

**TRANSCRIPT OF PROCEEDINGS**

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**INQUIRY INTO THE COVID-19 HOTEL QUARANTINE PROGRAM**

**BOARD: THE HONOURABLE JENNIFER COATE AO**

**DAY 22**

**10.00 AM, TUESDAY, 22 SEPTEMBER 2020**

**MELBOURNE, VICTORIA**

**MR A. NEAL QC appears with MS R. ELLYARD, MR B. IHLE,  
MR S. BRNOVIC and MS J. MOIR as Counsel Assisting the Board of Inquiry**

**MR D. STAR QC appears with MS J. DAVIDSON, MR T. GOODWIN and  
MR J. HARTLEY for the Chief Commissioner of Victoria Police**

**MS J. FIRKIN QC appears with MS S. KEATING for the Department of  
Environment, Land, Water and Planning**

**MS C. HARRIS QC appears with MS P. KNOWLES and MR M. McLAY for  
the Department of Health and Human Services**

**MS J. CONDON QC appears with MS R. PRESTON and MR R. CHAILE for  
the Department of Jobs, Precincts and Regions**

**DR K. HANSCOMBE QC appears with MS H. TIPLADY for the Department  
of Justice and Community Safety**

**MR R. ATTIWILL QC appears with MS C. MINTZ for the Department of Premier and Cabinet**

**MS G. SCHOFF QC appears with MR A. SOLOMON-BRIDGE and MS K. BRAZENOR for the Hon. Jenny Mikakos MP, Minister for Health**

**DR S. McNICOL AM QC appears with MR E. NEKVAPIL and MR D. PORTEOUS for the Hon. Lisa Neville MP, Minister for Police and Emergency Services**

**MS A. ROBERTSON appears with MS E. GOLSHTEIN for MSS Security Pty Ltd**

**MR A. WOODS appears for Rydges Hotels Ltd**

**MR A. MOSES SC appears with MS J. ALDERSON for Unified Security Group (Australia) Pty Ltd**

**MR R. CRAIG SC appears with MR D. OLDFIELD for Wilson Security Pty Ltd**

**MS D. SIEMENSMA appears for Your Nursing Agency (Victoria) Pty Ltd**

CHAIR: Yes, good morning, Ms Ellyard.

MS ELLYARD: Good morning, Madam Chair. Before we begin this morning,  
I understand that there is a new appearance to be announced on behalf of Minister  
5 Mikakos, and I call on those representing her to make their appearance.

MS SCHOFF QC: If it please the Board. I am Ms Schoff, and I appear with  
Mr Solomon-Bridge and Ms Brazenor for the Minister for Health, the Hon. Jenny  
10 Mikakos.

CHAIR: Thank you, Ms Schoff.

MS ELLYARD: The second preliminary matter, Madam Chair, is that I want to  
announce a change in witness arrangements for the balance of the week. Today we  
15 are continuing as planned, firstly, with Mr Phemister and then with Ms Peake;  
tomorrow we will have Minister Pakula and Minister Neville; on Thursday morning  
we will have Minister Mikakos; and then on Friday afternoon at 2.15 we will have  
Premier Andrews. These changes in timetabling have been at the Board's initiative,  
and we're very grateful to the Ministers for accommodating us. But that will be the  
20 amended timetable of witnesses for this week.

CHAIR: Thank you, Ms Ellyard.

MS ELLYARD: Before I call Mr Phemister, I seek to tender a couple of documents  
25 which arise from evidence that was given earlier in the Board's proceedings by other  
witnesses from DJPR. The Board will recall that in the evidence of Ms Currie  
reference was made to messaging using a WhatsApp service pursuant to which she  
obtained relevant information about security services. Those documents are now  
available and they're on the hearing book. So I seek to tender document  
30 DJP.361.002.0001, being WhatsApp messages passing between officers of DJPR on  
27 March and the days following.

CHAIR: Exhibit 182.

35

**EXHIBIT #182 - WHATSAPP MESSAGES BETWEEN OFFICERS OF DJPR,  
DOCUMENT DJP.361.002.0001**

MS ELLYARD: Thank you. And then linked to that, another document that I will  
40 be taking the witness to this morning, which is an extract from a website called  
"Buying for Victoria", document HQI.0001.0005.0001.

CHAIR: Exhibit 183.

45

**EXHIBIT #183 - EXTRACT FROM THE WEBSITE "BUYING FOR**

**VICTORIA", DOCUMENT HQI.0001.0005.0001**

MS ELLYARD: Thank you, Madam Chair.

5

I understand there are also some additional documents that are sought to be tendered on behalf of the Department of Jobs, Precincts and Regions which arise from evidence given earlier in the Board, and I call on Ms Condon to make that application to tender.

10

CHAIR: Good morning, Ms Condon.

MS CONDON QC: Good morning, Madam Chair. Thank you, Ms Ellyard.

15 Madam Chair, I seek to tender some material that pertains to Rachaele May's second statement, which is Exhibit 82, and the annexures to her statement were Exhibit 83, so these would perhaps most probably relate to Exhibit 83, these further documents. I'll just indicate what they are for the Board's ease: DJP.103.005.3053, DJP.103.007.5208, DJP.103.0059929 and DJP.103.003.7983.

20

Madam Chair, these relate to the chronology of the cleaning post the Rydges outbreak, once the outbreak management team were called in. So that's what they relate to.

25 CHAIR: All right. So, Ms Condon, just I think for ease of reference for everyone, I won't give them a separate exhibit number, but we'll note that they now become part of Exhibit 83, that folder of documents. You're happy with that?

MS CONDON QC: Yes. Thank you very much, Madam Chair.

30

MS ELLYARD: Thank you, Madam Chair. Those were the preliminary matters. And so I now call Mr Phemister to give evidence and ask that your Associate administer the affirmation.

35 CHAIR: Thank you. Good morning, Mr Phemister. Are you able to hear and see me?

SIMON PHEMISTER: I can, Madam Chair.

40 CHAIR: Thank you. And I understand you wish to take the affirmation, so I'll have my Associate take you through that process. Thank you, Madam Associate.

**MR SIMON GRANT PHEMISTER, AFFIRMED**

45

CHAIR: Thanks, Mr Phemister. I'll hand you over to Ms Ellyard now. Thank you,

Ms Ellyard.

MS ELLYARD: Thank you, Madam Chair.

5

**EXAMINATION BY MS ELLYARD**

10 MS ELLYARD: Mr Phemister, could you tell the Board, please, your full name and your present occupation?

A. My name is Simon Grant Phemister and I'm the Secretary of the Department of Jobs, Precincts and Regions within the Victorian State Government.

15 Q. You've made a statement in response to a request made of you by the Board?

A. Yes, I have.

20 Q. Have you got a copy of that statement available with you?

A. I do.

25 Q. It's dated 13 August 2020. Are the --- subject to a couple of matters that I understand you want to clarify, and I'll take you to in a moment, are the contents of the statement true and correct?

A. Yes.

30 MS ELLYARD: I tender that statement, Madam Chair.

CHAIR: Exhibit 184.

35 **EXHIBIT #184 - STATEMENT OF SIMON GRANT PHEMISTER**

MS ELLYARD: Thank you, Madam Chair.

40 Mr Phemister, in your statement you refer to a number of documents, both documents which you produce as annexures and documents which you refer to in footnotes. Those are all documents that you've had regard to for the purposes of your evidence or that you otherwise wish the Board to treat as part of the evidence that you're giving today?

45 A. Yes.

MS ELLYARD: Madam Chair, I tender the bundle of attachments to Mr Phemister's

statement as contained in the hearing book.

CHAIR: Exhibit 185.

5

**EXHIBIT #185 - ANNEXURES TO STATEMENT OF SIMON GRANT  
PHEMISTER**

10 MS ELLYARD: Thank you, Madam Chair.

Mr Phemister, I understand that there are a couple of matters of clarification that you wish to make to your statement and it's perhaps convenient if we do that now.

15 Firstly, in relation to matters appearing at paragraph 80(a) and 110(a) --- I'm sorry, (b), I think it is, 80(b), there's a point of clarification you want to make there. Is that right?

A. That's correct, Ms Ellyard.

20 Q. And what's the clarification?

A. The two clarifications, Ms Ellyard, are Wilson Security were never stood down as a security provider, and also Wilson Security did have PPE on hand to support the operation.

25

Q. Thank you. So, as I understand it, looking firstly at paragraphs 80(b) and 110(a), where similar evidence is given by you, there's a reference there to a panel provider whose engagement was terminated. The clarification is that the reference is to Wilson Security and they weren't terminated; is that right?

30

A. That's correct.

Q. And then secondly, as I understand it, there's a reference in paragraph 145 of your statement. At the time you made your statement, you had an understanding that PPE was provided to Wilson Security by DHHS. Have you since come to an understanding that that's not correct and in fact Wilson provided its own PPE?

35

A. That's correct.

40 Q. Thank you very much. Having made those couple of clarifications, can I direct your attention back to the beginning of your statement, Mr Phemister, and by reference to paragraphs 9 and 10 perhaps ask you to briefly summarise for the Board the role of your Department and the role you play as the leader of that Department?

45 A. The Department of Jobs, Precincts and Regions supports six Ministers in the Victorian Government across a range of portfolios, from regional development and agriculture through to small business, innovation, local government, creative

industries, sport, major events, tourism, racing, and community sport, Ms Ellyard. So it's a wide-ranging Department with a primary focus on jobs.

5 Q. And if one was to summarise your role as the Secretary, what would you say your particular functions and duties are?

10 A. So my role as the Secretary is to lead the organisation. I am responsible for the decision-making, ultimately responsible for the decision-making and exercising delegations that I hold in that position.

15 Q. You mention in paragraph 10 that one of your functions, at paragraph 10(c), is to provide briefings to portfolio Ministers and Government on portfolio issues and the delivery of the DJPR programs. Thinking particularly about the program that the Board is concerned with, the Hotel Quarantine Program, was that a matter about which you can recall providing briefings to one of the relevant Ministers and, if so, which Minister?

20 A. So the relevant Minister was Minister Pakula. And with regards to briefing on the Hotel Quarantine Program, I briefed the Minister very rarely, as it was an operation run through the State Control Centre.

Q. And you're drawing a distinction there, as I understand it, between programs run through the State Control Centre and programs run directly by your Department?

25 A. Yes.

30 Q. Thank you. May I ask you, Mr Phemister, whether or not you're aware in general terms of other evidence that's been given by witnesses from your Department who have come before the Board? And I'll name them. We've heard from a number of witnesses from your Department, including Ms Febey and Ms May. Are you familiar in general terms with the evidence that they've given?

A. In general terms, yes.

35 Q. We've heard from Ms Serbest and Ms Currie. Are you familiar in general terms with their evidence?

A. In general terms, yes.

40 Q. And we've heard from Mr Menon in relation to certain contractual matters. Are you aware in general terms of his evidence?

A. Yes.

45 Q. And the Board has also had made available to it a number of other statements and documents, including a statement from a Principal Policy Officer relating to security contracting. Are you aware of that statement?

A. I'm aware of that statement. As the contents become more operational in nature, I become less intimately familiar with of the details.

5 Q. Thank you, and I think you've anticipated my next question. In your statement  
you have covered at a high level a number of matters that are dealt with in more  
details in the statements of the witnesses that I've named. To the extent that any  
discrepancy or difference exists between your statement and the statements of those  
10 people who were closer to the frontline, as it were, what approach would you say the  
Board should take about assessing your understanding and the understanding of those  
who were working in the structure beneath you?

15 A. To the extent that I was involved in a particular issue, Ms Ellyard, as the Secretary  
of the Department, I feel like my responsibilities sit above those who have come  
before me representing DJPR.

20 Q. So if you've said something in your statement and a view was to be taken that  
there's something different said in a statement of those under you, what should the  
Board make of the difference? Would you defer to those who had frontline  
responsibility or would you suggest that the Board should defer to you?

25 A. On matters of detail that I don't cover, obviously I'll have to defer to the  
statements. Where the statements cover the same territory, I would ask that the  
Board refer to my statement.

Q. And you're doing that on the basis that as the Secretary you're ultimately  
accountable, as you said in your evidence before, for the work done by those in the  
Department?

30 A. That's correct.

35 Q. Thank you. May I ask you about a matter which arises in your statement about  
the extent to which, prior to the commencement of what became the Hotel  
Quarantine Program, your Department had already been engaged in an exercise of  
identifying potential hotel resources for use in COVID-19-related accommodation.  
You say in your statement that one of the first things you did was contact Mr Menon  
because you knew he'd been doing that work. Can I ask you to summarise, please,  
briefly what it was that the Department was engaged in prior to 27 March with regard  
40 to the sourcing of hotel rooms.

45 A. Mr Menon, on my behalf, was sourcing hotel rooms between 20 March, or  
actually from 20 March and through the entire COVID crisis, to support through  
voluntary isolation members of the community, particularly vulnerable members of  
the community or members of the emergency services or first responder workforce,  
who needed isolation from family. It could have been that a nurse had been tested,  
for example, and needed to isolate from their family. It later came to pass that that  
service was used for homeless people, survivors of family violence, that type of



thing.

5 So Mr Menon, during that period, was bringing together a range of stock options, rooms, if you like, from which Department of Health and Human Services could choose to use to serve any of those particular cohorts or demographics.

10 Q. And as I understand it, this program later became known by titles including Hotels for Heroes. It may not have had that name as at 20 March onwards, but the Board has been provided information to suggest there had been an allocation of funds by Cabinet for use in the sourcing of hotel rooms for the reasons you've described.

A. That's correct. On 20 March, my Department was allocated funds for that purpose.

15 Q. And you've described the work that you asked Mr Menon to do in sourcing hotel rooms and indicated that that task continued, including during the Hotel Quarantine Program. Did the Hotel Quarantine Program ultimately use the hotels that Mr Menon had been obtaining for that other purpose?

20 A. In some cases. In other cases, no. They were quite different operations. They both included the provision of private hotel stock. But for the voluntary isolation service we were looking at a far more geographically dispersed stock so that people volunteering to participate in that program could be close to home or the workplace, whereas with the hotel quarantine environment it was a far greater concentration of  
25 stock in a geographic area in larger-scale hotels.

30 Q. In the work that was being done by Mr Menon prior to 27 March, was there any work being done by him or those working with him, as you understood it, on the potential need for security at the hotels that were going to be used for what became the Hotels for Heroes program?

35 A. The Hotels for Heroes program didn't have a mandatory detention component to it. There were some cohorts that were contemplated who might benefit from having more secure accommodation services, acknowledging that it was on a voluntary basis. So the conversations that were had regarding security all related to those individual premises and how they could best support those who would be staying within them. So it was never contemplated or discussed with private security firms as a security force to support Hotels for Heroes.

40 Q. And thinking about that program in the week of 20 to 27 March, as I understand it, your Department's function was to find the rooms but you weren't going to be the ones allocating people to rooms or identifying priority needs; is that right?

45 A. That's correct.

Q. And who was going to be taking on that side of the project?

A. So the Department of Health and Human Services we conceptualised as the demand side of the program, and we saw our role as providing supply.

5 Q. Thank you, Mr Phemister. May I ask you briefly, before we turn to specific matters relating to your and your Department's involvement in hotel quarantine, the Board has heard some evidence about the Emergency Management Framework and the way in which that framework allocates responsibility between agencies for different categories of emergencies, including, in some cases, allocating  
10 responsibility to your Department to take on a control rather than a support function.

Could I ask you to speak briefly to the Board, please, about your and your Department's experience in emergency management matters, perhaps thinking firstly about occasions where you're the lead, the control agency?

15 A. We're the control agency operations right now for avian influenza, where the Chief Vet is the controller of that operation. So through the agriculture portfolio, we have a lot of interaction with the State Control Centre.

20 Q. Thank you. So you mentioned the Chief Vet is the State Controller. And from your understanding, what has occurred in order to resource the State Controller for that particular emergency by way of the allocation of staff from your or any other Department?

25 A. So normally we would deploy staff from our own Department. Once that source was depleted, we would go to specialists from other Departments and other States and Territories. So in the case of avian influenza, we'd look for veterinary resources and people with biosecurity experience. It's been challenging this time around because those people are fully occupied in other States and Territories, so we went to  
30 our contingency plan which is to exhaust DJPR resources and look for third party resources outside of Government networks.

35 Q. Thank you. And I take it that your Department, prior to its involvement in this program, also had experience working as a support agency, as that term is used in the Emergency Management Framework?

A. Yes.

40 Q. Is that something that you had been doing recently, in relation to, for example, bushfire matters?

A. We were very engaged through the fire season last summer, and at the beginning of the COVID crisis remaining engaged as a critical support agency.

45 Q. Thank you. May I turn then to the beginning of your involvement, Mr Phemister, with the program with which the Board is concerned and direct your attention to paragraph 25 and following of your statement. Could you tell the Board by reference to that paragraph how you first became aware of a proposal for mandatory

quarantining of returned international travellers.

5 A. The absolute first time I was aware that mandatory quarantine would be implemented was when I took the phone call from Secretary Eccles, who had stepped out of National Cabinet to call me on the 27th at around midday.

Q. And can I ask you to describe as best you can recall the tenor and content of that conversation?

10 A. As always, Secretary Eccles was calm and direct. He was very clear, and it was a short conversation, because he'd stepped out of the National Cabinet room to give me effectively a head start and to check in with me how far advanced we were with the contracting of hotel rooms under the Hotels for Heroes programs, to get a sense  
15 later. The conversation included a reference to a few other obvious phases of the operation, particularly transport from the airport to the hotels, and that was the end of the call.

20 Q. So you mentioned that he asked you for confirmation about the extent to which Victoria would have rooms available; is that right?

A. Yes.

25 Q. And what did you say to him?

A. At the time, I was confident, because of our work in Hotels for Heroes, acknowledging that there was a different stock profile required, but given our week's head start on Hotels for Heroes, as it turned out to be, I was confident that around  
30 5,000 rooms would be available 36 hours after that call.

35 Q. And at paragraph 26 you outline what you understood as a result of that call was the task that you had been given by Mr Eccles. Thinking firstly about the understanding that you had at the time, what did you understand was the role that Mr Eccles had asked you to take up?

40 A. My state of mind after the phone call was I was going to start planning for contingencies, so that I was going to start to put together an end-to-end program of work to support the operation, immediately acknowledging that I'd be deferring to experts. And I mentioned that Transport was called out in the phone call, and it stood as obvious to me that Health and Victoria Police would also be involved at some phase of the operation.

Q. When you say "end-to-end" can I ask you what you're describing as the two ends?

45 A. Yes. So I was thinking from the moment somebody was seated on an aeroplane. Now, ideally that process would begin before they had booked their ticket home. But given the speed to which the first --- to action and the distance from the phone

call to the first plane landing, I was thinking about from somebody sitting on an aeroplane to sitting in their preferred mode of transport exiting the hotel after their two-week stay and everything in between.

5 Q. And you've mentioned at paragraph 27 of your statement that you were aware there were going to be other expert areas that would have responsibility for other components. And one of the first people you seem to have spoken to, as you say in paragraph 28, was Ms Peake, your counterpart at the Department of Health and Human Services. What was the reason for making such early contact with her?

10 A. It was primarily a health operation, and we knew that health across all phases of the operation would be relied upon for advice, if not direct control, to ensure COVID safety of the public.

15 Q. And so in contacting Ms Peake, did you have a sense of what the dividing line was going to be between the work that your team was going to be doing and the work or expertise that you understood that her Department would be doing?

20 A. My state of mind was that we would be putting together an operation end-to-end, from aeroplane to preferred mode of transport departing hotels, deferring to experts for every step of the process where that would be relevant and prudent. At that point in time in the call, I hadn't contemplated exactly what all of those phases would look like.

25 Q. Had you contemplated at that early time what the basis of people being detained was going to be and where that source of power was going to reside?

A. No.

30 Q. And as I understand your statement and the other evidence, that matter was itself an ongoing discussion topic over the succeeding 24 hours while the work was being done to stand the program up?

A. That's correct.

35 Q. So a lot of the work that you and your team did over the succeeding 24 hours was done without a clear understanding of the power with which people were going to be detained in the arrangements that you were creating?

40 A. That's correct.

Q. Did that pose any difficulties in setting the program up?

A. It did.

45 Q. And what were they?

5 A. It obviously would have been easier to determine roles and responsibilities with clarity of our detention powers for all parties, not just mine. So what it meant was we had to develop contingency plans for different models. If the powers had been known, I could have focused on a single preferred model rather than developing those contingencies.

10 Q. You say in your statement at paragraph 31 that you had a meeting at around 12.30 with some members of your team, and you've produced and we've seen through Ms Febey the notes of that discussion. What did you identify at that early stage as the key tasks to get ready for the next night?

15 A. So that was the first time that we put down the different phases of that end-to-end operation. So we started to segment the operation from aeroplanes touching down, through transition at the airport and transport to hotels. And we really focused on the chain of custody, if you like, of the passengers. That was the main focus so we segmented the operation down into those different phases.

20 Q. You mention in your statement that you made contact with Mr Ashton. And Mr Ashton has produced, and I'll ask that it be brought up on screen, a text message that I understand you sent him, Mr Phemister. Can I please have the following document up on screen, VPOL.0005.1201.1279. And just focusing in, please, Mr Operator, on the bottom screen.

25 As I understand it, that's the text sent by you to Mr Ashton, Mr Phemister?

A. That is correct.

Q. And it's sent at 3.30 on the 27th?

30 A. Yes.

Q. And it says:

35 *.... we're running the inbound passenger isolation system with Transport ....*

Thank you, Mr Operator. That can come from the screen.

40 Can I direct your attention to paragraph 34, Mr Phemister, and just ask what the reason was for you making contact with the Chief Commissioner at that time?

A. Having segmented the end-to-end operation down, it was obvious that the three most important partners we'd need for the delivery of the operation would be Health, primarily; Transport, and Victoria Police.

45 Q. And perhaps it's obvious, but why was Victoria Police one of the three?

A. We knew there would be a security element, given the detention nature of the

operation.

5 Q. In this period of time between when Mr Eccles contacted you and when you went yourself into a Victorian Secretaries Board meeting about 4 o'clock, did you yourself brief the Premier on any aspect of what you were putting into place?

A. No.

10 Q. Did you receive any indications from the Premier or from any other Department about the Premier's understanding of what the program was going to be?

A. No.

15 Q. Did you observe or become aware at the time of the Premier's public comments which he made in a press conference I think around about 3 o'clock?

20 A. I had --- scanning my phone records and text messages, I didn't have any contact with the Premier's office or the Department of Premier and Cabinet except for one phone call and text exchange which proved to be about the timing of commencement, whether or not the operation could commence on time or even earlier, given the state of planning, and that was a single contact that I can find in scanning all of my records.

25 Q. So the Board is aware that in the press conference Mr Andrews made reference to the way in which quarantine arrangements were going to be monitored and made a reference to the role of private security as well as the role potentially of Victoria Police. Is that something you were aware of at the time, that he had made that announcement or comment?

30 A. No.

35 Q. When was the first time that you turned your mind or were aware of the possibility of the role of private security being used in the program that you were developing?

40 A. Just to make sure I've got the question right, Ms Ellyard, the first time we contemplated private security was at the immediate debrief after Secretary Eccles' phone call. We immediately commenced planning for all contingencies. We didn't exercise any of that planning until such time as we felt we were either directed by an expert agency or commissioned to from a source of authority.

45 Q. So perhaps if I can unpack that, as I understand it, you had it on the list as a possibility from the earliest times, but am I right in understanding that it was a matter that you were expecting to receive either direction from someone with authority or advice from an expert agency?

A. We had it on the list, from memory, in a particular way. We had it on the list and

it's captured in the notes. We had it on the list as a potential for Victoria Police directly overseeing a small-scale security force. We didn't ever contemplate the model that ultimately came to pass. We don't have the intimate experience of operations of that nature to have done so. But it was just part of the operational ---  
5 sorry, part of the contingency planning that we were doing, amongst a sea of other options, some of which were taken up ultimately, some of which weren't.

10 Q. Thank you. Did you attend the meeting of the Victorian Secretaries Board at around 4 o'clock on this day?

A. I did.

15 Q. And there's been some notes prepared which I'll ask to have brought up, please, DPC.0013.0001.0001. As I understand it, Mr Phemister, you've seen these notes before?

A. Yes.

20 Q. But only recently?

A. That's right, yes.

Q. Were you aware at the time that these notes were being taken?

25 A. No, I was not.

Q. What was the reason, as you understood it, for this meeting on this day? Was it an ordinary or an extraordinary meeting of the Board?

30 A. I can't recall whether it was extraordinary or in normal cadence of meetings. I can recall that we were meeting very regularly as a VSB at that point, just as National Cabinet was meeting very regularly.

35 Q. And as best you can --- well, I should ask you this question. As you sit here today, do you have a memory of that meeting?

A. I do have a memory of that meeting.

40 Q. And having reviewed these notes, do they accord with your memory of the matters that were discussed at the meeting?

45 A. I remember the meeting taking place and I remember elements of the meeting. I don't have a complete memory of everything that was discussed. But in general terms, yes.

Q. So where remarks are attributed to you with the initials SP, to the extent that you have an active memory, do the dot points attributed to you match your memory of

what you said?

