TRANSCRIPT OF PROCEEDINGS

COMMISSION OF INQUIRY INTO THE TASMANIAN GOVERNMENT'S RESPONSES TO CHILD SEXUAL ABUSE IN INSTITUTIONAL SETTINGS

At Kannenner Room, Mövenpick Hotel
28 Elizabeth Street, Hobart

BEFORE:

The Honourable M. Neave AO (President and Commissioner)
Professor L. Bromfield (Commissioner)
The Honourable R. Benjamin AM (Commissioner)

On 22 August 2022 at 10.20am

(Day 27)

PRESIDENT NEAVE: Before we start, I'd just like to remind everybody present that there are some orders in place, restricted publication orders, and the orders are actually posted on the door of this hearing room. If anyone has any questions, any member of the media who's here has any questions or issues they want to raise about what they can and can't say, then they can talk to our media officer.

And I think we have an appearance, don't we, to announce? Yes.

MR P ZEEMAN: Yes, my apologies, Zeeman, I appear for Ms Gardiner, the first witness this morning.

MS NORTON: And I just note, there has been a switch in witnesses, we'll be hearing from Erin after Ms Gardiner's evidence.

PRESIDENT NEAVE: Thank you.

MS NORTON: If the witness can be sworn in, please.

<MADELEINE CLAIRE GARDINER, sworn: [10.21am]

<EXAMINATION BY MS NORTON:

MS NORTON: Q. Can I ask you to state for the transcript your full name, professional address and occupation, please?
A. Madeleine Claire Gardiner, and professional address is 52 Franklin Street, Launceston. My occupation, I'm a Registered Nurse and also a social worker.

Q. Thank you. You've provided a statement to the Commission in response to a request for a statement; that statement is 54 pages and it has 26 attachments. Are there any corrections or additions you'd like to make to that statement?
A. Yeah, there's one correction or addition I'd like to make. I forgot to mention that there was a staff, a new position I started to supervise in my role as manager. I didn't - that position came on board partway through my management and it was the clinical practice consultant position, so I recruited to that position as well and then supervised that in its infancy.

Q. And so, you would wish to add reference to that

particular position to your answer to Question 4 in the statement?
A. Yes.

Q. Thank you. Subject to that addition, is the statement otherwise true and correct to the best of your knowledge and belief?
A. Yes.

Q. Thank you. You outline in your statement your professional background and you have a range of qualifications, notably dual qualifications as a social worker and a nurse; is that right?
A. That's correct.

Q. And you've got Masters degrees in both of those disciplines?
A. That's correct.

Q. You commenced work at the Ashley Youth Detention Centre in July 2017 in a contract role; is that correct?
A. That's correct.

Q. And then you were employed in a permanent role as a Manager Professional Services and Policy from March 2018; is that correct?
A. Yes.

Q. What was your role or the nature of your role in that manager position?
A. So, I worked .7, which is seven days a fortnight in that role and the other hours of that role were shared with another manager who was also titled "Professional Services Manager".

Q. Yes.
A. And so, we had a division of work duties; there was a division of work duties and I oversaw the case management work, the conferencing, pretty much facilitated a lot of the meetings that were involved in that, and a key part of it was providing consultation on complex casework as well as things like planning for the young people when they exit the facility, overseeing their assessment when they enter, so I had staff that were doing that work, so the manager for that casework that goes with it.

Q. Would it be accurate, you referred to the fact that

you were job sharing the role; would it be fair to say the .7 of the role that you occupied was really to do with oversight on case management, conferencing and program delivery and the person you job shared with was more responsible for policy and procedure work; is that a fair division?
A. Yes, that's right.

Q. As I understand it, the manager of PS&P also chaired the Multi-Disciplinary Team. Was it you or your colleague, or both of you from time to time who held that chair role in the MDT?
A. Usually it was me; I mainly did it. If I wasn't present for the day the other manager would chair the meeting.

Q. And you reported in your role to the centre manager?
A. That's correct.

Q. And initially - there were two people in that role during your time; for the latter part it was Mr Patrick Ryan; is that correct?
A. My memory was that there was mainly Mr Ryan in the position.

Q. Okay. I'd like to ask you some questions about work culture, workplace culture at Ashley Youth Detention Centre. You say in your statement that for the first six to eight months that you were working there you thought that it was a positive culture but it declined over time. Are you able to outline for the Commissioners what that decline looked like and any insight you have into why it occurred?
A. I felt like when I started there, there was a change manager working on developing a therapeutic approach and a change direction in the centre, and he ran a lot of collaborative meetings with some professional experts and involved a lot of staff in the centre in those meetings and I felt like there was an energy and an appetite for making some significant improvements in the centre.

He also, in that role, brought in a lot of contemporary theory to the practice of how staff should be working, and I felt like the staff were really quite receptive to that. He ran some meetings and some professional development days that was across teams; like, across the Health Team, the Education staff, my team, the

Professional Services staff, and the Operational Team, and some of that was some quite good relationship building exercises to develop relationships across the teams.

Q. And that was particularly important in the context of Ashley, wasn't it, that there be collaboration across those teams?
A. Yes.

Q. You say in your statement that that change manager role was only funded until, I think, was it mid-2018?
A. Yes.

Q. And then the role ceased, and you subsequently noticed a decline in culture, and in your statement you also say that there was a decline in your relationship with senior management around the same time. I'm going to ask you about that but, before I do, can I ask you to share any observations you have with the Commissioners of the senior management team and how the members of that team worked together, the relationships they had?
A. So, this is the relationships of the senior management group team?

Q. Yes.
A. My observations around that were probably that, while those initial exercises of relationship building helped when the change manager was there, after that change position stopped there was one meeting a week that we had as a group; it was an information sharing meeting, I wouldn't say there was any, like, relationship building or relationship development as part of that meeting. People pretty - it was a bit of an update, so once a week there would be a bit of an update on how things were working.

As far as the relationship of senior management ...

Q. Can I ask you the question this way: did you observe members of that management team socialising outside of work, did they have relationships beyond the professional roles at the centre?
A. The senior - not all the senior management group, it depends who we refer to as the senior management group. If we're talking about the operations manager, they didn't socialise together, or not that I know of, but there were some other managers that did socialise together outside of the workplace.

Q. And, were you part of that group?
A. I was invited but I didn't socialise unless it was an all staff socialising event.

Q. And, did you have a rationale for that decision?
A. Yes, pretty much that I think I would socialise when all staff and it's an open invitation to all staff, because that would be seen as a social opportunity to develop relationships amongst all staff, but I'm not somebody that socialises just for the sake of socialising with people at work; I would prefer to do the work and then, yeah, just to have general social activities involving all staff.

Q. Did you have any concerns that socialising with members of the management team outside of work might somehow compromise your ability to do your job at all?
A. That's always a concern for me as a professional.

Q. Can you explain the nature of that concern to the Commissioners?
A. Yeah, I probably feel like, if you're socialising on a Friday night together, it could compromise that you - how you may perform in your professional role to have robust conversations, and I'd like to keep my work and personal life separate.

Q. Thank you. You say in your statement that it was towards the end of your time at the centre and in 2019 that you started to feel psychologically unsafe around the centre manager, Mr Ryan; we'll probably come to some examples of that in due course, but is there anything you would like to say to the Commissioners by way of elaboration in terms of how you felt unsafe?
A. I noticed some behaviours that I felt were a bit like red flags for feeling that I was not sure where I - whether I was safe. I noticed that I - there were meetings held; we share calendars and I noticed some meetings were set up that I wasn't included in, so I started to wonder what was going on.

And then there were a couple of instances, I could give an example, if you'd like?

Q. Sure.
A. I was actually helping filling in for the program, my program coordinator, because he was off sick or something

like that, so I was working with some young people and I was approached by Mr Ryan and another senior manager in the centre to go to his office, and I went to his office and that's where he told me that I was never to cancel meetings that were scheduled with him again, and not by email, and I just found the concept of a female being approached by two quite big men in a detention centre to be told to go and meet with them quite - a little bit threatening and imposing, and I also felt like that the requirement that I'm never to reschedule a meeting with my manager quite unjust and unfair, and I started to sense a use of power.

Q. You made mention then to feeling somewhat threatened by being approached by two large men at the centre. The Commission has heard evidence in previous weeks from Professor Salter that all boys' institutions can often present with cultures that are hyper-masculine and at times misogynistic, and that those sorts of environments can create a heightened risk for child sexual abuse.

Now, I appreciate that when you were working at the centre it wasn't a boys only institution but it had its history as one and, as I understand it, the majority of detainees were male. Did you experience a hyper-masculine or misogynistic culture at all while you were at work?
A. I started to observe that more towards the end of my time there. I suppose I wasn't aware of it until I felt threatened by it and felt like I couldn't challenge it.

Q. I anticipate that Mr Ryan, who is going to give evidence tomorrow, might give evidence that there had been some complaints made about you, that it was your way or the highway, that that was how you approached decision-making in the CST and the MDT and he refers also to some conflict with the Nurse Unit Manager. I'd like to invite you to respond to that evidence?
A. Mr Ryan never had a conversation with me about that being my management style; I would have expected, if he experienced that in me and he was my manager, that he would have had a conversation with me about that and given me some feedback so, if I was really coming across like that with staff, that I would have an opportunity to perhaps change, and that never happened and --

Q. Sorry, was that news to you, what I've just said to you, that was not ever raised with you during your employment?

A. That was not raised with me, no.

Q. Is it consistent with any of your interactions with your colleagues, your NUM colleagues or other colleagues on the CST and the MDT?
A. No, there was no conflict between myself and the NUM.

Q. I'd like to ask you some questions next about the Operations Team. What were your observations about the relationship between Operations and your Professional Services Team over time? I think you use the word "conflictual" in your statement. Would you like to elaborate for the Commissioners on the nature of the conflict?
A. M'hmm. I would say there was some conflict, and to some degree I would have expected the conflict to be normal, normal conflict that arises in complex case management and practice because that's the nature of the work. There was definitely conflict that arose because - that came from - well, the team in Professional Services came very much from a theory and evidence base and I feel like a lot of the staff working in Operations came from a practice of, this is what we've always done and this is what we do to keep - operate the centre and to keep the centre safe, and the staffing and Professional Services Team would have been presenting views that were about what was in the best interests of the children, so at times that would be conflictive, and I would have expected that to be normal and then we would have used that as an opportunity to work out how, how do we work through that.

Q. And did that play out? Was the relationship collaborative or did the interests of management of the centre and Operations tend to rule the day?
A. At times it could be collaborative, and I saw some very good collaborative work. I saw some staff really wanting to embrace information and ideas from the Professional Services Team and other staff dismiss that completely.

Q. Now again, I anticipate Mr Ryan will give evidence that you didn't give sufficient credit to Operations; that's certainly inconsistent with your answer to my previous question: do you have a response you'd like to give about whether that's a fair characterisation of your approach?
A. No, I don't think that's fair at all.

Q. I'd like to hand up to you a list of pseudonyms. I'd like to ask you some questions about a young person who we'll refer to as "Margaret". You see Margaret listed there and you know who I'm talking about?
A. Yes.

Q. Margaret was a particularly vulnerable young person and she'd been known to Child Services since she was an infant, and I think that's information you now have; you may not have been aware of the extent of her involvement with Child Safety Services at the time you were at the Centre, but you were aware she was a vulnerable young person?
A. Yes.

Q. In June 2019 there was a sexual incident involving Margaret and two male residents. Your statement refers to a concern you had at the time that that incident wasn't properly documented in MDT minutes. I think you weren't at the relevant meeting; is that correct?
A. That's correct.

Q. You looked at the minutes afterwards. And it came to your attention because a member of your team raised concerns that case management - that is, part of the Professional Services Team - hadn't been involved in the decision to place Margaret in the same unit as the two residents that she had the sexual incident with. Do you recall your employee raising that concern with you?
A. Yes, I was made aware of the concern on the Tuesday the following week after the incident by someone in my team, and they had sent an email to me on the Friday to me about that, but I wasn't working on the Friday, and I became aware of the incident, that it had occurred. I was aware the week before that the two male residents had been put in the same unit with a female, but I'd been advised that it was supervised and that it was quite a successful management strategy, they just did it for a short-term time, so I'd been advised that it happened but that it had been quite successful and there was no problem.

Q. So that was your understanding, and I think one of your attachments to your statement, and it's attachment 23, is that the email that came to you subsequently from someone in your team who raised concerns that case management hadn't been consulted in the decision to put the

three residents together and that she would not have agreed because of Margaret's mental health and trauma history. Do you recall that concern?
A. Yes.

Q. Is that an example of, or potentially an example of your team being excluded by Operations or not being consulted by Operations when decision-making?
A. Yes.

Q. You said before that your understanding the previous week was that it was a well supervised arrangement and that it was working well. Does the fact that this sexual incident was allowed to happen cause you to have concerns, or did it at the time cause you to have concerns about the appropriateness of the supervision?
A. Significantly, yes.

Q. Would you like to explain that to the Commissioners?
A. Well, I actually wondered how an incident like that could have happened, if there are youth workers in the unit and able to supervise young people all the time, I just wonder what level of supervision was being provided to the young people in the unit; it sounds inadequate.

Q. Another matter that you're --

COMMISSIONER BROMFIELD: Sorry, Ms Norton.

MS NORTON: Yes.

COMMISSIONER BROMFIELD: Q. In that context, Ms Gardiner, would you have expected it to be what was termed in the centre, I believe, very close supervision: if you were going to place a teenage girl into a unit with two teenage boys, would you expect that it would be very close supervision at all times?
A. Absolutely.

COMMISSIONER BROMFIELD: Thank you.

MS NORTON: Q. I just want to read you an email, it's one of the attachments to your statement, it's Attachment 24 if you want to go to it. It's an email from Mr Ryan that you were copied in on. One of the other concerns that your team member raised was that she thought this matter should be reported to Child Safety Services and

I think also Children, Youth and Family. You raised that, I think, with Mr Ryan. Then there's an email that you've been copied in on that says:

> *The matter has been escalated to directors. I have had further conversations. No other member of staff is required to action any correspondence. I also take the opportunity to thank you in advance for your support of the centre and Margaret in challenging any unhealthy discussion or discussion in unnecessary forums.*

I'd just be interested to know what you make of that in the context where you were suggesting that a notification be made to Child Safety Services?
A. I interpreted that as a shutting down of any further communication by anyone else in the centre with anybody outside the centre as well as asking us to sort of shut down any conversation within the centre about it if it's unhealthy; I interpret that Mr Ryan would take it from here.

Q. Thank you. You also refer in your statement to some decision-making that seemed to you to lack a proper rationale, and it's page 39 of your statement if you want to orient yourself, but it's decision-making in relation to visitation rights of two Indigenous detainees. I'll just remind you, the first involved a resident being denied a visit by their brother with no rationale or policy justification, that comes from your statement.

And the second, if I might get you to speak to this in a bit more detail, involved an Indigenous detainee being denied a visit - well, a visit had been approved, as I understand it, that a member of the Tasmania Aboriginal Centre could come to the centre to sit with him while he viewed footage from his father's funeral and ultimately that didn't go ahead as scheduled. Could you explain that incident to the Commissioners?
A. The incident of?

Q. The second incident, yes.
A. So, the staff in my team had organised for someone from the Tasmanian Aboriginal Corporation to sit with a young person whose father had died recently, a young Aboriginal man, and he was not allowed to attend the

funeral in person because of his legal - relevant approval wasn't given for him to attend it, and there was organised for a youth mentor from the TAC to come out who he had a close relationship with to come and - he was going to come out and bring the video of the funeral out for him to watch.

Q. Is that something that you as a professional regarded as therapeutically important for this particular young person having lost his father?
A. Absolutely, yes.

PRESIDENT NEAVE: Q. Could I just ask another question about that? So, the young Indigenous person was prevented from going to his father's funeral. Who made that decision?
A. The centre manager.

Q. The centre manager said he shouldn't go to his father's funeral?
A. He didn't approve him attending the funeral.

Q. Have you any awareness as to why that might have happened?
A. No, I wasn't involved in that decision.

PRESIDENT NEAVE: Thank you.

MS NORTON: Q. And why was it that the visit from the community member, having previously been approved, was then prevented from occurring on the day that it was scheduled?
A. Well, I wasn't actually made aware that it was going to be prevented, I was told after the event by someone in my team, by the case manager who'd organised it. Why was it prevented? The operation coordinator at the time determined --

Q. That's a person who we're referring to as "Maude", that's the pseudonym. So, Maude?
A. Maude determined, made the determination that they couldn't facilitate the visit. There always needs to be a staff member supervisor visit, and they determined that there wasn't enough staff on the ground to supervise the visit. And my understanding was that the person in my team had already alerted her to the fact that they could supervise the visit, so that's someone who's not operational would supervise it. It still got cancelled and

it got cancelled with the permission of the centre manager.

Q. So, no consultation?
A. No consultation.

Q. No, but the cancellation was approved by the centre manager?
A. Yes.

Q. Listening to that account, it sounds like a particularly cruel decision; did you have that concern at the time?
A. I understood the operations coordinator having to make a difficult decision based on how they staff their centre. I thought it was not child-focused, the decision whatsoever; I thought as a centre we would make every effort to make sure a young person would be able to sit with somebody and view their father's funeral. I thought it was very insensitive, yeah.

COMMISSIONER BROMFIELD: Q. Am I right in recalling from your statement that the visit was cancelled when the person from the TAC had arrived at the centre?
A. Yes.

Q. So, for both that person and for the young person, they were mentally prepared for that, the viewing of the funeral happening at that point in time?
A. That's what I was advised by the staff member in my team, yes.

COMMISSIONER BROMFIELD: Thank you.

MS NORTON: Q. Appreciating that your knowledge about these conversations is based on what your team member told you, but you mentioned before that your team was available to provide some back-up supervision given that Operations were stretched; do you recall whether that offer was properly considered or whether there was a good rationale provided for why that wouldn't be adequate?
A. There was no rationale, and I don't remember hearing that it was ever considered.

Q. They're two difficult and isolated examples of what seemed to be unsupported decisions in relation to visitation rights for Indigenous detainees. Bearing that in mind, are they just isolated incidents or did you have

concerns about there being a broader pattern of racism towards Indigenous detainees at the centre?
A. I can't really comment on that because I didn't see enough to know.

Q. Sure. I'd like to move next to the behavioural management at the centre. Can you just address the Commissioners, I'll invite you to address the Commissioners on why therapeutic practices are particularly important, and trauma-informed care, are particularly important at a place like Ashley?
A. I suppose understanding the children that we're working with is the key part of the practice and, given that a lot of the children in the centre have experienced often a background of fairly significant trauma, we would then see trauma behaviour from people who have experienced trauma, which is often a higher level of escalation, that triggering of fight or flight responses, so understanding what is influencing a young person's behaviour is key before we then respond to the behaviour, and probably even the conversation about behaviour management doesn't really reflect a trauma-informed approach because, if we're understanding what's happening for a young person, it's how we respond that matters rather than how we manage.

PRESIDENT NEAVE: Q. Can I just intervene. Just from the point of view of members of the public who might be viewing this on the live stream or might be present, you said "a high level of escalation". Could you put that into sort of language that a person who's not familiar with that term would understand?
A. Yes. So, we know from the areas and evidence of how trauma affects the brain, people who are affected by trauma tend to operate from areas of the brain that are in the lower levels of brain that are geared towards fight or flight responses because it's about trying to keep themselves safe because, when they've experienced trauma they've had to learn ways to keep themselves safe, so that's operating often from what's called the amygdala which is a part of the brain which fires quite quickly when people feel threatened, and so you'll see fight or flight responses.

Q. So, a detainee who has been exposed to trauma as a child, when put in a centre like this, might be verbally or physically violent in certain situations where they feel threatened; is that an easy --

A. Absolutely.

Q. Thank you, and the only way to deal with that is that a, sort of, an equally violent response is not an effective way of dealing with that?
A. That's right.

PRESIDENT NEAVE: Thank you.

MS NORTON: Q. Just carrying on from what the President said there, the exchange you've just had, is it also the case that because there's this escalation of work, this fight or flight response the behaviour which might initially be seen as quite aggressive is actually really defensive?
A. Yes.

Q. Thank you. You've spoken to the importance of therapeutic practices at a place like Ashley, and I want to be careful - I know you've already acknowledged that there were members of the Operations Team who did bring a sensitive and trauma-informed approach to their work; was that the case across the Operations Team or did you have concerns that these principles of trauma-informed responses and therapeutic practices weren't well understood by some in the Operations Team?
A. Yes, I would agree with that.

Q. Would it be fair to say that, instead, the approach of people in that category was more a command and control type response to behaviour management?
A. Yes.

Q. While you were at the centre there was a behaviour development system that was a policy that guided responses to problematic behaviour, and you say in your statement that you didn't think that was an appropriate response or an appropriate system for this particular cohort of detainees; can you explain why you held that view?
A. Well, it's based on behaviour modification and the principles of rewarding behaviour that we like to see and consequences for behaviour that we wouldn't want to see or wouldn't want to encourage. I don't think it's nuanced enough to work with the complexities of the young people that are in the centre. It's not trauma-informed, so it doesn't take into account the effects of trauma on the brain.

It actually had in the principles at the time that it's based on, that all young people have choice and, if young people are operating from their amygdala and they've got fight or flight responses or trauma responses, in that moment they don't have a choice in how they respond. So, what we'll see is that they're rewarding behaviour that we want to see, but actually having consequences for behaviour that could be a trauma response, and the consequences are negative consequences so, removal of privileges, and removal of privileges or that reward and consequence is quite effective as a behaviour modification for children who are able to engage their cortex or higher level brain areas to make decisions, so it works in some, in really well-regulated children, but it doesn't work for unregulated young people.

Q. Is another way of putting that, picking up on the President's point, putting it into layman's terms, it was a program that pre-supposed that the children or young people at the centre were in control of their behaviour?
A. Absolutely.

