



TRANSCRIPT OF PROCEEDINGS  
*Fair Work Act 2009*

**JUSTICE HATCHER, PRESIDENT  
VICE PRESIDENT ASBURY  
DEPUTY PRESIDENT O'NEILL  
DEPUTY PRESIDENT GRAYSON**

**AM2024/20**

**s.157 - FWC may vary etc. modern awards if necessary to achieve modern awards objective**

**Gender undervaluation — priority awards review — Health Professionals and Support Services Award 2020**

**Melbourne**

**10.00 AM, WEDNESDAY, 12 NOVEMBER 2025**

**Continued from 28/10/2025**

PN3578

JUSTICE HATCHER: Good morning. Can I advise that Deputy President Slevin unfortunately cannot sit with the Bench at the hearing days this week or next week, but he will read the transcript and participate in the Bench's decision-making process. All right. I will take the appearances from left to right, so, Ms Dowsett, you appear for the Commonwealth?

PN3579

MS C DOWSETT: Yes, your Honour.

PN3580

JUSTICE HATCHER: Ms Burke and Mr Lettau, you appear for the ACTU, the HSU and the UWU?

PN3581

MS K BURKE: Yes. Thank you, your Honour.

PN3582

JUSTICE HATCHER: Mr Tracey and Mr Holding, you appear for Australian Pathology?

PN3583

MR TRACEY: Yes, we do, your Honour.

PN3584

JUSTICE HATCHER: Ms Pase, you appear for Australian Diagnostic Imaging Association?

PN3585

MS PASE: Yes, your Honour.

PN3586

JUSTICE HATCHER: And, Ms Leoncio, you appear for Healthscope Operations Pty Ltd and Adelaide Community Healthcare Alliance?

PN3587

MS F LEONCIO: Yes, I do.

PN3588

JUSTICE HATCHER: On Teams, Ms Rafter, you appear for Australian Business Industrial, Ageing Australia and the New South Wales Business Chamber?

PN3589

MS A RAFTER: Yes, your Honour.

PN3590

JUSTICE HATCHER: Ms Luxton, you appear for the Phlebotomists Council of Australia?

PN3591

MS B LUXTON: Yes, your Honour.

PN3592

JUSTICE HATCHER: Is that all the appearances? Yes. All right. Thank you. So before we get into the evidence, we need to deal with the order for production of documents served by the ACTU. Mr Tracey, what is the basis of opposition to that - - -

PN3593

MR TRACEY: Your Honour, can I just - before I answer that question - advise that my learned friend Ms Burke and I are having discussions about that order which might avoid the need to have any argument about it. Perhaps the appropriate course, subject to the Bench's view, is that matter be put up until later today in case we can just short-circuit it.

PN3594

JUSTICE HATCHER: Right, well, I'm happy with that. I will leave it to counsel to advise the Bench if and when we need to make any determination about that issue.

PN3595

MR TRACEY: If the Commission pleases.

PN3596

JUSTICE HATCHER: All right. The next step, I'll just mark - subject to any objection anybody has - the witness statements which have been filed, which I understand the makers of the statements are not required for cross-examination. The second witness statement of Alex Leszczynski, dated 12 September 2025, will be marked exhibit HPSS148.

**EXHIBIT #HPSS148 SECOND WITNESS STATEMENT OF ALEX LESZCZYNSKI DATED 12/09/2025**

PN3597

The third witness statement I've got for Helen Jeges, J-e-g-e-s, dated 12 September 2025, will be marked exhibit 149.

**EXHIBIT #HPSS149 THIRD WITNESS STATEMENT OF HELEN JEGES DATED 12/09/2025**

PN3598

The witness statement of Dr Kerrie Clarke, dated 11 September 2025, will be marked exhibit HPSS150.

**EXHIBIT #HPSS150 WITNESS STATEMENT OF DR KERRIE CLARKE DATED 11/09/2025**

PN3599

The witness statement of Abbie Foster, dated 11 September 2025, will be marked exhibit HPSS151.

**EXHIBIT #HPSS151 WITNESS STATEMENT OF ABBIE FOSTER DATED 11/09/2025**

PN3600

The witness statement of Dilani Ranamukhaarachchi, R-a-n-a-m-u-k-h-a-a-r-a-c-h-c-h-i, will be marked exhibit HPSS152.

**EXHIBIT #HPSS152 WITNESS STATEMENT OF DILANI RANAMUKHAARACHCHI**

PN3601

The witness statement of Sean Donovan, dated 16 September 2025, will be marked exhibit HPSS153.

**EXHIBIT #HPSS153 WITNESS STATEMENT OF SEAN DONOVAN DATED 16/09/2025**

PN3602

The witness statement of Bec Luxton, dated 12 September 2025, will be marked exhibit HPSS154.

**EXHIBIT #HPSS154 WITNESS STATEMENT OF BEC LUXTON DATED 12/09/2025**

PN3603

Are there any other preliminary matters we need to deal with? All right. The first witness is Greg Houston; is that right?

PN3604

MS PASE: Yes, that's right. Just one preliminary matter that is related to that, your Honour.

PN3605

JUSTICE HATCHER: Yes.

PN3606

MS PASE: As the Full Bench would be aware, confidentiality orders were made on 16 October effecting protecting the confidentiality of commercially sensitive information and material that was produced by ADIA to the union, with such material having been subsequently produced. This is the nine individual survey responses on which Mr Houston bases his expert reports.

PN3607

I've had a discussion with my learned friends this morning and to the extent that the union proposes to cross-examine Mr Houston about - or using the produced material, so that's the individual survey responses, which I understand from Ms Burke that she does, then I make an application that those who are not part of that confidentiality regime as part of those orders be required to leave the hearing for the duration of that small part of the cross-examination. I understand from my learned friends that this is not opposed.

PN3608

JUSTICE HATCHER: All right. Will that be a discrete section of the cross-examination?

PN3609

MS PASE: Yes.

PN3610

MS BURKE: Yes, it will, your Honour.

PN3611

JUSTICE HATCHER: All right.

PN3612

MS BURKE: I was proposing to say, 'I'm now going to some confidential material', before I do.

PN3613

JUSTICE HATCHER: Yes. All right. Well, we will accommodate that.

PN3614

MS PASE: Thank you, your Honour.

PN3615

JUSTICE HATCHER: Can we get - - -

PN3616

MS PASE: Yes, I call Greg Houston.

PN3617

THE ASSOCIATE: Please state your full name and address.

PN3618

MR HOUSTON: Gregory John Houston, Level 40, 161 Castlereagh Street, Sydney.

**<GREGORY JOHN HOUSTON, AFFIRMED**

**[10.12 AM]**

**EXAMINATION-IN-CHIEF BY MS PASE**

**[10.13 AM]**

PN3619

Thank you, Mr Houston. Could you just repeat your full name for the benefit of the Commission?---Gregory John Houston.

PN3620

And your occupation?---Economist.

PN3621

You have made two reports that have been filed with the Commission in this matter; is that right?---Yes.

PN3622

The first being 12 September 2025?---Correct.

\*\*\* GREGORY JOHN HOUSTON

XN MS PASE

PN3623

And the second being 10 November 2025?---Yes.

PN3624

Have you familiarised yourself with those reports before coming into the hearing today?---Yes.

PN3625

Are those reports true and correct?---Yes.

PN3626

I tender those reports, your Honour, the report of Greg Houston of 12 September 2025.

PN3627

JUSTICE HATCHER: All right.

**EXHIBIT #HPSS155 EXPERT REPORT OF GREG HOUSTON  
DATED 12/09/2025**

PN3628

MS PASE: And the supplementary report dated 10 November 2025.

**EXHIBIT #HPSS156 SUPPLEMENTARY REPORT OF GREG  
HOUSTON DATED 10/11/2025**

PN3629

Thank you, your Honour, that's the examination-in-chief.

PN3630

JUSTICE HATCHER: All right. Ms Burke.

**CROSS-EXAMINATION BY MS BURKE**

**[10.13 AM]**

PN3631

Thank you, Mr Houston. You can hear me all right from here?---Yes, I can.

PN3632

Good. Now, your report – I'm going to refer to it as one report, because I understand the second report is a correction to part of the first – your report was based on a survey that was sent to members of the Australian Diagnostic Imaging Association. You designed this survey; is that right?---In conjunction with Herbert Smith Freehills, and also with the CEO of ADIA.

PN3633

Okay. Did you personally write the questions, or was that part of the collaboration?---They are the product of that collaboration.

PN3634

It was just the CEO of ADIA that assisted you with that; anyone else from ADIA is what I mean?---No. It's the CEO.

\*\*\* GREGORY JOHN HOUSTON

XXN MS BURKE

PN3635

Did you also draft the accompanying instructions?---I'm not quite sure what you mean by the accompanying instructions.

PN3636

All right. I'm going to show you some documents in a moment so we can ask questions about the actual documents themselves. But just to clarify you consider you have expertise in the design and conduct of surveys?---Of this kind, yes.

PN3637

All right. I'm going to ask you, please, to be handed a small folder of documents, and I understand electronic copies have been sent to the members of the Full Bench and to the parties. This is a PDF. Can you turn, please, Mr Houston, to tab 1 of that folder, and you should have there an email from Chris Kane dated 20 August. This is the covering email that was sent to members to undertake the survey. Did you draft this?---No.

PN3638

Did you have any input into it?---No.

PN3639

All right. Then if you can turn, please, to tab 2. This is the instructions to the survey. That's what I was referring to earlier. This is the survey cover sheet. Did you draft this?---No.

PN3640

You can see under the heading 'Completing the survey' are the instructions, or the description 'Each of the topics has a designated sheet', and there's a picture there of some Excel sheets, instructions, pay data, classification senior roles and qualifications. The page we're looking at now is the instructions page, and you didn't draft this at all?---The instructions page?

PN3641

Yes?---No.

PN3642

Okay. Can you turn, please, to the third document behind the third tab. I'm not sure if you've got that in A4 or A3 in your folder?---Behind the third tab I just have a schedule of ADIA members.

PN3643

Sorry, my mistake, it's still behind the second tab. It's the next page after the instructions sheet. You've got a very tiny printout of the spreadsheet there?---Yes.

PN3644

I'm sure at some point we will move to giving witnesses access to laptops, but not yet. Is this the survey you drafted, or were involved in drafting?---Yeah. It's the survey in which I and my colleagues collaborated with Herbert Smith Freehills Kramer and ADIA in preparing.

\*\*\* GREGORY JOHN HOUSTON

XXN MS BURKE

PN3645

And the questions on the page you're looking at cover this pay data topic, but if you could turn, please, to about three quarters of the way through you should see a page that's headed 'Classifications specialist, supervisory and managerial roles.' Did you draft these questions as well?---No.

PN3646

Then over the page, please, a qualifications and experience document headed 'Qualifications and experience.' Did you draft those, or were they drafted by someone else?---No, I did not draft those.

PN3647

Do you know who did?---No.

PN3648

Okay. Just for clarification as I understand these qualifications and experience and classification documents are separate sheets, workbooks in an Excel spreadsheet?---That's correct.

PN3649

Yes. All right. Are you aware then who did draft those additional sheets, the classifications and the qualifications sheet?---No. They're not – my report does not draw on any of that information and had no role in that part of this exercise.

PN3650

Drafting the questions or reviewing the answers?---Or even the decision to seek that information.

PN3651

All right. Nevertheless those are all of the questions asked of participants in the survey, to the best of your knowledge?---To the best of my knowledge they were – they were contained in the document that I understand was sent to ADIA members.

PN3652

Thank you.

PN3653

JUSTICE HATCHER: Did you use the data produced by this part of the survey in your report?---No. Just to be clear the part of the survey that I have in front of me that I think we're talking about is the tab entitled 'Qualifications and experience.'

PN3654

MS BURKE: Yes. There were four tabs in the Excel. One was the instructions sheet which we looked at. One was pay data, which is the sheet that contains the six questions that your report, Mr Houston, was based on. The next is the classifications tab, and the fourth and final is the qualifications tab, and Mr Houston's reports are only concerned with the pay data tabs questions.

\*\*\* GREGORY JOHN HOUSTON

XXN MS BURKE

PN3655

THE WITNESS: That's correct.

PN3656

MS BURKE: That's my understanding. Nevertheless I seek to tender the covering email and the survey instrument comprised of those four tabs.

PN3657

JUSTICE HATCHER: Is that the whole of the bundle or part of it? Is it convenient that we just mark the whole of the bundle?

PN3658

MS BURKE: I might not need to go through all of it, but it's what's behind tab 1 and 2 of the bundle.

PN3659

JUSTICE HATCHER: All right.

**EXHIBIT #HPSS157 TABS 1 AND 2 OF THE ACTU TENDER BUNDLE FOR GREG HOUSTON, TITLED 'COVER EMAIL EXAMPLE' AND 'ADIA MEMBER SURVEY (BLANK)'**

PN3660

MS BURKE: Now, this survey was sent to the membership of the ADIA, and you're aware that it has 18 members?---Yes.

PN3661

And I think you've already seen the list of members behind tab 3?---Yes.

PN3662

Do you know what proportion of the radiology industry are accounted for by these 18 members?---I have seen estimates that accord, or that state that as I think 85 per cent.

PN3663

Where is that estimate from?---I don't recall exactly.

PN3664

Is it 85 per cent of what?---I don't know.

PN3665

Based on number of employees or some other measure?---I don't know.

PN3666

Okay. Do you know if the 85 per cent is just for private radiology, or does it include public radiology as well?---I don't know.

PN3667

Okay. So you're not able to say if these members are representative of employers of radiology professionals across Australia?---That's -- I don't know.

\*\*\* GREGORY JOHN HOUSTON

XXN MS BURKE

PN3668

You weren't asked to make that assumption?---I was not asked that. My report concerns only the effects, financial effects and so on for ADIA members. It doesn't make any observations beyond that cohort.

PN3669

To radiology professionals more broadly or to health professionals more broadly. You weren't asked to do that, and you didn't do that?---That's right.

PN3670

All right. Now, of these 18 members, you received responses from eight members. That's correct?---I recall it being nine.

PN3671

I think technically it was eight members, but one member provided two responses for two different brands, as it were?---It's correct that one member - it's correct that one party provided two - responses in two parts, yes.

PN3672

Yes, okay. And you're not able to say if the responses - I'll just call them nine for convenience - are representative of the total membership of ADIA?---Well, I'm - I disagree with that question.

PN3673

All right. Can you explain then the basis for which you say that they are representative?---Well, I was advised by ADIA that the responding members accounted for 85 per cent of the total ADIA membership when measured by revenue in the financial year ended 2025 - I'm sorry, I misspoke. Accounted for 66 per cent of the total revenue of ADIA's members. So your question was about representativeness, and in my view 66 per cent by revenue is - we can take the respondents as being representative of ADIA's membership.

PN3674

Are you aware of what percentage those respondents account for based on ADIA's - the total number of employees employed by ADIA members?---I don't know that figure precisely, but I would regard revenue and employees is likely to being closely related.

PN3675

Yes, and why is that?---Because the number of - we're talking about radiology services and the HPSS employees within that, and I would view it as highly likely that it's correlated very strongly with revenue. They provide essentially the same or very similar services, perhaps with some variations in the mix of those services, and it would be my expectation and understanding that the number of employees would be broadly proportionate to the revenue.

PN3676

And that's your expectation based on your general experience and familiarity with economic concepts rather than any information - - -?---Well, it's also - - -

\*\*\* GREGORY JOHN HOUSTON

XXN MS BURKE

PN3677

- - - in this case?---It's also reinforced by some data that was provided in the survey. So it's a combination of those perspectives.

PN3678

What data is that, and if it's anything to do with the individual survey responses, we might pause the answer, but if it's in the aggregate data, then perhaps you can identify it?---I think I can answer that question without needing to go to specific data, but each of the respondents was asked to provide an estimate of the extent to which their wage costs - what the proportion of their wage costs were to total costs. So we know that figure for each of the individual respondents, and there's not - there's some variation from across those respondents, but it's not - it's not a very large variation, and so that would reinforce my presumption that revenue - the share of revenue would be very similar - or similar to the share of employees of this kind.

PN3679

One of the questions you asked respondents was, 'Approximately what percentage of your total expenses are staff wages'?---Yes.

PN3680

Is that the question that you were thinking of?---Yes.

PN3681

And the aggregate answer was 25 per cent?---I don't recall the precise figure, but that sounds - that accords with my understanding of the range. So, I mean, my point about the relationship between wages and the revenue was that that - the individual figures didn't vary a great deal around that average across all of the total.

PN3682

I think that's also my observation, but one of the things that isn't clear to me about that question is whether you were asking respondents about all staff wages, so including health professionals relevant to this award, or everyone else, them plus everyone else, including pathology collectors, for example, and including clerical staff and administrative staff and so on?---Yes. Well, one of the implications from the initial results was that that - there may have been some ambiguity around that question, and recognising that, there was a follow-up exercise to inquire with each of the respondents to make sure that they understood precisely what that question was getting at, and as a consequence, some respondents made revisions to those figures. So that ambiguity or potential ambiguity was clarified in a subsequent follow-up process before the data was finalised and then fed into the process that I undertook.

PN3683

I see. So you may not know the answer to this, but the nine individual survey responses that were produced to the unions pursuant to the order, they are the final or revised numbers that those respondents provided?---That's correct.

\*\*\* GREGORY JOHN HOUSTON

XXN MS BURKE

PN3684

And what was the nature of that follow-up process? Does that mean that you got on the phone and spoke to people and said, 'Are you sure you've understood this question properly, or what was it?---No, that process involved a process that involved conversations between myself and my - the people - my colleagues with Herbert Smith Freehills Kramer and the CEO of ADIA, after which that follow-up process was undertaken by ADIA.

PN3685

Okay?---So I was not directly involved in that follow-up process, but I was involved in the decision that it would be helpful to have that follow-up process and to - and then the results of it were communicated to me and my team.

PN3686

So for everyone following along electronically, this is the question in the aggregate data sheet at line 182 - at row 182, or cell B182, and it reads:

PN3687

*Approximately what percentage of your total expenses are staff wages?*

PN3688

Now, back to the respondents themselves, participation in the survey was purely voluntary. You didn't offer any incentive to members to participate?---Not as - to my knowledge.

PN3689

It wasn't one of those surveys where you can get an iPad if you go along with it. Mr Houston, you're aware of the general concept of selection bias among survey participants. Correct?---I am aware of that concept, yes.