A. In general, yes.

5 Q. And to the extent that you don't have a memory, do the things attributed to you accord with your understanding of what it's likely you would have said?

A. Yes.

10 Q. So at the time of this meeting, as I understand it, you were of the opinion that although there was going to be expertise drawn in from a number of agencies, this would be a program that was designed and run end-to-end by your Department?

A. That's correct.

15

Q. And was there any discussion during this meeting, that you can recall, about anyone having a different view of who was going to be responsible for the program?

20 A. Well, the meeting, which was an exploratory meeting where lots of different options were discussed, included a range of really helpful commentary from my colleagues that took two forms: in one instance, the expert agencies stepping up to identify how they could take on parts of the operation. And it came to pass, for example, that Transport completely took on --- we vacated the space we were confident that Transport had in hand that phase of the operation. And the second, 25 there's a helpful comment from Ms Falkingham about the role that SCC, the State Control Centre, could play.

30 Q. I'll take you to the second one of those. Mr Operator, if we could go through to page 4 of the document, so 0004 within the document that's up on screen. Around --- just above the middle of the page there, Mr Phemister, can I direct your attention to some comments that seem to be attributed to Ms Falkingham:

*State control centre has been stood up --- we just need to [be] cognisant of that.*

35

And then there's some remarks that have been attributed to you. As best you can recall, can you tell us what that discussion was?

40 A. Yes, so Secretary Falkingham had noted that the State Control Centre had been stood up, which I remember was comforting to know, and also unremarkable given the role of the SCC. And at the time, I was thinking more about Working for Victoria and the Business Support Fund and how they could possibly plug into an SCC context, rather than this new program that came to be Operation Soteria, given it was such an early stage of the planning.

45

Q. There's a reference there to you being told:



*I'm getting told that we are needing to stand up different things.  
Getting direction out of PPO and DPC .... we are getting direction from all  
angles.*

5 Can you recall what you're referring to there?

A. I can. In general, my mindset going into that meeting with regards to  
conversations with the PPO and DPC were all related to the Business Support Fund  
and the Working for Victoria fund. These were two very large interventions that had  
10 been decided on 20 March and were in the very early phase of rolling out. So that  
comment relates to the Business Support Fund and Working for Victoria.

Q. So other tasks that were also on your plate at the same time as the setting up of  
what became the Hotel Quarantine Program?  
15

A. That's right, Ms Ellyard. I hadn't had any contact from the Premier's Private  
Office or DPC with regards to hotel quarantine, so at that point I'm confident that  
I wasn't referring to that in that statement.

20 Q. Thank you. A little bit further down the same page, there's a reference to you  
saying:

*We have 9 projects that can be run out of state control.*

25 Can you recall what you were talking about there?

A. Yes. So we were running a range of projects to respond to COVID, the largest of  
which I've already referenced. So those nine projects all sat outside what came to be  
Operation Soteria. They were other things that my Department was doing to  
30 contribute to the COVID support.

Q. So I'm conscious the meeting went on to consider other matters that are unrelated  
to the Board's work, but may I ask you this question. You've referred to, I think, this  
meeting as an exploratory one where a number of issues were discussed and useful  
35 expertise offered. At the end of the meeting, did you still have the understanding that  
it was your Department that had the lead responsibility for establishing the program?

A. Yes.

40 Q. Can I ask, Mr Operator, that we go back to page 3 in the document, where there's  
a heading "Questions?". You've mentioned earlier in your evidence and in your  
statement, Mr Phemister, that you made some contact with Mr Ashton and you've  
explained why. Was there any clarity or guidance that you recall receiving in this  
meeting on how the enforcement aspect of the program would proceed?  
45

A. No.

Q. So

there's a reference there to what is listed as having been a question by Mr Ashton and a reference there to "Police won't guard but will be doing the checks?" Do you recall that being discussed?

5 A. I don't recall that conversation specifically.

Q. So do you recall at this time, or as you left this meeting, having any understanding of, for example, what the opinion of Victoria Police as an agency with enforcement expertise was about the enforcement model?

10

A. My debrief after ---

MR STAR QC: I object, Madam Chair. Maybe --- I don't mean to be difficult, but I think, as I heard the question, it was about the understanding of Victoria Police.

15 I think the witness should only be asked as to what he recalls from the meeting, and I think he's answered that question on this topic.

MS ELLYARD: Perhaps my question wasn't clear, Madam Chair. I'm asking this witness whether he had an understanding of Victoria Police's view, and he'll either say "yes" or "no". And if he says he did know what their view was, I'll ask him how he knew.

20

CHAIR: Yes.

25 MS ELLYARD: So, Mr Phemister, is that clear? I'm asking you whether at this time you recall knowing the attitude or opinion of Victoria Police about the enforcement arrangements for the Hotel Quarantine Program.

A. I did not.

30

Q. So overlapping, as I understand it, with the meeting that you were having was a meeting at the State Control Centre convened by Mr Crisp at which Ms Febey and others from your Department were in attendance.

35 A. That's correct.

Q. And I take it you knew they were going to that meeting. What did you understand that meeting was going to be doing?

40 A. I did know that they were attending that meeting, and I'd asked that Ms Febey join Mr Holland for the meeting, because --

Q. And why --

45 A. --- because I knew that they'd be discussing the quarantining program.

Q. And you had, as I understand it, allocated Ms Febey as the person to lead the

end-to-end response that your Department was putting together?

A. The design of the end-to-end response, yes.

5 Q. And why was Ms Febey the person that you'd selected for that role?

A. Ms Febey is a highly trusted, experienced leader who has experience of managing large operations through previous roles in the not-for-profit sector. She's also an excellent systems thinker, somebody who can put together different phases of large-scale operations and solve large-scale problems.

10 Q. And Mr Holland, I think, attended the meeting as well. What role was he playing at the time?

15 A. Mr Holland was the head of my COVID coordination office, which is something I put in place weeks before, and it was in that position that Mr Holland would attend all of the SCC meetings that had been running during that period.

20 Q. Ms Febey has said in relation to her evidence as well that she went into the meeting with an understanding that she was going to be responsible for leading the Department's work and that your Department was going to be the lead agency. Can you recall whether at this time, and perhaps given that a meeting was being convened by the Emergency Management Commissioner, you yourself had given any consideration to this being a proper project to go into the Emergency Management Framework?

25 A. Not before that meeting, no.

30 Q. Have you been made aware of what happened in that first meeting?

A. At the time I received a debrief from the meeting. And I've since listened to the recordings of that meeting.

35 Q. Thinking first about what was reported back to you by way of a debrief, what did you receive by way of a debrief from Ms Febey about any decisions that had been made or she understood to have been taken with regards to the enforcement aspect of the program?

40 A. The critical component of the debrief that I received from Ms Febey and Mr Holland was that we had been asked to commission private security to support the operation.

Q. And did you have a sense from the debrief of who it was who had asked?

45 A. I didn't ask who. I knew who was attending the meeting and I knew of the calibre and seniority of the military officials, the State Control Centre officials and leadership and the Victoria Police officials, so no, I didn't pause to ask who made

that decision or what language they used.

5 Q. So thinking about what you said earlier about what you understood to be --- that you had been planning for all contingencies and awaiting potential advice or decision making from someone with authority or someone with expertise, do I understand you to be saying that as far as you were aware, there were people with relevant expertise about enforcement matters in that meeting?

10 A. Yes.

Q. What about people with authority to make the decisions about what the enforcement model would be?

15 A. I believe so as well.

Q. And it's an obvious question, but who did you understand was attending that meeting, or which agencies were represented at that meeting, that you regarded as having either relevant expertise or relevant authority to make decisions about the enforcement model?

20 A. We knew that all of the agencies with relevant expertise --- I mentioned earlier that the State Control Centre, headed by the Commissioner; the Australian Defence Force were in the meeting, as was Victoria Police.

25 Q. And so there's been some evidence given by other agencies, including on behalf of Victoria Police, that they had an understanding that the decision to use private security had in fact already been made prior to the meeting at the State Control Centre, and indeed I think there's some suggestion that perhaps some people thought that decision had been made prior to 2 o'clock.

30 You're the one who ultimately commissioned private security. Can I ask you for your comment on the proposition that the decision had been taken prior to the State Control Centre meeting?

35 A. My Department did not put in any mechanisms to engage private security until after the debrief I received after the 4.30 SCC meeting.

40 Q. So what inference are you inviting? What's the relevance of that to the timing of when your Department started working on it? What does that reflect, do you say, about when a decision was made or perhaps at least when a decision was communicated to you?

45 A. The day was measured in minutes, not hours. We had 36 hours to plan from the first phone call through to the first bus load of passengers arriving. Every time a decision was banked and we were commissioned to act in all other parts of the operation, we did so immediately. I'm certain I wouldn't have waited hours, and others in the planning wouldn't have waited hours, to tell me that a decision had been

taken. Off the back of the debrief, I immediately commenced the process of engaging private security. I would have done that earlier had I been aware of that decision earlier.

5 Q. So perhaps it flows logically from what you've just said, Mr Phemister, but am I right in understanding that, as an operational matter, you commissioned the engaging of private security but you don't regard yourself as the one who made the decision that the enforcement model would be private security?

10 A. That's correct.

Q. And what would be your analysis of who made the decision about what the enforcement model would be?

15 A. I don't know who made the decision, Ms Ellyard. All I know is that we were commissioned to procure private security in that 4.30 meeting. That's what I was debriefed on the day and that's what I believe, having heard the transcripts.

20 Q. And when you say you were commissioned, do I take it from that that you understood you had been commissioned by someone with the appropriate authority or power to commission it?

A. Yes.

25 Q. And in general terms, that was the State Control Centre meeting as it was collectively taking place?

30 A. It was after my debrief from that meeting, where it was conveyed to me that we had been directed to procure private security, that we immediately commenced that procurement task.

35 Q. There's been evidence given to the Board on behalf of Victoria Police that what was expressed by Victoria Police in that meeting was a preference, rather than a decision or a direction, that private security be engaged. Are you aware that that distinction has been drawn in some of the evidence that's been given to the Board?

A. I am aware.

40 Q. And in particular it was --- Ms Febey was asked some questions about the extent to which she had been directed or tasked, as opposed to having a preference expressed by Victoria Police. You've now listened, as I understand it, to the whole meeting. Having listened to it, do you --- are you comfortable that what was reported back to you out of the meeting, that you'd been tasked to do it or commissioned to do it, was what occurred?

45

A. Yes.

Q. The word used by Victoria Police was "preference", which suggests something short of a decision or a command or a direction. Can I just ask you for your comment on that?

5 A. So, firstly, in my debrief from that meeting I didn't pause to ask the language that was used. We got on with the process. I'm very much answering based on my retrospective --

Q. Of course.

10

A. --- view. My --- in a roomful of such senior people as uniformed officers, and in the environment where we had been told to defer to the SCC for all engagement with uniforms, that was the standard practice and process, and I'm very glad it is. In an environment where we're asked to defer to the SCC for coordination with  
15 uniforms, where there's such senior representation from Victoria Police, the SCC and the military, when the question is put, "Who is going to go away and perform that task?", now, my team were in the room thinking that they were running end-to-end and just going to help however they could, when Ms Febey says, "We will do that," I take that as a clear direction that we're to go off and do it.

20

Q. Thank you, Mr Phemister. You say in your statement that later on this night, I think around midnight, you received from one of those who you'd tasked to work on the project the first outline of a document that set out the end-to-end process and what was involved. I'll ask that the document be taken from the screen that is there,  
25 please, Mr Operator, and in its place we'll have DJP.101.002.6348. This is a document that you produce at paragraph 44 of your statement, Mr Phemister, which you've described as a Journey Map and Action Plan.

A. Yes.

30

Q. And so perhaps it's all in the name, but can you just summarise for us what you understood this document was seeking to do?

A. This document was seeking to clarify the different phases of the operation, so the  
35 map of somebody disembarking an aeroplane and getting safely into a hotel. This didn't incorporate the exit at this point. There was enough to focus on in that period. And then what actions were required and who was responsible for delivering those actions to make that journey work.

Q. And thinking about some of the evidence that you have given about the likely role of other agencies, can I ask, Mr Operator, that we go through to page .6353, so several pages in. And to orient you in the document, Mr Phemister, it's a phase that begins the previous page as the "Stay in hotel room" phase, but there's a sub-journey reference there which is "Health and wellbeing", which it seems that as at this time,  
45 midnight on the 27th, you and those working with you understood would be DHHS's responsibility?

A. Yes.

5 Q. And did you understand from the discussions that you'd had with Ms Peake earlier, or otherwise, that similar work was in train at the DHHS end to stand up appropriate resources to perform that role?

10 A. I can't recall the chronology of the conversations, I'm sorry, to affirm that. I do know that our teams were working together during this process. This map was designed to tease out where the work was underway and to put other Departments on notice that we had expectations that they would perform particular roles, or contest the fact that they were to be performed.

Q. Thank you. Thank you, Mr Operator. That can come from the screen.

15 It's clear from your statement, Mr Phemister, and from other evidence that the Board has received that by the morning of the 28th, if not before, there were discussions about where lead responsibility for this program should sit and decisions that were ultimately taken over the course of 28 March to fix it in an Emergency Management Framework. When did you first have a clear understanding that a decision was  
20 proposed or was going to be taken to shift lead responsibility from your Department to DHHS?

25 A. On the morning of the 28th, it became increasingly clear that others were starting to think or had been thinking end-to-end, so on the morning of the 28th.

Q. And when you say "others", who do you mean had been thinking end to end as well as your Department?

30 A. So the State Control Centre had started thinking about end-to-end.

Q. And what explanation do you recall being given, if any, for the State Control Centre and others' thinking leading them to the view that it should be with some other Department rather than yours?

35 A. I didn't ask for or require an explanation. By that point in time, the complexity of the process had revealed itself, and it made perfect sense and was unremarkable that the professionals in the State Control Centre and our colleagues at Health had started to step up and view more than just discrete roles for themselves in the program.

40 Q. So you've anticipated my next question, which is what was your attitude when you understood the program would be shifted, so that, instead of being the lead agency, your Department would take on a support role?

45 A. Our mindset all through the 27th was we will do our absolute best to plan end-to-end, but at all phases where experts need to be involved, defer to those experts. The fact that our role had gone, across the hours of the morning of the 28th, from end-to-end planning to residual support for a larger-scale operation, at the time I had

to go and tell all of those I'd commissioned to do end-to-end that their work had been brilliantly performed but they had to hand it over, which is difficult when the adrenaline is pumping, but ultimately I felt a sense of relief to know that our professionals in the State Emergency Management corps had stepped up, just as they're designed to do.

Q. Thank you. May I turn then to some pieces of work that were already underway on the 27th and which were ultimately carried on in the program as it ultimately ran, and the first is about the identification of security. You've indicated that you understood that out of the meeting in the State Control Centre, a commissioning or a task had been given to your Department to obtain appropriate security support. The evidence that's been given by Ms Currie suggests that it was at about 10 o'clock at night that she was actually given the job of finding some companies.

Are you able to comment on why it was that there was that passage of time between the understanding that they were needed and the request made specifically to Ms Currie to find some companies to do the work?

A. Yes, so those hours between the debrief and Ms Currie being commissioned were spent with Ms Febey, Mr Nolan, Mr Holland and Mr Kamenev defining just what we would be asking the companies to do. We couldn't cold-call companies with too vague a proposition. The proposition that was put on the 28th --- on the evening of the 27th, I apologise, was still formative, but we needed to put some meat on the bones of the planning. So we spent that time working with colleagues, so that that first call through to security could at least give a sense of what the model, the scale of the model would look like.

Q. Perhaps this is convenient if I ask you about some of the people who were assisting you and why roles were given to particular people. You've already mentioned Ms Febey and why you tasked her as you did. And your statement makes it clear why you asked Mr Menon to work on the hotels aspect, because of his pre-existing role.

How was it that it came to be Ms Currie, who as I understand it had been seconded into the Working for Victoria program, how was it that she was the one tasked with providing that information or making that contact with security companies?

A. The selection of Ms Currie came about through discussions between Mr Kamenev and Mr Clements, who are both referred to in various documents submitted to the Board. I commissioned Mr Kamenev because he was my most senior resource that I'd taken offline. So he was my one Deputy Secretary that I had removed from day-to-day duties to focus exclusively on the COVID response. And he was in the process, through Working with Victoria, of working with a range of stakeholders to engage large-scale labour supply. So for those two reasons, it seemed like he was the best choice I had to perform this duty. Mr Kamenev then went forward and asked Ms Currie, who was working for him at the time, to --



Q. So the Working for --- I'm sorry, keep going.

A. I apologise.

5 Q. No, no. I interrupted you. But perhaps I'll ask you this question. You mentioned that Mr Kamenev was working exclusively in COVID responses, and the Working for Victoria program, as I understand it, was one aspect of the work your Department was doing. What was that program, specifically?

10 A. Working for Victoria was a \$500 million program designed to (a) capture a lot of skills in the Victorian economy --- a lot of people in the Victorian economy that have found themselves out of work to perform integral and duties and tasks to support the State during the COVID crisis and also help those individuals build skills and  
15 to rebound and recover.

Q. So a lot of people had found themselves without work and the idea of Working for Victoria was to --- I'm being very high level --- potentially match up people with work that needed doing because of COVID-19 responses and so get the responses  
20 done and jobs for the people who otherwise didn't have them; is that right?

A. That was a degree of the program. There were also some other tasks that were assigned to Working for Victoria, some ideas that came up, for example, through the not-for-profit sector, as things that were unrelated to COVID but were things that  
25 would add value to communities at a time of crisis.

Q. So was there a role, as you understood it, for labour hire companies in the Working for Victoria program as a mechanism through which people were being engaged to do COVID-related response work?  
30

A. Yes.

Q. Thank you. Ms Currie, when she gave her evidence --- and I take it you're aware in general terms of this --- described the process by which, once she was asked by  
35 Mr Kamenev for some names of companies, she obtained some names of people who she then contacted and in part she described seeking some information from those working with her in the employer engagement team who were all also working for Working for Victoria at the time. Are you aware in general terms that that's the evidence she's given?  
40

A. I am. Some of those names, I should stress, were still in the inclusion group in my Department, so it was a blend of people who were in the Working for Victoria team and those in the inclusion group.

45 Q. And just for completeness, the inclusion group's function was?

A. The inclusion group's function, they manage everything from our strategic

communications, our employment programs and, really importantly at the time, our program centre, which was a centre that processes all of our grants, which were obviously in high demand during that period.

5 Q. Thank you. Can I ask then that --- and your Department has produced to the Board, with appropriate redactions of personal information and irrelevant material, some WhatsApp messages that I understand from Ms Currie's evidence she understands to have sat behind the recommendations that she got. Can I ask, Madam Chair, that the document that's been marked as Exhibit 182 be brought up. That's  
10 DJP.361.002.0001.

Have you had the opportunity to look at this document, Mr Phemister?

15 A. I saw these last night, yes.

Q. Thank you. And of course they weren't things that you were aware of at the time. But is it your understanding that these were exchanges between various members of the inclusion and employer engagement team for the purposes of resourcing Ms Currie with the information she'd been asked to get about security companies for the quarantine program?  
20

A. Yes.

Q. And if we go through --- and it appears, if we go through to the second page, that the discussion was taking place between these various people, firstly, about names of security companies; and, secondly, about what the people in the discussion knew about those companies. Is that fair?  
25

A. Yes.

30 Q. Including their size and whether or not they were regarded by the team as a good employer?

A. Yes.

35 Q. Had it been any part of your tasking to Mr Kamenev and on down to consider matters like size or good or bad employer when considering approaching security companies?

40 A. Yes.

Q. What were the criteria that you saw that were relevant to the selection of security companies?

45 A. Given the stage that we were at of planning, where we were still high level as to the functions required and we wouldn't understand the direct demands on security until the first walk-through at the first hotel, we needed firms that were going to

work with us, that had a track record of working with Government through periods of, you know, design during operation. Secondly, we knew that flights would continue to come in and the ability to scale up was important. And, thirdly, we knew the pressure on the State's PPE supply was great, and so if companies could bring to the table PPE for their staff, that was something we'd also find valuable.

The final point, and going directly to your question, we needed them to be good model employers. It was at a time --- always, we want to work with good employers who treat employees well. Now more than ever, given the economic climate, we needed people who had a track record of being good to their teams and employing people on a correct and fair basis.

Q. Did you have a sense at the time that you originally commissioned security companies to be procured of what the scale of the enforcement operation was going to be?

A. The data available to us came from the Melbourne Airport with regards to expectations about flights. So we started effectively taking those numbers and then running a model across the available hotels. So our initial projections weren't right, but they were close enough to suggest that we would be scaling up at a pretty rapid rate. What we didn't know was how many security guards would be required at each hotel and that did not become apparent until the first walk-through that we did alongside Victoria Police and DHHS.

Q. Thank you. So it appears from the first page that we already looked at, Wilson and Unified are suggested, and then in the pages that go on, there's commentary about the extent to which the members involved in the conversation are aware of the companies. And it also appears that those participating in the conversation, if we go to page 6, please, Mr Operator, it appears, just looking at this, that there was some awareness amongst the members working in this group about issues that were relevant to considering security companies, namely, the need to make sure that they were reputable?

A. Yes.

Q. But it also does seem --- I think I'm putting this to you for your comment, Mr Phemister --- that one of the key themes through these text messages was the extent to which those who had been asked to participate in this conversation had had personal contact through their own work in employer engagement or inclusion with any of the security companies?

A. That's correct.

Q. And the extent to which they had a sense of them through that work --- which work, as I understand it, would have been to do with such matters as placing people in positions as part of the COVID-19 response or as part of other engagement and inclusion programs?

A. That's right. And at 10.28 pm, these were the best resources that Mr Kamenev could find to provide that information.

5 Q. Well, thank you. What we then see --- well, I'll take that from the screen, thank you, Mr Operator.

10 Because on the question of best resources available, Ms Currie gave evidence at the time that she was asking someone to do this work, background work for her, and at the time she then made contact, she wasn't aware herself that there's a State Purchase Contract in relation to security services. And I take it you're aware that that's her evidence, Mr Phemister?

15 A. I am.

Q. And it would appear that nor were any of the people who she asked for advice about who to contact. That appears to be an inference from the fact that the existence of that contract is not mentioned in the WhatsApp exchanges?

20 A. It does.

Q. And in fact there was at the relevant time a website where the details of the security companies who were members of the purchase contract were available. Are you aware of that?

25 A. I am now.

30 Q. Can I ask that a document be brought up, please, Madam Chair. That's a relevant printout from the website, HQI.0001.0005.0001. It doesn't look like this on the website, Mr Phemister, but please take it from me that this is a printout by reference to what was available at the relevant time from a publicly available website called [buyingfor.vic.gov.au/security-services](http://buyingfor.vic.gov.au/security-services). And if you will accept that from me, I'll ask that the operator scroll down, please, to the bottom of the third page. And there's a reference there towards the bottom to "Supplier details". And then on that page and the succeeding pages, details of the five preferred providers, including mobile numbers and email addresses are available. That's the case, Mr Phemister?

A. Yes.

40 Q. Thank you. That can come from the screen, Mr Operator.

45 So in the light of the availability of that public resource, Mr Phemister, that didn't only tell relevant members of the Government employment branch that there was preferred suppliers but also gave all of their details, I want to ask you about the desirability or the appropriateness of this task of finding security having been given to people who, without meaning any criticism of them, didn't know about and didn't avail themselves of this resource.

A. It would have been ideal if somebody, as part of the procurement exercise, was across that website. That would have saved us, the team, some time tracking down the different contact details for the companies, yes.

5

Q. So it would have saved some time and it would have also ensured that they had their attention drawn to the existence of preferred suppliers who had been through a process to satisfy relevant people within Government that they were experienced in Government and appropriate to be used for Government work?

10

A. Ms Ellyard, the primary document that the team was asked to work within was the Department's procurement guidelines, and they worked within those procurement guidelines.

15 Q. Well, I think that's an answer to a slightly different question. Certainly it's the case that Ms Currie has given evidence that, once she found out that Unified Security weren't a member of the panel, she went through a process which led her to understand that had she been aware that they weren't a member of the panel, she could nevertheless have contracted with them because of the existence of a clause in  
20 the procurement policy about emergency arrangements. I think that's what you're speaking about?

A. It's more than a clause. It's a provision, it's a design provision for emergency arrangements for procurement, designed for when time is short.

25

Q. But time being short, someone looking at this website and finding contact details for all five providers in an instant would have obviated the need for the work that was being done by those assisting Ms Currie to search through their own recollections and records for the names of security companies.

30

A. Absolutely, yes.

Q. Thank you. May I turn to a different issue, and that's the question of what I understand to have been a walk-through or a dry run --- it's been given a couple of  
35 different names --- that occurred on the afternoon of 28 March at the Crown hotels which were to be the recipients of the first arrivals. You were present yourself, I take it, Mr Phemister, at that location?

A. No, I was not.

40

Q. You weren't? You had asked, as I understand it, Ms Serbest, who has given evidence to the Board, to attend. Can I ask you, perhaps continuing the evidence you gave earlier about why you picked particular people, what was the reason you selected Ms Serbest to help and what was the task you were contemplating she would  
45 perform?