Q. But when they were acting out in problematic ways, they probably weren't in control of their behaviour and unable to make decisions for that reason?
A. Yes.

Q. What would have been a more appropriate approach to behaviour management for this cohort of children and young people?
A. Well, while I have quite a bit of expertise and knowledge about behaviour management, I would actually suggest that the Australian Childhood Foundation would be the experts on what would be the absolute best approach, but you would be incorporating an understanding of trauma into that and identifying ways to help young people regulate.

Q. Did you raise your concerns about the inappropriateness of the behaviour development system with centre management while you were the manager of Professional Services?
A. Consistently, yes.

Q. Can you elaborate a bit for the Commissioners about the response you received from centre management when you

raised those concerns?
A. I think initially it was a - depends: the Centre Manager, there was an openness to look at other models.

Q. Yes, that's Mr Ryan?
A. Yes. And some of the Senior Management Team were definitely open to conversations about that. I was at a meeting where I talked further about what we could be doing to improve that and that wasn't well received, so I feel like there was a lot of staff that the current behaviour development system was all they knew, so there was also quite a lot of resistance to changing it.

Q. And so, in that sort of a circumstance, would it be fair to say that you needed more than just an openness from senior management to changes, but actually changes needed to really be supported by and driven by senior management in order to get buy-in across the workforce?
A. Absolutely, yes.

Q. And, did you see that kind of intention or support from Mr Ryan?
A. There was a - he had a conversation with me that he'd raised it with the Director to look at a different behaviour management approach, but that's all. So, that - I was told that he had a conversation with the Director about it.

Q. You referred before to the Australian Childhood Foundation and it being the leading thinkers on behaviour management in traumatised children. Did you recommend any of their programs or literature to Mr Ryan at any point in time?
A. Yeah, I did on a number of occasions.

Q. And, was that in the context of discussions about the behaviour development system?
A. Yes.

Q. And, did he take you up on those suggestions?
A. No.

Q. You said there was an openness to consider other ways of managing behaviour but it seems there was no real substantive change to the way that behaviour was managed while you were at the centre.

Q. Do you have any reflections that you'd like to share with the Commissioners about what that says about the priority that was given to therapeutic practices at the centre?
A. Probably my reflection would be that I think they thought that the behaviour development system worked, for the staff to use it. I think the understanding of therapeutic practice was very low at the centre by operational staff; that's not to say all staff, but definitely very low by a lot of the operational management staff.

Q. In circumstances where there was that low understanding within the Operations Team, and you were the manager of Professional Services and brought considerable expertise and also an ability to know where your expertise ended in an organisation like the Australian Childhood Foundation might assist, was deference given to your opinions in relation to behaviour management?
A. No, not at all. I probably heard more feedback that I didn't know what it was like to work with the young people in the centre, and I didn't work in the units day-to-day, so I was often - it was disregarded.

Q. Is that another example of this command and control approach to the centre and to behaviour management winning out over the interests of the detainees?
A. I think so, and I also think it was an example of, that the Operations know more about working with young people and managing the young people than anyone else in the centre.

Q. Ms Honan gave evidence on Friday that since you left the centre there have been changes and improvements to the Behaviour and Development, it's now called the Behaviour and Development Program. I'd be interested to know, having regard to your expertise, how you would objectively measure whether a new program was having a beneficial therapeutic impact on young people at the centre. Do you have any thoughts on objective measures that might suggest an improvement?
A. I don't have - I really don't know what the objective measures would look like, but I could describe to you that a young person leaving should have developed some regulation skills on leaving, so they would be able then to take those skills into the community and we would see them doing better in the community after they've left Ashley

than before they came in.

Q. Would you have measures - and having regard to the fact that the MDT is meeting on a weekly basis and the young people are being observed and monitored, would there be processes, business as usual processes at the centre that would allow improvements in behaviour to be tracked before they leave the centre?
A. If we actually were doing a behaviour - if we actually had a system in place that was therapeutic and helped young people to behave better, because their behaviour shows how well they are in themselves, really, you would expect to have everybody on green after a certain period of time and them not - when things become overwhelming for them, if we've got a therapeutic program in place they would learn to manage overwhelm and you wouldn't have young people drop straight back to a red colour, for example, because they've become - had a moment of escalation; so I would think you would start to see most of your young people tracking on those higher level colours of green and yellow because we've helped them to do so well.

Q. Self-regulate. Can I ask you about another colour. The behaviour development system when you were at the centre involved four colours, starting with the lowest risk behaviour, green, through yellow, orange and red. In March 2019 something called the Blue Program was reintroduced; I understand you weren't involved in devising that program or re-introducing the program, but what was your understanding of what the Blue Program involved and why it was reintroduced?
A. My understanding of what was involved in it, I became aware of from an email, and I think that was also from my - could have been from someone in my team. And, initially the Blue Program - well, I understood the young persons spent a lot of time in their room or the unit, I'm not quite sure the amount of time that would have been, but it came through and the content of the Blue Program was a lot of PowerPoints that this young person was supposed to, like, read and work through with the youth worker.

Q. And is that because, while a detainee was on the Blue Program they were prevented from going to school outside the unit?
A. That's correct, yes.

Q. So, is it the case that they were effectively

responsible for their own learning by reference to a PowerPoint pack?
A. I think, my understanding was that I asked who worked through that PowerPoint, those Powerpoints with them and my understanding was, the youth worker was to work through them with the PowerPoint, yeah.

Q. And is that something that youth workers were in a position to do having regard to their other responsibilities?
A. I don't know.

PRESIDENT NEAVE: Q. And what was the capacity of the young people in Ashley who might have serious behaviour management issues; what was their general capacity to work through a PowerPoint program to understand the concepts which were being expressed and to take that in and use it to modify their behaviour, in general?
A. I don't think it was suitable at all to the capacity of the young people. We had young people with low literacy levels, the incapacity often - their cognitive capacity sometimes was quite low, and for the two people or the people that were on blue, I think they had some level of cognitive disability. I also expect that a lot of the young people in there had developmental delays, so weren't up to even necessarily able to read and understand, and a lot of it was quite high level reflective capacity was required.

Q. So, to put this crudely, we're talking about a situation in which a young person with low cognitive capacity, poor reading skills, having somebody who's experienced perhaps serious trauma in the past is kept in their unit or kept in their room and required to work through a PowerPoint presentation, understand it and use it to modify their behaviour; is that the way it worked?
A. Yes, that's correct.

PRESIDENT NEAVE: Thank you.

COMMISSIONER BENJAMIN: Q. And added to that what you're saying is that the specialist educators at Ashley were excluded from that process?
A. Yeah, they weren't involved initially at all, no.

Q. At least at the beginning?
A. That's right, yep.

COMMISSIONER BENJAMIN: Thank you.

MS NORTON: Q. I've reviewed the literature surrounding the Blue Program, and you've helpfully exhibited a number of documents that were circulated at the time, and they are at pains to say that the blue classification doesn't involve punishment or isolation. Do you agree with those characterisations?
A. Well, the young people are removed from the general activities of the centre, which I would imagine a young people would feel like punishment; they were removed from communicating and interacting with their peers - you know, anybody else in the centre; yeah, I think it could have felt like punishment, yep.

Q. And appreciating that, while they weren't necessarily confined to their rooms at all times, they were "unit bound", I think is the term given to it at the centre. Is "unit bound" really a form of de facto isolation? Is that a fair characterisation or would you disagree with that?
A. I think we're definitely isolating people from the general routine of the centre, so I suppose it depends on the definition of "isolation" what that is.

Q. Is that a form of isolation?
A. It is, well, I think it is; it's isolating from all the other general activities of the centre.

COMMISSIONER BROMFIELD: Q. And their peers?
A. Yes, yep.

MS NORTON: Q. As I understand it, you had concerns about the Blue Program when it was first introduced, and you raise those concerns - they were raised initially with you by a member of your team, and then you raised them with Mr Ryan. What do you recall Mr Ryan's reception to those concerns being?
A. I remember him being open to improvement, I think his email response back to me - I made a number of suggestions on how it could be improved and he was quite open to looking at improvement, given that my team and my staff felt like we had some things we could contribute to improving it, yeah.

Q. What were you able to do in order to improve the Blue Program?

A. Well, we developed it very quickly and a bit on the run because, I think it had already been implemented. We based it on the principles of trauma-informed practice and attachment theory, which a lot of it came - I used quite a bit of theory from the Australia Childhood Foundation using relationship-based approaches. So, we developed an individualised program for each of those young people every day where we would have the professional staff go in every second hour to deliver a therapeutic content with the young person, so that would be the psychologist went in, someone from my team, the case managers, the education staff went and someone from Health. So then they had a full day's support program, and between those professional visits we designed some more calming regulation activities, so the gym, they went to the gym one-on-one with a youth worker. We asked them what else - other things - we consulted with the psychologist very quickly on some activities. So, some young people like doing jigsaws or some of those really like focused meditative activities to help with regulation.

Q. In the Blue Program as initially devised by others was there a clear path out of blue back down through the other colours, or did you think there was uncertainty about how a young person would get off the blue classification?
A. My memory was, it was quite clear, because to get off blue you had to meet what had looked like to be sort of a red or orange, and as long as you participated in the Blue Program, or to some degree, and started to show some greater regulation, what looked like to be on the red colour, at the next CST meeting you would be up to that colour, or even before that, we had some interim CSTs so sometimes it would be sooner.

Q. I was going to ask about that, because the CSTs happened once a week, and that's on a Monday. If you had somebody on the Blue Program who by the Wednesday is really, you know, meeting the requirements of red or another colour, the following Monday's quite a long time to wait to be reintroduced to the normal routine of the centre; so, is it your evidence that in those circumstances an interim CST meeting might be called to review that classification?
A. Yes, that's right.

Q. The improvement that you've referred to, it sounds like you improved a program that was presented to you: did you think it was, following those improvements, a good

program or did you still have concerns about it?
A. I thought it was a good program in that it appeared to work; we had young people come off the blue colour into general activities much quicker once we implemented that. I wouldn't be able to say it was a good or great program because we didn't do enough evaluation, and really, we should be looking at really, was it meeting the individual needs for young people and how would we improve it.

COMMISSIONER BROMFIELD: Q. Did you still hold concerns about the level of isolation in the Blue Program once it had been modified by your team?
A. I had less concerns because they had someone with them - like, they had someone with them every second hour and some time between; I felt like there was more contact with people. The program was partly informed by an Australian Childhood Foundation program that I'd been to some training called, Holding Firm, and in that training and some of their principles - and I raised this in that training - about the use of some short-term containment for young people, so when they're really at risk to either themselves or others, short-term containment is required to maintain their own safety and the safety of other people. So, I would think that in the short-term sometimes you have to do that, but probably my concerns were that perhaps it was sometimes too long even the Blue Program, that we could have moved them back to the general activities each sooner.

PRESIDENT NEAVE: Q. What do you mean by short-term containment? Are you talking about half an hour, a day? What sort of period of time?
A. When I say containment, that would be containment - the Australian Childhood Foundation talk about containment within a relationship, so someone's there with you while you're in a contained environment, so it's always with someone there with you. And, we talked about how you would make that safe if someone was violent, and she talked about letting - even letting them know that there's someone outside the room always that they can talk to. The principles of both trauma-informed regulation and attachment theory is that we regulate with another person, not by ourselves; that's how regulation's learned. So, yeah, I mean, it was quite a crude improvement on the program, but I felt like it was better than what there was.

Q. So, to summarise what you're saying, the Blue Program was put in place without much or any consultation with the

professional team?
A. M'mm.

Q. The professional team then suggested some changes to it in order to overcome what the team saw as adverse, possible adverse effects?
A. Yep.

Q. If you'd started from, with no proposal for a Blue Program, you might not have gone down that track at all; have I got that right?
A. Yeah, absolutely, yep.

Q. But you were making attempts to improve it?
A. Yes, absolutely.

Q. And you think it did achieve perhaps some small gains?
A. Yes.

Q. Have I summarised that fairly?
A. Yes.

PRESIDENT NEAVE: Thank you.

MS NORTON: Thank you.

Q. I'd like to move on to ask you some questions about an incident that occurred involving harmful sexual behaviours in August 2019. If you'd like to get your pseudonym list out there, it's an incident in which one resident, Henry, was sexually assaulted by two other residents, Albert and Finn, using a drink bottle. Are you familiar with the event I've just described?
A. Yes.

Q. You attended a CST meeting on 12 August which was a few days after the event. Can you recall what the discussion at that CST was, and I'm directing you in particular to a discussion about what the response to Albert and Finn would be, in particular what colour they would be given. I think they were on yellow at the time.
A. The discussion at the meeting was that, as far as what colour they should be put on, other people in the meeting group suggested the orange colour would be the best colour because, if they were dropped to the red colour, which would have actually in the BDS been the appropriate colour, because you go to red if you've used assaultive behaviour

or a detention offence or something like that, but if they dropped to red they would drop their bundle and that would cause some behaviour problems that would be harder to manage in the centre and it would be better to put them on orange.

Q. And, what view did you have about the appropriate classification? Is it that they should have been classified as red?
A. Absolutely, yes.

Q. I understand that you raised some concerns following the meeting with Mr Ryan about the outcome of that discussion, that is, the classification as orange, and also you were concerned that the minutes of the CST meeting didn't reflect the actual discussion at the meeting; is that right?
A. That's correct, yes.

Q. And is that because there was no reference in the minutes to there being dissent, that is, there being some people in the meeting who thought red was the appropriate classification?
A. Yes.

Q. Was there any reference in the minutes to the rationale for orange over red being that, if the two detainees were put on red, they would drop their bundle?
A. No.

Q. And was it a concern for you that minutes weren't reflecting the discussion at the meeting?
A. Yes, that was the concern, yes.

Q. As I understand it from your statement, your view about the appropriate response to that incident is that Albert and Finn should have been put on red and there should have been very close supervision to manage safety for other residents. You also felt there should have been a notification to Child Safety Services and Tasmania Police, and you raised that view with Mr Ryan: what was his response?
A. From memory, his response was that we have different opinions on the matter.

Q. And was that in relation to the colour classification or the decision about whether or not to refer the matter

externally or both?
A. Both, I think.

Q. I think you say in your statement that you sent an email to him outlining those concerns and it was initially ignored?
A. M'hmm.

Q. And you had to press for a response a week or so later. Were you satisfied with the response that you received from him then?
A. I can't remember the response.

Q. I think it's an email, it's Annexure I, I think, to your statement. I'll remind you, it's an email of 22 August where he said:

You're the leader of Professional Services and as such hold significant weight in these decisions.

Again, do you think that that significant weight that should have been placed, in your view, was being honoured in reality?

PRESIDENT NEAVE: I'm sorry, what attachment was that?

MS NORTON: Attachment I, it's an attachment to the request for statement.

MS GARDINER: The response, I thought, was inadequate; that it left the responsibility for any further action with me to follow up.

MS NORTON: Q. You ultimately did report the matter to the Child Safety Service I think on 23 August. Based on your discussions with Child Safety, and I know you had a number of discussions following that initial contact, did Child Safety Services agree that this was an incident that you rightly reported to them?
A. Yes.

COMMISSIONER BROMFIELD: Sorry, Ms Norton, could you just clarify for us the date of the incident? I believe it was sometime in early August?

MS NORTON: Yes, 7 August, yes.

COMMISSIONER BROMFIELD: So, 7 August, and then it was 22 August, Ms Gardiner, that you made the report to Child Safety Services?

MS NORTON: Q. It might be the 23rd, bearing in mind you'd waited or over a week to hear back from Mr Ryan in relation to your concerns?
A. That's correct.

COMMISSIONER BROMFIELD: Thank you.

MS NORTON: Q. We've talked about the proper classification for Finn and Albert going forward in terms of red or orange and that would have flow-on effects for their privileges over the coming week. But Finn and Albert were displaying harmful sexual behaviours, did you think there was an appropriate therapeutic response at the centre to those harmful sexual behaviours and the support that they might need to address those?
A. Not at all.

Q. And, did you raise those concerns with Mr Ryan?
A. Yes, I did, in an email, and I also discussed it at the CST meeting.

Q. And, were your concerns, not only listened to, but acted on?
A. No.

Q. You say in one of your emails, and I think it's that same email that's Exhibit I - you're talking about the 12 August CST meeting, and there was an explanation perhaps that was offered at that meeting, I'm not sure by who, that:

> *Both residents are long-term and would be experiencing some sexual frustration.*

And that was offered as an explanation perhaps for why Finn and Albert had behaved as they did. Does that strike you as an appropriate characterisation for harmful sexual behaviours?
A. No.

Q. Does it indicate an understanding of harmful sexual behaviours and their cause?

A. No, not at all.

Q. While you were at the centre did you see Mr Ryan or others taking up your suggestion that staff at the centre needed to become more skilled in assessing and responding to harmful sexual behaviours?
A. No.

Q. I anticipate that Mr Ryan will give evidence that he, as early as 2017, which I appreciate is before your time at the centre, but that he sought approval for harmful sexual behaviours training from his supervisors and from successive supervisors and that wasn't supported. Were you aware of those efforts while you were at the centre at all?
A. No, I wasn't. I was made aware he'd had discussions with the Sexual Assault Support Service, he'd referenced that, but I wasn't aware that he'd proposed any training from them and that it wasn't supported, no.

Q. Did you also have concerns - just going back to Henry who was the subject of this incident; he was a very vulnerable young person and, as I understand it, his care plan specifically said that he was not to be moved into a unit with Albert and Finn; is that your recollection?
A. I don't have a recollection of what was in the care plan.

Q. If that was the case, that the care plan said he should not have been moved into a unit, and it was the Franklin Unit, with those particular residents, would you have concerns about the fact that he was?
A. Absolutely, yes.

Q. And, there might have been operational reasons why that was considered necessary, but would you consider it essential in that circumstance that the detainees be subject to very close supervision?
A. Absolutely, yes.

Q. The final matter I'd like to ask you about --

COMMISSIONER BROMFIELD: Sorry, Ms Norton.

MS NORTON: Yes.

COMMISSIONER BROMFIELD: Q. You did mention that there was a lack of intervention for the two young people

displaying the harmful sexual behaviours. Do you recall if there was any kind of support provided for the young person who experienced that sexual assault?
A. I know that the psychologist saw that young person, yes.

Q. And do you, again, based on your recollection, do you feel that all appropriate steps were taken in relation to that young person's sense of safety after that assault?
A. I don't think all appropriate steps were taken, no.

Q. Is there anything that you wanted to expand on in relation to that assessment?
A. Well, because my advice was not followed and I wasn't included in any of the following planning for that, I couldn't be sure that their safety was secured, I couldn't be sure how they felt or what would meet their needs best. Yeah, I felt like it should have been a really collaborative management approach to responding to that, and I really wasn't part of that.

Q. From your experience in this field, what could it prompt in a young person who had experienced a sexual assault like that, to then be in a situation where they're forced to be in close proximity to their perpetrators or to reside in the same unit with them?
A. Well, that's just further trauma, isn't it; it could be quite terrifying, yeah.

Q. Is that, in your experience, a trauma-informed practice? Is that likely to contribute in any way to behavioural escalation?
A. Absolutely, yes, yep. There's a lot of risks associated with how the young person may then modify their behaviour to keep themselves safe.

COMMISSIONER BROMFIELD: Thank you. Sorry, Ms Norton.

MS NORTON: Thank you.

Q. I'm conscious of the time, there's just one final matter I'd like to ask you about and it concerns a detainee called "Max" who also should be on your pseudonym list there. This is not long after the incident with Henry, Finn and Albert. I'm just trying to get a date for you. It's page 29 of your statement. In any event, if you could just accept that it's a short time after the incident

involving Henry, Finn and Albert.

Max was a particularly vulnerable young person and he was put in the Franklin Unit, again, with Finn and Albert. He had himself displayed sexualised behaviours so putting him with Finn and Albert exposed him to risk and it also exposed Finn and Albert to risk having regard to their propensity to engage in harmful sexual behaviours.

You say in your statement at about page 47 that you, again, had conversations with Mr Ryan about the decision to place Max in Franklin, which I think again your team was not consulted about. What do you recall about Mr Ryan's response on that occasion?
A. He told me to read the Unit Moves Procedure, which I read, and the Unit Moves Procedure at the time didn't involve any consultation with Professional Services or consideration of the MDT group about risks for young people, so I let him know that the current procedure puts young people at risk; that I'd read it but it still created risks for young people.

Q. And was that because there was a risk that operational considerations would dictate moves without regard to safety issues that that those moves might present for the young people?
A. Yes.

Q. Following your review of the Unit Moves Policy, did you have a further discussion with Mr Ryan?
A. Yes.

Q. What do you recall about that discussion?
A. I'm not sure whether it was in an email or in conversation, but I let him know that the current procedure as it stands, with no consultation with Professional Services or the MDT Group puts young people at risk.

Q. And, did he show an openness or act on your concern by making changes to the Unit Moves Procedure?
A. No.

Q. I think you say in your statement that it was a discussion, not via email but in person, and that he, again, yelled at you to read the procedure: do you recall that?
A. Yes.

Q. Out of fairness, I think Mr Ryan's going to give evidence that he didn't yell at you. Do you have a clear recollection of that discussion?
A. I remember being told very bluntly to "Read the Unit Moves Procedure".

MS NORTON: Thank you, Ms Gardiner, I have no further questions for this witness.

