



TRANSCRIPT OF PROCEEDINGS
Fair Work Act 2009

COMMISSIONER WILSON

C2023/6445

s.739 - Application to deal with a dispute

**The Police Federation of Australia
and
Victoria Police/Chief Commissioner of Police
(C2023/6445)**

**Victoria Police (Police Officers, Protective Services Officers, Police Reservists
and Police Recruits) Enterprise Agreement 2019**

Melbourne

10.31 AM, THURSDAY, 29 FEBRUARY 2024

PN1

THE COMMISSIONER: Good morning, parties. If I can take the appearances, please.

PN2

MR S PAVLIS: Thank you, Commissioner, my name is Stratos Pavlis from the Police Association of Victoria known as the Police Federation of Australia in documentation. We have just been handed moments ago - - -

PN3

THE COMMISSIONER: We are only taking appearances at this stage.

PN4

MR PAVLIS: All right. With me I have Senior Constable Beaumont and two other witnesses.

PN5

THE COMMISSIONER: Thank you.

PN6

MR M GOROZZO: Good morning, Commissioner, I appear for the respondent, Gorozzo, initial M.

PN7

THE COMMISSIONER: Thank you, Mr Gorozzo. Mr Pavlis, you wanted to say something about some documents.

PN8

MR PAVLIS: Commissioner, just moments ago we were handed documentation pertaining to roster analysis of FWA trial period 12 Feb 23 to 31 March. We have not seen those until virtually moments ago. Currently Mr Gorozzo is seeking to present these to you - was it in response to our response submissions. We find that highly irregular.

PN9

THE COMMISSIONER: Well, what do you want to do about it? You're telling me for reasons. Can you tell me what the reason is, please?

PN10

MR PAVLIS: We have only just seen them. We haven't had time to assess.

PN11

THE COMMISSIONER: And what do you want done about it?

PN12

MR PAVLIS: I don't want them to be heard, because we haven't had a chance to assess it.

PN13

THE COMMISSIONER: All right. How long would it take you to assess the document do you think?

PN14

MR PAVLIS: We haven't got any information here pertaining to - people haven't brought their own rosters pertaining to what happened in February, so it's hard for us to assess where Jeremy's movements were. I might need half an hour to go through them.

PN15

THE COMMISSIONER: All right. And when would you like that half hour?

PN16

MR PAVLIS: We could do that at your leisure, Commissioner.

PN17

THE COMMISSIONER: All right. We can do it at lunchtime or we can do it this evening. All right, we will take it on that basis perhaps. Mr Gorozzo, did you wish to say anything?

PN18

MR GOROZZO: Only to indicate in terms of timing that I intend to rely on it by asking (indistinct) in examination-in-chief to Inspector Dollard. So it won't arise until today, probably after lunch.

PN19

THE COMMISSIONER: Do they need to be put to any of the applicant's witnesses?

PN20

MR GOROZZO: No.

PN21

THE COMMISSIONER: All right. Just for my own benefit could you please tell me what the documents are?

PN22

MR GOROZZO: It's a copy of the roster from the trial period, probably around about February of 2023, and it's just Inspector Dollard saying on this date there was no crime desk shift, etcetera.

PN23

THE COMMISSIONER: All right. Thank you. Maybe if we can deal with that over the luncheon adjournment. If there's a need to have greater time then obviously that will be made available to you, Mr Pavlis. Are there any other preliminary issues that need to be dealt with?

PN24

MR PAVLIS: Not at this time. Just to advise the Commission that we have people in the gallery who have provided witness statements, but they have just attended as members of the gallery rather than to be called upon.

PN25

THE COMMISSIONER: All right. Do you have anything to say about that, Mr Gorozzo?

PN26

MR GOROZZO: No.

PN27

THE COMMISSIONER: All right. Thank you. Parties, there is a matter I just wish to raise. The applicant's case that there were not reasonable business grounds for the decision made by Victoria Police is well articulated in the applicant's material, but also the respondent's material. However what I have noticed in clause 14 of the enterprise agreement, the right to request flexible working arrangements, there of course is clause 14.7, which requires:

PN28

Before responding to a request the employer must discuss the request with the employee and genuinely try to reach agreement on a change in working arrangements that will reasonably accommodate the employee's circumstances having regard to a number of matters.

PN29

The reason I am raising it is that it appears to me in the material that the respondent's witnesses and submissions deal with that subject sufficiently for me to make a decision. However, I think I would need to put the applicant on notice that I am not sure within his material that there's material which would allow me to find why it was reasonable on his behalf to decline the proposal that was made.

PN30

Now, obviously there need to be submissions made to me, and it could well be said that the genuinely trying to reach agreement issue is more an employer issue than an employee issue, but I just wish to put the parties on notice that that is about the concern I have, Mr Pavlis, within your materials, that it doesn't seem to me to be the applicant saying sufficiently why the alternative was not appropriate for him. So you may care to deal with that as the matter progresses. All right, is there anything to be said on that or other matters before we proceed?

PN31

MR PAVLIS: Commissioner, I will take that on notice and get to the reasoning as we discuss - - -

PN32

THE COMMISSIONER: All right, thank you. Now, in terms of the sequencing of the witnesses do you have a view, Mr Pavlis, about the sequence of the witnesses?

PN33

MR PAVLIS: I have no firm views. I have just made a list literally in order of Beaumont, McMannis, Marwood, and then I suspect Dollard and Stafford beyond that, but I have no preference as to how they would be presented in order.

PN34

THE COMMISSIONER: All right. You're running the case. I just thought I'd ask.

PN35

MR PAVLIS: I will take them as that order.

PN36

THE COMMISSIONER: Sure. All right. So Mr Beaumont will be first I take it; is that right?

PN37

MR PAVLIS: Yes.

PN38

THE COMMISSIONER: It's over to you, so please start your case.

PN39

MR PAVLIS: I have just been advised that Mr Gorozzo has no questions for Mr Beaumont.

PN40

THE COMMISSIONER: I see.

PN41

THE ASSOCIATE: Can you please state your full name and address.

PN42

MR BEAUMONT: My full name is Jeremy Richard Beaumont, (address supplied).

<JEREMY RICHARD BEAUMONT, SWORN [10.38 AM]

EXAMINATION-IN-CHIEF BY MR PAVLIS [10.38 AM]

PN43

THE COMMISSIONER: Thank you, please be seated.

PN44

MR PAVLIS: Jeremy, can you explain to us why you put in for this flexible work arrangement?---I put in - - -

PN45

MR GOROZZO: I object to that. He has tendered a witness statement - sorry, there has been a witness statement provided which hasn't been tendered as far as I'm aware.

PN46

THE COMMISSIONER: All right. I think it might be appropriate, Mr Pavlis, if we first of all have the witness adopt his witness statement.

PN47

MR PAVLIS: I'm sorry, I'm quite hard of hearing the Commissioner this morning.

PN48

THE WITNESS: I'm quite happy to say - I'm quite happy to say why - - -

PN49

THE COMMISSIONER: I'm sorry, I have a speech impediment which means I can't project my voice properly at the moment. I'm sorry about this, but there's not much I can do about it.

PN50

MR PAVLIS: I will work on it.

PN51

THE COMMISSIONER: All right. I will try to project my voice, but I think it's appropriate that you ask the witness to adopt his witness statement.

PN52

THE WITNESS: Am I able to answer that question without looking at - - -

PN53

MR PAVLIS: Jeremy, please adopt your witness statement.

PN54

THE COMMISSIONER: I presume we're talking about the statement which appears from page 550 of the court book; is that the case?

*** JEREMY RICHARD BEAUMONT

XN MR PAVLIS

PN55

THE WITNESS: Am I okay to answer that question?

PN56

THE COMMISSIONER: Sorry, which question?---As to why I applied - - -

PN57

No, you can't. I have already said that to you once. All right, thank you?---Okay. Sorry, I wasn't sure.

PN58

If you please wait for the questions.

PN59

MR PAVLIS: If I may I will just switch to - what is the difference, Jeremy, between the - - -

PN60

THE COMMISSIONER: So, Mr Pavlis, I see that the witness statement starts at page 550; is that the case?

PN61

MR PAVLIS: I have Jeremy's statement here. It's at page - it's listed as page 397 on my one.

PN62

THE COMMISSIONER: All right.

PN63

MR PAVLIS: Jeremy, you say in your witness statement which you're tendering -
- -?---337?

PN64

397. In your witness statement, Jeremy, you talk about applying for the flexible work arrangement. Commissioner, apologies for the lack of (indistinct) here. We tender the statement of Jeremy Beaumont regarding his flexible work arrangement.

PN65

THE COMMISSIONER: All right. Mr Beaumont, your statement starts at page 397 of the hearing book. It runs to page 400. Can I ask you to have a look at that document, please, Mr Beaumont?---Yes.

PN66

Have you read that document recently?---Commissioner, I have read it. I haven't looked at it recently, but I'm aware of what's in the statement, yes.

PN67

And that's your evidence in the Commission?---Correct.

JEREMY RICHARD BEAUMONT

XN MR PAVLIS

PN68

And are there any changes or alterations you wish to make?---No.

PN69

In this case the witness statement of Jeremy Beaumont will be marked as exhibit A1.

EXHIBIT #A1 WITNESS STATEMENT OF JEREMY BEAUMONT

PN70

MR PAVLIS: Jeremy, you say that you made previous attempts to establish a flexible working arrangement in your witness statement, page 1, and your eligibility is for two reasons that you've noted, being in the application itself - - -

PN71

MR GOROZZO: Sorry, we may be at slightly cross purposes. I don't want to keep jumping up, but the parties were required to file witness statements. I wasn't aware that there would be further questions asked by nature of examination-in-chief. Well, I don't intend to put too fine a point on it, but at the very least if further questions are going to be asked so I can properly consider the paragraph of - perhaps not by reference to the paragraph number, but just by reference to one page which paragraph (indistinct).

PN72

THE COMMISSIONER: Mr Pavlis, ordinarily I would be reluctant to allow too many further questions in examination-in-chief, just on the basis that the

document has already been filed, but if it's necessary to ask questions in order to respond to filings of Victoria Police then that could be possible.

PN73

MR PAVLIS: Apologies, Commissioner. I was seeking to get clarification as I indicated regarding to clause 14.7 which you raised - - -

PN74

THE COMMISSIONER: All right. Well, that's proper.

PN75

MR PAVLIS: So hence I was seeking to give Jeremy the opportunity to discuss his reasons as per your suggestion there for 14.7. Would that be appropriate?

PN76

THE COMMISSIONER: That's appropriate. The concern I had I guess was in respect of the alternative proposal that Victoria Police have put forward and why that was rejected.

PN77

MR PAVLIS: We can discuss that in terms of Jeremy's statement pertaining to the meetings that occurred, but I can get to that if you wish now.

*** JEREMY RICHARD BEAUMONT

XN MR PAVLIS

PN78

THE COMMISSIONER: Well, it's up to you, but if you could confine the questions in the way that we have spoken, please.

PN79

MR PAVLIS: Jeremy, as per your document pertaining to your flexible work arrangement statement and it references the statement itself, which we have in 500 and something I believe, can you explain your reasons for seeking a flexible work arrangement?---As per the EB being that I reached the age of 55 and I also have a lot of caring responsibilities with my parents I endeavoured to get an FWA seeking these eight by 10 hour shifts.

PN80

Would you be in a position to tell us what these are in terms of the caring responsibilities?---The history or - so I had applied for an FWA back in July last year seeking what I was seeking. Unfortunately it was knocked back on several occasions. We then ended up at Fair Work having a couple of conciliation hearings, and it was then agreed that I'd be able to perform a trial performing the eight by 10 hour shifts.

PN81

And the Commission is interested to know why you feel like the counter offer, if you will, which came into (indistinct), even though it came in somewhat late, was not acceptable. Can you explain on that, and bear in mind that we're talking also about your care needs as well?---Absolutely. The trial fortunately gave me an opportunity to show how basically the 10 hour shifts were working for both myself, my family, and also Victoria Police. The trial indicated clearly that it was

very productive for everybody. I was very thankful that I had the opportunity to have additional days also to care for my parents as opposed to trying to go to work, come back and do everything.

PN82

Would the nine day fortnight roster have given you something along those lines?---Having never experienced that I think - I'm not all around the nine's, so I don't actually know, but clearly the extra day certainly helped me running around. So I'm not sure how the nine usually works. I haven't looked into it.

PN83

Just to be specific it's one less day per fortnight for you in terms of having the capacity to care for your parents?---Clearly the additional day has helped to care for my parents.

PN84

How old are your parents?---Well, dad's 89 and mum's 86.

*** JEREMY RICHARD BEAUMONT

XN MR PAVLIS

PN85

What kind of care if you don't mind me asking do they require? Can they for example - do they struggle to lift heavy objects and things along those lines?---To be honest with you it's actually getting a lot more - my work requirements in looking after them are a lot more now, and it's no consistent pattern. I'm constantly helping them with everything, household chores, whatever the need be. Unfortunately at the moment there's weeks when they're okay and there's weeks when they're not as good, so it's very hard to tell. I'm always there helping them, but, yes, when I can.

PN86

How many times a week would you be there perhaps?---As I say I couldn't say on the X amount times per week, because depending on how they are each week it changes. I'm there most probably four to five times.

PN87

Across a week?---If need - when they're having a bad week, yes.

PN88

Were they having a bad week four, five times a week?---Yes.

PN89

How much time do you spend there when you're there?---Well, again it depends on what chores are required. So I virtually go there, see how they are, what they require, whether it be shopping done, and then helping - everything I can do.

PN90

But you do have work - you visit them on days where you have to work?---Absolutely, yes. Yes, I'm trying to juggle - - -

PN91

Would that limit your time to assist them on those days?---It certainly does, yes.

PN92

So you're saying two additional days per fortnight would give you a lot more time. Is that what you say?---I guess the big thing for me to be totally truthful is the fact that I was given that opportunity to do a trial and having the additional days to care for my parents made a massive difference to the whole parcel being what I could do for them, what I could do for my direct family, what I could do for myself. And the beauty of it was I knew as per the EB having that opportunity certainly helped everything, and I don't believe to this day it didn't work well.

PN93

How do you mean it didn't work well?---Well, I think the trial which was assessed clearly indicated that it was working quite well. So when it was taken away, and we'll probably get to that at some stage, I was absolutely devastated.

PN94

In Inspector Dollard and Commander Stafford's statements, and I'll get to the pages for you - - -

*** JEREMY RICHARD BEAUMONT

XN MR PAVLIS

PN95

MR GOROZZO: Commissioner, I think I'm going to have to object to this. The applicant has had the opportunity to file reply material in response to the statements that he's proposing to now lead further evidence from the Leading Senior Constable Beaumont. I mean I didn't object, but a lot of what was just said is already in the material that's before the Commission. It's a little bit difficult to see what the purpose of this is, and to the extent that we don't have full knowledge of it Victoria Police is prejudiced in its case.

PN96

THE COMMISSIONER: Mr Pavlis, can you help me?

PN97

MR PAVLIS: Commissioner, Jeremy has provided some information pertaining to the wellbeing of his parents, and he had provided some information as to how the trial assisted him right now in terms of people's parents and their wellbeing. He has not covered that in the level of detail that we've heard today in terms of the emotion that he's experienced during those periods and the actual level of support that they need in terms of day to day. He's not provided those until this moment.

PN98

THE COMMISSIONER: Well, isn't that a problem for you as opposed to a problem for Mr Gorozzo?

PN99

MR PAVLIS: It may well be, but we're here to provide evidence to that effect.

PN100

THE COMMISSIONER: We are, but the general presumption that we operate on is that filing made by the applicant is the evidence that you wish the Commission to take into account. That's why we go through that process. I'm a little bit

concerned, maybe not as concerned as Mr Gorozzo. So how many further questions do you think you might have?

PN101

MR PAVLIS: I only have a couple more, Commissioner.

PN102

THE COMMISSIONER: All right. Can I also say this, that you can draw your own conclusions about me and my age and my family circumstances, but the circumstances that Mr Beaumont has are not unusual. We're all members in the Commission, we're all members of the community. We understand aging and aged relatives. I don't need lengthy evidence on the subject.

PN103

MR PAVLIS: In that case, Commissioner, we won't have any more questions at this time.

PN104

THE COMMISSIONER: All right, thank you. Thank you, Mr Pavlis. Mr Gorozzo?

PN105

MR GOROZZO: I have no questions, Commissioner.

*** JEREMY RICHARD BEAUMONT

XN MR PAVLIS

PN106

THE COMMISSIONER: All right, thank you. Thank you for giving evidence, Mr Beaumont, you're released as a witness and free to resume your seat at the Bar table?---Thank you.

PN107

Thank you.

<THE WITNESS WITHDREW

[10.53 AM]

PN108

Mr Pavlis, who will the next witness be?

PN109

MR PAVLIS: We will call Leading Senior Constable Adele McMannis as witness.

PN110

THE COMMISSIONER: All right, thank you.

PN111

THE ASSOCIATE: Can you please state your full name and business address.

PN112

MS McMANNIS: My full name is Adele Ann McMannis, (address supplied).

<ADELE ANN MCMANNIS, SWORN

[10.54 AM]

EXAMINATION-IN-CHIEF BY MR PAVLIS

[10.54 AM]

PN113

THE COMMISSIONER: Thank you very much. Please be seated.