A. So Ms Serbest and the Global Victoria team are experts in what we call

advancing, that is to say for large events, be it the grand prix or any inbound trade mission or really important engagements from global VIPs, they will go through before the event and do what we call an advance, so a walk-through, just to optimise the logistics, also to make sure entries and exits are safe, to make sure the most efficient pathways are taken. So I took that skill set which was available to me and I applied it to the advancing activity in the hotels and Ms Serbest is the Deputy Secretary responsible for that. She also has the title of the CEO of Global Victoria.

Q. Thank you. And Ms Serbest has explained in her evidence to the Board that she and her team understood originally that they would have quite a short-term engagement assisting with the creation of the program but that, as events unfolded, they became more involved over a much longer period than had been intended. Is that your understanding too?

A. That is my understanding, yes.

Q. And why, from your perspective, did that occur? Why was there a need for Ms Serbest and her team beyond what had been originally contemplated?

A. The whole purpose of the advance or the walk-through is to find gaps or opportunities for efficiency or optimisation of the process. In that walk-through --- and we were at the hotel end of the walk-through --- it became obvious that there were going to be more resources required to support check-in of passengers, particularly in those early hotels where systems would be refined to ensure that people would get from bus to hotel room safely with the essentials they would need to support their stay.

Q. Thank you. Another aspect of the walk-through, as I understand it, was a role played by Victoria Police, together with others, in identifying how many security guards would be required and where. Is that your understanding?

A. That's correct, yes.

Q. And why was it Victoria Police, as you understood it, that was taking on that role and providing that advice?

A. Because they're the experts in security operation.

Q. Can I ask you then about your understanding, recognising that you weren't yourself present at the run-through. At paragraphs 119 and 120 of your statement, you answer some questions linked to your understanding of what the role of private security was going to be, and you've given some evidence about how that developed. You say at paragraph 119 and then 120 that you had an understanding from DHHS, I think, that the enforcement function would be performed by Victoria Police. What do you mean by "the enforcement function" there, given the discussion that we've been having about private security?

A. That goes to the point raised earlier that we were still unaware of the powers that would be used for detention. So that was us speculating at that point. Our default position was that, in the absence of all other powers, we would be deferring to Victoria Police's standing powers.

5

Q. So later on when it became clear that the source of power was going to be a power exercised by authorised officers under the *Public Health and Wellbeing Act*, did that affect or advance your understanding of the enforcement roles that were going to be played by Victoria Police and private security?

10

A. It did, Ms Ellyard. We still saw a very strong role for Victoria Police that the journey mapping, as we put it, from there really focused in on the authorised officers and their role, so the role overseeing private security.

15 Q. At paragraph 121, you attach a document which, as I understand it, was --- I'm sorry, I'm not going to take you to that. Excuse me, Mr Phemister. I'll move on to a different topic.

20 You've given some evidence just now, and I'm paraphrasing you, that when thinking about the way in which security contacts were made and decisions were made to initially engage with Unified Security and Wilson Security, it was being done in a very short space of time and the procurement policy contemplates that in such circumstances there will be justification for not following what would otherwise be normal procurement arrangements?

25

A. Yes.

30 Q. And as I understand your evidence, and can I draw your attention to paragraphs 80 and 109, and as indeed Ms Currie has given evidence, after that initial weekend when things had to be done very, very quickly, Ms Currie's and others' attention was drawn to the existence of the procurement policy and to the existence of the State Purchase Contract which would ordinarily have meant that security contracts should go to members of that panel; yes?

35 A. I'm aware of that evidence, yes.

40 Q. So you've given an explanation, that Ms Currie gave as well, about the fact that the policy certainly contemplated that in an emergency, services could be obtained outside of the purchase contract. But the question then arises that I want to ask for your understanding on of why, when there was perhaps a little time to breathe and when formalised contracts were going to be settled and drawn, why was the decision made to remain outside the State Purchase Contract insofar as Unified was concerned and to contract with them on a longer-term basis? What's your understanding of why that occurred?

45

A. Two sources of data that inform that decision. The first question that I asked repeatedly was, "Would contracting Unified fall inside our procurement guidelines?"

And the answer I got back at the time, that has since been supported by the post-incident review, was "Yes." And, secondly, evidence provided to me by Ms Serbest and Mr Kamenev that Unified were performing well in those early days. Acknowledging that came to me one and two days respectively after the operation  
5 commenced, those two bits of information led me to the conclusion that, given it was a permitted procurement activity and it would not disrupt the flow of the operation, we were best placed to continue with the existing security providers.

Q. Can I ask that a document be drawn up, please, Mr Operator. It's  
10 DJP.125.002.8162. Just the bottom part of the page first, please, Mr Operator.

Mr Phemister, this is a document that was produced by Ms Currie, and I'm not sure if you've seen it before, so I'll just pause for a moment to give you an opportunity to read what it says. It's an email from Mr Kamenev, who you've explained was  
15 a Deputy Secretary in your Department, sent to other members of the Department. Just let me know when you've had a chance to read it.

A. Thank you. I have, thanks, Ms Ellyard.

Q. Thank you. So this is an email that Ms Currie was taken to. And of course she's  
20 not the author of it, but she agreed in her evidence that at that time, 30 March, so day 2 of operations, she wasn't herself aware of information that would sit behind or support the assertion that Wilson had proven very difficult to work with and  
25 unhelpful. And so I'm just drawing your attention to the fact that we haven't heard from Mr Kamenev, but we've had that evidence from Ms Currie. And we also see there that what was proposed in this email was that contact be made with Trades Hall effectively to persuade them or reassure them about the appropriateness of engaging with Unified. That's a summary of what this email seems to be about.

30 A. Yes.

Q. And there's a reference there to Unified employing lots of Jobs Victoria clients, so that it is serving a broader public purpose. Do you have any knowledge yourself of the extent to which, prior to the Hotel Quarantine Program, Unified had been  
35 employing people through Jobs Victoria?

A. No, I didn't.

Q. The email also says, and I'm looking at the second-bottom paragraph now:  
40

*In short, we need to agree to a longer stint with Unified at Crown. It's .... too complicated .... But you can reassure him [him being the relevant officer at Trades Hall] that we're picking from the others for other work if we run out of capacity.*  
45

The effect of that seems to be a proposal to reassure Trades Hall that Unified would keep the work that they had but that future work would go to companies who were



Trades Hall-preferred.

A. It reads like that, yes.

5 Q. I'd now ask, Mr Operator, that we go to the top of this page with an email that has  
come back the next day. And as I understand it, and as I think Ms Currie agreed in  
her evidence, Mr Phemister, the fruits of the discussions with Trades Hall appear to  
have been that there was an understanding on why Unified was going to keep in  
10 I ask you this question, Mr Phemister. In circumstances where --- well, firstly  
I should ask you this question. Are you aware yourself as at 30 March what  
information there was to support an assertion being made to Trades Hall that Wilson  
Security had been very difficult to deal with?

15 A. I received a debrief from the walk-through day with regards to basically the  
general attitude and approach these security companies were taking, and it was made  
clear to me through that debrief that one company was being more amenable to tasks  
and more proactive in identifying opportunities than another. That's the only source  
of intelligence I held.

20 Q. Which walk-through are you talking about there?

A. So the --

25 Q. Because as I understand the evidence, just to assist you, as at 30 March there  
weren't yet any hotels running with Wilson. The hotels that were open were with  
Unified.

30 A. No, but the --- apologies. Discussion at the walk-through revealed the type of  
tasks that would need to be undertaken, and that fuelled the conversations that  
I understand the team were having with Wilson.

35 Q. Are you comfortable with what appears to have been --- well, I'll put it a different  
way, Mr Phemister. The email at the bottom appears to suggest that the message to  
Trades Hall was going to be, "We're using Unified where we've already got them, but  
we'll look to other sources in the future"?

A. Am I comfortable with --

40 Q. Firstly, I guess I'm going to ask you, do you agree that that appears to have been  
what was proposed to be the message to Trades Hall, "We're going to keep Unified  
where they are, but in future we'll pick from other providers"?

A. That appears to be what the email is expressing, yes.

45 Q. You've produced in your statement a list of which hotels were used in the program  
and which security company was assigned to them, and it would be fair, having

regard to that list that you've produced, to say that the majority of new hotels after this date in fact went to Unified. Do you accept that?

5 A. Yes.

10 Q. And if it's of assistance to you, it's paragraph 115 in your statement. So do you know whether there was ever any further correspondence with Trades Hall about what appears to have been a change of decision, that Unified would indeed be used in an ongoing capacity rather than kept to the initial sites where they had stood up at great speed?

A. I'm unaware of any further correspondence on this matter with Trades Hall.

15 MS ELLYARD: Thank you. Madam Chair, I've got a little bit to go, but I am moving now to another topic which is about the specifics of the contract and some implications I want to speak to the witness arising from the contractual terms. I wonder if it's a convenient moment to take a break.

20 CHAIR: To take the mid-morning break. We'll do that. Mr Phemister, we'll take a break now and return at 11.45.

MS ELLYARD: If the Board pleases.

25 **ADJOURNED** [11.26 AM]

**RESUMED** [11.45 AM]

30 CHAIR: Yes, Ms Ellyard.

MS ELLYARD: Thank you, Madam Chair. I'll ask Mr Phemister to turn his camera on again.

35 CHAIR: Thank you.

MS ELLYARD: Thank you, Mr Phemister. You can still see and hear me?

40 A. I can, Ms Ellyard.

45 Q. Thank you. Mr Phemister, at paragraph 104 and following of your statement, you refer to and produce the three contracts that were entered into by your Department with security providers. So I direct your attention there. But then the Board has received a statement from the Principal Policy Officer whose responsibility it was to enter into or to negotiate and then manage those contracts.

5 May I have brought up on screen, please, that person's statement, DJP.050.004.0001. And once we're there, Mr Operator, I'll ask that we go through to page 7, so that's 0007 inside the document. So I'm drawing your attention, Mr Phemister, to the answer to a question about whether or not all three contractors were engaged on the same terms and conditions and what's the reason for any variation. Are you familiar with this evidence?

10 A. I'm familiar with the general components. The exact words, Ms Ellyard, I'll just need a moment to read that.

Q. Of course. Perhaps read that paragraph and then I'll also ask the operator to show you the paragraph on the succeeding page, paragraph 39.

15 A. Ms Ellyard, can I just clarify, is it paragraph 25 you'd like me to --

Q. 28 and 29.

A. 28. I apologise. Thank you.

20 Q. And then if we could just look at the next paragraph, please, Mr Operator, over on the next page, paragraph 29.

A. Thank you.

25 Q. Thank you. So the effect of those two paragraphs, as I understand it, Mr Phemister, is firstly there needed to be a bespoke contract for Unified because they weren't party to the Purchase Order Contract; and then, secondly, that there were differences in relation to fees and charges amongst the three contractors?

30 A. Yes.

Q. Thank you. That can come from the screen, Mr Operator.

35 Paragraph 28, which you've just looked at, refers to a difference in fees and charges between MSS and Wilson because of the arrangement in relation to PPE. You've produced all three contracts, and I don't want to suggest for a moment that you're familiar with every term, Mr Phemister, but I just want to put a couple of things to you about the respective rates and charges, and if you want to be taken to the particular page, of course I'll do that.

40 When one compares the relevant schedules in the three contracts about the rates of pay, what we're talking about is the hourly rate for which the State was purchasing a security service. Is that fair? So for each hour of service by a person, the State was paying an hourly fee?

45 A. Yes, that's fair.

Q. And the contracts revealed that there was a schedule of fees for different rates across the week and into weekends and public holidays?

A. Yes.

5

Q. And there were also rates for security guards and for security supervisors?

A. Yes.

10 Q. And in the case of Unified, there was also a rate for a manager, which was a level that doesn't appear to have been provided for in the other two contracts?

A. Yes, that's my understanding.

15 Q. So just looking, just by way of example, and picking up on the Principal Policy Officer's evidence about there being some difference, if one compares the hourly rate for a day shift during the week, it appears that the contracts provided that MSS would be paid \$44.25; Wilson, \$45.21; and Unified, \$49.95. Is that your understanding?

20

A. Yes, it is.

Q. So Unified being --- I'm not going to say substantially, but a meaningful amount -- more expensive per hour than the other two?

25

A. Yes.

Q. Do you know why that was?

30

A. No, I don't.

Q. And then perhaps just to do a couple of other points of comparison, the night rate, it's a bit different. MSS were going to be paid per hour overnight \$52.82; Wilson, \$52.52; and Unified, \$51.91. Do you know how it came to be that the rates were different for that?

35

A. No, I don't.

Q. And then by way of a final example, of course acknowledging that all of the schedules have been produced by you and can be considered, and will be, by the Board in their fullest detail, for the provision of an hour of security service on a Sunday, MSS were going to charge and be paid \$83.74; Wilson, \$81.77; and Unified, \$89.28. And again, I take it you can't speak to why that difference exists?

40

45

A. No, I can't.

Q. But as far as you're aware, they were all going to be doing the same work? It was

an hour of security services at a quarantine hotel?

A. That's correct.

5 Q. Similarly, it appears from looking at the schedules that there are some different  
arrangements as well that affect perhaps the overall costs to the State of each of these  
contracts. The contract for Unified suggests that in addition to the hourly rate we've  
just looked at, their contract provided for a meal allowance of \$15 per person per  
10 shift, which doesn't appear to have been provided for in the other two contracts. Do  
you know why that distinction has been made?

A. I don't.

15 Q. And indeed, perhaps for fullness on that point, it appears from looking at the  
Wilson contract that the rates I've quoted were inclusive of a meal allowance, and  
MSS doesn't seem to have a reference to that. You can't speak to why that difference  
exists?

A. I can't.

20 Q. And then, thirdly, as a third point of potential distinction, there appear to be  
different arrangements across the three contracts in relation to personal protective  
equipment. As you've clarified this morning, I think Wilson had the responsibility  
for providing their own. The contracts suggest that MSS could charge for the costs  
25 of it at cost plus 10 per cent, and Unified has a scale of fees set out for the rates that  
they'll charge the Government for their PPE.

On the particular PPE question, are you aware why there were differences in the  
contractual arrangements between the three contractors?

30

A. No.

35 Q. So can you --- do you accept this broad proposition that it's unusual that there  
would be any substantial difference between the cost per hour of service that the  
Government was spending to buy the same services from different providers?

40 A. It's not entirely unusual. These are commercial arrangements we're entering into  
with three different firms, and our objective in the procurement was everything I've  
covered earlier, as well as value for money, and we obviously had an eye to  
employees being provided appropriate amounts. Within that context, it's not unusual  
that different commercial firms provide slightly different commercial rates.

45 Q. The Principal Policy Officer was asked a question about how decisions were  
made, the three contracts having been entered into, how decisions were made about  
which hotels would be allocated to which providers. And perhaps I'll ask that we  
have part of that statement brought back up on the screen, please, Mr Operator.  
DJP.050.001.0001, and it's page 9 of the document. So, page 9. I'm sorry,

Mr Operator. I'll ask you to take that down. I've given you the wrong reference number. I'm sorry, Mr Phemister and Madam Chair. It's DJP.050.004.001 at page 9.

5 And I'm drawing your attention, Mr Phemister, and please take the time to read it, to paragraphs 34 and 35, which are the answer to the following question:

*What factors were taken into account in allocating new hotels to security contractors?*

10 So that's the context of those paragraphs, and I'll just take a moment so you can read them.

A. Okay. Thanks, Ms Ellyard.

15 Q. So a number of factors have been identified there as having been taken into account in making those decisions. And I take it, it being a matter of operational detail, you accept that those are the factors that the relevant people had regard to?

A. I do.

20

Q. Thank you. That can come from the screen, please, Mr Operator.

25 So thinking about those criteria that have been identified, Mr Phemister, we've already touched on and your statement reveals that the fruits of those considerations were that a substantial number of hotels were allocated to Unified Security in comparison with the numbers that were allocated to the other two contractors.

A. Yes.

30 Q. Do you accept that? And indeed just drawing, just by way of example, on some evidence that the Board has heard about the total number of guards that were stood up by different contractors, the evidence is that Wilson Security, across the hotels that were allocated to it, provided a total of 650 guards --- and the reference there, for those who are listening in, is paragraph 109 of Mr Watson's statement; and Unified  
35 Security, across the number of hotels that they provided, provided a total of 1,754 guards --- and the reference there is paragraph 74 of Mr Coppick's statement. So there was a substantial weighting in favour of Unified and the workers that Unified were providing. Do you accept that?

40 A. Yes.

45 Q. And as we've seen from a summary --- well, from the brief summary that I took you to of some of the charges and fees associated with each of the three contractors, per hourly rate, with the exception of the night rate that I've drawn your attention to, Unified were the most expensive. Do you accept that?

A. Yes.

Q. And, similarly, you accept that they weren't on the panel of providers, and I think the evidence is that they had sought to be included but hadn't been successful. Do you accept that?

5

A. I wasn't aware that they'd sought to be included, Ms Ellyard, but I definitely accept that they weren't on the panel, yes.

Q. And on the question of the point that you raised earlier about making sure people are paid a proper rate of pay, there doesn't, on the evidence available to the Board, appear to be any suggestion that the rates paid to subcontractors or to end staff were any higher for Unified than they were for the other contractors. So may I ask you how it is, in circumstances where it appears Unified were the most expensive, they weren't a panel member and they didn't seem to be, on the evidence available, paying their end staff substantially or in any event more, why did so much of the work flow to them, from your understanding?

10  
15

A. Ms Ellyard, I haven't done the maths to work out whether that night rate offsets the day rate, so please forgive me. But I accept your --- (overspeaking)

20

Q. Of course.

A. It's not one of the criteria the team looked at. As you've just directed me towards the evidence from the contract manager, by the time we accepted those base rates as the operating rates, it came down to more qualitative factors, the selections of the firms moving hotel to hotel.

25

Q. And perhaps you will feel that you're repeating yourself, and I apologise, Mr Phemister, but when you say qualitative factors, what are you talking about?

30

A. I just refer to the statement you put up on the screen moments ago, Ms Ellyard. There's nothing in there about financial consideration. Once there was a base rate accepted, they were the factors that determined which firm would be engaged with which hotel.

35

Q. You will recall that in the email I took you to a little while ago, the one from Mr Kamenev that was about correspondence with Trades Hall, there was a reference there to a suggestion by him that in approaching Trades Hall, weight or reliance might be placed on the fact that Unified Security were an employer or took on people through Jobs Victoria.

40

As far as you're aware, was the idea of job creation by using Unified, who were going to be employing unemployed people, one of the reasons why they got more work?

45

A. It was never once raised with me that that was the case and never a consideration that I put into the mix, no.

Q. So it appears that from the earliest times, from 30 March, to look at the tenor of the email that we looked at, those working on the ground or in close contact with the security guards had a clear view that Unified was for them a preferred supplier. Is that your understanding?

A. It is, yes.

Q. And the evidence seems to be that there was the perception of those within DJPR, including Ms Serbest and her team, that Unified were helpful and offered any assistance that they were asked to offer?

A. That's correct, yes.

Q. Including, as I understand the evidence of the Unified staff themselves, some activities that were really quite outside what you would ordinarily regard as ordinary security services, visits to toy shops and things of that kind?

A. I'm not familiar with that evidence, I'm afraid, Ms Ellyard.

Q. Okay. But you accept this: that one explanation or one potential explanation for why Unified appears to have ended up with a substantial slice of the work is because of that --- it's a professional connection, but personal connection, as in person-to-person connection that had been formed between the Unified staff and the DJPR staff in the early days and weeks of the program?

A. The discussions I had with my staff in the early days and weeks were all performance-related rather than person-related. But I understand that people who are easy to work with and were amenable to various tasks would come across in a more positive professional light. My conversations with Ms Serbest and Mr Kamenev in those early weeks related exclusively to matters of performance.

Q. And on that topic of performance you've provided a point of clarification to paragraph 110(a) of your statement about your understanding about the perception of Wilson. But again, looking at that email that we looked at, it appears that at a very early stage there was a view formed, as you understand it --- I'm not suggesting it was your personal view --- that Wilson were being difficult or that they were a less desirable option for security. Is that fair?

A. In my memory, my state of mind --- when Alex sent that --- when Mr Kamenev sent that email, obviously after day 1 of one walk-through of the hotel, as you pointed out earlier, Wilson hadn't actually set foot in a hotel at that point. I remember through the first week of operations having ongoing conversations with Ms Serbest about her lived experience on the ground and really practical matters with regards to security performance that was clear was informing her view of the performance of the different firms.



Q. And I think I want to --- in light of that answer, Mr Phemister, I want you to have the opportunity to comment on this. I think what you've said supports the point that I was inviting you to agree with earlier, that the personal assessment, so to that extent a personal rapport formed through a professional connection of DJPR staff in those  
5 early days and weeks, informed very much throughout the life of the program how decisions were made about which companies would get which hotels.

A. The specific examples I'm referring to that certainly set my frame of mind, and I believe to have informed Ms Serbest, related to cleanliness of shared spaces and  
10 foyers and also through the efficiency in the check-in process. So it was through experience in those two elements that I believe led to the positive light being cast on Unified above the other firms.

Q. There's certainly evidence that there were some concerns raised, including  
15 concerns about the conduct of security guards at hotels managed by Wilson in the very early days, and a decision seems to have been made that that hotel would be reallocated to another company, in fact to Unified, in April. Are you aware of that?

A. I am.  
20

Q. But, perhaps by contrast, there's also evidence that in early May at another hotel, the Rydges, as it happens, there were serious complaints about staff provided by Unified, and Unified replaced the staff, but no action was taken by the Department to remove that hotel from Unified or otherwise limit the scope of their involvement in  
25 the program. Is that your understanding?

A. It is.

Q. Thank you. Perhaps closing out on a couple more issues relating to security,  
30 firstly, you say at paragraph 149 of your statement that you don't recall the Department having considered at the time that there was a possibility of subcontracting. I take it you will be aware of the evidence of Ms Currie that she herself, in her initial discussions with security, didn't give consideration to it because she wasn't aware that subcontracting was common in the security industry, but she  
35 accepts, and I think you would accept too, that the contracts ultimately entered into did contemplate the possibility of subcontracting?

A. Yes, Ms Ellyard, the contracts definitely contemplated subcontracting through formalised engagement with our Department.  
40

Q. Indeed, and the expectation was in respect of each of the three head contractors that there were processes that would be followed to bring to the attention of the Department and really have approved in advance any subcontracting arrangements that they proposed to enter into?  
45

A. That's correct.

Q. And in the statement of the Principal Policy Officer --- I won't take you to the details of it, but I can give some reference numbers for those listening, it's paragraphs 44, 46 and 86 --- it appears that across the three subcontractors, there were --- I'm going to use the term --- varying levels of compliance with that obligation to obtain approval in advance for the use of subcontractors. Is that a fair summary?

A. It is a fair summary.

Q. And that thinking particularly about Unified Security, as I understand the documentation, whatever may have been known in an informal sense, there doesn't appear to have been a formal process of notification and approval for any of the subcontractors who Unified actually used. Is that your understanding?

A. Not in a proactive sense, so that's right.

Q. So it may well have come to the Principal Policy Officer's attention at one time or another but those formal arrangements weren't complied with, as far as you're aware?

A. That's correct.

Q. And that's a concern, isn't it, that in circumstances where this important work is being given to private companies, that it might be going on through subcontracting without the Department having appropriate oversight and knowledge of those matters?

A. The policy officer goes on in his statement to make it clear that post-incident reviews were undertaken for all the subcontractors. Those post-incident reviews found that we would have, in all likelihood, permitted the subcontracting. So the issue became the fact that subcontracting was taking place without our prior approval, rather than the actual subcontracting itself. Had one of those post-incident reports come back with a very negative take on the act of subcontracting, that would have required a different course of action rather than retrospectively approving the act.

Q. But you agree though, don't you, Mr Phemister, that it it's fortunate and a relief that in that review after the fact, it turned out that, as you say, permission would have been given to all of the subcontractors. Nevertheless, that couldn't be assumed to be the case and the reality is that substantial work was done through subcontractors of whom the Department didn't have formal notice and to whom the Department hadn't given formal approval?

A. That's correct, Ms Ellyard, yes.

Q. And in fact just sticking with Unified, whilst acknowledging the matters that are in the Principal Policy Officer's statement about the other two contractors as well, the evidence before the Board suggests that of that 1,750-odd security personnel who

Unified had provided, the overwhelming majority of them were in fact provided through subcontractors. Were you aware of that?

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

5

Q. Thinking about the question of contract management, it appears from the evidence of the Principal Policy Officer and others, and documents before the Board, that there was a role played by him in having brought to his attention and then dealing with specific issues arising about contractual performance, particularly as they related to the personal conduct of security guards. Is that your understanding?

10

A. It is.

Q. And there seem to have been a number of incidents where matters came to his attention through various means and were investigated and acted on by him?

15

A. The primary means was through the daily meetings between the operational staff. And if it was determined that it had a contractual implication, it was escalated to him formally, yes.

20

Q. Did DJPR have an on-the-ground presence at all of the hotels all of the time?

A. No.

Q. So in those circumstances where we speak of daily meetings, what was the mechanism by which, as you understood it, concerns would be able to come to the attention of DJPR so that they could be provided to the Principal Policy Officer and be acted on?