PN3690

And self-selection is something that occurs when respondents decide whether or not to be surveyed? That's a - - -?---Yes, I'm aware of that concept. I think this is a rather different context, but - - -

PN3691

Well, self-selection will introduce - or can introduce bias when the characteristics of those who opt in are different to those who opt out or don't participate. You agree with that?---That's certainly possible.

PN3692

Yes. Are you aware of who sits on the board of directors of ADIA?---Pardon me?

PN3693

Are you aware of who - who are the directors of the board of ADIA?---No.

\*\*\* GREGORY JOHN HOUSTON

XXN MS BURKE

PN3694

All right. Can I ask you, please, to turn to tab 4. I can tell you there are 14 directors on the board, and just take a moment to read through them to yourself and I'm going to direct your attention to the fact that the board members occupy

very senior roles at their respective organisations, and by senior roles I mean chief medical officer, chief executive officer, chief financial officer, founding member, et cetera?---Yes.

PN3695

And if you can just go back to the list of ADIA members, please. Are you aware that 10 out of the 14 directors are senior members of all but one of the respondents to your survey?---I'm sorry, could you just pose that question again?

PN3696

Yes, certainly. Are you aware that of the eight respondents to the survey, so the eight entities that responded to the survey, seven of them having very senior leadership roles, one or more directors of ADIA?---Well, not - I'm not - I haven't made that comparison, but also I think your question presupposed that the senior members of those organisations and therefore on - that were also on the ADIA board were the ones that were actually responding to the survey, as opposed to staff within those organisations.

PN3697

No, I'm not suggesting that a CEO of any of these entities sat down and filled out the survey themselves. It's merely the fact that of the eight respondents, seven of them having very senior leadership roles, one or more directors of ADIA, and then the counterpart to that is that of the 10 members that didn't respond, seven out of those 10 have no representation on the board. Were you aware of that?---No, I wasn't, but even had I been, I wouldn't have attached any importance to it, but - - -

PN3698

So this doesn't suggest to you that a defining characteristic of whether a member responded to the survey was whether that member also had a senior executive on the board of this party?---I hadn't drawn that implication - or that implication - I hadn't drawn that implication.

PN3699

Do you draw it now? Do you accept that it's possible that that's a defining characteristic of the members who responded?---Well, I don't think it's - I'm not sure I'd put it as a defining characteristic, but if - I'll put it this way. I would expect that the members of the ADIA board would make up a sort of reasonable proportion of the economic activity that ADIA - of the organisations that ADIA represents, and as I said earlier, I was informed that the revenue share of those that did respond represented two-thirds of the activity that ADIA covered - ADIA's members covered. So it doesn't seem surprising to me at all that those two things would be - there would be a big overlap between those things.

\*\*\* GREGORY JOHN HOUSTON

XXN MS BURKE

PN3700

I see. It doesn't suggest to you - and again, I'm not being critical of your survey, just asking your opinion as an expert witness whether this suggests to you that objectively the ADIA firms that responded to the survey might have been motivated to do so because they're senior executives or directors of ADIA?---No, I don't think that follows at all. I mean, let's just go back to basics here. The

whole idea of a survey and a thing to be mindful of a survey is whether the proportion of people that you gather data from is representative of the population that you're trying to draw inferences here. So the population here for this purpose is ADIA's total - the total number of ADIA members, and so any survey that gathers data from two-thirds of the population, that's an extraordinarily high proportion by any survey standards. I mean, most surveys of a population often, depending on what their characteristics are, can involve something just - quite small percentages of that population. So the fact that this process received responses from two-thirds of the entire population I think should be a source of great comfort and something that leaves no opportunity, really, to suggest that there's something bias.

PN3701

Well, Mr Houston, they didn't receive responses from two-thirds, they received responses from half of members, and your observation that that represents 66 per cent of revenue is your evidence today in the witness box. That's not something that's in your report, is it?---It isn't - well, it is my report that the share of the full membership of ADIA that is accounted for by the respondents is 66 per cent.

PN3702

Could you please tell me where in the report you refer to that?---Paragraph 36.

PN3703

This was an instruction that you received, so that 66 per cent there is in respect of revenue?---Yes.

PN3704

And there's no transparency around that for the purposes of any independent reader. We are asked to accept that as a fact?---Sorry, what you're asking is that there's no transparency that that 66 per cent is a measure of revenue?

PN3705

We don't know what 100 per cent of revenue is and we don't know what the respondents' measure of revenue is and we don't know that that - we're not able to independently verify that that 66 per cent is accurate. That's just a fact, isn't it?---Well, it's a figure that was instructed to me, and part of that instruction was that they - the question always will be 66 per cent of what?

PN3706

Yes?---And the answer to the what is revenue for the financial year ended June 2025. So the survey respondents represent two-thirds of ADIA members' revenue. Obviously each respondent will be of different sizes. We can see that clearly from the data, and my instruction was that as set out here at paragraph 36, but I can provide the additional clarification now that that measure is by revenue.

PN3707

All right. That instruction was given to you verbally, was it?---It's - I'm - - -

\*\*\* GREGORY JOHN HOUSTON

XXN MS BURKE

PN3708

Just to be fair to you, your letter of instruction is in the bundle. Behind tab 5 is your engagement letter and then behind tab 6 is the Herbert Smith Freehills Kramer engagement letter, and I believe that's the letter with which you were provided with instructions to prepare the report and given some documents, but I'm not aware of any other instructions you were given in writing?---No. Well, there were a series of email - supplementary information provided by email from Herbert Smith Freehills Kramer to myself, which included some of the things that we've already been talking about, and I'm reasonably confident that that figure was delivered in that - in amongst that email correspondence.

PN3709

Do you still have access to those emails?---Not as I sit here.

PN3710

No, not as you sit in the witness box, but in your office?---Yes.

PN3711

I call for those emails that provide instructions to Mr Houston. We don't need to disrupt the cross-examination, but if they can be produced over lunch, that would be convenient.

PN3712

JUSTICE HATCHER: All right. That's noted.

PN3713

MS BURKE: Yes. All right. Can I tender, please, the list of board members? That's the document behind tab 4.

PN3714

JUSTICE HATCHER: All right. Tab 4 of the ACTU tender bundle, ADIA board governance, will be marked exhibit HPSS158.

**EXHIBIT #HPSS158 TAB 4 OF ACTU TENDER BUNDLE, ADIA BOARD GOVERNANCE**

PN3715

MS BURKE: Thank you. Now, as for the survey itself, it asks participants to provide a range of quantitative and qualitative information, and in particular the survey at question 3 of the pay tab asked participants to describe - and I'm summarising. Please tell me if it's accurate - their current labour costs broken down by the relevant classification under the award, and then their anticipated future labour costs if the provisional view is confirmed?---Yes. As a summary that is - - -

PN3716

Not inaccurate?---Correct.

\*\*\* GREGORY JOHN HOUSTON

XXN MS BURKE

PN3717

That's a real lawyer's expression, that one. And sticking with the answers to question 3, you took those answers you received at face value, I think, by which I

mean did you ask for any independent verification of the answers, such as pay records, et cetera?---No, I assumed that the questions were being answered truthfully.

PN3718

Yes. Well, not just truthfully but correctly. So it might be possible to answer a question wrongly but truthfully?---Yes, that certainly was possible, and that was something that in the process of reviewing the responses some attention was given to that.

PN3719

Yes. I'm certainly not suggesting any of the responses were untruthful, just to be clear. So did you undertake any sample testing of the data for accuracy? You mentioned something close to that in response to the question about the proportion of wages to expenses earlier. Did you undertake any similar testing of the answers to question 3, any part of question 3?---I'm not sure what you mean exactly by 'testing', but the data was reviewed for the purposes of seeing whether it made sense and, I guess I would put it, whether the answers - or whether the data that had been provided was accurate or - yes, accurate.

PN3720

When you received the responses from the individual members - they've been produced to us in an Excel spreadsheet. Is that how they were given to you as well?---Yes. They were passed in an Excel spreadsheet.

PN3721

And when you went into the answers to question 3 in particular, were you provided - or were you able to see whether there were any formulas used by respondents in giving those answers or were they hard-coded numbers?---They were hard-coded numbers.

PN3722

Okay?---So there's not really the opportunity to - each data item is something that doesn't depend on another data item in the material that was sought.

PN3723

Yes?---So there's no - from the data itself, there was no opportunity to test whether multiplications or divisions or what may be were - had accurately been done, because none were required, but there was, in reviewing the data, the opportunity to see whether each of the answers, each of the cells, made sense in terms of its magnitude relative to what one might expect.

PN3724

JUSTICE HATCHER: So, Mr Houston, just so I understand this, who did the aggregate of the survey data?---Who - that - - -

PN3725

The document that you've been taken to, the Excel spreadsheet which shows the aggregate of the data, who - - -

\*\*\* GREGORY JOHN HOUSTON

XXN MS BURKE

PN3726

MS BURKE: Sorry, your Honour, I haven't yet taken Mr Houston to that document.

PN3727

JUSTICE HATCHER: All right.

PN3728

MS BURKE: But I was just about to, and I'll just - - -

PN3729

JUSTICE HATCHER: Well, I'll hold fire then.

PN3730

MS BURKE: No, I'll just direct Mr Houston to where it is. Tab 9 of your folder is a printout of the aggregate data and the spreadsheet is called 'Aggregate data'. Again, I understand this is public - or not a confidential document, and I think his Honour's question was did you prepare this aggregation?---Yes. This was prepared in response to the - as an initial response to the notice to produce.

PN3731

I see. So you didn't prepare this for the purposes of your report, you prepared it for the purposes of responding to the notice to produce?---That's correct, because the calculations in my report don't depend on this - the aggregation of the data in this form.

PN3732

Hours of midnight oil could have been spared had I realised that. Nevertheless, it's what you prepared personally, or was it done by someone in your team?---By someone in my team.

PN3733

All right. Now, question - - -

PN3734

JUSTICE HATCHER: Sorry, can I just follow that up?

PN3735

MS BURKE: Yes.

PN3736

JUSTICE HATCHER: So when you prepared your report you used what, the individual survey responses, did you?---Yes. So the process, your Honour, is, like, there's - for each individual response which came in its own Excel file, within that Excel file a number of calculations were made that - in relation to that provider and that provider's information. Those calculations for each provider were then taken and aggregated and put into a new Excel file that then aggregated and further manipulated those results in order to produce the results that are reported, that are disclosed in my report.

\*\*\* GREGORY JOHN HOUSTON

XXN MS BURKE

PN3737

So did you undertake that function?---I'm sorry?

PN3738

Did you undertake the function you've just described?---I didn't myself. Members of my team did, with my oversight.

PN3739

Right. So I just thought you said this aggregate document was only prepared in response to the notice to produce. Is there some other aggregate document that you actually used?---There's the - there's a document that has the results of each individual provider and the calculations that were made, the calculations that were derived from those results, and then further has another part that has the aggregation of all those individual derived results into an aggregate - into the results that are presented in my report, and so what then - that was the process to prepare the report. After my report was prepared and submitted there was a notice to produce. In order to attempt to deal with the confidentiality questions a new document was prepared that aggregated all of the raw, individual results, which is what was actually asked for, which is the one we have here at tab 9.

PN3740

All right. Thank you.

PN3741

MS BURKE: Well, I'm in a little bit of a bind, because I was going to eventually tender the aggregate data document as representing the part of Mr Houston's work that fed into the report. Now I'm aware that that's not an original document, it's a document prepared for the purposes of litigation, essentially, I might need to take a moment to think about how to deal with that or if there's going to be any objection to it being tendered as accurate, nevertheless - - -

PN3742

JUSTICE HATCHER: We can ask the witness, can't we, whether the aggregate data in this document is any different from the aggregate data in the more detailed document he just described?

PN3743

MS BURKE: Well - - -

PN3744

JUSTICE HATCHER: I mean, if they're the same numbers - - -

PN3745

MS BURKE: Well, we can, your Honour, but it's a big spreadsheet and there are a lot of numbers, and also he didn't prepare it. It was done by someone in his office.

PN3746

JUSTICE HATCHER: All right. Well, I'll leave that with you then.

\*\*\* GREGORY JOHN HOUSTON

XXN MS BURKE

PN3747

MS BURKE: I'm sorry?

PN3748

JUSTICE HATCHER: I'll leave that with you to work out then.

PN3749

MS BURKE: I might just take that on notice to myself and work out how to deal with that while I'm going on with the questions. Now, question 1, which you can see in the aggregate data list, asked, 'What is the percentage allocation of revenue to wages for radiology professionals?' and there's no aggregate answer in this document. I'm not sure if the answer to that question is confidential because it's derived from - it can be and I have derived it from the average across the nine respondents, so perhaps I'll just give my learned friend an opportunity to tell me if the average is a confidential figure.

PN3750

MS PASE: I'm instructed that it is.

PN3751

MS BURKE: All right.

PN3752

JUSTICE HATCHER: Sorry, that it is?

PN3753

MS PASE: Yes.

PN3754

MS BURKE: All right. The answer to question 1, aggregate or otherwise, is not referred to in your report, Mr Houston. I'm just curious about why you asked the question if the answer was not used in the report?---Well, it wasn't used in my report, no, that's correct. I mean, there were - I don't know there's a good answer to that question. There was some uncertainty, perhaps, at the start, at the outset, as to what the ultimate analysis may be, but that did not form part of it.

PN3755

Okay. And then is the similar answer applied at the - or a similar response now would apply to the answer to question 2 in the aggregate? So question 2 asked, 'How many employees in these roles' - this is medical radiographer, ultrasonographer, MRI technologist and nuclear medicine technologist, how many of those are full-time, part-time or casual employees, and again that data was included in the responses but it's not otherwise dealt with in your report?---That's correct.

\*\*\* GREGORY JOHN HOUSTON

XXN MS BURKE

PN3756

JUSTICE HATCHER: I don't understand. Why is that?---Well, it wasn't necessary to include - to draw on that information, because there is - question 3 involves - and ultimately this is more helpful - information about the number of employees at each level and pay point and then the annual base hours for these

employees. So if you have the number of employees, number of base hours, that in effect is an aggregate and much more accurate measure of essentially the base salaries presently being paid for those employees, taking account of the fact that some are full-time, some are part-time, and so on. So it sort of – it was asked, but it was – its relevance fell away having regard to the more specific data that was requested under question 3.

PN3757

Did you use the answers to question 2 to test whether the answers to question 3 were accurate just in terms of head count or anything like that, or did it end up not being used in the final analysis?---The answers to question 2 weren't, and I'm not sure how they would even be able to be used to test the answers to question 3.

PN3758

Okay. We will come to that - - -?---I don't think there's a ready way of using that question 2 information to test the question 3 information.

PN3759

And skipping forward now, please, to question 4, at row 138 of the spreadsheet. This questions asks for data in relation to pay and remuneration beyond the base rate, in particular the extent to which overtime penalty rates and superannuation increased base wage costs. What do you say in this context is the difference between overtime and penalty rates?---I don't have a ready definition to hand, but the understanding was that that would be - through the process of formulating these questions that was on the basis that that would be understood by the providers who would be giving the answers, which included consultation with them on the draft, or consultation was selected is on the draft of these questions.

PN3760

Okay. Which parties were they? You may not be able to tell me?---I can't tell you specifically.

PN3761

You can't tell me because you don't know, or because the answer is confidential?---I don't know because some of that consultation was undertaken by ADIA.

PN3762

Okay. But you're aware that ADIA ran some of these questions by members to see if they made sense essentially?---Yes, and not only made sense, but were – it was a question about the practicability of how to respond in the timeframe, given that these data are quite specific and would require those parties to draw on their financial systems to extract that data.

PN3763

Okay. Now, question 3 is the key question in terms of understanding the figures in your report, and we might go to the first part of question 3 which has the heading 'AQF Level 7 qualification radiographer.' Have you got that there?---Yes.

\*\*\* GREGORY JOHN HOUSTON

XXN MS BURKE

PN3764

LB25. The first three columns - so that's current classifications for four year degree entry, proposed new classification and new minimum hourly rate. Those three columns and their content were in the question itself, correct?---Yes.

PN3765

In the survey. Yes. So you supplied that conversion from the current classification to the proposed new classification, and who supplied the new hourly rate?---That conversion was principally developed for this process by, I believe, Herbert Smith Freehills Kramer. It wasn't through the application of my own expertise.

PN3766

Your team didn't do that. That was part of the instructions that were given to you?---Well, I wouldn't say instructions. It was the – I mentioned earlier that there was - the development of this survey was a collaborative exercise amongst three parties, and that was a particular element that was contributed by at least Herbert Smith Freehills Kramer, and perhaps also ADIA itself. But I think it's more likely it was Herbert Smith Freehills Kramer.

PN3767

In any event it was given to you - perhaps assumption is a better expression - and you built it into the survey. It wasn't something that HoustonKemp did?---No.

PN3768

Okay. I do need now to go to one of the confidential sheets.

PN3769

JUSTICE HATCHER: So just remind me who has been excluded?

PN3770

MS BURKE: I think it's every party except for the Australian Diagnostic Imaging Association, which includes the Commonwealth. It's just those who signed the undertaking.

PN3771

JUSTICE HATCHER: So legal representatives are leaving as well, are they?

PN3772

SPEAKER: Yes. The confidentiality regime only applied to the union and ADIA.

PN3773

JUSTICE HATCHER: All right. Nobody objects to this course, do they? All right. So can I ask all parties other than the ACTU and ADIA to leave the courtroom, and all members of the public likewise, please.

PN3774

MS BURKE: Your Honour, the HSU is also under the umbrella - - -

\*\*\* GREGORY JOHN HOUSTON

XXN MS BURKE

PN3775

JUSTICE HATCHER: The ACTU associated parties can stay.

PN3776

MS BURKE: Thank you.

**CONFIDENTIAL TRANSCRIPT FROM PARAGRAPH 3777-3933**

PN3934

MS BURKE: Just while people are coming back in, cross-examination has taken longer than my estimate: just a barrister occupational hazard. We have lay witnesses waiting. We're just seeing if we can rearrange some of them to come tomorrow.

PN3935

JUSTICE HATCHER: Well, we will accommodate that. How much longer do you think you will be?

PN3936

MS BURKE: Probably another 15 minutes.

PN3937

JUSTICE HATCHER: All right. Well, we will see how we go. So why don't we work that out when we make the luncheon adjournment?