PN114

MR PAVLIS: Commissioner, we reference page 406 pertaining to Adele's statement, and we lodge it.

PN115

THE COMMISSIONER: All right, thank you. Did you wish to ask her to adopt the statement?

PN116

MR PAVLIS: Pardon?

PN117

THE COMMISSIONER: Do you wish to ask her to adopt the statement?

PN118

MR PAVLIS: Yes, I do. Adele, we have page 406, can you flick to that page?---Yes.

*** ADELE ANN MCMANNIS

XN MR PAVLIS

PN119

Adele, in your statement, we go on the second page, at the very first paragraph of the second page, you say:

PN120

Leading Senior Constable Beaumont was doing a six month trial. He was required to fill in a spreadsheet of the duties he was performing in the additional two hours of the 10 hour shifts.

PN121

Can you tell us were those duties pertaining to crime scene services?---Yes. Yes, they were.

PN122

What kind of duties was he doing with you when you were doing shifts with him that you witnessed?---When I was working with him?

PN123

Yes?---When I was working with him we were basically out on the road for longer periods of time, because there was two of us and we were both on 10 hours. So we as a normal rule go out into the field for four hours, come back in, update for PaLM, which is entering of evidence, fingerprints, download photographs, do any evidentiary packaging of exhibits, that type of thing, come in do that. Then we'd go back out in the field and do another seven jobs, or if we were at the tow yard we'd process vehicles at the tow yard, and then come back

in. So usually when we were working together the productivity was a little bit high, because I didn't have to come back in after the eight hours and take over from the other member. We were actually - there was no surplus hours as such.

PN124

You reference in paragraph 4 of your statement on the second page on Monday the 20th you were working Leading Senior Constable Beaumont performing crime scene duties, and at roughly 9.25 or thereabouts you were at a burglary and you received a call to return to the station. Were you out in the field doing work?---Correct, yes. We'd just - we'd literally just arrived at a burglary. I had to actually ask the victim to wait while I took the phone call, because she'd approached the car as we arrived. So she backed up and let me take the phone call, and it was from Acting Senior Sergeant Shenton.

PN125

Did you accept the direction to go back?---Yes, we did, yes. So we were given the direction to come back. So we were in the middle of processing, so asked him if we could finish doing what we were doing, because we'd already introduced ourselves and met the victim. So we finished that scene and then returned as required.

PN126

And what duties did you do when you returned?---When we got back to the station?

*** ADELE ANN MCMANNIS

XN MR PAVLIS

PN127

Yes.

PN128

MR GOROZZO: Sorry, I object to the question. All of the things that the Leading Senior Constable is being asked about are in her statement. She's virtually just repeating the paragraph, which is irregular, but more just a waste of time than anything else I think, given that I haven't objected to the tender of the statement.

PN129

THE COMMISSIONER: Mr Pavlis, I fear that Mr Gorozzo will be on his feet quite a bit making objections about these matters. There's a lot of your witnesses to go through. I think the presumption should be that what they say in their statement is what they say to the Commission.

PN130

MR PAVLIS: Excellent. Thank you, Commissioner. Just for the record I'm trying - - -

PN131

THE COMMISSIONER: Can we agree on that?

PN132

MR PAVLIS: We can agree, and I do agree.

PN133

THE COMMISSIONER: All right.

PN134

MR PAVLIS: I'm trying to - if I may, I'm trying to get to discussion about the trial period in terms of how we perceive it to have been missed in terms of the reasonable business grounds, but we can do that in another witness.

PN135

THE COMMISSIONER: All right. Well, thank you.

PN136

MR PAVLIS: In that case we have no more questions for Leading Senior Constable McMannis.

PN137

THE COMMISSIONER: All right, thank you. Mr Pavlis, you didn't ask the witness to adopt her statement. If you could do that with the future witnesses, please. Ms McMannis, have you reread the statement which appears at pages 406, 407 and 408 of the court book?---Yes.

PN138

Have you read that recently?---Yes, I have.

*** ADELE ANN MCMANNIS

XN MR PAVLIS

PN139

Is it true and correct in all respects?---Yes, it is.

PN140

Are there any changes you wish to make to it?---No.

PN141

All right. The statement of Ms McMannis will be exhibit A2.

EXHIBIT #A2 WITNESS STATEMENT OF ADELE McMANNIS

PN142

All right, thank you.

PN143

MR PAVLIS: We're going to seek Sergeant - - -

PN144

MR GOROZZO: Sorry, apologies.

PN145

MR PAVLIS: You didn't say you would take questions.

PN146

THE COMMISSIONER: I thought it was going to be a quick hearing. Mr Gorozzo.

PN147

MR GOROZZO: Just a few questions, Commissioner.

CROSS-EXAMINATION BY MR GOROZZO

[11.00 AM]

PN148

Good morning, Leading Senior Constable. Have you got your statement - I can see that you do. Could you please turn to page 406 which is the first page?---Yes.

PN149

In the third paragraph down commencing, 'When I arrived at the Narre Warren crime scene services office', do you see that?---Yes, I do.

PN150

You talk about requesting a flexible working arrangement, which is the one that currently applies, eight by 10 shifts per fortnight, correct?---Correct.

PN151

And then you say this was to be a six month trial. Do you see that?---Correct.

PN152

And then you said:

*** ADELE ANN MCMANNIS

XXN MR GOROZZO

PN153

The six month trial passed and nil issues were raised, so that the flexible working arrangement was continued and is still currently ongoing.

PN154

Do you see that?---Correct, yes.

PN155

You were informed, weren't you, in April of last year that the flexible working arrangement would be reviewed?---I don't think it was April, but it is still currently under review, yes, and has been - and has been for the last 14 and a half months.

PN156

So at some point last year you were informed it was under review?---Yes, after working it for 18 months, yes.

PN157

And in September of last year you were advised that the flexible working arrangement would be terminated?---I was, and that termination was retracted.

PN158

Yes. On the basis that - well, a dispute was lodged I think?---A dispute had been lodged, yes.

PN159

And the matter is currently subject to a dispute?---Which is still ongoing. It has been going for 14 months, yes.

PN160

And that's the basis on which the flexible working arrangement remains in place, the status quo?---Yes. Yes.

PN161

Have you seen the business grounds that have been put forward in relation to Leading Senior Constable Beaumont's request for a flexible working arrangement?---No.

PN162

You haven't. Okay. Can I show them to you. Could you turn to page 287, please, tab 23.

PN163

THE COMMISSIONER: I'm sorry, which page number?

PN164

MR GOROZZO: 287.

PN165

THE COMMISSIONER: Thank you.

*** ADELE ANN MCMANNIS

XXN MR GOROZZO

PN166

MR GOROZZO: So just for the record this is a letter from Niki Howells-Schramm, the director of Business Partnering and Workplace Relations division at Victoria Police to Mr Luke Oliver of the Police Association Victoria, and what it does, and I will give you an opportunity to read it, but it sets out in the Roman numerals on the first page and carrying over to the second page certain business grounds on which the flexible working arrangement requested by Leading Senior Constable Beaumont had been refused. Can you see that? You can see that that's the effect of what was said?---Correct, yes.

PN167

And those business grounds do they appear to you to be the same or identical as the ones that were put forward for the proposed termination of your flexible working arrangement?

PN168

MR PAVLIS: Commissioner - - -

PN169

THE WITNESS: I can't say identical, but I - - -

PN170

THE COMMISSIONER: Sorry, Mr Pavlis is on his feet.

PN171

MR PAVLIS: Adele has said that she hasn't seen this document before and she's being asked to make an assessment of it. We seek question on relevance, why is her flexible work arrangement in question today, as it's - - -

PN172

THE COMMISSIONER: Why is her flexible work arrangement - - -

PN173

MR PAVLIS: Yes. Well, it's currently - as Adele has stated there is a dispute here, so it shouldn't be - - -

PN174

THE COMMISSIONER: I see.

PN175

MR PAVLIS: Yes.

PN176

THE COMMISSIONER: Could you repeat the question, please. Sorry, if you can address me, please, Mr Gorozzo. I am not quite sure I understood the nuance in the question.

*** ADELE ANN MCMANNIS

XXN MR GOROZZO

PN177

MR GOROZZO: Well, I suppose the point is that Leading Senior Constable McMannis has said in her statement that she has the identical flexible working arrangement that Leading Senior Constable Beaumont is seeking in the workplace, and it's going fine, it remains ongoing. I'm trying to make the point I suppose that Victoria Police has put forward to her consistent business grounds as to why that flexible working arrangement too should be terminated.

PN178

THE COMMISSIONER: All right. On that basis, Mr Pavlis, I think the question is admissible.

PN179

MR PAVLIS: Apologies. Her reasons may well be for as to why she requested to Jeremy's reasons, so it's - - -

PN180

THE COMMISSIONER: They may, and I'm not determining that subject, but it's proper that the context Mr Gorozzo is referring to be put to the witness I think.

PN181

MR GOROZZO: Have you had an opportunity to read those by any chance - - - ?---Now?

PN182

- - - to try to remember the answer that you gave? Yes. I'm not asking you to read it in detail - - -?---I've glanced at them.

PN183

Do they look roughly the same?---I can't say they're identical, because I don't have mine in front of me, but - - -

PN184

THE COMMISSIONER: Mr Gorozzo, you're endeavouring to make the point I assume that Victoria Police is treating Ms McMannis in the same way of treating Mr Beaumont?

PN185

MR GOROZZO: Indeed, yes.

PN186

THE COMMISSIONER: I understand. Yes, Mr Pavlis.

PN187

MR PAVLIS: I was just questioning - I was about to say the same sort of thing and saying do we need to do this.

PN188

MR GOROZZO: Could I please hand you a copy of this letter. I will just give you a moment to read that. So just for the record that's a letter from Superintendent Damien Jackson to yourself dated 28 December 2023; is that correct?---That's what it says, yes.

*** ADELE ANN MCMANNIS

XXN MR GOROZZO

PN189

Do you recognise that?---Parts of it, yes. I don't remember it formally, but it's quite possible it was sent to TPAD and it's been rather a discussion rather than directly sent to me.

PN190

It is addressed to you?---But as I said most of the things - because it was in dispute we were going through TPAD first, so I may well have had it - discussed it with TPAD, but I don't remember receiving it myself personally. I think it went straight to TPAD.

PN191

But do you think TPAD probably would have sent it to you?---I may have a copy at home, but I don't recollect that exact letter coming from Damien Jackson, no.

PN192

But you don't dispute its authenticity?---No.

PN193

Have you had an opportunity to compare the business grounds that are set out on page 2 of the document against those contained in the letter from Niki Howells-Schramm that I referred to a moment ago?---I'm sorry, I'm a bit confused as to why my FWA has got anything - - -

PN194

THE COMMISSIONER: If you could answer the question, please?---I'm a bit confused. I don't quite understand what he's getting at.

PN195

I'm sorry, Ms McMannis, whether you're confused or not is not relevant. The questions are asked by counsel and if I allow them then you need to answer them?---I understand that, your Honour, but I'm a bit confused as to what he wants out of that question.

PN196

All right. Fair enough?---That's what I'm trying to say. I don't understand what he means by - if you want to explain it. Sorry.

PN197

MR GOROZZO: I will ask - - -

PN198

THE COMMISSIONER: Sorry, parties, but, Mr Pavlis, you were on your feet as well.

*** ADELE ANN MCMANNIS

XXN MR GOROZZO

PN199

MR PAVLIS: Apologies. Commissioner, I can see Mr Gorozzo is trying to measure apples against apples. However, the circumstances of the unit from Adele's request in December to Jeremy's request had changed. So the unit actually picked up additional hours and additional resources to do so. So we're not comparing apples and oranges, and I appreciate that some of the information here - I've just had a quick scan of it - appears to be cut and paste from one to the other. However, as I said whether as to different circumstances I don't think it's appropriate to dwell on a previous flexible work arrangement to try and make it apples versus apples comparison.

PN200

THE COMMISSIONER: All right, thank you. Mr Gorozzo, if the witness says, yes, this is identical to the things put to Mr Beaumont where does that take me? If she says, no, it's different where does that take me?

PN201

MR GOROZZO: If I had known if would be so drawn out we would have just handed the letter. I thought it was going to be quite a straightforward 'Yes' because it obviously is the same, but I will tender the letter, your Honour.

PN202

THE COMMISSIONER: All right. You don't have further questions on that subject?

PN203

MR GOROZZO: No, not in light of your indication.

PN204

THE COMMISSIONER: In that case the letter from Damien Jackson Superintendent 28 December 2023 will be marked as exhibit A3.

EXHIBIT #A3 LETTER FROM DAMIEN JACKSON DATED 28/12/2023

PN205

MR GOROZZO: And I have no further questions, Commissioner.

PN206

THE COMMISSIONER: All right, thank you. Thank you, Ms McMannis, for giving evidence. You're released and free to go, so thank you.

<THE WITNESS WITHDREW [11.12 AM]

PN207

Mr Pavlis?

PN208

MR PAVLIS: We'd like to call Sergeant Seamus Marwood to the stand, please.

PN209

THE COMMISSIONER: All right, thank you, please come forward.

PN210

THE ASSOCIATE: Can you please state your full name and business address.

ADELE ANN MCMANNIS

XXN MR GOROZZO

PN211

MR MARWOOD: Seamus Alastair Marwood of 8 Coventry Road, Narre Warren.

<SEAMUS ALASTAIR MARWOOD, AFFIRMED [11.13 AM]

EXAMINATION-IN-CHIEF BY MR PAVLIS [11.13 AM]

PN212

THE COMMISSIONER: Thank you, Sergeant Marwood, please be seated.

PN213

MR PAVLIS: Seamus, would you mind turning to page 254 of the folder in front of you. Could you please affirm if that's your statement?---It is.

PN214

We tender the statement of Seamus Marwood too, Commissioner.

PN215

THE COMMISSIONER: I am having a bit of difficulty finding that page number, which is it?

PN216

MR PAVLIS: 254.

PN217

THE COMMISSIONER: All right. Just one moment. I'm sorry, I have it. Yes, thank you. So it's been adopted and the statement of Sergeant Marwood will be marked as exhibit A4.

EXHIBIT #A4 WITNESS STATEMENT OF SEAMUS MARWOOD

PN218

MR PAVLIS: Seamus, in your statement you identify that Jeremy worked eight hour shifts. So it says eight shifts with the other 10 hour members. I assume you mean eight hour shifts or eight lots of shifts?---No, that would be - that would be the 10 hour shifts in conjunction with the other 10 hour member.

PN219

Yes. And you do know that during the residual two hours of these shifts he was dealing with, 'We'll assist you in a trial'?---This is during the trial period, yes.

PN220

Yes. During this trial were there any problems with service delivery?

PN221

MR GOROZZO: I object. Sorry. Literally what the statement deals with it's all in evidence and I'm prepared to ask Sergeant Marwood some questions in relation to the statement.

*** SEAMUS ALASTAIR MARWOOD

XN MR PAVLIS

PN222

THE COMMISSIONER: All right. Parties, the Commission will adjourn and I will see the two representatives, please, in a minute. All parties leave the hearing room, please.

<THE WITNESS WITHDREW [11.16 AM]

SHORT ADJOURNMENT [11.16 AM]

RESUMED [11.34 AM]

<SEAMUS ALASTAIR MARWOOD, RECALLED [11.34 AM]

EXAMINATION-IN-CHIEF BY MR PAVLIS, CONTINUING [11.34 AM]

PN223

THE COMMISSIONER: All right. Thank you, parties and, Mr Marwood, in particular.

PN224

Just confirming for the purposes of the record that I've had a private conference with the representatives for the parties and that's been to clarify a number of things including the scope and the questions to be asked of Mr Marwood and also the way forward with the further witnesses and hopefully we've agreed a process which will allow the matter to continue in an orderly manner. Now, before I turn

back to the evidence from Mr Marwood, are there any - is there anything either representative wishes to say?

PN225

MR GOROZZO: Not from me, Commissioner.

PN226

THE COMMISSIONER: No. All right. Thank you. In that case, if you continue, please, Mr Pavlis.

PN227

MR PAVLIS: Thank you, Commissioner.

PN228

Seamus, can you please turn to page 213 of that folder?

PN229

Commissioner, we tender this mock roster as evidence too.

PN230

THE COMMISSIONER: Sure. Just a moment. The document marked CSS mock roster will be marked as exhibit A5.

EXHIBIT #A5 DOCUMENT MARKED CSS MOCK ROSTER

*** SEAMUS ALASTAIR MARWOOD

XN MR PAVLIS

PN231

THE COMMISSIONER: Before we continue, I just realise I've marked the letter dated 28 December 2023, signed by Damian Jackson, I've incorrectly marked that as exhibit A3, it should actually be exhibit R1, so I apologise for that.

EXHIBIT #R1 LETTER SIGNED BY DAMIAN JACKSON DATED 28/12/2023 (FORMERLY MARKED EXHIBIT A3)

PN232

THE COMMISSIONER: All right. Thank you. Please go on.

PN233

MR PAVLIS: And this is a mock roster for the unit, is that correct?---That's correct. Yes.