PRESIDENT NEAVE: Q. I just have one question before I ask my colleagues. I suspect that one of the issues that will be raised later on in this week will be about the resourcing and the capacity for Ashley as it's currently staffed to adopt therapeutic procedures. Do you have any comments on the sort of resourcing you would need to overcome some of the issues that we've discussed today?
A. My comment about resourcing would - I think that the staff, a significant number of staff working with young people need to be tertiary trained. I think staff need to operate understanding principles and the theory of practice. Because of the complexity of the young people they're working with, it's about the interpretation, the work is so nuanced with the individual young person that understanding the principles, yeah, and theories of practice to inform decision making in the application of rules. I feel like, when staff are operating from certificate-based training, they've learnt the rules and processes to work with young people, but not how you would interpret that to be in the best interests of young people. So, similar to where you see in Health Services or complex Human Services where you have degree qualified people, they're able to interpret what would be in the best interests of this person, even though the rules tell us this, and perhaps the rules are not good then and what do we do to change the rules or influence the rules?

Q. The government has announced that Ashley will be closed and that there will be two separate Youth Detention Centres. Do you have any comments about the sort of level of staffing you might need if you were going to have a centre, say, in Launceston and Hobart, apart from the issue of professional qualifications that you've discussed? What are we talking about in terms of ratios of staff to young people that are necessary to do this very difficult work?
A. I think one-to-one would be ideal, but I think there could be some young people that you could work at a ratio

of, like, one staff member to two depending how they are. I think any further than that you're not really able to help young people regulate and manage and step in in a timely manner where you need to.

PRESIDENT NEAVE: Thank you.

COMMISSIONER BENJAMIN: Q. Just so I can understand the issue regarding Max, and that was in August 2019, was it that or thereabouts?
A. I can't remember the timing.

Q. I think you said it was shortly after the events. It was around that area of time anyway.

MS NORTON: Yes, it's around the third week in August. There's an email in relation to this, that you sent to the operations manager on 21 August.
A. Yes.

COMMISSIONER BENJAMIN: Q. Was Max a younger child, compared to Finn and Albert?
A. Yes.

Q. Considerably younger?
A. A couple of years younger.

Q. And was there any difference in the physical size of Max as against Finn and Albert?
A. Max was quite a big boy, quite tall and quite - yeah, he was quite a big boy, so he was bigger, yeah.

COMMISSIONER BENJAMIN: Thank you.

COMMISSIONER BROMFIELD: I didn't have any further questions. Thank you for your evidence.

PRESIDENT NEAVE: Thank you. I'm sorry, I don't mean to cut you off.

MS NORTON: No. I was just going to say that when we're finished with the witness, then I think it's, subject to your convenience, time to break for the morning break.

PRESIDENT NEAVE: Thank you. I wanted to thank you very, very much for your careful statement and your evidence today. Thank you.

A. Thank you.

SHORT ADJOURNMENT

MS ELLYARD: Thank you, Commissioners, the next witness is going to give evidence of her experiences, the Commission's directed that she be known as "Erin". Can I ask that a direction be given for the live stream be turned off for the purposes of her evidence?

PRESIDENT NEAVE: Yes, could you do that, please?

MS ELLYARD: Thank you, I understand the live stream is off, so Erin, I'll just ask you to stand so that you can make your promise to tell the truth.

<ERIN, affirmed: **[11.57am]**

<**EXAMINATION BY MS ELLYARD:**

MS ELLYARD: Q. Erin, you're here today to read a statement about some of your experiences when you were a resident at Ashley Youth Detention Centre; is that right?
A. Yes.

Q. You've written a statement which is about some of your experiences, not all of them?
A. Yes.

Q. And, for the purposes of today, you're going to read some of that statement, not all of it, because you've made a decision about what you feel comfortable reading and what you'd prefer not to read; is that right?
A. Yes.

Q. Can I invite you to read your statement now, take your time?
A. Sure, okay:

When I was 14 years old I started playing up at school.

Sorry, is that microphone, okay, sorry:

When I was 14 years old I started playing up at school. It was nothing too serious, just things like smoking and wearing too

much make up. As a result my mum decided to put me in Annie Kenney which is a woman's shelter which is a women's shelter providing short-term crisis accommodation in Hobart. There was about 14 other girls in the shelter, they were all older than me up to the age of 21.

From this time things excalated pretty quickly. Annie Kenney will kick you out between 9am and 5pm each day. I started spending my days hanging around with other girls from the shelter.

PRESIDENT NEAVE: Erin, I don't want to make things difficult for you, but if you could speak just a little bit slower it's easier for us to follow.
A. Sure, sorry, I'm just a bit nervous.

COMMISSIONER BROMFIELD: Take a break, have some water and know that we have plenty of time to hear you, you don't need to rush anything, we want to hear everything.

PRESIDENT NEAVE: We want to hear what you have to say to us.

ERIN:

I stopped regularly attending school. I had no money, no clothes and no food. I was too young to receive money from Centrelink so I started stealing.

In [redacted] when I was 14 and a half I was caught stealing a bag of Doritos which I stole because I was hungry. I wanted dinner and had planned to make nachos. After this I was arrested. The police called my [redacted] to come and get me. He told the police that he didn't want me and they could keep me.

I was left in the Hobart Remand Centre for two days. I was strip-searched by male guards. I didn't shower or eat. Adult male prisoners would watch me.

I was sent to the court twice but they didn't know what to do with me. My parents didn't want me and all of the shelters were full. I was too old for foster care. While I had some prior offences I didn't think I was out of control in any way, they just didn't know what to do. As a result they sent me to Ashley Youth Detention Centre (Ashley) on remand. I stayed there for three months.

By the time they told me I was going to Ashley I was relieved. I thought going there would provide me with some sort of security. I thought Ashley would be better but it turned out to be worse.

When I arrived at Ashley, I was strip-searched by male guards, I didn't think much of it at the time because it had already happened to me at the Remand Centre. I will provide more detail about being strip-searched later in this statement.

I was told that they hadn't had a girl in Ashley for about 18 months prior to me going in there, and when I arrived I was the only girl. When the boys saw me they were thrilled. I instantly had the boys yelling things out to me and banging on my windows.

The layout of Ashley at the time was, the girls unit, [redacted] was joined to [redacted] which was one of the boys units. I didn't realise initially but the boys in [redacted] could watch me through the guards' office.

I was unit bound for the first week which was part of the normal introduction. This happened every time I went to Ashley. I was kept in the unit by myself that week and only allowed out for an hour or two a day. I've got massive trauma from this. I can't deal with being trapped inside. I

found the COVID lockdowns really hard.

The first significant incident occurred after I had only been at Ashley for about a month. I was feeling unwell with stomach pains and I thought I had appendicitis. I told the male worker on shift, who I would prefer not to name in this statement, that I was unwell and I needed to go and see the nurse. He told me he would have a look for me. He got me to lie on a chair in the unit and lift my top up. He then proceeded to feel around my body, nowhere near my appendix. He drew a jellybean thing on me and told me it was a "happy appendix". He didn't take me to see the nurse.

I knew that it wasn't okay for him to do this to me so I decided to speak to one of female workers. I thought what he did was creepy and I felt really violated. The female worker told me that it wasn't okay for him to do that to me and I should report it to the Ombudsman. I called the Ombudsman and told them what had happened and that it wasn't okay. Two weeks later I got back a generic letter from them saying that the complaint would be handled internally and that they wouldn't make contact with me again. I have kept a copy of this letter.

And then attached there's a letter.

None of the staff at Ashley spoke to me about what had happened and I wasn't offered any counselling, support or mediation. I wasn't notified of any outcomes. The male guard got two weeks paid leave. [redacted]. I was told by one of the workers that this was because of my complaint but I was never formally told about this.

When the male worker [redacted] returned to Ashley I had to continue working with

them, they were never nice to me again.

Other staff were pissed off at me for speaking up and going to the Ombudsman. They would tell me that I was a dog and a drama queen. After this I felt like it was pointless making complaints or speaking up. I learned that you don't say anything in Ashley, it was more trouble than what it was worth. I would describe the staff at Ashley as being like a pack of animals. Some of them had been working there for 30 years. They all went to school together. They were all from Deloraine which was a small country town. They all looked after each other

COMMISSIONER BROMFIELD: Q. Do you want to take a breath?
A. Yes, please.

At Ashley we had to attend compulsory school and therapeutic based programs. Because I was either the only girl or one of few girls at Ashley I would always be mixed in with the other boys. On one occasion I was left in a room by myself with about 10 other male detainees and no worker supervising. In this time I was sexually assaulted. I shouldn't have been left alone with these boys, the staff had a duty of care to look after me.

After I left the program I told another girl who was in Ashley at the time what had happened to me. I told her not to tell anyone because they would call me a dog and I'd get my head kicked in. She decided to tell a female worker.

Sorry.

PRESIDENT NEAVE: Just have a little drink of water and just ...

COMMISSIONER BROMFIELD: As much time as you need, and you can take a break if you want one.

ERIN:

She decided to tell the female worker who had previously advised me to go to the Ombudsman.

PRESIDENT NEAVE: Would you like our counsel to read the rest of your statement?
A. No, I'm fine.

PRESIDENT NEAVE: Good, thank you.
A.

Later that night the female worker came in to my cell and asked me what had happened. I broke down and told her everything. Again I asked her not to tell anyone. Despite me asking her not to tell anyone, the female worker reported the workers for leaving me alone and the main boy who assaulted me. I wasn't offered any counselling or given any medical attention despite the fact that I was in pain. Nobody else from Ashley came and spoke to me about had happened.

I recall that my parents were phoned about the incident despite me not having anything to do with them. Two or three days later I was released from Ashley and that was it, end of story.

About a month after being released from Ashley I was again arrested for stealing. I didn't have any clothes because the other girls in the shelter had taken all of my clothes. I was done for stealing a bag of clothes and some makeup.

After going through the Remand Centre I was again sent t Ashley on remand. This time I was there for a month and a half.

Sorry:

When I arrived at Ashley I was told by a worker in admissions that the boys were going to hate me. I asked why and she told

me that the main boy who had assaulted me had [redacted]. He was already over 18 at the time he assaulted me and had a history of violence. This was the first I heard of the outcome. Because of this as soon as I got in I was hated.

After I went through admissions, I walked through the yard where all of the boys were. They barked and yelled at me.

Friends of the boys who got transferred told me they were going to kick my head in and I wasn't allowed to come out of my room. Some of these boys were also over the age of 18. The workers hated me too because they got told off for what had happened. I wasn't offered any support or protection to help me deal with all of this. There was no-one there to support me. This again confirmed to me that you don't say anything at Ashley. If things happen you don't talk, you just go along with it.

With all of this going on I had decided if I would continue to fight or just go along with it. I decided to just go along with it because that was easier.

I went back to Ashley on two more occasions, both times for breaching my curfew which was a part of my bail conditions. The third time I was there for two weeks. When I got out, which was right before [redacted], I broke my curfew again that night and I was taken back to Ashley the following day and held on remand for around another five months. Overall I went to Ashley four times between [redacted] for a period of about 10 months. My experience during the second, third and fourth admission were pretty much the same. I was put back in programs with some of the boys that had been involved in the assault.

The guards knew things were happening but

they would just accept it. They would leave me unattended all the time and the boys knew they could get away with things. Eventually I was put on the contraceptive pill. I would go to the nurse's office every day to receive it.

COMMISSIONER BROMFIELD: Q. Do you want to have another sip of water and give yourself a moment?
A. Yes. Thank you. Sorry, I'm just trying to figure out, sorry.

Q. You can take your time.

COMMISSIONER BENJAMIN: Q. I think you just told us you'd been there from [redacted] to [redacted], that was the spot you were up to.
A. Yes.

Q. But take your time.
A. Sorry, there's just one part and I've just --

Q. Don't apologise, it's important that you tell us your story.
A. I am going to alter it slightly so, I'm sorry in advance, as previously - sorry.

COMMISSIONER BROMFIELD: Q. Do you want a couple of minutes to write down something different?
A. Sorry, I'm just - I'm fine.

MS ELLYARD: May I interrupt, and I'm sorry to interrupt, Erin. I think I'm aware in a general sense of certain aspects of Erin's statement that she's concerned not to read out loud and I think one way to do that is for me to ask for a restricted publication order that refers to locations within the centre where the things that Erin has described occurred, and to the particular time periods so that, even though Erin might read something out, there won't be any publication of the time periods or the locations within the centre where particular events occurred, and that may assist in helping her feel she can read what's there without it being published beyond this room.

PRESIDENT NEAVE: Q. And, Erin, you would find that helpful?

A. Yes, please.

PRESIDENT NEAVE: Yes, we'll certainly make that order, and I might need to get the terms of the order right, but it's in relation to the locations and times at which various events occurred.

MS ELLYARD: Yes, we'll get the form of order but for now in case there's any media already listening if they could be alert to the fact that, to the extent that particular locations have been identified as to the place where events occurred, there should be no publication of those locations.

PRESIDENT NEAVE: Thank you.

ERIN: I would really appreciate that, thank you. Sorry, can you hear me? There we go.

Okay, so just to confirm, if the media can just be respectful of just locations and times.

PRESIDENT NEAVE: Of course, yes.

Q. So that means that you don't need to sort of edit as you go?
A. Yeah, okay. All right:

There was one program, it was [redacted] of the centre. [redacted].
The workers would either watch or go to sleep. While the class was going I would have to give handjobs to the boys that were there. This would happen every week.

Sometimes the workers would watch and I would ask them if they were going to say something. They wouldn't say anything, they were just happy watching. I went along with doing these things because I just thought it was easier. I believed that if I didn't I would get my head kicked in. It was easier to comply. I didn't make complaints to the staff because I knew if I did things would get worse. Again, I

was fearful of being physically assaulted.

The whole environment at Ashley was hostile. The guards would do things to make your life hard. If the guards didn't like you they would do things like leave you in your cell on the weekend. They would tell you that it was 6 o'clock in the morning when actually it was 10 o'clock. They would leave the curtain up over your door so you couldn't see the sun and didn't know what was going on around you. You'd miss out on your lunch and they wouldn't let you out of your cell until, like, 1 o'clock in the afternoon. They did these things to mess with you and make your life really hard. They would also use the points and colour system to take privileges away and make your life harder.

I was pretty lucky when it came to physical assault. I was never physically assaulted by the guards but I witness them assault the boys really badly. They would break arms and legs. I knew that they could do this to me so I was never violent or aggressive. They would just do more manipulative things to me.

The guards would constantly make comments about my body and my breasts. They wouldn't let me wear a bra. I was treated like an object. That's what I was targetted as. I remember when I was 14 being told that I was [redacted].

If that description can also please be cut out.

I wasn't allowed to have a bra in either Ashley or the Remand Centre. This is something that I didn't make complaints about. Every week at Ashley we were able to put in requests. I think the requests went to centre management. They were usually used for requesting things like another football but every week I would put

one in asking if I could have a bra. I would list different reasons, like my back hurts, it's uncomfortable or everyone can see my boobs but I never got one. They told me if I got sentenced I would be allowed to have a bra but I never got sentenced, I was always in Ashley on remand.

I wasn't even allowed tampons when I was in Ashley. They told me that the girls had abused the privilege of having tampons in the past so we weren't allowed them. That was it. We were allowed to have pads but we were only allowed so many at a time. I raised this as an issue through the same request process but was told we just weren't allowed tampons. There was no dignity, it was disgusting.

Strip-searches would occur all the time. There was no need for them. I would be searched each time I was admitted, before court, after court and when they were doing random searches. They would do the random searches as part of the sweep of the centre. There would never be any reason for them.

The random searches would occur in either the admissions area or in my room. Sometimes when I was searched there would be two or three male guards at once conducting the search. They would tell me there had to be two or three guards watching for my protection because I was a female. They would tell me to remove one item of clothing at a time until I was completely naked. They would get me to move my breasts around, there was no dignity, it was totally violating, it was like a show for them but they would justify all of them watching so I couldn't say things that had happened. It was so twisted.

I was never given the option for a female

to do the search. For so long I believed it was okay for them to search me like this particularly because it had happened to me in the Remand Centre. It was normalised, now I realise how messed up it was.

Sorry:

One particular occasion I remember was during my fourth time at Ashley. I had changed the sheets on my bed and asked the male worker to come and collect them. I had been waiting hours for him to collect them but he didn't. Eventually I told him that I was having a shower and going to bed. Five minutes later he came into my room to get the sheets. He came right into my room and watched me in the shower. He wasn't in my room for very long but there was no reason for him to be there. I had intentionally left the sheets at my door so he couldn't come in. I think by this time the guards knew I wouldn't say anything so they just did what they wanted. There was nothing subtle or sneaky by this point. They just didn't care.

One thing I don't think is spoken about enough is the Hobart Remand Centre. For me the Remand Centre really sets the tone. The Remand Centre would give jobs to the male prisoners. Because of these jobs I was forced to interact with them. These prisoners were there for their protection so they were often rapists and paedophiles serving long sentences.

For me this is completely messed up. On one occasion I remember I was in my school dress and the guards hosed me down. I was left in my cell with a dripping wet see-through school dress with all of the prisoners walking past looking at me and chatting to me. I felt like I was being put on display.

The conditions of the cells in the Remand

Centre were disgusting. The cells were often not cleaned out from beforehand, so there would be piss, shit and food all through the cell from the previous prisoner when you arrived.

Sorry, and that's about it. But, the impact of my abuse:

Coming out of Ashley I went down a massive spiral. It's hard to put into words. I started using ice, speed and smoking bongs. I drank a lot. This was my way of blocking things out and helping me forget. I now think there's more that happened to me in Ashley that I have permanently blocked out.

I've got PTSD, anxiety and depression. I struggle to trust males in particular. It impacts my relationships, which now impacts my children. I have got really low self-esteem. It's embarrassing and not something that other people my age can relate to.

Constantly being sexualised has really impacted who I am today. Being treated like that every day over so many months at such a young age, it really impacted who I am as a person. I've been involved in abusive relationships that I have never spoken up about. Ashley made me feel like it was normal and it was okay for men to treat me like that. It made me believe that it was what I was used for. I have had horrendous things happen to me that I have just thought I deserved. I believed that it was normal for these things to happen because that's how I was treated at such a young age. Before I went to Ashley, I was never exposed to sexual abuse.

What could be improved?

What happened to me could have 100 per cent been prevented. If girls weren't put in with the boys, most of this stuff would

never have happened. Girls and boys shouldn't be put in together. I was exposed to a lot because of this and it has changed me as a person. It took away my innocence.

If there was a majority of female workers, stuff with the guards never would have happened. The staff at Ashley also didn't have adequate training. They had been there since the '80s just staying in their role.

Children should not be sent to a place like Ashley for minor offences. I was there for stealing a bag of Doritos. Children shouldn't be sent so to Ashley for these crimes. If detention is need, it could be a home detention somewhere like Annie Kenney. I remember being spoken to about a home detention-based system where four or five kids could be kept together and those could be all around the state. I thought that was a really good at the time, and I still think it's a good idea now. I don't know why we aren't doing it.

Building a new centre and putting a ribbon on it isn't going to change anything. They need to break it right down and make sure it changes. I have heard that the new centres are going to be therapeutic-based, but just saying that isn't enough. Ashley had what was supposed to be a therapeutic-based system when I was there. The [redacted] *programs where I was made to give the boys handjobs were a part of this therapeutic-based system.*

PRESIDENT NEAVE: Erin, thank you so much for your great courage. What you've told us will help other children in the future. You've given us an enormous amount of help, and we're very, very grateful to you. We know what an ordeal it was for you to have to speak about what has happened to you.

A. Thank you.

Q. And we hope that your future is brighter than what has happened to you and that things will get better as time moves on.
A. Thank you.

PRESIDENT NEAVE: So, thank you very, very much indeed.

MS ELLYARD: Commissioners, may I invite you perhaps to stand down for a couple of minutes. We'll bring the live stream back up and we'll arrange for the next witness to come into the hearing room.

SHORT ADJOURNMENT

MS ELLYARD: Thank you, Commissioners. There's an appearance to be announced on behalf of the next witness.

MS WEISS: Thank you, counsel. It's Regina Weiss appearing today for the next witness. Thank you.

MS ELLYARD: There's a restricted publication order in place, so that the next witness is to be referred to as "Alysha", and I'll ask her to stand so that she can take the affirmation.

<ALYSHA, affirmed: **[12:27]**

<**EXAMINATION BY MS ELLYARD:**

MS ELLYARD: Q. Take a seat, Alysha, and make sure you've placed yourself in front of the microphone so we can hear you. You've made a statement to assist the work of the Commission; is that right?
A. That's right.

Q. You've got a copy of that statement in front of you?
A. I do.

Q. It's dated 16 August 2022, and I understand there are a couple of minor corrections that you'd like to make. The first is to paragraph 213. As I understand it, you refer there to children who are known by pseudonyms, and there's an error so that the three references in paragraph 213 to "Joseph" should be references to "Richard"?
A. Correct.

Q. The second change, as I understand it, is in

paragraph 228. In the third-last line of that paragraph there are words which say, "the same incident". As I understand it, you would like to change that to say "another incident as referred to in paragraph 58"?
A. That's right.

Q. And then the final change is in paragraph 276. On the fourth line of paragraph 276, it says, "which upset V greatly". That should read "which upset Margaret greatly"?
A. Correct.

Q. With those changes made, and noting that in the public version of your statement there will be some redactions for other names, are the contents of your statement true and correct?
A. Yes.

Q. Thank you. As we learn from your statement, Alysha, you worked at Ashley Youth Detention Centre for a period of slightly over six months between October 2019 and April 2020?
A. That's right.

Q. You explain in your statement that since April 2020 you've been on leave?
A. Yep.

Q. And the circumstances of you taking leave are the subject of legal proceedings between you and the State?
A. That's right.

Q. And we're not dealing in detail with those matters for the purposes of this statement.
A. Yep.

Q. The role that you had during the time that you were at Ashley was the role of clinical practice consultant?
A. That's right.

Q. In your role, you had the responsibility for assisting youth workers to improve the way in which they worked with the young people?
A. Yes.

Q. And, as part of that, you formed part of what we understand was called the Professional Services Team?
A. That's right.

