility, and that is to make sure that we are consistent with all the compliance officers—that there is a consistent approach and we are integrating our approaches to building safety and also building standards across Fair Trading, those particular regulatory officers and also across SafeWork.

The CHAIR: Who is going to be directing their day-to-day work?

Mr DUNPHY: Primarily the Building Commissioner. The Building Commissioner is working very closely with the team in terms of the set-up. He is very focused on ensuring that we will be able to deliver in terms of the outcomes of the RAB. We are working very closely with the office of the building commission to develop the program. They will be reporting through in terms of progress and the detail and the Building Commissioner will have a role in terms of working closely with them on the ground as well.

The CHAIR: So the Building Commissioner will have a role? It does not sound to me like he will be directing the day-to-day work.

Mr DUNPHY: He will be determining the program and he is at present.

The CHAIR: All right. My question, I thought, was quite simple.

Mr DUNPHY: Yes.

The CHAIR: Who is going to be directing the day-to-day work of the 30 inspectors? Is there a simple answer to it? Is it the Building Commissioner, or is it yourself?

Mr DUNPHY: The Building Commissioner will be setting the program of works and also ensuring what gets done and ensuring that that team is performing what needs to be achieved as part of the program of works under the RAB Bill. In terms of the day-to-day human resources functions—in terms of checking people doing their flex sheets and all those sorts of things—that will be done administratively through my group.

The CHAIR: I was more interested in terms of checking and saying, "Would you mind going out and checking Mascot Towers, please, Janice?"—that direction.

Mr DUNPHY: Yes. That will definitely be the Building Commissioner who will be doing that, yes.

The CHAIR: Okay. Earlier I asked some questions about some specific budget items and you may have these figures to hand. Do you know what the budget of the Building Commissioner's office is?

Mr DUNPHY: No. I did not come prepared for that.

The CHAIR: Do you know what the budget for the Residential Apartment Buildings (Compliance and Enforcement Powers) Bill project is? Do you know what that budget is?

Mr DUNPHY: No, not for the whole—in terms of the whole project. That would be something the Building Commissioner would need to provide advice on.

The CHAIR: All right. Ms Webb, on a different tack, you will recall on a previous occasion there were questions asked about the data in relation to tenancies and evictions and terminations and the like. You gave some evidence about the number of disputes that had been concluded.

Ms WEBB: Yes.

The CHAIR: Do you have an updated figure?

Ms WEBB: Mr Gavrielatos has those numbers.

Mr GAVRIELATOS: Are you asking specifically just the requests for intervention? Are they the numbers you want, or just generally about what—

The CHAIR: Well, why not start there—requests for intervention?

Mr GAVRIELATOS: All right. We have had 100 matters that we have intervened on. Of those, 65 resulted in an agreed outcome between the landlord and tenant. Seventeen concluded with the parties being unable to agree and 18 concluded with one of the parties being unwilling to participate in the negotiation. We also have I think approximately 54 which are still in progress. So we have managed 100 and there are about 150-160.

The CHAIR: So what happens with those 35 where people did not agree?

Mr GAVRIELATOS: I am sorry?

The CHAIR: What happens to the 35 where people did not agree?

Mr GAVRIELATOS: We would not be able to assist any further, except to refer them to the tribunal.

The CHAIR: And then there are some 54 that are still in the pipeline? Is that right?

Mr GAVRIELATOS: Correct.

The CHAIR: Have you tracked eviction numbers since this COVID-19 incident struck?

Mr GAVRIELATOS: We are not able to track eviction numbers. They would be matters that would go to the tribunal but they also may not even get to the tribunal if people leave prior to eviction. We are looking to seek some information from the tribunal at the moment to at least find out how many matters have gone there, but I do not have that answer.

The CHAIR: I think that is where we were on the last occasion.

The Hon. TREVOR KHAN: That is precisely where it was.

The CHAIR: You were looking to have a discussion with the New South Wales Civil and Administrative Tribunal [NCAT].

Mr GAVRIELATOS: Yes.

The CHAIR: What has happened?

Mr GAVRIELATOS: We have not yet and I am hoping to do that.

The CHAIR: Mr Gavrielatos, how is it that in the weeks that have ensued since the last occasion—and when you acknowledge this, it would be fair to say, critical lack of data—how is it that you have not even had a meeting with NCAT? I mean, what—

Mr GAVRIELATOS: I apologise for that. I have not but I am seeking to get that data.