PN234

And you did (indistinct) heavily in designing that?---Yes. This is a roster that I formulated. There was a survey done in the unit to see how many people actually did want to do blended or 10-hour shifts and there was a significant number who expressed an interest in doing 10s or blended so I formulated a mock roster to see whether the unit could support a limited number of blended rosters. This is more aimed at blended rosters rather than straight 10-hour shifts but - - -

PN235

Yes. So as police rosters are there, they're sort of quite readily interpreted by police officers, but I'm sure that it would assist the Commission here if you were to explain things and I may just run you through a few of these?---Certainly.

PN236

The mock roster shows a scenario where there are seven members away. For what purpose are they away?---We are allowed to have five members away on recreational leave or long service leave at any one time, that's our maximum number. So I've taken those five members out. We currently have one member seconded or upgraded to a sergeant's position, so I've taken him out and I've taken another member out to account for any other circumstances, such as extended sick leave or so on.

PN237

So any sick leave?---Yes. So I've got - I've taken one member out on sick leave, one member out on secondment and five members, which is our maximum number of - so basically what I've tried to do is create the worst possible scenario for the rostering.

PN238

Yes. All right. And so how many members are - is this the entire CSS unit on this roster?---There is one vacancy at the bottom which has now been filed, but - so yes, it is. Yes.

*** SEAMUS ALASTAIR MARWOOD

XN MR PAVLIS

PN239

So it's this plus one more now?---Yes. But - well I've included that as being an absent position.

PN240

All right. Thank you. So how many lots of 10 hours - 10-hour shifts are in this roster?---In total there's 20 10-hour shifts because I counted the five members on a blended roster.

PN241

Yes. So this is a mock so there aren't five members on the blended roster?---No.

PN242

No. So it's a situation where if there were five members on blended rosters, it would create a scenario where there are - - -?---And the five members that I've put in here are able to - they're fulltime members with FWA.

PN243

Yes?---And I've left the other members, they do all have FWA in place in the roster, not on leave again, to create the worst possible scenario.

PN244

So if that roster, for example, had those members who you've listed as - on blended rosters, just on the normal rosters, would that create more or less 10-hour shifts across this roster?---Sorry, I don't understand what you mean.

PN245

Well, it's a mock roster and you've got five people here?---Yes.

PN246

And they're on blended rosters?---Yes.

PN247

So if we say - well, let's just say four of them are not on blended rosters and they go back into the regular rostering, would that then have the capacity to create more 10-hour shifts in that whole cycle or less?---Yes. Well, again, I've done this specifically for blended, but what it indicates to me is there's capacity there to carry potentially, 20 10-hour shifts in a fortnight and still provide the service delivery when required.

PN248

All right. So, in essence, there are 20 - there is a capacity for 20 shifts of 10 hours?---Yes, potentially, but again, I haven't looked specifically at a full 10-hour roster, but potentially, that's - the capacity is there for perhaps two 10-hour members or a mix of 10-hour and blended rosters.

PN249

Since making this roster, has there been any changes in terms of how many hours or days or people are available to work?---I believe some extra hours have been allocated to some of the part-time members, but I can't specify what that is off the top of my head.

*** SEAMUS ALASTAIR MARWOOD

XN MR PAVLIS

PN250

Yes. So there's more hours available. All right. I'll find the reference momentarily, but they were - in terms of the Dollard statement. So the page reference - 589, thank you. If you turn to page 589, Seamus. And it will be on page 15 of Inspector Dollard's statement which for the purposes of the book, is 602, I believe. 603, sorry. Yes. At point 50 - sorry, at point 54, can you see point 54?---Yes.

PN251

I'll just - it says - where Inspector Dollard says:

PN252

As to the mock roster prepared by TPFA -

PN253

- apologies, Commissioner. There was an assumption there was, but just to - for the record, as I said earlier, Seamus had a big part of this, so it wasn't exclusively prepared by TPFA. So just to correct that.

PN254

THE COMMISSIONER: Sure.

PN255

MR PAVLIS: So that's - I figure that's not a big point, but I thought I'd raise it.

PN256

THE COMMISSIONER: Thank you.

PN257

MR PAVLIS: Inspector Dollard says:

PN258

I disagree with the roster that demonstrates LSC Beaumont's trial can be accommodated without loss to any shifts and note that it does not meet the current rostering model to have two units in the morning, two in the afternoon and two at crime desk such that we are able to meet business needs as set by management.

PN259

Is this scenario where there's two in the afternoon, two in the morning and two at crime desk, is that a regular feature of rostering?---Well, it's something we try and do but it's not that often achieved, but it's something we try and aim for. The crime desk's been treated as a luxury when we can have them. We like to have them because they are certainly of assistance.

SEAMUS ALASTAIR MARWOOD

XN MR PAVLIS

PN260

So what - so are you saying that that would be - I appreciate, you know, that would be in terms of data though, that would be an ideal scenario and doesn't occur all the time?---Yes, that's correct. As I said, that roster was a very early draft mock roster. It's been worked on since then because there were some errors in it and some holes and it's been adjusted now to show that we can support a dayshift crime desk every day of the fortnight and an afternoon shift crime desk for - I think it's 12 days of the fortnight and it's only on the Sunday that we don't have the two rosters - the two in the afternoon manned. So it's - and again, with the worst case scenario.

PN261

Yes. In this mock roster and I'll take you back to that for just one last question. In this mock roster where there are 20 10-hour shifts?---Yes.

PN262

Are there gaps in the shifts here?---What do you mean?

PN263

A lot of the shifts are - they're unfilled?---If you were to say two am and two pm every day then there are, as I've said, on Sunday we don't have two afternoon shifts, but we're just - I don't think there's the workload to support two afternoon shifts, so that's - we basically run one afternoon shift on a Sunday now anyway, but - and again, there are a couple of afternoons on the board now, but we don't crime desks.

PN264

Yes. So in terms of the - so in real terms, this isn't impacting service delivery because you assessed the demand on each different day, is that - that's what you're doing?---That's what I've attempted to do, yes.

PN265

Yes. So that it simulates a situation where there are - there may be lost shifts, minimum but they're not impacting service delivery because of the day that they are placed?---Look, it's hard to tell unless it was run as a trial, but I believe that this roster potentially could give us better service delivery, potentially.

PN266

Yes. So if I may rephrase the question. Would - what I'm trying to say is are the core functions all capable to be done in this mock scenario?---I believe so.

PN267

All right. Thank you. I have no more questions.

PN268

THE COMMISSIONER: Thank you, Mr Pavlis. Now, Mr Gorozzo, any cross-examination?

CROSS-EXAMINATION BY MR GOROZZO

[11.44 AM]

PN269

MR GOROZZO: Thank you, Commissioner.

*** SEAMUS ALASTAIR MARWOOD

XXN MR GOROZZO

PN270

Good morning, sergeant. In relation to these mock rosters, I believe it's correct to say, isn't it, that - I think you can confirm that I just - sorry, I think you could give this evidence, but I just want to confirm, it's been prepared on the basis that LSC Beaumont will be prepared - will be performing a greater roster?---As I said, the five names I put in that roster are simply arbitrary that they're on the top of the roster and they don't have FWAs so I've selected them just for the purposes of seeing whether a blended roster could work. It's not necessarily because LSC Beaumont is doing the blended roster, which is - they're the five names that I've used to see if this would, you know, potentially be of benefit to the unit.

PN271

In order to be relevant though, it would need to be - well, sorry, in order to apply four other members of the unit would need to be granted flexible working arrangements to (indistinct) blended roster, is that right?---That's - as I said this roster is specifically for five members on blended rosters. It's - they show that that number of 10-hour shifts are potentially - how it would be supported. How those 10-hour shifts are made up, I guess, can be varied.

PN272

And with the ability because of the requirement for members to work two up they still go out in units with another member?---Yes. Unless they're attending a tow yard to process recovered stolen serials.

PN273

Yes. That requirement effectively makes it easier, does it not, to roster a member working a 10-hour shift when you've got more people working 10-hour

shifts?---Yes. I think there's certainly benefits if you can roster two 10-hour shifts together. Definitely.

PN274

So it would fairly fundamentally change the rostering arrangements at the workplace to implement this roster?---Yes, definitely. Yes.

PN275

Yes. All right. I'll pick up on something that you stated in relation to one of the questions Mr Pavlis asked you at the end. This notion that there'll be two units in the morning - for a morning shift, two units for an afternoon shift and a person working the crime desk, that's, I think you referred to it as being the service delivery requirements, the ideal service delivery requirements, is that right?---Yes. In a perfect world, yes.

PN276

That's the minimum staffing?---It doesn't happen in reality. In reality in - I did an analysis of the crime desks in a 12-month period from 29 January 2023 till 27 January 2024, we actually have reached 8.94 dayshift crime desks per fortnight and only 1.38 afternoon shift crime desks per fortnight. So it just doesn't happen.

PN277

1.38 crime desks per fortnight?---In the afternoon shift, yes.

*** SEAMUS ALASTAIR MARWOOD

XXN MR GOROZZO

PN278

Yes. Sorry, could you just repeat that?---1.38 afternoon shift crime desks per fortnight.

PN279

And in the morning?---Nine - sorry, 8.94 dayshift crime desks per fortnight.

PN280

All right. So that's in relation to crime desk. So perhaps just for the benefit of the Commission if I can read you through it. So each unit has two members in it?---Yes.

PN281

Two crime scene officers in it?---Yes.

PN282

So there'd be four all up and then - so then just say that's for the morning and then at the same time you've got a single crime scene officer back at the station performing crime desk services?---Yes. Yes, in an ideal world. Yes.

PN283

Which are to the effect - sorry, the duties of a crime desk person performing a crime desk shift are as described in your - sorry?---Yes. I outlined the duties, it's in my statement. Yes.

PN284

In your statement?---Yes.

PN285

At that first dot point?---Yes.

PN286

Yes. Well, but it's not just - in terms of your mock roster, it's not just crime desk allocations that you're not contemplating for, it's also as you've acknowledged, you're not providing two units in the morning and two units in the afternoon. You acknowledge that?---I'm providing - that roster - as I said, the roster that's referred to here is a very early draft. It's since been worked on because there were some gaps and some members that were on part-time shifts that and so on, so the revised version of that - - -

PN287

So I'll just stop you briefly and draw your attention to the question?---Yes.

PN288

It doesn't provide for morning shifts and afternoon shifts?---It provides for two morning shift crews every day and two afternoon shift crews every day except for Sundays.

*** SEAMUS ALASTAIR MARWOOD

XXN MR GOROZZO

PN289

Isn't Sunday a rather important day (indistinct)?---Not on afternoons. It's our quiet - one of our quietest shifts. We were running two afternoon shift crews on a Sunday and the work wasn't there for them.

PN290

All right. Is it fair to say - I just want to deal with your statement generally now. So you're at 254 of the court book - page. If you wouldn't mind turning to it. And just answer, 'Yes,' or 'No,' here before I take you to the detail of it, is it fair to say that this statement has really been prepared on the basis of affirming the fact that the duties that LSC Beaumont has performed in the residual hours between the eight to 10-hour shift, that there is work for him to do rather than that that work meets the service delivery requirements that we've been talking about. Is that a fair characterisation?---What do you mean by that?

PN291

In terms of benefits that you talk about from the work that LSC Beaumont does between eight hours and 10 hours during the trial in February last year, is it fair to say that when you talk about the benefits of the work that he's performing, that's really going towards stating that he was doing relevant work in the CSS rather than necessarily meeting - assisting the unit to meet service delivery requirements?---Yes. Yes. He was doing work that would otherwise have to have been done by another member.

PN292

All right. So you talk about the trial and your statement is largely about the trial which occurred February 2023, went for about six weeks, during which - - ?---Yes. I think four and a half weeks.

PN293

Four and a half weeks. LSC Beaumont was performing in accordance with the requests that he'd made, eight by 10-hour shifts per fortnight?---Yes.

PN294

Taking - and you had four points under his four bullet points?---Yes.

PN295

The first one deals with crime desk duties and the fact that during the period LSC Beaumont performed three crime desk shifts (indistinct) average of one per fortnight?---Yes.

PN296

And for the record, you give a reasonably detailed description of what crime desk duties involve from the start of that paragraph as compared to units who were going out on the trucks, that is, the people going out to process crime scenes. This is a person who is at the desk triaging matters, doing certain administrative tasks, providing other assistance, et cetera. It's operationally (indistinct) I think you have - perhaps I'll put it a different way, I think you said it's ideal.

*** SEAMUS ALASTAIR MARWOOD

XXN MR GOROZZO

PN297

It's best case scenario that you have a crime desk - a person rostered to perform crime desk on any given shift?---Yes, but it's not necessarily the most valuable role. For example, if I've got a member rostered on a crime desk and I've got another member who's on the van and their partner goes sick, I'll put the crime desk on the van because it's more important to me to have a unit out on the road processing crime scenes. They have laptops so they can actually do their own triaging while they're out on the road, or there's a supervisor in the office who can do that for them. So for me while it is a - it's a very good thing to have. It's not the most important factor.

PN298

Yes. So it forms part of the minimum staffing profiles, service delivery requirements that we've spoken about that within that profile there's a priority for vans to get out on the road?---Absolutely, yes.

PN299

Someone isn't always able to be rostered. You've done an analysis and you've said it was 8.94 times in what time period?---Over a 12-month period.

PN300

Over a 12-month period that crime desk allocation occurred on the am shift?---Yes. Per fortnight.

PN301

And then 1.34 on the afternoon shift?---Yes.

PN302

All right. And you say that - and that explains why during the four and a half week period of the trial LSC Beaumont only performed three crime desk

shifts?---Well, actually, for whatever reason, I don't know, but during that period the number of crime desks were actually quite a bit higher. They were 11.38 dayshifts and 2.63 pm shifts for that period of time. So I'm not sure if that was just an anomaly or coincidence.

PN303

You say that during the trial and this is right at the bottom of that paragraph under the first dot point, you say when LSC Beaumont performed these shifts and on circumstances where there was no one rostered onto the crime desk to follow him, he would effectively carry through for the residual two hours to stay on the crime desk for the people in the afternoon?---Yes. Correct.

PN304

And you make a similar point in dot point 3 which relates to when he would go out on the van - is that what you call it, out on the van?---Yes. On the truck, yes.

PN305

He would come back after eight hours where everyone else would finish their shift if there was no one on the afternoon shift crime desk, he would attend to the crime desk for those two hours?---Correct.

*** SEAMUS ALASTAIR MARWOOD

XXN MR GOROZZO

PN306

And you were saying that it's useful - in your statement, you make the point that it's useful to have LSC Beaumont available in those residual hours to perform crime desk work that nobody else is performing?---Correct.

PN307

Nobody else is able to perform because nobody's been rostered?---Correct.

PN308

But I suppose the point is that it's only two hours, it's not the whole shift?---Yes, but it can be construed as probably the most important two hours of his shift, because that's when all the jobs are prepared and triaged and given out to the vans. So there's a busy period at the beginning and then at the end of the shift for the crime desk when they're assisting in processing of evidence and photographs, that sort of thing.

PN309

And so consistent with that, it would be preferable, wouldn't it, for there to be somebody rostered to perform the entire shift?---Preferable, yes. But as I said, not as important as having the vans out on the road.

PN310

Yes. And the reason that it's not always possible to roster someone on crime desk for the full shift is because of resourcing issues, isn't it?---Sometimes, but sometimes as I said before, it's because the number of members we have available on the day - it's an even number, I'd rather have them out on the road.

PN311

But even in circumstances, accepting what you say if there's an even number, it's because you haven't had the desired fifth member to come in and work the crime desk?---Sometimes we have a lot - for example, on a Monday and a Tuesday in the roster because of the impact of other FWA, we tend to have a lot of members rostered. So it could well be that we've got a good number of members, enough to put four vans out on the road sometimes and again, they're more valuable to me being out on the road processing crime scenes than if we had one member doing crime desk and another member doing admin.

PN312

But just staying within the minimum staffing profile which, as we've agreed, is what's necessary to discharge the service delivery requirements, two trucks in the morning, two trucks in the afternoon and one crime desk in the morning, one crime desk in the afternoon, it's preferable, isn't it, to have that (indistinct) roster for the crime desk?

PN313

THE COMMISSIONER: Yes, Mr Pavlis?

PN314

MR GOROZZO: Sorry.

*** SEAMUS ALASTAIR MARWOOD

XXN MR GOROZZO

PN315

MR PAVLIS: Commissioner, I think we've answered this question. We're just going over and over it.

PN316

THE COMMISSIONER: I didn't think we had, to be honest.

PN317

Mr Gorozzo, do you have anything to say on that subject?

PN318

MR GOROZZO: I don't think the question had been answered. I don't think it had been and I don't think it's particularly prejudicial if it was to be answered again.

PN319

THE COMMISSIONER: All right. Well, if you can put the question again, please.

PN320

MR GOROZZO: I think we were talking about resourcing issues?---Yes.

PN321

Do you accept that in circumstances where it's not possible to roster a crime desk shift, it's generally not because of an abundance of members, it's because of the lack of members - lack of resources?---And the impact of FWA across the roster which limits where people can and can't work on certain shifts.