Q. But you also worked with members of the Operations Team?
A. Yep.

Q. Because part of your role was to work with them to improve their practice?
A. Exactly.

Q. And that, as I understand it, could involve meeting one-on-one with them for supervision?
A. Yep, absolutely.

Q. And it also involved you being part of various meetings, which we're going to talk about?
A. Yes.

Q. So, at paragraph 23 of your statement you describe the organisational structure of the centre. And, as I understand it, during the period of time you were there the manager of the centre was Patrick Ryan?
A. That's right - well, for the majority of the time, yes.

Q. And quite towards the end he went on leave and he was replaced by Mr Watson?
A. Correct.

Q. Would it be fair to say that the observations that you make about the culture and management style during your time are largely observations about Mr Ryan?
A. Yes.

Q. And about another person who we're calling "Lester"?
A. Correct.

Q. And they're not so much about Mr Watson?
A. No.

Q. Thank you. You've described in your statement a number of matters relating to who did what, but can I come to what you say in paragraph 41 of your statement. In paragraph 41, after you've described the different roles the different parts of the centre played, you make some general observations about how most of the Operations staff were in their dealings with the children?
A. Yes.

Q. What were the observations that you made about that?
A. Some of the observations that I made about operational staff and how they would speak to and work with the young people were that they were highly punitive in their approaches, very authoritative in the way that they would speak to them, often verbally abusive, sometimes physically abusive or excessively forceful. They would belittle them and humiliate them, name call. It seemed to me that it was often, and not always, and not all staff, but it was often their intention to ensure that the young person knew who was in control and who was, you know, that they had less power than the grown-up did.

Q. We've heard from other evidence that officially the approach of Ashley was that it was a place of rehabilitation and restorative practices that valued and respected the young people. During your period there, is that the culture you observed being demonstrated?
A. Not in any way, shape or form.

Q. In particular, did you make an observation about the attitude towards the kids and the value that Operations staff placed on the children?
A. Absolutely, yeah. I felt like they held very little value and didn't respect the children; certainly didn't have - and again, not all staff, but the majority - I'm confident in saying that the majority did not look to meet their needs, did not care about what they could do to best support individual young people in their rehabilitation, how they could best support them; that wasn't something that entered the conversation.

Q. Of course, we're aware from other evidence that the cohort of children who find themselves in Ashley are for a variety of reasons very complicated children?
A. Of course, yes.

Q. And at least some of them, if not all, display very challenging behaviours?
A. M'mm.

Q. Including potentially violent behaviours towards staff or towards other detainees?
A. That's right.

Q. And so, I take it you would agree that the children

would have been sometimes very difficult for staff to work with?
A. Absolutely, it's a very difficult work environment for everyone. As you say, the children that are detained often present in a very complex way and, you know, it does require a high level of skill to be able to work with them effectively.

Q. But I gather you would have some reflections on, I suppose, the children being more than the sum of their behaviours and the value that the children had beyond that; what are those reflections?
A. My reflections on that would be that, you know, quite apart from the reasons that they might be in detention, these were young people who I often had really lovely interactions with and I saw them be kind to their peers, I saw them be funny, I saw them have, you know, child-like interactions and I think it's really important to note and remember always in that kind of work environment that they are more than their offending history and there's reasons that led to their offending. And for the most part I found that they responded extremely well to any staff that worked in a gentle or therapeutic way, and a lot of them - yeah, they're just like any child; they just wanted support and care.

Q. From your observation, did at least most of the children in Ashley want to change and improve their circumstances?
A. Yes, the majority, absolutely.

Q. You make some observations in your statement, and the Commission's heard other evidence about this already, about the system that was used to allocate colours to children and the way in which the colours system governed how many privileges children did or didn't have from a given week?
A. Yes.

Q. And you talk about this at paragraph 42 of your statement. As I understand your evidence, the way in which a child's colour rating would be determined depended in part on whether there'd been incidents involving that child week-to-week; is that right?
A. Yep.

Q. You make some observations in your statement about concerns you had about the way in which what was or wasn't

an incident would be defined and whether or not incidents would be fairly and appropriately reported. Can you tell us about the concerns you had about that?
A. Yes. I suppose my greatest concern around that was that there was inconsistency around what people viewed an incident to be, and also inconsistency around what was reported and what wasn't. There was - yeah, it was a --

Q. Can I ask you this: you said there was inconsistency. What did you observe to be the kinds of reasons that might lead to someone being written up for an incident or perhaps not being written up for an incident?
A. It was my observations that some of the children who presented with more difficult behaviours or who might be more challenging to manage within the centre would be much, much more likely to be written up than those who were more compliant or easier to manage, and quite often the details of the reports that we were seeing, incident reports, didn't align with what either the young person was saying or in some cases what we had seen.

Q. Did you observe in some cases if a child was well-liked within the centre, they'd get away with things, to put it very bluntly?
A. Yes, to put it bluntly; there were some children that were blatantly favoured and it was inexplicable to a number of us as to how they were able to maintain, you know, a green level given the behaviours that they were exhibiting.

Q. And, did you see the opposite as well, that children who were disliked would be much more likely to be punished and written up for things that their peers might not be?
A. Absolutely.

Q. I think you give a number of examples of that in your statement, including a child who we're referring to as "Max"?
A. Yep.

Q. Can you tell us about your observations of the treatment you saw Max receive as a general practice compared to some of his peers?
A. In general, I suppose, when Max was first admitted during my time at the centre I was warned in advance that this person was, you know, highly manipulative and we needed to sort of - I needed to be eyes wide open about him because he'll wrap you around his little finger. And he

was sort of portrayed as this nasty, sly, sort of child, and I found that really obviously inappropriate and bizarre and it certainly wasn't what I found to be true of that young person. But he was singled out repeatedly and consistently by staff whenever I was able to observe that; I don't know why.

Q. Because I suppose some staff might say that that's evidence that he'd succeeded in wrapping you round his little finger, I suppose --
A. Correct.

Q. -- and portraying a false view of himself to you; how would you respond to that suggestion?
A. I would respond to that by saying that I would take each young person at face value and get to know them, you know, assuming the best, and that he never actually did anything or showed any behaviours that would lead me to believe what I had been told was correct, and the things that he did do that were concerning or questionable, they were for relatively understandable reasons.

Q. The Commission heard some evidence earlier on today from Ms Gardiner that I don't know if you had a chance to hear?
A. I didn't.

Q. But part of her evidence was the extent to which young people might not be in control of their own behaviour, and the system operated on the assumption that they were making rational informed decisions to behave well or behave badly and were treated accordingly. Was that the attitude that you observed when you were at Ashley?
A. Sorry, could you just repeat that?

Q. Yes. Ms Gardiner observed that the approach to a lot of children at Ashley was, they were treated as if they were making informed decisions about their behaviour, when her sense was often these were young people who weren't in control, and that her observation was that the Behaviour Management System perhaps punished people - my words, not hers - for things that children were not doing consciously or intentionally.
A. Absolutely. Due to the - as we discussed, due to the complex presentation that a lot of these young people had, various diagnoses that they might have, a lot of them struggled with impulse control, struggled to regulate their

emotions. They were being punished for behaviours that were outside of their control without us giving them strategies to help manage those behaviours, and I think that if we had have been given the opportunity to do that, a lot of those behaviours would have been reduced and, therefore, you know, the punishment would have been reduced and they would have had a much safer, more rehabilitative experience.

Q. One of the other comments that you make in your statement at paragraph 53 about incident reporting is that there'd be a lot of - well, variability of quality, I suppose, of incident reports, and that you came to understand that that had two causes: firstly, a lot of staff weren't aware of the policies in place, but secondly, there was some significant literacy issues as well amongst the staff?
A. Yes.

Q. Can you tell us how you came to discover that?
A. Well, I suppose that's two things happened: one was that a staff member disclosed to me that they had literacy issues and needed assistance in understanding the care plans that would be produced regarding individual children, so we put things in place to help that person get the information in a different way.

And the other way that I learnt that was from reading reports that had been written by staff that were sometimes quite illegible and made very little sense, were largely incomplete, they were difficult to understand.

Q. And so, what were your reflections then on how well it was possible for Operations staff to implement policies and to assess potential incidents against those policies, given what you'd observed?
A. I think, due to a number of factors, it was nearly impossible or proved to be quite impossible for staff to accurately and adequately report on incidences as they occurred in a way that we would consider complete or appropriate.

Q. At paragraph 63 and following of your statement you deal with the Centre Support Team, and that was the team, as I understand your evidence, which met every week on a Monday and which made decisions about what each child in the centre's colour ranking would be for the coming week.

A. Yes.

Q. As I understand your evidence, in order for an incident to make it onto the agenda for a child at a CST, it would have needed to have been reported at a certain level?
A. Yes.

Q. And so, firstly, that might mean that if things had been underreported the CST would never find out about them?
A. That's right, yes. For the most part.

Q. Did that sometimes happen in your experience?
A. It did emerge that that had happened, and I'm unsure to the extent that that occurred because we wouldn't know about them.

Q. As I understand it, you also say at paragraph 68 that sometimes things would make it onto the agenda because they had been assessed at a higher degree of seriousness, but in fact on investigation they would be downgraded; can you tell us about that?
A. Yeah. Sometimes we would get incident reports that would come across the table, and as a group there would be, you know, a discussion, sometimes quite robust ones between different teams, because it seemed as though a child's particular needs or, you know, context wasn't always taken into account, or they weren't - the report wasn't written in a fully unbiased way; perhaps it was coming from a particular viewpoint of a staff member who, in a lot of cases, maybe had a bit of a grudge against a child or wanted to essentially punish them and used incident reporting as a way to do so. And often, you know, by fleshing that out we would establish that the behaviour that, once we pared it back to what might have caused that behaviour or what led up to it, what was put in place to prevent it, et cetera, that the level of seriousness was often lower than it was recorded to be.

Q. You've mentioned that - an observation that in many cases perhaps incident reports had been written in a way perhaps designed to punish a child, and I think it would be fair to say that your experience was that the CST process more generally operated in quite a punitive way; would you agree with that?
A. Yes, absolutely.

Q. And, as I'm sure you're aware, the Commission's asked for evidence from a number of other people, including a number of other staff members who would have attended those meetings from time to time, and it would be fair to say that whilst some of them agree with you, there are a number of people who have given statements to the Commission saying that in their experience the CST always operated in a very fair and unbiased manner, and I wanted to tell you that and ask you for your reflection in light of it?
A. I vehemently disagree with that. I did not attend a single CST meeting in my time at the centre that was professional, organised, appropriate. It didn't occur.

Q. One of the particular things you identify in your statement at paragraph 72 onwards is the way in which the outcomes of the CST meetings would be conveyed to children?
A. Yep.

Q. The ranking for each child would have been determined in that meeting. Can you tell us then the process that you observed by which children would be told what their ranking for the coming week would be?
A. Yeah. So, because obviously there's a lot of children and a lot of discussion, CST meeting typically took all morning. The centre would then be locked down for a period of one to two hours sometimes, and essentially the CST team goes from unit to unit and enters each child's cell to deliver them their colour rating that we had established for the week, for the week ahead based on the week that had passed. And depending who was in attendance at the CST, I would say there was often between four to seven adults in a child's cell, and the child had to sit on their bed and be still while these adults delivered what was often not nice news; it was often disappointing news, and it wasn't always delivered - well, it was very rarely delivered in a therapeutic or supportive way. I found it mortifying to watch, and I think that for the young people, you know, once we had delivered that result, and it was delivered usually by a youth worker or - not some of the therapeutic staff, it would end with us leaving and locking the cell and moving onto the next cell until --

PRESIDENT NEAVE: Q. So you were part of those meetings?
A. Yes.

Q. So you walked around with --
A. Absolutely.

Q. -- some of the youth workers and the other members of the committee, and the whole committee delivered the news to the child, that, "You're going up from green to orange," or something?
A. Correct.

COMMISSIONER BROMFIELD: Q. I noticed you used the word "disappointing", which is a fairly adult word. What were some of the reactions like? And these were big things, I take it, the colour ratings for kids in the centre?
A. Yeah. Yeah, absolutely. It defines what their next week is going to look like. And for young people, that's very big. It could be the difference between calling home a few more times than you might be able to otherwise, or having chips on a Friday night, or a movie. You know, that's all the things that they look forward to, so it is a big deal. And yes, some of the responses would be, you know, that people would be upset, they would be visibly distressed, sometimes they would be quite withdrawn and just say you know, "Get out. I want to be by myself", or whatever it might be. Sometimes there was extreme - well, from a low level of anger to quite high levels of anger where they would be furious that this had occurred and they wouldn't understand.

What I found particularly difficult, being in that room, was that we didn't have the opportunity to sit and explain to them what had happened or get their thoughts and reflections on their week and, most importantly, where to from here. You know, I felt that was a really big missed opportunity to not use that platform to talk about how we could move forward, you know, in a different way.

Q. And so, I guess I'm drawing this out more for the benefit of the live stream.
A. Sure.

Q. So when you say you then had to close the door and walk away, and that that was hard, it was because you were leaving children who were crying or angry or feeling that it was unjust; so, really significant?
A. Some of the children were absolutely devastated, like, you know, some of them were on or would soon be put on SASH as a result of, you know, bad news; some of them, or quite a lot of them, had mental health issues as it was. It was devastating. And absolutely, locking the door behind you

and leaving them in that state without so much as an explanation or a plan felt - yeah, it was awful.

MS ELLYARD: Q. At paragraphs 74 and 75 of your statement, Alysha, you give a couple of particular examples of behaviour that you observed from Operations staff. Can I draw your attention, firstly, to paragraph 74. Can you tell us about that occasion?
A. Yes. On that occasion we were all walking across to that particular unit. We went to deliver the CST results to one young person, called Richard, who had a diagnosis of ADHD and did struggle with impulse control. He was considered quite a complex, high-needs child, and when the person - his name was "Lester" - was delivering the results to this young person, he said if he continued behaving the way that he had, he would turn his face into an owl.

Q. And, what did you understand come to understand later on that reference to "turning his face into an owl" meant?
A. Well, at the time I had no idea. It was back in the courtyard when I said, "What did that mean?", and he laughed and said, "It meant he'd cave the child's face in so it was concave like an owl".

Q. On another occasion, you describe in paragraph 75 of your statement making an attempt to approach the child and the news being delivered in a more therapeutic way by sitting on the child's bed. When you did that, what was said to you by one of your colleagues?
A. I just preface this with the fact that I would typically never sit on a child's bed, but they sat - or this child in particular was sitting on their pillow, and I sort of perched on the very foot of the bed so that one person in the room could be at eye level with the child, and one of the other workers in the room said in a joking manner, that - "Look out." It was something to the effect of, "Watch out, you'll probably catch something from him if you sit there."

Q. And did you see the child's reaction to that being said?
A. Yes, he was so crushed and humiliated. It was - I felt, very sad.

Q. And so, this would all happen on a Monday morning each week?
A. Every Monday.

Q. What would be the effect overall on the centre and its smooth operations from this process that you've described of individual children --

PRESIDENT NEAVE: I'm sorry, we've just lost sound, I believe. Do we need to adjourn briefly?

MS ELLYARD: We're about to take the lunch break. Is it convenient if we do that and resume after lunch?

PRESIDENT NEAVE: We could do that? Yes, all right. Well, we will.

MS ELLYARD: If the Commission pleases, we'll pause there for lunch.

LUNCHEON ADJOURNMENT

PRESIDENT NEAVE: Before we start, Ms Ellyard, our witness, Erin, gave evidence under the name of Erin, it was a discussion during the time that she was giving her evidence relating to some matters that she did not want to have identified in relation to incidents; they related to matters relating to the location at the Ashley Youth Detention Centre at which matters occurred and the date and time, the specific date and time at which those incidents occurred. I will make those orders. The orders will be posted on the outside of the hearing room and anybody who needs information as to what they can and can't say should contact our media officer.

MS ELLYARD: Thank you, Commissioner.

Q. Alysha, before the break we were talking about the CST and your observations about the way it worked. The Commission's also heard from a number of other witnesses about the MDT, which you also describe in your statement. Some of the evidence that we've heard so far suggests that people have the experience that the recommendations of the Multi-Disciplinary Team were often disregarded or not given appropriate weight by Operations staff. Was that your experience?
A. Yeah, it was, definitely.

Q. And just to be clear, the particular role of the MDT was to make recommendations based on the therapeutic and

other needs of the young people?
A. Yeah, it was to really do a deep dive into an individual's needs and create, like, an individualised care plan.

Q. And that might include such things as, this young person is vulnerable in particular ways which should be taken into account in making decisions about where they're placed in the centre?
A. Yeah, we might make recommendations about where they should be housed or who they might do well with being around, what sort of strategies we could use to help them manage their emotions and regulate; all kinds of things of what's working and what's not and, you know, what we can do better.

Q. Some of the statements that the Commission has received from staff at the centre who perhaps worked more in the Operations side suggest that there was a view on behalf of some of those Operations staff that perhaps the MDT didn't perhaps operational reality and would make recommendations that were just not achievable. Were you familiar with that sentiment being expressed?
A. Yes, I had sort of a unique position, I suppose, where I think I was perhaps the only staff member that sat weekly on both meetings', both the CST, which is predominantly operational focused, and the MDT meeting which is more about the professional therapeutic focus. So, I got to hear both sides of that, you know, of the therapeutic staff feeling like, you know, our recommendations often weren't maybe listened to or adhered to or implemented or - and certainly the operational staff feeling like the things that came out of MDT were unreasonable or not workable in the way that they operated, so there was an absolute disconnect between the two groups and it was difficult to be the go-between at times.

Q. From your perspective of someone who sat across two groups though, do you have a view on who was right? Is it both and/or is it either/or? Was it the case that the MDT recommendations lacked reality or were not operationalised?
A. They weren't implemented. They could have been given the right support, implementation and thought, I think, but they certainly weren't possible as things were.

Q. Would it be fair to say that in part they weren't possible because there wasn't necessarily the skillset and

the staffing resources in the Operations side of things to be able to give practical effect to what the MDT recommended?
A. I would agree with that. On top of that there was a lack of willingness in a lot of cases to change or think about changing the way that they were working to consider new approaches; it wasn't something that a lot of staff were open to considering so, without that, there's very little you can do, you know.

Q. I understand. Can I turn to ask you then some questions about isolation which you deal with at paragraph 90 and following of your statement. You make the point in your statement that in your experience and observation at Ashley there were two kinds of isolation: there was isolation as we heard about from Ms Honan on Friday as a legal concept which had quite strict requirements around it about who could authorise it and for how long, but there's also another category of what you've called, it's your term, subversive isolation. Can you tell us what was that?
A. It seemed to come in in a few different forms, I suppose. Sometimes different terms were used to do what I would consider or would be what I would consider isolation. So, I'd hear terms be thrown around like "kids being unit bound" or "kids being on a Blue Program" or "we'll put that child on blue", or you know, that sort of - and what I came to understand those things to mean was that they were variations of different kinds of isolation that didn't follow the legal or the, you know, the typical processes that we would need to if we were going to isolate children appropriately and legally.

Q. At paragraph 96 and following of your statement you give an example of the use of unit bound practices, and that was the aftermath of a roof incident on 13 December where three young people, who we're calling Elijah, Joseph and Arlo, had been on the roof and they came down and they were unit bound over at least, according to the records, four days and potentially from your recollection much longer.

I'm drawing you attention to paragraph 97 of your statement. Can you tell us about the discussion that was had at the CST meeting on Monday morning when staff gathered to learn that children had been "unit bound" over the three or four days prior?

A. Yes, there was quite a robust conversation that took place between some of the Professional Team and the Operational staff. The children were still isolated at that point and we were - "we" being the Professional Team members - were making the case that, to justify isolating a child we need to be able to demonstrate that there's a current and present risk, that they are still making threats or that they're at risk of harm to themselves or others. That wasn't the case. These kids were - I can't be certain if it was all three, but certainly I think it was, there was remorse; at least a couple of them knew that what they had done was wrong and they were apologetic. There was certainly no risk and nothing that would justify legal isolation of them at that stage, and the operational staff didn't seem to - that didn't matter to them; it was about punishment; it was that, "But they need to learn that rioting is wrong and therefore they must be isolated".

There was a gap, I suppose, in knowledge about what our role was and that, you know, it was not our role to punish children, it was our role to support them and that was a consistent area of, you know, difficult conversations, I suppose.

Q. At paragraph 98 of your statement you describe a conversation that you had with Hugh, one of the operational staff members, about the documentation or the processes that had been followed. Can you tell us about that?
A. Yes. So, I worked Monday through Friday, so the incident was on the Friday, I came to work on the Monday, we had our CST and this worker, Hugh, said "Oh, you know", I said, "How was the weekend?" He said, "I've got this program that we set up basically", he was very proud of it, he was quite impressed, and I was impressed also to - it was more than I had seen an operational ops coordinator do so far. He had made an effort to make sure that there were more activities and things that were available to the children that had been isolated over the weekend, but it was still isolation.

Q. So, this is a document I think the Commission has seen that shows for each child hourly units of time?
A. Yes.

Q. Cards in room, TV time, chatting?
A. Yes.

Q. But the net effect of it still was that the children were in their room or at least in their the unit the whole time?
A. Yes, absolutely. So, whilst I was - you know, it was impressive, that was a good example of work that I had seen so far from the standard we were working with. However, it was just a different way to justify isolating children that didn't pose a risk.

Q. A bit more thought into what the children would do, but not grappling with the real issue was, they didn't pose a risk, they shouldn't have been in isolation?
A. Yeah, there was no legal reason to justify, yep.

Q. Can I ask you now some questions about searching. The Commission's heard evidence from a number of lived experience witnesses, including the witness we heard from today, about their experiences of being searched. At paragraph 114 and following, you talk a bit about strip-searching, and at paragraph 120 in particular, you refer to what seemed to you to be the variable practices in relation to the use of searches; can you tell us about that?
A. Sorry, I'll just familiarise myself with this part of my statement.