PN3938

MS BURKE: Yes, thank you. And just while everyone is getting set up, Mr Houston, just if you can have your report to hand. And turning, please, to page 17 - I'm sorry - paragraph 17?---Of the first report?

PN3939

Of the first report, yes, which is on page 3. So in your report, you take the results from question 3 to give your opinion about the direct effect on provider costs. And paragraphs 17 and 18 describe that. And I won't be able to find where in the aggregate data I find those calculations that you describe in paragraphs 17 or 18, will I?---No.

PN3940

Okay. And then in paragraph 19, you describe that you add an uplift to the total increase to account for the effects of overtime penalty, penalty rates, and superannuation. What is the uplift?---The uplift is a percentage which is applied to the calculation described at paragraphs 17 and 18. And that percentage is derived as the sum of the three percentages requested from the ADIA members, the - those three being the amount above the base wages that is paid for overtime, the amount that's paid for penalty rates and the amount that's paid for superannuation. So superannuation is 12 per cent in each instance and the overtime and penalty rate elements are typically much lower percentages, in the sort of twos and threes. So that left us typically sort of 15, 16 per cent being the aggregate of those three.

\*\*\* GREGORY JOHN HOUSTON

XXN MS BURKE

PN3941

You don't remember what the actual number was for the uplift?---Well, there's a different number for each provider. I'm just giving you orders of magnitude.

PN3942

You didn't - I see. So the last sentence of paragraph 19 where you say: 'I take the sum of these three percentage increases, multiply by the total increase in annual base wages, aggregate it across all providers'. So you didn't take the aggregate percentages, 12 per cent for superannuation, 4 per cent for overtime and 2 per cent for penalty rates. You applied specific uplifts to each provider?---Correct. So just to be clear about paragraphs 17 and 18 and 19, and to your question earlier, given the raw data subject to the two qualifications we've been discussing earlier, for each provider I make a calculation of the increase in base wages to establish the minimum.

PN3943

Yes?---And then the increase in total remuneration which is an addition over and above the increase in base wages. I make those calculations individually for each provider and then I aggregate them according - as described in my report.

PN3944

JUSTICE HATCHER: So mathematically that involves multiplying in each of these survey responses, column D by column I, then subtracting column J, is that what you're saying?---I don't have it in front of me but that sounds right, yes.

PN3945

Yes?---So yes, as described at paragraph 17. So it's a calculation that I need to make given the information that's provided. I didn't ask each provider to calculate what the increase would be given the rates. We just asked them for what they're actually paying now to reduce the burden on them and then I made the calculation of how much the increase would be which is why that information is needed on the base hours for the employees who are paid below the minimum presently.

PN3946

Thank you?---Base hours and base remuneration.

PN3947

MS BURKE: And then your direct cost effect estimates end up in table 3.1.1 on page 6?---Yes.

PN3948

And the increase in base wages for responding providers is about 11.2 million and the increase in total remuneration is 12.9 million. So is that the 11 million plus your aggregate uplift to get to 12 million? Is that the difference between those two figures?---The difference between those figures is as I explained before, the percentage uplift to account for superannuation, penalty and overtime.

\*\*\* GREGORY JOHN HOUSTON

XXN MS BURKE

PN3949

Yes. And then you extrapolate your calculations based on the responses to all ADIA members and is the explanation for the basis of that extrapolation a 66 per cent revenue share?---Yes.

PN3950

Okay. The difference between the figure in the first column, 11.2 million, and the figure in the second, 17.1 million, is just a little over 51 per cent. That sounds about right to you?---That does sound right, yes. So for 51 per cent, if the first column - if the first row represents 66 per cent, and you're trying to get to 100, then you need to multiply that 66 per cent. That number will increase by roughly 50 per cent or a bit more.

PN3951

Then, Mr Houston, your calculation of the indirect effects of the contemplated wage changes is essentially an assessment of the likely spillover effect, correct?---Yes, where spillover means effect on other employees that are - whose pay does not alter because of the new minimums.

PN3952

Yes, that is what I mean by spillover and it's apparent from the survey results from the aggregate that a significant proportion of the ADIA's members' employees are paid above the award wage. Do you agree?---Yes.

PN3953

And are you aware - I don't think you said in relation to a question earlier you're not aware of the way in which that occurs by enterprise agreement or by contract or whatever?---No, I haven't explored that. That's not necessary for this purpose.

PN3954

You yourself have no professional experience in industrial bargaining?---No.

PN3955

It's not a criticism, Mr Houston. And so it's fair to say that your assessment of the ability of employees to negotiate wage increases involves a purely hypothetical exercise, doesn't it?---Yes, I'm presenting here three scenarios for the magnitude of that spillover.

PN3956

And those scenarios are not based on any actual data demonstrating spillover effects in employment generally or between award wage increases and bargain wages for this cohort or any other cohort. That's correct, isn't it?---No, they're not based on - that's correct that they are not based on any empirical evidence or independent analysis. They are as stated three scenarios for how that process may play out.

PN3957

JUSTICE HATCHER: Just to be clear about this: I mean, in paragraph 23 you set out your hypothetical values for the various case scenarios?---Yes.

\*\*\* GREGORY JOHN HOUSTON

XXN MS BURKE

PN3958

But effectively we're talking about discretionary decisions of business to increase wages where they're not legally obliged to?---Well, I guess that's perhaps a legal way of describing it. I think the economic effect that we're referring to is where by raising the minimum pay for some employees you create a situation where other employees - where there's compression of the pay scales and employees who are not - whose pay is not altered by that compression may - and for that compression you have a different rate of progress over time as with experience and so on, up pay scales, and the I guess economic phenomenon is that that itself could affect employee pressure to alter those pay scales that are not affected by these minimum changes.

PN3959

I mean, if we've got (indistinct) businesses under economic and commercial pressure, why wouldn't businesses at least in some cases try to reduce that to zero?---Well, I'm sure some - I'm sure businesses would prefer it was zero but just as we have now, we see from the data that a number of employees are paid above the legal minimum at present. So I think all I'm really - all this is really exploring is whether that - as that legal minimum increases, whether that might - that phenomenon of businesses paying more than they are legally obliged to, might extend to other employees.

PN3960

Thank you.

PN3961

MS BURKE: Turning now to your quantitative assessment of the impact on provider costs, which is discussed at 2.1.1 on page 5. We're still in your first report. Here you've taken your direct effects figures and divided them by an estimate of provider's total costs?---Yes.

PN3962

You didn't ask for and you were provided with provider's total costs, correct?---Well, not directly, but we asked providers to report their wage share of costs, so - - -

PN3963

As a proportion of expenses - so from that you were able to estimate their total expenses?---That's right.

PN3964

Yes. And in providing your opinion about the indirect quantitative assessment - sorry, not indirect; quantitative assessment - which is at table 3.4 of your revised report?---Yes.

PN3965

You haven't taken into account the prospect of any pass through in the form of higher prices?---This is only about the effect on costs. It doesn't have anything to do with revenue. That pass-through - the existence or otherwise of a pass-through wouldn't alter this table. This table is just about how costs have changed.

\*\*\* GREGORY JOHN HOUSTON

XXN MS BURKE

PN3966

I see. Perhaps it's table 3.3 that is the more accurate table for that question. When you're looking at the total effects on responding providers only, as well as all ADIA members of the increase in base wages, the increase of total remuneration, that does not take into account - that's just the raw number of the wage increase, correct?---So I'm not sure what your question is. Perhaps in thinking about what that question is; I'll refer you to paragraph 41, which explains what's in the table.

PN3967

Yes. I see.

PN3968

JUSTICE HATCHER: Sorry, Ms Burke, can I just take a step back?

PN3969

MS BURKE: Yes.

PN3970

JUSTICE HATCHER: Table 3.1 is the direct cost effects.

PN3971

MS BURKE: Yes.

PN3972

JUSTICE HATCHER: So let's just take the figure for all members, total remuneration it's 19.5 million?---Yes.

PN3973

Then 3.2 estimates the indirect cost effects and the equivalent figure is on the right-hand column and the low scenario it's 50 million, plus. Can you explain to me how you work out that number? Because I thought the numbers you were using were talking about 0.4?---I'm sorry, just before I answer that question, I just wanted to make sure that the Commission is aware that table 3.2 has been - I have provided an updated set of numbers in my supplementary report.

PN3974

Which are higher?---Which are higher. Yes.

\*\*\* GREGORY JOHN HOUSTON

XXN MS BURKE

PN3975

But just for present purposes, how did you calculate 3.2 from 3.1? Just using the total remuneration for all ADIA members. Is there a multiplier?---So 3.2, essentially, if you go back to the original data that we obtained from the members, that provides information on the - all their employees of each category and which ones are paid below the minimum presently, therefore we have information of which ones have been paid above or at the minimum. So the indirect costs are estimate, essentially takes all the employees and the costs involved with those employees that are paid above the minimum and it then makes three scenarios as to whether the increase for those employees is either under the low, medium and high scenarios. It increases that cost, which is the indirect effect. Have I explained that adequately?

PN3976

So if you go back to 23, the low value is 0.4, so how is that being applied to the total wage cost for employees paid above the new rate to produce the number?---Okay. So if we look at table 3.2, the 0.4 corresponds with the first row, which is the low scenario.

PN3977

Yes?---And what that does, if we take the first column in that row, which is the increase in base wages, 28 million, which has become 32 million in my supplementary report but I'm just sticking with this. The 28 million assume that it takes the cost across all providers, the total cost of all employees that are currently paid above the minimum. It then increases that by the same increase that's applied to the equivalent employee pay point. So let's say for - because there's a lot of different employees. There's five categories of employees. There's a lot of levels and pay points. For every one of those there's an increase in the minimum of some kind. They range between, I think, 15 and 20-something per cent.

PN3978

On the low case you assume they're going to get 40 per cent of the increase is that - - -?---40 per cent of the corresponding increase for those same employees whose minimum increases. So if you're an employee of exactly the same category and you're above the minimum, those who are below get a 15 per cent increase. This assumes that everyone else also gets a 15 per cent increase but that 15 per cent is multiplied by 0.4 or 0.7 or 1.

PN3979

So that is applied to every single employee above the minimum?---Yes.

PN3980

No matter how much they're paid?---That's right. So the question is, how the relativities move and so the high cases, they all move by exactly they same amount, and the low cases, they all move by only 40 per cent of the change in the minimum.

PN3981

So even whether you are 1 per cent above the minimum or 50 per cent above the minimum you've assumed, on each scenario, the same level of indirect increase?---That's right. I mean we don't have sufficient granular data to start getting down to that forensic level. So that's really accommodated by the low, medium and high scenarios. Obviously the lowest scenario would be no increase for any of those people, in which case these numbers would all be zero.

PN3982

Yes. Thank you.

\*\*\* GREGORY JOHN HOUSTON

XXN MS BURKE

PN3983

MS BURKE: In question 6 of your survey you sought some qualitative data from the respondents about their likely response to a situation in which their practice had to absorb a cost that could not be passed on, noting that the aggregate data

suggests that respondents in the past have immediately passed on 50 per cent of costs to consumers, that's not something that you address in your table 3.2.2, or paragraph 42. This is a purely hypothetical exercise; correct?---I'm not sure what you mean by purely hypothetical.

PN3984

Well, you're asking respondents to assume that they can't pass on costs and they have given evidence, not evidence, they've given answers that they pass on 50 per cent of costs. That's what I mean by hypothetical. So in that hypothetical scenario where they cannot pass on the increased cost - - -?---Yeah. I'm not sure - I'm just trying to refresh my memory as to whether that question is conditioned upon that hypothetical or not.

PN3985

We can go to it?---Yes, I see. Yes. So this is the most likely response where they could not - yes.

PN3986

'If your practice had to absorb a cost increase that could not be passed on to patients, which of the following would be most likely? Select all that apply'?---Yes.

PN3987

Again, you're aware that of the eight respondents or the nine responses, directors of the ADIA are involved in all but one of those respondents. You have not made any adjustment to the results of this survey to control for any self-selection bias, correct?---I don't believe there is self-selection bias.

PN3988

I see. All right. Thank you. Those are all the questions for Mr Houston.

PN3989

JUSTICE HATCHER: Just one further question. In the aggregate data, at rows 175 and 176, there's a question about what percentage increase in total expenses would represent a significant financial challenge. The aggregate answer is 7 per cent?---I'm sorry, I just - yes.

PN3990

If we then look, in your revised report, to table 3.4. Do you have that?---Yes.

PN3991

So the direct effect is quantified at 2.19 per cent, which is obviously well below that 7 per cent figure identified in the aggregate survey response. So we only get up to or above that 7 per cent in reliance upon your estimations of indirect effects. Is that right?---That's correct. Yes. So in that table 3.4 there's nine items, and there are – four of those items are below 7 per cent, where 7 per cent represents a quote, unquote, 'Significant financial challenge to your practice.'

\*\*\* GREGORY JOHN HOUSTON

XXN MS BURKE

PN3992

Thank you. All right. Ms Pase, any re-examination?

PN3993

MS PASE: Just one question.

**RE-EXAMINATION BY MS PASE**

**[12.13 PM]**

PN3994

Mr Houston, you were asked a question very early on about self-selection bias, in the context of self-selection bias, and your response was, 'This is a rather different context.' Can you just explain what you mean by that?---Yes. Because the phenomenon of self-selection bias is where the – there's two aspects to ensuring that a survey is representative of the population, which is the entire cohort that you're trying to understand. The first is how you select those parties that you will ask questions of, and for most population that will be a modest percentage of that population. And then the second is, is there any biases that may result from those who respond, compared to those who don't respond. That's where the second consideration where self-selection bias may – can be an issue such as people maybe have less time or less inclination to respond to a survey, but they could be important. But the very different context here is that, first, the entire population was sampled. So every party member was asked. So the question of sampling doesn't arise, given that we're trying to – we're trying to draw conclusions about the position of ADIA membership, and not beyond that. So the population is ADIA members of interest here. And then if you – so first of all it's unusual to be sampling the entire population. And then second because two-thirds of the respondents – two-thirds of the providers responded to the question, that is a very, very high proportion still of the population in question, and in my view if you sampled and got information from two-thirds of the population there's no opportunity for response bias to alter the relevance of the findings that you will obtain for that entire population.

PN3995

Thank you. No further questions.

PN3996

JUSTICE HATCHER: All right. Thank you for your evidence, Mr Houston, you're excused and free to go.

PN3997

MS BURKE: Sorry, your Honour, if I can just note that Mr Houston is excused subject to the call.

PN3998

JUSTICE HATCHER: Sorry, subject to what?

PN3999

MS BURKE: Subject to the call for the email instructions.

PN4000

JUSTICE HATCHER: Yes, all right. Thank you.

\*\*\*

GREGORY JOHN HOUSTON

RXN MS PASE

**<THE WITNESS WITHDREW**

**[12.16 PM]**

PN4001

JUSTICE HATCHER: Is Ms Cleland next?

PN4002

MR LETTAU: Your Honour, Ms Cleland is only available until 12.30, so we're not going to fit her in. We will need to find time for her to return tomorrow I think. So we can skip straight to Ms Burke who I understand is logging on as we speak.

PN4003

JUSTICE HATCHER: All right.

PN4004

THE ASSOCIATE: Ms Burke, this is the associate speaking in the Melbourne hearing room. Can you hear me?

PN4005

MS L BURKE: Yes, I can, thank you.

PN4006

THE ASSOCIATE: In a moment before you give your evidence I am going to ask you to state your name and address for the record, and then I will ask you whether you agree to the affirmation I will read out. When we get to that if you agree please say 'I do.' So please state your full name and address.

PN4007

MS L BURKE: My full name is Lauren Eva Burke, (address supplied).

**<LAUREN EVA BURKE, AFFIRMED [12.19 PM]**

**EXAMINATION-IN-CHIEF BY MR LETTAU [12.19 PM]**

PN4008

JUSTICE HATCHER: Mr Lettau.

PN4009

MR LETTAU: Thank you, your Honour. Good morning, or good afternoon, Ms Burke. Can you see and hear me clearly?---Yes, I can hear you.

PN4010

Can you please just for the record repeat your full name?---Lauren Eva Burke.

PN4011

And your address?---(Address supplied.)

PN4012

And your occupation?---I am a specimen collector and training mentor with DSPL in Launceston.

\*\*\* LAUREN EVA BURKE

XN MR LETTAU

PN4013

Have you prepared a statement for use in these proceedings?---Yes, I have.

PN4014

Have you got a copy of that with you?---Yes, I do.

PN4015

Have you read that recently?---Yes.

PN4016

Now, I understand there's a couple of corrections you want to make to the statement, the first one at paragraph 1 where you say, 'I am currently employed by Diagnostic Services Pty Ltd as a training mentor.' That should say as a specimen collector and training mentor; is that correct?---That's correct. Yes.

PN4017

Then one more correction you wanted to make at paragraph 59?---Yes. With regards to Deloraine.

PN4018

In regards to the second last sentence there beginning, 'To my knowledge'?---Yes.

PN4019

And you say, 'To my knowledge there is only one' – that should actually say – I will just read the full sentence. 'To my knowledge there are only two other collection centres that has a button like this, which is our Scottsdale centre and Deloraine centre.' Is that right?---Correct. Yes.

PN4020

With those two corrections are the contents of your statement true and correct?---Sorry, can you repeat that, please.

PN4021

With those two corrections to the statement are the contents of your statement true and correct?---Yes.

PN4022

Thank you. We tender the statement of Ms Burke, your Honour.

PN4023

JUSTICE HATCHER: Yes.

**EXHIBIT #HPSS161 WITNESS STATEMENT OF LAUREN BURKE  
DATED 30/10/2025**

PN4024

MR LETTAU: Thank you, Ms Burke. You will now be asked a few questions in cross-examination.

PN4025

JUSTICE HATCHER: Mr Tracey.

\*\*\* LAUREN EVA BURKE

XN MR LETTAU

PN4026

MR TRACEY: Thank you, your Honour.

**CROSS-EXAMINATION BY MR TRACEY**

**[12.21 PM]**

PN4027

Ms Burke, my name is Mr Tracey. I'm counsel for the Australian Pathology organisation, which is the representative of the employers in your industry. I just wanted to ask you a few brief questions arising out of your statement. As I understand it you started as a pathology collector in 2022; is that right?---Yes.