The CHAIR: Is NCAT refusing to come to the table? Is that where the problem is?

Mr GAVRIELATOS: I apologise: I have not engaged and therefore not been able to provide that information. I will do so and I apologise for not having done that already.

The CHAIR: So you have not even approached NCAT?

Mr GAVRIELATOS: I have not approached NCAT at this stage, no.

The CHAIR: What about accessing data in relation to bonds? Have you looked at if there are any patterns in terms of access to rental bonds? Do you have access to that data?

Mr GAVRIELATOS: I have not done so. Usually that data is looked at and reports are provided by Housing on this data.

The CHAIR: Well, but—

Mr GAVRIELATOS: And, yes, I can access it—yes, absolutely.

The CHAIR: You can but you have not.

Mr GAVRIELATOS: I have not, no.

The CHAIR: Given the fact that the Parliament gave specific powers to try to help people who are having very real rental concerns, given that only 154 people in the whole of New South Wales have accessed it and given you have not sought to access the data from either the Rental Bond Board or from NCAT, how do you know that what you are doing is having any material effect?

Mr GAVRIELATOS: Well, we know that we have had at least almost 300,000 views of our rental moratorium page on our website so people are engaging. We do know that. We know that there have been 74,200 views of the property page and also 6,800 views of the strata page. Almost—

The CHAIR: If website views—

Mr GAVRIELATOS: So we have had quite some considerable interaction where people have come to our website or have, you know, engaged online, and of those we have only had 150 to 160 requests for intervention.

The CHAIR: Ms Webb, is it really the case that the sole substantive indicator that you can point to for the utility of the work your office has done in the rental space is website views?

Ms WEBB: No.

The CHAIR: Is that what you are pointing to—website views?

Ms WEBB: No. I think Mr Gavrielatos was just giving that as one indicator. We have had many meetings with stakeholders, including the Tenants' Union who, you will be aware, we were funding to make sure they were able to assist tenants as well. We have had discussions at the Rental Bond Board and we have had a number of engagements with all stakeholders in the sector, so what we are finding is that people are aware of the moratorium. We understand from the anecdotal evidence that we are getting from people like the Tenants' Union that many people are able to resolve issues with their landlords outside needing to come and get a formal intervention by Fair Trading, but we are also dealing with inquiries and putting people on the right track, and we are monitoring the rental bond figures.

At the moment they are not showing a massive decline—increase or decrease. The figures are pretty consistent, as I understand from the Rental Bond Board meeting last week. So we are just keeping an eye on all these indicators.

The CHAIR: Right. I am just having trouble squaring your evidence, Ms Webb, with what Mr Gavrielatos just told us about the rental bond figures. Can you tell me—

Ms WEBB: Sorry. Mr Gavrielatos is not a member of the Rental Bond Board. I was just referring to the fact that at the meeting last week they did show some figures and it did not seem to show anything particular, but we will continue to keep an eye on them.

The CHAIR: Can you provide us with the figures?

Ms WEBB: Yes, absolutely.

The CHAIR: Are the figures done on a weekly or a monthly basis?

Ms WEBB: I see them at the Rental Bond Board meeting but the rental bonds is online so I think we can almost do that daily. But I will find that out and give you a figure—the most recent. Over time—

The CHAIR: I do not know if I want a figure. I want to know what has been happening.

Ms WEBB: You want over a time series.

The CHAIR: And compared to what we would have expected, absent COVID-19.

Ms WEBB: Compared to this time last year or something like that.

The CHAIR: Correct.

Ms WEBB: Okay. We can do that.

The CHAIR: Mr Tansey, do you have anything to add?

Mr TANSEY: Yes, Chair. I was going to follow up to the other element where we are trying to monitor this. I think you personally inquired into this the last time we were here. It was through the rental bond survey that we ran.

The CHAIR: Correct.

Mr TANSEY: And we did. I think we took some questions on notice last time, but I can confirm that we also extended that survey specifically in an attempt to capture the COVID environment. Although the originally designed survey, as it remains, was not designed—none of us knew that COVID was coming so it was asking a consistent set of questions that were not particularly predicting COVID. But we did send just over 24,000 invitations in the survey period from April onwards when the survey was extended. So far we have got 2,835 responses for that period as well. I think that sample was particularly between April and May thus far, so we are going through the process at the moment of cleansing and analysing that data. As I said, although the survey was not originally designed to capture COVID-related matters, it does still ask questions about why tenancies ended. So we are hoping to get some insights through that process as well.