25

A. If they were moments that were observed by DJPR staff, so at check-in, check-out, and in some cases our site managers were there for the first few days of operation, that came through our teams. Equally, there were paid security supervisors on staff. Sometimes they raised issues, sometimes hotel staff raised issues. And sometimes other Victorian public servants raised issues --- DHHS nurses, DHHS accommodation managers or other people associated with the site.

30

35

The clearing house for all of that intelligence was the daily meetings that in the early days was chaired by the Deputy State Controller, and then that process moved to the Accommodation Commander. The primary mechanism of communication back to the security guards was through their daily briefing they received through DHHS. But, like I said, if any matters needed to be raised at a contractual level, it was done formally through the back end of the process through Ms May to the Principal Policy Officer.

40

Q. Your reference there to DHHS raises another matter that I want to ask you about, Mr Phemister, which you deal with in part at paragraph 152 of your statement, although it's in a couple of places, and that's the distinction that you draw between

45

the line of accountability or oversight that you had over security or that security had to your Department, and the line of responsibility or accountability that security had to DHHS. Can I ask you, by reference to paragraph 152, what you see as the relevant distinction?

5

A. Can I just have a moment to refer to that, Ms Ellyard?

Q. Please.

10 A. Thank you. Thank you.

So my staff weren't on site, as you mentioned, all the time. And from the very first journey map, we saw it as a role --- ideally the role that authorised officers would play, to oversee security guards. The first line of oversight for security guards, it's really important to point out, were the paid security supervisors and, in the case of one firm, security manager in addition. So formally, the security guards, the individual security guards, were under the supervision of the supervisors that were both quoted to us and then continued to operate day and night through the life of the program.

20

When it came to formal Departmental oversight, we weren't there 24 hours a day, seven days a week; we were for check-in, check-out, so maybe the first few days of operation, and with regards to Rydges Hotel, we weren't there at all. We didn't have a single physical presence. So it was our belief that the security guards would operate under the ultimate command of the control agency and the Accommodation Commander.

25

Q. And so just to tease out that distinction, because you say at paragraph 152(d) that DJPR had contractual management responsibility for the security guards. Is the distinction that you're drawing between who had the power to enforce non-compliance, as it were, by the security guards, versus who had the day-to-day responsibility and power to direct them in the course of their duties?

30

A. That's right, Ms Ellyard, yes.

35

Q. So there's been some evidence that's been given to the Board about the perception on the part of some security guards that sometimes there was a tension between what they understood to be their obligations under the contract, for example with relation to the use of PPE, and the directions or advice that they were receiving on the ground from authorised officers or other DHHS people. Is that a theme of evidence that you've been made aware of?

40

A. It's certainly evidence that I'm aware of. I wouldn't describe it as a strong theme or take-away from my staff but I'm definitely aware of it being a theme, yes.

45

Q. And there is the potential for that confusion, isn't there, if there's a contract held by one Department but day-to-day operational control, as you would describe it, by

another Department?

A. There's potential, yes.

5 Q. And I think you've identified, or would I be right in understanding that one of the learnings or take-aways for your Department from this project was that it might have been better if there hadn't been that division between contractual responsibility and day-to-day supervision where security is concerned?

10 A. Yes.

Q. And you might feel you've already answered, but why do you say that it would have been better, with hindsight perhaps, that the one Department had had both contractual line of management and on-the-ground line of management?

15

A. Single-point accountability and clarity would have been absolutely assured, Ms Ellyard.

20 Q. Thank you. Can I ask you then about a different aspect of the contractual arrangements that were put in place, and that was the obligation that was placed on each of the three security companies to deal with matters of infection control and training and compliance with PPE obligations. I take it that you're aware, Mr Phemister, that in each of the three contracts, responsibility for those matters was placed on the contractor?

25

A. Yes.

30 Q. And perhaps by way of an example, may I invite --- I'll take you to the contract --- it happens to be the contract with MSS --- but DJP.105.003.1020. But, Mr Operator, once we're in that document, could we go to page 1083.

So I'm directing your attention firstly, Mr Phemister, to the very bottom of the page there where there's a heading:

35 *2. Service Provider Personnel to wear personal protective equipment*

A. Yes.

40 Q. And, as far as you're aware, there's a comparable provision in each of the three head contracts?

A. Yes.

45 Q. And if we then go over, Mr Operator, to the top of the next page, we see the finishing of the point about PPE, and then a provision that each of the contractors agreed to in relation to, firstly, the possibility that their staff would come into contact

with people who might have COVID; and then, secondly, an obligation on behalf of the security companies that they ensure adequate training and meeting relevant safety standards.

5 A. Yes.

Q. Can I ask you, looking at paragraph (a) there, it says:

10 *Adequate training in security, workplace health and safety, customer service and risk management as applicable for the provision of security services and, including but not limited to, in relation to COVID.*

What training was there, that you're aware of, at the relevant time that was specific to COVID-19?

15

A. On the evening of the 27th when we were having the discussions, and throughout the 28th, the only training that we were aware of was the national training. And keeping in mind the time limited --- the time limitations between those conversations and commencement, we thought that was (a) the only training we were aware of, and

20

(b) the only training we were aware of that could be done in a timely way.

Q. Okay. And I think that's the training that's referred to specifically at paragraph (c) there:

25

*In addition to the above, have undertaken the Australian Government Department of Health COVID-19 infection control training module ....*

Is that the training you're referring to?

30

A. It is, Ms Ellyard, yes.

Q. And "any and all other COVID-19 awareness training as directed by the Purchaser". That was also part of the contractual terms?

35

A. It was. We were eyes wide open to the fact that this was an emerging matter and over time it proved to be that standards would change, so yes, we were very mindful of expressing that term.

Q. Thank you. That can come from the screen.

40

Similar conditions placing responsibility for training and, in the case of hotels, cleaning as well, were included in the various contracts that were entered into with hotels. Is that your understanding?

45

A. Yes.

Q. And perhaps it's most convenient to take you to this by reference to the statement

of Mr Menon, who extracts some relevant provisions. So, Mr Operator, could I please have DJP.050.006.0001, but then going within the document to page 5.

5 So I'm directing your attention, Mr Phemister, to paragraph 18 in which Mr Menon sets out what he sees as relevant extracts in relation to cleaning.

A. Yes.

10 Q. And please take a moment to review that if you wish.

A. Thank you, Ms Ellyard.

15 Q. And then I'll ask the operator just to take it over to the next page just to complete the clauses that are referred to there, and we see there's the reference to training and personal protective equipment.

A. Yes.

20 Q. Thank you. Thank you, Mr Operator. That can come from the screen.

So it appears in summary, Mr Phemister, in both the contracts with hotels and the contracts with security companies, responsibility for ensuring compliance with relevant PPE standards similarly lay with the hotels and the security companies?

25 A. Yes.

30 Q. And in the case of the hotels, responsibility for cleaning, save for an exception in the case of a positive identification as set out there, responsibility for cleaning also lay with the hotels concerned?

A. Yes.

35 Q. And having regard to the purpose for which this program was established, which was infection control to prevent the spread of potential COVID infections out from returned travellers into the community, in your view was it appropriate that responsibility for effectively the management of infection control through the understanding of staff, the wearing of equipment and the cleaning of facilities, was it appropriate that all of those things be contracted out rather than being kept within the Government's sphere of responsibility?

40

A. It was important that all of the different agencies took accountability and responsibility for the safety and wellbeing of their staff, just like I did with my staff on site. The duties and obligations on the security firms and the hotels, yes, I agree were appropriate.

45

I disagree, however, that that was the sum total of infection control mitigations put in place. The individual hotel walk-throughs were very instructive. The deployment of

5 security personnel and rules that governed interaction between security and hotel staff with passengers were strict and understood, and all movement of people, goods, food, essentials through the hotel were governed by Health and Human Services operating models. So the environment within the hotels for the responsibility and wellbeing of staff lay with the employing agency, the mitigations in place were effectively delivered through their obligations combined with the operating models that drove all of the hotels.

10 Q. Thank you for that answer. Just picking apart part of it, you mentioned the responsibility for --- thinking particularly about the security companies, the evidence is that there was a very large workforce of people moving in and out of the hotels performing security services, and there's been evidence of a variable level of experience on their part of being trained and supported, whether by DHHS or otherwise, in the performance of --- in their understandings about PPE usage and social distancing and so forth.

15  
20 Assuming the Board accepts that evidence, that there was a variable degree of compliance or assistance provided, that's a concern, isn't it, given that the whole point of this program was infection control?

A. I can't speak to that evidence, Ms Ellyard, and we didn't have direct oversight of a lot of the evidence that was given, given we weren't in the hotels constantly.

25 Q. But assuming that evidence is correct, it would concern you?

A. It would concern me if that evidence was correct that there were incidents of people operating outside of the prescribed rules and outside of their supervision arrangements. To that extent, yes.

30 Q. Yes. And I think what I'm pressing you a little bit about, Mr Phemister, is I understand you to be saying that notwithstanding the bald terms of the contract, which made it all the contractor's problem, there was in fact support offered, largely through DHHS, as I understand your evidence, in the form of briefings and advice about infection control and PPE measures. Is that your understanding?

35  
40 A. It is my understanding, Ms Ellyard. I can't speak to that directly because it was a Health and Human Services role. I do know that my teams that went into the hotels were informed by way of operating model, through the walk-through, and then took daily instruction. And if they were ever found to be inappropriately using PPE, they were informed and would remedy the situation, by way of example.

45 Q. So I think you've agreed --- or perhaps I'll put it to you again, Mr Phemister, for the avoidance of doubt. On a fair reading of the hotel contracts and the security contracts, the Government was outsourcing responsibility for the management of the risk that might be posed by COVID infection to the hotels and to the security companies. Do you accept that?



A. Outsourcing to their employees that they brought onto the sites, do you mean, Ms Ellyard? Yes.

5 Q. Outsourcing firstly to the companies with responsibility for ensuring that the employees then complied with or understood and complied with infection control and PPE measures.

10 A. I too really want to emphasise the point that there are additional mitigations put in place on top of those obligations, but yes, we thought it important that every agency involved took responsibility for their staff entering the sites.

15 Q. And you might feel this isn't a question for you to answer, Mr Phemister, but I think it's fair that I put it to you. In circumstances where it was a Government decision to hold in quarantine large numbers of people, some of whom might have or did have an infection, an infectious disease, COVID-19, I want to suggest to you that it wasn't appropriate for the Government to structure its contracts in such a way that placed primary responsibility for infection control and PPE and matters of that kind on private companies rather than retaining that responsibility within Government.

20 A. I can't comment on that matter. It's beyond my expertise, Ms Ellyard.

25 Q. The last point I just wanted to clarify, Mr Phemister --- and I apologise, you may feel you've already answered this --- I asked you early on in your evidence about the extent to which you had briefed Minister Pakula about the details of the Hotel Quarantine Program and, as I understood your evidence, you didn't brief him regularly on this topic because of its nature as a project that was not sitting wholly within your Department, but being run through the Emergency Management Commissioner's arrangements. Did I understand you correctly?

30 A. Yes.

35 Q. It appears from your evidence and the evidence of other witnesses that over the course of the program, concerns and issues were raised about matters which included the extent to which DJPR was receiving appropriate advice and expert assistance from DHHS, various concerns about the conduct of security guards within the program and a range of other matters. Did any of those particular issues, given that they were occurring in the context of contracts being managed by your Department, were any of those matters that you felt it appropriate to raise with the Minister?

40 A. In routine conversations with the Minister --- sorry, Ms Ellyard, I'll start by saying the reason I put it that way is a combination of the operation being led through the State Control Centre and also operating and acting under my delegations. The exchanges with the Minister typically came through issues that were rolling through the hotels, the most prolific of which were concerns about dietary requirements and  
45 food in rooms, and running to ground different issues that had been raised by people who were staying in the hotels. That was the topic of the majority of the conversations I had with the Minister during that period.

MS ELLYARD: Thank you, Mr Phemister.

5 Madam Chair, those are my questions for Mr Phemister. I have notice of a few applications and in respect of one application I have notice of an objection to the application. So perhaps if it's appropriate, I'll call on Mr Moses to make his application for cross-examination, but my understanding is that Ms Condon may have a matter to raise with you in relation to that application.

10 MS ALDERSON: Thank you, Madam Chair, Counsel Assisting. My apologies, Mr Moses is otherwise engaged but will be here shortly.

15 There are just three matters by way of clarification, Madam Chair, and I can go through the topics very quickly. The first is whether there was a risk assessment conducted; the second, the terms of the engagement of security between 28 March and 9 April; and, third, in relation to daily briefings. I wonder if that allays my learned friend's concerns.

20 CHAIR: Daily briefings of the security firms on the site at the hotels?

MS ALDERSON: Yes, Madam Chair.

CHAIR: Ms Condon?

25 MS CONDON QC: Thank you, Madam Chair. Not entirely, Madam Chair. The first thing, perhaps, if I can indicate, we first received notice of Unified's application at 10.16 this morning, in circumstances where I'm not entirely sure why they didn't comply with the Practice Direction to provide adequate notice. The application contains a number of documents. The application contains Rachaele May's first  
30 statement, with no reference to any paragraph that's sought to be explored with Mr Phemister. The application contains Claire Febey's statement, with no reference to any specific paragraph that's sought to be pursued with Mr Phemister. The application contains two full transcripts of the Board's hearing, the transcript of  
35 31 August, with no reference to any particular part that's sought to be explored with Mr Phemister, and I say the same and I make the same comment for a transcript that is attached of 4 September of the Board's hearings.

40 The application contains a number of documents that are Unified documents. There are four in total, Madam Chair. Each and every one of those documents requires redaction of the name of the Principal Policy Officer, and Madam Chair knows who I'm referring to, but his name is still contained in each and every one of those documents should they be placed on the screen share and shown to Mr Phemister and to the public at large.

45 The application also contains, with respect to my friend from Unified, documents which, in my respectful submission, would only be proper matters that relate to the operational detail of the program itself. Now, Mr Phemister has said in his evidence

initially to Ms Ellyard that he had obviously no detailed knowledge of the operational aspects of the program insofar as persons such as Ms May, Ms Febey and Ms Serbest would be better placed to speak to those matters. I perhaps make a peremptory objection in that regard, that documents such as DJP.102.002.0721, 5 which forms part of the lengthy materials that apparently form part of the application, DJP.119.003.1939 --- I object to those two documents being put to Mr Phemister on the basis --

10 CHAIR: Ms Condon, let me just cut through here for a moment, given the matters that you've raised, and come back to Ms Alderson to seek some better understanding of exactly what it is that is being sought by way of further questions in cross-examination.

15 MS CONDON QC: Yes. The documents would reveal perhaps more detail than has been indicated at this juncture. Thank you, Madam Chair.

20 CHAIR: Yes. Ms Alderson, what I'm asking you to do is to actually give me an understanding, rather than broad reference to areas, to give me an understanding of what it is that you actually want to ask by way of cross-examination.

25 MS ALDERSON: Certainly, Madam Chair. In relation to the first issue, there won't be any references to any documents. It's basically confirmation from this witness if he was aware of whether a risk assessment was conducted. So I don't intend to take the witness to any documents in that regard.

CHAIR: Sorry, just help me understand what you mean by that: risk assessment?

30 MS ALDERSON: Whether there was a risk assessment conducted by the Department in relation to the selection of hotels or the engagement of security in relation to the risks of work health and safety.

CHAIR: A risk assessment on the hotel site?

35 MS ALDERSON: Yes.

CHAIR: Prior to the commencement of contracts with the hotels?

MS ALDERSON: Yes, Madam Chair.

40 CHAIR: All right, so that's the first topic. The second one?

45 MS ALDERSON: The second topic relates to paragraph 116 of the witness' statement, and that's engagement of security firms where contracts were provided. And my question is simply this: whether the only terms that guided the contracts between 28 March and 9 April was an email from [redacted] to Unified Security of 3 April, whether the witness --

CHAIR: That's a name I understand is the subject of a non-publication order, so I ask you to be careful, please, Ms Alderson.

5 MS ALDERSON: My apologies. I understand that the reference to the footnote in the statement is perhaps an incorrect reference to the Wilson email, but the documents are in the same form.

10 CHAIR: Sorry, I'm still not clear about what the question is about the terms of engagement. Are you wanting to ask Mr Phemister, is that the extent of the terms of engagement, with respect to that identified period, that exist in writing for Unified at that time?

15 MS ALDERSON: Yes, Madam Chair, and the final question is in relation to the daily briefings, and that question is whether this witness was aware that people within his Department had concerns about whether the twice-daily briefings were occurring by DHHS, and that's a reference to paragraph 144 of his statement.

CHAIR: Yes.

20 MS ALDERSON: And paragraph 146, Madam Chair, to be more specific.

CHAIR: Yes. Yes, I see. That no doubt alleviates your concerns with respect to that broad range of documents, to that extent, Ms Condon. Is there anything else you wanted to say?

25 MS CONDON QC: Indeed it does. Thank you, Madam Chair.

CHAIR: All right. So I'll let you put those three matters, Ms Alderson.

30 MS ALDERSON: Thank you, Madam Chair.

### **CROSS-EXAMINATION BY MS ALDERSON**

35 MS ALDERSON: Sir, I'm representing Unified Security and, as you've probably just heard, I have three short areas of questions for you. The first is just in relation to, when you were tasked with engaging hotel stock and security firms, did you or were you aware of any risk assessments being conducted in relation to the suitability of the  
40 hotels or the retainment of security firms to perform security tasks in those hotels?

A. I'll start with hotels. We offered up a selection of hotels to the Department of Health and Human Services, who made it clear to us that they would have ultimate decision rights over hotel selection. So I'm unsure as to what processes Health and  
45 Human Services went through.

I can say that, as the person responsible for my staff in each of those hotels, I sent

Departmental safety officers in, to routinely check on the safety of my staff and their wellbeing during the life of operations.

5 Q. Thank you, sir.

A. Secondly, with regards to the security staff in situ, the walk-throughs that kicked off the operations in each and every hotel were conducted by the relevant security company, a member of my team who had performed the check-in, check-out services, Department of Health and Human Services Accommodation Commander and Victoria Police. It was through that combined intelligence that deployment was detailed and the operational protocols were put in place to provide the maximum levels of safety. Again, that was a DHHS-led activity. My Department participated within it.

15 Q. Thank you, sir. If I could just ask you to go to paragraph 116 of your statement.

A. Can I apologise, did you say 116?

20 Q. Yes. Yes, 116. Sir, you confirm here that security contractors were engaged informally and not pursuant to detailed written service contracts?

A. That's correct.

25 Q. And, sir, is it your understanding that the only written terms of engagement to security occurred in an email --- and I don't think I need to take you to this --- dated 3 April 2020?

A. I can't confirm that. I'd have to ....

30 Q. Sir, that's fine. So to the best of your knowledge, engagement occurred on 28 March and written contracts occurred on 9 April? Is that your understanding?

A. Those two dates are in keeping with my understanding, yes.

35 Q. And just finally, at I think it's page 30 of your statement, you were asked about whether security contracts were drafted so as to place responsibility for training and the provision of wearing personal protective equipment on private security guards was appropriate. And you provide your answer there. And at 144, you say it's by no means an abdication by the State of its responsibilities in relation to these matters.

40

Were you aware that there were concerns within your Department about whether daily briefings were occurring to security during the time after 28 March?

45 A. I go on in my statement at point 146 to say that my Department pressed for, and it was agreed that DHHS would conduct, twice-daily briefings with staff. What happened and the concerns of my staff between those dates, I can't comment. I'm not sure.

Q. So you're unsure whether the daily briefings did in fact occur?

5 A. I know that some daily briefings did occur, I didn't do a double-check as to whether they all occurred, but I routinely collected intelligence and received feedback through the process of daily briefing.

MS ALDERSON: Thank you, sir. No further questions for you.

10 MS ELLYARD: Madam Chair, I also have an application from Mr Star on behalf of Victoria Police.

CHAIR: Yes.

15 MR STAR QC: Madam Chair, I have four topics which I seek to do some short clarifications on, because Counsel Assisting has helpfully covered most of the ground. Will it assist if I inform the Chair of those four topics?

CHAIR: Yes, it will. Thank you.

20

MR STAR QC: The first topic is the 12.30 meeting which Mr Phemister had with his three executive directors. There are some notes which he attaches to his statement, and I wanted to ask him a short question about that. But there are other notes in another statement, so I think it will assist the Board to hear his recollection as to an aspect dealing with security there.

25

The second topic is some questions about the message to Chief Commissioner Ashton. The third topic is --

30 CHAIR: Help me understand that, Mr Star.

MR STAR QC: There is evidence in Mr Phemister's statement at paragraph 34 about how he characterises that communication, and there is --- I want to raise some matters briefly with Mr Phemister about how he characterises that communication. There will be just a few questions on that, which is an important matter, from my perspective, to assist the Board.

35

The third topic is to raise, apart from the SCC meeting from Friday, 27 March, given that this witness has said that he's read it all and relied on a particular part, so I just want to bring to his attention another part to get his knowledge on that part.

40

Finally, which won't take long, I do want to ask some questions about the security contracts in terms of the consultation with Victoria Police. I would think that I could cover all of this in approximately 10 minutes.

45

CHAIR: All right. Your time starts now, Mr Star.

MR STAR QC: Thank you, Madam Chair.

**CROSS-EXAMINATION BY MR STAR QC**

5

MR STAR QC: Please correct me --- is it Mr Phemister or Mr Phemister?

A. It's Mr Phemister.

10

Q. Thank you, Mr Phemister. My name is Mr Star and I'm counsel for the Chief Commissioner of Police. Can I take you to the notes which you have attached to your statement. These are the notes taken by Ms Febey of the 12.30 meeting. For the operator, it is DJP.202.002.0001.

15

Mr Phemister, I just want to direct your attention to parts of those notes, in particular at about halfway down the page, you will see the note:

20 *I will responsible for the whole process  
Everything  
Sanitation, food services, health care, security.*

Do you see that there, Mr Phemister?

25 A. I do.

Q. Yes. And then if you go just a little bit further down, there's the reference to you going to call Graham Ashton, the Chief Commissioner of Police?

30 A. Yes.

Q. Actually, you never did call Chief Commissioner Ashton on Friday, 27 March at all, did you?

35 A. I believe I sent him a text message instead of calling him.

Q. It's correct that you never spoke to him directly and had a conversation with Chief Commissioner Ashton?

40 A. Only through text messages. No, I didn't call him.

Q. Can the operator please go to the second page. There's reference, can you see there, to "Premier is announcing at 3 pm"? Can you see this on the screen, Mr Phemister?

45

A. I can.

Q. And that's referring --- you knew at the time of this meeting that there was going to be an announcement by the Premier about the Hotel Quarantine Program?

A. I did.

5

Q. Have you seen the notes of Charles Rankin, Office of the Secretary, of this meeting?

A. Of the 12.35 debrief?

10

Q. Yes.

A. I believe I've seen them. I can't recall them from memory, Mr Star.

15 Q. Yes, to assist you, if the operator could bring up on the screen now, instead of the version there, DJP.201.002.0001. Mr Rankin, just to remind myself, actually, he's another member of DJPR who was in this 12.30 meeting; that's correct?

A. That's correct.

20

Q. And can I direct you to about halfway down that page, the note:

25 *Claire will be responsible for the DJPR process. Hotels to provide sanitation, health, security, catering. Medical support, concierge support. They need to provide a full suite of service.*

Do you see that note?

A. I can see that note.

30

Q. Does that note assist your recollection that the contingency being planned for was for hotels to provide private security?

A. It was a contingency that was being planned for, yes.

35

Q. Is it correct, Mr Phemister, that really the only contingency being planned for at this meeting was a model involving private security in some shape or form?

40 A. The notes also refer to ADF doing logistics in the first and the second paragraph of the meeting, and my references to Graeme Ashton refer to my belief at the time that any security deployment would be under the guidance of Victoria Police, keeping in mind that at this moment, we weren't familiar with the directions that would be used to provide powers for detention.

45 Q. Well, I suggest to you for you to comment, Mr Phemister, that really at this stage there was no consideration given to Victoria Police overseeing private security.



A. I disagree with that statement.

Q. That document can go from the screen. Can I move to the text message that you did send Mr Ashton, and if that could please go on the screen. It is  
5 VPOL.0005.0001.1279. Mr Phemister --- yes, it's enlarged. Thank you,  
Mr Operator. This is the text message that --- I'll withdraw that, the WhatsApp  
message that you sent to Chief Commissioner Ashton at 3.30 pm. That's correct?

10 A. Yes, that's correct.

Q. And this was a message which you sent in a group message. It wasn't a message just for Chief Commissioner Ashton, but it involved other people on the group too.

15 A. There was an established Victorian Secretaries group on WhatsApp, and that's the group I sent this message through to.

Q. Yes, and you start the message to Graham saying:

20 *.... we're running the inbound passenger isolation system with Transport ....*

And I direct your attention to the words "(just announced by the Premier)". It's correct that you were watching the Premier's announcement at this time, weren't you?

25 A. I cannot recall watching the announcement, Mr Star, but it's fair to say it would have been on in the background.

Q. And you've sent this message to the Chief Commissioner at this time because the Premier has, moments beforehand, referred to police, private security and health workers working together?  
30

A. No.

Q. Is it coincidental in your view that this text is sent minutes after the Premier has referred to police, private security and health representatives working together at the hotels?  
35

A. I don't believe so, given that I'd referenced the fact that I'd make contact with Graham at the 12.45 debrief with Claire and Charles earlier that day. This was me executing my commitment to make contact with Graham, which was pre-determined  
40 three hours before this message was sent.