PN322

Yes. And to that point, if LSC Beaumont's FWA was to be approved in this case and his two shifts per fortnight that he's currently performing were to be removed from the roster, there would be less CSOs available to perform crime desk duties in the morning and in the afternoon for the full period, isn't that right?---I'm not sure that that follows, but as I said, the mock roster that I've looked at - - -

PN323

I'm not talking about the mock roster; I'm talking about general (indistinct)?---But the mock roster shows that it can support a crime desk.

PN324

But I'm not asking you about it, I'm asking you about the roster that happens day to day and you've got an accrual of shifts that you can draw from?---Yes.

PN325

If you've got two dayshifts in a given fortnight to roster somebody for a full am or crime desk shift, that means you've got less capacity to roster the crime desk shift axiomatically, doesn't it?---Well, you've got less capacity to roster a - two shifts per fortnight, wherever those shifts are allocated.

*** SEAMUS ALASTAIR MARWOOD

XXN MR GOROZZO

PN326

Yes. You've got less capacity to roster any shift, whether it be response or crime desk?---Well, you have two less shifts per fortnight.

PN327

Yes?---That's obvious.

PN328

Yes. Well, I suppose the point that I'm putting to you is that you've stated benefits in your statement of LSC Beaumont being able to pick up two hours here and there of crime desk shifts, but the actual impact of the flexible working arrangement, if it were to be approved - sorry, if it were to be approved, would be, in fact, what you're talking about, but as it currently stands, there are two extra shifts in the roster by which he can be rostered specifically to perform the full eight-hour crime desk shift, isn't that right?---Correct. But at the same time, if there's no afternoon shift crime desk, there's five days that he could be performing two hours of afternoon shift crime desk, so we're not losing any hours.

PN329

I thought we agreed the service delivery requirements were minimum staffing requirements including the crime desk shift in the afternoon?---That's an ideal wish list. It's not a written rule anywhere.

PN330

Which is what - I'll just stop you for a moment. It's what we are talking about, isn't it?---Yes, but I haven't seen that written as a rule anywhere. I've tried to get that from our depot and I think they've been - nobody seems to be able to find what our actual written down minimum staffing level is.

PN331

And you're not aware that that's the - you're really not aware? I thought you said it before. You've already given evidence (indistinct)?---We have provided requests to the depot from the supervisor level as to what we would like to have the members rostered for and that's what we've - we've requested that we, if possible, that's what we have rostered. Two am, two pm and an afternoon - day and afternoon crime desk.

PN332

THE COMMISSIONER: Mr Pavlis, did you have an objection?

PN333

MR PAVLIS: I was just saying that as per before, I think Mr Seamus is answering the question, has answered it and I think we just need to move onto the next question if there is one.

PN334

THE COMMISSIONER: Well, I thought Mr Gorozzo was, particularly in respect of the knowledge of the minimum staffing levels. So I thought that was a fair question to ask.

*** SEAMUS ALASTAIR MARWOOD

XXN MR GOROZZO

PN335

MR GOROZZO: Thank you, Commissioner. I think the point that I was addressing with you was that you've already given evidence that you know that the service delivery requirements are what the minimum staffing profile is (indistinct), right?---Correct.

PN336

Two, two, one and one?---Yes. That's our request to the depot to roster that number of staff.

PN337

Bear with me for a moment. I will ask the question?---Sorry, can I clarify?

PN338

No?---The - - -

PN339

No. Just - sorry. I'll ask a question. These are service delivery requirements that are imposed by - at the divisional level, are they not?---Not that I'm aware of. This is what I was going to say. I believe the - my understanding is there are service delivery requirements for frontline members which are imposed at the divisional level. I'm not aware and I could be wrong, there might be something - I've been in the role for nearly five years. I haven't seen anything yet which sets down a stipulated service delivery requirement for crime scene. It's something that we manage at a local level and we try to develop the roster to give us the best possible outcome that we can.

PN340

Can you go to page 599 of the book, please? This is the - for the record page 11 of the statement of Natalie Dollard in the proceeding. At paragraph 46 here, Inspector Dollard sets out the reasonable business grounds on the basis on - which were the basis for the request for flexible working arrangement (indistinct), have you seen this before?---No.

PN341

You haven't. Did you read this statement?---No.

PN342

All right. Well - - -?---Sorry, it hasn't been provided to me so I haven't seen it.

PN343

All right?---Yes.

PN344

Do you want to take a moment to read it? Inspector Dollard was saying - perhaps I'll read it into the record:

PN345

The basis on which Leading Senior Constable Beaumont's flexible working arrangement was refused and the business grounds that were given to him are extracted below.

*** SEAMUS ALASTAIR MARWOOD

XXN MR GOROZZO

PN346

And (i) is:

PN347

Narre Warren CSS works in conjunction with Cardinia CSS operates with a minimum staffing profile of 10 ORs per day.

PN348

Sorry, I'm just - bear with me one second, apologies.

PN349

MR PAVLIS: Commissioner, if I may assist.

PN350

THE COMMISSIONER: By all means.

PN351

MR PAVLIS: Just so you know, ORs stands for 'Other ranks.' It's 10 people, not 10 shifts, or what have you.

PN352

THE COMMISSIONER: All right. No, I understand.

PN353

MR GOROZZO: I might come back to that.

PN354

In relation to the second dot point in your statement, if I can take you back to it, so page 254 of the book. Thank you. I'm so sorry about this, if we could go back to page 601. Sorry. I'm just getting my paragraph points confused, so we're at - - -?---Page 601, yes.

PN355

So it is paragraph 47(c), Inspector Dollard says:

PN356

To meet the two up requirement, Narre Warren and Cardinia CSS operate under the following roster model. Two SS trucks are rostered in the morning. Two SS trucks- CSS trucks are rostered for the afternoon shift and two members will be allocated desk and administrative duties, which is the crime desk in the office, one in the am and one in the pm.

PN357

Do you see that?---I do.

PN358

So do you accept that that's Inspector Dollard's position?---I do, yes.

*** SEAMUS ALASTAIR MARWOOD

XXN MR GOROZZO

PN359

Yes. All right. Thank you. Sorry, for that round about there. So now if I can take you back to your statement which is 254 of the book at bullet point 2?---Yes.

PN360

Now, the suggestion that you make here is that LSC Beaumont worked eight shifts with the other 10-hour member. That's LSC McMannis?---Correct.

PN361

When these members worked together, the residual two hours per shift for both were able to be spent out of the office processing crime scenes and at tow yards with recovered vehicles. The opportunity was present for both members to work more corresponding shifts; however, these were not rostered. And you're suggesting there, aren't you, that this was a missed opportunity, in fact?---In the first fortnight I recognised that there were potential there - we're going back a while now, but I'm fairly confident to say that for the second fortnight and then from there on, we were trying to manipulate the roster to allow those opportunities to happen more frequently and therefore as that trial was developing, I think it was becoming more beneficial for the unit in relation to the 10-hour shifts working together and also the working with the - - -

PN362

Can I just ask are you talking about your own - do you have - or according to the roster, are you talking about your own (indistinct)?---Absolutely, yes. Yes.

PN363

And your point is, isn't it, that there's the ability to match - there was the ability to match during the trial LSC Beaumont with LSC McMannis because they both had 10-hour shifts?---Yes. Yes.

PN364

And that that was preferable?---In my preference, yes.

PN365

And the reason for that is, is because it's far preferable to have - for units to be going out on the truck, two members working the same length of shift, isn't that right?---There are benefits for that, if you had two members working 10-hour shifts (indistinct).

PN366

There's no drawbacks, are there?---There's no drawbacks, no. Definitely not.

PN367

Yes. The implication is - - -?---I guess the only drawback would be that those two members' rosters impacted by that, that they both had to work the same shift. So that that impacts the members, but not the unit.

*** SEAMUS ALASTAIR MARWOOD

XXN MR GOROZZO

PN368

Sorry, could you - - -?---I'm just trying to think holistically that the - while there's no drawbacks to the unit, it does have an impact on those members that they both have to work corresponding shifts.

PN369

Well, that's right, and they always would have to work together?---Yes. To have that benefit, yes.

PN370

And it's the case, isn't it, that LSC McMannis and LSC Beaumont are both rather senior members of the CSS?---Yes. Very.

PN371

And it isn't appropriate in that regard in - with regard to that, that they be allocated to work with other more junior members to mentor them and provide them with - - -?---The whole Crime Scene Service is made up of senior members. We don't have junior members as such, you know, they're all senior members. They all go through a qualification process and are very well trained and they obtain the Department of Forensic Investigation, so it's not necessary for that to happen.

PN372

Yes. Well, not necessarily, but do you agree that there are - probably would be things that people with the experience level of LSC Beaumont and LSC McMannis could teach to - - -?---Yes, there is, but as I said, we have a number of senior members in the office. Yes.

PN373

Yes. Because the thing is that you sort of put it as though there's missed opportunities, but I think you say right at the top, about the first dot point, that he worked 26 10-hour shifts in the trial?---Yes.

PN374

When you take the three crime desk shifts out, that leaves us with 23 on a truck?---Correct.

PN375

And he performed eight of those with LSC McMannis?---Correct.

PN376

All on the 3rd. It's quite a lot, isn't it?---Yes. But again, it could have been better - the two opportunities that I saw that could have been potentially run better and if the trial had continued, we would have tried to have input to make that happen, would be, as I said, more shifts together with LSC McMannis and more time where residual hours were when there was no crime desk rostered. So, you know, we'd get the maximum benefit out of those hours. In effect, we were trying to make this work, you know, to see if we can succeed.

PN377

All right. I suppose the other point to make about that is that it might be - and it may be found to be the case, quite difficult to roster the same two members together all the time?---So is that a question or - - -

*** SEAMUS ALASTAIR MARWOOD

XXN MR GOROZZO

PN378

Yes?---Yes. Well, if it's a question then that would be up to the two members concerned if they were happy to do that. It was certainly going to be, I would imagine, from a personal point of view, there are going to be times when you're going to have a request to do something particular on certain days and - - -

PN379

What about leave, (indistinct) of leave?---That - and the same with leave, yes.

PN380

Training?---Yes.

PN381

Other things like that?---Yes.

PN382

So can I suggest that the proposition that's in your statement that there was a greater opportunity to combine LSC Beaumont and LSC McMannis on more shifts thereby to reduce the adverse impact of having non parallel shifts between two members on a truck is not exactly - it's not really feasible?---Yes. I didn't talk about an adverse impact, I talked about the benefits of having them combined, not that there's an adverse impact of them not being combined and I can see your point, but all I'm saying is there were opportunities where that could have been done. There are certainly going to be times when it can't be done, as there is with 10-hour shifts right across the police force, you know, there are many people

working 10-hour shifts in other offices that have that same issue that they need to address.

PN383

In the final dot point, you say that - you talk about one up duties performed at the secure yard?---Yes.

PN384

In particular, tow yards?---Yes.

PN385

Is it always the case that at a secure tow yard a member go out one up?---No, but it does happen from time to time and it's within our SOPs that that is an allowable duty for a member to perform one up.

PN386

Isn't that the risk assessment for that sort of thing?---Yes. Yes.

PN387

Yes. It's not exactly efficient though, is it?---Well, if you've got one member working by themselves, then it is - - -

PN388

A (indistinct) role?---Yes. But it is - it's efficient in the respect that you can get the job done.

*** SEAMUS ALASTAIR MARWOOD

XXN MR GOROZZO

PN389

THE COMMISSIONER: Mr Pavlis?

PN390

MR PAVLIS: It's not a question for Sergeant Marwood to identify if it's an efficiency. These are within the standard operational procedures. So it's not his call if it's efficient or not, he's functioning within the procedures.

PN391

THE COMMISSIONER: I take the point. I think the question is really about his evidence and in particular, the fourth bullet point so I thought it was connected in that respect.

PN392

MR GOROZZO: The point that I'm driving at is that you've included in here that the - that Narre Warren gets the benefit of LSC Beaumont going out one up to the tow yard to perform the vehicle assessment one up, but it's not really - well, it's not very efficient to have sent him out - the reason he had to go out by himself was because there was no one else rostered there for that two-hour period, right?---Yes. But he would have - I wasn't present for the job, so I don't know how it panned out, but basically you need to understand that when members (indistinct) are seen at a car yard, one member processes the exhibit, the car, photographs it, fingerprints it, searches it.

PN393

Yes?---The other member takes notes of what that member is doing. Other crime scenes, for example, in the country areas, that sort of thing - they do this sort of thing one up all the time and for an experienced member like LSC Beaumont, for him to be able to process that scene and make his notes in between, taking photographs and lifting prints, I imagine was going to be reasonably efficient. We also quite frequently run a three up tow yard processing crew where we have two members processing a car at one time and one member taking notes and often the member who is solo is doing - processing and notes, so it's not an uncommon practice. I mean, it's not - I wouldn't have thought inefficient.

PN394

No, I (indistinct) but - well, what I'm asking you is, is it less efficient than if he was two up?---I wouldn't think so. I can't see how it could be in that you've got one member getting the job done as opposed to two members who are potentially going to take more than half the amount of time that one member is taking.

PN395

Who are you comparing to?---What do you mean?

PN396

Well, you told me a moment ago that the members of the CSS in Narre Warren are very experienced, very capable to process - crime scene officers?---Yes. Yes. So - all right.

*** SEAMUS ALASTAIR MARWOOD

XXN MR GOROZZO

PN397

(Indistinct)?---So I can explain that in that the member who is taking the notes is potentially going to have down time and at the same time, the member who is performing the examination, you know, they have down time when they're waiting for something to happen. The members performing the examination will potentially have down time where they may be waiting for the member taking the notes to catch up. So therefore a member doing both is not necessarily going to be less efficient than two members doing each.

PN398

All right. I'll just have one more go at this. Perhaps it won't take twice the amount of time (indistinct) crime scene at a time, but it would be less efficient for him to do it by himself do both the note taking, photography, everything else that goes on rather than if he went out there with LSC McMannis, for instance?---I think I've explained that I disagree with that.

PN399

Now, towards the end of dot point 3, just going back up to that dot point again. So this is where you were talking about situations in which LSC Beaumont was rostered to perform duties on a truck and he came back to the office to perform crime desk shifts in the afternoon for the residual two hours in the afternoon when nobody was rostered on the crime desk. Do you see that?---Yes.

PN400

Do you see that at the end - so and what he would do in that period is process things - excuse me. He spent time - I'm not referring to the crime desk here, excuse me. I'm referring specifically to the second last sentence:

PN401

LSC Beaumont during the residual two hours of these shifts, would deal with numerous duties required at the end of the shift including processing fingerprints, PaLM, forensic service requests, updating notes on LEDR and progressing the jobs to (indistinct).

PN402

Do you see that?---Yes.

PN403

That's all - they were all administrative tasks?---Yes.

*** SEAMUS ALASTAIR MARWOOD

XXN MR GOROZZO

PN404

Now, I'm asking you first this question as the sergeant in charge of Narre Warren. Do you really think it's appropriate to have them on duty specifically for the purposes of performing administrative tasks?---Well, what you need to understand here, is if you're out on the road processing with another member who's an eight-hour member and he has those two hours residual at the end of the shift, the ability there is then for that unit to stay out for longer because normally what happens is they come in and both members perform that administrative task. So they have to come in earlier, leave, you know, in other words, stop processing crime scenes, come in earlier to carry out all those tasks. So if you have a 10-hour member working with an eight-hour member and their two hours are residual, then the whole crew can stay out for longer, process more crime scenes and then when they come in, the 10-hour residual member can spend the two hours doing much of what was - both members would have done otherwise.

PN405

But it's not optimal, is it, and (indistinct)?---I don't see that it makes any difference, the work is done.

PN406

No, no, no. Well, just wait for the question. At the expense of losing two shifts from LSC Beaumont on the truck each fortnight, you're really suggesting that the admin that he that he performs in those residual two hours compensates for that?---Absolutely because the work is done. It's the same amount of work that is done, regardless of whether it's done on a 10-hour shift or across multiple shifts, the work is done. This is not - - -

PN407

All right. I'll ask it another way. He's performed - just he's performing an eight-hour shift?---Yes.

PN408

Comes back for two hours and performs administrative tasks?---Yes.

PN409

He does that four days a week. Well, or let's say eight times a fortnight per the flexible working arrangement?---Yes, but assuming he's working in the van every day with an eight-hour member, yes.

PN410

Yes. Well, in any event, the point really is, is that he's not working in the van every day so he's not getting the same benefit every day?---So if he's working at the crime desk, then the same thing happens, if there's not afternoon shift crime desk, his duties carry on. The work is done.

PN411

Sorry. Perhaps I'll just finish the question?---Yes.

PN412

You've got the eight 10-hour shifts?---Yes.

PN413

He performs administrative tasks in the residual time between the eight and 10 hours?---Yes.

*** SEAMUS ALASTAIR MARWOOD

XXN MR GOROZZO

PN414

That's not the same work that he would have performed had he been out in the trucks on the road in the two shifts that he otherwise would have performed on the yard in the same day?---It's exactly the same work because they're doing more crime scene processing during the eight hours. So it's exactly the same work. There's no difference. They can't make up work to do. They can only do the work that's in front of them and that's what - so that is what is done. There's no difference. Whether it's done over - I don't understand why it is - if you've got a certain amount of work to be done, whether he's digging a ditch or digging holes, whether it's done in a multiple period of eight hours or a multiple period of 10 hours, if the hours add up to being the same and you're working - - -

PN415

But you - sorry, I won't interrupt you. I'm sorry. Go on, sorry?---No. That's what I'm saying - it's the work is there to be done and they do it.