PN4028

That change that you just made to paragraph 1 where you said that you're currently employed by DSPL as a specimen collector and a training mentor at Launceston Pathology, I just wanted to ask you about that role. How much are you working as a training mentor and how much are you working as a specimen collector?---As a specimen collector, that's my main job. As a training mentor, I generally - it depends on where I am working, what location I'm working at. Today I'm in the main lab, so I'm a training mentor today, as well as a specimen collector.

PN4029

The training mentor role involves training or mentoring other pathology collectors or specimen collectors?---Yes.

PN4030

You have given some evidence about the difference between single site collection centres and multi - well, what you describe as the main collection centre. You have talked about the different work that goes on in those places. Is it fair to say that it is, if I can put it this way, a pretty similar sort of work that goes on at both places with the exception that some more complex tests are done in the main collection centre?---No, it's not. It's not. The complexity of the tests that I have spoken about in my statement are generally around processing. They're not around the collections themselves, so specimen collectors are performing blood collections in both sites, but the complexity is around the processing on the back end versus the actual blood draw itself.

PN4031

Do you agree with me that SSCCs, if I could just call them that, often have a lower volume of patients than MSCCs?---No.

PN4032

I'm going to suggest to you that the volume of patients at whatever centre it is, depends on the location and demand at that location; do you agree?---Yes.

PN4033

Some centres, whether they're MSCCs or SSCCs, might experience high volume and low volume of patient attendances?---Yes.

\*\*\* LAUREN EVA BURKE

XXN MR TRACEY

PN4034

If you can go to paragraph 20 of your statement, please, page 3, you use a statement there, 'This doesn't accord with my experience.' Do you see that?---Yes.

PN4035

I'm just going to suggest to you that what you say in your statement as a whole is based on your own experience; is that right?---Yes, that's correct.

PN4036

You can only speak for that experience and you don't seek to say that what your situation is, is representative of all pathology collectors in Australia. That's right, isn't it?---I can speak for my own experience, but I have also worked in various locations so I believe there are a lot of similarities between what we do.

PN4037

Your experience is confined to the period since 2022; is that right?---Yes.

PN4038

If you could just go back to paragraph 15 of your statement?---Yes.

PN4039

You have noted there that, 'All specimen collectors' - I'll just pause there. I take it specimen collectors, pathology collectors, are terms that can be used interchangeably?---Yeah.

PN4040

Yes. You say:

PN4041

*All specimen collectors, with the exception of those working at some of the remote sites I mentioned who work primarily out of those sites, are expected to work across all Launceston Pathology collection centres and do hospital rounds when required.*

PN4042

Is that the case for specimen collectors who are quite new in the job?---It can be. Usually they have a couple of months' experience before they are sent out to the single specimen collector centres. They are relatively well trained before we send them out anywhere, but, yes, all of our current collectors are working across all sites when required.

PN4043

And then at the end of 17 you talk about when you're short-staffed and you're a senior specimen collector you - 'so I go wherever I am needed.' I take it that people who may be described as senior specimen collectors are also required to work across all Launceston Pathology collection centres and also do hospital rounds when required; is that correct?---Yes, all specimen collectors.

PN4044

And that means that in practice they can work in a mixture of SSCCs and MSCCs. That's right, isn't it?---Yes.

\*\*\* LAUREN EVA BURKE

XXN MR TRACEY

PN4045

That's the cross-examination. Thank you.

PN4046

JUSTICE HATCHER: Any re-examination, Mr Lettau?

PN4047

MR LETTAU: No, your Honour. No re-examination.

PN4048

JUSTICE HATCHER: All right. Thanks for your evidence, Ms Burke. You're excused, which means you disconnect from the call?---Thank you.

**<THE WITNESS WITHDREW**

**[12.28 PM]**

PN4049

JUSTICE HATCHER: Do we have any more witnesses?

PN4050

MR LETTAU: Yes, your Honour. We would call Katrina Slack.

PN4051

JUSTICE HATCHER: All right.

PN4052

THE ASSOCIATE: Ms Slack, this is the associate speaking from the Melbourne hearing room. Can you hear me okay?

PN4053

MS SLACK: Yes, I can.

PN4054

THE ASSOCIATE: Thank you. In a moment before you give your evidence, I'm going to ask you to state your name and address for the record, then I will ask you whether you agree with the affirmation I'll read out. When we get to that, if you agree, please say, 'I do.'

PN4055

MS SLACK: Okay. Thank you.

PN4056

THE ASSOCIATE: Please state your full name and address.

PN4057

MS SLACK: Katrina Anne Slack. I reside at (address supplied).

**<KATRINA ANNE SLACK, AFFIRMED**

**[12.29 PM]**

**EXAMINATION-IN-CHIEF BY MR LETTAU**

**[12.29 PM]**

\*\*\* KATRINA ANNE SLACK

XN MR LETTAU

PN4058

Good afternoon, Ms Slack. Can you hear me clearly?---Yes, I can.

PN4059

Good. Could you please just restate for the record your full name?---My name is Katrina Ann Slack.

PN4060

And your address?---(Address supplied.)

PN4061

Your occupation?---I'm a pathology collector.

PN4062

Have you prepared a statement for use in these proceedings, dated 31 October 2025?---Yes, I have.

PN4063

Do you have a copy of that with you?---Yes, I do.

PN4064

I understand you wanted to make a small correction at paragraph 7. In the second sentence there it says:

PN4065

*I am due to receive my next annual pay increase under the enterprise agreement on 1 November 2025.*

PN4066

That should read:

PN4067

*...on or after the first full pay period from 1 November 2025.*

PN4068

Is that right?---That is correct.

PN4069

With that correction to your statement, are the contents of your statement true and correct?---They are, yes.

PN4070

We tender Ms Slack's witness statement, dated 31 October 2025.

PN4071

JUSTICE HATCHER: The witness statement of Katrina Slack, dated 31 October 2025, will be marked exhibit HPSS162.

**EXHIBIT #HPSS162 WITNESS STATEMENT OF KATRINA SLACK  
DATED 31/10/2025**

\*\*\* KATRINA ANNE SLACK

XN MR LETTAU

PN4072

MR HOLDING: Your Honour, I will be asking some questions of this witness.

PN4073

JUSTICE HATCHER: Mr Holding.

PN4074

MR HOLDING: I ask leave to remain seated.

PN4075

JUSTICE HATCHER: Yes, of course.

PN4076

MR HOLDING: Thank you.

**CROSS-EXAMINATION BY MR HOLDING**

**[12.31 PM]**

PN4077

Ms Slack, can you see or at least hear me clearly enough? I'm one of the people sitting at the bar table?---I can hear you, yes. Thank you.

PN4078

Good. My name is Ben Holding. I'm a barrister representing Australian Pathology. I'm going to just ask you some questions about your witness statement. You have been in the role of pathology collector for Sullivan Nicolaides for 10 years; is that right?---That is correct, yeah.

PN4079

You work in the south area of the Gold Coast?---That is correct, yes.

PN4080

You work in a collection centre that you describe in your statement as 'stand-alone'. Is that because it's not within a medical centre or some other centre?---It's described by the company as both being as a stand-alone and also that we have an adjacent medical centre.

PN4081

Right. So it might be that you have a single-staff

PN4082

collection centre that is not a stand-alone centre?---That's more appropriate, yes.

PN4083

Sorry, just to clarify, it might be that a collection centre has one Sullivan Nicolaides staff member working in it, but it's within a medical clinic or other facility?---Yes.

PN4084

Yes, and so that would - - -

\*\*\* KATRINA ANNE SLACK

XXN MR HOLDING

PN4085

JUSTICE HATCHER: Can I just stop you there.

PN4086

Ms Slack, in paragraph 9 you say:

PN4087

*There is about 10 metres between the entrances of the two buildings.*

PN4088

Are they in the same building or separate buildings?---They're in separate entrances under the same roof.

PN4089

Is the medical centre operated by the same or a different entity?---A different entity.

PN4090

Thank you.

PN4091

MR HOLDING: So the fact that you work outside that centre, that's why you call it stand-alone; that's right?---Yes.

PN4092

So it might be that if somebody is working in a single-staff collection centre within a clinic rather than as a stand-alone clinic, they may have more interaction with the staff at that clinic than you might. Would that be fair to say?---Correct.

PN4093

You make a distinction between single-staff collection centres and multi-staff collection centres. You say in your evidence that nine of the centres in the Gold Coast region are single staffed. Does that change? Could it be, for example, that a multi-staff collection centre has two people on one day but one on another and vice versa?---It could, yes.

PN4094

You yourself started as a reliever; is that right?---That's correct, yes.

PN4095

Does that mean that you were rostered to work at different locations wherever you were needed?---That's correct, yes.

PN4096

You worked at both single-staffed and multi-staff collection centres during that time?---Yes.

\*\*\* KATRINA ANNE SLACK

XXN MR HOLDING

PN4097

In fact you give evidence that you were signed off after just nine days of training and you went straight to a single-staff collection centre; is that right?---That's correct.

PN4098

Was that your first time working as a pathology collector?---It was, yes.

PN4099

You were classified at the base level 1 at that stage, were you?---Yes.

PN4100

It's still the case that other employees like you might be new to the role and required to work in a single-staff collection centre basically straightaway?---Yes.

PN4101

Yes. You have now been working for 10 years. Do you agree you have developed skill and experience over the years?---Yes.

PN4102

You say that you expect a pathology collector to be fully competent after two years; is that right?---Yes.

PN4103

But of course competence, I suggest, might be achieved at different stages for different people. Do you agree with that?---Yes.

PN4104

But, nevertheless, your view is that somebody who has worked for less than two years are not fully competent yet generally?---Yes.

PN4105

So it follows that Sullivan Nicolaides requires employees who are not fully competent in the role to work in single-staffed collection centres routinely; you would agree with that?---Sorry, repeat that question again.

PN4106

It follows from that evidence, doesn't it, that Sullivan Nicolaides requires pathology collectors who are not yet fully competent in your view, as they had been working for less than two years, to work in single-staff collection centres?---They work in single-staff collection centres once they are signed off as being competent.

PN4107

Yes, but your evidence is that it takes about two years to be fully competent?---The question that you're posing, they are signed off as being competent as a collector that can go out after training and, therefore, to any collection centre. If they are competent to handle everything that comes through the door is a different competence. It's being also confident and capable, and without help.

\*\*\* KATRINA ANNE SLACK

XXN MR HOLDING

PN4108

Thank you. In your statement at paragraph 21, in about the middle of that paragraph you say:

PN4109

*Single-staff collection centres are not less pressurised, because I have to see patients who may take longer while other patients are waiting and a waiting room can then fill up.*

PN4110

You would accept, wouldn't you, that patients can be waiting in multi-staffed collection centres, too?---Yes.

PN4111

And it depends essentially on the volume of patients who attend the centre as to how busy it is and whether patients are waiting?---Yes.

PN4112

Generally, I suggest, multi-staffed collection centres are busier than single-staff collection centres; would you agree?---Yes.

PN4113

The tasks required to be performed at multi-staff collection centres versus single-staff collection centres are essentially the same, aren't they?---Yes.

PN4114

The volume of work might change, but the tasks essentially stay the same; is that fair to say?---Generally, yes.

PN4115

Yes. At paragraph 25 of your statement you say that you acquired the tests:

PN4116

*The volume of patients I see and the complexities of the patients I am required to undertake have not differed, while some tests...*

PN4117

You give an example of arterial blood gas tests:

PN4118

*...would mostly be performed in a hospital. Anyone can walk through the door and request a specialised test.*

PN4119

Would it usually be the case that you might refer a specialised test to a multi-staff centre or a hospital?---No, not always.

PN4120

If a collector didn't know how to do a particular test, they would usually refer to another centre, wouldn't they?---Yes.

\*\*\* KATRINA ANNE SLACK

XXN MR HOLDING

PN4121

You also speak about your experience contacting your manager. In addition to your manager, there is a help desk available for support, isn't there?---That's correct.

PN4122

Yes. That help desk is there to ask questions about things like testing requirements; is that right?---That's correct.

PN4123

No further questions.

PN4124

JUSTICE HATCHER: Any re-examination, Mr Lettau?

PN4125

MR LETTAU: Just one question, your Honour.

PN4126

DEPUTY PRESIDENT GRAYSON: Perhaps just before you do, Mr Lettau.

PN4127

Ms Slack, I'm not sure whether you can see the Bench. My name is Deputy President Grayson. I just have one question about some evidence that you just gave in answer to a question that Mr Holding asked and it was about that a centre could be a multi-staff centre perhaps on one day or a single-staff centre on another. Can I just understand that. Do you mean that it could have two people - what might be a single-staff centre on one day have one person on at any one time and might have more than one person on at the same time on a different day? I just wanted to understand what your answer meant?---I understood the question to ask that a multi-staff collection centre may have a reduced staff, for instance, in the instance with sickness or an absentee and, therefore, become a single-staff collection centre purely by only having one staff member turn up.

PN4128

I see. So your answer wasn't really that a single-staff centre might become a multi-staff centre on another day, but more the reverse. That is, a multi-staff centre by virtue of any number of things that are expected might become a single-staff centre?---That's correct.

PN4129

Thanks, Ms Slack.

PN4130

JUSTICE HATCHER: Mr Lettau.

PN4131

MR LETTAU: Thank you, your Honour.

**RE-EXAMINATION BY MR LETTAU**

**[12.42 PM]**

\*\*\* KATRINA ANNE SLACK

RXN MR LETTAU

PN4132

You were asked a question in cross-examination about - or it was brought to your attention that in your statement you say that you considered pathology collectors to be fully competent after two years' experience at a maximum. That's at paragraph 41 of your statement. You also say right after that:

PN4133

*For me, I became fully competent and comfortable in my role after one year.*

PN4134

Could you just clarify what you mean by this timed competence given you've given two different time frames there?---Yes. The company requires a particular training and competency to be signed (audio malfunction) the trainers, so trainees will get signed off on particular skills when they are first employed by a company - by our company, Sullivan Nicolaides Pathology. That process is, you know, anything - depending on the amount of training that the person has had, whether they've done a Certificate III or whether they are a new hire just without training with Certificate III in pathology or off the street.

PN4135

That could be between, sort of, two weeks or up to 12 weeks potentially depending on how quickly a person actually picks up the necessary skills and experience required to perform safe collections. When I was referring to being competent taking up to two years, that is more to do with personal confidence, competency with dealing with the variety and different tests, different procedures that are performed, and being able to know where to find information required and help required to get you to a level where you feel comfortable in anything that may walk through the door.

PN4136

That's what I was referring to in regards to feeling competent and confident and, myself, I felt that after 12 months of my employment at Sullivan Nicolaides.

PN4137

MR LETTAU: Thank you. No further questions, your Honour.

PN4138

JUSTICE HATCHER: Thank you for your evidence, Ms Slack. You are excused, which means you can disconnect from the call?---Thank you.

**<THE WITNESS WITHDREW**

**[12.44 PM]**

PN4139

JUSTICE HATCHER: Do we have time for another witness?

PN4140

MR LETTAU: We have our next witness.

PN4141

JUSTICE HATCHER: Ms Slight?

\*\*\* KATRINA ANNE SLACK

RXN MR LETTAU

PN4142

MR LETTAU: Ms Paige Slight.

PN4143

THE ASSOCIATE: Ms Slight, this is the associate speaking in the Melbourne hearing room. Can you hear me okay?

PN4144

MS SLIGHT: I can.

PN4145

THE ASSOCIATE: Thank you. In a moment before you give your evidence, I'm going to ask you to state your name and address for the record, then I will ask you whether you agree with the affirmation I will read out. When we get to that, if you agree, please say, 'I do.' Please state your full name and address.

PN4146

MS SLIGHT: Paige Slight, (address supplied).

**<PAIGE SLIGHT, AFFIRMED** [12.45 PM]

**EXAMINATION-IN-CHIEF BY MR LETTAU** [12.45 PM]

PN4147

Ms Slight, can you see and hear me clearly?---I cannot see you, but I can hear you clearly.

PN4148

Okay. That's the main thing, as long as you can hear me. Could you just state for the record your full name?---Paige Slight.

PN4149

Your address?---(Address supplied.)

PN4150

Your occupation?---A pathology collector.

PN4151

Have you prepared a statement for use in these proceedings, dated 30 October 2025?---I have.

PN4152

Have you got a copy of that with you?---I do.

PN4153

Have you read the contents of it recently?---I have.

PN4154

Are its contents true and correct?---They are.

\*\*\* PAIGE SLIGHT

XN MR LETTAU

PN4155

We tender Ms Paige Slight's statement, dated 30 October 2025.

PN4156

JUSTICE HATCHER: Yes, the witness statement of Paige Slight, dated 30 October 2025, will be marked exhibit HPSS163.

**EXHIBIT #HPSS163 WITNESS STATEMENT OF PAIGE SLIGHT  
DATED 30/10/2025**

PN4157

MR LETTAU: You will now be asked a few question, Ms Slight.

PN4158

JUSTICE HATCHER: Mr Holding.

**CROSS-EXAMINATION BY MR HOLDING**

**[12.46 PM]**

PN4159

Good afternoon, Ms Slight. My name is Ben Holding. I'm a barrister for Australian Pathology. Can you hear me okay?---I can.

PN4160

I assume you can't see me, but I'm one of the people sitting at the Bar table. I'm going to ask you a few questions about your statement. I understand you have been employed by Australian Clinical Labs as a pathology collector since June 2022; is that right?---Yes.

PN4161

You work about 15 to 20 hours per week?---Yes.

PN4162

As a casual?---Yes.

PN4163

Has that been the case for most of your employment, that you've been working 15 to 20 hours per week?---Yes.

PN4164

You work in a variety of collection centres?---Yes.

PN4165

Both single-staffed and multi-staffed?---Yes.

PN4166

Is that around Perth?---Yes.

PN4167

Do you only work in the Perth region?---Yes.

\*\*\* PAIGE SLIGHT

XXN MR HOLDING

PN4168

Do you have any experience in pathology collection outside the Perth region?---No.

PN4169

As a casual, it would be fair to say that you're rostered to work at locations where there is enough volume of work to require your help for the day?---That's correct, yeah.

PN4170

Yes. That might either be a single-staff centre or a multi-staff centre. A single-staff centre, you understand that term to mean where ACL has one pathology collector working there for the day?---Yes.

PN4171

And multi-staff means there's more than one there for the day?---Yes.

PN4172

Could it be that a particular centre is single-staffed on one day and multi-staffed on another?---Yes.

PN4173

Would that just be because ACL has decided to roster more people there for the day because there is a greater volume of work?---No. It does not correlate to the volume of work, it correlates to the availability of staff.