The CHAIR: To the extent that any data is available, some substantive analysis of that, are you able to provide that on notice, Mr Tansey?

Mr TANSEY: Yes. Look, happy to do that. As I said, we are literally undertaking the cleansing and analysis now.

The CHAIR: I understand.

Mr TANSEY: So it might take a little time; but, yes, happy to take that request on notice and provide the data when it is available.

The CHAIR: And, Ms Webb, you will provide the numbers?

Ms WEBB: Yes. I will get some more rental bond data as well for you.

The CHAIR: Mr Gavrielatos, will you endeavour to—

Mr GAVRIELATOS: Speak to the tribunal?

The CHAIR: Obtain the data from the tribunal?

Mr GAVRIELATOS: I will do so and also the housing report is available on the Family & Community Services website in terms of dwellings, medium weekly rents and bonds lodged.

The CHAIR: We have a short period of time and it might be neatest to hand over to the Opposition at this point.

The Hon. ADAM SEARLE: Okay. Mr Dunphy, can you indicate whether Qantas has notified any COVID-19 incidents to SafeWork?

Mr DUNPHY: I am not able to confirm at this point whether they have. I would need to check that but I can take that on notice.

The Hon. ADAM SEARLE: If you could, take it on notice whether they have and if so what the dates were of those notifications and, if you are able to do so, what those notifications were. In relation to the matter we were discussing, I think you confirmed that on 21 April a SafeWork inspector issued an improvement notice to Qantas but that was the subject of an internal review. I think it was the manager, governance and appeals unit in SafeWork who decided on 19 May to set aside that improvement notice. Can you inform the Committee why the improvement notice was set aside?

Mr DUNPHY: It was on the basis of a number of assessments of the notice and primarily the reviewer did not believe there was enough evidence to link the COVID cases to be work related.

The Hon. ADAM SEARLE: Okay. Did that reviewer have before him or her the information that 47 Qantas workers had tested positive and that a number of those had pursued and been given workers compensation claims?

Mr DUNPHY: I believe that was all taken into consideration and we must realise that a workers compensation claim is different to the criteria for notification under the work health and safety legislation.

The Hon. ADAM SEARLE: Sure. But prima facie it indicates a connection with work, does it not? Workers compensation claims are not granted routinely if the injury does not arise from work.

Mr DUNPHY: Well, it is a no-fault system.

The Hon. ADAM SEARLE: Yes, I understand that but there has to be a connection of work. You cannot be injured at home on the weekend or playing sport and make a workers compensation claim, Mr Dunphy, can you?

The CHAIR: Well, there are some deeming provisions in COVID-19 so—

The Hon. ADAM SEARLE: Well, we will leave that to one side.

The Hon. TREVOR KHAN: Well done.

The CHAIR: That is my memory.

Mr DUNPHY: There are since then and I think there is also the issue of in a no-fault claim. You can make a claim but whether it finally gets accepted at the end is another matter. But in terms of the review, the review would have purely been looking at the obligations under the Work Health and Safety Act and whether the notice was properly issued or not.

The Hon. ADAM SEARLE: Okay. Are you able to provide us with a copy of that review decision?

Mr DUNPHY: I can check. I would need to confirm that. I do not—

The Hon. ADAM SEARLE: I am happy for you to take that on notice.

Mr DUNPHY: Yes.

The CHAIR: Do you try to get data matching with the State Insurance Regulatory Authority [SIRA] or icare to see if you are getting the notifications? Surely that would be a good starting point, would it not? As Mr Searle says, if someone has put in a workers compensation claim alleging exposure to COVID, surely that would be a good indicator they should be contacting you. Do you have that kind of arrangement with either SIRA or icare?

Mr DUNPHY: We do meet regularly with SIRA and icare and we have raised the issue about COVID. SIRA does actually publish their data on their website.

The CHAIR: Yes, they do.

The Hon. TREVOR KHAN: I think we asked similar questions with regard to dust diseases, if you remember.

The CHAIR: We did.