Q. By this message, all you were doing was trying to get one of Chief Commissioner Ashton's people to liaise with one of your people, namely Ms Febey; that's correct, isn't it?  
45

A. No, that's not correct. That's not all I was doing in this message.

Q. Well, so I'm direct about it, Mr Phemister, what you were not doing by this message is that you weren't contacting the Chief Commissioner of Police to lead the security operation?

5 A. Not through this group WhatsApp message, no.

Q. Indeed, the message makes clear that you and DJPR are running the system just announced by the Premier?

10 A. At 3.30 on the 27th, that was my state of mind, yes.

Q. And I understand you were busy, but you'd had a number of hours to contact or telephone the Chief Commissioner of Police, but you didn't do that, did you?

15 A. I might need a moment to confirm that, because I was in text contact outside of WhatsApp with Mr Ashton. If the Board would like, I can double-check the sequence, because off the top of my head, I can't guarantee the sequence between my text messages and this WhatsApp group. I apologise, Mr Star.

20 CHAIR: I think Mr Star has actually asked you, Mr Phemister, if I've understood the question correctly, about telephone calls rather than text messages. Is that what you're asking, Mr Star?

MR STAR QC: It is.

25

CHAIR: Yes. And I've understood you already, Mr Phemister, to say that your communications with Mr Ashton were via text message and there weren't any calls. Is that correct?

30 A. I apologise, Madam Chair. That is correct. I did not --- the text messages and the WhatsApp group.

CHAIR: Yes. Thank you.

35 MR STAR QC: Well, if I could ask you to look at paragraph 34 of your statement. You say that you messaged Mr Ashton on the understanding that Victoria Police would lead the operation. That's what you say there.

40 A. One moment, Mr Star. I just apologise. I'll get across point 34.

Q. Mr Phemister?

45 A. I apologise. I'm just trying to reconcile that statement with this WhatsApp message and can't be sure that this point isn't with regards to a text exchange with Mr Ashton rather than the statement, but that was my frame of mind, yes. I was of the view --- I apologise.

Q. Do I understand you to be saying that when the Board reads paragraph 34, you don't have in mind this WhatsApp message to the Chief Commissioner of Police?

5 A. This WhatsApp message does not convey that, no.

Q. That's right. And there were no other communications at all, Mr Phemister, to the police from you about leading an operation, were there?

10 A. Through the --- my conversations with Graham that day, and apologies for not being precise with the time in my text messages, were at Victorian Secretaries Board, and then the SCC meeting took place at 4.30.

Q. Mr Phemister, there were no communications by you before 3.30 pm that day about Victoria Police leading the security operation, were there?

15 A. I can't confirm that's the case, Mr Star.

Q. And the reason why there weren't any such communications, or none that you can recall, is because DJPR was leading the operation, including the plans for private security?

20 MS CONDON QC: Well, Madam Chair, I object to that question because it contains a number of prepositions, and it also contains an acceptance of a matter that Mr Phemister has actually said he simply doesn't have any recollection of. That  
25 puttage just doesn't follow from Mr Phemister's answer where he says he has no recollection.

CHAIR: Mr Star?

30 MR STAR QC: Well, is Madam Chair accepting the objection? I thought the question was fine, but if the Chair would insist that I do it differently, I will.

CHAIR: I think the concern is that there was more than one proposition in there, Mr Star, which means it's difficult to then understand the answer.

35 MR STAR QC: Thank you, Madam Chair.

Mr Phemister, you didn't speak in a telephone call with Chief Commissioner Ashton at all, did you?

40 A. Not on the 27th, Mr Star, no.

Q. No, no. And you didn't seek to speak to him directly because it wasn't your understanding that Victoria Police would be leading the security operation?

45 A. I disagree with that statement.

Q. And I'm putting for you to comment to the Board that your only communications with Chief Commissioner Ashton were about obtaining a point person to get some information to assist you and DJPR lead and progress the security operation.

5 A. I don't accept that that's my only communication with Mr Ashton that day. At a minimum, we both participated in the Victorian Secretaries Board meeting. All I can say is this WhatsApp message on the screen right now, I agree with you, does not convey that message.

10 Q. And there are no other messages attached to your statement that convey the impression that you believe that Victoria Police was going to lead the security operation on that day?

A. Not attached to my statement, no.

15

Q. And I'm putting to you, Mr Phemister, that's because there are no such other communications from you to the Chief Commissioner of Police suggesting that Victoria Police would take the lead on the security operation.

20 MS CONDON QC: Madam Chair, I object to this.

CHAIR: Yes. Yes.

25 MS CONDON QC: Mr Phemister has been asked many times, and it's been answered, so I object.

MR STAR QC: I'll move on, Madam Chair.

30 Can I turn to the 4.30 meeting of the SCC that occurred on that day. Now, I understand, Mr Phemister, you were not present, but you've given evidence to the Board that you have listened to the entire recording. That's correct?

A. I've listened to it once through, yes.

35 Q. Yes. Can I --- and indeed, in your statement, you refer to a part of that recording, don't you, in I think, paragraph 68.

A. Yes.

40 Q. Can I ask the operator to bring up on the screen the transcript of the SCC meeting. I believe it is HQI.0001.0004.0056, Mr Operator. And if I could ask the operator to please move to what is numbered page 12 in that document. The numbering should be HQI.0001.0004.0067. Mr Phemister, can I direct your attention to starting just before line 10, when Ms Febey asks, "Is anyone from Victoria Police on the call?"  
45 Are you able to read this as well?

A. I can, Mr Star, yes.

Q. Thank you. And then you will see Mr Grainger, who we all know to be Assistant Commissioner Grainger, answers, and at line 20 he refers to:

5           *.... then in terms of security, there would be private security, and then the police would have a role perhaps around that as well, but we'd have to work through what that looks like.*

A. Yes.

10

Q. By this meeting, this is, of course, post the Premier's press conference; that's correct?

A. Yes.

15

Q. And as you know, the Premier referred to police and private security and health workers working together; that's correct?

A. I believe that to be the case, yes.

20

Q. And you see Ms Febey at about line 29 notes or says:

25           *I'd be really keen to work this through with you because, as you say, there are different steps in security and some of it should be, for example, increasing the provision of private security at hotels. Some of it will be around security either at the point of arrival or during transport.*

Can I ask you to look at line 35:

30           *And then we'd like to understand from you where you see VicPol's role being predominantly, which I would have thought was around where things are not going as they should and you need to be called in to assist with enforcement.*

35           Mr Phemister, I'm asking you and I'm suggesting to you that at this point in time, being in the afternoon of 27 March 2020, it was your view and the position of DJPR which you lead that really there would be, firstly, private security in hotels and, secondly, police would assist with enforcement when things are not going well?

A. I believe that was a view of my Department, Mr Star.

40

Q. And this was the view of the Department, even before the later --- this was the view --- I'll withdraw that. This was the proposed model of DJPR at all times?

45           A. No, I don't believe we ever put a proposed model to the SCC on any matters. I can read Ms Febey's comments there and Claire's contributing a thought to an hour-long meeting where many thoughts were contributed across a range of domains. For example, we offered thoughts around transport but were interrupted by

the transport experts to give us their particular view on what the optimum model would be, and that carried the discussion. So I believe it was an exploratory conversation at that point where Ms Febey is expressing a view.

5 Q. Well, I'm suggesting to you, and for you to accept or reject, that really the only contingency that was being proposed was a model where private security would be present and police would assist when there's a problem.

A. I just, I don't agree with that statement, Mr Star.

10

Q. If I could --- my last topic is this, Mr Phemister. I just want to ask you this about the security contracts. There is, in the schedule to the security contracts, isn't there, that private security should call 000 for incidents that cannot be de-escalated. You're familiar with that generally in the schedule?

15

A. Yes.

Q. Apart from that reference in the schedule, there's nothing in the actual contracts at all about a coordinating role for Victoria Police, is there?

20

A. I'm not intimately familiar with the contracts, Mr Star.

Q. Well, to your knowledge, and say if you don't have knowledge --- to your knowledge there is nothing ---

25

CHAIR: He's just said that he doesn't, Mr Star.

MR STAR QC: Mr Phemister, there was no consultation with DJPR --- with Victoria Police about the terms and conditions of the contracts, was there?

30

A. Not to my knowledge, no.

Q. And to your knowledge there was no consultation with Victoria Police about the terms of subcontracts which may have been entered into?

35

A. Mr Star, I'm sorry, I'm not equipped to have a detailed conversation about who was consulted over the 27th, 28th, and then through to the terms of the contracts. I apologise. I don't know the answer to that question.

40 Q. So I take it from that that you've got no knowledge whether or not Victoria Police were consulted on the contracts?

A. I know that Victoria Police --

45 CHAIR: Go on, Mr Phemister.

A. Sorry, Madam Chair. I don't believe I was going to add any value. I don't believe

--- I don't know, Mr Star. It's not to my knowledge.

MR STAR QC: If the Board pleases, they are my questions.

5 CHAIR: Thank you.

MS ELLYARD: Madam Chair, I'm aware of two more applications that I'm told are both very brief. May I call firstly on Dr Hanscombe, and after that on Mr Craig.

10 CHAIR: Dr Hanscombe?

DR HANSCOMBE QC: If the Board please. I seek leave to ask Mr Phemister questions on only one topic, and that is the role of Mr Crisp as the coordinator in the State Control Centre, and to put to him the same proposition I put to Ms Febey as to his understanding of Mr Crisp's role in the decision to use private security. I think I'll be less than five minutes.

CHAIR: All right. Are you able to bear with us, Mr Phemister? We normally take the lunch break now, but I'm assuming you'd prefer to finish and be excused rather than come back after lunch?

A. Yes, Madam Chair.

CHAIR: All right. Dr Hanscombe.

DR HANSCOMBE QC: Thank you, Madam Chair.

**CROSS-EXAMINATION BY DR HANSCOMBE QC**

30

DR HANSCOMBE QC: Mr Phemister, my name is Kristine Hanscombe. I appear for the Department of Justice and Community Safety. You've said in answer to Counsel Assisting that you deferred to the people in the SCC with particular expertise. Do you remember saying that?

A. I do.

Q. And the person in the SCC with particular expertise in relation to security issues were the representatives of Victoria Police. Do you remember saying that?

A. I remember saying that there were multiple people in the meeting, including the ADF, the SCC, and primarily Victoria Police.

45 Q. Yes. I accept that. You said that about the ADF as well. Would you agree with me that the role of Commissioner Crisp is actually the coordination of those various arms of expertise?

A. I would.

5 Q. Ms Febey agreed with me that she made no suggestion that Mr Crisp was the person who made the decision to engage private security. You'd agree with that too, wouldn't you?

10 A. Ms Hanscombe, at the time I wasn't a party to the conversation. I can only comment on --- like any other person listening to the recordings.

Q. I accept that. And you accept that the recordings do not show Commissioner Crisp making any such decision?

15 CHAIR: That's a matter for me, Dr Hanscombe, rather than this witness.

DR HANSCOMBE QC: If the Board please.

20 Do you accept the proposition I put to you, irrespective of recordings in the meeting, that you have no basis for suggesting Commissioner Crisp was the person who decided that private security would be used?

A. During my debrief, I didn't pause to ask who made the decision or who directed us to engage private security, Ms Hanscombe.

25 Q. I'm asking you now, as you give your evidence, you have no basis for thinking that he made that decision?

A. During my --

30 MS CONDON QC: Well, Madam Chair, I object to this. If this is based upon the SCC recording, this witness is in no better position than anyone else, having listened to what transpired.

35 CHAIR: No, I think Dr Hanscombe has gone beyond that and is asking whether or not there's any other basis whatsoever, rather than just the transcript of the recording. Am I correct, Dr Hanscombe?

40 DR HANSCOMBE QC: Yes, you are, Madam Chair. Thank you. Do you understand the question, Mr Phemister?

A. Yes, and I owe you and Madam Chair an apology. I did not take that question in the right way. No, I have no other reason to attribute that decision to Commissioner Crisp.

45 DR HANSCOMBE QC: If the Board please. Those are my questions.

CHAIR: Thank you.



MS ELLYARD: Mr Craig has, I'm told, a very short point to raise, Madam Chair.

5 MR CRAIG SC: Yes, Madam Chair. I seek leave to examine very briefly on the  
email exchange between Mr Kamenev and Ms Currie which was the subject of  
examination this morning, and you will recall I was granted leave to examine  
Ms Currie on that exchange, and so it's necessary to again revisit it briefly in light of  
the evidence given by Mr Phemister. And again, very briefly in relation to  
10 paragraph 146, Mr Phemister gave an answer to my learned friend counsel for  
Unified in relation to that paragraph which I'd like to ask a supplementary question in  
relation to.

MS CONDON QC: Madam Chair --

15 CHAIR: Just a moment. Just with respect to what you've --- the first part of what  
you've identified, Mr Craig, you will have to be clearer with me about how  
Mr Phemister can assist any further, given he's not a party to the exchange. If you're  
going to be asking him to comment on the contents of some email, that's not going to  
assist me.

20 MR CRAIG SC: Well, in my respectful submission, Madam Chair, Mr Phemister's  
evidence as I heard it seemed to suggest a state of knowledge as at 30 March in  
relation to these matters. Now, if his evidence is that he has no personal knowledge  
of the matters the subject of the email, then I can be very brief. But I don't think his  
25 evidence was as clear as that.

CHAIR: So you're being a bit too obscure for me too, Mr Craig, at the moment.

30 MR CRAIG SC: Thank you, Madam Chair. My question for Mr Phemister is this.  
In that email, Mr Kamenev refers to the ability to be blunt; that is, Wilson's being  
unhelpful or proving difficult to work with.

CHAIR: Yes.

35 MR CRAIG SC: As you heard, Ms Currie said candidly as at that date --- at  
transcript 468 --- she did not consider that to be a truthful statement.

CHAIR: Yes.

40 MR CRAIG SC: My question for Mr Phemister is that he is not aware, personally,  
as to any reason why that is a truthful statement. Having been taken to the  
document, he sought to give an answer which did not illuminate or clarify his state of  
mind or knowledge in relation to that document. And so in my respectful  
submission, I should be granted leave to ask that very narrow question.

45 CHAIR: I'll grant you that leave for that very narrow question, Mr Craig.

MR CRAIG SC: Thank you, Madam Chair. And in respect of paragraph 146, Madam Chair, might I follow up with a question on that matter?

CHAIR: Again, just let me understand exactly what your concern is.

5

MR CRAIG SC: Yes. At paragraph 146, Mr Phemister suggests that it was agreed that DHHS would conduct twice-daily briefings with staff. That's in the final sentence.

10 CHAIR: Yes.

MR CRAIG SC: His evidence appeared to go slightly further than that. The paragraph at this point of course does not depose to the fact of those briefings actually occurring. It seemed in his evidence in response to questions from counsel for Unified that he suggested he had some knowledge of the briefings actually occurring. Now, my instructions are that they did not occur in respect of Wilson hotels, and I want to put to him whether he has any personal knowledge of those briefings actually occurring at Wilson hotels.

20 CHAIR: Were you going to say something, Ms Ellyard? No. All right. Those two discrete matters, I'll grant you leave to put, that you've identified, Mr Craig.

MR CRAIG SC: Thank you, Madam Chair.

25

#### **CROSS-EXAMINATION BY MR CRAIG SC**

MR CRAIG SC: Could the witness please be shown document DJP.125.002.8162. And could we scroll down the page to the bottom of page 1. Mr Phemister, can you read to yourself the bottom paragraph there.

30

A. I can.

35 Q. Now, Ms Currie gave evidence that as at 30 March 2020, she did not consider that paragraph to be a truthful statement; that is, she did not consider it to be truthful that Wilson had proven very difficult to work with and had been unhelpful. Do you have any personal knowledge as at 30 March 2020 of Wilson being difficult to work with and being unhelpful, as at that date?

40

A. I can't guarantee that on 30 March, I had personal knowledge. I remember conversations with Ms Serbest, who was more appropriate to ask the question to, having spoken to Mr Kamenev to convey the sentiment. I can't guarantee that took place before 3.42 pm on 30 March.

45

Q. Thank you. Can I ask you to now look at paragraph 146 of your statement. You refer there to [indistinct] do you see that in the final line or second-last line?

A. I apologise, I missed a part of the question. I think there was an audio issue.

5 Q. My apologies. You will see in the penultimate line at paragraph 146 there's a reference to DHHS conducting twice-daily briefing?

A. Yes.

10 Q. Do you have personal knowledge of those briefings actually occurring?

A. I don't have personal knowledge that each and every hotel received twice-daily briefings. I'm not in possession of a log. What I mentioned earlier was the fact that I'd received feedback from briefings that had occurred.

15 Q. And do you have any personal knowledge of those briefings occurring at the hotels at which Wilson was operational?

20 A. I'm sorry, I can't confirm which hotels and which security companies were in the hotels from which I received the debriefing, no.

Q. Okay. So you're in no position to disagree with the proposition that Wilson did not receive or participate in daily briefings of the type described in paragraph 146 of your statement?

25 MS CONDON QC: I object to that, Madam Chair. That simply doesn't follow from Mr Phemister's previous answer.

MR CRAIG SC: It follows directly from the answer.

30 CHAIR: Yes, I'll allow Mr Phemister to answer that.

A. And I apologise, Madam Chair. Can I have the question repeated? I've lost track.

35 CHAIR: Yes.

MR CRAIG SC: Mr Phemister, you're not in a position to assist the Inquiry with whether or not Wilson received briefings from DHHS as suggested in paragraph 146 of your statement?

40 A. No, I'm not in a position to assist.

MR CRAIG SC: Yes. Thank you. Madam Chair, no further questions.

45 CHAIR: Thanks, Mr Craig. Nothing further, Ms Ellyard?

MS ELLYARD: Madam Chair, nothing further, and I understand Ms Condon doesn't seek to raise any matters with Mr Phemister. And I see Ms Harris and I'm

remiss in not recalling there was a matter she thought she might wish to raise.

5 MS HARRIS QC: Not at all, Madam Chair. It's certainly nothing at all to do with  
Mr Phemister. It relates to this afternoon's cross-examination and an attempt to make  
it as efficient as possible. In the course of the evidence this morning, while the  
hearing was on, I got notification in an email from Unified Security's instructing  
solicitors of 21 documents by document number only that they may wish to put to  
Ms Peake. It would be of enormous assistance if it could be clarified whether each  
and every one of those documents was intended to be put to her. I've asked for that  
10 by email. If it could be clarified now, that would be very useful.

CHAIR: All right. Let me just excuse Mr Phemister whilst that's happening.  
Mr Phemister, thank you for your attendance at the Board, and you are now excused.  
You can turn off your camera and your microphone. Thank you.

15 A. Madam Chair, thank you.

20 **THE WITNESS WITHDREW**

CHAIR: Yes, Ms Alderson.

25 MS ALDERSON: Thank you, Madam Chair. That was provided out of  
an abundance of caution to my learned friend, and they are all but one documents  
that are attached to the statement. To short-circuit this, we will reply to my learned  
friend over lunch if that assists.

30 CHAIR: All right. Thank you. And I'm sure Ms Harris would be grateful if you  
could be specific about what is exactly the areas that you wish to go to.

MS ALDERSON: Thank you, Madam Chair.

35 CHAIR: Thank you. Now, Ms Ellyard, given the time, we will take the lunch break  
until 2.15, and I understand it's Mr Ihle who will be taking over from you after the  
lunch break.

MS ELLYARD: That's so, Madam Chair. Thank you.

40 CHAIR: All right, thank you. I will excuse you and otherwise adjourn now until  
2.15.

45 **ADJOURNED** [1.21 PM]

**RESUMED** [2.15 PM]

CHAIR: Yes, Mr Ihle.

5 MR IHLE: Good afternoon, Madam Chair. There are two brief matters prior to  
calling on Ms Peake, who is going to be the witness this afternoon. The first is,  
I understand, that the live feed from this morning had an interruption to it and when  
Ms Ellyard was outlining the timetabling for the balance of the week, that was not  
10 broadcast. So for the sake of clarity, I'll reiterate what the present plans are so that  
there can be no confusion around that.

The plan at the moment is to call Ministers Pakula and Neville tomorrow, that is  
Wednesday; Minister Mikakos on Thursday; and the Premier on Friday afternoon  
15 commencing at 2.15 pm. Of course, the witness this afternoon is Ms Peake, the  
Secretary of the Department of Health and Human Services.

The second matter, as I understand it, is a matter that Mr Moses seeks to raise with  
you, Madam Chair, and it relates to the discussion immediately prior to the lunch  
20 break when counsel on behalf of Unified indicated a list of documents that had been  
provided out of an abundance of caution and indicated all but one of the documents  
are attached to Ms Peake's statement. I understand that's not the case. Ms Harris  
asked if there could be some specificity about what is exactly the areas that are going  
to be gone to, and I understand Mr Moses wants to address you in respect of that,  
25 because that has not occurred. So I'll invite Mr Moses to address you briefly,  
Madam Chair.

CHAIR: All right. Just before we leave the topic with respect to the change of  
timetable, Mr Ihle, I just wanted to make the observation, as Ms Ellyard did this  
30 morning, that it was at the request of the Board that those changes were made, and  
Ms Ellyard on my behalf expressed our thanks to the Ministers for rearranging their  
schedules at short notice from the Board.

MR IHLE: Indeed.

35 CHAIR: So it was announced this morning, and unfortunately, apparently, the live  
transmission was interrupted at exactly that time. So thank you clarifying.

MR IHLE: Yes, and it was remiss of me not to reiterate that part of Ms Ellyard's  
40 explanation this morning as well. So, yes, we are very grateful to the Ministers for  
accommodating us.

CHAIR: Thank you. Yes, Mr Moses.

MR MOSES SC: Madam Chair, just an issue arose prior to the luncheon  
45 adjournment where my learned friend Ms Harris, for the Department of Health and  
Human Services, raised a query as to whether the numbered documents that had been  
notified as potentially being documents that Ms Peake would be taken to, as to which

documents would actually the witness be taken to. And I think during the exchange, what occurred was that my learned friend Ms Alderson said that all of the documents bar one were attached to the statement of Ms Peake. The reference was meant to be all but one of the documents are in the online hearing book. We've identified what  
5 those documents are and where they are.

We're unable at this stage, until we hear the evidence of Ms Peake, to make a final determination as to what of those 21 documents we may take the witness to. We've done our best. We note that after 10 o'clock last night we received a further  
10 statement of Ms Peake with hundreds of pages of documents. We're all trying to do our best in respect of the matter. But I'm not in a position as counsel with carriage of the cross-examination of that witness to further refine that material and I'm not going to be forced to. So that's the position. Ms Harris may or may not like it. But we've done the best we can. Everybody is trying to do their best in this Inquiry, given the  
15 rolling nature of it and materials being provided late at night.

So that's the position. If Ms Harris wants to be critical of anybody, she can come to me and be critical of me, but that's the position. Thank you.

20 MS HARRIS QC: Madam Chair, I certainly don't want to distract matters by being critical of anyone. I don't understand, to the very limited extent it's been possible to look at these documents which have been provided by number only, I don't understand them to relate to the more recently provided statement of Ms Peake, which of course was provided pursuant to a request from the Board more recently  
25 because of issues that have arisen, understandably.

CHAIR: Yes.

30 MS HARRIS QC: And it may ultimately be relevant to the scope of the leave that is granted to cross-examine, but I don't wish to deter the Board from continuing now with the limited time we have remaining.

CHAIR: Yes. We could hypothesise for some time about the issues, but it seems to me that that is not going to be particularly helpful. I must say though, Mr Moses, and I'm sure you're aware of this, it does cause considerable work, of course, to those  
35 working at the back of house in the Inquiry when numbers of documents are being referred to and have to be identified.

I did understand from your junior just before the luncheon adjournment that what I had understood were going to be some hoped-for productive discussions with respect to clarifying exactly what documents were to be identified was going to happen over the luncheon adjournment, but I take it from you that that hasn't happened?

45 MR MOSES SC: Madam Chair, the position is these are documents that at this stage we may take the witness to. I'm not going to have a discussion with counsel for the Department of Health and Human Services about what documents I'm taking the

witness to. Those are the documents that I as counsel may take the witness to. This is an Inquiry to get to the bottom of what occurred here. I'm not going to have a negotiation with counsel for the Department of Health and Human Services about the matter.

5

CHAIR: No, I understand that, Mr Moses. You're going to have that discussion with me when it comes to it.

MR MOSES SC: And I will enjoy that, Madam Chair. Thank you.

10

CHAIR: Thank you.

We're otherwise ready to proceed, Mr Ihle?

15

MR IHLE: I understand that we are, Madam Chair, and I call Ms Kym Peake.

CHAIR: Ms Peake, you're on mute at the moment. Thank you. Are you able to hear and see me?

20

KYM PEAKE: I am. I can. Thank you.

CHAIR: Thank you. I understand you wish to take the affirmation for the purposes of giving your evidence today?

25

KYM PEAKE: Yes, please.

CHAIR: All right. So I'll have my Associate administer the affirmation to you. Thank you, Madam Associate.