PN4174

So do I take from that, that a multi-staff centre may have someone unavailable so it becomes a single-staff centre?---Yes.

PN4175

Would it be the case that a single-staff centre could become a multi-staff centre for a day?---No.

PN4176

I see. Could there be more than one collector working at any time at a single-staff centre?---No.

PN4177

That is your experience, is it?---Yes.

PN4178

But it could be the case elsewhere outside of your experience?---Not to my knowledge.

PN4179

Not to your knowledge?---Not to my knowledge.

\*\*\* PAIGE SLIGHT

XXN MR HOLDING

PN4180

Yes. Okay. When you first started, you did four weeks of training and that was with another staff member?---Yes.

PN4181

And then you worked mostly in multi-staff centres for about four months, but also in single-staff centres; is that correct?---Correct, yeah.

PN4182

It would be fair to say, wouldn't it, that you were not as competent in your first year as you are now?---Within my first four months I would have not been as competent. However, within the duration of that first year, I very quickly became almost fully competent.

PN4183

I see. Your skills have developed over the last few years, haven't they?---Yes.

PN4184

And in your first year you give some evidence that you found it difficult to find hard veins?---Yes.

PN4185

You also give some evidence at paragraph 35 of your statement about another staff member who you recently trained who was not able to get through patients quickly enough in a single-staff centre; is that right?---Yes.

PN4186

Yes. So it would be fair to say, wouldn't it, that a new starter like that person, or perhaps like you at the beginning, would not provide the same efficiency or productivity as somebody with three years of experience?---Yes.

PN4187

You seem to have frozen, Ms Slight. I am not sure if - anyway, we can still hear you so I'll carry on.

PN4188

JUSTICE HATCHER: It's rectified.

PN4189

MR HOLDING: Okay.

PN4190

New starters, just to be clear, at a single-staff centre - a new starter can be required to work there independently. That's true, isn't it?---Yes.

PN4191

Yes. The nature of the work performed at single-staffed and multi-staffed centres is essentially the same, isn't it?---Yes.

PN4192

The duties are very similar, if not identical?---Yes.

\*\*\* PAIGE SLIGHT

XXN MR HOLDING

PN4193

It may just be that some tests are more commonly performed at multi-staffed versus single-staffed centres?---Not necessarily.

PN4194

Well, you have read a copy of Ms Wolow's statement, have you, in this proceeding?---I have.

PN4195

She gives evidence that staff frequently refer paediatric leads to multi-staff centres and I understand that your evidence is you personally perform those tests, but you wouldn't disagree that other staff might frequently refer those tests to multi-staff centres, would you?---I cannot speak for other staff as I'm not aware of what they do in their collection centres.

PN4196

Yes. Your evidence on the whole is based on your experience, isn't it?---Yes.

PN4197

It's not necessarily representative of what other people might do?---Yes.

PN4198

Yes. The complexity of the work may not change significantly between centres, but the volume of work might. Is that fair to say?---Yes.

PN4199

Some clinics will experience a high volume of patients coming through and some will experience a low volume of patients?---Yes.

PN4200

And at paragraph 15 of your statement, you say that the number of patients you see at multi-staff centre versus a single-staff centre is roughly half. But that wouldn't be true at a particularly busy multi-staff centre would it?---No.

PN4201

It's how busy you are and how many patients you see is basically how many are coming through the door. You'd agree with that?---Yes.

PN4202

Yes. Are you aware of how ACL rosters chooses where you should work on a particular day?---I select my own shifts. I do not get rostered by ACL.

PN4203

I see. Ms Wolow gives evidence that the reason that centres have more than one staff member working is because they are very busy. You wouldn't disagree with that?---I wouldn't disagree.

\*\*\* PAIGE SLIGHT

XXN MR HOLDING

PN4204

It might be the case, mightn't it, that if a single-staff centre is not very busy on a particular day that instead of rostering a relief or casual worker there, they might

just close the centre or reduce the opening hours. Would you agree with that?---I'd disagree.

PN4205

You say at paragraph 62 of your statement - if you can just read the second-last sentence - you say, 'For example, if a SSCC is below capacity, ACL will reduce its opening hours'?---That is - sorry.

PN4206

Is that true?---That is not per day. So if an ACC is, for example, between 8 to 3, if the patient volume is low, that ACC will remain open between 8 to 3. The hours will not change on the day. If the patient volume is consistently low across a long period of time, ACL may review the opening - the official opening hours of that ACC.

PN4207

I see. Your manager is available to you by phone if you need them, aren't they?---Correct.

PN4208

That's the cross-examination. Thank you.

PN4209

JUSTICE HATCHER: Any re-examination, Mr Lettau?

PN4210

MR LETTAU: No, your Honour.

PN4211

JUSTICE HATCHER: Thank you for your evidence, Ms Slight. You're excused and free to go, which means you can disconnect from the call?---Thank you very much.

**<THE WITNESS WITHDREW**

**[12.56 PM]**

PN4212

JUSTICE HATCHER: So if we adjourn now for lunch and resume with Dr Stanford at 2 pm. Is that right?

PN4213

MS BURKE: Yes. Thank you, your Honour.

PN4214

JUSTICE HATCHER: We'll now adjourn.

**LUNCHEON ADJOURNMENT**

**[12.56 PM]**

**RESUMED**

**[2.05 PM]**

\*\*\* PAIGE SLIGHT

XXN MR HOLDING

PN4215

JUSTICE HATCHER: We're ready with Dr Stanford, Ms Burke?

PN4216

MS BURKE: Yes, your Honour. Just briefly, some administration before we start with Dr Stanford. There has been some discussion at the Bar table about the sequence of witnesses. I understand that Mr Tracey and Ms Leoncio should be done with Mr Stanford by about quarter past or half past 3 and Ms Wett will be available shortly thereafter.

PN4217

Stasia Cleland, who we weren't able to get to this morning, can be available at 4 o'clock today. She is otherwise not available until 2 pm tomorrow, so Mr Tracey agrees if it's convenient with the Bench that we will hear her evidence at 4 o'clock.

PN4218

JUSTICE HATCHER: Yes, certainly.

PN4219

MS BURKE: The other note on my list is to renew the call for the documents from Mr Houston.

PN4220

SPEAKER: Yes, that's fine. I think those documents have either just been sent or (audio malfunction) yes.

PN4221

JUSTICE HATCHER: Right. Where did we get to with the order for production?

PN4222

MR TRACEY: Discussions are still continuing from - - -

PN4223

JUSTICE HATCHER: All right. Okay.

PN4224

MS BURKE: I understand those documents will have been produced to the Commission. If I can apply for leave to inspect them or for copies to be sent to my instructors, that would be appreciated.

PN4225

JUSTICE HATCHER: Yes. All right. Thank you.

PN4226

MS BURKE: Thank you. I call - - -

PN4227

JUSTICE HATCHER: Are we ready for Dr Stanford?

PN4228

MS BURKE: Yes.

PN4229

JUSTICE HATCHER: Yes. All right.

PN4230

MS BURKE: Dr James Stanford.

PN4231

THE ASSOCIATE: Dr Stanford, this is the associate speaking in the Melbourne hearing room. Can you hear me okay?

PN4232

DR STANFORD: I hear you loud and clear. Thank you.

PN4233

THE ASSOCIATE: In a moment, before you give your evidence, I'm going to ask you to state your name and address for the record and then I'll ask you whether you agree with the affirmation I will read out. When we get to that, if you agree, please say, 'I do.' Please state your full name and address.

PN4234

DR STANFORD: James Stanford, (address supplied).

**<JAMES STANFORD, AFFIRMED** **[2.07 PM]**

**EXAMINATION-IN-CHIEF BY MS BURKE** **[2.08 PM]**

PN4235

Thank you, Dr Stanford. Can you please repeat your full name for the record?---James Stanford.

PN4236

And your address, please?---(Address supplied.)

PN4237

Your occupation, please?---I am an economist.

PN4238

Have you prepared two statements for use in this proceeding?---I have.

PN4239

Do you have copies of those with you?---I do.

PN4240

Do you have electronic copies or are you working off hard copies?---I have hard copies in front of me. I have the electronic copies online if need be.

PN4241

Thank you. Is the first report a document of, in total, 244 pages - that's the size of the .pdf. It includes all the annexures. That document starts with a five-paragraph statement from you - - -?---Yes.

\*\*\* JAMES STANFORD

XN MS BURKE

PN4242

- - - signed and dated 31 October 2025?---Yes.

PN4243

You hold the qualifications and have the experience set out in paragraph 2 of that statement?---I do.

PN4244

Are the opinions expressed by you in the report annexed to your statement formed by you based on your education and your professional experience?---Yes, they are.

PN4245

Now, I understand you have some corrections to make to that statement, which with leave I will lead. The first of those is at page 15 of the hard copy, which is page 18 of the .pdf. Please let me know when you have that?---Yes, I have that.

PN4246

Table 2, item E, reads, 'Average DA compensation.' Should that read, 'Average PC compensation'?---Yes, it should. Thank you.

PN4247

Thank you. If you can turn now, please, to page 27 of the hard copy, which is page 30 of the .pdf?---Yes.

PN4248

Looking at paragraph 60?---Yes.

PN4249

In the last sentence it reads:

PN4250

*On the basis of the sample illustrative HPs provided in table 3...*

PN4251

Should that be a reference to table 4?---Yes, it should.

PN4252

Thank you. Then over the page, please, to page 29, at table 6?---Yes.

PN4253

The reference, '(A) weighted average increase for HPs', the word 'weighted' should be struck through; is that correct?---Yes.

PN4254

With those corrections, are the contents of your report true and correct?---Yes, they are.

PN4255

I tender the - - -?---To the best of my knowledge.

\*\*\* JAMES STANFORD

XN MS BURKE

PN4256

Thank you very much. I tender the first statement of Dr Stanford.

PN4257

JUSTICE HATCHER: All right. The witness statement, dated 31 October 2025, with annexed supplementary expert report of Dr James Stanford, will be marked exhibit HPSS164.

**EXHIBIT #HPSS164 WITNESS STATEMENT OF DR JAMES STANFORD, DATED 31/10/2025, WITH ANNEXED SUPPLEMENTARY EXPERT REPORT**

PN4258

MS BURKE: There is a second statement titled 'Expert report of Dr James Stanford, supplementary note, alternative estimates for pathology collectors', dated 4 November 2025; do you have that?---I do, yes.

PN4259

That is 12 pages, including the annexure?---Yes.

PN4260

Are the contents of the opinions expressed in this report formed by you based on your education and your professional experience?---Yes, they are.

PN4261

Are the contents of this statement true and correct to the best of your knowledge?---Yes, to the best of my knowledge they are.

PN4262

I tender the supplementary note.

PN4263

JUSTICE HATCHER: Yes, the supplementary note to the expert report of Dr James Stanford, dated 4 November 2025, will be marked exhibit HPSS165.

**EXHIBIT #HPSS165 SUPPLEMENTARY NOTE TO EXPERT REPORT OF DR JAMES STANFORD DATED 04/11/2025**

PN4264

MS BURKE: Thank you very much, Dr Stanford. Please wait there. There will be some questions?---Thank you.

PN4265

JUSTICE HATCHER: Mr Tracey.

PN4266

MR TRACEY: Thank you, your Honour.

**CROSS-EXAMINATION BY MR TRACEY**

**[2.12 PM]**

\*\*\* JAMES STANFORD

XXN MR TRACEY

PN4267

Hello again, Dr Stanford. You probably don't remember me from December, I think it was, last year. Mr Tracey is my name. I am just asking some questions on behalf of Australian Pathology, the industry body representing pathology companies. I am just going to ask you some questions arising out of your supplementary report and possibly the supplement note, as well. Before I do that though, can I put this proposition to you: when you're looking at what drives businesses to make operating decisions, it's not the percentage increase in operating costs that matters, it's rather what that increase in operating costs means for profitability; do you agree with that?---I think that both are relevant and, frankly, maximising profits is typically identical with minimising costs, so I think the two are generally synonymous.

PN4268

Well, I'm going to suggest to you that profitability - sorry, you wanted to add to your answer?---No.

PN4269

No, no. Sorry, I misheard. I am going to suggest to you that profitability is a much smaller number than revenue or costs; you agree with that?---Certainly, yes.

PN4270

And in the private pathology industry, profitability is particularly small; is that your understanding?---No, I wouldn't say that. The evidence that I've looked at said that the profit margin - the net profit margin - in the pathology services sector was around 13 per cent and I wouldn't say that's particularly small.

PN4271

You're basing that on data from, is it, IBISWorld? Is that where you - - ?---Yes, that's right.

PN4272

Yes. You accept that's quite a high level set of data that does not come directly from the sector?---It is a high level analysis that the consultants at IBIS assembled on the basis of data that they compiled from company reports and other sources, so it is high level, but I do believe the data comes from the sector.

PN4273

They do it for all sorts of industries, don't they?---Yes, they do.

PN4274

They're not specialists in relation to this particular industry, are they?---Well, they assign analysts to write the reports in different sectors, who tend to follow those sectors, so I would suggest that the analyst who wrote this report - Ms Henderson, I believe her name is - is probably a specialist in this sector. She doesn't work solely in this sector, but she will follow the sector in detail.

PN4275

Do you know that for certain?---No, I don't.

\*\*\* JAMES STANFORD

XXN MR TRACEY

PN4276

I'm going to suggest to you that the private pathology industry has very thin profit margins, doesn't it?---That doesn't match the understanding that I got from this report.

PN4277

I'm going to suggest to you, as well, that even a modest percentage increase in operating costs can eliminate a large share of the net earnings of the pathology industry, can't it?---Depending on how the business responds to the operating cost increases and depending on how revenues in the industry respond, it is certainly possible that a modest increase in operating costs can lead to a larger proportion of reduction in profitability, certainly.

PN4278

You yourself don't have a specialised understanding based on knowledge or experience as to how pathology employers would respond, do you?---No, I do not.

PN4279

Do you also agree with me that while you've looked at pathology collector increases as well as health professional increases in your reports, you haven't actually assessed the combined impact for the pathology employers of increases for both of those cohorts, have you?---No, I have not.

PN4280

If I could ask you to have a look at your report. You have a table 1 on page 10 of your supplementary report, I think it's titled?---Yes, I have that.

PN4281

Is that the extent of the information about pathology collectors specifically that you have had regard to in forming your opinions about them?---No, it is not, no. The data in table 1, which is a breakdown on employment of pathology collectors from Australian Pathology by wage level after the proposed reclassification - - -

PN4282

Yes?--- - - - that data was used in one of my estimates of the weighted average wage increase which I estimated would result from the proposed wage increases in the panel's recommendations, but I used a lot of other data regarding pathology collectors from other sources, including the Australian Bureau of Statistics, the stage 1 report by Cordis FL and data from Jobs and Skills Australia, as well as the IBIS report that we were just discussing. So I referred to data on the employment levels, compensation and other variables for pathology collectors from several sources.

\*\*\* JAMES STANFORD

XXN MR TRACEY

PN4283

Can I suggest to you that the other sources - putting aside this source, table 1 - are quite high level and generalised?---I'm not sure how to understand the term 'high level and generalised'. The Cordis report did look at medical - the classification called 'medical technicians', which mostly consists of pathology collectors. The

ABS and Jobs and Skills data do look at specifically pathology collectors, so I think that those - those sources are also focused on this occupation in particular. I don't know if I would use the term 'high level' to describe them.

PN4284

Fair enough. In relation to health professionals, you said at paragraph 60 of your report that - well, in fact I'll go to paragraph 46 first. Sorry, Dr Stanford. At 46 you, as I understand it, accept that your analysis has been prepared in the absence of detailed data regarding the distribution of employed health professionals across numerous categories?---Yes, that is true.

PN4285

You accept that's a limitation of your report?---Absolutely.

PN4286

If you go to paragraph 60 - in fact before I go there, you would accept that you haven't done any specific analysis of the effect of the increases for health professionals employed in the pathology industry, have you?---No, I have not. My analysis of the effects of the wage increases for health professionals was conducted in the context of a broad category, a broad sector of different health services industries that would employ various health professionals, so I did not focus on pathology collection per se or any other particular subsection of that broad composite sector that I defined, and I did note in the report that the implications of the proposed reclassification of award wages for health professionals would vary widely across the different components of that composite health services sector that I set up as the base for my examination.

PN4287

I gather what you just said then is similar to what you say in paragraph 60, that is, that you've endeavoured to construct a statistical profile of a composite industrial sector corresponding approximately to the amalgam of enterprises which employ health professionals covered under the HPSS Award?---Yes.

PN4288

And you say:

PN4289

*This composite sector includes private health facilities of all kinds as well as public hospitals in Victoria.*

PN4290

Do you see that?---Yes, that's right.

\*\*\* JAMES STANFORD

XXN MR TRACEY

PN4291

So you'd accept that to the extent that there is particular expert evidence about the effect on health professionals employed in the pathology industry of the proposed wage increases, you would have to defer to that expert evidence, wouldn't you?---I don't know if I would defer to it, but I would certainly acknowledge that the analysis - that additional understanding of the impacts of these wage increases on particular sectors would be enhanced by studying the particular details about

employment of health professionals, the award reliance of health professionals, the particular occupations of those health professionals in various subsections of the broader health services industry. So there could be – given the variety of health professionals covered by this recommendation and the variety of different workplaces and industries that hire those professionals, you could have dozens of different studies focused on particular occupations or particular segments and the results of those estimates would vary, depending on the intensity of employment of health professionals, the award reliance in each setting, and other factors.

PN4292

I might refer you, Mr Tracey, also to paragraph 66 of my report where I'm explicit about the fact that because my analysis was conducted against the backdrop of a composite health services sector, the particular impacts of the proposed wage increases on different subsectors will vary considerably, and I think that's consistent with what you're suggesting.

PN4293

MR TRACEY: Thanks, Dr Stanford. That's the cross-examination for my part.

PN4294

JUSTICE HATCHER: All right. Ms Leoncio.

#### **CROSS-EXAMINATION BY MS LEONCIO**

**[2.25 PM]**

PN4295

Mr Stanford, my name is Ms Leoncio and I am counsel appearing for Healthscope Operations Pty Ltd and Adelaide Community Healthcare Alliance, who operate private hospitals in Australia. Can I just confirm you can hear me okay?---I heard you loud and clear, thank you.