PN416

But are you suggesting that the Narre Warren CSS completely equips all the work that is on its desk, it's not ahead of the minimum service requirement.

PN417

THE COMMISSIONER: Mr Pavlis, if you have an objection, you need to announce yourself so that Mr Gorozzo stops.

PN418

MR PAVLIS: Sorry. I stood before I announced myself. I object. Commissioner, he's not suggesting any - to put that to Sergeant Marwood that he's suggesting such a thing is not appropriate. He has no - he's made no

suggestion of that sort in his witness statement and he's made no suggestion of that today.

PN419

THE COMMISSIONER: Why is it inappropriate? I don't follow that.

PN420

MR PAVLIS: He's made - Mr Gorozzo is suggesting that which - if you wouldn't mind finishing your question, I was offended by it personally so I'm just - but you may - I'm sorry, apologies.

PN421

MR GOROZZO: I'll have another go.

PN422

THE COMMISSIONER: All right. Well, you've had - well, have another go several times, I get it. It's an opportunity cost, it's not unusual in these sort of proceedings.

PN423

MR GOROZZO: Yes.

PN424

THE COMMISSIONER: So let's not labour the point too much.

PN425

MR GOROZZO: No. One more question on the point.

*** SEAMUS ALASTAIR MARWOOD

XXN MR GOROZZO

PN426

Coming back to the service delivery requirements and minimum staffing profiling we were talking about a moment ago; two in the morning, two in the afternoon, one crime desk in the morning, one crime desk in the afternoon, right?---That's as per Inspector Dollard's statement, yes.

PN427

And what you agreed with the minimum service requirements that the station itself insists upon?---It's what we would like to have, yes.

PN428

Yes?---Although we've recently made a call that the Sunday afternoon crime desk is not a necessary requirement and a Sunday afternoon van is not a requirement because the workload is not there.

PN429

All right. I didn't ask you that?---Yes, you did. You did ask me that, you asked me if I agreed with that.

PN430

But that's - all right?---Yes. You asked me if I agreed with that minimum staffing level, so I'm answering your question.

PN431

All right. What I'm asking you is you agree that there's two in the morning, two in the afternoon, one crime desk in the morning, one crime desk in the afternoon, do you accept that, yes or no?---That is what is stated in Inspector Dollard's statement as her requirements.

PN432

And yes or no, is that what the station itself expects? You've already given the evidence, sergeant?---It's something that is changing fairly frequently. The last direction that was given out by Senior Sergeant Keen was that we would not require a afternoon shift van on a Sunday because the workload was not there for it and the same for an afternoon shift crime desk. So it's a varying thing, depending - maybe during the time of the year as work - our loads change, but at the moment, that requirement is not being made. I wasn't aware of a higher level minimum staffing level requirement until now.

PN433

The point that you're referring to about Sunday afternoon, that's a resource allocation issue, is it not? You're not saying, 'We'll just not offer on Sunday afternoon, not have anybody on,' You're saying you put those shifts over here because there's more work to be done over here, aren't you?---Yes.

PN434

Because you've got a finite amount of shifts to allocate in the course of a fortnightly roster?---Yes, but you could also say we have a finite number of working hours to allocate, whether they're in - - -

*** SEAMUS ALASTAIR MARWOOD

XXN MR GOROZZO

PN435

Sure - - - ?---I don't understand the point you're trying to make it's - so - - -

PN436

Coming back to the point when I asked you about the difference between LSC Beaumont performing four 10-hour shifts in a given week and five eight-hour shifts in a given a week, the difference is a greater ability for the station to discharge that minimum service requirement because there are more shifts in the roster. It's a very simple proposition?---Yes. But I can clarify that the roster that I've - the mock roster that I've come up shows that that can be achieved.

PN437

Sorry, what can be achieved? No, no, I'm so sorry. So I don't want you to go to the mock roster. I think you've accepted what I was putting to you. There's full shifts and the flexible working agreement was - arrangement was allowed, there would be two less shifts to achieve the service delivery requirements?---Two less shifts.

PN438

Two less shifts?---Yes.

PN439

Thank you. Bear with me one moment. I have no further questions, Commissioner.

PN440

THE COMMISSIONER: Thank you, Mr Gorozzo.

PN441

Mr Pavlis, any re-examination?

PN442

MR PAVLIS: No. No further questions.

PN443

THE COMMISSIONER: All right. Thank you.

PN444

So, Sergeant Marwood, thank you very much for giving your evidence. You're released and free to go. Thank you.

<THE WITNESS WITHDREW

[12.26 PM]

PN445

THE COMMISSIONER: So, Mr Pavlis, where does that take us with the other witness statements?

PN446

MR PAVLIS: I was going to tender my additional witness statements that you have, appendix 2.

*** SEAMUS ALASTAIR MARWOOD

XXN MR GOROZZO

PN447

THE COMMISSIONER: All right. Thank you.

PN448

MR PAVLIS: But I also if - I'm happy to break for lunch if it's - you wish to do so, so we can examine the new information that was provided earlier.

PN449

THE COMMISSIONER: All right. Well, maybe I'll deal with the marking of those documents after I've had an opportunity to review a couple of things. The reason I want to do that is my associate has pointed out to me that that there are second statements for both Ms McMannis and also Mr Beaumont and we're not absolutely confident that they are in identical form. So if they're not, then we'll need to obviously mark them as separate documents.

PN450

So do I hear from you, Mr Pavlis, that you wish to adjourn now so that you can examine the other documents that were made available this morning?

PN451

MR PAVLIS: If that suits the Commission, I'd - - -

PN452

THE COMMISSIONER: All right.

PN453

Well, is that suitable to you, Mr Gorozzo?

PN454

MR GOROZZO: Yes. Thank you, Commissioner.

PN455

THE COMMISSIONER: All right. In that case, we'll adjourn until 1.30.

LUNCHEON ADJOURNMENT [12.27 PM]

RESUMED [1.43 PM]

PN456

THE COMMISSIONER: Good afternoon, parties. Perhaps if I start by marking as exhibits the other witness statements that will not be the subject of oral evidence. Let me just get organised. The witness statement of Leading Senior Constable Alan Beesley will be marked as exhibit A6.

**EXHIBIT #A6 WITNESS STATEMENT OF LEADING SENIOR
CONSTABLE ALAN BEESLEY**

PN457

The witness statement of Leading Senior Constable Llewellyn will be marked as exhibit A7.

**EXHIBIT #A7 WITNESS STATEMENT OF LEADING SENIOR
CONSTABLE CARLY LLEWELLYN**

PN458

The witness statement of Leading Senior Constable McGuire will be marked as exhibit A8.

**EXHIBIT #A8 WITNESS STATEMENT OF LEADING SENIOR
CONSTABLE CAMERON MCGUIRE**

PN459

The witness statement of Leading Senior Constable Jenkins will be marked as exhibit A9.

**EXHIBIT #A9 WITNESS STATEMENT OF LEADING SENIOR
CONSTABLE DALE JENKINS**

PN460

The witness statement of Leading Senior Constable Dyer will be marked as exhibit A10.

**EXHIBIT #A10 WITNESS STATEMENT OF LEADING SENIOR
CONSTABLE JARRAD DYER**

PN461

The witness statement of Leading Senior Constable Kirton will be marked as exhibit A11.

**EXHIBIT #A11 WITNESS STATEMENT OF SENIOR CONSTABLE
KAREN KIRTON**

PN462

The witness statement of Leading Senior Constable Carroll will be marked as exhibit A12.

**EXHIBIT #A12 WITNESS STATEMENT OF SENIOR CONSTABLE
LISA CARROLL**

PN463

The witness statement of Senior Constable Hams will be marked as exhibit A13.

**EXHIBIT #A13 WITNESS STATEMENT OF SENIOR CONSTABLE
RUSSELL HAMS**

PN464

The witness statement of Senior Constable Dousha, spelt D-o-u-s-h-a, will be marked as exhibit A14.

**EXHIBIT #A14 WITNESS STATEMENT OF SENIOR CONSTABLE
SCOTT DOUSHA**

PN465

The witness statement of Leading Senior Constable Charlton will be marked as exhibit A15.

**EXHIBIT #A15 WITNESS STATEMENT OF LEADING SENIOR
CONSTABLE WAYNE CHARLTON**

PN466

Mr Pavlis, have I missed anyone?

PN467

MR PAVLIS: I don't believe you have.

PN468

THE COMMISSIONER: Good. All right. Well, thank you. Now the further question I wish to ask is about the witness statements of Leading Senior Constable Beaumont and also Sergeant Marwood. We marked as exhibits E the Beaumont statement starting at page 397, but then there's a further statement at page 550, which is in textually different terms, if not substance, parts of it at least. So I just wish to be clear from the representative whether or not you intend both to be marked, or one to be marked, and to understand which one. And then a similar issue arises in respect of Sergeant Marwood, the statement which was marked, was at page 254, but then there's a further one at page 464, which appears to be, from best I can see, in identical terms to the first.

PN469

MR PAVLIS: That is.

PN470

THE COMMISSIONER: All right. So then the question in respect of Leading Senior Constable Beaumont is, what is to occur in respect of the statement set out at page 550.

PN471

MR GOROZZO: Bear with me for a moment, Commissioner.

PN472

THE COMMISSIONER: Maybe if you return to that at the appropriate time.

PN473

MR PAVLIS: 550 I believe is a statement I've procured from Jeremy in reply, response reply.

PN474

THE COMMISSIONER: Well, yes, but that wasn't put to him. So you wish to have both marked.

PN475

MR PAVLIS: Please.

PN476

THE COMMISSIONER: All right. Is there any objection to me just simply marking that, Mr Gorozzo?

PN477

MR GOROZZO: Can I just say this. It's – the second statement of Leading Senior Constable McMannis is totally irrelevant. In dispute it's about some grievance that she has about an interaction she had in the office in relation to her presentation as a witness in the proceeding. That's the page 550 statement. Excuse me.

PN478

THE COMMISSIONER: Are we talking at cross-purposes here?

PN479

MR PAVLIS: Excuse me, we may be.

PN480

THE COMMISSIONER: I'm identifying two issues, one of which is in respect of Sergeant Marwood, commencing at page 254, and also then secondly, at 464.

PN481

MR GOROZZO: Yes.

PN482

THE COMMISSIONER: And Mr Pavlis has said they are in identical terms, so we only need one of them. But then I'm raising the question in respect of the

applicant. Mr Beaumont, there's the one appearing at page 397, from 397, and then there's another one appearing from page 550.

PN483

MR PAVLIS: I don't get to the second Beaumont - - -

PN484

THE COMMISSIONER: In that case I'll simply mark that as an exhibit, which would be the second statement of Jeremy Beaumont, commencing at page 550 of the hearing book, will be marked as exhibit A16.

**EXHIBIT #A16 SECOND STATEMENT OF JEREMY BEAUMONT
COMMENCING AT PAGE 550 OF THE HEARING BOOK**

PN485

All right. Thank you. Now if there's any other further housekeeping issues that require being dealt with, if you let me know at the appropriate time. So Mr Pavlis, that concludes the evidential case for the applicant.

PN486

MR PAVLIS: We still wish to speak to Inspector Dollard and Commander Stafford.

PN487

THE COMMISSIONER: Sure. But in terms of the evidence being brought forward by the Police Federation.

PN488

MR PAVLIS: Well, you've noted everything we've done. Yes, thank you, sir.

PN489

THE COMMISSIONER: Sure. All right. In that case I'll turn to you, Mr Gorozzo.

PN490

MR GOROZZO: Thank you, Commissioner. The respondent calls Detective Inspector Natalie Dollard.

PN491

THE ASSOCIATE: Can you please take the Bible in your right hand. Can you please state your full name and business address.

PN492

MS DOLLARD: My full name is Natalie Jane Dollard, and my business address is Dandenong Police Complex at 50 Langhorne Street in Dandenong.

<NATALIE JANE DOLLARD, AFFIRMED [1.52 PM]

EXAMINATION-IN-CHIEF BY MR GOROZZO [1.52 PM]

PN493

THE COMMISSIONER: Thank you. Please be seated.

PN494

MR GOROZZO: Is your name Natalie Dollard?---Yes.

PN495

You're a detective inspector of Victoria Police?---That's correct.

PN496

You've made a statement in this proceeding. If you could turn to page 589 of the court book in front of you?---Sorry, five?

PN497

MR GOROZZO: Eighty-nine?---Yes.

PN498

That's a statement with 16 pages and a number of attachments. Is that the statement that you've made in this proceeding?---Yes, that's correct.

PN499

If I can take you to paragraph 11 of the statement. Before I ask you whether it's true or correct, do you wish to make any correction to that paragraph?---If I may. Where I've referenced 25 December 2024, it should actually read 2023.

PN500

Paragraph 47 on page 12. It's actually page 13, paragraph 47(e). Is there a correction you wish to make?---Yes, in the first sentence, if I could actually change 'tend' to trend. Just a typo error.

*** NATALIE JANE DOLLARD

XN MR GOROZZO

PN501

Aside from those matters, is the statement true and correct?---Yes, it is.

PN502

I tender that, Commissioner.

PN503

THE COMMISSIONER: Thank you. The witness statement of Detective Inspector Dollard will be marked as exhibit R2.

**EXHIBIT #R2 WITNESS STATEMENT OF DETECTIVE
INSPECTOR JANE DOLLARD**

PN504

MR GOROZZO: Thank you. Commissioner, there's a few questions that I would seek leave to ask Inspector Dollard by way of a response to the reply material. Inspector Dollard, have you read the reply material that was provided by the Police Federation in this matter?---Yes, I have.

PN505

Including the submission, the reply submission?---Yes.

PN506

I'll take you to it. It's court book tab – well, it's page – court book tab 31, page 410, paragraph 4 of the submission. The Police Federation makes the submission, it refers to the decision of this Commission in the matter of Emery, and it says that it's insufficient when considering reasonable business grounds to talk only about cost. And it goes on to say:

PN507

As per the Emery decision, paragraph 45, there must be detail provided specific to the flexible working agreement application discussed that would generally be insufficient for an employer to simply point out cost as being a reason for refusal.

PN508

This is by reference to your suggestion that you couldn't agree to the flexible working arrangement, because it would create the loss of two rostered shifts per fortnight. And my question for you is, when you stated that as a reason for refusing the flexible working arrangements by Leading Senior Constable Beaumont, were you talking about cost, the cost of losing those shifts?---No, I wasn't.

*** NATALIE JANE DOLLARD

XN MR GOROZZO

PN509

What were you talking about?---I was talking about, the loss of those shifts has a direct impact to our service delivery requirements, and the – you know, the ability to provide the service to the community that we do. The Crime Scene Services unit, is a specialized work unit, that deals with forensic examination, you know, from low volume crimes through to serious and violent crime, that we're offending – that we see offending within our community. And by not having those two shifts, that – that restricts my ability to put members out to work the trucks, and to service our community in the manner that they should be serviced.

PN510

In paragraph 6 of the reply submission, the Police Federation states that your evidence as to service delivery impact has been contradicted by certain statements of the crime scene officers at Narre Warren, which have just been admitted into evidence in the proceeding. Can you see that, 6MMA through to (iv) over the next two pages. There's a number of propositions coming from the statements of the officers?---Yes, I can see that.

PN511

Those statements relate to the work that was undertaken by Leading Senior Constable Beaumont during the trial of the flexible working arrangement in January 2023. Do you understand that to be the case?---Yes.

PN512

Can I show you a document. This is the document that was raised by Mr Pavlis at the start of the hearing, Commissioner. I might just have it handed up.

PN513

MR PAVLIS: Which one was that?

PN514

MR GOROZZO: This is the rostering document.

PN515

MR PAVLIS: Not Grosser.

PN516

MR GOROZZO: No, the one that I provided to you this morning.

PN517

MR PAVLIS: Which one, this one?

PN518

MR GOROZZO: This one, yes. If I could have that handed up. Yes, thank you.

PN519

THE COMMISSIONER: Thank you.

PN520

MR GOROZZO: So the first document there on the pile, do you recognise the content of that document?---Yes, I do.

PN521

And what is it?---This is the analysis that was conducted in respect to the roster periods during the trial that Leading Senior Constable Beaumont undertook.

*** NATALIE JANE DOLLARD

XN MR GOROZZO

PN522

And it's broken down, I can see by reference to the document footage, the periods of the roster during the trial period?---That's correct.

PN523

And just by reference to the first of those, in the week commencing 12 February 2023, could you read out by reference to the minimum staffing profile, and service delivery requirements at Narre Warren Crime Scene Services, or analysis you made of the roster during the trial period?---So for that particular occasion, I identified that we weren't – that we did not need the minimum service requirement during that roster period, and more specifically I can say that there was one occasion that an AM crime desk was not rostered. There were eight occasions that a PM crime desk was not rostered. There were five occasions that a PM response vehicle was not rostered. And if I go to the last dot point, I acknowledge that the AM response vehicles were rostered as required, and there was also some additional vehicles placed on some of those AM shifts.