Q. So I'm drawing your attention in particular to paragraph 120 and following.
A. Yeah, okay. Again, it was mostly - that part of my statement is mostly about the inconsistency in which searches were applied. They seemed to take place more regularly when there were smaller younger children involved or children that were less liked within the centre, and there were certainly some kids that were just never searched.

Q. You give an example at paragraph 123 of an occasion where perhaps it be more likely to be said that a search was justified but in that case it didn't occur: tell us about that?
A. Yeah. Well, I personally don't think that personal searches are easily justified at all. I'll preface what I'm saying with that, but there was one instance where it appeared that contraband and drugs had come into the centre, or that was the suspicion that we had. That, out of all my time at the centre would have reasonably justified searching a child, and that didn't occur. So,

you know, when searching was occurring to maybe first-time residents at Ashley who are really young and really small, vulnerable, scared, and they were being strip-searched and then there was instances like that, and they weren't, that was very difficult to reconcile.

Q. And to be clear, as you say in your statement, the child who perhaps could have been searched, assuming searches are legitimate, was an older and well-liked - it was Finn who we've heard about in other contexts?
A. He was extremely well looked after.

Q. Can I come then to the question briefly of Finn and Albert and the Commission has heard some evidence already from a couple of witnesses about some of the behaviours that Finn and Albert displayed and the extent to which those behaviours were appropriately managed.

The Commission is aware that one young boy who we're calling Henry was sexually assaulted, it would seem, in the unit by Finn and Albert. But as you make it clear in your statement at about paragraph 168, in fact that incident and another incident in the days before, I think, involved a second young person who we're calling Jonathan?
A. Correct.

Q. Can you tell us what you came to understand had happened to Jonathan in the context of Finn and Albert?
A. I'm not entirely familiar with what happened to Jonathan in the days preceding what happened to --

Q. Henry.
A. -- Henry, thank you, so many pseudonyms. I just know that there were was a series of incidents and the incident that occurred regarding Jonathan was involving a third older, bigger resident as well as Finn and Albert, and that Jonathan was present for the assault on Henry.

Q. And so, although there was subsequently a very detailed review conducted into all of the circumstances of the assault on Henry, you came to understand that that assault, as awful as it was, was in fact part of a series of behaviours and experiences that children in the Franklin Unit were being exposed to?
A. Absolutely, and even if we just look at that specific timeframe, I believe that within a two or three day period there was six to seven assaults of some kind on those young

people and I don't know - I still don't know the full details of them. I was only able to incidentally access reports regarding the significant assault against Henry with Jonathan there.

Q. And to be clear, these were things that you came to learn of later, they had taken place at a time prior to you starting your work at Ashley?
A. Absolutely, yeah.

Q. In the context of what you came to learn in around November 2019, as you say in your statement, of the assault on Henry there was a review commissioned by the Seriously Events Review Team and, at paragraphs 178 and 179 of your statement you describe some experiences you had on 12 February 2020 when members of the SERT Team came to the centre as part of their investigation; can you tell us what happened on that day?
A. Yes, so they came to the centre, I believe with the intention to interview relevant staff members and also gather some documentation or whatever it is they needed to conduct their investigation. I had been tasked by Pam, my Director, with making whatever they needed available to them, so I was trying to accommodate that.

At a certain point of the day the SERT investigators required files from a, what had become a locked cabinet, which is the cabinet which held the paper files of all the children's incident reports. So, the person who had the keys to that cabinet at this point was Lester. So, I got the keys from him and explained that I needed to provide some things to the SERT investigators, and he was quite reluctant to allow that to happen. I said, "Look, I've been directed to do that, we need to give them what they require". He very begrudgingly came and unlocked it for me. The SERT investigators were with us in the room also, and he said that he didn't think the files that we were looking for were available, and I said, "Let's have a look", because the children were current residents so, you know. But he did say that, "No, he thinks they have been archived", and it was a very - why would they be archived, they're currently here? It's a bit odd. And in fact I was able to, because they had their names on the side of the lever arch file, I was able to see one of the files and say, "There's one of them", and he essentially refused to give them to the investigators and they were very gracious and just said that they would take that back to the

Director, that Lester was unwilling to provide those documents to them.

Q. Thank you. I want to move to a different topic now and I'm drawing your attention to --

PRESIDENT NEAVE: Q. Sorry, I did have one question. You've talked quite a bit about Finn and Albert and the fact that they were well-liked and perhaps treated more liberally than some of the more children and young people. Given that they had been violent in various different ways, perhaps, I'm not sure, but perhaps only against other children: why do you think that they were treated favourably? Was there a reason for that?
A. There is what came to be, I suppose, a broadly held belief that they were - because of their consistent green, you know, colour rating under that BDS, despite these pretty consistent regular, violent or sexual assaults on other residents, that the staff may have been, I suppose, utilising them to help manage the behaviour of the smaller more vulnerable children in the centre.

Q. So, they were rated green and you say that that was favouritism, I think, or may have been favouritism?
A. Well, certainly - yes, if another child outside of those two - and from what I understand historically there's always been sort of kids that are representative of those two, it's not just a - you know, there's always a few that I understand are typically in the Franklin Unit, you know, bigger older boys who might be treated differently to the other children and given extra privileges. Certainly, if any of the assaults that those two individuals carried out were carried out by other residents, that would result in a DO, which is the highest level of --

Q. Yes.
A. -- and that was what we expected to happen for them as well. It never happened, and in fact when we pushed back a little bit and sort of questioned that and said, "Why are we not applying this consistently?", it became quite - the staff became extremely aggressive and angry at the prospect that those children should be anything but green. You know, we have done quite thorough risk assessments, there is one in my statement --

Q. M'hmm.
A. -- yep, and yet they were the most violent offenders

in the centre. They were also the only two that were allowed off-site in my time there and that, to me, is very - it raises a lot of questions obviously about consistency and about fairness, but also why was that happening, and I believe it may have been, or at least my best assumption having watched it unfold repeatedly, is that they were used to - you know, they were scary and, if the young children knew that they were in Franklin and they were potentially going to be at risk of harm from these older boys, that they would behave better to avoid going there.

Q. I just want to test that a little bit, because another approach of the operational staff could be to say these older boys were more difficult to contain, their behaviour is more troubling.
A. Yep.

Q. And we will therefore apply more rigorous policies against them, we'll give them higher ratings on the Behaviour Development Program and so on, and yet, that wasn't so. So, your explanation of that was that they were sort of de facto managers of the younger children?
A. I have witnessed those children dictate who works in their unit, what other children are moved into and out of their unit. The staff often did what those boys said.

Q. So, the staff deferred to these - were the staff frightened of them? Was that an issue?
A. I'm not sure. Perhaps some might have been, but certainly not all of them. They seemed to be - there was a very tight-knit relationship between what was referred to as Franklin residents and Franklin staff; it's, those people didn't rotate through, they were Franklin staff, and they defended each other very much.

To me and my constant recommendations were just to sort of get a better understanding of what was happening, was to rotate the staff through the units and put some other staff in that unit and see if they had --

Q. What happened?
A. Yeah, what happened, if there was any different outcomes that they might report or if there was different behaviours that we might see coming up in CST that other staff viewed as not green behaviours. That, unfortunately, didn't take place, but it certainly would have been

interesting to see.

Q. So, it was the same group of staff who worked in Franklin, Operational staff?
A. Franklin staff, yep.

Q. And the same group of boys who tended to be in Franklin?
A. Yeah, absolutely, and if there was - on numerous occasions, and this is noted in meeting minutes and things, that if a specific child was transferred to their unit, the bigger boys' unit, that they didn't like, they would get them moved; the staff would get them moved for the boys.

PRESIDENT NEAVE: Thank you.

MS ELLYARD: Q. There's some suggestion in the minutes of CST meetings that paragraphs the view was being taken by some Operations staff that Albert and Finn were potential leaders and that opportunities should be given to them to exercise a leadership role as part of, I suppose, one would say, skilling them up for kind of in pro-social ways to operate outside of Ashley. Are you familiar with that?
A. That way of thinking about those?

Q. Yeah?
A. Yeah, I have heard that. I struggle with that logic because the evidence of their assaultative behaviour is very clear, that they are some of the most violent offenders there, that they were not - you know, they weren't displaying characteristics we'd like to see as leaders. But also, we worked really hard at devising a program to try and help them address some of their problem offending behaviours within the centre and we were not allowed to do that work. So, if indeed they were - if we even accepted that we wanted to build them up to be leaders, that was obstructed anyway, so I can't understand that way of thinking.

COMMISSIONER BROMFIELD: Q. Based on the interactions that you'd had with residents, some of the other boys, I gathered from your statement that the other detainees were characterising it more as fear-based behaviour management?
A. Yes.

Q. I know you spoke earlier about the strip-searches, so I get the - so, fear-based behaviour management being one

possible reason. You also made a comment in your statement that one of the reasons for the strip-searching with the younger boys that was given to you was about breaking them down. Could you just expand on that a bit?
A. I can't expand on it too much other than, that was all that was said to me and it was said in the context of, it was actually a bit of a joke, "It's a part of breaking them in", like, "Welcome to Ashley" sort of way of - yep, like an initiation or something to get them used to this tough new sort of environment: that's how I interpreted that.

Q. And, was your observation of, you know, the fear-based placement practices and the breaking them in type practices part of - because it was directed at the younger detainees, was that about, I guess, setting up for them their expectations of Ashley and how they wanted the detainees to, I guess, understand how the place worked and who was in control?
A. Yeah, that's absolutely my belief and what I saw unfolding that, you know, we would - it would be very uncommon, for example, for a young person to come to Ashley once and not come back; usually it's, as you know, they're repeat visitors, and I think that they wanted to instil those lessons nice and early to make sure that they were well managed or more easily managed as time went on and to teach them, you know, the way it works at Ashley. I think that unfortunately there was also an element of wanting to feel powerful and make the children feel disempowered, and that played into that process also from what I observed.

COMMISSIONER BROMFIELD: Thank you.

COMMISSIONER BENJAMIN: Q. If I remember reading your statement carefully enough, you said on a number of occasions, "Young people expressed fear of going into Franklin".
A. Yes.

Q. And the implication of your evidence is that Franklin is used, and has been used for some time, as a discipline or a behavioural device. I also recall reading somewhere that Ashley can hold up to 42 children or 40-odd children.
A. Yes, that's right.

Q. And I think in recent years it's been holding between seven and 15 people; it fluctuates?
A. Yes. At the height of the busiest it ever got during

my time there was about 20, and that was very brief.

Q. So, that reflects the use of less than half the facilities?
A. M'mm.

Q. So, even if cells are damaged or unavailable, and I'm sorry if I'm using "the cells" not being there, and I think from my observation that's probably a better description.
A. That is most appropriate.

Q. But there must be other places where the children or the young people can be safely placed apart from sending them to Franklin?
A. Absolutely. For nearly the entire duration of my six and a bit months there, there was an entirely empty unit. The Liffey Unit was not opened unless there was a female resident for a period of time, and in one case one person who was going through a detox process, otherwise it was just not utilised, and that was explained to me as due to staff shortages.

Q. So, are all of the units generally full?
A. No.

Q. So, and again, someone might say, well look, if we'd put them into this unused complex or division --
A. Unit, yep.

Q. -- we don't have the staff to do it. But how do you see it in relation to the existing facilities that were properly staffed or adequately staffed?
A. I'm so sorry: are you suggesting, if they were adequately staffed?

Q. Instead of opening up a new part, were you able to observe whether there would have been space in the existing facilities to fit them in by moving from one room to another?
A. Yes, I think there would have been ways to safely and carefully decide where young people were with the units that were operational at those times.

Q. Because my recollection of being there was, there was a central room and then you had --
A. Wings.

Q. -- rooms or wings off each of those?
A. Correct.

Q. Which had, I think, rooms on one or both sides? I can't remember?
A. Both sides in most units, yeah.

Q. Thank you.
A. So, yeah, there was actually ways to, depending on the different units, to keep children in, as you say, in one wing fully separate from the other wing. There was definitely ways to ensure greater levels of safety.

COMMISSIONER BENJAMIN: Thank you.

MS ELLYARD: Q. Alysha, in your statement you give a number of examples of children coming to harm because of where they were placed?
A. Yes.

Q. And the way in which staff responded to suggestions that they were inappropriately placed, and we can't look at all of them in detail, but I want to ask you some questions about Ray, and you deal with him at a couple of spots, but can I direct your attention to paragraph 215 in your statement because it's an incident involving Ray, Albert and Finn.

And as I understand the backstory, there had been recommendations made although they hadn't been given effect, that other people not be placed in the Franklin unit with Albert and Finn, but notwithstanding that, and for a variety of reasons that have been detailed, children were placed there including Ray?
A. Yes.

Q. And what ended up happening was, there was what was subsequently described as a fight in which they were all equal participants in which Ray was subjected to quite a significant beating; is that right?
A. Yes. I will say that not only were children in general, there was a recommendation that no children be placed with those two boys until they received appropriate intervention, but there was also a specific note to file regarding Ray, that he ought to never be put in that unit because of his own complexities and vulnerabilities, so that was sort of a double - a doubly strange decision. He

was placed in that unit and, yes, there was a - what was described as a fight. I have - that's one of the incidents that I've seen the footage of and obviously been engaged in a lot of conversations around: it was, I can say, the most vicious assault that I saw during my time and there are - you know, there's a lot of assaults, I'm not gonna lie, but this was the worst.

Q. As I understand your statement, you say the CCTV footage shows Ray effectively being riled up by the other two boys; he then throws the first punch, but there's then a very sustained attack on him in the presence of workers?
A. Yeah. What happened - am I allowed to disclose his diagnosis or perhaps not?

Q. I think that's all right?
A. Okay.

COMMISSIONER BROMFIELD: Q. I think from memory it's a very common diagnosis for kids at the centre?
A. It is. So, Ray had a number of mental health issues but one of his diagnoses was [redacted], and the boys, particularly Albert and Finn, found it quite amusing sometimes to sort of play sort of cruel games with his head, essentially, and trick him and that sort of thing. And, they were riling him up, that's how I've worded that. He has additionally very, very limited impulse control. He did throw a punch at one of the boys and what followed was - and I didn't time it, but I think we estimated it to be a 2 to 3 minute period of time where both of these boys were kicking and punching him to the head and three staff were present --

Q. You can see in the CCTV that they were present?
A. You can see the staff, yeah. One of them was a longer term staffer, there was two other that were a bit newer: they stood back and allowed it to sort of play itself out. The child, Ray, I believe, was held back from school due to a concussion; he was bleeding, he was - you know, it was a very, very - I can't stress enough how vicious it was, it was distressing to watch. Yeah, so that happened and it was reported as a fight.

Q. You've made the point in your statement that ultimately all three children received the same outcome when the incident was considered by the CST?
A. Yes, they did.

Q. There were comments made, and I'm referring to paragraphs 225 and 226 of your statement, I think when you're reflecting on the way in which different Operations staff viewed it; the comments that were placed against each of the children's records for that week, what was put against Ray's? This is paragraph 225.
A. 225, I think from memory - ah, yeah, I think from memory Ray's always apologetic after incidents, he was always remorseful, which was really sad for me to see because he - you know, if you look at that incident in its entirety, he was the victim of a very serious assault.

Q. He had nothing to apologise for?
A. He didn't, and he did not receive medical care, he was concussed, you know, he didn't go to school due to a concussion, and I guess what concerned me a great deal and other staff also, was that it bore some similarities to the death in custody that occurred some years ago and we weren't sure why we weren't learning from that, why we weren't instantly seeking medical help for someone who had sustained a very serious - well, a series of head injuries.

Q. Another child who you talk about is Richard, and at --

COMMISSIONER BROMFIELD: Sorry, Ms Ellyard.

MS ELLYARD: Commissioner.

COMMISSIONER BROMFIELD: Q. What were the comments in the sheet for the other two children?
A. That's a really good question.

MS ELLYARD: 226.
A. Thank you so much. They were copy and pasted for both those two residents, and it was:

Finn or Albert has had a great week aside from one incident that let him down.

COMMISSIONER BROMFIELD: Thank you.

MS ELLYARD: Q. So thinking about Richard who was another young person who you saw a few times, I think, and you describe him in your statement at paragraphs 234 and 235, that Richard was very young, he was 14, and he wasn't violent and didn't have substance abuse issues, and that he

had a lot of insight into what he needed. And, you've got a particular anecdote I think you can tell of him being able to say what he needed and of you trying to help him with that?
A. Yes. He was a really good example of someone who had really great prospects; he was young when he came into the centre, he wasn't using heavy illicit drugs at that time, he was insightful, intelligent. He was able to say to us that, or in this instance to me, that, if we could play basketball for, you know, 10 minutes or so in the morning or in the day, that helped him a lot, it helped him get through his school day. He had ADHD and that was one of the things that helped him cope and he identified that himself. He said that in the past some workers had done that and it had worked really well, but that the current workers weren't prepared to do that. Would I do that with him? And I was happy to do that, it was 10 minutes of my day. So, I did play basketball quite badly with him, but you know, it went a long way and it helped. I, unfortunately, was unable to continue doing that --

Q. And that's because Patrick Ryan told you to stop doing it?
A. Yes.

Q. And what reason did he give you for why you should stop doing it?
A. It's not the scope of my role.

Q. And whose role could it have been within the scope of, to help a child with ADHD calm his body for school?
A. It's the youth worker's role and I had put it to the staff in his unit that that would be extremely helpful to him: it just wasn't happening.

Q. You go on in your statement in relation to Richard to say that he too was the subject of a specific notation that he not be in the Franklin Unit?
A. Yes.

Q. But nevertheless he was placed there, and that over the course of your time at Ashley you observed a change in his behaviour after he had been placed in Franklin. Can you tell us about that?
A. Yeah, absolutely. To place a child who is 14 years old in the Franklin Unit in itself is an inexplicable decision, but he was placed there. There was concerns

noted as time went on that - and this was over multiple admissions of this young person - that his behaviour was changing quite a lot. His behaviour became more and more sexualised, he started making, you know, hypersexual remarks and saying really crass or crude things to staff members that were - it was really unusual for him; it was a new behaviour that ought to have been examined a little bit.

Q. Thank you. Can I turn then to Philip, another young person who you deal with in your statement at paragraphs 247 and following. Philip was another child with a very complex presentation, limited impulse control and so forth, and in fact in his case that derived at least in part from the fact that he had an [redacted]?
A. Absolutely.

Q. And you describe in your statement that not always being well understood by staff because they didn't read notes or notes weren't available to help him understand that part of his presentation?
A. Yes.

Q. You describe in your statement Philip being moved into the Franklin Unit and his reaction once he was there. I'm drawing your attention to paragraph 251. What did Philip say to you about being in the Franklin Unit?
A. Well, in 251, that was actually prior to being moved to the Franklin Unit. He said that if, if he was going to be moved, because Maude put it to him that that's what she wanted to do, if he was going to be moved he would not come out of his room because he didn't want to get his head punched in.

Q. And then, after he moved, and this is at paragraph 252, you went to see him and he told you that he was staying in his room because of the fear that he had about being attacked?
A. Yeah, as he had said the day before, he began self-isolating, he was unwilling to leave his room due to fear of being attacked by other residents. He was tasked with keeping himself safe from further head injuries, he wasn't attending school, he wasn't eating, he was not leaving his room.

Q. And there was a quite precise thing that he said to you that he feared from another young person, Frank?

A. Yes.

Q. Just for context, Frank is someone who you were aware had been implicated in potential harm to Henry and Jonathan earlier on?
A. Absolutely.

Q. What was it that Philip was worried about from Frank and other Franklin residents?
A. He said two specific things: one was that he was going to kill him and one was that he was going to make him a wife.

Q. And, as I understand it, there was subsequently an interim Centre Support Team meeting in which you tried to get Philip moved?
A. Yes.

Q. That's at paragraph 255 of your statement. What was the response from the Operational staff to your proposal that he should be removed?
A. That was quite a horrific conversation. He was ultimately moved. It was - I don't think there was any sort of understanding or consideration to the reasons that I was stating: it was essentially, just, like, "Okay, we'll move him", but he was moved back into the Franklin Unit within a week.

Q. And one of the things you then go on to say is that, after he was moved back into the Franklin Unit he was attacked violently by Frank on successive days?
A. He was violently assaulted by Frank, which had been flagged in writing by numerous staff, for five days in a row.

Q. So, he was assaulted five days in a row?
A. Yes.

Q. And that was documented ultimately, that Frank had been targeting Philip?
A. Yes, absolutely, it was documented that Frank was likely to target him before he was moved back into the Franklin Unit.

Q. Can I ask you then briefly about another young person who we're calling Margaret? Do you need to take a minute?
A. No.

Q. So, I'm drawing your attention to paragraph 278 and following of your statement, and Margaret's a young person who we've heard about already through the evidence of another witness. But you were asked to speak to Margaret about a particular issue because of, and perhaps I'll do it this way: you say in your statement that Margaret was someone who during your time at the centre was blamed for a sexualised incident that had occurred to her prior to you starting your work?
A. Yes.

PRESIDENT NEAVE: Q. Alysha, do you need a little break?
A. I'm okay, I'm okay.

Q. I know that this is a particularly disturbing matter.

COMMISSIONER BROMFIELD: Q. I know that the unit placements and the preventable harm is quite distressing to recall and, if you need a break.
A. That's the bit that is the worst, that it all could have been prevented if we were heard, or if they were heard.

MS ELLYARD: Q. Are you okay to keep going?
A. I am, I'll let you know though.

Q. So I'm asking you about Margaret, I think you were aware of what had happened to here prior to you starting your work at the centre?
A. M'mm.

Q. But I'm drawing your attention to paragraph 278. Can you tell us about the comments that were made about Margaret and what you were asked to do in relation to Margaret?
A. Yes. Apologies in advance for how crass this sounds.