PN4296

Just let me now if you have any difficulties hearing me as we proceed. I wanted to ask you some questions about the evidence that you give about the impact of proposed increases to the health professionals under the award. I take from your report and what you've just said this afternoon that it is a highly complex exercise to seek to estimate the impact of these increases in this award in respect to the health professionals?---That is certainly true, both because of the range of different occupations covered by the health professionals provisions and the wide range of different workplaces and subsectors in which they work. So it is a very complex and multidimensional task to try and understand what this proposed reclassification system would mean.

PN4297

Part of the reason as well is the difficulty with limited data as to the compensation levels of the health professionals?---Limited data as to the compensation levels, limited data as to the composition of employment across different health professionals, limited data as to the award reliance of different health professional categories. So in every case, the analysis was limited and made more uncertain by the incomplete nature of the starting data with which I could work.

\*\*\* JAMES STANFORD

XXN MS LEONCIO

PN4298

I understand from your evidence that your estimates are really intended to give an impression of the potential effects, but are by no means a definitive conclusion of the actual consequences of the increases?---Yes, I think my approach is a legitimate approach, given the limited and incomplete data available, to understanding the order of magnitude of the likely wage increases arising from the reclassification of health professionals under the proposals that we're considering, and I am explicit, as I just mentioned with Mr Tracey, that the particular impact on particular firms or workplaces or subsectors of the broader health services industry will vary, depending on how many health professionals of which type they employ, what the compensation is in those settings, and the award reliance of health professionals in those settings. I do think in terms of understanding the broad industry-wide impacts of the proposed reclassification scheme, this approach is legitimate, but for individual companies or slices of the health services industry, looking for guidance on what it's going to mean for them in particular, I think my analysis would be of limited use.

PN4299

That's true, of course, for the private hospital sector; there's not a separate estimate that is given in your report about the impacts on that sector?---No, you're correct. Private hospitals are included within that amalgam or composite health services industry, which I define and describe as the base for my analysis, so the private hospitals sector is a significant part of that, but a small part of the overall total. Before extrapolating the findings of my industry-wide analysis to the case of private hospitals, we would want to dig deeper into the particular dimensions of employment of health professionals in private hospitals, again the composition of different occupations within the covered health professionals, the degree of award reliance, and so on.

PN4300

You would accept that, depending on the distribution of classifications, it could end up with a higher impact in particular segments of the sector?---It will certainly end up with a higher impact in some subsectors and a lower impact in other subsectors, depending on the composition of employment and compensation in those sectors, yes.

PN4301

Can I clarify one matter. In your report at paragraph 10, which I think you have in front of you?---Yes.

PN4302

This is page 10 of the PDF and paragraph 10. You have made a comment there about the proportional increase in wages is translated fully into a proportionate increase in total compensation for affected workers, and then you make the point that:

\*\*\* JAMES STANFORD

XXN MS LEONCIO

PN4303

*Non-wage compensation in Australia, consisting most importantly of superannuation contributions, is tied closely to wage payments, and hence*

*there is a little difference between the rates of growth of wages and total compensation for individual workers.*

PN4304

Could you just explain to me how those oncosts, so non-wage components, are factored into your estimates?---Yes. Because my analysis is driven by proportionate changes in labour costs rather than absolute dollar figures, then by making this assumption, the overall compensation costs will rise in step with the changes in regulated wage costs. That allows me to assume or project the cost analysis that I've developed on to total compensation costs, not just wage costs. You'll see, you know, as you read through my report, it's driven by my estimates of the impact of the proposed reclassification on total compensation costs in this broader health services sector are driven by the product of the estimated wage increase that would result from the reclassification, the proportion of employees in the industry that are reliant on the award, that is to say, their pay is determined and directed by the award, and the starting average level of compensation of those award-reliant employees as a proportion of average compensation across the industry. Those are all ratios, they're all percentages, they're not calculated in absolute dollar terms. So the assumption that total compensation costs will rise in step with wages simply means I can extrapolate that calculation, the product of those three ratios, to compensation costs, not just wage costs.

PN4305

In practice, I suspect that total compensation does not rise perfectly proportionately with wages because there are some elements of non-wage compensation that are fixed in dollar terms, so there might be a little bit of a wedge between total compensation costs and total wage costs, but I don't think it would significantly alter the ultimate conclusions that I came to.

PN4306

MS LEONCIO: What are some of those fixed costs that you had in mind or fixed dollar terms?---Fixed dollar compensation, well, some of the – potentially, some of the smaller employment benefit arrangements that some employers might provide, or some of the fixed costs associated with hiring and recruiting and so on that are not directly tied to wage levels would not increase in step with wages, so in that case, the total labour costs of an employer might grow slightly slower than wage costs in relation to this award, in relation to the reclassification proposed for the award.

\*\*\* JAMES STANFORD

XXN MS LEONCIO

PN4307

Things like, for example, leave or workers compensation, those kinds of matters, they're not specifically tied to the wages that are paid. Have they been factored in in terms of non-wage compensation?---Well, leave costs in general are tied to wages because the value or the expense of a week of paid leave depends on how much you're making, and I believe the same is true for workers compensation premiums as well, which are generally expressed as a percentage of wages, so in those two cases, I think the standard assumption that total compensation costs will grow at the same pace as wage costs would be valid and, yes, they are factored

into the calculation because I've assumed that total compensation will grow in step with wages.

PN4308

And payroll tax, is that the same position?---Payroll taxes, of course, are imposed at the state level and, in general, are phrased as a percentage of wages, but depending on the state and the particular tax, there are different features of the design of the tax, for example, caps on how much of the wage bill the payroll taxes apply to, that could again create a small difference between the impact of – sorry, a small difference between the rate of increase in wages from a reclassification such as this, and the rate of increase of payroll tax costs. Again, I tend to think it would be in the direction that total payroll taxes might grow slightly slower than total wages, so, in that case, my calculations here would be a very minor overestimate of the total impact of the reclassification on employer compensation costs, and again, in my judgment, it would not be of meaningful significance.

PN4309

I wanted to just confirm, in terms of the payment of things like casual loading, overtime, penalties on top of an employee's base rate of pay, are those matters factored into any of your estimates?---Yes. Again, because I'm assuming that the wage increase applies to total compensation, not just to the wage bill, then those will be, because casual loading, of course, is defined as a percentage of wages, and so again, in that regard, the assumption outlined in table 10, combined with my methodology of estimating the proportional impact on compensation costs as the product of three percentage ratios means that those wage-related costs are indeed included in my calculations.

PN4310

I see. I then wanted to just ask you some questions about how you determined the award reliance rates. I understand that you refer to – that's covered in your statement at paragraph 59?---Yes.

PN4311

I will just take you to table 5 on page 30 of the PDF?---Yes.

PN4312

Sorry, that's table 6 on page 32 of the PDF?---Yes.

PN4313

I understand from your report that there are three percentages to seek to identify the award-reliant employees, which are then used in a calculation, but there's this 10 per cent, 20 per cent and 30 per cent, which defines the share of health professionals compensated according to the award?---Yes.

\*\*\* JAMES STANFORD

XXN MS LEONCIO

PN4314

I just wanted to take you back to paragraph 59 and to understand, when you say 'compensated according to the award', what did you mean by that?---I meant they

are award-reliant in the sense that they are paid the minimum wages as specified in the award.

PN4315

Yes. And so when you've looked at that 10 per cent, 20 per cent or 30 per cent, you do take into account the percentage in the ABS data which you refer to at paragraph 58, which is 33.6 per cent, and am I correct that that 33.6 per cent refers to the whole of the health and social services category and so that's why you treat it with some caution?---Yes, you are correct. The ABS data on employment and earnings does provide some data on overall award reliance across different, very broad industrial groupings, and this was one of one two datapoints that I could find that shed any light at all on the likelihood of the award reliance rate for health professionals in private health settings.

PN4316

One of them was this datapoint from the ABS survey on employment and earnings, which said 33.6 per cent of all employees in the broad health services and social services sector were paid directly according to the award minimums, and that includes, obviously, a huge swathe of different occupations, including many occupations such as cleaners and support staff and nurses, childcare workers, where award reliance is high, and that produced the 33.6 per cent industry-wide average. The other datapoint that I could find was from this preliminary report by Cortis et al where they reported that award reliance among psychologists, the only health profession that they considered there, was zero per cent.

PN4317

So that is an enormous range and I don't believe that either of those numbers are reflective of the true intensity of award reliance across the broad spectrum of health professionals that we have considered in this report. So some are between zero and 33.6 per cent, and in that is where the true number lies. I tend to think it's towards the lower end of that, just based on the fact that health professionals are highly skilled and many of them, I think, have got individual contracts and bargaining power to negotiate better compensation than spelled out in the awards, but that would just be my gut feeling. I have no evidence on which to base it, so I just picked three potential cases, 10, 20 and 30 - obviously round numbers - they make the maths easier to, in a way, provide a broad range of the likely impacts of the reclassification on total compensation costs.

PN4318

MS LEONCIO: Sorry, Dr Stanford, I just wanted to focus on the 'paid according to an award'?---Yes.

\*\*\* JAMES STANFORD

XXN MS LEONCIO

PN4319

If you recall, we were talking about the ABS data and that that was according to an award. That is referring specifically to people who are paid on an award, so it wouldn't include, for example, those who are paid under an enterprise agreement, which may have the same or slightly higher rates than under the award?---Yes, that's right. The ABS data provides three categories of payment type: paid by the

award; paid by an enterprise agreement, or paid on an individual contract and other means. Those are the three categories that they report.

PN4320

Yes, and so to the extent that an employee is currently covered by the enterprise agreement and by reason of the proposed increases will have their wages increased, that's not captured in that 33.6 per cent?---No, it is not.

PN4321

So that may be one reason why the 33.6 per cent is not necessarily – or it may capture more of the people than what you had estimated in terms of your concerns about the low levels of award reliance amongst health professionals?---Ms Leoncio, you might be getting at the issue that is discussed in my report about the indirect effects of a reclassification - - -

PN4322

Yes?--- - - - of wages on workers who are not directly paid the minimums in the award but whose wages may increase as an indirect result of the award, so - - -

PN4323

Yes, I see, so they are separately - - -?---Yes.

PN4324

JUSTICE HATCHER: Sorry, just don't talk over each other.

PN4325

MS LEONCIO: Sorry.

PN4326

JUSTICE HATCHER: Had you finished your answer, Dr Stanford?---Yes, thank you.

PN4327

What was the question again, Ms Leoncio?

PN4328

MS LEONCIO: It was in respect of those employees who were paid above the agreement rate or were paid by an agreement. I understand that they are – that they are dealt with in the indirect effects part of your report; is that correct?---Yes, I mention, in discussing the indirect effects, that they can occur and that, as a result, the impact of the reclassification on total compensation costs in this broader health services industry that I've described could be higher than what I have described on the basis of workers who previously were paid more than the award minimum but who got a wage increase as an indirect result of that, and again we have no information about how common that would be, we have no information about the number of people who are paid just slightly above the award and hence whose wages might be leapfrogged by a significant wage increase of the type being contemplated here, so, you know, all I can do is indicate that this is a potential effect that should be kept in mind.

\*\*\* JAMES STANFORD

XXN MS LEONCIO

PN4329

I believe my three cases of award reliance assumptions, 10 per cent, 20 per cent, 30 per cent, I think the 30 per cent assumption is high and generous and, in essence, is a buffer that would provide for room of some of those indirect effects, but again I have no hard numbers on which to base that conclusion.

PN4330

MS LEONCIO: Just to deal with the psychologists, which you referred to just earlier, I haven't got the report to show you, but in terms of the Cortis report that you rely upon, would you agree that that report, in terms of the award reliance rate for psychologists, includes a footnote that says:

PN4331

*The relative standard error is greater than 50 per cent and too unreliable for general use.*

PN4332

?---Yes.

PN4333

That part of your caution in respect of that figure?---That is one of the reasons I didn't believe the zero per cent.

PN4334

So we can really put that figure to one side, can't we?---I think so, but I will also that the 33.6 per cent number from the ABS survey for the overall healthcare sector, which includes many occupations which are clearly far more award-reliant than health professionals are, is also an extreme estimate that will be far higher than what the actual number is, so - - -

PN4335

And you – sorry to cut you off?---I'm sorry, no, that's fine.

PN4336

Was there anything further than you wanted to add, Dr Stanford, on that point?---No. No, I think, again in terms of describing my quandary, if you like, of trying to calculate employment effects in the absence of more precise data, setting out the zero per cent and 33.6 per cent as extreme bounds on the range of possibilities is meaningful. So in that regard, even though I don't believe the zero per cent number, I think it's still relevant to our discussion. The true degree of award reliance for the whole spectrum of health professionals covered by this recommendation is somewhere between zero and 33.6 per cent. I'm very confident in that conclusion.

PN4337

I see. So when we move then to talk about the indirect effects and you refer to the 10, 20, 30, there isn't a specific component or a specific percentage that is assigned to the indirect effects; is that correct?---No, there is not.

\*\*\* JAMES STANFORD

XXN MS LEONCIO

PN4338

Rather than - - -?---And I do state at the end of paragraph 59 of my report I think the 30 per cent assumption is high and implicitly can be interpreted as allowing for a margin which would cover those indirect effects, but the indirect effects are not explicitly modelled in my analysis.

PN4339

When we talk about 'indirect effects', we're talking both about the leapfrogging possibility, which is what you've described as the agreement rate being exceeded and therefore being paid the higher increased rate, but you would agree with me those indirect effects also include maintaining relativities, so an employer deciding to maintain relativities, although they're not themselves impacted directly by the increase, but they want to maintain a level above their current rates?---Yes, that is another reason why those indirect effects could occur, certainly.

PN4340

Have you read the report of Greg Houston that has been filed in this proceeding?---I have reviewed that report.

PN4341

In that report, there are estimates that are included in respect of both the direct and indirect effects; you recall that?---Yes.

PN4342

And that was - - -?---I would not have those numbers immediately in my head, so if there's a specific questions about them, you'll have to guide me to them in his report.

PN4343

That was specifically about the radiology professionals; do you recall that?---Yes.

PN4344

Mr Houston estimates that the direct effects on total remuneration across all of the members of the Australian Diagnostic Imaging Association is \$20 million, around about \$20 million. Does that figure sound familiar?---I do not have that figure in my head, so I accept that that is what he said and, if you like, I can look at it in his report, which I have in front of me here.

PN4345

I might just take you to the relevant figures, which is the second report. Do you have that in front of you?---I have a report from HoustonKemp, expert report of Greg Houston dated 12 September.

PN4346

Did you have the 10 November report? It doesn't really matter all that much if you don't?---Okay. I don't think I have the 10 November report.

\*\*\* JAMES STANFORD

XXN MS LEONCIO

PN4347

Okay. I'll just explain to you that Mr Houston, in his estimates, considers that the relevant multiplier in terms of direct to indirect, when you look at those figures - so he provides three different estimates in terms of indirect effects, and the

multiplier suggests somewhere between three to seven times the direct costs. Now I appreciate you don't have those figures in front of you because that really comes from the second report, but does that suggest to you that the allowance of 30 per cent, really that 30 per cent, including a buffer, is on the lower end of the possible indirect effects?---Well, first of all, he was looking at one occupation out of that whole spectrum and my analysis was framed around the broad effect across all of those occupations. If, in fact, the relevant multiplier were seven times, then whether that's important or not depends on what you were starting with in terms of the assumed level of pure award reliance. So, you know, if you were starting with the 10 per cent low case in my situation, to then apply a 70 per cent multiplier for the indirect effects means that 80 per cent of people in this occupation would get a wage increase as a result of the award, and in a relatively skilled profession, I don't find that believable. So, you know, I don't know details about the radiology situation, but those estimates of a broad multiplier for indirect effects strike me as high.

PN4348

I see. Just in terms of the assumption that you make about the skilled professionals not being award-reliant, that is just based on your own assumption, isn't it?---Well, in terms of how the broader labour market in Australia functions, it is certainly true that award reliance is higher among less skilled and workers with fewer qualifications. That is certainly true in general. So given that most of the professions covered in the health professional part of my analysis all have very high levels of qualification, I do think it's reasonable to assume, on the basis of the economy-wide correlation, that health professionals are in general going to be less award-reliant than workers in general.

PN4349

Again that doesn't really factor into account those health professionals that might be paid at a rate that is, say, slightly higher than the award but would be required to have an increase as a result of the - - -

PN4350

JUSTICE HATCHER: Sorry, Ms Leoncio, what doesn't take into account that?

PN4351

MS LEONCIO: The assumption based on award reliance in respect of the skilled health professionals, the assumption that there's low award reliance is specifically about the health professionals being paid according to an award.

PN4352

THE WITNESS: Yes, my expectation that pure award reliance, if I can use that term, health professionals who are paid the minimum rates specified in the award will tend to be quite low compared to other occupations in the health services industry and the broader labour market, but that does not account for health professionals who are paid more than the award and who might receive indirect wage increases as a result of the reclassification.

\*\*\* JAMES STANFORD

XXN MS LEONCIO

PN4353

MS LEONCIO: Yes.

PN4354

JUSTICE HATCHER: Dr Stanford, can I just clarify that indirect wage increases. It seems to me there's two categories. The first is that there are people who are currently paid above the award but not enough above the award to absorb award wage increases, so that's the first category. The second category are the people who are already above the new wage increases but might have knock-on effects because of, for example, need to maintain relativities and internal workplace harmony. Does that sound right to you?---Yes, I agree. I think those are two separate cases and the possibility of indirect wage increases applies. I have called the first one the leapfrog effect and I have called the second one the relativity effect.

PN4355

If you've looked at Mr Houston's report, as I understand it, his analysis of the direct effect includes that you call the leapfrog category, that is, he's analysed the wage costs for anybody who would fall below the new rate, not just those who are currently award-reliant?---And in his model, their wages would increase to the new minimum award rate but not re-establish the relative cushion above that award rate, if I recall.

PN4356

Yes?---But again I do stress I would have to examine his report in more detail in order to make a fully-informed comment on it.

PN4357

Yes. Thank you.

PN4358

MS LEONCIO: I then just wanted to ask you some questions about the impact of the estimates that you have made. In terms of the table that you have of the profile of what we might call the 'composite industry', which is at table 5 of your report at page 27?---Yes.

PN4359

You will see there that you've got operating profit of \$32.2 billion. So that represents, as you say, a composite of the health services industry?---Yes.

PN4360

I understand that you had relied on data from the ABS to identify that figure, the \$32.2 billion?---Yes.