PN524

And this analysis has occurred by reference to the detail in the statement of yours that's just been tendered, that the minimum staffing profile for the station, or for the unit, which I think you referred to interchangeably as being the service delivery requirements, are two members to work – two units, sorry, to work the morning shift, two units to work the afternoon shift, a member to work the crime

desk in the morning, and then to work the crime desk in the afternoon?--- Yes, that's correct.

PN525

Thank you. I tender that bundle, Commissioner, which for the purposes of the record is the analysis document on top, with the rosters printed out underneath.

PN526

THE COMMISSIONER: I'm just digesting what's beneath. All right. Thank you. The roster analysis bundle will be marked as exhibit R3.

EXHIBIT #R3 ROSTER ANALYSIS BUNDLE

PN527

MR GOROZZO: You will have seen from the reply statements, filed by the Police Federation, and referred to in paragraph 6 of the submission that the point is made again and again that because LSC Beaumont, during the trial period, had the residual two hours between eight and 10 hours in his shift. He was able to, among other things, take up some of the administrative burden for them, which enabled them to perform more operational crime scene response duties. Is that your appreciation of the evidence that's been given?---That's my understanding, yes.

*** NATALIE JANE DOLLARD

XN MR GOROZZO

PN528

Do you have anything to say about that?---Well, I don't – I don't see that it is the most productive and efficient use of time during that two-hour window. More broadly speaking, whilst I understand that he might be attending to various administration tasks and the like, the proposition still is the fact that I lose the additional two shifts on the roster for the fortnight, where I have, you know, duties and, you know, shifts to fill on those particular occasions. Those tasks that he may attend to during that two-hour block, I would actually say that that's work that should be done within the – the shift period, between himself and his partner that he's working with. And if I have the crime desk, you know, a member rostered actually on the crime desk as well, as I should, for the 16 hours per day, that's also a – a massive support to those members working out on the road. So a lot of this admin, or what might be referred to as additional admin that Leading Senior Constable Beaumont might come back in and do, that could actually be getting done in the background by the member who is working the crime desk shift. So you know, like I don't – from my perspective and, you know, from like in line with our requirements and – of – you know, like – like going back, as I talked to before, about serving the community and, you know, putting, you know, members out on the road to do the crime scene examination, and – and things like that. You know, it doesn't – it doesn't meet with our objectives, basically, to roster like that. It's actually less efficient and less productive.

PN529

And in terms of the flexible working arrangement that Leading Senior Constable Beaumont is seeking, does that pose an impediment to rostering crime desk shifts?---A hundred per cent it does, yes. Yes.

PN530

Why?---Why? Because I don't have – I'm losing the shifts, therefore there are gaps where I cannot fill that particular shift and staff that shift. Yes, so it's a – it's definitely a big problem.

PN531

Just to cover off on that, you were in court I think, or in the Commission when Sergeant Marwood was giving his evidence before, were you not?---Yes.

PN532

You would've heard him say, when I asked him a question about it, that there's no difference in the work that's performed between – or in the circumstance where Leading Senior Constable Beaumont is performing the eight by 10-hour shifts in a fortnight, as opposed to the 10 by eight-hour shifts in a fortnight. I think your submission answered the question, what you said before, but I just wanted to ask whether you agree or disagree with that, that there's no difference?---I disagree with that. Yes, wholeheartedly.

PN533

In par 19 of the reply submission, which is on page 417 of the court book. I'm looking at paragraph (d) right at the top of the page. The Police Federation have come back to the Commission's decision in Emery and said:

*** NATALIE JANE DOLLARD

XN MR GOROZZO

PN534

With reference to Emery, the PFA considers as per paragraph 84, where there is no loss of time or tasks, then there are no reasonable business grounds to refuse.

PN535

And they refer to an extract in a case where it was said that:

PN536

Considerable significance that none of the three requests would involve the employee working less time or doing few tasks.

PN537

In your opinion is that a proper characterization of the situation here?---Sorry, I'll just take a moment to read.

PN538

Yes?---I would say that there is loss of time. Can you just repeat the question to me, to make certain that I'm - - -

PN539

Yes, of course. It's being submitted in this paragraph, by reference to the Commission's decision in Emery, that the reasonable – there are no reasonable business grounds to refuse because in the flexible work arrangement that's being proposed, there is no loss of time or tasks. And I'm asking whether or not you agree that that's a proper characterization of what would happen if a flexible working arrangement was to be approved?---Well, I would say that whilst I

understand that Leading Senior Constable Beaumont would still be working the same amount of hours, the manner in which those hours are worked would have issues for the efficiency and productivity of my work unit, and ultimately that service delivery back to the community.

PN540

I've just got two more quick questions. You've seen the mock roster, Sergeant Marwood's mock roster?---Yes, I have.

PN541

You've given some evidence about it in your statement, so I won't ask you too many questions, just one. He referred in his evidence to the fact that the mock roster didn't contain the Sunday afternoon shift because that's not a busy time. Do you recall him saying that?---I recall him saying that.

*** NATALIE JANE DOLLARD

XN MR GOROZZO

PN542

Do you have any evidence to give about that?---I disagree with that statement. I only happened to review various data relating to what we call CAD, CAD data, and that's the data that comes in, that's recorded for how busy we are through, you know, calls to emergency services. And when I was reviewing that, only probably two or three days ago, it certainly peaked on Sunday afternoons, PM shift. So I would actually – like I said, I disagree with Sergeant Marwood's statement earlier, that Sunday is not a busy time, and I think I recall him actually saying that they didn't require crime scene examiners on during that shift, and that's not the fact at all.

PN543

Is there a reason why Sunday afternoon is a busy time - - -?---Well, you know, obviously weekends can impact seasonal events, and things of that nature. But, yes, most – most definitely, we tend to see in policing, in general terms, Sunday PM shift as a – as a busier shift.

PN544

Final question. Sergeant Marwood gave evidence that one way to utilize, or to have more effectively utilized Leading Senior Constable Beaumont's 10-hour shifts during the trial period, and if I suppose a flexible work arrangement was to be approved now, should be the rostering with Leading Senior Constable McMannis at every opportunity, who works a 10-hour shift as well. Do you have any evidence to give about that?---What I would say to that is that the arrangements pertaining to Leading Senior Constable McMannis is that she is currently working 10-hour shifts, but that is in dispute, ongoing at the moment, and you know, very much so relating to very – you know, much the same sorts of business grounds as to why I'm seeking to amend her pattern of rostering. But further to that I would actually say that, you know, I see this problematic matching the two together at all times, and that, you know, certainly cannot be done easily either, because of leave commitments, training commitments, course commitments, requests by the individual members, you know, and a lot of other different factors like that. I'd also probably say that it would definitely not be my preference to match two members working together all the time either, and that's

sort of based more around ethical issues. Also the fact that as what has been highlighted, Leading Senior Constable Beaumont is a very experienced crime scene examiner, probably one of the most experienced in the work group, and I would actually like to share his skill and knowledge with the other crime scene examiners throughout the work unit. So it's not a plus for me to have, you know, two – the same two people working together all the time.

PN545

Thank you, Commissioner, that's the evidence.

PN546

THE COMMISSIONER: All right. Thank you. Yes, any cross-examination, Mr Pavlis?

PN547

MR PAVLIS: Thank you, Commissioner. I'll preface it by saying I may request leave to assist Jeremy with – we've made some notes in the lunch break very hastily regarding the documents provided, and I may assist him because they're police officers, and we may need to sort of get some assistance. Thank you.

CROSS-EXAMINATION BY MR PAVLIS

[2.12 PM]

*** NATALIE JANE DOLLARD

XXN MR PAVLIS

PN548

MR PAVLIS: Inspector Dollard, how are you?---Good, thank you.

PN549

Good, glad to hear it. Were you in your current role when Jeremy was going through the trial?---No.

PN550

No, so you didn't have oversight into what those particular members provided in their witness statements?---Not direct oversight, but I've had cause to review those rosters.

PN551

Thank you. You reference the need for – you referenced the need for 2 am shifts, 2 pm shifts, two crime desks. Can you identify those as members' MSPs, or minimum stations profiles; are you aware that the minimum station profile is a chief commissioner's instruction; is that correct?---Yes.

PN552

And are those specific instructions listed in the MSPs at the chief commissioner's instruction?---The – the – what - - -

PN553

The requirements that you've said are the two, two and two?---Yes.

PN554

If I may use shorthand. Are they in the MSPs?---They're not subject to MSP.

PN555

I'm sorry, I thought you were saying that they were. Mr Gorozzo said they were your MSPs?---They aren't service delivery requirements that have been set by management for this work unit. MSP is relevant to frontline policing duties and police stations.

PN556

Yes, so they're not a minimum station, they're your – as Sergeant Marwood said, they're something that is, you know, in an ideal world, it would be the best way, and everyone wants to strive for an ideal world, but it's not a minimum instruction?---No, it is an instruction by management.

PN557

From yourself. Okay. Would you mind turning to your statement, if you will. I've got a couple of questions about it. Point 50 of your instruction, page 15 of the internal list of your statement?---What page is it in the folder, please.

PN558

In the folder, now you're testing me. I work with paper, Inspector, quite a lot, so I'm a dinosaur on that level. So if you go to 603. In 50 you do agree that there is some sort of – the work – then you say:

*** NATALIE JANE DOLLARD

XXN MR PAVLIS

PN559

While I agree members who are rostered 10 hours may be able to perform some additional work from a rostering perspective –

PN560

And you say:

PN561

It doesn't make up for the fact that the following day you don't have a member at all.

PN562

We'll get to that statement, but I want you to have a look at the roster that you've identified, and Jeremy, if you could assist me, in particular where you note there was one occasion on the AM crime desk, was not rostered on 24 February last year. What do you see on that day, the AM crime desk?

PN563

MR BEAUMONT: The 24th, Friday the 24th, I see Leading Senior Constable Dale Jenkins, 29773, rostered on the 6 o'clock crime desk.

PN564

MR PAVLIS: So there was a crime desk on that day.

PN565

MR BEAUMONT: Just to confirm, Friday the 24th.

PN566

MR PAVLIS: No, Jeremy, just wait.

PN567

MR BEAUMONT: Sorry, that's what you showed me, sorry.

PN568

WITNESS: I can see that that's on the wrap(?) roster. I'd just like to have a moment to see on the roster build roster, is that the same, because from my understanding that particular roster was amended, because that was the first roster that Leading Senior Constable Beaumont commenced the 10-hour trial.

PN569

MR BEAUMONT: This was a roster - - -

PN570

PRESIDENT: Would you mind – Leading Senior Constable Beaumont has a comment, if that's okay.

PN571

THE COMMISSIONER: I'd prefer not. You're here as a representative. Why do I need to - - -

*** NATALIE JANE DOLLARD

XXN MR PAVLIS

PN572

MR PAVLIS: Well, as I said earlier, these are quite complex and - - -

PN573

THE COMMISSIONER: Well, if - - -

PN574

MR PAVLIS: This is listed as a unit roster, it's not listed as a draft roster, or any other thing, so we're only going by what was supplied.

PN575

THE COMMISSIONER: All right. If you need instructions from your member, then feel free. If he has to ask a question of the inspector, feel free, but I'm not going to have it in the sense of the applicant giving discussions about what the document means. The question is, are you wearing a navy jacket, Inspector, not the verbiage that came through before. All right.

PN576

MR BEAUMONT: Am I allowed to talk - - -

PN577

THE COMMISSIONER: No, you're not.

PN578

MR PAVLIS: Thank you. Inspector, you mentioned in your statement earlier that you're aware of the flexible work arrangement trial?---Yes.

PN579

Yes, and on page 693 of the folder there - - -?---693?

PN580

693 and 694, it is noted Ms Howell-Schramm, that the reason the trial was extinguished, or cancelled if you will, was because Jeremy didn't comply with a direction. Can you see that, page 694?---Which paragraph?

PN581

Bear with me. It's 694, from the bottom it's the paragraph that commences with the word 'Furthermore', which is the fourth last paragraph of the letter?---Yes.

PN582

Can you see it?---I can see that.

PN583

And it says:

PN584

Furthermore it's important that LEC Beaumont was previously provided with the opportunity to perform eight by 10-hour shifts, with the condition to perform residual duties at the direction of management, to which he did not comply.

*** NATALIE JANE DOLLARD

XXN MR PAVLIS

PN585

So that's the reason the shift was cancelled – the trial, rather, was cancelled; would you agree with that?---No, I wouldn't.

PN586

Because that's - - -?---I read that as an observation, or additional points made in the – in the letter. Difficult for me to understand all those circumstances as to the end of that trial, because I wasn't in position at that particular time.

PN587

So you weren't in the position at the time. I'll come to another – I may save that question for Commander Dollard regarding it, because she acknowledges that it was terminated because of that, so we will come back to that, if you wish.

PN588

THE COMMISSIONER: All right. That's up to you.

PN589

MR PAVLIS: So you've looked at these rosters and you've created a bunch of rosters yourself. I want to bring you back to one of the ones that you've spoken to. In our short period here, whilst looking at those, we have noticed some irregularities where you note that you were not able to supply a crime desk on various shifts, as well as a vehicle. We do notice on many of those occasions there was multiple people ill. With the flexible work arrangement, would illness occur whether there was a flexible working arrangement or not. You can't control people being sick?---No, you cannot.

PN590

So could it be that people aren't able to fulfil the roster, fulfil the crime desk, as you say, because they're sick?---That can happen.

PN591

So people wouldn't be able to get into a vehicle because they're unwell. Also on many of these occasions we note that there's a series of people on courses, and on some occasions four days in a row, and three days in a row, and on some occasions for members on a course on a particular roster. Would that impede the capacity to fill in a shift for subs for the crime desk, for example?---In normal circumstances, if I have the full complement of personnel working, per the FTE and working the days as per my requirements, we would be able to sustain, you know, additional, you know, requirements, such as courses and the like.

PN592

You can sustain four people going on a course at the same time, and you're saying in your statement earlier that you have a heavy and ongoing workload?---No, what I'm saying is that if I have a full complement of personnel working the pattern of days, of say 10 shifts a fortnight, then that can be, you know, generally sustained in a roster. Like, every roster is variable, of course, because we have different requirements, or you know, personnel on leave, or, you know, different things like that, so - - -

*** NATALIE JANE DOLLARD

XXN MR PAVLIS

PN593

This is exactly what Sergeant Marwood said, was every roster's variable, and we have to juggle and balance and do your best, and that's why we came up with the mock roster, to say that these sorts of things in certain situations where it's challenging to provide 10-hour shifts. With a little work, it can be done. Much is providing the people the opportunity to go on courses and such, would you agree?---Sorry, can you just repeat that question.

PN594

You've said as Sergeant Marwood has said, that these things are variable?---Yes.

PN595

And if you juggle around a bit you can get people to go on courses, you can get people to go here and there, and what have you, and people are sick, and you can juggle when those sorts of things happen. And if those things are capable to be juggled, and Sergeant Marwood has presented a mock roster where there's a situation where there are 20 10-hour shifts in that mock roster, why can't you put a little extra juggling and get this one done?---This one that you're referring to Leading Senior Constable - - -

PN596

The flexible work arrangement?---Because it's a loss of shifts that I cannot sustain over that period of time. Like, I understand that each roster is certainly different, yes, but by having a member reduce their actual working days, places an impact on my ability to actually roster a member to those days, and perform those functions that are critical to our – to our work.

PN597

But in the roster, as I said earlier, I see in one particular instance Bainbridge, Stephanie and – apologies, Ham, on a course on the same day. The following day, again and again, with the exception of Ham. He was only on the one day that the others were on, and Corso entered a course. So there's a capacity to make – for flexibility, as you said, you can juggle them around?---Those course – those courses, I would suggest, that they're mandatory courses that police would need to complete, you know, depending upon what they are, at whatever sort of – you know, at different intervals.

PN598

But they're lost shifts, though?---Yes, but again whilst we might have the – whilst we might see some members on courses during the roster, that's normal practice that we see that, because we have to obviously – you know, like there's retraining that occurs, which is mandated to complete. So that's not unusual to see course training on any roster.

PN599

As I said, they still function as lost shifts?---Sorry?

PN600

They still function as lost shifts?---I wouldn't call that a lost shift.

*** NATALIE JANE DOLLARD

XXN MR PAVLIS

PN601

Well, we're specifically referring to the unit's workload, you're losing a day, two days, three days. Some have only been in doing unit work?---When it comes to Leading Senior Constable Beaumont's application, yes, that's a loss of – loss of shifts, which directly impacts my ability to – you know, to serve the community, to, you know – you know, make sure that I'm giving that service and we're dealing with the crime that we're seeing in our particular area. The courses – the courses are, you know, are balanced within any roster. So – and then personnel are mandated as well to complete courses. So that is something that when I look holistically at a roster, I have to actually factor in that I do have to have shifts available to put members to complete their courses, and other sort of mandatory requirements. I still need to balance that – that minimum service back on to the roster with the two trucks in the morning, two in the afternoon and the crime desks. So from that perspective, I'm still looking to achieve both.

PN602

In your statement in 57, Inspector, you do note that there was a 21-day timeframe regarding the delivery of the reasonable business grounds, and you didn't provide Jeremy – you acknowledged you didn't provide him the written – the written reasonable business grounds by 21 days; correct?---Can you take me back to the page, please.