Q. That's fine.
A. So, it was quite a big cohort of staff that felt this way, but there was a few more vocal people that referred to her as "a slut" for pulling her pants up, in their view, to show - to show a camel toe and to show her flaps.

Q. This is what staff would say about this young person who was a detainee?
A. These are not my words. Yes.

Q. So there was criticism of what she was wearing. What choice did she have about what she wore?
A. Well, she's issued Ashley clothing, so she had very little input into what she could wear. She was given clothes to wear and she wore them, and at one stage I spoke to her about - because this was an ongoing situation and the boys in the unit would often call out things and say sexually inappropriate things. There's one girl in the centre, you know, and the staff would consistently blame her, and I was sort of thinking, "This is a good opportunity to teach the boys about some things". And I said to her one day, you know, "What's happening, I'm really confused here?" And she said, "Like, I have to", she had lost a lot of weight, she had to pull her pants up to keep them on essentially above her hips so that her hips would keep them up; they were too big.

Q. And so, you were asked to talk to her, weren't you about, her clothes?
A. I was asked by one of the male Operations coordinators to go and remove some of her - the Ashley issued clothing and tell her to stop dressing provocatively.

Q. And what did you think about that request?
A. Well, I refused to do that, that was mortifying.

Q. But did someone else in the end have that conversation, telling this young woman not to dress provocatively?
A. Yes, they were adamant that it needed to be a female, so the cook from the kitchen went over to the unit and removed her clothing.

Q. And, as I understand paragraph 280, she was given different clothing that was not going to "rile up the boys"; is that what happened?
A. Yes, that's right.

Q. You say in your statement that that shocked you; is that because, apart from that, it was not at all a misogynist place or because this was a particularly extreme example perhaps of concerning attitudes towards women?
A. It was a highly misogynistic place. This was in regards to detainees though, which was a new thing, because having female residents wasn't particularly regular and it was - yeah, it was particularly bizarre and distressing to

me because she had no choice in what she was wearing; it was almost a self-fulfilling prophecy that was happening, you know, they were setting her up with clothing that didn't fit that she could then be shamed about or, you know, whether - I doubt that was intentional but that's what was sort of happening.

Q. Can I move then to an incident that we've heard described in some evidence already, Alysha, which is an incident that occurred on 6 March 2020, and you deal with this at paragraph 281 and following in your statement and I want to ask you some questions about a particular aspect of what happened, but just to set the scene. This was a very significant incident that occurred at the centre over a period of hours where, first, four boys got access to the roof and then they broke in through the ceiling and pulled up two further children to be on the roof with them.
A. Yes.

Q. Potentially one of them willingly, although query how willingly; the other one definitely not willingly, but then ultimately there was six of them on the roof for a period of time.
A. In the roof.

Q. In the roof, and one of them was a child who we're calling Chris?
A. Yep.

Q. And Chris, perhaps consistently with the other children we've been discussing, was a vulnerable young person.
A. Yes.

Q. You came to understand, as I understand it after the incident was over, that he had had some particularly concerning experiences at the hands of the other boys while he was in the roof?
A. Yeah, that's correct.

Q. Can you tell us about that?
A. Absolutely. It was noted on a sort of log that I read when I came into work that, when they did come down from the roof, that this one child had a [redacted] of some kind; there was no notes about looking into that or what that was.

I was tasked with doing what we'd call a reflection with some of the kids, which is just to go and talk to them after any particular incident and have a chat and see what was happening for them, and I went and spoke to this young person and it was - I was sort of prompted to speak to him first because I had had a conversation with the then - I don't know if it was acting or manager - who had said, because this is the one riot where the police did come in, and it was apparently said to the manager by the police that, "There was mention of a hostage situation and that there was also mention of a possible sexual assault".

So, I talked to a few of the boys who were involved just to see what had happened and Chris disclosed to me that he had been sexually assaulted by one of the older boys who had [redacted].

Q. And as I understand it you did pass on some of what Chris had disclosed to you but not everything?
A. So, what Chris said to me was that he didn't want to talk to anyone except for his particular caseworker, who we had very loose contact with but we had the ability to contact, or myself. He didn't want to talk to the police. And I said, "I'd need to talk to the manager at least", and he was okay with that, so I went and had a verbal conversation with the manager and disclosed what he had told me.

Q. Ultimately, were any of the other young boys who had been in the roof and who were the potential assailants questioned about it as far as you're aware?
A. As far as I'm aware, no.

Q. And, was there any therapy or support offered to Chris as far as you're aware in view of the fact that he'd effectively been sexually assaulted and [redacted] up into the roof?
A. No, there was nothing.

Q. The last example of the behaviour and treatment of detainees that I want to ask you about, Alysha, is about two young people who we're calling Harvey and Ben. You deal with their particular experiences at paragraphs 320 onwards.

Now, Harvey and Ben were both in Ashley in relation to very serious offending, but the particular issue I want to ask you about relates to - pardon me while I find it - Ben and Christmas. I'm drawing your attention to paragraph 308 in your statement. Can you tell us in particular about arrangements that were made for Christmas and why they were special for Ben?
A. Yes, I can. So, it was Christmas of 2019. I opted to work Christmas Eve because I thought it would be nice, and part of that Christmas at Ashley was that little Christmas trees and decorations were provided to each of the units, which I thought was really lovely. And, it was particularly - I didn't discover this until basically, I went into one unit and said, you know, the boys were playing Nintendo or whatever and I was sort of like, "Come on, let's do our Christmas tree", and at first they were really hesitant and I thought, maybe that's because it's not very cool. But they - one of them, Ben, ultimately said to me, "I've never had a Christmas tree, I don't know what to do. Like, where do we start?" And this young person had been in care since essentially birth, and I went, "Okay, well, you know, it's going to be really awesome then, let's do this right", so we started building a Christmas tree, and he got so excited. And, you know, we had more baubles and tinsel than the tree could accommodate, but he made it work, they were stuffed into all of the crevices that you couldn't see. Anyway, the tree ended up looking very sparkly.

Q. And then, when you came back after the Christmas break, what had happened to that tree?
A. Yeah, so, I'd always visit each unit each day. The other units had their Christmas trees up, this unit's Christmas tree wasn't up and I said to Ben, "Where's it gone, what's happened?" And he told me that one of the workers threw it across the room and broke it.

Q. And how did he seem when he told you that?
A. Crushed.

Q. Was there any reason that you understood that he'd been given for why a worker would destroy his Christmas tree like that?
A. His reason was, "Because the worker was a dickhead".

Q. Another aspect of Ben and Harvey's situation relates to very last minute decisions that were made after Ben and

Harvey had received a sentence for certain offences, and you describe in your statement a very last minute decision being made so that, whilst Harvey was, as he understood it, coming from court back to Ashley, he was diverted away and unexpectedly sent to adult prison and didn't come back to Ashley after all?
A. Yes.

Q. As I understand from your statement, it was such late notice that his parents came to visit him the next day, only to find that their son had been moved to an adult jail?
A. Yes.

Q. Who was it who was left to give his parents that news?
A. It was a very distressed administration girl.

Q. And, as part of that, as I understand it, and because of concerns about planning for Ben who might ultimately have to go to Risdon as well, you made contact with the Commissioner for Children and Young People?
A. I did.

Q. What was the reason for you making contact with her office?
A. Because of the - I might just add that there had been a lot of thought and consideration given to Harvey and whether or not he be transferred to an adult facility, and it had been decided by a group of people who had spent a lot of time on that, that that wouldn't occur for significant reasons, so he was expecting to come back, we were all expecting him to come back and we could have done significant work to make that transition less traumatic had it been planned for: it obviously wasn't.

I was very concerned that, because they were - they had been convicted of similar offences, that the other child, pseudonym being?

Q. Ben.
A. -- Ben might, you know, we might face a really haphazard sort of last minute decision to transfer him without any planning or appropriate, you know, safety work being done, so I felt quite helpless and concerned about that and I thought that speaking to the Children's Commissioner, she could help advocate for him to stay at the centre till at least he was 18 years old.

Q. And, as I understand it, in making contact with the Children's Commissioner, you requested that your involvement be kept confidential from centre management?
A. Yes.

Q. And, why did you feel that you needed to make that request?
A. I was being significantly bullied by this stage and I did express to her that that would - that I didn't want to be put at further risk.

Q. And, did she keep your identity confidential?
A. No.

Q. How do you know that?
A. Because the manager, Stuart Watson, told me and essentially reprimanded me for calling her.

Q. Turning to a different topic. You describe in your statement at paragraphs 383 onwards a number of conversations that you had with a member of the Professional Services staff who we're calling "Stan" in which he told you, as you recall it, about records that he was keeping for his own purposes about behaviours that had occurred in the past at the centre?
A. Yes, I'm sorry, I'm lost, what paragraph did you --

Q. Paragraph 363 and following.
A. Yes.

Q. In particular, he gave you some information about Lester, but he also gave you a number of other names of then current staff who he said he was aware were offenders from the past?
A. Yes. The context behind that, I guess, is that I had gone to this person having learnt things that were absolutely mind bending for me, and sort of said, "What is going on here, I feel like I'm in an alternate universe, you know, things are wrong", and he explained that, yeah, things were very broken and very wrong and went into talk about, you know, he was a long-standing employee and he talked about Lester particularly, and he went on to talk about other long-standing members of staff who had, in his words, you know, "Been sex offenders and were still on site, were still sex offenders against the children in the centre", and I said, "How do you - how are you okay?" You

know, I'm here reporting left right and centre, you know, "How are you coping with this?" And he just said that all that he could do essentially was keep these files that he showed me on his book shelf which were, you know, various emails or complaints or reports that he'd printed off over - I'm not sure how many years, and just filed; he said that's what he felt was all he could do.

Q. Stan's given a statement in response to a request from the Commission and he was asked about this question, and his evidence was that he has never kept records of that kind. So, is it possible that you misunderstood what he told you or the records that he gave you access to?
A. No, it's not possible. I sat in his office and he talked me through context behind some of the documents in the file. He said/invited me to flick through them, and I did, and I read the content of this file; so no, there is no chance.

Q. Just going back to the question of the incident that occurred on 6 March and Chris and the suggestion that he'd been sexually assaulted. As I understand in your statement in your evidence there was some degree of communication between you and Mr Watson who was the assistant manager I think at that time?
A. Yes.

Q. About whether or not there had been a disclosure by Chris of any sexual assault or anything of that kind. What's your best recollection of whether Mr Watson knew that there had been an allegation of Chris being assaulted or of what the police knew about it?
A. Oh, he absolutely knew that there had been an allegation. He brought it to my attention that the police mentioned a possibility of that occurring in the roof space, but then when I confirmed with him that I had spoken to the child and this is what was shared, he obviously definitely knew that that was what we were dealing with then; however, his stance about it was that it - that we could not report it to the police unless Chris wanted that.

Q. Mr Watson, as I understand it, will say that the first he heard of the possibility of Chris being sexually assaulted was from you. Could that be right?
A. That's just not what happened.

Q. And I gather he will also say that he understood from

what you had said that, if the police already knew about it, they would already be investigating it?
A. I wasn't present for the conversation that he had with the police, but I would have - yeah, I don't know what was said other than what he told me, which was that the police flagged that something might have - of that nature might have happened.

Q. Turning then to the question of an allegation which came to your notice which you then sought to report to Ms Honan about Lester. At paragraph 323 of your statement you describe being told by another long-term worker, Ira as we're calling him, of an occasion that he had witnessed some years previously in which he had seen a child, "A crying naked child on all fours in an isolation room with Lester standing behind him in the room".
A. That's correct.

Q. And that, as I understand it, was a disclosure that very much concerned you?
A. Yes.

Q. And it was a disclosure that Ira made to you in the context where he suggested that it was common knowledge that this had occurred?
A. I don't know if it was common knowledge that that specific incident had occurred, but certainly that these behaviours had occurred, yes.

Q. You describe in your statement making a report, I think initially via email to Ms Honan, who was the Director, of this allegation that you had heard about Lester from Ira?
A. Yes, so I emailed, I sent the one report to the head of HR, Ms Honan, and my two direct line managers.

Q. What was your expectation about what would happen in response to you bringing that allegation to their attention?
A. Well, I expected that obviously some conversations would be held rapidly, which - and, typically with a disclosure of that nature when it's regarding a staff member who was a senior staff member and currently on site, I would expect that, whilst - well, obviously, first, it would be reported to the police as an allegation by an eyewitness, and also, that the department would investigate it and that, whilst those investigations took place, that

person would be stood down, you know, paid or whatever is appropriate, but not able to be working with children.

Q. After you had made your managers and HR and the Director aware of the allegation of Lester he remained on site; is that right?
A. Yes.

Q. And, as I understand it, there was at least one occasion when you saw him having very direct contact with a child?
A. Yes.

Q. What was that?
A. He was strip-searching a child.

Q. And, did you bring that specifically to the attention of anybody given the notification that you'd already made about the allegation against him?
A. Yes.

Q. And, perhaps it's obvious, but what was the concern that you had about him strip-search - again, assuming that strip-searches are occasionally appropriate, what was the particular concern that you had about him conducting the strip-search or the way in which it was being conducted?
A. It was my view that he ought not be on site at all while investigations were underway, but also, anyone who has serious allegations of child abuse against them - I mean, it sounds silly to say, but shouldn't be touching a child.

Q. Can I turn then, and I'm conscious of the time, Commissioners, to some questions about your observations of staff and the experiences of staff. This is paragraph 384 and following, Alysha, in your statement?

COMMISSIONER BROMFIELD: Sorry, Ms Ellyard, do you mind just before you do?

MS ELLYARD: Not at all.

COMMISSIONER BROMFIELD: Q. When you became aware of this, when Ira made this disclosure or statement to you, you reported on the same day to your Director; that was my understanding?
A. Immediately.

Q. And I believe that you were then working at the centre for a further, was it about 11 months?
A. He was or I was?

Q. Both?
A. So, that happened in January. I left the site in April and he was still on site in November.

Q. I just wanted to ask what it was like for you as an employee, having made that allegation, to see that person still on site every day?
A. Thank you for asking that. I actually shared an office wall with that person. So, every morning I would - I wanted to remain professional, but I was also feeling very unheard and very helpless because, no matter how much I followed up, he was there, nothing was happening, and I knew nothing was happening because he would not be there if the appropriate measures were in place. So, it was quite torturous having to see him and try and be professional and say, "Good morning" and work alongside someone with allegations of that nature, knowing that, you know, he's working amongst the most vulnerable children in the state. I found it - I've never felt so helpless in my life, there was nothing I could do to reduce the risk.

COMMISSIONER BROMFIELD: Thank you.

MS ELLYARD: Q. Alysha, you describe in your statement at paragraph 385 your observation that the staff in the centre fell into two groups: one group was traumatised and bullied, and the other group was doing the bullying?
A. Yes.

Q. One of the things that the Commission has heard about from a number of witnesses is the extent to which there was a mismatch between the very difficult work that people were being called upon to perform and the skills and attitudes of the people who were on site doing the job. From your observation, what was the willingness of staff on the site to change and improve their practices?
A. Are you referring to it, like, the youth workers sort of group or?

Q. If there's a distinction between the youth worker level and the operational management level, please do make that distinction.

A. There was probably less than a handful of staff at a youth worker level who were open and even enthusiastic about supervision and more support and changing practices, and I tried to support them quite intensively. The majority of staff on the ground were of the opinion that someone such as myself or a professional staff team member had no clue and didn't know how Ashley would work, and "What do they know, you know, we've been doing this for however many years": complete unwillingness to hear - even hear, you know, the reasoning or - and I'm not a - and I say I'm not a walk in and say, "This is how we're gonna do things now", you know, I work really hard to try and bring people on board and work with them to help them feel a really big part of a change process, and I wanted their thoughts and there was just no willingness to entertain the idea of working in a different way because they had a fundamentally - a fundamental belief that these kids didn't deserve that way of working.

Q. At paragraph 392 and following of your statement you describe a particular incident involving a youth worker, Rupert, who you had tried to give advice and support to but who kept insisting that he wanted to act punitively towards someone, and you wrote an email, I think, to management drawing their attention to concerns you had about Rupert's practice and his need for support. What happened?
A. Can I, I'm so sorry, can I just go back one second, because I only half answered you.

Q. Sure.
A. I talked about youth workers. There was an even greater level of resistance from management that was - I was completely obstructed with; anyone who tried to implement change was entirely obstructed. There was zero.

Q. And so then, to go to the question of Rupert, you wrote a confidential memo to management, as I understand it --
A. I did, yeah.

Q. -- raising concerns about Rupert and his practice and his need for support, and what was your expectation about what managers would do with that communication?
A. In that particular case, that person was in his probation period, so I saw it as a really good opportunity to work quite intensively with him to either, you know, develop his skills and help him change his practices and,

you know, I was prepared to offer a lot of help in that space and I outlined my concerns in detail and what I was hoping we could put in place for him; or, you know, failing that, obviously going through that process and trying very much to support him to reach a level of practice that was acceptable, then it would be an opportunity to, you know, have those discussions around whether he was a suitable long-term staff member with the practices that he was currently displaying if he was unwilling or unable to address them.

Q. And so, clearly that wasn't an email intended for his eyes?
A. No, no.

Q. But you came to understand that he had found out about the email?
A. Yes, his line leader gave it to him.

Q. And what was the outcome of that?
A. I sent a follow-up email to the same people saying that I had become aware that this email had been shared with the staff member and that that was extremely disappointing and risky, because that would have been distressing for him without it being delivered in a supportive way, you know, of course. He did actually take a week's leave, so he was affected by it. I would have handled that very differently if we decided to move forward with what I was suggesting, and nothing came of any of that. I never even heard back.

Q. You also describe at paragraph 396 and following that you did have some staff who did want your support and who confided in you about their own experiences.
A. Sorry, what paragraph?

Q. 396?
A. Thank you.

Q. You describe being confided in by some staff members about their own very difficult experiences?
A. Yep.

Q. Can you tell us a little bit about that?
A. Yes. There were a few, maybe a handful, again, less than 10 probably, staff; some quite unexpected staff as well, some of the sort of tougher male variety that maybe I

wouldn't have expected to do that, but yeah, there was a number of staff that reached out. They were very worried about raising concerns with me and quite concerned that they would get in trouble or face difficulties because of it, but they did, and certainly it appeared to me that there was - you know, that the entrenched sort of misogynistic bullying behaviours that I was seeing and experiencing were not new and that certainly other staff had been treated similarly over the years and had faced a lot of issues regarding the culture in the centre, and there was - you know, it was evidenced by very high levels of workers' compensation claims, stress claims, et cetera.

Q. The Commission's got access to emails, including emails sent by you towards the end of your time on site at the centre which, I think from a time after Patrick Ryan had left, in which you seem to have been feeling more positive about the management at Ashley and to have felt that there was the opportunity for some improvement and that some changes had been made. Did you recall having that observation, that in the final weeks of you being on site there were what seemed to you to be some changes for the better?
A. There was a brief window where, with the new manager taking over and what I believed to be my Director taking some positive steps that would lead to some positive change: unfortunately, that didn't unfold.

Q. But so, for example, there are emails, I think sent by you in early April in which you express confidence in Mr Watson or express the view that it appears that there's some positive changes which you are grateful for. You recall sending some emails like that?
A. Yeah, there was some positive change that Mr Watson brought that were not in place when Ms Ryan was managing the centre, and that was - I recognise that for sure.

Q. Thank you. Just the last point that I wanted to ask you. Pardon me a moment. I'm not sure if you had the opportunity to observe the evidence that Ms Honan gave last week, Alysha, but she was asked some questions about the complaints and matters you raised with her and the way in which she responded to them. Ultimately, did you feel that she had responded in an appropriate way to the concerns that you brought to her attention?
A. No, not at all.

Q. As I understand it, you ultimately made a formal complaint through formal processes about the way in which Ms Honan had responded to the various matters that you raised with her?
A. Absolutely.

Q. And, as I understand it, you did eventually hear back about the outcome of that complaint?
A. So, that was a few weeks ago that I heard back about that complaint.

Q. A few weeks ago, as in, in 2022?
A. Yes.

Q. And that was in relation to a complaint, I think, that you raised late last year, in about September 2021?
A. September, yeah.

PRESIDENT NEAVE: Q. Can I just ask: had you been spoken to by anyone else about the handling of that complaint?
A. No, I wasn't spoken to by even the investigator. I was told simply that her direct line leader had conducted a preliminary assessment and that there was no steps outlined as to whether there would be anything beyond a preliminary assessment, and that was what I received a few weeks ago. It was an odd document. It stated it was by the Deputy Secretary in my department who, I believe, left my department quite a few months ago, but I just got it recently and, to be completely honest, I didn't give it a great deal of credence.

Q. So, there was never a formal investigation initiated?
A. No.

Q. It was done by the Deputy Secretary who did the preliminary assessment and then --
A. Her direct line leader and I wasn't - I wasn't even approached once.

Q. You weren't spoken to?
A. No.

PRESIDENT NEAVE: Thank you.

MS ELLYARD: Conscious as I am of the time, Commissioners, those are my questions for Alysha, subject to any further questions that you have for her.

COMMISSIONER BENJAMIN: No, but thank you for your evidence.

COMMISSIONER BROMFIELD: I didn't have any further questions either. I did want to note that, in reading your statement and the many attachments that came with it, that I could see a number of times in your professional life where you worked hard to try and secure the safety of children and I wanted to thank you for that.
A. Thank you.

PRESIDENT NEAVE: And thank you very much indeed for your evidence and for speaking to us, and for all the work that you put into that issue. So, thank you.
A. Thank you all very much.

MS ELLYARD: And, can I invite you to take the afternoon break, Commissioners?

PRESIDENT NEAVE: Yes, thank you.

SHORT ADJOURNMENT.

MS NORTON: Commissioners, our final witness this afternoon is Ms Veronica Burton, and I ask that the affirmation be administered, please.