PN4361

I understand you've got a copy of that spreadsheet. Has that made its way to you? There was an electronic copy that was sent by my instructors shortly before you were online?---Yes.

\*\*\* JAMES STANFORD

XXN MS LEONCIO

PN4362

I'll just hand up a copy to the Bench. The way that you've described it in your bibliography at page 40, this is the ABS Healthcare and Social Assistance Australian Industry Table (indistinct) June 2024?---Yes.

PN4363

I appreciate there's no headings on this table, but does this table reflect your recollection of what that - - -?---Yes, it does.

PN4364

I want to take you to page 7 - and apologies, this printout is a little bit small – page 7. You'll see there is a tiny number in the left-hand corner, but it's page 7 of the PDF?---Yes, I have that.

PN4365

This lists out the operating – if you go to the column that's the fifth from the right, that says, 'Operating profit before tax, hospitals private'?---Yes.

PN4366

That is the column that represents the operating profit and would have been part of your assessment to get to 32.2; is that right?---Well, not directly, but it is included within the amalgam that I did. How I got to 32.2 was the last column on the right of this page, operating profit before tax in the whole private healthcare and social assistance sector, and then I subtracted operating profit before tax in social assistance services, which are lumped in here in the ABS data but are not really relevant to the HPSS reforms that are being contemplated here. So in the amalgamated or composite health services sector, which I described in table 5 of my report, I explained that I created that by taking the overall numbers for healthcare and social assistance and subtracting out the social assistance.

PN4367

Yes?---So you'll see in this case the 37.4 billion around it of total operating profit in the private healthcare and social assistance sector, subtracting the 5.3, rounded, for social assistance, that's how you get the 32.2 that is mentioned.

PN4368

I see?---Now within that 32.2 are included the residential care services, the medical and other healthcare services and private hospitals columns, which are the other major components of that amalgamated healthcare and social assistance sector that the ABS defines.

PN4369

Yes, and you'll see in that column that is the fifth from the right that, in June 2024, the operating profit before tax for private hospitals was in the negative?---Yes.

PN4370

So that's negative 34 million. I take from that then that this report suggests that the private hospital sector is operating at a loss; is that correct?---The ABS report, yes, certainly indicates, and that's not just for June 2024, that would be for the fiscal year ending in June 2024.

\*\*\* JAMES STANFORD

XXN MS LEONCIO

PN4371

Yes?---And that would indicate that private hospitals had an operating loss in that year, yes.

PN4372

That would indicate that the private hospital sector is already not coping with its existing operational costs; would you agree with that?---Well, operating profit depends on costs and it depends on revenues, so I would say that the private hospital sector is in a difficult situation regarding the balance between its revenues and its costs.

PN4373

In terms of your original report – this was back from the end of last year – you had indicated a number of potential mitigatory actions that firms could take to offset the increases; do you recall that?---Yes.

PN4374

Things such as substituting capital or technology for labour; do you recall commenting about that potential?---Yes.

PN4375

Now you would agree with me that in the private hospital sector, there's close to no capacity to invest in technologies given they are operating at a loss?---No, I wouldn't agree with that. Investments in technology can be financed through many different means, not just from operating cash flow. So the fact that it's in an operating loss in this particular year doesn't mean it can't invest.

PN4376

Would you accept that the position of the private hospitals sector at the moment would indicate, to the extent that they could invest in technology as to reduce their costs, that that's something they would currently be doing?---I can't comment on what the thinking of the managers and investors of private hospitals would be. Sometimes an operating loss is a very good reason to invest in new capital. Again, I wouldn't conclude from the fact that they have an operating loss in that year that private hospitals either lack the motive or the means to invest in capital. I wouldn't come to that conclusion.

PN4377

Would you agree that they would be highly motivated currently to either maximise their – in terms of the offset of the increases that you have indicated, they are already highly motivated to undertake those exercises in terms of introducing new technology? That would already exist?---When new technologies can be used to profitably substitute capital or technology or new forms of work organisation for direct labour costs, employers always have an incentive to do it. Now, sometimes being in a loss-making position, concentrates the mind of management and forces them to, you know, think outside the box or undertake innovative measures that they might not if they were earning, you know, a comfortable margin.

\*\*\* JAMES STANFORD

XXN MS LEONCIO

PN4378

Again, what I can say is certainly that the profitability of private hospitals has declined in recent years, and that's evident from this chart that profit levels were higher before the COVID pandemic, and now they're non-existent, and there's many factors contributing to that, including challenges in the private health insurance side of Australia's healthcare system. So profits fell to negative even before considering the wage adjustments for health professionals that are being contemplated in this review. So I don't really see a direct connection between the potential increase in operating costs from this reclassification of wages for health professionals, and either the current level of operating losses for private hospitals or management's determination to try and find ways to operate more profitably.

PN4379

MS LEONCIO: In terms of the ability to pass on or increase – to pass on the increases through price increases, you would accept that that would be very difficult in the private hospital sector where, for example, there is a public system where consumers could obtain the services potentially for free?---Well, the revenue base for private hospitals is diverse, so there's a combination of direct out of payment costs by individual consumers. I think that's a relatively small proportion of total revenues. Then there's reimbursements from private health insurers, and then there's a significant share of business in private hospitals that's paid for by government through contracted services. So the relationship between direct operating costs and those three broad categories of revenue is different in each case.

PN4380

For individual consumers, I would say the small portion of private hospital revenue that comes from individuals paying out of pocket, certainly the fact that there is a public system in Australia would limit the capacity of private hospitals to increase costs for private consumers and make that portion of demand more elastic.

PN4381

With the section of revenue that comes from private insurance companies, then this will depend on the nature of the contracts between private hospitals and private insurers, and obviously those are complex and subject to negotiations and timelines and so on.

PN4382

In terms of the proportion of private hospital revenue that comes from the government through contracted services, then again that depends on how the private hospitals negotiate those fees with government and how amenable government is to recognising that operating costs are growing and therefore their payments have to grow.

PN4383

In all three cases, I think each of those three categories has a unique and complicated relationship between operating costs and revenue determination.

\*\*\* JAMES STANFORD

XXN MS LEONCIO

PN4384

MS LEONCIO: But you would agree that there are some significant constraints on the ability for the private hospital sector to pass on those costs?---There are certainly constraints on the ability of private hospitals to immediately pass on costs. I think, in some cases, with renegotiation of contractual arrangements and fee schedules, those costs can be passed on, but certainly they can't just immediately and fully recoup those expenses.

PN4385

JUSTICE HATCHER: Dr Stanford, while we are on the subject of private hospitals, on the document you've been just taken to, can you turn to the fifth page?---Okay.

PN4386

I think it's the sixth from the right appears to set out annual or total income or revenue for the same sector that is private hospitals; does that look right?---Yes.

PN4387

So it appears from reading that the problem is not on the revenue side - because revenue seems to have steadily grown, there must be a problem on the costs side. Is that how we are to read that, that is - - -?---Well, again – I'm sorry?

PN4388

That is, the loss of profitability doesn't appear to relate to any reduction in revenue, so I assume there's something going on in the costs sides; is that what's happening?---Well, it's certainly not due to a reduction in revenue. Revenue has grown steadily in every year of that table. Nominal revenue has increased. Now, I remember, particularly in the 2022/2023/2024 period, inflation was relatively high, so you would expect nominal revenues to be growing quickly, so what you would need to do is compare that to the course of operating costs over the same period.

PN4389

Now, if I recall, there is a listing called 'Total Expenses' on page 6 of the same table, and so, for private hospitals, the third column from the right on page 6, you'll see that expenses have increased every year as well. So both revenues and expenses are growing, and what's happened is, obviously, revenues have grown more slowly than expenses, and so I think it would require a deeper dive into the particular components of those two streams, revenues and expenses, to figure out, you know, where the problem lies, and I suspect it's a combination of both the revenue and the expense side.

\*\*\* JAMES STANFORD

XXN MS LEONCIO

PN4390

JUSTICE HATCHER: Do we have employment cost data in this document?---Yes. So if we go up to page 4 of the document, on the left side of that spreadsheet are a series of columns showing total labour costs in the broader healthcare and social assistance sector and its various components. Then if you wanted wages alone, wages and salaries alone, you could get those from the previous page, page 3. So on page 4, the total labour costs, you will see the total

labour costs in private hospitals in that last year were 12.8 billion, and that was a little bit more than 10 per cent of the total labour costs in the broader healthcare and social systems sector. So, you know, again private hospitals are an important but small part of the overall amalgam of health services, private health services that I'm looking at in my report.

PN4391

Just in terms of the proportion of labour costs to the overall costs it's around – I just did a rough calculation, but is it around 53 per cent if we just divide those figures? Is that how you would calculate - - -?---You're referring, Ms Leoncio, to private hospitals in particular?

PN4392

Yes. So I had those two figures; the labour costs, which was the 12,806 on page - - -?---12.8. Yes.

PN4393

And then the total which was – that was the total - - -?---Total expenses for private hospitals would be 24.2 billion. Yep.

PN4394

So something around the 50 per cent mark in terms of the proportion?---Correct.

PN4395

You would characterise that as a significant proportion, wouldn't you?---Certainly, yes. Healthcare is a labour intensive industry, and it's not uncommon in most parts of this broader sector for labour costs to make up around 50 per cent, or even more, of total expenses. Now, here's an interesting point though that I think comes back to the previous question about is the problem on the revenue side or is it on the expense side, and if it's on the expense side what are the components. So interesting, if you go back to let's say 2019, the last year before COVID, in that table, the labour costs in private hospitals – this is real time production of new analysis here, folks, this is quite interesting. I've never done this in a hearing before. Yeah. So it looks to me like the labour costs are relatively – I think the labour costs – I'm sorry, I would have to take a bit more time to do this properly, but labour costs in 2019 – yeah, were over half of the total costs as well. So I guess that's kind of a standard ratio. So it looks like – we could do a deeper analysis to see how labour costs have changed as a proportion of total labour costs in private hospitals over time to think about again what are the components of expenses that are growing relatively rapidly. If we had a breakdown on revenue, which is not provided in this ABS data, we could do the same thing on the revenue side to see – you know, again to try to identify where the problem is. But I don't think it would be credible to conclude that the reason operating costs in private – sorry, operating profits in private hospitals have disappeared is because of labour costs per se. I think there's deeper structural issues in the private hospital system that are the key drivers of the problem here.

\*\*\* JAMES STANFORD

XXN MS LEONCIO

PN4396

But you would agree with me that in the conditions that the private hospital sector is in currently, operating at a loss, that it has no real current capacity to absorb the proposed increases immediately in one hit?---Again I would be reluctant to say no current capacity. You know, it's certainly the case that an industry that's losing money is going to have a harder time adjusting to increases in costs, but again it could be that this is the sort of thing, if the private hospitals are required by regulation to address a long standing inequity and how they're compensating a good portion of their workforce, and that necessity forces management to say, 'Hang on, you know, we've just been trying to get by', without really thinking through the viability of this whole business, 'And we're going to have to make some changes', then it could very well be that a spark like this forces the management of private hospitals to say, you know, 'We're going to need to restructure, negotiate with private insurers to negotiate new deals with the public system', or other measures like that. So given that the labour costs of health professionals in the total private healthcare – sorry, in the total private hospital industry are small – you know, we were just looking at total labour costs, not just for health professionals – I would be very reluctant to say, you know, the hospitals are unable to absorb and respond to this in a sustainable way.

PN4397

Would you accept if they weren't able to pass on the costs, or if they weren't able to offset the labour increase – I will withdraw that. To the extent that they are required to increase the wages as proposed, and they aren't able to offset that by increasing their revenue streams, you would agree that that would have a real risk on the viability of the private hospital sector?---I don't know enough about the situation to say a risk to the viability. Certainly if they're required to increase this proportion of the costs and they cannot increase their revenues accordingly then their operating profits will be even lower than indicated in that ABS table. Whether that affects the viability of private hospitals or not is – I couldn't conclude on.

PN4398

I think the last time you gave evidence, Dr Stanford, you previously accepted that if the government did not accede to fund the wage increases this could have a deleterious effect on the viability of private hospitals. Do you recall accepting that proposition?---I don't remember the term 'viability'. Viability implies that the private hospitals would be driven out of business by a wage increase paid to a small segment of its workforce, and I don't know if I said that, but I wouldn't say that today. I think viability, threatening the viability of hospitals is a strong – a strong test.

PN4399

If that was the case that you did say that previously that would hold true in terms of where the position has worsened and they are operating at a loss?---It is certainly true that the challenges faced by private hospitals a year ago when I gave that testimony are even more constraining today, based on that ABS data, that profitability in private hospitals, which was low last year, is now non-existent. So certainly the problems in the hospitals have gotten worse even without measures to address wage, gender wage inequities in some of their workforce.

\*\*\* JAMES STANFORD

XXN MS LEONCIO

PN4400

And you would agree that one way to mitigate that, any risk to the viability of private hospitals, would be to phase in the increases?---Yes. I do have a section in my report on how phasing in the increases – I think in my case I assimilated over a two year phase in period, or a four year phase in period – would mean the increases in labour costs, total labour costs in the – again in the overall composite health services sector that I was looking at, I wasn't focusing on private hospitals, but those increases would be half the size or a quarter of a size on an annualised basis. And again given the indirect and complicated relationship between the costs of operating private health facilities and the fee, revenue that they receive, whether from private insurance or from the public Medicare system, time can obviously help in terms of negotiating offsets on both of those revenue streams in response to a regulated change in minimum compensation for health professionals.

PN4401

And focusing - because I understand, in your report, you weren't focusing on the private hospital stream?---Yes.

PN4402

But if we focus on the private hospital stream and the current operating loss position that it finds itself in, that a more reasonable phase-in period would be five years. A longer period of time than the examples that you have put in your report?---I - I wouldn't use the term 'reasonable'. I - I simulated a - a couple of illustrative possible phase-in effects, two years and four years. What is reasonable or not is, I think, for the judgment of the - of the panel. I will tell you that in my case, in my report, the overall impact of the wage increases, or the - the overall impact on compensation costs of the proposed reclassification of health professionals resulted, in the medium case scenario, in a total increase in compensation costs in that composite health services sector that I find of less than one per cent. So an increase in total compensation costs of less than one per cent is not major. So, you know, it then becomes a - a matter of judgment, obviously, for the panel, as to whether an increase of that size needs to be phased in over several years or not.

PN4403

You mentioned earlier reference to private health insurers, and the possibilities - - -?---Yes.

\*\*\* JAMES STANFORD

XXN MS LEONCIO

PN4404

- - - there in terms of the reimbursements from the private health insurers to cover the costs of any increases. And, Dr Stanford, you're aware of the constraints that the private health insurers have in terms of the premiums that they can charge to their consumers?---Yes, there's economic constraints pushing in from all sides at private health care, frankly. And that includes the ability of consumers to pay premiums for health insurance. It includes the ability of consumers to pay for out-of-pocket costs for private health services. It includes the contractual relationships between private health insurers and private health providers, and the - you know - the power relationships and negotiations that go on between

them. And it depends on the - overall - the policy framework for private health insurance, including the big public subsidies that are paid in Australia to private health care, both through direct subsidies, Medicare purchases, tax preferences for private health insurance, and other means. So, you know, looking at it frankly, the overall private health system in Australia is complex and, in my judgment, in many ways, contradictory, and probably not sustainable. So these are big questions that have to be faced by government policy, and whether a small share of employees in a certain segment of the private health industry is able to get gender parity in compensation is going to have no bearing whatsoever on the long-run solution to those deep structural problems of private health provision in Australia, in my judgment.

PN4405

And in terms of some of the government policies, are you aware of the requirement for private health insurers to apply to the Minister for approval for changes to private health insurance premiums?---Yes, I am.

PN4406

And I understand my instructor has sent through a document to you, which is called the Statement of Expectations for the 2026 Private Health Insurance Premium Round. Do you have a copy of that document in front of you?---I recall that. Yeah, I think that came in just before the - - -

PN4407

I might just hand up a copy - - -

PN4408

THE WITNESS: The hearing.

PN4409

MS LEONCIO: - - - to the bench, as well.

PN4410

THE WITNESS: Yes, okay, I have that in front of me.

PN4411

MS LEONCIO: And are you aware of the timing of those approval processes, Dr Stanford?---I - I - I could read this statement, which I - I presume will tell - will tell me. Other than that, I - I have not followed this policy issue in - in my work.

PN4412

I understand. Well, it talks about the premium round being to take effect on 1 April 2026. Are you able to comment on whether that is your understanding?---And - and is that explained in this letter from the Honourable Mark Butler?

PN4413

On the second page, there's a reference - - -?---Yes.

\*\*\* JAMES STANFORD

XXN MS LEONCIO

PN4414

- - - in the final paragraph, to the requested changes to take effect on 1 April 2026?---Okay. I see that.

PN4415

Are you aware of the considerations that are taken into account in approving those premium insurance changes?---I'm not, no. Again, this is not a - an area of policy that is something I follow. But I could read this letter, if you'd like, if there's more information in here.

PN4416

So when you were talking earlier about the extent to which the government might provide - - -?---Yes.

PN4417

Government policy might shape the private health services sector, did you - - -?---Yes.

PN4418

- - - have this particular private health insurance premium policy in mind, or the policy that would apply to that in mind?---Well, when I spoke about the fact that there is a complex and indirect relationship between the cost of providing private health services and the revenue stream from private health insurers to help cover those costs, I was referring to issues about how those fee payments are determined. And one of the factors going into that determination will be the extent to which private health insurers can recoup costs of higher private health services in the form of higher private health insurance premiums, certainly. In terms of the details of this statement of expectations, that's not something I'm familiar with, other than the letter that you've just given me.

PN4419

Yes. But you would agree that that would be relevant to the consideration of whether or not those increases would be approved?---I'd say they're relevant to both consideration of approving the increases and the timing for which they would be implemented.

PN4420

JUSTICE HATCHER: Sorry, do you mean increases to private health insurance prices?

PN4421

MS LEONCIO: Premiums, yes.

PN4422

JUSTICE HATCHER: I understand.

\*\*\* JAMES STANFORD

XXN MS LEONCIO

PN4423

THE WITNESS: I'm sorry, I misunderstood that. Okay. I was saying - referring to the increase in wages with the reclassification. So I'm sorry; you will have to repeat the question. I apologise.

PN4424

MS LEONCIO: So in terms of the increases to the private health insurance premiums, would you - - -?---Yes.