Mr DUNPHY: Yes, that is right. So there is the ability to be able to get information from SIRA and we do actually gather information from them.

The CHAIR: Mr Dunphy, just to be clear, I am going to take that as a no, that you do not have arrangements in place to have that data sharing. The fact that you can do it, the fact that you have had some meetings does not really answer my question so I am going to read from that, "No".

Ms WEBB: I think that would not be the correct interpretation in this particular circumstance.

The Hon. ADAM SEARLE: Perhaps Mr Shoebridge can pursue that in his question time.

Ms WEBB: We definitely have been talking with SIRA and working with them very closely in relation to the COVID-19 response.

The CHAIR: Okay. I am just telling you what my assumption is: That was a no. But anyhow—

The Hon. NATALIE WARD: Mr Shoebridge can have our time.

The Hon. TREVOR KHAN: No, he cannot.

The Hon. ADAM SEARLE: Mr Dunphy, do I understand your evidence correctly? The reviewer took the view that the inspector's notice was not properly issued because there was not the requisite connection between work and COVID-19. Is that right?

Mr DUNPHY: There were a number of issues, I understand, in terms of the review but that was one of the primary issues, yes.

The Hon. ADAM SEARLE: But you have agreed that COVID-19 is a notifiable incident if it occurs in the workplace?

Mr DUNPHY: If it arises from the work.

The Hon. ADAM SEARLE: Yes.

Mr DUNPHY: Yes.

The Hon. ADAM SEARLE: And so this review, was it a desktop review, or did the reviewer go out on the ground into the Qantas workplaces and do an independent assessment?

Mr DUNPHY: The reviews are done independently and they will gather whatever evidence they need to do that review.

The Hon. ADAM SEARLE: But in this particular case, was it a desktop review of documents only or did the reviewer go out into the field?

Mr DUNPHY: I would not be able to tell you one way or the other and I do not have the details of the review process and what was carried out.

The Hon. ADAM SEARLE: Okay. Does the reviewer work for you in your unit?

Mr DUNPHY: No, they do not. They are separate.

The Hon. TREVOR KHAN: He made that clear earlier.

Mr DUNPHY: It is an independent group and very much we try to—for the whole purpose of making sure that there is that natural justice—there is quite a strong distinction between an internal review and the work that we do in the compliance area.

The Hon. ADAM SEARLE: And which area of SafeWork or Better Regulation conducts the review?

Mr DUNPHY: That is the community engagement—

The Hon. ADAM SEARLE: What are the qualifications of the person who did the review? Are they an inspector or have they been an inspector in the past?

Mr DUNPHY: Yes. They are inspectors generally for us.

The Hon. ADAM SEARLE: Is this matter now the subject of proceedings in the Industrial Relations Commission [IRC] of New South Wales?

Mr DUNPHY: That is right. So there are two levels of appeal. You can appeal from an internal review, if any of the parties are unhappy with the outcome of the internal review, and then it is open to the parties to review that to the IRC and it is currently a matter that is being considered by the IRC.

The Hon. ADAM SEARLE: Have hearing dates or has a hearing date been set?

Mr DUNPHY: I understand that it has been—that hearings have commenced.

The Hon. JOHN GRAHAM: I might return to the price gouging issue. While CHOICE is raising these issues and suggesting perhaps that New South Wales might want to secure its own powers to act in this limited

way, I am just interested in the view you would like to express about some of the previous areas where the State has regulated this activity. Firstly on ticketing, what is the agency's view about how successful that scheme has been?

The Hon. TREVOR KHAN: Sorry. Can you just ask that question again?

The Hon. JOHN GRAHAM: CHOICE is saying now that we should take price gouging action. I am just interested in two examples of where the State has done this. Does the agency think it has been a success or not?

Ms WEBB: Completely from my recollection because I did not bring any of our ticket material with me—

The Hon. JOHN GRAHAM: Yes, understood.

Ms WEBB: Completely from recollection the number of complaints we have had about ticket scalping has decreased since that legislation came into effect. So I guess from one perspective in terms of complaints to Fair Trading, perhaps it has been successful in addressing some of the issues.

The CHAIR: There have been some external factors on the number of tickets sold of late, it would seem.

The Hon. TREVOR KHAN: Indeed.

The Hon. JOHN GRAHAM: During this particular period, that is also true, yes.