<VERONICA BURTON, affirmed: **[3.40pm]**

<EXAMINATION BY MS NORTON:

Q. Ms Burton, can I ask you to state for the transcript your name, professional address and occupation?
A. Sure. My name is Veronica Burton, I'm a registered psychologist currently working as a General Manager for Quality, Safeguarding and Risk across Tasmania, Victoria and Queensland for a not-for-profit Human Services organisation. My place of employment is Unit 2, No.3 Reeves Street, Burnie.

Q. Thank you. You've prepared a statement for the benefit of the Commission, it's a document dated 4 August, it has three annexures. Paragraph 2 of that statement states your wish that your statement be treated as anonymous. Am I right to understand you'd like to change that status to "public"?

A. Yes.

Q. Thank you. Subject to that alteration, is the contents of your statement true and correct to the best of your knowledge and belief?
A. Yes, it is.

Q. You have training as a psychologist and you've just mentioned that you're currently registered with AHPRA?
A. Yep.

Q. You're no longer employed by the Department of Communities, but as I understand it you have a long history of experience with Communities or its predecessor, DHHS, over 15 years of experience; is that right?
A. Yes, that is right.

Q. Your role as relevant to the evidence you're going to give today was as a SERT reviewer and you commenced in that role in January 2018; is that right?
A. Yes, that's correct.

Q. And, how long did you work as a SERT reviewer?
A. Until June 2020, so two and a half years.

Q. When you joined the SERT Team in 2018 it was quite new; I think the SERT team was established in late 2017; is that right?
A. That's correct, it was brand new, yep.

Q. Now, it was dissolved around the time that you left the role, for obvious reasons?
A. Correct.

Q. In your statement at paragraph 4 you say that the SERT was established to review child deaths and serious injuries across child and youth services. Now, I think you listened to the evidence of Ms Pam Honan on Friday afternoon, and it was her evidence that SERT was set up to investigate infant deaths, really for that limited purpose, and that it was intended to have a beginning and an end point?
A. Yes.

Q. Is that evidence consistent with your understanding of SERT's purpose?
A. No. My understanding of SERT's purpose was that it was established, as you said, to review child deaths and

serious injuries, children of all ages, so from zero to aged 18, across Children and Youth Services, so that included Child Safety Services, Family Violence services and Youth Justice services. And the purpose of the establishment of the SERT was, it was acknowledged and recognised that the Department Communities Tas required an independent team to review serious events and to make recommendations for improvement of service delivery. It was never intended to be a discrete period of time and it certainly wasn't established to review infant deaths, although some of the infant deaths we reviewed did become part of the coronal inquest towards the time that SERT was being dissolved. And, when SERT was dissolved, it was unexpected; nobody in the team expected it to occur. It was essentially, one day we were working in the SERT and the next day we were not, and it wasn't really explained to us in a satisfactory way why that was the case.

PRESIDENT NEAVE: Q. Can I just follow up?

MS NORTON: Yes.

PRESIDENT NEAVE: Q. As I understand it, there's a body equivalent to the SERT Team?
A. Yes.

Q. I'm familiar with one in at least one, possibly two states?
A. Yes.

Q. And they're ongoing processes, aren't they?
A. Yes, they absolutely are, and I think part of the rationale for establishing SERT in Tasmania was that Tasmania was the only state and territory in Australia that didn't have a team for this function, which was why it was established by the then Deputy Secretary.

PRESIDENT NEAVE: I'm sorry to cut you off.

MS NORTON: Not at all, President.

Q. I'd like to ask you some questions about the standard process for conducting a SERT Review and then I'll ask you about some SERT reviews that you conducted in relation to Ashley.
A. Yep.

Q. When you were briefed to conduct a review and given terms of reference, what was your standard process for conducting investigations in order to form findings and recommendations?
A. So, the standard process would be, we would look at the terms of reference and establish what we thought needed to happen; that would most often include a review of all the relevant files related to that child or young person; if possible, conversations with that child or young person; obviously sometimes that wasn't possible. Interviews of all staff that were involved in the serious event, and often staff that had been involved with that child or young person over a period of time, because often they were children that had been under the attention of Children and Youth Services for some time, so it was often looking at years' worth of history and considering how everything that had gone before led to that serious event and analysing that and understanding why that might have occurred and making recommendations and findings as to why the event may have occurred, could it have been prevented, if so how could it have been prevented, what do we need to do moving forward to, you know, put in place different ways of working, different practice, better policies, better training, better supervision, whatever we thought it might need to try to prevent something similar from happening from the future. We would also consult experts if needed and also research and evidence as required depending on, you know, what the specific issue was that we were looking at.

And then we would prepare a report and that would be presented to the Serious Event Review Committee which was comprised of heads of department across Tasmania, so we had - it was comprised of the Police Commissioner, the Head of Education, the Head of Mental Health Services, the Head of - I think I said Education, but department heads, and we would present our reviews to them; they would endorse the recommendations usually, and the responsibility for progressing those would sit with the Deputy Secretary of Communities Tasmania who would be required to report back to the committee on progress towards those recommendations.

Q. And in that ordinary course that you've just explained, would you as the reviewer or the SERT Team more generally receive updates over time about the progress of recommendations? Would you receive those updates or do you provide your recommendations and that's the end of it and

you move on to the next thing?
A. Usually our involvement would stop at the point of the recommendations being endorsed by the committee and returned back to the Deputy Secretary for action; our involvement would cease at that point usually.

Q. So you wouldn't necessarily have insight into what work was being done at the agency level to implement the recommendations?
A. Not formally, but we were usually aware of what was happening, but we wouldn't have a formal feedback process for that.

PRESIDENT NEAVE: Q. Can I just have follow-up on that? Let's assume that there was a SERT report to the committee, the review committee; you then review another event.
A. Yes.

Q. And it becomes clear from that event that things haven't changed; that the factors that led to the first serious event are still in existence. I mean, what was your approach in that situation, how did you deal with that, if it occurred?
A. Well, it actually occurred at Ashley Youth Detention Centre with some of - so, we were making - I was making the same recommendations all the time, and the same things kept happening. So, it did actually occur in that situation, and perhaps in others we would identify areas of practice that still haven't been addressed.

Q. How many times? Do you have off the top of your head the number of times that you --
A. At Ashley or in general?

Q. Ashley - both really. I'd be interested to know about Ashley?
A. I did four reviews at Ashley over a period of a year and all of them had the same recommendations around different things. So, we would identify those themes and trends and we would raise them back through to our Director and Deputy Secretary via an internal consultation process and look at, you know, make suggestions on how that might be remediated.

Q. And, do you care to make any comments about the extent to which there was a change over that period of time?
A. I'm happy to make a comment.

Q. Thank you.
A. In my opinion there was very minimal change over that period of time.

PRESIDENT NEAVE: Thank you.

MS NORTON: Q. I'd just like to put to you something that Ms Honan said in her evidence that goes to this point about the recommendations. She was talking in particular about the recommendations you made in relation to an incident involving a child we're referring to as Henry, we'll come to that in greater detail in a minute. She said of the 17 recommendations that you made in that report, that they were interdependent, large in scale, not able to be finalised quickly, and that the work had been steadily progressing over the 16-month period.

Do you have any reflection you'd like to offer on that characterisation, particularly in light of the evidence you've just given that you kept making the same recommendations over and over again?
A. I think the comments, they are big recommendations because a big overhaul is required, so there's absolutely nothing to be gained in making small changes here and there in a situation like there is or has been at Ashley Youth Detention Centre. So, yes, they are big recommendations, and some of them are linked also, however, that was not the first time that the Director or indeed the Deputy Secretary had been aware of those issues.

Like I said, I had been flagging them for some time, so there was plenty of time to start to think about a strategy and a way forward. Having said that, there were small things that could have been done to change things quite quickly in small ways that would have made a significant difference along the way while working towards those bigger goals.

Q. And in the four SERT reviews that you conducted successively in relation to Ashley, did you see any evidence that those small but meaningful changes were being made?
A. Not really, no. I mean, there was the engagement of the Australian Childhood Foundation, but again, that was towards the end of the time, that was in relation to the last - I think the last review that I did. No, I didn't

see anything.

COMMISSIONER BROMFIELD: Ms Norton, I just had a question.

MS NORTON: Yes.

COMMISSIONER BROMFIELD: Q. I understand that implementation of big recommendations can take time. My understanding for the SERT process, though, is that there's normally a two-step process, in that, there is the endorsement of the recommendations by the committee, and then it transitions into an implementation phase. On my reading of the information it doesn't look like there was an endorsement or acceptance of the recommendations formally. Are you aware or have I got that wrong?
A. No, you're correct. To the best of my knowledge the reviews that I did at Ashley Youth Detention Centre were never presented to the committee.

COMMISSIONER BROMFIELD: Thank you.

MS NORTON: Q. Do you have any understanding of why that usual process that you've been speaking of and that Commissioner Bromfield's just referred to, do you have any understanding of why that might have been subverted with the Ashley reviews?
A. I can hypothesise why. I think possibly it was related to the incidents themselves in terms of what they were. So, there was some incidents with young people getting onto roofs and being in a standoff and damaging property, those sorts of incidents where nobody was injured that we were aware of, so they weren't seen as a serious incident from that point of view, perhaps that was why they weren't presented to the committee because they didn't fit within the, I guess, brief of SERT, because they weren't - there was no injuries. Doesn't make all that much sense to me, but maybe that was why.

There was also concerns around maintaining confidentiality of the SERT reports. There had been some leaks to Parliament around the time that we were preparing reports for Child Safety Services, and we wondered if that was maybe why the Ashley reports didn't get presented, because they were worried about --

PRESIDENT NEAVE: Q. They were worried about embarrassment?

A. Exactly, yes.

PRESIDENT NEAVE: Thank you.

MS NORTON: Q. You said before - and I think you characterised in the statement, in your efforts to try and understand why these reports weren't provided to the committee, you say they might have been regarded as near-misses.
A. Yes.

Q. Again, we'll come in greater detail to this incident involving Henry, but your finding was that there was a sexual assault?
A. Yes.

Q. That the core event was a sexual assault; that's not something which anybody could mistake as a near-miss, is it?
A. No.

Q. Could I just clarify: of the four SERT reports you did in relation to Ashley, did any of them to your knowledge go to the committee?
A. Not to my knowledge, no.

Q. Are you aware of any reports you've prepared for SERT in relation to other agencies, not Ashley, that didn't go to the committee?
A. No, I'm not aware of any.

COMMISSIONER BENJAMIN: Q. If I may interrupt. There was a coronal report which was delivered in 2021, wasn't there?
A. Yes.

Q. Was that by Coroner Taggert?
A. Taggert, yes, it was.

Q. She made some positive comments about the SERT process, didn't she?
A. Yes.

COMMISSIONER BENJAMIN: Thank you.

MS NORTON: Q. I just want to go back to what you said earlier about your usual process when you were briefed to

conduct a review, and you talked amongst other things about needing access to records, access to young people and staff who might be involved with the young person.

When you're dealing with a review in the context of a particular agency how important is the cooperation of the agency to the thoroughness of your review?
A. It's vital, particularly at Ashley Youth Detention Centre because, with Child Safety Services, for example, as an employee of Communities Tasmania I did have access to the electronic files of Child Safety Services, so it wasn't so dependent on staff providing those records.

With the centre it was different. There was an electronic system but it wasn't utilised, pretty much everything was paper file, so we depended upon the management at the centre to provide us with those when we attended the centre, and we - also, it was difficult to engage with workers to arrange times to interview as well, that I needed cooperation of management at the centre to do that as well.

Q. You say in your statement, at paragraph 9, that the main liaisons you had at the centre were Patrick Ryan?
A. Yes.

Q. And another employee who we're referring to as Lester. In paragraphs 10 and following you make some observations about Mr Ryan and your interactions with him. Would you like to summarise for the Commissioners what those impressions were?
A. Sure. Mr Ryan always made sure to be there when I arrived. I would be taken to his office where he would brief me on the incident that I was reviewing and would give me his opinion on what he thought had happened, what he thought were the issues. He controlled who I spoke to at the centre and where I went. I couldn't go anywhere in the centre unless somebody took me because every door is locked and I needed somebody to escort me wherever I needed to go, so I was completely at, you know, the mercy of Mr Ryan in that regard.

Q. Can I ask you: you said he would direct who you would speak to. Was it the case that you would go in and say, "I need to speak to these four people" or?
A. Sometimes, if we had that information, because the file-keeping was so poor, we often didn't know which staff

were involved and who we needed to speak to; we just couldn't get that information, so often it would be, he would check the rosters and tell us which staff had been on shift at that time and then arrange for them to come into the centre to talk to us.

Q. And so, in what sounds like a situation where you had a bit of an information vacuum, at least at the beginning of an investigation, would you agree that you were highly dependent on Mr Ryan, or his delegate, identifying the right people for you to speak to?
A. Yes, for the most part, yes.

COMMISSIONER BROMFIELD: Q. I assume that during your time at SERT you do enquiries into areas such as residential care units?
A. Yes.

Q. Was the process similar there? Did you have someone meet you, give you a précis, their opinion? What was different?
A. The provision of information was - information was provided more freely, I guess. There was collaboration, there was a willingness to engage and discuss and to welcome the process, for want of a better term in terms of, from the point of view of, what can we learn from this, rather than a defensiveness, which is often what I experienced at the centre.

COMMISSIONER BROMFIELD: Thank you.

MS NORTON: Q. You make reference in your statement, and it's at paragraph 13, to a comment that Mr Ryan made to you about "clean slate" and "everyone who comes into the centre, every young person starts with a clean slate". Now, to the person on the street that might sound like a good thing, but it seems from your statement you were concerned by that attitude. Can you explain to the Commissioners why that mentality concerned you?
A. Well, if I'm doing a review of young people and an incident that occurred that involved them, I want to know who they are, where they've come from, what brought them to the centre, what history of trauma they might have that might explain, you know, what happened in the incident; provide a context for their behaviour, provide a context for how we might better support them. It's just, in my opinion, impossible to do a thorough review without that

information and Mr Ryan just didn't agree with me. So, if I was to ask, "Who is this person, what's he here for, what's their history?" He would, you know, just say, "No, they're on a clean slate, I don't like to talk about what they've done or why they're here; as far as I'm concerned, when they're here, they're here and it's a clean slate", so it was hard to get the information.

Q. And, in your professional opinion, is it possible with that type of an attitude to run a centre that's therapeutic in anything other than name?
A. I don't see how you can, because you can't provide therapy if you don't know what you're providing therapy for.

Q. You make some observations about Lester in your statement and I just want to invite you to comment on a particular comment that Lester made to you in relation to boys' genitals. You refer to it at paragraph 14. What was that comment and why was it so concerning to you, or what did it suggest to you about Lester's attitude to the young people at the centre?
A. We were - I was leaving the centre and he was seeing me out, and the boy, some of the boys were swimming in the pool and it was a cold day and I made a comment, it was an outdoor pool and I made a comment, "I can't believe they're in the pool swimming on a day like this", and he laughed and said, "Yeah, I told them that when they get out they're not gonna have penises anymore, they'll only have vaginas", and at the time I guess I was taken aback, it's not a professional comment to make, it's not a way that you would talk to another professional from an external service reviewing, you know, the centre; it just seemed at the very least inappropriate and uncomfortable. And at the worst, I guess, it felt uncomfortable that he would be talking about the boys' genitals and joking about that. I mean, yeah, it felt uncomfortable and inappropriate to me.

Q. In paragraph 23 of your statement you make some observations about the culture at Ashley that you observed having regard to your interactions over the four SERT reviews. Would you just like to summarise for the Commissioners what your observations were about the culture?
A. So, it was things that staff that I spoke to as part of my reviews would tell me, things that they were concerned about. So, feeling - so, being bullied when they

expressed opinions different to the core group of managers and staff that seemed to have more, I guess, sway or power at the centre than they did. So, if they --

Q. I'm sorry.
A. No, that's all right.

Q. I just wanted to ask you who you regarded - you made reference there to the core members of management?
A. Sure. So, Patrick Ryan --

Q. Lester?
A. Lester, Maude, and some youth workers, I can't recall their names, but the three management positions. So, people felt very intimidated to raise issues with them. They described incidences of verbal abuse, being yelled at, being physically assaulted on a couple of occasions by being pushed, and prevented from leaving a room, and being spoken over the top of in meetings when they tried to express concerns about decisions that were being made in meetings.

Q. Can I ask - I don't want to cut you off, please.
A. That's all right, I was going to say having their reports that they were writing changed or being told to change their reports, and shred the originals.

Q. These are incident reports, as I understand it?
A. Yes.

Q. Did you learn anything from your discussions with staff about minute keeping practices in relation to meetings; who was responsible for minute taking?
A. Minutes, I can't recall who was responsible, but staff did disclose to me that they were instructed to change minutes.

Q. Instructed by whom?
A. From memory, Patrick Ryan and Maude.

Q. I think you referred to that on pages 21 and 22 of your report.
A. Thank you. The review report?

Q. Of the review report, yes.
A. Yes.

Q. What you've just described sounds like a culture in which staff might be quite reticent to raise concerns with management. How was it that people in that environment came to speak to you as part of your report? How was it that they were comfortable speaking to you?
A. They said to me that they - because I wasn't working at the centre, I wasn't employed by the centre, that they felt that maybe the issues that would be communicated outside of the centre to people that needed to know that might be able to do something about it. They felt, as I said, uncomfortable raising them with staff within the centre. They liked the fact that the SERT was independent in their view and, which it was, and that they felt safer to raise issues. And what tended to happen was, once we were at the centre doing a review and talking to staff, other staff that weren't involved in that review, would make contact with us because their colleagues had told them that we were there and we were happy to talk to people if they wanted to, so we would have people independently contacting us to talk to us.

Q. And so, was that one way that you managed to gain access to people in addition to those who Mr Ryan, for example, told you were the relevant people?
A. Absolutely, because once they knew who we were, they were able to contact us, yes.

Q. I'd like to ask you some questions about, you explained at the beginning of your evidence your usual practice for conducting a review, and I'd like to ask but how that usual practice - the extent to which you were able to follow that usual practice when you conducted reviews at Ashley.

You've already mentioned that access to documents was difficult, that there were paper-based records, and I assume that you had some concerns about accuracy of records --
A. Absolutely, yeah.

Q. -- having regard to what staff had told you about practices there?
A. Mm-hmm. So, accuracy of the records was an issue, just whether the records were there or not; often they weren't, they were missing or they couldn't be found when I requested them. And, not just file records but minute meetings, emails that were relevant, things like that.

Some reviews I just had to complete without the documents because they were just not provided. Also - sorry, I've lost my train of thought.

Q. Perhaps come back to it if you recall. Can I ask you about access to residents? You say in paragraph 10 that it was very difficult to get access to residents because they were in secure units and you couldn't talk to them easily.
A. Yes.

Q. Presumably in some cases, and the incident involving Henry is one, that you couldn't speak to the victim of the incident?
A. Yes.

Q. Did it also mean on occasion that you couldn't speak to other witnesses of incidents?
A. Yes, it was unusual that we were able to speak to the young people at Ashley. There was one review where I was able to, but for the most part - and that wasn't this review with Henry.

Q. No.
A. I did request to speak to Henry, and I was informed by my manager that I wouldn't be speaking to Henry because enough people had spoken to him already and there was nothing to be gained from talking to him. That was relayed to me by my manager, but I believe it was Pam Honan that told - that made that instruction.

Q. Yes. Now, I know you heard some of Ms Honan's evidence on Friday. Her evidence is that she doesn't recall making that direction and that she acknowledged that it would be to the detriment of an investigation to be denied access to the victim. But, whoever the direction came from, the outcome of it was that you didn't have access to Henry?
A. I didn't speak to Henry.

Q. You made mention of a review that you done - where you did, it was one of those rare occasions where you did gain access to a young person, and I think that was somebody who we're referring to as Max?
A. Yes.

Q. It's referred to in your statement.
A. Yes.

Q. You say in your statement that, although the interview you had with him was as confidential as it could be, that you had two youth workers --
A. Outside the door.

Q. -- immediately outside the door. Do you think, reflecting on that access, that you were able to speak to Max in an environment where he would have felt comfortable to speak frankly about what had happened to him?
A. No, I don't think so. He was not comfortable with us.

Q. And the allegation that had been made by Max was that he had been assaulted by youth workers in an air lock?
A. In an air lock, that's correct, and then had been placed in a timeout room unsupervised, yes, and he - he did not want to speak to us about it; in fact, he withdrew the allegation while we were talking to him.

Q. Before I come in more detail to the Henry incident, I just wanted to invite you to share your reflections on the department's response to the reviews you conducted into Ashley, and I'll just quote from paragraph 36 of your statement. You say:

> *Trying to get the Department of Communities to understand the issues at AYDC was like banging my head against a brick wall. I felt like no-one wanted to hear about the issues or do anything about them.*

Was there anything you'd like to say to elaborate on that experience?
A. Other than, it was incredibly frustrating. As I said, you know, there was four reviews that I conducted, there was other reviews conducted by one of my colleagues, two or three others. The ones that I conducted, I was identifying similar or identical issues every time, making the same findings, making the same recommendations, and sending them to where they were supposed to go for action, and then nothing would change, and then I would go back and there'd be the same issues, and I really did just feel like management, my management, the executive management of Children and Youth Services were just not interested or not able - I don't know. I never got any feedback. The reports would go and I would not hear anything back about what was happening.

When issues were raised with me as part of the reviews that weren't necessarily related to the incident, so things that people would raise with me about concerns, I would communicate those in a memo to the Director separately as would be the appropriate process: I didn't ever get much of a response from those, and I felt just so frustrated that I could see the risk and I couldn't - I couldn't do anything about it.

Q. Having regard to the evidence you've just given, I want to again share some evidence that was given by Ms Honan on Friday and get your reaction to it. She gave evidence that she thought SERT reviews were helpful and that Ms Clarke, the Deputy Secretary, shared that view. She said:

Having a level of specialisation and independence for a review over serious incidents was really useful and in fact critical.