PN603

Sorry, this is point 57 of your statement, and bear with me, I'll get you the actual page. It is 604?---Yes.

PN604

You said there was some confusion in receipt and assessment of LSC Beaumont's flexible working arrangement application, and he acknowledged there was some delay in considering and progressing his application. And so for that reason you wanted to meet Jeremy within the 21 days, so you wanted to meet him on – the 20th day, I believe, you met?---Yes, so as I allude here in my statement, I understood very late July that this was a live application that I needed to deal with. When I went to look to speak to Jeremy, I saw that he was on a number of consecutive rest days at that time, so the first available time that I had to actually meet with him to discuss his application further, was on 1 August. So I put plans in place to do that as a priority. I set up a meeting with Jeremy, and we had a Teams meeting to discuss his application, and to – so I could also better understand his needs and requirements, and we could talk through, you know, like – like also so he could have a – understanding and perspective on – on what the business needs were as well. So we had a discussion that day on Teams.

PN605

So you formulated your reasonable business grounds at that point when you went into that discussion?---No, I went into that discussion to discuss Jeremy's application.

*** NATALIE JANE DOLLARD

XXN MR PAVLIS

PN606

You affirm that you were not going to approve it, though?---We talked to the fact that I needed further information, and I wanted to have further discussions with him to make an informed decision about his application.

PN607

And two days after that, when the 21 days were completed, were over, had you formed your reasonable business grounds by that time?---At that point I'd actually indicated to – or we had organized the meeting on 3 August. Prior to 3 August I had sent Jeremy advice via email, in relation to his application.

PN608

Yes, so you hadn't provided him with reasonable business grounds within the 21 days, though, is what I'm getting at?---I didn't articulate those in the email, though we had a fairly good discussion, and from my understanding we were in – in discussion and looking to resolve the matter, because Jeremy was quite – from my perspective I understood that he was quite favourable in looking to – to resolve and to continue our talks, and to come to a suitable arrangement between ourselves.

PN609

The VPM, the Victoria Police Manual, appendix 5 on workplace flexibility – I'm getting better – on page – commencing on page 214, I believe. It states that 'You must', and the word 'must' is in bold: 'Provide reasonable grounds by 21 days.' It doesn't say you have to have a chat around that time.

PN610

MR GOROZZO: Can the witness be taken to where it is in the document.

PN611

MR PAVLIS: I'm doing that - - -

PN612

THE COMMISSIONER: That would assist.

PN613

MR PAVLIS: I'll go to the version that's drafted from the enterprise agreement at clause 14.8 at page 101?---A different page now?

PN614

Sorry, page 101. It's essentially the same clause, with the same meaning. So it's 14.8 of the enterprise agreement.

PN615

THE COMMISSIONER: That's the document you were looking before, I think it's page 221 of the hearing book.

*** NATALIE JANE DOLLARD

XXN MR PAVLIS

PN616

MR PAVLIS: You're much faster than I, Commissioner, thank you. However, I'm happy to stick with either one, whether it be clause 14.8 or the VPM, they essentially say the same thing. Which one have you in front of you, Inspector?---I have page 101.

PN617

Excellent. Can you see clause subclause point 14.8?---Yes, I can.

PN618

Can you see that it says:

PN619

The employer and the employee reached agreement on change in working relations. That the employer must provide the employee with a written response to their request setting out their agreed changes.

PN620

?---I can see that.

PN621

We'll go to the other one then. Sorry to delay the Commission. 221, apologies.

PN622

THE COMMISSIONER: 221.

PN623

MR PAVLIS: So if we go to 221, and 1.6 procedures and the timeframes. Have you got that?---Yes, I do.

PN624

Procedures and timeframes, and we've got dot point, from 1.6, you've got three dot points down. Are you with me?---Yes, I am.

PN625

A written response to the request, including the particulars of the reasonable business grounds if refusing an application, must -

PN626

And the word 'must' is in bold:

PN627

Be provided by the local management or the relevant delegate to the employee.

PN628

So you did not provide written reasonable business grounds within that timeframe. When were the eventual reasonable business grounds provided in writing, to your recollection?---To that I would need to refer back to my statement, but what I would say to your question there is that I provided Leading Senior Constable Beaumont with a written response. But again, from my mind, we were very much in good discussions around coming to an agreement in respect to his application on 1 August when we met.

*** NATALIE JANE DOLLARD

XXN MR PAVLIS

PN629

That's not the requirement here, though. It says 'You must provide' – you can still have discussions, and you can still have – but you must provide the reasons. Now would it be fair to say that it is common practice, when senior officers are refusing a flexible work arrangement, to say, 'I refuse it, for these reasons, but here's an alternative.' Can both of those things be done in the same document?---They can.

PN630

Yes, but that's not what happened here, right?---I would say that I gave him the written response on the – on 1 August, I sent him an email.

PN631

That didn't provide the reasonable business grounds, because they came much later, didn't they?---The – the letter that Leading Senior Constable Beaumont received from Niki Schramm-Howells, I believe you're referring to.

PN632

Howells-Schramm, yes?---Yes, I understand that that was received by him. Like I said, I might need to refer back to my statement, but perhaps in September.

PN633

I believe it was 15 September?---That sounds correct.

PN634

That's several weeks after the 21-day requirement, and that's only after the – I keep Police Association, I'll say the PFA did write to Niki to protest the lack of reasonable business grounds, and also we did protest the other matters as

well. But I'm saying that the reasonable business grounds came a week after the protest commenced. You're nodding. I take that as an affirmation.

PN635

Were you in charge when Jeremy was required to return to the – on 28 March required to return from a crime scene to go to work at the watch-house?---Was I in charge?

PN636

Were you in your position?---My current position?

PN637

Yes?---No.

PN638

No, okay. We'll save that question for - - -?---I'm sorry?

PN639

I'll save that question for someone else then, if that's all right?---Okay.

PN640

Well, I have no more questions at this time?---Thank you.

*** NATALIE JANE DOLLARD

XXN MR PAVLIS

PN641

THE COMMISSIONER: All right. Thank you, Mr Pavlis. Any re-examination, Mr Gorozzo?

PN642

MR GOROZZO: Just one, Commissioner.

RE-EXAMINATION BY MR GOROZZO

[2.38 PM]

PN643

MR GOROZZO: You were asked some questions about losing shifts as well when people are sick?---Yes.

PN644

Or at length when people are attending courses and training?---Yes.

PN645

And your – one of the answers that you gave was that when you've got a full complement of staff, you can manage those things?---Yes.

PN646

By a full complement, would you understand a full complement be impacted by the approval of or arrangement that Leading Senior Constable Beaumont's seeking?---Yes.

PN647

In what way?---Because it would reduce those numbers, by those two shifts a fortnight, immediately. So that would definitely impact what we're setting out to achieve.

PN648

Nothing further, Commissioner, thank you.

PN649

THE COMMISSIONER: All right. Thank you. Thank you, Inspector, you're released and free to go, so thank you.

<THE WITNESS WITHDREW

[2.38 PM]

PN650

THE COMMISSIONER: So Mr Gorozzo, that brings us to Commander Stafford.

PN651

MR GOROZZO: Yes, Commander Stafford. Yes, we call her, thank you, Commissioner.

PN652

THE ASSOCIATE: Now take the Bible in your right hand. Can you please state your full name and give your address.

*** NATALIE JANE DOLLARD

RXN MR GOROZZO

PN653

MS STAFFORD: My full name is Johanna Therese Stafford, and my business address is 311 Spencer Street in Melbourne.

<JOHANNA THERESE STAFFORD, SWORN

[2.39 PM]

EXAMINATION-IN-CHIEF BY MR GOROZZO

[2.40 PM]

PN654

THE COMMISSIONER: Thank you very much. Please be seated.

PN655

MR GOROZZO: Your name is Johanna Stafford?---Yes.

PN656

And you're a commander of Victoria Police?---That's correct.

PN657

Have you made a statement in this proceeding?---I have.

PN658

Can I ask you to open the book in front of you to page 107 – 701, sorry. Does that look like the statement you prepared?---It does.

PN659

It's got nine pages, 29 paragraphs, and it's dated 20 February 2024?---That's correct.

PN660

Is it true and correct?---It is.

PN661

I tender that, Commissioner.

PN662

THE COMMISSIONER: All right. Thank you. The witness statement of Commander Stafford will be exhibit R4.

**EXHIBIT #R4 WITNESS STATEMENT OF COMMANDER
JOHANNA STAFFORD DATED 20/02/24**

PN663

MR GOROZZO: Thank you. I just have two questions, Commissioner, arising out of the reply material of PFA. Commander, you give evidence in your statement about the trial period of the flexible working arrangement that Leading Senior Constable Beaumont is seeking?---Yes.

*** JOHANNA THERESE STAFFORD

XN MR GOROZZO

PN664

And that occurred in February 2023 over a period of four weeks. There was an issue during the trial, wasn't there, about the duties that Leading Senior Constable Beaumont was to perform in the residual period between his usual eight-hour shift and the 10-hour shift. Can you tell the Commission about that?---I'd probably just first introduce my thinking around the trial, because as you may be aware, this process was going on for about a year-and-a-bit beforehand. I was not in agreeance to a 10-hour rostering pattern, however as a means of taking a divisional approach, and not necessarily just focused on the Crime Scene Services office, I saw some benefit in utilising, by agreement, those two hours to support an area within the division that was more in need of capacity through the frontline. And so my interest was really about, you know, where – where there was not residual work to be done, that couldn't be passed over to the next shift, utilising Jeremy to support work within the Narre Warren Police Station. Sorry, I think I've lost the question a little bit.

PN665

I think that's an answer. Thank you. And consistent with your position on that, that you've just expressed, did you consider it to be a priority that was in that residual two hours being Senior Constable Beaumont would perform administrative duties for other members of the CSS, Narre Warren?---Sorry - - -?

PN666

Did you consider it a priority?---No.

PN667

You considered - - -?---No, not at all.

PN668

Have you had an opportunity to read some of the reply of – statements that have been filed by some of the officers from the CSS at Narre Warren?---Yes, I have.

PN669

You will have seen that many of them have given evidence that by reading Senior Constable Beaumont being more available to perform administrative duties, it allows them more time to be processing crime scenes and vehicles out in the field. Do you have anything to say about that?---I think that we're coming from different perspectives, and I appreciate that as a Senior Constable within a work unit, your focus is, as Jeremy has articulated, around himself, his family and his work unit. My focus was divisionally, and it, for me – sorry, I've lost the question again.

*** JOHANNA THERESE STAFFORD

XN MR GOROZZO

PN670

That's okay. The proposition is – I guess I'm asking you to comment on whether you agree with it - is that these officers are saying that service delivery requirements are being met, because while LC Beaumont is performing more administrative duties they can be doing more crime scene processing in the field?---Yes. Again I can only talk from my perspective, and I use the parallel because I have been an emergency nurse for many years, and I actually compared the work of Narre Warren Police Station to an emergency department, and within the emergency department you'll have cubicles where people are unwell, and they have a range of conditions – some are very serious and some are not so much. You'll have a resuscitation area where people require support, life support, and you'll have a triage desk where you have people lined up who need to be assessed as they come in the door to determine how unwell they are. The crime scene services I would say is a patient that's sitting within a cubicle. So whilst have Jeremy in there helping those staff treat a patient, would it benefit them? When you look at the overall emergency department and you have this resource, well I would suggest that having them working in support of triaging people quicker, or in the resuscitation bay handing equipment to the staff, the medical staff, is much more of a priority from a divisional perspective.

PN671

Do you see the benefit in CSOs being relieved of the obligation to do the administrative work on their crime scene services?---It depends on the individual. Some people enjoy and they look forward to the days where they are on desk duties and administrative duties, because it gives them that freedom from interaction with the community, the ability to catch up on some online training. So there are some benefits in having a bit of a balance in your roster.

PN672

Thank you.

PN673

THE COMMISSIONER: Thank you, Mr Gorozzo. Mr Pavlis?

PN674

MR PAVLIS: Thank you, Commissioner.

CROSS-EXAMINATION BY MR PAVLIS

[2.46 PM]

PN675

MR PAVLIS: Commander, can I take you to page 705 of the book and point 14 of your statement where you said that Mr Jeremy was in breach of the terms of the trial agreement? What was the nature of the breach?---The nature of the breach was that coming to the end of the eight hours where a decision was to be made around utilising Jeremy's additional two hours, through feedback that I received from management and meetings that had been had with Jeremy, that he had made it very clear that he had no intention to do any duties outside of his crime scene office. So for me, that was considered a breach of the agreement

PN676

Intentions are different to actions. Did he refuse to go to the watch house?----As in walk to the watch house or actually - - -

*** JOHANNA THERESE STAFFORD

XXN MR PAVLIS

PN677

No, when he was directed to go to the watch house as part of – and I'll take you to on 28 March 2023 when Jeremy was at the crime scene, and on - he was in the middle of a crime scene, he received an email or text and what have you saying come here now, and if you look at the terms of the trial, it does say there is CSS work to do, that he is to do that. How is it a breach if he was doing – he was in the middle of a crime scene and then dragged back to the watch house. Where's the breach there?---I can't comment on that particular incidence, because I wasn't at work at that time. Someone was doing my role in an upgraded capacity. So it was agreed that if there were circumstances where he was at a crime scene and it was an emergency that, yes, that would be appropriate that he would remain, and for what I understand from McMannis's evidence earlier, they were able to complete that job before they returned.

PN678

In point 17 of your statement, you say:

PN679

The trial agreement would be terminated due to the refusal to perform duties –

PN680

not the intention to – so not the intention; his refusal to perform, not the intention to refuse –

PN681

as determined and directed by local management.

PN682

Now, the trial arrangement which we referenced points to a clause which I highlighted, and I'll go to that where it says that there is – as I said earlier, there's a situation where there's crime scene services work to do, or not enough crime scene services to do - at that point off he goes. On all occasions where he was directed

to go to the watch house or do general duties, he did go. So where's the breach?---So when you say he did go, he may have walked to the watch house, but the interaction that occurred between management advising him of what the requirements were for the next two hours and him actually engaging in those duties, he didn't do it, and he was very clear that he would not do it; not today, not tomorrow, at no time would he do anything outside of what was crime scene duties.

PN683

But he did front up to the watch house; he was there?---Being present in a location and actually engaging in the duties that have been directed by management are two very different things.

PN684

Well you're saying he refused. Are you engaging any discipline process for that?---No.

PN685

Do you have a date for which he refused? Do you know the date that he refused?---I believe it's in the email Acting Inspector Glenn Cruz provided, which is attached – I'm not sure exactly which attachment. And I'm not sure whether it specifies exact dates, but it's very clear that on all occasions where Jeremy was asked to do something outside of crime scene that that didn't occur. Those duties did not get done.

*** JOHANNA THERESE STAFFORD

XXN MR PAVLIS

PN686

In Jeremy's position description, there are – this one's from I believe 2006 – it doesn't require him to do general duties work?---That's right, which is why the only reason I agreed to this 10-hour roster was because it was an agreement between us that he would do those things that were outside – I acknowledge they're outside of his position description.

PN687

When summoned he did attend to do work. He may have been grumpy, he may have been unhappy, but he did go?---I'm sorry, I disagree. He may have physically walked there, but his behaviour, from what was reported back to me, was very combative, was very emotional, was heightened to the point where there was concerns for his welfare. There was concerns being raised by his managers about the difficulties in managing this situation, to the point where he actually didn't do any of those duties at any time.

PN688

Those issues aren't in your – well they're referenced in Niki's letter saying that he did not comply?---They're referenced in the emails from his local management that are attached. Glenn Cruz provides a very good, succinct summary of those discussions.

PN689

There are some discussions in those attached emails, and I might take you to page 750 where - - -

PN690

THE COMMISSIONER: Sorry, which page?

PN691

MR PAVLIS: 750, Commissioner. Well it starts a bit earlier than that. It starts a couple of pages prior to that, where there's an exchange pertaining to directing Jeremy to the watch house, or what have you - - -?---Sorry, what page is that one?

PN692

Well let's start at 748 with yourself, where you reference and where you write to Inspector Dollard saying he's not happy to do duties outside of the CSS office. He doesn't have to be happy - - -?---No, absolutely, and if he was unhappy but doing them, that would have been compliant with the agreement.

PN693

But there's no talk in this email exchange regarding blatant refusal, is there?---Sorry, this is not the one I was referring to. It - - -

PN694

Let's continue with this one, because I'm hopefully coming to something?---Yes.

*** JOHANNA THERESE STAFFORD

XXN MR PAVLIS

PN695

This email exchange identifies that there's - a 21-day clock is ticking, and let's go - - -

PN696

THE COMMISSIONER: Which page are you on?

PN697

MR PAVLIS: Pardon me?

PN698

THE COMMISSIONER: Which page are you on?

PN699

MR PAVLIS: This will be on 750 where Commander Stafford says the 21-day clock on Jeremy's FWA's up tomorrow, which was on 31 July, and the discussion goes on where an email from my colleague, Mr Rose, who's here, notes that the agreement that was signed, pertaining to Jeremy - notes that it works against us in terms of directing him to the watch house and other such duties, because the agreement does say that he can only go when there is no CSS work to do or not enough CSS work to do. So in terms of whether or not Jeremy – you say he went there and he was grumpy, and he was, in your view, not happy to be there - - - ?---Sorry, that was your - - -

PN700

- should he have not – I'm paraphrasing?---Yes.