Ms WEBB: Well, no, sorry. I am recollecting the brief I had for the previous estimates hearing. That was my recollection.

The Hon. JOHN GRAHAM: Given this other matter might be the subject of some discussion, if you could update it—that is, price gouging powers—if you could update us about the drop in complaints, that would be useful.

Ms WEBB: Sure.

The Hon. JOHN GRAHAM: I think that some of that has come about in addition because of the Australian Competition and Consumer Commission action. That is the other thing.

Ms WEBB: And some National Law, yes; that is right.

The Hon. JOHN GRAHAM: Yes. So complaints have dropped but there are still anecdotes that tickets are clearly circulating outside the regulatory action. Do you have any agency views about whether or not that is the case?

Ms WEBB: I think, as the Chair mentioned, right at this moment there is not much ticket activity happening.

The Hon. JOHN GRAHAM: Yes, sure. That is fair.

Ms WEBB: But I think in general the combination of some of the litigation that the ACCC took, the changes to the Australian Consume Law that are proposed and the New South Wales legislation, does seem to have at least increased some transparency and reduced the number of complaints.

The Hon. JOHN GRAHAM: Yes. So you would see, for example, in the suite of measures that have been taken in that instance the New South Wales legislation is one of the legs of potentially successful intervention.

Ms WEBB: Yes. I would find it very difficult to attribute how much of that was due to the other measures and how much was the 10 per cent rule, but in general, yes.

The Hon. JOHN GRAHAM: But it is not unfair to represent the agency's view as it was one successful leg of a set of interventions. You would agree with that?

Ms WEBB: Yes, in the terms of there was a whole set of interventions and overall I think decreased complaints. Yes, I agree.

The Hon. JOHN GRAHAM: That is the most comparable example of 110 per cent price gap, CHOICE is for a limited—

Ms WEBB: It is a provision that if the original ticket seller has a term and condition that tickets are not to be resold and then people do resell them, then the 10 per cent limit applies, so yes: That is how it works, 110 per cent.

The Hon. JOHN GRAHAM: So, agreed, it is not the same but it is not a world apart from the model CHOICE is proposing of a 120 per cent cap on certain specific items.

Ms WEBB: I personally find them quite different because I think the resale restriction—the fact that the 110 per cent only applies in limited circumstances of a resale restriction where someone has deliberately said they do not want there to be an aftermarket in the tickets, and then the Government has intervened to say, "Well if there is an aftermarket, the price should be limited" is quite different from the CHOICE situation where they are talking about goods that clearly do have an aftermarket and trying to control the prices in that aftermarket that is freely operating online. So I find it quite different.

The Hon. JOHN GRAHAM: Thank you for that distinction. That is one of the issues that we should consider. Can I ask about what I read was the very successful former Minister Kean's intervention into the baby formula market. The Minister received quite a lot of publicity about his crackdown.

The Hon. TREVOR KHAN: He often does.

The Hon. JOHN GRAHAM: You will be unsurprised to hear the Minister got very good publicity about his crackdown—

The Hon. TREVOR KHAN: He works hard at it.

The CHAIR: At least one of them does—positive publicity anyway.

The Hon. JOHN GRAHAM: —on baby formula sales. What happened here? What form of regulation did the agency end up adopting?

Ms WEBB: I am pretty sure that occurred before I became the Fair Trading Commissioner so maybe one of my colleagues who was around at the time might have a little bit more background. I am just sort of not aware of the whole position that he took.

Mr TANSEY: No. It was mainly driven through an enforcement campaign, which personnel was not involved in.

Ms WEBB: We would have to take some detail on notice for that one.

The CHAIR: It was a standard practice that followed a well-trying formula.

The Hon. JOHN GRAHAM: I will not press the case then. But I might ask you because I think it would be helpful if you could take it on notice whether any regulation actually changed.

Ms WEBB: Okay.

The Hon. JOHN GRAHAM: Was any action taken in this area following the Minister's announcement and does the agency regard it as being a success or not as an example of regulation. I will say I admire the Minister's announcement. It was received quite spectacularly. I have been less able to find any example of regulatory action afterwards but I would be happy to be contradicted. But as we are looking at this CHOICE example, it would be good if you could provide something on notice.

Ms WEBB: Sure.

The Hon. JOHN GRAHAM: I might just finally turn to—

The Hon. TREVOR KHAN: Finally?