30

**MS KYM LEE-ANNE PEAKE, AFFIRMED**

CHAIR: Thank you, Ms Peake. I'll hand you over to Mr Ihle now. Thanks, Mr Ihle.

35

MR IHLE: Thank you, Madam Chair.

**EXAMINATION BY MR IHLE**

40

MR IHLE: Good afternoon, Ms Peake. Can you see and hear me?

A. I can, thank you.

45

Q. Excellent, thank you. Your full name is Kym Lee-Anne Peake; is that right?

A. It is, yes.

Q. And you are the Secretary of Department of Health and Human Services?

5 A. I am.

Q. And that's a position that you've held since November of 2015?

A. That's correct.

10

Q. Thank you. And you've provided two statements to this Inquiry; is that right?

A. It is.

15 Q. The first statement is dated 14 August 2020?

A. Correct.

Q. That comprises some 63 pages, 339 paragraphs?

20

A. Yes.

Q. And are the contents of that statement true and accurate?

25 A. They are, noting that there's a couple of date corrections and footnote corrections that are contained in my second statement.

Q. Yes. So when those corrections are read from your second statement with those two corrections or three corrections plus those footnote references, the contents are both truthful and accurate?

30

A. They are.

Q. Yes, thank you.

35

I tender the statement of Ms Peake dated 14 August, Madam Chair.

CHAIR: Exhibit 186.

40

**EXHIBIT #186 - STATEMENT OF KYM LEE-ANNE PEAKE**

MR IHLE: Thank you. Ms Peake, in that statement, you make reference to a number of documents, including by way of document identification number?

45

A. I do.



Q. And are they documents that you have had some regard to when compiling your statement?

5 A. I have. Thank you.

Q. And when reading the contents of your statement, those documents provide context and more information?

10 A. They do.

Q. Yes. I tender as a bundle the documents referred to in the statement of Ms Peake, Madam Chair.

15 CHAIR: Exhibit 187.

**EXHIBIT #187 - ANNEXURES TO STATEMENT OF KYM LEE-ANNE  
PEAKE**

20

MR IHLE: As the Board pleases.

25 Ms Peake, there's a second statement that we've referred to earlier, a statement dated yesterday's date, that is, 21 September?

A. Yes.

30 Q. And that's a statement that's been provided which does two things. It answers a number of questions posed to you by the Inquiry?

A. That's correct.

35 Q. And, secondly, at paragraph 6, it identifies those corrections that you referred to moments ago in respect of your first statement?

A. That's correct.

40 Q. So the contents of that statement are truthful and accurate?

A. They are.

Q. Yes.

45 I tender the statement of Ms Peake dated 21 September, Madam Chair.

CHAIR: Exhibit 188.

**EXHIBIT #188 - SECOND STATEMENT OF KYM LEE-ANNE PEAKE**

5

MR IHLE: And, Ms Peake, attached to that statement are two annexures, marked annexure A and annexure B respectively. Annexure A contains a list of public statements relating to quarantine requirements for incoming travellers and annexure B is a selection of Commonwealth public statements relating to quarantine requirements for incoming travellers.

10

A. That's correct.

15

Q. And the contents of those annexures, as far as you're aware, are both truthful and accurate?

A. As far as I'm aware, yes.

20

Q. Yes, thank you.

I tender as a bundle annexures A and B to the supplementary statement of Ms Peake dated 21 September, Madam Chair.

25

CHAIR: Exhibit 189.

**EXHIBIT #189 - ANNEXURES A AND B TO SECOND STATEMENT OF KYM LEE-ANNE PEAKE**

30

MR IHLE: And as with your first statement, Ms Peake, there are a number of documents referred to in that second statement?

35

A. That's right.

Q. And you make reference to those documents by their document ID number?

A. That's correct.

40

Q. And again, they're documents to which you've had regard in the compilation of your statement and which contextualise and add further detail to the answers you've provided to the questions posed?

45

A. That's correct.

Q. Madam Chair, I tender as a bundle the documents referred to in Ms Peake's supplementary statement.

CHAIR: Exhibit 190.

MR IHLE: As the Board pleases.

5

**EXHIBIT #190 - ANNEXURES TO SECOND STATEMENT OF KYM LEE-ANNE PEAKE**

10

MR IHLE: Finally, Ms Peake, in relation to all of these documents and all of this tendering, a letter was sent to your Department in July of this year seeking an initial response to a number of questions posed. Do you know what I'm referring to there?

15 A. I do.

Q. And the initial response of your Department was dated 17 July 2020.

A. Correct.

20

Q. Yes. The contents of that initial response are truthful and accurate?

A. They are.

25 Q. Yes. I tender the initial response of the Department of Health and Human Services dated 17 July, Madam Chair.

CHAIR: Exhibit 191.

30 MR IHLE: As the Board pleases.

**EXHIBIT #191 - INITIAL RESPONSE OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES DATED 17 JULY 2020**

35

MR IHLE: Ms Peake, one of the questions you were asked by the Board which you answered in your first statement was in respect of planning for pandemic influenza that the State of Victoria had in place prior to February and March of this year.

40

A. Yes.

Q. Is that so? At paragraph 24, you identify that there was a Victorian Health Management Plan for Pandemic Influenza?

45

A. Yes, that's correct.

Q. That that was originally written in 2007, but updated in 2014 in the wake of H1N1, otherwise known as the swine flu pandemic?

A. That's correct.

5

Q. Now, the updates that fell to be made to that pandemic influenza plan, they are updates that fell within the purview of the Public Health Team at the Department of Health and Human Services?

10 A. For the original updates?

Q. The updates between --- well, the updates in 2014. They were updated by the work of the Public Health Team?

15 A. I wasn't in the Department at that point in time, but that --- so I can't confirm that for you. I apologise.

Q. You're aware, though, that there were those updates. Are you saying that you don't know who was responsible for the updates?

20

A. I'm not sure if it was solely the Public Health Team or if it also had input from other parts of the Department. I would suspect that the Health Services part of the Department would also have had input to the updates, but Public Health, I would expect, would have been involved.

25

Q. Yes. Nevertheless, the entirety of those updates you've just referred to there would have fallen under the purview of the Department of Health and Human Services?

30 A. Correct.

Q. Yes. Are you aware, or you would be aware, given the health portfolio of the Department, that there was also --- again, it was before your time in the Department, but in 2011 there was an Australian Government Department of Health and Ageing review of the Australian health sector's response to that same pandemic which triggered the updates that occurred to the Victorian plan in 2014?

35

A. I'm aware from evidence that's been led in this hearing that that was the case.

40 Q. Is that not a document with which you had any familiarity prior to this hearing?

A. It's not. I was aware of an updated pandemic response that was developed by the Commonwealth Government this year, not of the prior document at a Commonwealth level.

45

Q. When you say you're aware of the evidence that's arisen in the context of this hearing, is that largely directed to the questions I asked Professor Sutton in respect of

this document?

A. That's correct.

5 Q. And did you observe the evidence of Professor Sutton on this point?

A. On this point, I did, yes.

10 Q. Yes. So you will recall --- and we can bring the document up if it's necessary or  
of assistance --- but you will recall that that Commonwealth Department of Health  
review, which was informed in part by State Departments of Health as well, I think  
Professor Sutton agreed, identified at page 40 that as at the time of the H1N1  
pandemic --- that is, 2009 --- that policy and operational plans for managing people  
15 in quarantine had not been finalised both at State and national levels. Do you recall  
that evidence?

A. I do.

20 Q. Do you recall the evidence that emerges from that report that the roles and  
responsibilities of all governments for the management of people in quarantine, both  
at home and in other accommodation, should be clarified?

25 A. I recall the evidence. I've not been part of any discussions in my time on that  
point.

30 Q. Do you recall the evidence of Professor Sutton when taken to this document about  
the identification of a set of nationally consistent principles which could form the  
basis of jurisdictions to develop operating guidelines, including plans for  
accommodating potentially infected people in future pandemics and better systems to  
support people in quarantine? Do you recall those questions?

A. I actually don't think I was listening at that point. That level of detail, I don't  
recall.

35 Q. Well, do you recall ultimately that the discussion in that report resulted in  
a recommendation that the policies in respect of quarantine and isolation, including  
management support systems and communication, be reviewed?

40 A. I recall you --- sorry, no, I don't recall the response that Professor Sutton gave to  
you to that question.

Q. Do you recall being taken to --- do you recall Professor Sutton being taken to that  
recommendation in that report?

45 A. I apologise, I don't.

Q. Okay. Do you recall Professor Sutton saying that, as far as he was aware, no such

review had been undertaken?

5 A. I don't think that I was listening at that point. But that would accord, certainly in my period of being Secretary, with my experience, that I haven't been a part of any discussions or paperwork that would comprise a review of that nature.

10 Q. So just coming back to this document that was published in 2011 in the wake of the H1N1 pandemic, just so we can be clear, do I understand that, prior to this Inquiry, you weren't aware of the existence of that document?

A. It wasn't a document that I was aware of, that's correct.

15 Q. So insofar as there are any recommendations that fell out of that document, they're not recommendations that were on your radar, so to speak?

A. No, they weren't.

20 Q. You do talk about, in your statement, about other feedback and recommendations in respect of Health Department operations, including specifically Operation Alchemy; is that right? You deal with that at paragraph 42.3, page 10 of your statement.

A. Yes.

25 Q. And you identify that the feedback in relation to Operation Alchemy specifically was that "the role and function of any team or structure needs to be clearly defined and practical in terms of implementation and the need for control agency clarity".

A. Yes.

30 Q. So that's an operation that is designed, at least in part, to see how are our systems operating in a moot type scenario?

A. That's correct.

35 Q. And it identifies those opportunities for improvement that can be implemented prior to having to deal with the real thing?

40 A. That's correct. And I think in my statement, I provide other evidence about exercises that then were conducted the following year with the health system to give some effect to that recommendation.

45 Q. So one of the recommendations that you've identified at paragraph 42.3 is the need for there to be clearly defined and practical structure.

A. That's correct, yes.

Q. And a need for clarity in respect of the control agency.

A. That's right, and obviously in the context of an emergency when and if it occurs.

5 Q. Yes. Now, you would agree, just from the limited watching of Professor Sutton's evidence that you did engage in, in respect of that H1N1 document that fell from the Commonwealth Government Department of Health, that there's a certain synergy between the lessons that fell out of Operation Alchemy about the need for clear lines of communication and control?

10

A. I apologise, Mr Ihle. Synergy between those recommendations and?

Q. And the ones that fell from Operation Alchemy.

15 A. Sorry, the recommendations from Operation Alchemy compared with what?

Q. Compared with the Commonwealth Government document from 2011 in respect of the H1N1 pandemic.

20 MS HARRIS QC: If I can just --- the questions have arisen in the context of watching Professor Sutton's evidence. I'm not sure that the witness expressed a great familiarity with that document itself. So perhaps the proposition from Professor Sutton's evidence might need to be made clear in the question.

25 CHAIR: I think it's --- well, Mr Ihle can speak for himself, but I understood the questions to come from Ms Peake's statement. Is that right, Mr Ihle?

MR IHLE: What I was putting to Ms Peake is that there are themes that emerged from Operation Alchemy that are similar to the themes that have emerged from that document produced by the Commonwealth Department of Health in 2011 around the need for clear leadership, clear structures.

30

CHAIR: Yes.

35 A. I'm not deeply --- or I'm not familiar with the 2011 Commonwealth document, but certainly the recommendations from the exercise in 2018 pointed to the importance of there being clear control structures and a clear definition of the response required to a health emergency, I agree with that proposition.

40 MR IHLE: And, Ms Peake, at paragraph 42.3 of your statement, you say that "class 2 emergencies have unique challenges especially when a department rather than an emergency service organisation, is leading". Can you explain what you mean by that to us?

45 A. Yes. I think that there's been a lot of evidence that has been led by Ms Spiteri and Ms Skilbeck and Mr Helps that there is much less familiarity across Government in the dimensions of a health emergency, the contributions that different parts of

Government will play, and the systems and processes that will be put in place, compared to the practice that has grown up over a long time in responding to other types of emergency that are more common. And my reflections in my statement were that while there has been work done in upgrading the SHERP and in having exercises across Government, that there is more that can and should be done to ensure that for health emergencies, the emergency management approaches, how they intersect with the *Public Health and Wellbeing Act* and the way in which inter-agency cooperation occurs, that that is an area we need to do more work in.

5  
10 Q. I agree --- I understand that you're not intimately familiar with that Department of Health and Ageing review of the H1N1 pandemic, but even from the limited understanding that you have, that's really what was being heralded in 2011 as work that needed to be done then, wasn't it?

15 A. Well, that was a report to the Commonwealth. So, as I say, it's not work that I'm deeply familiar with or that I'm familiar with, and it's not been a focus of the Commonwealth/State committees that I have been part of since 2015. So I don't feel well placed to provide comment on what, if any, work was done between 2011 and 20  
20 the health emergencies are far less common than other forms of emergency, and so that there is less experience in the exercise of them. And, secondly, that this pandemic has been of a complexity of scale and a duration that I don't think has any parallel in any other emergency, certainly in my career and certainly I would say over the last 100 years in this country or globally. So I think that this pandemic  
25 would have tested any emergency management response, and that's quite clear around the world. So that that is important context as well.

Q. Doesn't the fact that it's a health emergency and that it's been so significant and so pervasive in all aspects of life, really, doesn't that really reinforce the need for there  
30 to be rigorous pre-planning around these things?

A. I think what we have seen through this pandemic is that it has been essential that Emergency Management Frameworks have been complemented with crisis management structures and processes and that Governments right around the country  
35 responded by establishing novel structures --- National Cabinet, the Crisis Council Cabinet here in Victoria --- that have been critical so that there can be rapid decision-making and whole-of-Government coordination of responses by every agency of Government and engagement of every sector of the economy. And I don't think that any exercises that have been undertaken in an emergency management  
40 context could have anticipated the rapidity and the scale and duration of this pandemic.

Q. I'm just trying to understand that answer to the question that I posed, Ms Peake. The question I posed was: doesn't the fact that it's a health emergency and that it's  
45 been so significant and so pervasive in all aspects of life, really, doesn't that really reinforce the need for there to be rigorous pre-planning?



Is your answer akin to an answer along the lines of yes or is your answer akin to along the lines of no?

5 A. I think my answer is that there is a critical role for pre-planning for a health  
emergency response; however, that this emergency has required something beyond  
a health emergency response. It has required a whole-of-Government set of actions  
and structures that aren't envisaged in the 2011 report from the way you've described  
it, certainly aren't envisaged in the Emergency Management Frameworks that exist in  
10 any jurisdiction that I'm aware of and, as a consequence or as a result, it has been  
necessary to really rapidly reconceptualise the way in which we bring together the  
activities of every part of Government and every part of society to tackle this virus.

15 Q. Okay. Well, you say that perhaps that's not envisaged by the 2011 report. What  
is specifically envisaged is the potential need to quarantine large numbers of people  
that are re-entering the country. You understand that from the 2011 report, don't  
you?

20 A. I certainly understand that from the question that you put to Professor Sutton.  
I did hear you put that question. I would certainly have envisaged prior to March  
that a quarantine program at the scale that was envisaged might well have been  
implemented by the Commonwealth rather than a State jurisdiction.

Q. Hence perhaps the need for clarity of roles and responsibilities in such a system?

25 A. So I think if we go right back to the Constitution, the Constitution envisages that  
quarantine will primarily sit as a responsibility of the Commonwealth Government.  
So I think the premise of your question is, was it reasonable or should we have  
envisaged that there would be a mass quarantine program required at a State level?  
And prior to March, that I don't think that that was something that was ever on our  
30 radar as going to be a prospect for us.

35 Q. That wasn't the premise of the question, but that was perhaps the next question,  
Ms Peake, which is: had the State, as far as you're aware, turned its mind prior to  
March 2020 to the possibility of having to manage a mass-scale quarantine program  
in response to a health emergency?

A. Not that I'm aware of, no.

40 Q. And indeed in your statement at paragraph 100, you say that you weren't aware  
prior to 27 March even of the possibility of a program such as that?

45 A. That's correct. Certainly the evening before, I had received a draft document from  
Professor Sutton which made comment about the potential for there to be more of an  
emergency offering for people who were high risk, but I had not contemplated that  
there would be a mass quarantine program put in place.

Q. You deal with that at paragraph 99 of your statement, where you say that you

engaged with the Chief Health Officer on a draft paper prepared for the AHPPC by the then Australian Chief Health Officer, Professor Brendan Murphy. Is that what you're talking about there?

5 A. It is, yes.

Q. And as I understand from your statement, what was being proposed in that draft document, and your understanding of what was being proposed by the AHPPC, was quarantining, by way of shorthand, for high-risk cases only?

10

A. That's right. The primary purpose of that document is important. The primary purpose of that document was to give advice back to National Cabinet about the overarching strategy for tackling the virus, whether the overarching strategy should be one of suppression or elimination; and then to provide advice, secondly, on what triggers there should be for additional physical distancing interventions; and then, thirdly, to give some guidance as to what those physical distancing interventions should be. And the paper provides guidance on, firstly, as you've indicated, the potential for there to be alternative accommodation offered to high-risk returned travellers; and then, secondly, restrictions on movement for Australian residents through restrictions on households and restrictions on industry.

15

20

Q. Focusing our attention on the quarantining aspect of it --- of course, this is the Hotel Quarantine Inquiry --- insofar as you were aware on the evening of 26 March, the idea of quarantining in alternative accommodation was focused only on high-risk cases. Do I understand that correctly?

25

A. That's right. And, as I say, the focus of my engagement on that paper was not on that paragraph, it was the broader purpose of the paper. So to the extent that I paid attention to that paragraph, yes, my understanding was that it was a narrower remit.

30

Q. Yes. And what did you understand, to the extent that you focused on that paragraph, "high-risk cases" to mean? What made a case high risk?

A. I really didn't engage with that paper. The discussions on that paragraph --- I was deeply engaged in that paper, but I was deeply engaged because work had been commissioned by National Cabinet on the 25th to answer the other questions that I've just outlined about the overarching strategy to respond to the virus, what the triggers for further physical distancing measures would be, and then what the form of those physical distancing measures would be in terms of population-level restrictions on households and business.

35

40

So it wasn't --- I had been part of many discussions about iterations of that paper. That paragraph was new and I wasn't engaged with what it meant by "high-risk individuals" or "high-risk returned travellers".

45

Q. Okay. That document, insofar as it was sent to you late on the evening of 26 March, was a document you understood to have been originally authored by

Professor Murphy?

5 A. That's correct, in the context of a request from National Cabinet on the 25th for Professor Murphy to engage with the Chief Health Officers of Victoria, New South Wales and Queensland on those threshold questions that I've just outlined.

Q. Yes. And you understood that the document that was sent to you included some editing or some amendments as made to that document as made by Professor Sutton?

10 A. There had been a number of iterations and engagements between the Chief Health Officers. I am not actually sure whether the edits that were in the version that was sent to me were made by Professor Sutton or by somebody else. There had been many iterations of that paper without that paragraph in it in the preceding 48 hours, with tracked changes by many people. So I can't be definitive about who made those  
15 particular edits.

Q. Okay. Well, let's go to the document itself. I'll ask that the document DHS.0001.0040.0001 be brought up.

20 Ms Peake, I refer to an email that you received late in the evening of 26 March. You will see this is time-stamped 10.47 pm.

A. Yes.

25 Q. And it's sent by the Chief Health Officer to yourself.

A. Yes.

30 Q. And the subject line of that email is, "Brendan's paper with my edits"?

A. That's right.

35 Q. So Brendan is a reference to Professor Murphy; that's how you understood that at the time?

A. That's correct, yes.

Q. And the author of this email was the Chief Health Officer, Professor Sutton?

40 A. Yes.

Q. So a reference to "my edits" would be a reference by Professor Sutton to edits that he had made?

45 A. Yes, but I'm not sure whether --- I was very familiar with this document at that time and I have seen the edited version in the materials that have been provided to me; I cannot be sure now whether the only edits to that document or the edits to that

document were the tracked changes in that paragraph or other edits in that document. It did move a lot in a 48-hour period. But on the face of it, it is quite possible that the last round of edits that Professor Sutton provided were to that particular paragraph.

5 Q. And you will see that the actual contents of the email itself says:

*Not sure if Brendan will accept this ....*

10 You understood Professor Sutton to be saying to you, "I'm not sure if Professor Murphy will agree"?

A. That's what I would take from the email, yes.

15 Q. Yes:

*.... but have agreed to edit his version and see where we land ....*

20 A. That's correct. And, as I say, the only reason I'm hesitating in answering the question was that there had been quite significant feedback and to and fro about other aspects of that paper at that point.

25 Q. Let's go to the paper itself. It is document DHS.0001.0040.0002. If we can just enlarge that, and specifically we're interested in the --- first of all, we can see the tracked edits that you've talked about there, Ms Peake?

A. Yes, that's correct.

30 Q. And if we go over the page, please, to the first paragraph on the second page. Now, if we just enlarge that top paragraph starting with "Additional Measures recommended", and 1 and 2, this was the state of the document as it was sent to you on the evening of 26 March?

A. Yes.

35 Q. And it provides there:

*Additional Measures recommended:*

40 *1. In addition to the existing enforced quarantine arrangements for international travellers arriving in Australia, it is recommended that, in high risk cases, monitored placement in a facility such as a hotel is enforced for those who would normally reside with others at home.*

45 Now, the substance of that is what we see in paragraph 99 of your statement, isn't it, that the idea of enforced quarantine in a facility such as a hotel is only in high-risk cases?

A. Yes, that's how I interpret that paragraph, correct.

5 Q. And also another precondition for that placement in a facility such as a hotel, not only that someone is a high-risk case but that they would normally reside with others at home?

A. Yes. And I'm not sure, Mr Ihle, if this paper was then progressed to National Cabinet, whether there was further changes made to it. I don't know.

10 Q. Yes. And you can see that those edits there, Ms Peake, can't you, with your familiarity with tracked changes, all seem to have been made by the one author?

A. Yes, I think so, yes.

15 Q. And you can also see, I suggest, if we pan out and we include the comments in the right-hand column, what the original draft of that paragraph read. So if we can highlight the paragraph we just had but also the associated right-hand column, just in relation to point 1, perhaps, you can see that the word "supported" has been deleted from the heading and the word "recommended" has been inserted in its place?

20

A. Yes.

Q. And you can see that the term "high risk cases .... for those who would normally reside with others at home" has been inserted and wasn't in the original drafting.

25

A. Yes, I can see that.

Q. That's an accurate copy of the document you received attached to the email from Professor Sutton on the evening of 26 March?

30

A. To the best of my knowledge, yes.

Q. Yes.

35 Madam Chair, I tender the email from Professor Sutton to Ms Peake dated 26 March at 2247 hours, document ID DHS.0001.0040.0001, along with the attachment DHS.0001.0040.0002.

40 CHAIR: Exhibit 192.

**EXHIBIT #192 - EMAIL FROM PROFESSOR SUTTON TO MS PEAKE  
DATED 26 MARCH 2020, WITH DOCUMENT DHS.0001.0040.0002**

45

MR IHLE: As the Board pleases.

Ms Peake, you received another email early the following morning from Professor Sutton. Do you recall that?

5 A. I do, yes.

Q. And that attached a document which, at least in respect of that paragraph, was in identical terms. Do you recall that?

10 A. I do, yes.

Q. So we have Professor Sutton sending you an email with his --- well, with what --- with amendments ---

15 A. Yes.

Q. --- late in the evening of 26 March, and resending in respect of that material paragraph an identical version of the document in the early hours of Friday, 27 March?

20 A. Yes.

Q. Thank you.

25 A. Mr Ihle, I do need to say again, I don't have any then first-hand knowledge about what happened to that document beyond that point.

30 Q. Yes, I understand that. Prior to you receiving these emails, there had actually been some period of time where DHHS had already been determined to be the lead or control agency regarding the response to the COVID-19 pandemic.

A. That's correct. Under the emergency management arrangements for any health emergency, DHHS is the control agency.

35 Q. And insofar as any awareness of a quarantine program, the limited information you had was consistent with that email we've just taken you to prior to 27 March?

A. For returned travellers, that's correct.

40 Q. You say at paragraph 105 of your statement that the first you learnt that a Hotel Quarantine Program was required to be implemented in Victoria was after the National Cabinet meeting on Friday, 27 March?

A. That's right.

45 Q. And you understood after that National Cabinet meeting that the responsibility for quarantining people who had returned to Victoria fell to the Victorian Government?

A. That's correct. That was the debrief that I received.

5 Q. And as you've identified earlier, that's not a matter that had had any pre-planning in respect of it, because quarantining was not a matter you considered to be a State responsibility?

10 A. I hadn't actually contemplated that there would be mass quarantining at all. But to the extent that quarantining of returned travellers was occurring at that point, it had been led through the Commonwealth and under the Constitution that that would be a reasonable expectation.

15 Q. So in your role as the Secretary of the Department of Health and Human Services, the head of the lead or control agency re activities concerning the COVID-19 response, certainly in Victoria, there had been no pre-planning for wholesale quarantining?

A. That's correct. We might come back to your characterisation that control and lead mean the same thing.

20 Q. We will come back to that in a lot of detail. If you want to deal with that now, we may. So in respect of the control agency for the COVID-19 response, is that the apt terminology?