PN701

I'm not saying you said that word. I apologise if – I don't mean to put words in your mouth. We're saying that the agreement, the way he signed it, and the way it was drafted by management - and by the way, we didn't get invited to consult, but that's a whole other - - -?---Sorry, I wasn't there either.

PN702

Yes?---Yes.

PN703

The agreement does say there's not enough CSS work to do, or if there is CSS work to do he is to continue. So I'm saying that he may have kicked and screamed, or been unhappy, but he did turn up, but he should have been doing CSS work instead, as per the agreement, and - - -?---No, I disagree.

PN704

- - - as Luke has said, the agreement works against us in terms of directing Jeremy to those - - -

PN705

THE COMMISSIONER: Mr Pavlis - - -?---In their view – in your view.

PN706

Mr Pavlis, this is not a negotiation. Okay? This is a hearing in the Fair Work Commission. We are presently doing cross-examination of a witness.

*** JOHANNA THERESE STAFFORD

XXN MR PAVLIS

PN707

MR PAVLIS: I got carried away.

PN708

THE COMMISSIONER: If you care to ask a question, no more than two sentences, comprising no more than 10 words each, we can progress. Otherwise we'll release the witness.

PN709

MR PAVLIS: Should Jeremy have been doing CSS work at that time?---No.

PN710

Does the agreement say he should have been doing CSS work at that time when there was CSS work to do?---No. There was someone else available to do that work.

PN711

Does the agreement say if there's someone else that you can put to do - - -?---No, it says it's determined by management, and we determined that there was no CSS work for him to do, or not enough, at that time.

PN712

So being in the middle of the crime scene is not enough work?---Sorry, I was not there. I was on leave at that time. So you'd have to ask the superintendent who

was doing the role on that day. But yes, I would argue that that – in the middle of a crime scene – should have been allowed to complete that, and was provided the opportunity to complete that task before coming back.

PN713

So you're saying that even though there's a specific agreement, you reserve the right to interpret it as you see?---No, I think that it was an agreement. So, you know, the parties – and again I wasn't there – I do believe TPAV was invited to be part of those consultations, and were part of that.

PN714

We wrote letters to protest, but that's another point, that we didn't know about it?---As I – I can't provide comment.

PN715

Anyway, that's – so I'll switch to Adele McMannis, who has been doing 10-hour rosters for probably around two years, and you're saying you weren't around then, but do you acknowledge that that was the case, and she spoke about that a bit earlier?---Sorry, what's the question, that she's been doing 10-hours shifts for - - -?

PN716

She'd been on 10-hour shifts for quite some period?---Yes, correct.

PN717

Two years?---Yes.

*** JOHANNA THERESE STAFFORD

XXN MR PAVLIS

PN718

Were there problems filling shifts during that period?---No. There were occasions where we became aware that Adele had attended a course for six hours, but had then gone home and not completed 10 hours, but had claimed on her timesheet that she had worked a 10-hour shift. So that was a concern by management.

PN719

That's a separate concern though to rostering. That's an individual concern about someone doing something though, isn't it?---Sorry - - -

PN720

That didn't - - -?---Yes, that was a concern.

PN721

That's for allegedly not complying with the roster, but the roster did fill the spot, right?---Sorry, I'm - - -

PN722

You just said she went on a course?---Yes.

PN723

That she was rostered in a 10-hour shift to attend a course?---Yes.

PN724

And you're saying that she didn't come back?---That right. The expectation was she'd return to office - - -

PN725

But that doesn't constitute a hole in the roster, as when someone writes up a roster that someone's name's (indistinct) is attached to the roster. So her name was attached, so there wasn't really very many situations where Adele - - -?---Sorry, is this about Adele, or is it about Jeremy?

PN726

Apparently sometimes it is and sometimes it isn't, but I'm just – my point being - and Commissioner, I'll get to it right away - is that there is capacity within the unit to have handled Adele doing 10s for a couple of years with the option to review, as per the enterprise agreement, at any time, yet there was – that went through, and now there are greater resources. Would you say Jeremy can have 10 hours, considering the parallels there, where there are even more resources available to the unit?---No, I wouldn't. So every case is assessed on its own individual merits, and Adele McMannis has unique circumstances, which I won't discuss here, that were at the point where management were willing to engage in a 10-hour rostering pattern to support Adele. Those circumstances, as I understand, have changed. Therefore, we are reviewing and going through a process of reviewing her agreement. In relation to assessing whether there is capacity to afford Jeremy a 10-hour roster, I think it's well-documented that it came down to understanding what was a minimum level of service for the community, how many shifts would be required to be filled to meet that delivery, and recognising that we were at a deficit and therefore could not accommodate.

*** JOHANNA THERESE STAFFORD

XXN MR PAVLIS

PN727

I'll ask you – just one final question, Commissioner. In terms of providing the reasonable business grounds, they came several weeks late, and not compliant to the police manual, as noted earlier, and you note that you had discussions with Inspector Dollard leading up to that, in that email I just quoted you, saying, come on, chop chop, 31 days, day 19. Surely there was a view at that point regarding what your reasonable business grounds were considering all the discussion and assessment, and all the rosters that you presented today - was there a view?---There was a view, as I said, because this has been going on for some time. I was open to a blended roster, and through Inspector Dollard's engagement with Leading Senior Constable Beaumont I was of the understanding that we were very close to actually reaching an agreement around a blended roster, a nine-day-a-fortnight agreement. So, yes, I acknowledge there was a 21-day requirement to provide a response. I was clear that the 10-hour could not be considered. We had trialled it. It had not worked.

PN728

You say the trial had not worked. I see that you say that – most people here say that you disagreed – Inspector Dollard and yourself, you disagreed that it was beneficial to the unit?---For me it wasn't an assessment on the benefit to the unit. It was the benefit to the division.

PN729

I'll finish my question if you don't mind?---Sorry.

PN730

Apologies?---Go ahead.

PN731

No one has said it impacted any service delivery. No one has said that. They just say we disagree that it was beneficial. You say that in terms of the response which came, as I said, from Niki Howells-Schramm, she only references the trial as having been cancelled, but she does not reference that the trial didn't work. Everyone here is saying the trial isn't as good as you're saying it is, and all the 11 or so witness statements are saying it wasn't as good, but no one is saying it didn't work?---I'm saying it didn't work.

PN732

And you're not saying that in your evidence?---I was unable to make an assessment. The aim was to run this for six months and actually look at the benefits that it may have had for the frontline, the benefits it may have had for cross-pollination of two work units. We saw that Jeremy could have actually mentored some of our most junior members coming into the organisation. There was lots of benefits I was actually really keen to have an assessment of, but we weren't able to do that. It was also a separate part of the letter from the director of WID, because that was really in response to Jeremy's further submission for a new FWA. So it was then sort of starting again around whether or not we could accommodate his request at that point in time in July.

*** JOHANNA THERESE STAFFORD

XXN MR PAVLIS

PN733

I'm not hearing that it didn't work.

PN734

MR GOROZZO: Is that a question, Commissioner?

PN735

MR PAVLIS: Sorry, it's not a question. I'll frame it – did I hear that – did you say that it did not work?---I said - - -

PN736

At the time?--- - - - the trial didn't work, no.

PN737

At the time. Did you say that when you provided your reasonable business grounds that the trial did not work?---I don't believe so, but - - -

PN738

Thank you. That's fine?---Yes. I didn't have that conversation.

PN739

But as commander, you would have been – things would've been reported up to you and filtered up to you pertaining to it?---In relation to the trial or the new application?

PN740

That's right. The trial?---Yes, I was very interested in the trial. Yes.

PN741

Yes, you were, but in your evidence you say you disagree, and as I said, I put it to you that you haven't said it didn't work. So I am seeking to see if there were reasonable business grounds where the 10s impacted those in a negative manner, and I'm putting it to you that you haven't really said that to us?---I'm sorry, I lost that a little bit.

PN742

In your evidence. That's - - -

PN743

MR GOROZZO: I object to that question. It's extremely confusing. It might be rephrased.

PN744

THE COMMISSIONER: What are you trying to establish, Mr Pavlis?

*** JOHANNA THERESE STAFFORD

XXN MR PAVLIS

PN745

MR PAVLIS: Commissioner, I'm trying to say that at the time when the reasonable business grounds were provided, we had a trial that was cancelled, in our view for controversial reasons, and then we have no assessment of the trial, good or bad, in terms of the reasonable business grounds. So we're saying that if it ain't bad and it ain't good, it ain't doing any harm. So that's I guess my colloquial way of putting it. But I'm saying to you, if it had done harm would it not behove you to have entered that evidence to the Commission today?---Had we been able to complete the review of the trial? I would have been able to present a view around whether it was positive or whether there was harm, but I can't do that.

PN746

For the portion that you had, which was seven or eight weeks or thereabouts, which is a decent little period there?---Twenty-six shifts I think was the - - -

PN747

It was a third of the way through?---Yes.

PN748

Would you have said a third of the trial - - -?---As I said, the trial was to actually assess the benefit to the division. I was not able to do that, because at no time did Jeremy do anything outside of Crime Scene Services. So I don't have any material or evidence to draw from, to talk about whether the trial was - - -

PN749

THE COMMISSIONER: So does that mean that you accept that the decision refusing the application did not take account of the results of the trial?---I think it took into account the fact that it became a combative process, and that it was entered into in good faith and it didn't go well, and it created a lot of stress for management, and I think that came through in the emails that Acting Inspector Cruz provided. But in terms of actually assessing whether this could be an ongoing arrangement, there was no way of actually making an informed decision based on that trial.

PN750

Thank you. Mr Pavlis?

PN751

MR PAVLIS: (Indistinct) a spreadsheet throughout the whole period of the trial into what hours he's done, was that assessed?---Yes.

PN752

Did you see Jeremy's workload during the residual hours, which was what this worksheet was focussing on?---Yes.

PN753

Does that match what the witnesses have stated pertaining to what the work he was doing?---What witnesses?

PN754

The witnesses pertaining to Jeremy's residual hours that were submitted a bit earlier. I'll give you some of the names. That might assist?---So the ones that presented today or - - -

*** JOHANNA THERESE STAFFORD

XXN MR PAVLIS

PN755

No, not here today. Sorry, the witness statements. Apologies?---Yes. Again, I go back to that analogy with the emergency department, it would have assisted them in their little cubicle, because they've got Jeremy helping them, but what we couldn't assess was (a) the ongoing impact, because people will start to get annoyed that they're not getting their desk shifts any more, because they're working a truck more often.

PN756

Did anyone complain to anyone that they're not getting those - - -?---No, but I wouldn't expect that that would happen in the early part of the trial. Perhaps - - -

PN757

So no one complained?--- - - - later down the track, and I'm talking about other situations within the division, because we have a number of FWAs where the impacts on the others, or they're silent for a little while, but then they start to say hey I'm now saying that this is not working for me. We didn't get to actually fully understand the impact, because it didn't - - -

PN758

We had serious people who were – well if I say 'glowing' I'm using the wrong word, but were very positive in their assessment of Jeremy's support and the capacity to assist them to do their work longer and better. They were working smarter is what the message I received?---Well - - -

PN759

What's wrong with working smarter?---There's nothing wrong with working smarter. I just don't agree that that was a smarter way to do it.

PN760

I think I'll let you go, Commander. Thank you.

PN761

THE COMMISSIONER: Thank you, Mr Pavlis. Mr Gorozzo?

RE-EXAMINATION BY MR GOROZZO

[3.08 PM]

PN762

MR GOROZZO: You referred to an email, Commander, in your evidence that was sent by Glenn Cruz. Could you please turn to page 717 of the court book? This is in relation to some questions that you were asked about LSC Beaumont's willingness or otherwise to perform duties in the watch house. It's actually – it starts on 718. This is an email from Glenn Cruz to you and Melissa Webbers, do you see that?---I do, yes.

PN763

On 9 March 2023, and (indistinct) that the acting inspector said that he had met with LSC Beaumont, the applicant, before. Do you see that?---Yes.

*** JOHANNA THERESE STAFFORD

RXN MR GOROZZO

PN764

And he says in the second line after the first dot point:

PN765

The purpose of the meeting was to discuss the attached and resolve what Senior Sergeant King and Sergeant Marwood have described as a level of hostility from Beaumont regarding various things.

PN766

?---Yes.

PN767

And then under the heading, 'Summary of the meeting,' he goes on to provide to you a summary of the meeting he had with LSC Beaumont. And then over the page, item (2) is – I'll just read it in for the record and you can confirm whether or not this is what you were referring to –

PN768

Beaumont stated that under no circumstances (underlined) is he prepared to perform his residual two hours assisting the general duties of Narre Warren Police Station. He stated that he had received advice from Rachael Morris in

TPAV about the specific issue, and Morris had advised him that if he was directed to perform those duties he should respectfully refuse and contact her immediately.

PN769

Is that what you're referring to?---Yes, correct.

PN770

Just one further question in response to a question that was asked by the Commissioner, you referred to the fact that – the evidence that you gave I think was that LSC Beaumont had been combative in the trial, and that that to some degree factored into the decision not to approve the flexible working arrangement. Was your concern about his combativeness general, or did it relate specifically to his willingness to perform residual duties in a particular way under such a flexible working arrangement?---So the latter, but as a divisional manager of course I was also concerned more generally about people's behaviour in the workplace.

PN771

But in terms of the - - -?---The application?

PN772

Yes?---Yes, the latter.

PN773

Thank you. Nothing further, Commissioner.

PN774

THE COMMISSIONER: Thank you, Mr Gorozzo, and thank you, Commander Stafford for giving evidence. You're released and free to go.

*** JOHANNA THERESE STAFFORD

RXN MR GOROZZO

<THE WITNESS WITHDREW

[3.12 PM]

PN775

THE COMMISSIONER: That now concludes the evidence for the respondent?

PN776

MR GOROZZO: It does, Commissioner.

PN777

THE COMMISSIONER: Thank you. Now, parties, how do you wish to deal with submissions?

PN778

MR PAVLIS: Commissioner, we've had a very brief chat about that and – was the consensus written?

PN779

MR GOROZZO: Well, for my part I think if I was to make my submissions now I'd probably be 45 minutes to an hour, in that ballpark, so it probably couldn't be

done today. I'm in the Commission's hands, and Mr Pavlis's hands as well, as to whether it's preferable to come back and have closing submissions tomorrow or to put in written submissions. I'd be happy to do either.

PN780

THE COMMISSIONER: Look, I'm a bit agnostic as well. The only thing I do have firm views about is I've got a hearing at 4 o'clock. So I can't go longer than 4 obviously. We're listed tomorrow, as you know. There's a transcript being taken, which I would assume that we would have by the end of next week, around about 8 March. If you prefer I can - we can either have oral submissions tomorrow, or if you prefer I can find a date in the week after 8 March.

PN781

MR GOROZZO: I'll just take some instructions briefly.

PN782

THE COMMISSIONER: All right. Or alternatively I can do written submissions. Did you want to maybe just adjourn for a few minutes and allow those instructions to be taken?

PN783

MR GOROZZO: Yes.

PN784

THE COMMISSIONER: Thank you.

SHORT ADJOURNMENT

[3.13 PM]

RESUMED

[3.20 PM]

*** JOHANNA THERESE STAFFORD

RXN MR GOROZZO

PN785

THE COMMISSIONER: Very well, how do you wish to proceed?

PN786

MR GOROZZO: Commissioner, we've both agreed the best way to proceed would be with the benefit of the transcript, and on those written submissions, if that's suitable.

PN787

THE COMMISSIONER: All right.

PN788

MR GOROZZO: And so what we were thinking is – I think you gave an indication that we could expect probably to have the transcript by the end of next week or thereabouts?

PN789

THE COMMISSIONER: You should have them by the 8th, but who knows.

PN790

MR GOROZZO: Okay.

PN791

THE COMMISSIONER: They might be a day or two later I guess.

PN792

MR GOROZZO: All right. We were just saying that we'll agree to an indulgence. We're fine with that. We'll get it when we get it, and then we'll work out that.

PN793

THE COMMISSIONER: All right. But after the transcript becomes available, what's the sequencing from there?

PN794

MR GOROZZO: 15 March for the applicant's closing, written, and what, the 22nd?

PN795

MR PAVLIS: The 22nd, and then the 27th for a reply.

PN796

THE COMMISSIONER: All right. Thank you. What we'll do in that case is after we adjourn we'll issue some email directions just confirming those matters. We'll await the transcript. The applicant will then have until 15 March to provide its written submissions, the respondent until Friday 22 March, and then the applicant response by Friday 27 March.

PN797

Thank you. In terms of the decision after there, I don't give any guarantees, and this is particularly to you, Mr Beaumont – I don't give guarantees about how long the decision will take. The Commission's general benchmark is to make sure that most of the decisions are published within eight weeks, and all of the decisions within 13 weeks. I would hope to do it quicker than that, but I just can't guarantee that at this stage.

PN798

On that basis we'll adjourn. Thank you very much.

ADJOURNED INDEFINITELY

[3.22 PM]

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