Does that evidence accord with your experience of the support or the engagement you received from the executive?
A. Not at all, not in relation to Ashley Youth Detention Centre. Quite the opposite; it felt as if they were disregarding what we were trying to raise.

Q. Moving then to the report you did into the incident involving Henry. Now, this was an incident that occurred on 7 August in 2019 and it involved a sexual assault of one young person, Henry, by two other young people who we're referring to as Albert and Finn and it involved the use of a water bottle. Now, despite the fact that the incident occurred in August 2019, the referral to you and the terms of reference didn't come into effect until December of that year, some four months later. Did you have any insight or understanding into why there was a delay between the event and the referral?
A. No.

Q. Did you have a sense that that delay impacted at all on your ability to conduct a thorough investigation?
A. Well, I mean, yes: you know, memory, people's memory of events changes over time. Four months is a reasonably long time in the life of a detention centre when things are happening all the time and whether or not staff can

accurately recall what happened; also, there's no opportunity to review documentation and such in real-time.

Q. The two young people who perpetrated the assault that we're considering here, Albert and Finn, I think you were here when Alysha gave evidence earlier today --
A. Yes.

Q. -- that these two young people had a history of harmful sexual behaviours?
A. Yes.

Q. Would you agree that detainees with those characteristics, extreme care needed to be taken in terms of who those detainees were placed in a unit with?
A. Yes, absolutely.

Q. Henry was somebody who had a care plan in place, and that care plan said quite plainly that he was not to be placed in a unit with Albert and Finn?
A. Yes. Yes, it did.

Q. Can you recall how it was that he came to be placed in a unit contrary to what the care plan provided?
A. As part of the review I did look at the decision-making process, and I don't think there was any definitive reason other than a decision was made to place - officially, a decision was made to place him there.

I did get some unofficial reasons from staff when I interviewed them which were around that he was placed in the Franklin Unit because the other two boys would keep him in line.

Q. Yes, and I think you said in your statement that that was something you were told by multiple staff members?
A. On several occasions, yeah.

Q. You also refer in your report, I think it's at about page 23, you say:

It was reported that many staff are intimidated by Finn and Albert and that both residents are given input into decision-making regarding what happens in their unit.

A. Yes.

Q. Were you concerned by those staff reports about the extent to which Finn and Albert were, (1) having input into allocation decisions, but (2), the extent to which Operations staff might have been relying on them to manage the behaviour of other residents?
A. Yes, very much so.

Q. Are those practices ever appropriate in your mind?
A. Not in my opinion, no.

Q. Now, you viewed the CCTV footage of the event and you describe in your report what you saw. I don't need you to do that now, but was there any doubt in your mind that what you witnessed involved a sexual assault?
A. No, none whatsoever.

Q. Again, you refer in your report to an internal briefing that I think Mr Ryan prepared for the benefit of the Secretary in relation to the event.
A. Yes.

Q. That internal briefing stated that:

The incident involved an unsuccessful attempt to remove Henry's trackpants.

That's incorrect, isn't it?
A. Yes, it is.

Q. It was plain on the footage that you saw that his trackpants had in fact been pulled down?
A. Yes, absolutely.

Q. Some of the documents and emails that were sent around the time of the incident, including I think some CST minutes, refer to the incident as involving silly behaviour or, you know, young people joking around. Do you think those labels are appropriate to describe what you saw?
A. No. What I saw was a sexual assault and that was the way the behaviour should have been described.

Q. I think, when Ms Honan gave evidence, again on Friday, it was put to her that your conclusion was that it was a sexual assault, and she re-characterised the finding; she said that it was an attempted sexual assault. That's not

the case, is it? your conclusion was that it was a sexual assault?
A. Yes.

Q. Would you agree that it also might be characterised as an attempted rape?
A. Yes, from the way that the drink bottle was being used.

Q. Positioned?
A. Positioned, used. Yes, I think so.

COMMISSIONER BROMFIELD: Ms Norton, can I interrupt?

MS NORTON: Yes.

COMMISSIONER BROMFIELD: Q. In terms of the young people in the unit, my understanding from the investigation was that the way this came about was that the young people in the unit had made a disclosure about it.
A. That's right.

Q. Do you recall the way that they characterised it?
A. Yes, I think the young people's - if I may, said that they had "tried to fuck him with a Coke bottle", was the words, the quote that was in the incident report.

MS NORTON: Q. Can I just ask a question by way of clarification. When you spoke earlier about the conversations that you had with staff members who felt reluctant to speak up against management, can you clarify whether those comments were made by members of the Operations Team or Professional Services or both?
A. Both.

Q. Both, thank you.

PRESIDENT NEAVE: Q. Can I just ask a question; this might now be the appropriate moment to ask it. You would have heard Alysha's evidence before?
A. Yes.

Q. And she described a situation in which she escorted, I think, you and maybe other members of the SERT Team, to an office where there was a filing cabinet.
A. Yes.

Q. And I think it was Lester --
A. Yes.

Q. -- who didn't permit you to take the files away?
A. Yes.

Q. Or to open them, I think?
A. Yes. Yes, we didn't look at them on that occasion.

Q. You didn't look at them, and you were not able to look at them because of the control that was being exercised by Lester?
A. Yes. And also, he said that he didn't know where they were; he couldn't find them.

Q. And I think she referred to seeing a file with somebody's name on it?
A. She found one, yes. And then we couldn't look at that one.

Q. And you couldn't look at that one?
A. Yes.

Q. So, you agree with her account of what occurred on that particular occasion?
A. Yes.

Q. Where was that? And that was in relation to the Henry SERT Review?
A. Yeah, from memory it was.

Q. Was that at the beginning of the process?
A. Yes, it was, because we did come back and we did get access to some files at that point. I believe the management had changed at that time.

Q. Was that much later? How much later was that, roughly?
A. Maybe a month or so, yeah.

PRESIDENT NEAVE: I see, thank you.

MS NORTON: Q. Can you recall who the new manager was at that time?
A. He's not got a pseudonym? The --

Q. You can just say it. I think it'll --

A. Stuart. So, Stuart Watson.

Q. Stuart Watson, that's fine. He doesn't have a pseudonym; that's fine. In your statement you characterise, I think - sorry it's in your report - the approach of management as being deliberately obstructive. In labelling management's approach in that way, are there any other incidents that you would or features of the management response that you would point to for the Commissioners in addition to those that you have just outlined?
A. So I guess the failure to provide me with the files, obviously, but then there was also other information that I requested from Mr Ryan, which was his weekly reports that he sends to his director, some of the CST minutes. There were some other - one other thing that we requested and requested and requested, because - it was quite relevant, because the information was different; there was so many inconsistencies with minutes and files and briefings that we wanted to see them, and in the end after making many requests, we just continued and finalised the review without them, yeah.

PRESIDENT NEAVE: Q. So, just to clarify, you were trying to make a comparison between --
A. Exactly.

Q. -- the way in which particular events had been described?
A. Yes.

Q. You'd seen enough --
A. Exactly.

Q. -- to identify number of inconsistencies, but you wanted to do a full job on that?
A. Yes, exactly.

Q. And you weren't able to do so?
A. No.

PRESIDENT NEAVE: Thank you.

MS NORTON: Q. You also say that, in addition to the copies of the information or the incident reports that lesser provided to you, one day I think you were going back to your car and Alysha provided you with different versions

of the same incident reports.
A. (Witness nods.)

Q. I know that it's a while ago now and you no longer have the versions, the two versions you were provided with, but what's your best recollection sitting here today about the differences between those two versions of the reports?
A. So, the detail in terms of the incident and the severity of the incident mostly, and, from memory, the length of time that the young people were unsupervised.

Q. And, can you recall whether - was it the version that Lester provided that was, if I can use the word, in some way sanitised?
A. Yes.

Q. And was there more detail in the version Alysha provided?
A. Yes.

Q. Now, you've exhibited to your statement the versions Lester gave you but not the versions that Alysha gave you. Do you have any knowledge of where those versions might be today?
A. So, my usual practice with any hard copy paper files was to take them back to my office, scan them, and save them on our secure file system for SERT; also kept paper files in my office. So, I don't have a clear memory of exactly doing that with those documents, but that was the process that I followed, so I can say with, you know, almost 100 per cent confidence that that's what occurred. My files in my office went missing, so I wasn't able to check.

PRESIDENT NEAVE: Q. This is the hard copies went missing?
A. Yes.

Q. But what about the computer, the scanned documents?
A. Well, I would have saved them on the SERT files, but I left the department and I wasn't able to access them anymore, so I don't know; they should be there still.

Q. Was this the only time that paper copies went missing?
A. All of my files went - all of my files and reports in relation to Ashley Youth Detention Centre went missing; all of my hard copies that I was filing in my office.

MS NORTON: Q. And I think that you provided some further detail about that in paragraph 26 of your statement. I think after you finished up in the SERT role, you asked a colleague to get your reports from your office, but they were gone?
A. Yes.

Q. You'd left them in the office thinking --
A. I would be back.

Q. -- that you would go back?
A. Well, I'd originally been on leave without pay. So I thought I'd be going back when I made my decision to resign my position permanently, and became aware that there was, you know, some enquiries and interest in what was happening at the centre. I asked my colleague to get them so I would have them, and they were gone.

COMMISSIONER BROMFIELD: Q. Sorry, it just wasn't clear from the statement. Was it only the Ashley files that were gone?
A. Well, those are the ones I asked - no, it was all of them, yeah. Sorry, yeah, it would have been everything, yeah.

MS NORTON: Q. I'd like to turn to the findings and some of the key findings in your report in relation to Henry. You found that the transfer to the Franklin Unit was contrary to his care plan, which we've already spoken about, which was quite plain that he shouldn't reside with Albert and Finn, and you go so far as to say that, had the care plan been followed, then the incident may well not have occurred?
A. Yeah.

Q. You also talk about, it's not just that he was moved to the Franklin Unit but, once he was there, there was insufficient observation or supervision of him. Would you agree that very close supervision, if you like, was very important where he was residing in a unit with Albert and Finn, having regard to their history of harmful sexual behaviours?
A. Yes. Actually, I believe Albert and Finn were supposed to have very close supervision orders as well, but that wasn't occurring for them either.

Q. Yes. We've already spoken about your characterisation of the incident as a sexual assault. You also found that it should have been reported to Tasmania Police and also Child Safety Services as a matter of urgency. Now, it was reported, I think on 23 August, by Ms Gardiner who gave evidence earlier this morning, and that was following communications between her and Mr Ryan where Mr Ryan had formed the view that it was not necessary to report to Child Safety Services, and you disagreed with that?
A. Yes.

Q. It might be said that the communications between Mr Ryan and Ms Gardiner contained a suggestion on Mr Ryan's part that reasonable minds may differ about whether or not this ought to have been reported to Child Safety Services, and he refers to varying degrees of seriousness. In your view was this, was the question about whether a referral to CSS was necessary something about which reasonable minds could differ?
A. No.

Q. You say in the report that you are unable to make a finding about whether the three young people involved were offered an opportunity for debriefing. Were you able to determine whether or not appropriate support was offered to Henry following the incident?
A. I don't recall. I don't recall 100 per cent. From memory, I believe there was no support offered. I was told by Mr Ryan that conferencing process had occurred, but when I requested the records of those conferencing meetings, they weren't provided, so I was unable to - I didn't know if they had or not.

Q. I think the documents show that the conferencing didn't ultimately take place. Putting that to one side, having regard to the fact that this incident involved a sexual assault, was conferencing an appropriate response?
A. No. No.

Q. And I think you explain in your statement why that's not the case. You also say that Albert and Finn shouldn't have been moved to the orange colour, but rather to the red colour?
A. Red, yeah.

Q. And you refer also on page 22 of your report to the fact that the intention was, or you were told by staff that

the intention was that they wouldn't be moved off orange until conferencing had occurred?
A. Yes, that's correct.

Q. If we assume that no conferencing occurred, were you surprised to then find that - and you refer again to this in your report - that Albert and Finn were moved to green very quickly?
A. Green, yes, absolutely. They were returned to green really quickly, and, in my view, that was completely inappropriate and risky.

Q. Did you find any evidence in your investigations of Albert and Finn being given appropriate interventions to recognise and seek to provide them with support in relation to their harmful sexual behaviours?
A. I didn't find any evidence to suggest. There was one comment written by one of the young people, I can't remember which - I think it might have been Finn. He wrote on the incident report, "We were only joking around". As far as I know that was the only engagement that was had with them around that incident.

Q. The Commission's heard evidence, including from Ms Gardiner this morning, I think, about the fact that often harmful sexual behaviours are indicative of trauma in the lives of the people who perpetrate those behaviours. When you have regard to the fact that one of the objectives of Ashley Youth Detention Centre is to provide young people with opportunities for rehabilitation, do you see the failure to engage in appropriate therapeutic interventions for Finn and Albert as being a failure in terms of providing appropriate opportunities for rehabilitation?
A. Yes, absolutely. I think it's negligent that, with the knowledge that we had, or that Ashley had, about these young people - and it was very clear from the centre records that they had a history of assaultive behaviour, physical and sexual assaultive behaviour, but as far as I could see, there was nothing being put in place or provided to them to address those behaviours, give them the opportunity, you know, to change their behaviour or to support them in any way. And indeed, putting young people into their unit that they are going to be able to assault is almost as harmful to them as it is to the young people they're assaulting. And so, it's negligent in terms of all of those young people and it's a complete failure on behalf of what is supposed to be a therapeutic and safe service.

Q. And so, to summarise that, it seems to be your view that the centre failed Albert, Henry and Finn in its response to this incident?
A. Yes, absolutely, yeah.

Q. One of the explanations --

COMMISSIONER BROMFIELD: Sorry.

MS NORTON: Yes?

COMMISSIONER BROMFIELD: Q. I believe from the file there was another young person who was present?
A. Yes, there was.

Q. From the CCTV footage after the event, both the person who was assaulted and them were seen re-tying the drawstrings of their tracksuit pants?
A. Yes.

Q. It indicates that, I guess, there was another victim in the room in terms of fear.
A. Absolutely. Fear, yeah. Absolutely. And not just the tying of the pants, but throughout the incident it was obvious that he was frightened by his body language, and he tried to make himself really invisible while that assault was occurring, and he was obviously uncomfortable and frightened and, yeah, absolutely he was a victim as well.

COMMISSIONER BROMFIELD: Thank you.

MS NORTON: Q. One of the explanations that was offered, I believe, at the CST meeting, in relation to Albert and Finn's behaviour, was that they'd been long-term residents at the centre and that a degree of sexual frustration was to be expected. What's your reflection on what that indicated about the understanding of harmful sexual behaviours at the centre?
A. Well, I think it demonstrated that there was no understanding or very limited understanding of harmful sexual behaviours at the centre. Also that the fact that that sort of behaviour could be justified or explained, almost excused, because they would be sexually frustrated is just entirely inappropriate and just creates a setting of so much risk for them and the other kids.

Q. Because it suggests, doesn't it, that the sexual assault of Henry could be explained by a reference to a normal expression of sexual behaviour?
A. Yes.

Q. And in this case the incident was anything but a normal expression of sexual behaviour; it was a harmful sexual behaviour?
A. Absolutely, yes.

PRESIDENT NEAVE: Q. Isn't it like the rationalisations that people used to give of rape?
A. Yes, exactly.

Q. Constantly, you know, that rape was justified because this poor chap was frustrated: I mean, it's an extraordinary proposition to be making, isn't it?
A. Yes, absolutely, yeah.

MS NORTON: Q. And, not only is it extraordinary for the reasons that the President has just explained, but it also portrays that the centre was ill-equipped --
A. Absolutely.

Q. -- not only to recognise the true nature of the behaviours --
A. Yes.

Q. -- but, by extension, to assist them and provide opportunities for rehabilitation?
A. Yes, because you're also sending a message to the older boys that that behaviour is okay and that's an acceptable way to express frustration.

PRESIDENT NEAVE: Q. And when you leave it's an acceptable behaviour, too, presumably?
A. Yes.

Q. It's the message that, if you're sexually frustrated --
A. That they can, yep.

Q. -- you can attempt to rape anyone?
A. So, that opportunity for social learning and behaviour change is gone. Yeah - well, they've learned something, but not what you want them to learn.

MS NORTON: Q. I think that covers - I know there are a range of other recommendations, and we have the benefit of your report. I just wanted to ask a few questions. You refer in your statement that in addition to the 17 recommendations that you made here, that there were also recommendations in addition to other SERT reviews you completed, but some other memos, I think, that you sent to Ms Honan raising broader concerns about the centre that didn't follow within the strict terms of reference that you'd been provided with?
A. Yeah.

Q. And I think it's your evidence, but I want to confirm it, that you didn't receive responses from Ms Honan to those memoranda?
A. The only response I recall receiving was through my manager, verbal response through my manager, and it was in response to raising some concerns around Lester and the historical and more recent allegations of sexual abuse that had also been raised by Alysha. So, the response that I got back through my manager from Ms Honan was that Alysha tended to be hysterical and I should take what she said with a grain of salt.

Q. Yes, and I think that, in fairness to Ms Honan, she gave evidence on Friday that she couldn't recall making those statements and you won't be able to --
A. I don't know if she did, that was what was relayed to me.

Q. What was reported to you, yes. You referred earlier to big recommendations being contained in this particular report but it not being the first time that the Director and the Deputy Secretary would have been aware of them. Are you able to clarify, when you say Director and Deputy Secretary, who you're speaking about there?
A. So, currently? At the time?

Q. No, at the time that you provided your four SERT reviews?
A. So, the Director was Pam Honan, the Director of Youth Justice Services, and the Deputy Secretary was Mandy Clarke.

Q. And so, is it your concern that those two members of the executive, Ms Honan and Ms Clarke, were disregarding or at least not acting on, to your knowledge, the concerns

that you were raising consistently?
A. Yes. If they were, I didn't know about it, but yeah.

Q. Yes, and it's possible that they were and you didn't know, but it didn't come to your attention?
A. No.

Q. You mentioned at the beginning - and I'm conscious of the time, we won't be very much longer - but you mentioned that the SERT was dissolved in May or June of 2020 without any warning and you really had no explanation for why that was the case. Is there anything you'd like to add in relation to the circumstances in which SERT was dissolved?
A. Sure. It's my opinion that the decision to dissolve SERT was made because of the issues that we were raising; because we were, I guess, causing trouble and trying to raise - draw attention to issues. There was a comment made by one of the other Directors, not Ms Honan, but one of the other directors that, "We shouldn't be airing our dirty laundry in public", in relation to the SERT reviews, so it's my opinion that the dissolution of SERT was related to that.

Q. My last question concerns reforms, and in your statement you talk about ways in which the situation at Ashley could be improved or indeed at the replacement centres could be improved. I'd be interested to hear what you see as being the main barriers to reform within the centre and at the executive, and in particular at the executive level whether the barriers are related to individual personalities, culture, or both?
A. I think the barriers are related to both. I think the barriers are related to the fact that we don't have a trauma-informed framework for the centre. But, in order to have a trauma-informed framework for the centre or centres as we go forward, that needs to be embraced by the executive, by management; it needs to be a top-down approach to change, otherwise the barriers will remain. If the framework, whatever it ends up being, and the therapeutic service is not embraced by executive, it won't be successful.

PRESIDENT NEAVE: Q. So, leadership is crucial; is that what you're saying?
A. That's what we have to have, yes, the leadership and the buy-in from that level, otherwise it's pointless.

MS NORTON: Q. I've just been asked to ask one final question.
A. Sure.

Q. It always says when you say "it's my last question". You mentioned before a comment being made by a member of the executive that, "We don't like to air our dirty laundry", I think you identify the executive in your statement.
A. I do.

Q. But, for the benefit of the transcript, do you recall who made that comment?
A. Yes, and I'd just add that it was, again, made to me by my manager.

Q. Yes, second-hand.
A. Second-hand. So, that was the Director of the Child Safety Services, Claire Lovell.

MS NORTON: Thank you. Commissioners, I have no further questions for Ms Burton.

COMMISSIONER BENJAMIN: I don't have any questions, but I want to thank you for providing and giving this evidence, in particular changing your evidence from confidential to public. That means, not only we three Commissioners know what is happening at Ashley Youth Detention Centre and the young people for whom they were responsible, but the broader community can hear and understand what it is that is going on up there at that centre. So, thank you.
A. You're welcome.

COMMISSIONER BROMFIELD: Q. I did have one question, but I do echo Commissioner Benjamin's sentiments.
A. Thank you.

Q. When you sent these reviews up about Ashley and you didn't hear anything back, I just wanted to give you the opportunity to make any personal reflection on the impact for you as a professional on raising concerns and of going into what, for you, was a vacuum?
A. Yeah. I mean, it has had an impact on me - nothing like what the impact has been on some of the staff that were actually at the centre all the time. But certainly, you know, I came into the job because I thought I could help to improve services, and I felt like nothing was

changing, nothing was happening, so the frustration; and also the worry of what actually was happening at the centre and what might be happening to the young people up there and not being able to do something about it is constant, yep, still.

COMMISSIONER BROMFIELD: Still, m'mm.

PRESIDENT NEAVE: Well, I'd like to endorse the comments that my fellow Commissioners have made.
A. Thank you.

Q. Thank you very, very much for making your statement public, because I think it's absolutely vital if these issues are going to be addressed. We have to air dirty linen in public sometimes in order to bring about appropriate change - not that I would have used that expression, but picking up on it, in order to bring about appropriate change we have to expose these dark matters. So, thank you very much.
A. You're welcome. Thank you.

MS NORTON: Commissioners, that concludes the evidence for today.

AT 4.46PM THE COMMISSION WAS ADJOURNED TO TUESDAY, 23 AUGUST 2022 AT 10.00AM