25 A. It is. And if you're comfortable, I do think it would be really helpful just to disentangle a bit of the language and concepts that have been used and have been the subject of a lot of evidence in the last two weeks. Are you comfortable for me to just give my explanation of that?

30 Q. Please do.

35 A. So the Department of Health and Human Services is the control agency for any health emergency, and that, of course, includes this pandemic. The Emergency Management Manual is really clear that for complex emergencies there will be shared accountability for tackling that emergency, and I think it is very fair to say that COVID-19 is the most complex emergency that we've ever experienced, health or otherwise.

40 The State Control Centre is then the apparatus or the architecture through which multiagency responses to an emergency occurs, so the planning and the coordination of multiagency responses; and the State Controller is our lead person within the State Control Centre, to ensure that for any threat that requires multiagency response under the health emergency, that appropriate arrangements are put in place, so that there is a clear definition of the purpose of an operation, that there is a clear plan for who needs to be involved, what their roles and responsibilities are and who the key  
45 contacts are for each part of the multiagency response.

It does not follow that DHHS will always be the lead agency for a part of --- for

a single operation. And it certainly doesn't follow that DHHS will have sole accountability and that the Controller will be the locus of all accountability for particular functions within an operation.

5 Just to give you a very practical sense of that --- and I won't talk for long, I promise,  
but to give you a very practical sense of that --- currently there are 14 operations that  
are operating through the State Control Centre. Of those, the Department of Health  
and Human Services is the lead agency for four. We are not the lead agency, for  
10 example, for planning for mortuary services, we're not the lead agency for the  
management of roadblocks for ensuring that there isn't movement between  
metropolitan Melbourne and regional Victoria and we're not the lead agency for  
ensuring that there are spot checks of individuals who are isolating at home.

15 Going back to the description in the Emergency Management Manual that there is  
shared accountability for complex emergencies, it is and has always been my  
understanding that all parts of Government have responsibilities for the response to  
COVID, and that that is also very common in emergency management generally. So  
if we think about a fire, for example --- I'll use that as an example --- that we are  
20 responsible and accountable for emergency relief in relation to a fire, whether we  
deliver emergency relief services ourselves or through a funded agency. Police  
would be responsible, again, for roadblocks to make it safe for people to enter or  
leave a bushfire-affected area.

25 So I do think it is important that the concepts of control, lead and accountability are  
distinguished generally for emergency management, specifically for the response to  
COVID-19, and then specifically in terms of Operation Soteria in particular.

30 Q. Okay. Well, let's deal with that explanation and go back to the pre-27 March,  
before there was an Operation Soteria or Hotel Quarantine Program. The DHHS was  
clearly the control agency for the health emergency?

A. For the pandemic, that's correct. For the health emergency, yes.

35 Q. And so, as the control agency, one of its functions was to coordinate or to ensure  
coordination of all of the other agencies that are fulfilling functions in respect of that  
response?

40 A. So I think again, Mr Ihle, it is important to distinguish between the core functions  
of Departments that were affected by COVID-19 and where there was multiagency  
coordination that was required. So the control agency and the Controller wasn't, for  
example, playing a role in terms of the Education Department's advice to schools  
about how schools should prepare and respond to COVID-19, or the Department of  
Justice and Community Services for their responses within prisons, or the Transport  
Department and its responsibility for the public transport system.

45 Where the State Controller comes into having a very important role is where there  
are parts of COVID-19 that do require cross-Government, multiagency intervention.



Q. So you're the control agency, that is, your Department is the control agency, but prior to the announcement out of National Cabinet, there is no awareness in your Department of the need for a Hotel Quarantine Program?

5

A. Not a mass Hotel Quarantine Program. There was work that was happening about emergency relief for people who couldn't isolate safely at home and there was work that was happening between us and the Department of Jobs, Precincts and Regions about what emergency relief would look like, what sort of supports people would require. But that was a much smaller and more specific set of planning that was going on.

10

Q. I'm talking about specifically people re-entering the country, which is what we're talking about when we talk about the Hotel Quarantine Program, and I think you make the distinction yourself within your statement. So if we can focus on that.

15

A. Sure.

Q. There was no awareness of that coming down the line?

20

A. No, there was not.

Q. There was no pre-planning for that?

25

A. There was not, no.

Q. There was nothing coming out of any of the operations that the Department had been previously involved in about allowing for that possibility?

30

A. That's correct.

Q. Other than the extent to which it was involved in the H1N1 pandemic in 2009?

35

A. Again, before my time and I don't feel well placed to comment on it.

Q. Well, I appreciate it's before your time, but the lessons that come out of reviews from earlier issues are ones that ought to be brought to your attention where appropriate, shouldn't they?

40

A. So there had been no contemplation that a mass quarantine program would be required, that's correct.

Q. And no institutional memory about that either, as far as you're aware, in your Department?

45

A. So I'm not aware that there had been --- there had certainly been a lot of work done on what emergency relief accommodation would look like, but not something

of this scale, that's correct.

5 Q. So as far as this decision that fell out of National Cabinet on 27 March, it was something that effectively had to be implemented without forewarning and without a blueprint?

A. That's correct.

10 Q. As a control agency dealing with a class 2 health emergency, do you agree that the Department has overall responsibility for all activities undertaken by Government in response to the pandemic?

15 A. So, no, I don't agree with that proposition. I think that, again --- and I think our initial letter to the Inquiry really talks to this --- that the pandemic was of such a scale that it does need to be broken down into the roles that different agencies would need to play. So I do absolutely agree that under the *Public Health and Wellbeing Act* the Chief Health Officer was the statutory officer with accountability and powers to create the legal framework for the response to the pandemic. And in my statement, I work through the *Public Health and Wellbeing Act* as being the primary legal  
20 framework for the response to COVID-19.

The crisis structures that I talk to are important because the breadth of risks and threats that were posed by COVID-19 required strategic decisions about policy directions, about resources, about legislation --- changes that are far beyond the  
25 powers and remit of a Controller under emergency management legislation. And we knew from very early on that it was going to be incredibly important that there was national collaboration about the response to COVID-19 to make that threshold decision about whether the overarching strategy was one of elimination or suppression, because an individual jurisdiction could not give effect --- could not  
30 effectively implement a strategy if, over the border, there was a different strategy that was adopted. So it was not only that the whole of the Victorian Government needed to make profound decisions about the response to COVID-19; it was actually that there needed to be national decision-making as well.

35 Within that broad setting --

Q. Ms Peake, I just want to bring you back to the question that I've asked you, and I think you've answered that you don't agree with the proposition that, as the control agency in Victoria, the Department has overall responsibility for all activities  
40 undertaken by the Victorian Government in answer to the pandemic, and your answer is no and you've gone on to explain that.

A. I've got literally two more pieces that I just want to stitch together, and I do think they're important.

45 Q. Okay.

5 A. So in a response that is of this scale and the consequences have, as you indicated  
in your introduction, such profound implications for the whole of the Victorian  
community, it is important that there is that strategic direction that is set. It needs to  
be agreed nationally. Within that, there are profound decisions that needed to be  
10 made at a Cabinet level, and in fact some at a Parliament level. There was then  
powers that needed to be exercised by the Chief Health Officer to create the legal  
framework of public health directions within which the response could occur. Then  
where there were operational --- where there were operations that needed to give  
effect to those strategic directions within the legal framework set by the public health  
15 direction that required multiagency response, that is the terrain that the State  
Controller becomes relevant to and, as a control agency, we have emergency  
management responsibilities in relation to.

15 Q. But the State ---

A. But that's a different --- sorry, Mr Ihle. That's a different proposition than saying  
that the State Controller as a position set the national strategy or the State strategy or  
the chief --- or the legal framework within which the operations occurred, or stood in  
the shoes of other Secretaries for all of the response's preparedness work that they  
20 needed to undertake for their own Departments or sectors. So I do think it's  
important that we position the role of the Controller in that bigger context.

25 Q. Well, with respect, that wasn't my question, Ms Peake. But perhaps we'll just  
move on.

Do you agree that the Hotel Quarantine Program was an activity undertaken, at least  
in Victoria, undertaken by the Victorian Government in response to the COVID  
pandemic?

30 A. It was, yes.

Q. And the COVID pandemic was the health emergency which caused your  
Department to be the control agency?

35 A. That's correct, yes.

Q. And the State Controllers that were appointed were people from within your  
Department?

40 A. State Controllers? That's correct, yes.

Q. Yes. And in respect of the commanders of the operation that became Soteria, they  
are people from within your Department as well?

45 A. So again, sorry to --- it is that --- language does matter here. The word  
"command" or the command concept is the vertical, internal structure that is relevant  
to each department. So each department has a command structure. The Soteria was

established as a multiagency operation, so the relevant departments had command structures that contributed to Operation Soteria.

5 Q. And those that became known as Operation Soteria commanders were both DHHS people, Ms Bamert and --

A. There were ---

10 Q. --- and Ms Williams?

A. There were also Agency Commanders that were from each of the responsible organisations as well.

15 Q. I'm speaking specifically about command for Operation Soteria. I understand that there are other ancillary tasks and we know that there were people from DJPR, but you've corrected me on a number of occasions, saying the language is important.

A. There were agency ---

20 Q. We'll come back to the language --

A. The agency command --

25 CHAIR: Just a moment, Ms Peake. Is there something you wanted to --

MS HARRIS QC: Sorry, Madam Chair. It is a very confusing --- the terminology with emergency management is very confusing. There are a number of different commanders that had relevant roles within Operation Soteria, including a COVID-19 Accommodation Commander, Agency Commanders within DJPR and other Agency  
30 Commanders within DHHS.

I apologise for the interruption, but it probably is important to identify exactly which role Mr Ihle wants Ms Peake to comment on.

35 MR IHLE: I thought that I had. Commander of Operation Soteria.

A. So there was a Commander of the hotel --- of the accommodation --- sorry, there was an Accommodation Commander, and yes, that is correct, that that was an appointment within DHHS. But within the Emergency Operations Centre there were  
40 also Agency Commanders that were from other Departments as well. So both things are correct. The emergency --- the Emergency Operations Commander was a DHHS appointment.

45 Q. And the authorised officers, the directions from whom are the ones that kept people in enforced quarantine, were all either DHHS employees or seconded to the DHHS for the period that the program was in place?

A. That's correct. That's a requirement under the *Public Health and Wellbeing Act*, that's correct.

5 Q. Yes, and the other directions that were given that gave effect to the Hotel Quarantine Program came from people within the Public Health Command, which is itself part of the DHHS?

10 A. That's correct. There was --- yes, that's correct. So the structure of the Emergency Operation Command was that there was a hotel command, which was, as you indicated, filled by a DHHS executive. Underneath that, there was a deputy command for hotels --- sorry, a command for hotels, a command for enforcement, and then there were the agency commands, which enabled the shared accountability from other parts of Government.

15 Q. Yes. So the enforcement command, which was the command under which the authorised officers fell, that was also filled by DHHS personnel?

A. That's correct, yes.

20 Q. So I want to come back to the question that I asked. Perhaps I'll do so by referring to Minister Mikakos' statement. She says the fact that the DHHS is designated as the control agency for the pandemic response as a whole did not mean that DHHS was running Operation Soteria. Do you agree with that statement?

25 A. So I certainly agree that there was shared accountability for Operation Soteria. And it is also the case that the inception of hotel quarantine --- I think, as you've heard in evidence that's been led this morning --- did not commence in the typical way that an operation is constructed in emergency management.

30 And I think it is absolutely fair to say that on 27 March that Mr Phemister understood that he had been commissioned to be the lead agency for the stand-up of hotel quarantine and that it would be established as a program rather than it would be established through emergency management --- through an operational structure of the State Control Centre. And that over the afternoon of Friday, the 27th, there was  
35 a discussion about the benefit of the State Control Centre providing the overarching structure for the stand-up of this program, and that was really for three purposes or for three reasons: firstly, because it was, as you indicated, a really critical intervention to deal with the threat of COVID-19; secondly, because it had the characteristic of requiring a multiagency response; and, thirdly, because it did need  
40 to be stood up incredibly quickly because of the threat that we were experiencing. And the State Control Centre provided the architecture and support to enable there to be rapid planning, to enable there to be coordination across multiple agencies, to enable there to be the ongoing intelligence and data and support for reporting that was going to be really important for this program.

45 Over the weekend, I had a number of conversations with Mr Helps, who was the State Controller on duty that weekend, about the criticality of making sure that health

and wellbeing was really prominently built in to the Hotel Quarantine Program. And I know from the evidence that he has led and the conversations I had with him in subsequent days that he formed the view that it was important for the Department to have a stronger coordination role. And that really then I think over the next few days was crystallised in the first operational plan and the appointment of the Deputy Controller for the operation.

In my conversations with Mr Phemister in the first few days of the program, he was very gracious and open to making sure that they continued to hold responsibility for foundational pieces of the program that they had established on the Friday and the Saturday. So it is important to say that core components of the program were already in place and, as the operational plan was put into place, they were supplemented with the health and wellbeing and public health components of the program.

So my understanding then, and has continued to be, was that on the ground it was a joint operation and that the control aspects were given effect through the development of the plan that spelt out roles and responsibilities, through the stand-up of the Emergency Operations Centre, and then on the ground through the daily briefing process of ensuring that the team leaders from the various agencies and hotels had a forum within which to receive daily updates about policies and procedures, about public health advice, but also a forum to raise issues and risks to determine whether they could be resolved locally, whether they then otherwise needed to be escalated up through the individual command lines of each individual agency or whether they needed to be escalated to the Emergency Operations Centre.

Q. Ms Peake, you've identified what Mr Phemister said about his understanding about DJPR being the lead agency originally. Do you agree that DHHS became the lead agency in relation to Operation Soteria?

A. I certainly agree that we provided a coordination function, but my view is that there was a joint operation on the ground with --- and I think that was well documented in the operational plan and has been clear through the evidence of many witnesses that the core aspects of hotel services --- so the hotels, security, cleaning, food --- and the helpline were the responsibility of the Department of Jobs, Precincts and Regions, and the aspects of public health and wellbeing services were the responsibility of the Department of Health and Human Services.

And I think that shared accountability for the program is reflected also by the fact that the appropriation for the program continued to sit with the Department of Jobs, Precincts and Regions and every submission that was taken through to CCC was a joint submission between both portfolios.

Q. Ms Peake, given that the State Controller was appointed before the Hotel Quarantine Program was conceived and operational and that was a DHHS person --

A. Yes.

5 Q. --- given that the Public Health Team or the Public Health Command were the command that were making the orders under the *Public Health and Wellbeing Act* giving effect to it and given that, as I understand it, you were one of the attendees at the Victorian Secretaries Board meeting on the afternoon of 27 March, do you agree that you, as the Secretary, were involved, either directly or indirectly, in the discussions about how this operation would be implemented from the very start?

10 A. I was certainly involved in detailed discussion about the legal directions. I wasn't involved in discussions about the decisions about contracts that were put in place.

Q. Were you involved in any discussions initially that weekend, 27, 28, 29 March, about the role to be played by Australian Defence Force personnel in the Hotel Quarantine Program?

15 A. No, I wasn't.

Q. Were you involved in any discussions around the role to be played by Victoria Police in the Hotel Quarantine Program?

20 A. No, I wasn't.

Q. Were you involved in any discussions that led to the decision that private security be the first line of enforcement, effectively, in the hotels?

25 A. I wasn't, no.

Q. No. So, at the very least, do you agree that your Department was one of two Departments in a partnership giving effect to this operation?

30 A. Yes.

35 Q. And you've talked about shared accountabilities. Isn't there a problem with that model, when it comes to these important decisions, that we're unable to ascribe back to any particular individual or Department who made those decisions?

40 A. I know that it would be --- what's the right word? --- I know that it would be more straightforward if there was an ability today to say that there is a single point of accountability for everything to do with COVID-19 and for Operation Soteria in particular. But I do think that the whole weight of evolution or public administration or public service delivery has been that people are not carved up into portfolios; that returned travellers had really important needs that would cut across a whole range of services lines and portfolios and Departments. It was incredibly that they were safely transferred from the airport to the hotel, it was incredibly important that there were health and wellbeing supports that were put in place and it was incredibly  
45 important that we were able to provide an effective, rapid response to them at a time when the Department of Health and Human Services was also on that weekend negotiating a private hospital agreement so that there was enough hospital capacity,

if we saw the sort of levels of admission that we were anticipating, at a time when we were preparing material for National Cabinet about restrictions to households and industry that were ultimately agreed on the 29th and turned into directions on 30 March.

5

So it made absolute sense to me to draw on the capabilities of other Departments to be able to stand up this important program and run this important program. And again, I'm incredibly grateful to all of the work that many thousands of people across the VPS have done to contribute to tackling COVID-19.

10

Q. You talked about shared accountability, Ms Peake. But when it comes to accountability, if we can't actually identify who made particular decisions, that's a real problem with accountability, isn't it?

15

A. So, look, I think that there are particular decisions about particular --- you know, about private security and the use of ADF that obviously evolved. And I'm not sure that there actually is a point where someone made a conscious decision. I'm just --- I wasn't part of the conversation, so I can't throw any light on that. But I do think that the operation --

20

Q. I'm not asking about that decision in particular, Ms Peake. What I'm asking you about is the model that you have explained to us of shared accountability. We are now in an Inquiry where the Premier has said repeatedly, "We're here to find answers." And in respect of the questions that we're asking, we're being told, "Well, no one knows who made these important decisions because it's a model of shared accountability."

25

A. Yes. I know, I do --- so what I was going to say, because I really do understand the importance of this process and what we as senior public servants need to take from it. I think, though, that apart from those two decisions, as important as they are, that the operation plan was a really important vehicle for defining roles and responsibilities. And my impression of the evidence that has been led is that on the ground that there was a clear understanding that the team leaders who were from DHHS understood that their role and responsibility related to the health and wellbeing services; that we were accountable for --- that officers on the ground from Department of Jobs, Precincts and Regulation saw themselves as having really critical functions in relation to the hotels and security and food.

30

35

And so I don't think that it follows that a shared accountability model can't define clear responsibilities. And I do think that it's incredibly important that in so many parts of Government, that we have an ability to have programs and interventions and services that do draw together different parts of Government so that we can provide the best outcome for an individual.

40

So I think shared accountability and collective governance has to be a feature of the way we govern and the way we operate. I do reflect, and have reflected a lot over the last couple of months, that it reinforces how important that we keep practising,

45



planning and ensuring that, within a collaborative governance model, people are really clear about their responsibilities, but also have their responsibilities contribute to a shared outcome.

5 Q. I want to take you to that Victorian Secretaries Board meeting on 27 March. You've dealt with it in part in paragraph 65 of your statement, where you say it was communicated to you at that meeting that your Department would take lead responsibility for developing the legal directions, and that DJPR's hotel capacity should be used for the program.

10

First of all, who communicated it to you that it would be your Department that would take the lead in respect of the legal directions?

15 A. Yes, certainly. So I had a call from Ms Houghton, after the National Cabinet, who was the Deputy Secretary at Department of Premier and Cabinet. It wasn't a question, though, because we had a responsibility under the *Public Health and Wellbeing Act*, through the CHO, to determine what was the appropriate set of legal directions for a public health response.

20 Q. So that's what I wanted to ask you. Why was it necessary for someone at the VSB meeting on 27 March to make it clear to you that you were responsible for legal directions? I mean, from a legislative perspective that's clear, wasn't it?

25 A. Yes, so --- and really what she was communicating to me was, firstly, the discussion that had occurred at National Cabinet about there being a mandated quarantine for people returning from overseas; and that, secondly, further work that would be required on giving advice from public health to the Premier for restrictions on households and industry, to return to National Cabinet on the Sunday.

30 Q. You will recall, Ms Peake, I asked you before whether you agree with the proposition that, as the control agency, DHHS had overall responsibility for all activities undertaken in response to the emergency. Do you remember I put that question to you before and you disagreed with that proposition?

35 A. I was really disagreeing to the "all" component of it.

40 Q. Yes, and you referred to what was happening interstate and at a national level, amongst other things. In respect of the activities that were to be undertaken here in Victoria, whether it be because a policy decision had been made elsewhere, do you agree that that statement then stands good for that proposition, if we confine it to Victoria, that, as the control agency, the DHHS has overall responsibility for all activities undertaken in response?

45 A. So even in, Mr Ihle, as I think I indicated earlier --- there are many aspects of the response to COVID-19 that are led by and the responsibility of other parts of Government. So within the realms of setting up the legal directions and operations that required multiagency response, absolutely, we were the control agency.

When it comes to those examples that I used before, like mortuary services or schools or prisons or the public transport system, other parts of Government have critical responsibilities that they have and continue to exercise in response to this pandemic.

Q. As lead agencies in those respects, but ultimately control sits with your Department?

A. So again, Mr Ihle --- sorry, I do think that we keep coming back to this relationship between the Emergency Management Framework and the crisis structures that were put in place and that were essential because of the scale and complexity of this pandemic. And that there were a whole series of risks, threats and consequences that did require a whole-of-Government policy and strategy set of decisions and did require decision-making about allocation of resources that go beyond the remit of the control agency and the control function, and that's precisely why our Government made the decision to establish, alongside the arrangements for the emergency management functions, the Crisis Council and the mission coordination structures.

Q. And those concepts, are you confident that the people you put in charge as State Controllers, Deputy State Controllers, et cetera, et cetera, that they are very familiar with those and they well understand them because of their emergency management experience?

A. I think this actually comes back to the question you asked me right at the start, about how prepared were any of us for an emergency of this nature. And I am not aware, maybe since World War II, of there being the reconceptualisation of the architecture of Government itself to the extent that we have now.

So, no, I don't think it would be appropriate for me to say that at the beginning of the pandemic, because of their emergency management backgrounds, that our staff would have presumed that there would have been the need for this intersection between Emergency Management Frameworks and whole-of-Government Cabinet structures. And there was a lot of work that was done around this time, actually, to determine how did we make sense of the intersection between Cabinet, Government and emergency management, and that resulted in the set of arrangements around Crisis Council and the Mission Coordination Committee. So that there was something that was well defined and documented so that the relationship between the two was clearer.

Q. Yes. Ms Peake, you referred to a number of conversations you had with Mr Helps over the weekend of 27, 28, 29 March, and specifically what was being discussed there around the focus on health and wellbeing for those returned travellers.

A. Yes.

Q. Do I understand that correctly?

A. Yes.

5 Q. And I've now asked you on three separate occasions whether your Department, as the control agency, had overall responsibility for all activities undertaken, and I think you've resisted agreeing with that on a number of occasions. I'll ask --- I see Ms Harris on the screen.

10 MS HARRIS QC: If it's going to be put again, Madam Chair, there has been some movement between sort of general ideas of responsibility or responsibility for a particular operation, it might help --- because unfortunately it isn't always capable of complete simplification --- to be very clear about the scope of what Mr Ihle is going to put, if it is going to be put again.

15

CHAIR: I think Mr Ihle --

MR IHLE: I'm not putting it again. I'm going to a document.

20 CHAIR: I think Mr Ihle is going directly to the document, I assume the document from Mr Helps, is it, Mr Ihle?

MR IHLE: It is. DJP.101.004.4571\_R, Madam Chair.

25 As you've identified, Ms Peake, at the VSB meeting on 27 March, and from the evidence from Mr Phemister this morning, it was very clear that DJPR considered itself the lead agency at that time.

A. Yes.

30

Q. And I want to take you specifically to this email. I'll just make sure it's the right one. It is, I think. Can that just be expanded, please. Yes, and if we can go to the second page there. First of all, if we highlight who it's from and who it's to and when it was sent.

35

It's your understanding about the purview of this email, Ms Peake, it's sent by Jason Helps. Now, he was the State Controller at the time?

A. Yes.

40

Q. Appointed by you?

A. Yes.

45 Q. This is an email sent on 29 March to Ms Febey of the DJPR?

A. Yes.

Q. And you will see that the subject line is "DJPR - DHHS role clarity". Is this an email that you've seen before, Ms Peake?

5 A. It is.

Q. It is, okay. So let's go to the substance of the email. We can highlight the first paragraph, please.

10 You will see that Mr Helps by this paragraph is asserting or reminding Ms Febey of the Department's status as the control agency for the pandemic --

A. Yes.

15 Q. --- and of his role in respect of that, being the State Controller - Health.

A. Yes.

20 Q. We can now highlight the second paragraph:

*As the Control Agency, DHHS has overall responsibility for all activities undertaken in response to this emergency.*

25 Then he goes on to include in that response the Hotel Quarantine Program, known as Operation Soteria.

Ms Peake, is your evidence that Mr Helps must have been confused or misunderstood what the DHHS's responsibility was at the time he sent this email?

30 A. Look, the way that I would describe it is that the --- I think --- I can't speak for Mr Helps, but I think that what he is referring to is activities that fall within the remit of the emergency management arrangements. And it is the case that we had overall control agency --- we were the control agency and we had overall responsibility for ensuring any operation that was established through the State Control Centre was  
35 appropriately scoped, involved the right people and had appropriate operational governance within it.

40 It isn't the case that we had --- that we stood in the shoes or that Mr Helps stood in the shoes of the Cabinet or individual Secretaries of Department for all of the responsibilities that were necessary to maintain public administration, public services and public management in the context of the emergency, an emergency that touched on every aspect of all that we did.