The Hon. JOHN GRAHAM: I am just alerting my colleague.

The Hon. ADAM SEARLE: Yes. It has come. I am pleased.

The Hon. TREVOR KHAN: I have spent two hours of my life that I am not getting back.

The Hon. ADAM SEARLE: No interjections or we could go longer.

The CHAIR: Interjections are disorderly and we will probably allow the clock to continue.

The Hon. JOHN GRAHAM: I just want to ask for an update on the number of complaints—sorry, I am now asking about residential tenancy—and you gave us the figures for complaints last time, which from my point

of view were surprisingly limited but you gave us quite a good breakdown of those complaints or issues that had been received. Can you give us an update of those?

Mr GAVRIELATOS: Are you asking in terms of what the outcomes of those interventions were?

Ms WEBB: Or complaints about—

The Hon. JOHN GRAHAM: No. Last time you gave us a rundown on a couple of different aspects. I think you said how many complaints had been received and then how many had gone on to NCAT and then how many had been resolved. That is my recollection.

Mr GAVRIELATOS: Well, I would not have been able to give how many have actually gone on to NCAT because that—

The Hon. JOHN GRAHAM: Yes.

Mr GAVRIELATOS: But we have received—

The CHAIR: We know that.

The Hon. JOHN GRAHAM: Yes.

Mr GAVRIELATOS: I thought I had already given that answer earlier.

The Hon. JOHN GRAHAM: You gave us three sets of numbers last time.

Mr GAVRIELATOS: But it is 100 that we actually intervened in. There are 54 that are still in progress. Of those 65 resulted in an agreed outcome between the landlord and the tenant. Seventeen cases, as I previously said, concluded with parties being unable to agree and 18 concluded with one of the parties being unwilling to participate in negotiation.

The Hon. JOHN GRAHAM: Great. Okay. Presumably they are all from tenants?

Mr GAVRIELATOS: Not necessarily, no.

The Hon. JOHN GRAHAM: Right. So how many were?

Mr GAVRIELATOS: I have not got that figure in front of me.

The Hon. JOHN GRAHAM: So you are saying that some of them might have been from landlords?

Mr GAVRIELATOS: Some may have been from landlords as well.

The Hon. JOHN GRAHAM: Okay. So if you could give us a tenant-landlord breakdown for those figures, that would be good.

Mr GAVRIELATOS: Certainly.

The Hon. ADAM SEARLE: Mr Dunphy, just in relation to Qantas and health and safety—

The Hon. TREVOR KHAN: Ah, the TWU has been in touch again, has it?

The Hon. ADAM SEARLE: No. I have had no communications. But in relation to the health and safety representative being stood down, I think you described that matter as an ongoing investigation. Do I understand from that that no legal process has been initiated?

Mr DUNPHY: It is in the investigation phase, as I understand it.

The Hon. ADAM SEARLE: That is okay.

Mr DUNPHY: That can take some time. As far as I am aware it has not yet been determined, the outcome of the investigation.

The Hon. ADAM SEARLE: And in relation to COVID-19 being notifiable or COVID-19 incidents being notifiable incidents, has that been SafeWork's consistent position or has it recently changed?

Mr DUNPHY: No. We have been quite consistent from the very beginning in terms of notification and the requirements and there is information on the Safe Work Australia website which actually provides all the positions of all of the jurisdictions. It has been very clear from the very beginning that COVID in certain circumstances is a notifiable occurrence.

The Hon. ADAM SEARLE: Okay. So you have not expressed a contrary view on any correspondence that it was not notifiable?

Mr DUNPHY: No, I do not believe so.

The Hon. ADAM SEARLE: Okay. Thanks.

The CHAIR: No further questions?

The Hon. JOHN GRAHAM: No.

The CHAIR: Okay. I will now pass to the Government for their round of questions.

The Hon. TREVOR KHAN: No questions.

The Hon. NATALIE WARD: No questions, nothing. I defer to my colleague.

The CHAIR: Thank you. Mr Dunphy, Mr Tansey, Ms Webb and Mr Gavrielatos, thank you very much for your attendance and your assistance today. A number of questions were taken on notice. If you could provide answers on notice, there is a maximum period of 21 days in which to provide those answers. That concludes today's hearing.

(The witnesses withdrew.)

The Committee adjourned at 15:41.