45 Q. I want to come back to what you just said: "It is the case that we [that is, the Department] had overall control, we were the control agency and we had overall responsibility for ensuring any operation that was established through the State Control Centre."

A. That's correct.

Q. Do I understand that to be your evidence?

5

A. That's right.

MS HARRIS QC: Excuse me, Mr Ihle, that wasn't the entirety. It did go on to say, "was appropriately scoped, involved the right people" and certain matters there. So it  
10 just may be --- it may be appropriate not to finish at that point.

A. And, look, I was just going to add, as I sort of sought to outline earlier, in doing that, in making sure that each operation was appropriately scoped, had clear planning for roles and responsibilities and had appropriate operational governance, there were  
15 then important decisions that were taken about who was best placed to lead individual operations and who was best placed to have responsibility for functions within each operation.

So I don't think --- I don't personally find it to be inconsistent to say that we were the  
20 control agency but that there was shared accountability within individual operations and that there were other departments who took the lead for particular operations.

MR IHLE: I just want to come back to the answer that you gave a moment ago. And if it needs to be put in further context, then please do so, but the actual words  
25 that you used are that "We were the control agency and we had responsibility for the operations that were running out of the State Control Centre." Is there something more nuanced about that answer that I'm missing?

A. Yes, just the next piece around what that means in terms of what are we  
30 responsible for. We're responsible for ensuring that each operation is appropriately scoped, that the right people are involved in it and that there is appropriate governance because, by definition, every operation that is within the State Control Centre is a multiagency operation, so therefore every operation has shared  
35 accountabilities within it and every agency of Government has responsibility for functions that are under those State Control arrangements.

Q. And one of those operations that ran out of the State Control Centre originally was Operation Soteria, wasn't it?

40 A. That's correct, yes.

Q. Now, it was clear to you when you first learnt about the Hotel Quarantine Program --- first of all, Madam Chair, that document can come down --- that the Hotel Quarantine Program as announced on 27 March by National Cabinet was  
45 going to be a substantial undertaking?

A. Yes.

Q. And a substantial undertaking that would draw significantly upon the resources of the Victorian Government?

5 A. That's correct, yes.

Q. And at that time, your agency, the Department of Health and Human Services, was already the control agency in relation to the pandemic?

10 A. That's right.

Q. And given the substantial amount of resources that were going to be called on, was it not appropriate even at that first meeting on 27 March at the Victorian Secretaries Board for you to assert or remind everyone of the Department's status as  
15 the control agency in respect of COVID-19 emergency?

A. So we had had a number of VSB meetings preceding that. I think it was well understood that we were the control agency. I do think, and again I've reflected a lot about this, I do think on that first afternoon that there was a starting view from  
20 Mr Phemister --- and I don't want to put words in his mouth, but this is the evidence I heard him lead this morning --- that to start with he didn't envisage that hotel quarantine would be operationalised through the State Control Centre. He'd envisaged that it would be operationalised as a program run by the Department of  
25 Jobs, Precincts and Regions. And it was really a product of conversations through the afternoon and the work of the State Control Centre that it was agreed that actually, because of the characteristics of this program, exactly as you described, because it was so important to deal with the threat of COVID-19, because it required  
30 multiagency response and because it needed to be stood up incredibly quickly if it was going to have the impact we needed it to have, that it made sense that it actually be operationalised through the State Control Centre rather than as a program of an individual Department.

I know in that meeting that Ms Falkingham, who has Emergency Management Victoria as an agency within her Department, made those points and that, in parallel,  
35 the State Control Centre was gearing up for the planning to commence. So I didn't -- - I think there was more interaction in that meeting than the record of the meeting might suggest.

But I didn't feel the need to remind people we were the control agency. I was  
40 satisfied in the discussion that I participated in that the decision had been clearly taken that it was appropriate for hotel quarantine to be advanced through the State Control Centre and that it would therefore be through the planning processes of the State Control Centre, through the leadership of the State Controller, that roles and responsibilities would be determined and documented, including who would be the  
45 lead agency for this particular operation, and the responsibilities and accountabilities all of the contributing agencies would have for the program.

Q. I'm trying to reconcile that with the evidence you gave earlier, Ms Peake, about you being aware --- well, first of all, in your statement it says it was communicated to you at the meeting that the Department would take the lead responsibility for developing the legal directions. As I understand your evidence, that was actually as a result of a phone call that you received prior to the meeting. Is that right?

A. Not the --- sorry. I was certainly aware that directions would need to be made as a result of a call that I'd had from the Deputy Secretary from DPC. As you indicated, it didn't need to be made clear that we would make those directions, because that was the function that sat with us.

Q. Wasn't that, if for no other reason, a good reason for you to speak up at the meeting on 27 March about the need for DHHS to be very involved in the Hotel Quarantine Program?

A. Again, I don't think that the record of the meeting that you have is a verbatim record of the conversation. But I was confident from that conversation from the VSB meeting that it had been agreed that the State Control Centre would be the architecture through which the detailed planning for this program would occur.

Q. Ms Peake, I'll move to a different topic. I want to talk about your appointment as the Mission Lead Secretary, which you touch upon in paragraph 14 at least in your statement. Can we come to that. You say:

*At the start of April of 2020, new governance arrangements were put in place to address critical missions required in response to [amongst other things] the .... (COVID-19) pandemic.*

As I understand it, you were asked to undertake a new role or portfolio, being the Mission Lead Secretary - Health Emergency; is that right?

A. Yes. So it was by virtue of the portfolio of responsibilities I had, but yes, that's absolutely right, that I would take on that role.

Q. And that's a request that was furnished of you by the Premier on 3 April in writing. Do you recall that letter?

A. I do, yes.

Q. I'll ask that the letter be brought up, Madam Chair. It's DHS.0001.0031.0004. Now, Ms Peake, this was part of --- this will be my word, and if you disagree with it, please tell me --- a reshuffling of Government, both ministerial governance but also the Secretaries, in respect of how decisions in respect of the COVID-19 pandemic were going to be made by the Victorian Government?

A. I mightn't use the word "reshuffling", but certainly it was establishing what I've described as the crisis management governance structures, given the scale and

enormity of this pandemic.

5 Q. Okay. Well, I've used "reshuffling", I think the Premier has used the term "re-organise". If we focus on the first paragraph there, please, Mr Operator. Do you recall receiving this letter on or about 3 April, Ms Peake?

A. I do.

10 Q. And you will see that what the Premier says to you in that opening paragraph is:

*.... the Victorian Government and public service will need to be re-organised to respond.*

A. Yes.

15

Q. Do you accept that's an apt description as to what occurred?

A. I do, yes.

20 Q. And that, as part of that response, that is, the re-organisation, the Premier was requesting that you take on a new public sector leadership role as the Mission Lead Secretary - Health Emergency.

A. Correct, yes.

25

Q. And is that a role that you subsequently took on?

A. It was, yes.

30 Q. If we can go to the second paragraph, please, Mr Operator. You see there, Ms Peake, the Premier says to you that in that role, that of the Mission Lead Secretary - Health Emergency, you are accountable to him, that is, the Premier, for the delivery of the missions?

35 A. Yes.

Q. Now, in the usual course, are you directly accountable to the Premier?

40 A. In the normal course, my lines of accountability are predominantly to --- well, primarily to the Ministers of this Department, so five Ministers of this Department. I'm only hesitating because I am employed by the Premier, but yes, my primary accountabilities are to the Ministers of the Department.

45 Q. And the Premier goes on in this letter and says that not only are you being re-organised to that new role, but there are new portfolio Ministers appointed to act as Ministers for coordination of the COVID-19 response.



A. Correct, yes.

Q. And that's what subsequently happened?

5 A. Yes.

Q. And those new ministerial portfolios were those that combined to form the Crisis Council of Cabinet?

10 A. They weren't new portfolios per se, but they were the Ministers that formed the Crisis Council, that correct. So individual portfolio Ministers --- sorry, just to explain my comment there. Individual portfolio Ministers retained their portfolio responsibilities and appropriations, but in terms of the critical whole-of-Government decision-making in response to the pandemic, the Crisis Council was formed.

15

Q. And one of those Ministerships that was created, Minister for the Coordination of the Health and Human Services, that was Minister Mikakos, was it not?

A. That's correct, yes.

20

Q. But she also retained her portfolio as the Minister for Health?

A. That's correct, yes.

25 Q. Yes. Thank you. If we can just turn over to the next page. The first paragraph there, you will see that the Premier in his letter to you said, "Given the focused effort that will be required as Mission Co-Lead Secretary, I ask that you nominate an Associate Secretary to be responsible for the day-to-day administration of your department for the duration of the COVID-19 emergency."

30

Now, by that sentence, the Premier is saying he wants you to focus your endeavours on this role that he's inviting you to undertake by this letter, isn't he, that he wants you to focus as the Mission Lead Secretary of the Health Emergency?

35 A. I should clarify that through subsequent discussions, what was put in place was I appointed an Associate Secretary who took responsibility for the day-to-day operations of human services. I did retain the day-to-day operations of health, because they were so intrinsically tied, health and public health were so intrinsically tied to the mission responsibilities.

40

Q. Okay. That's perhaps an answer to the next question that I was going to ask. I'll go back to the question that I did ask; that is, by that sentence, the Premier was asking you to put someone else to run your day-to-day portfolio as Secretary of the Department of Health and Human Services, so that you could focus as Mission Secretary here?

45

A. That's correct, yes.

Q. And you're saying that there were subsequent discussions where that happened in respect of one aspect of your role, but not the other?

5 A. That's correct, yes.

Q. You say there were those subsequent discussions. Who were those discussions with?

10 A. So we had a subsequent discussion at the Victorian Secretaries Board about, in practical terms, how this model would look that might look a bit different from department to department, whilst maintaining the intent, exactly as you've described, that there was sufficient capacity for Secretaries to take on the Mission Lead responsibilities.

15

Q. I asked you who the discussions were with. Is your answer they were discussions with the other members of the Victorian Secretaries Board?

A. That's right, yes.

20

Q. And when were those discussions had?

A. So they were had --- I apologise, I've now lost track of the date of this, but they were had almost immediately after receipt of the letter.

25

Q. Now, you've already commented on the minutes that we do have of the Victorian Secretaries Board meeting of 27 March and said that they're perhaps not as complete as the discussion that was undertaken on that date. Is it the usual practice that there are minutes of the meetings of the Victorian Secretaries Board?

30

A. Not that I'm aware of, no.

Q. There's not usually minutes taken of the Victorian Secretaries Board meetings?

35 A. Not that I'm aware of.

Q. Are there notes taken of the Victorian Secretaries Board meetings?

40 A. I wasn't aware that there were. There is certainly an executive officer for --- the Secretary of Department of Premier and Cabinet who sits in the meetings, and there are often emails that follow with follow-up actions, but until I saw the record that has been tendered through this process, I wasn't aware that there were detailed records of the meetings that were recorded.

45 Q. So what we have by this letter here is a specific request of the Premier for you to do two things: one, to undertake the role of Mission Lead Secretary - Health Emergency; and, two, to put in place Associate Secretaries to be responsible for the

day-to-day administration of your Department. Is your evidence to the Board that you had discussions with people other than the Premier where you decided to take a different approach from that which was asked of you, and there was no minutes taken of that meeting?

5

A. So certainly my evidence is that in making sure that I could acquit the request of me to be the Mission Lead for Health Emergency, that I confirmed with Mr Eccles that it would be --- it would make sense that the core health responsibilities that were contributing to that formed part of that, and my understanding is that that was a ---  
10 I don't know if there was a subsequent discussion with the Premier about it, but that it was agreed with me that that was an appropriate acquittal of this letter to me.

Q. Okay.

15 A. And I was asked to prepare an implementation plan for the mission, sorry, I should add, which I did and submitted, and it's very clear in that implementation plan how many parts of the day-to-day work of the health portfolio contributed to this mission.

20 MR IHLE: I tender the letter, Madam Chair.

CHAIR: Exhibit 193.

25 **EXHIBIT #193 - LETTER FROM THE PREMIER TO KYM PEAKE DATED 3 APRIL 2020**

MR IHLE: Ms Peake, what did your role as the Mission Lead Secretary entail?

30

A. So there were three parts of the mission. The first part of the mission related to the public health activities of the Department, to ensure that we were putting in place the tracking, testing and isolation processes necessary to suppress the virus, and the pathology and community engagement components of the public health response that  
35 were also necessary. The second part of the mission was around making sure that there was sufficient health system capacity to deal with what we anticipated at that point would be a very significant influx of COVID patients to Victorian health services, including needing to significantly expand intensive care capacity or critical care capacity for COVID patients, and ensure that there were sufficient critical  
40 supplies for health services. And the third component was the component that we've talked a bit about today: making sure that the whole-of-Government emergency management arrangements to operationalise multiagency responses to the virus were in place.

45 Q. Including the Hotel Quarantine Program?

A. Well, both my mission implementation plan and Mr Phemister's implementation

plan included reference to the Hotel Quarantine Program.

Q. Let's go to the mission implementation plan. DHS.0001.0013.0408. Is this the mission implementation plan that you referred to earlier, Ms Peake?

5

A. I think so. There were a number of documents that were compiled and submitted around the range of activities that we were implementing, and it was dynamic. It was added to over time.

10 Q. If we can turn to page 6 of that document, please. I see Ms Harris on screen, Madam Chair.

MS HARRIS QC: It was only if it was important for Mr Ihle to know if it was the same document that was referred to, that it might be useful to go to the first page.

15 But it may not be important, Madam Chair.

MR IHLE: You will see, Ms Peake, that the first line on that page says, "Mission implementation report: Kym Peake".

20 A. Yes.

Q. And you will see that the second item in that table, if we can highlight that, please, the one that starts "COVID-19 Accommodation Command (Melissa Skilbeck)", and if we can highlight right across the page on that, please. That's probably not wonderful. Let's try that with just the first three columns. Now, Ms Peake, you remember I asked you a moment ago and said did your mission implementation plan include the Hotel Quarantine Program. This is a reference, is it not, to the Hotel Quarantine Program there in your plan?

25

30 A. Yes, it is. Yes.

Q. And there's a reference there to Melissa Skilbeck. What --

A. Sorry, Mr Ihle. Sorry, Mr Ihle. This is obviously not the first implementation plan though, looking at the --- sorry, I didn't see a date when you first put this up, but given the reference to "DHHS, ADF and DJPR operating a mature program, now being further developed. Outbreak amongst night shift staff", that isn't the earlier version of this.

35

40 Q. Yes, it's not the earliest version. I think if I'm correct on this, this is an early June version of the mission implementation plan. I'm not sure we have all iterations of it, but here's one that we do have, so I'll talk about that for a moment.

40

A. Sorry, Mr Ihle, I'll just --- sorry. I don't think this is --- I think this is the reporting against the implementation plan rather than the implementation plan itself. Sorry. I think there was a first document that we created that was an implementation plan, and then there was subsequent --- yes, anyway. Sorry, I shouldn't have interrupted.

45

I apologise.

Q. No, I'm glad that you're clarifying, because I'm just reading the front of the document that says "Mission 1, Health Emergency, Mission Implementation Plan".  
5 We should not read this as the plan but rather the report on the plan, should we?

A. So we certainly provided regular reports on activities that changed and evolved and added over time, but there was an initial plan, and I can absolutely make sure that you get that, which outlined the areas of responsibility.  
10

Q. I want to come back to my question. Why is Ms Skilbeck's name there under "COVID-19 Accommodation Command"?

A. Really, that she was the lead deputy for me who was responsible for putting together the reporting against this into the mission process. So it was really to enable the --- it wasn't intended to signify that Melissa was the Accommodation Command; it was that's she'd provided the report for the Accommodation Command.  
15

Q. Okay. I want to ask you about this structure that's been referred to in the mission implementation plan report and all of the structures that we have in relation to the Hotel Quarantine Program, and ask you whether you think this overlay in relation to the Mission Coordination Committee, Crisis Council of Cabinet, plus on top of what's in the State Control Centre, goes into the Emergency Operations Centre, are all these layers making things clearer or are they in fact obscuring lines of responsibility?  
20  
25

A. So I think they fulfil quite different purposes, Mr Ihle. So the Crisis Council is established as a mechanism to ensure that there is a coherent whole-of-Government response and rapid decision-making about matters of policy, resourcing and legislation. The Mission Coordination is the method and mechanism for the flow of information into the Crisis Council. The emergency management arrangements are the architecture for operationalising the policy decisions and ensuring that there is --- that all of the processes and systems to support all the agency working on the ground --- so I think they operate at quite different levels. Most of the time in an emergency, it is of a --- it might be incredibly significant in terms of the impact for the Victorian community, and I don't wish to be misunderstood in any way to diminish the impact of something like a terrible bushfire, but the event itself is more contained in terms of the threats and the geography and the agencies involved, whereas COVID-19, as I sort of have said a couple of times, is unprecedented in terms of the scale, the threats and the consequences that far surpass operational responsibilities of Government and absolutely go to strategic decisions that rightly sit with the Cabinet and the Parliament.  
30  
35  
40

Q. Perhaps we'll go to the next page on that report. What we have here, Ms Peake, is a diagrammatic representation headed "Mission structure and governance, Proposal structure".  
45

A. Yes.

5 Q. Is this a structure that you were proposing for the governance of the mission for which you were the Mission Secretary, as of 5 June, that saw, for example, the State  
Controller reporting to Melissa Skilbeck, reporting to you, you into the Mission  
Coordination Committee, then into the Crisis Cabinet of Council? Is that how we  
should read that?

10 A. That's correct, yes.

Q. What was the need as of June to change what was already the mission structure  
and governance?

15 A. That wasn't --- I'm not sure why it says "proposed". That structure, as I recall, had  
been in place for a while. There was a point at which I made the decision that the  
responsibilities for the core public health response had become so significant that  
having a dedicated deputy over those and enabling there to be a dedicated deputy  
over the emergency management aspects made sense. But I think that was a bit  
earlier than the start of June.

20

Q. We already had a governance structure in place, did we not, that saw the State  
Controller reporting for the purposes of emergency management to the Emergency  
Management Commissioner?

25 A. So if you --- so if you think about the operational arrangements for the  
coordination of multiagency arrangements in the State Coordination Centre, there  
absolutely was a relationship between the State Controller and the Emergency  
Management Commissioner at an operational level. In terms of then reporting  
through to the Crisis Council about the effectiveness of operations in dealing with the  
30 threats posed by COVID, about resource requirements that needed to be actioned or  
taken, about any changes to legislation that would be required, that flow of  
decision-making that wasn't operational decision-making but was policy and  
resourcing decision-making, and oversight as to whether the right mix of  
interventions were in place, was the flow-through to CCC.

35

Q. Ms Peake, we've got this diagram that you've provided to us, which I understand  
you say is about policy decision-making. We've got diagrammatic representations of  
lines of accountability under the Operation Soteria plan in its various iterations. We  
can go to them if you want. We have a document under the state operational  
40 arrangements specific for COVID-19 dated 22 May, and perhaps I'll ask that that be  
brought up. It's DHS.5000.0032.1850\_R. And the diagram to which I'm referring is  
on page 13 of that document.

45 Is this a structure with which you're familiar, Ms Peake?

A. Yes, this is an elaboration of the emergency management element of the diagram  
you've just shown me.

Q. Well, except this has different lines of report to the one you've just referred to. They're both referred to as governance structures, but you say that they're different things, do you?

5

A. They're related to each other, but one is for the purpose of policy, resourcing, decision-making. And this is for the command structure, for making sure that where we are operationalising a response, that we have the elements in place for that response.

10

Q. Now, you're familiar with the plans that appear in the diagrams for governance that appear in the Operation Soteria plans as well?

A. I am, yes.

15

Q. That can come off, and perhaps I will tender the mission implementation --- what we now know is a report, being the document DHS.0001.0013.0408. I'll tender that, Madam Chair.

20

MS HARRIS QC: Madam Chair, in the tendering, could we be a little bit cautious about what exactly it's called? Because I think it may be a segment of a document, and there are complete versions of similar documents exhibited to Mr Eccles' statement. So I think we might have a bit more clarity about the dates, but it may just be not entirely clear what the provenance of that document is and how much of the complete document it is.

25

MR IHLE: That's why I've referred to it by document ID, Madam Chair, and I've taken up the witness' description of it being a report and not a plan.

30

MS HARRIS QC: If we might ultimately have leave to just, for the Board's complete information, to identify whether it is in fact part of a wider document and provide that to the Board subsequently, Madam Chair.

CHAIR: Yes, I'm happy with that, Ms Harris.

35

MS HARRIS QC: Thank you.

CHAIR: For the moment, I'll mark it with its document identification number as Exhibit 194.

40

MR IHLE: As the Board pleases.

**EXHIBIT #194 - DOCUMENT DHS.0001.0013.0408**

45

MR IHLE: Ms Peake --

CHAIR: Mr Ihle, I was just going to say --

MR IHLE: I'm mindful of the time.

5

CHAIR: Yes. I'm going to make an assumption that you're not likely to finish within the reasonable bounds of the sitting day today. Is that a reasonable assessment?

10 MR IHLE: It is. There's just a handful of questions on this topic, and then I was proposing that we might rise for the day.

CHAIR: Yes, all right.

15 MR IHLE: Ms Peake, coming back to it, I appreciate your lack of working familiarity with the 2011 report in respect of the lessons to be learnt from the H1N1 pandemic. But if you accept from me that one of those key lessons, especially in relation to quarantine, dealt with the need for there to be clear management support systems and communication, or review of that --

20

MS HARRIS QC: Madam Chair, I do query the utility of this line of questioning. Ms Peake has made clear that it was a Commonwealth report, that it was introduced well before her time, that she's not aware whether work was done on it before she had her role, which was some years ago but well after the report. It does seem to be traversing similar ground, with respect.

25

MR IHLE: Is that an objection?

30 MS HARRIS QC: It was an objection to asking for any detailed comment on a report that Ms Peake has said she hasn't had the opportunity to read in any detail and has not had cause to be familiar with and is certainly a report that's not from the Department of Health but from the Commonwealth Department of Health and Ageing.

35 MR IHLE: I wasn't asking for any detailed comment. I'll move on to the next point then. Given that the main lessons out of Operation Alchemy that you identified, that there needs to be clearly defined and practical --- in terms of the implementation, and need for control agency to be clarified, do you see that all of these several diagrams that differ in detail and they differ in lines of report, in circumstances where there should be great clarity around who's reporting to who and who's accountable for what, create a great deal of confusion and consternation?

40

45 A. Mr Ihle, my own perspective is that there are different purposes that we organise around, and being clear about how we organise for those different purposes is a normal practice of Government. So the processes and structures that we have for reporting to Cabinet are very different from the operational structures that we have on the ground for the programs we administer, in the same way that the processes



and structures that we have to respond to the Crisis Council are very different to the emergency management arrangements that are in place for the pandemic as a whole, and within that, that there are then specific command structures that are created for individual operations, and if I give you a really practical example of that, that for  
5 Operation Soteria, there was --- drawing from the diagram that you just showed to me, a really important role for the Public Health Command but also for the health coordinator who provided the assurance to me that the health and wellbeing services and clinical governance of those was well in place. Those structures that were relevant to the whole of the response to the pandemic played a role in Operation  
10 Soteria, but for Operation Soteria itself, it was also, as you described earlier, really important that it was clear what the command structure was for our responsibilities within the operation of the hotels and what our responsibilities were for the enforcement and the work of the authorised officers.

15 So I think that it is appropriate and it is really understood by members of my staff that the reporting lines for a Government decision-making process are one set of reporting lines, and the operational structures for either a program or an emergency management operation are acquitting a different purpose.

20 Maybe the other thing I should say is I wouldn't want to have the people who were responsible for ensuring that there was good services being delivered in hotels being tied up in the weekly cycle of the reporting to Crisis Council and the Mission Coordination. And so we did have complementary roles between the operational roles and the accountability-to-Government responsibilities that we have, and that is  
25 precisely why we have, across the Department, a combination of people who have got expertise in public administration, and people who have got clinical or operational expertise. And it's the complementary skills which ensure that we can fulfil the responsibilities as a Government department.

30 MR IHLE: Thank you, Ms Peake. I'm sorry to have to tell you, but you're going to have to come back tomorrow. We'll liaise with your lawyers as to an appropriate time for that to occur. You will appreciate that there is a number of Ministers who have been scheduled to give evidence tomorrow. And we'll work around what is the least inconvenient for all.

35 Madam Chair, that concludes the questioning for today.

CHAIR: Yes. Ms Peake, I'm sure you understand that what Mr Ihle is indicating to you is you will be required to return tomorrow. We do have a timetable already set  
40 with the Ministers, so I'm sure that the legal team will liaise with those assisting you to give you as clear an indication as possible as to what time we will ask you to return tomorrow. So, thank you in advance for your cooperation with our processes, and I will excuse you for today and see you at a time that will shortly be coordinated with you for tomorrow.

45 A. Right. Thank you.

CHAIR: Thank you.

**THE WITNESS STOOD DOWN**

5

CHAIR: So otherwise, Mr Ihle, 10.00 tomorrow for --

MR IHLE: Minister Pakula.

10

CHAIR: Thank you.

MR IHLE: Thank you, Madam Chair.

15

**HEARING ADJOURNED AT 4.25 PM UNTIL 10.00 AM ON WEDNESDAY,  
23 SEPTEMBER 2020**

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