PN4425

- - - agree that that is relevant, in terms of a private hospital's arrangements with the private health insurer?---Yes, it would be highly relevant.

PN4426

Yes, and the ability for the proposed wage increases in this proceeding to be offset by any reimbursement from the private health insurance?---Yes, I can see that there are hurdles that private hospitals will have to traverse in order to increase revenues to reflect higher operating costs for any reason, not just this wage reclassification. And those hurdles will include negotiating fee schedules with the private insurers. But that process itself depends on the policy context for private health insurance, including government oversight of those premiums. So it is a - again, as I said earlier - a complicated and, in many ways, contradictory system in Australia.

PN4427

And I'm sorry; I may have misunderstood, but you would say that that would be relevant to the timing of these proposed increases?---Yes, certainly. Recognising that whatever the extent to which higher costs can be recouped through renegotiation with private health insurers, in the context of the regulatory regime that private health insurers face, and renegotiating direct payments for privately provided hospital services from government agencies of - of various kinds - there is a significant public procurement part of the private hospital's revenue stream. Both of those will require, I think, time and negotiation, for sure.

PN4428

Yes, thank you, Dr Stanford. They were all the questions that I wanted to ask in cross-examination. I did want to tender both of those documents that I handed up.

PN4429

JUSTICE HATCHER: Both of them?

PN4430

MS LEONCIO: Yes.

PN4431

JUSTICE HATCHER: So what is this one called?

PN4432

MS LEONCIO: That is the ABS - actually I'll just - the ABS Healthcare and Social Assistance - actually, ABS Australian Industry Table.

PN4433

JUSTICE HATCHER: Sorry, ABS what?

\*\*\* JAMES STANFORD

XXN MS LEONCIO

PN4434

MS LEONCIO: Australian Industry Table.

PN4435

JUSTICE HATCHER: Australian Industry Table?---You really got me nerding out, Ms Leoncio, by giving me a spreadsheet.

PN4436

MS LEONCIO: Apologies?---No, I love it. I love spreadsheets.

PN4437

JUSTICE HATCHER: All right, the ABS Australian Industry Table will be marked exhibit HPSS166.

**EXHIBIT #HPSS166 ABS AUSTRALIAN INDUSTRY TABLE**

PN4438

And the statement of expectations for the 2026 private health insurance premium round by the Honourable Mark Butler MP, Minister for Health, Aging, Disability and the National Disability Insurance Scheme will be marked HPSS167.

**EXHIBIT #HPSS167 STATEMENT OF EXPECTATIONS FOR 2026 PRIVATE HEALTH INSURANCE PREMIUM BY MARK BUTLER MP, MINISTER FOR HEALTH, AGING, DISABILITY AND NDIS**

PN4439

Yes, all right - any further cross-examination?

PN4440

MS LEONCIO: No.

PN4441

JUSTICE HATCHER: All right. Any re-examination, Ms Burke?

PN4442

MS BURKE: No, thank you, Your Honour.

PN4443

JUSTICE HATCHER: All right, thank you for your evidence, Dr Stanford, you're excused, which means you can now disconnect from the call?---Thank you, sir, good luck with your deliberations.

<THE WITNESS WITHDREW

[3.32 PM]

PN4444

JUSTICE HATCHER: All right, Ms Wett, Mr Tracey?

PN4445

MR TRACEY: Yes, I call Liesel Wett, Your Honour. She should be connected.

\*\*\* JAMES STANFORD

XXN MS LEONCIO

PN4446

THE ASSOCIATE: Ms Wett, this is the Associate speaking in the Melbourne hearing room. Can you hear me okay?

PN4447

MS WETT: Sorry, I missed that.

PN4448

THE ASSOCIATE: That's okay. This is the Associate speaking from Melbourne. Can you hear me now?

PN4449

MS WETT: I surely can, thank you.

PN4450

THE ASSOCIATE: Thank you. So in a moment before you give your evidence I'm going to ask you to state your name and address for the record and then I'll ask you whether you agree with the affirmation I will read out. When we get to that if you agree, please say I do.

PN4451

MS WETT: Okay, thank you.

PN4452

THE ASSOCIATE: Please state your full name and address.

PN4453

MS WETT: My full name is Liesel Marie Wett and my full address is (address supplied).

**<LIESEL MARIE WETT, AFFIRMED [3.33 PM]**

**EXAMINATION-IN-CHIEF BY MR TRACEY [3.33 PM]**

PN4454

JUSTICE HATCHER: Mr Tracey.

PN4455

MR TRACEY: Thank Your Honour. Ms Wett, could you just state your full name again, please, for the transcript?---Yes, it's Liesel Marie Wett.

PN4456

And your work address is - - -?---My work address is Level 1, 16 Napier Close in Deakin in ACT and the postcode is 2601.

PN4457

Thank you, and you are the chief executive officer of Pathology Australia Ltd T/A as Australian Pathology?---I am.

\*\*\* LIESEL MARIE WETT

XN MR TRACEY

PN4458

Yes, and you've prepared a further supplementary witness statement in this proceeding, is that correct?---Yes, I have.

PN4459

And that's in addition to your witness statement and your supplementary witness statements, which were dated 18 October 2024 and 28 November 2024. Is that right?---That's correct. That's correct.

PN4460

And this statement, that is the further supplementary statement, is dated 16 September 2025 and it has 18 paragraphs, is that correct?---Yes, it does.

PN4461

Have you had a chance to read that statement recently?---Yes, I have.

PN4462

Is the statement true and correct?---Yes, it is.

PN4463

Thank you. I tender the statement, Your Honour.

PN4464

JUSTICE HATCHER: That will be further supplementary witness statement of Liesel Wett dated 16 September 2025 will be marked exhibit HPSS168.

**EXHIBIT #HPSS168 FURTHER SUPPLEMENTARY WITNESS  
STATEMENT OF LIESEL WETT DATED 16/09/2025**

PN4465

MR TRACEY: If the Commission pleases.

PN4466

JUSTICE HATCHER: Ms Burke.

**CROSS-EXAMINATION BY MS BURKE**

**[3.35 PM]**

PN4467

MS BURKE: Thank you. Ms Wett, can you see and hear me clearly?---I can hear you clearly. I can sort of see things and lots of other people on screen that I can't see that are all blacked out.

PN4468

Well, that sounds promising. As long as you can hear me I think that's all that counts?---I can.

PN4469

All right. Ms Wett, if you've got your statement there could you have a look, please, at paragraph 6?---Yes.

\*\*\* LIESEL MARIE WETT

XXN MS BURKE

PN4470

And this is where you describe - now of course this statement was written on 16 September and you say quite correctly that ACL, Healius and Sonic had not then published their annual reports but based on your discussions with those organisations and their results you don't believe their financial position has improved in any significant way. You believe that your previous evidence, that profit margin trends downward remain true, I just want to ask you some questions about that. Now, at the time you prepared your statement - so 16 September, or finalised it - each of those three companies, ACL, Healius and Sonic - had published their preliminary final reports on the ASX in August. That's correct?---If you say so, yes.

PN4471

Okay, so my next question was whether you had regard to the preliminary final accounts when preparing your statement?---No, I had not.

PN4472

Okay. So when you state in paragraph 6 that based on discussions with those three companies and their results, you don't believe their financial position has improved in any significant way. I just want to break that down, starting with your discussions with the companies?---Yes.

PN4473

Taking Australian Clinical Labs, what discussions or who did you have discussions with at ACL about their results that informed - that you're referring to in this statement?---So I discussed - I talked to my members all of the time. As you pointed out, ACL are one of my members. So my job isn't to review the financial statements or to look at their financial results. My job is to take what they tell me as fact and not to second-guess them but to - my job is out-facing other than running the company. My job is outward facing to work with government of the day, key decision makers, Department of Health, et cetera.

PN4474

Okay, so the discussions you had at ACL, which inform your belief expressed in paragraph 6, were these just kind of in the course of business? You didn't have a special meeting with someone and say, 'Look, tell me how you're going'?---No, no, no.

PN4475

For the purpose of this witness statement?---No.

PN4476

It was just part of your daily work and they communicated to you how they thought they were going?---That's correct and I talk to them all of the time, separately of course, otherwise that would be no good in the competition sense.

PN4477

Yes?---And they tell me how things are going in their business all the time.

\*\*\* LIESEL MARIE WETT

XXN MS BURKE

PN4478

Okay. And that's the overall impression you get from those three?---Correct.

PN4479

Okay. But of course - well, you may not know the answer to this but you're not saying they're telling you anything in those discussions that were not publicly available about their accounts in particular?---No, they don't.

PN4480

Okay. Do they talk to you about their accounts at all? Do they talk about numbers and percentages or do they just use words, 'Good, bad, okay, not great', for example?---I couldn't tell you. I don't think they say to me, 'My EBITDA is X or my net profit is that'. They don't have those sorts of conversations with me.

PN4481

What about, 'We're growing by' - you know, our EBITDA is - - -?---No.

PN4482

- - - up by 6 per cent?---No, they don't.

PN4483

Okay?---No, they don't have those conversations with me.

PN4484

All right. Now, you should have been provided with a PDF, a cross-examination bundle, which I hope you have on your screen?---I received that. Let me just move it so I can see it and you at the same time. I received that less - well, just over an hour ago so no, I haven't read it, if that was going to be your question.

PN4485

No, no, no, that certainly was not going to be my question. If you were here in person you would get it now so you're not expected to - there's no homework you haven't done. I just want to make sure you've got it so I can take you to the documents. Since you published your - sorry, provided your statement on 16 September, each of these companies has published their annual reports, so ACL on 19 September, Healius on the 26th and Sonic on the 24th. As part of your job, an ordinary part of your job to read the annual reports of your members who have - who are public?---No, as I said earlier if my members talk to me about how their businesses are running, I trust them that they're telling me how things are. We don't go then and second-check things or read, you know, 414 pages to double-check what they're telling me.

PN4486

No, I understand that. But is it nevertheless just sort of part of the general keeping informed about the state of your members, that as part of your job you read their annual reports?---Not necessarily, no.

PN4487

Okay. So does that mean that you haven't read any or all of these annual reports?---Yes, I said that. I said that earlier, I have not read these.

\*\*\* LIESEL MARIE WETT

XXN MS BURKE

PN4488

Sorry, I didn't mean in the last hour, I mean, say, back in September?---No, I have not read these.

PN4489

Okay. All right. Well, I just want to take you to a couple of instances, ask you some questions about what's in the reports and how that aligns with what you've been told by the companies. I'm going to give you the pdf page numbers so if you can just enter the page number?---Mm-hm.

PN4490

If you can go, please to page 6 and you should get a document that's headed, 'Letter from the Chair and CEO'?---Yes.

PN4491

Just so everyone's aware, this is in the ACL Annual Report, published on 19 September, and this is part of the CEO's letter, and if you look under the heading, 'Financial performance and shareholder returns', you'll see there:

PN4492

*ACL is reporting revenue growth of 6.4 per cent and EBIT growth -*

PN4493

In other words profit rising:

PN4494

*by 8.7 per cent.*

PN4495

?---Is EBIT profit? I don't think they're the same thing, net profit and EBIT.

PN4496

No, sorry. Net profit after tax and EBIT are two - - -?---Are different.

PN4497

- - - are two ways to measure profit. So we'll just stick with EBIT. I'll just refer to what it's actually saying:

PN4498

*Underlying EBIT for 68 million, which rose 8.7 per cent.*

PN4499

So, in other words, revenue growth of 6.4 per cent and EBIT growth by 8.7 per cent. That's in their annual report?---It says - what that says is revenue of 741, including growth of 6.4 and then it says, 'Underlying EBIT', which is defined obviously somewhere, because there's a footnote, 'of 68, which rose 8.7 per cent'.

PN4500

Yes. That's right. And then on the next page, which is page 7, still in the chair's letter, you'll see under the heading, 'Key operational improvements include', third dot point:

\*\*\* LIESEL MARIE WETT

XXN MS BURKE

PN4501

*Labour as a percentage of revenue improved by 60 basis points, now at 43 per cent, reflecting productivity gains.*

PN4502

Do you know anything about the improvements of labour, as a percentage of revenue, at ACL, that you're able to tell me that's not confidential?---No. No. No, you'd have to ask them.

PN4503

Okay. Then under the heading, 'Highlights from FY 2025', the last dot point:

PN4504

*Continued double-digit growth in non Medicare funded revenue, demonstrating our ability to diversify income streams.*

PN4505

So that double-digit growth in non Medicare funded revenue is a reference, I think. Tell me if I'm right or wrong, or you don't know, to specialist non Medicare funded pathology and testing?---No. No, that's not right.

PN4506

No? What's that a reference to?---So specialise - so a specialist would be Medicare funded because there would be specialist rebates. That would refer to, you know, people for example, that can't access Medicare, private services, those sorts of things. It might be, you know, I don't know, like an individual company screening program. You know how some companies, quite large, have health programs. It might be something like that. But you'd have to ask them exactly what they, I suppose, collapse up in that revenue stream.

PN4507

Okay. Then can you please go to page 73 of the pdf? You should then get to the consolidated statement of profit or loss?---Seventy-three? Yes.

PN4508

If you have a look, we'll just skip down to the bottom, to the entry, 'Net profit to members of Australian Clinical Labs Ltd', this year the net profit was 32.43 and the previous year it was 23.934. That's an increase in net profit of 35.5 per cent growth?

PN4509

VICE PRESIDENT ASBURY: Sorry, is this on page 73, Ms Burke?

PN4510

MS BURKE: I very much hope so. Seventy-three of the pdf.

PN4511

VICE PRESIDENT ASBURY: Yes. And what's the - - -

\*\*\* LIESEL MARIE WETT

XXN MS BURKE

PN4512

MS BURKE: That's the consolidated statement of profit or loss and the entry down the bottom, just above earnings per share, 'Net profit to members of Australian Clinical Labs Ltd'. Sorry, I'm racing. So, Ms Wett, my question is; that net profit is an increase of 35.5 per cent growth. That sort of story, is that consistent with what you've been told by Australian Clinical Labs about how they're experiencing profit growth?---Well, I don't think the numbers lie, because this is the annual report, isn't it?

PN4513

Yes. So I'm just - - -?---So the number are what the numbers are.

PN4514

Okay. But you're, nevertheless, being told by ACL that things are not going well?---Well, earlier you pointed out that they've made other changes. So obviously they're making some changes. You'd have to ask them. Sorry.

PN4515

Well, they're not here, I'm afraid?---Well.

PN4516

In light of what you're looking at, the consolidated statement of profit or loss, does that cause you to change what you say in paragraph 6, in respect of your belief about their financial position not improving in any significant way, in respect of Australian Clinical Labs?---Well, obviously you've just pointed out what the difference is from the previous year, so they've obviously made some changes to make them more profitable. I don't know what those changes are.

PN4517

No. But my question, Ms Wett, is about what is your evidence and what you say. Do you maintain - - - ?---Well, I can only - when I wrote this - when I wrote this statement, this witness statement, it was factual, from what they are telling me.

PN4518

Okay. All right. I'll tender the ACL annual report.

PN4519

JUSTICE HATCHER: Which one? Are we going to tender all three, at the end of the day?

PN4520

MS BURKE: Yes.

PN4521

JUSTICE HATCHER: Well, I'll just - ACTU tender bundle consisting of 2025 Annual Reports for Australian Clinical Labs, Healius and Sonic Health Care will be marked exhibit HPSS169.

**EXHIBIT #HPSS169 ACTU TENDER BUNDLE CONSISTING OF  
2025 ANNUAL REPORTS FOR AUSTRALIAN CLINICAL LABS,  
HEALIUS AND SONIC HEALTH CARE**

PN4522

MS BURKE: All right. Ms Wett, could you please turn now to page 129? You should have there - - -?---Healius.

PN4523

- - - Healius?---Mm-hm.

PN4524

That is the Healius Annual Report?---That's correct.

PN4525

Now, Healius reports its results according to four divisions, pathology is one of those four divisions, is that your understanding?---If you could take me to the page I could probably say yes.

PN4526

That's okay. I just wanted to - I probably can take you to the page. Bear with me. Yes. If you go, please, to page 148, and let me know when you've got that. It says, 'Divisional results'?---Yes. Yes. I can see the pathology page.

PN4527

Pathology then is it Agilex Biolabs?---Agilex. Yes.

PN4528

What is that? That's for pharmaceutical testing - sorry, pharmaceutical trials and things like that?---Not necessarily pharmaceutical trials, but it would be clinical trials.

PN4529

Okay. So it's not pathology, in the sense of going to get a blood test or something like that? It's not (indistinct) pathology?---It's - it's not pathology that would be funded by Medicare but it would possibly be, if you actually look at some of the things they're talking about. It would be possibly be testing of interventions or assays, so that's a part of a diagnostic tool.

PN4530

Okay. Then over the page, just continuing the divisions, there's corporate - - - ?---Corporate.

PN4531

- - - cash flow and capital management. Okay?---Mm-hm.

PN4532

So looking then at the divisional results for pathology, you can see there, and I'm just setting out revenue, EBITDA, depreciation and amortisation and then EBIT?---Mm.

PN4533

So while revenue is up on 2024, both EBITDA and EBIT are down on 2024?---Yes.

PN4534

And about three-quarters of the way down in that narrative, 'Healius is reporting inflationary pressures remain a constant issue with labour costs running at almost half of pathology revenue'. Then the report goes on to say:

PN4535

*A detailed labour optimisation program, including collection centre opening hours and productivity measures was undertaken and completed in the second half of 2025. This detailed plan is now being implanted across our network and showing benefits. Labour costs are forecast to remain probably flat, year on year.*

PN4536

Do you know anything about that detailed labour optimisation program?---No, I don't have any details on it.

PN4537

Okay. And you can also see in the next paragraph that, as required by accounting standards, there has been essentially a write-down - - -?---Goodwill. Yeah.

PN4538

- - - of goodwill of about 500 million for the pathology division. Do you know anything about that?---No, I don't.

PN4539

Okay. And do you know anything about the T7 forecast?---No.

PN4540

Okay. All right. Finally, please, can you turn to page 245. This is the Sonic Healthcare annual report?---Yes, I have that.

PN4541

Thank you. Now, Sonic is a multinational company; correct?---It is. Very much so.

PN4542

Yes. And if you have a look, please, at page 313. That's the consolidated income statement. That's for the whole multinational company. So revenue from operations is 9.6 billion. And then profit attributable to Sonic Healthcare Ltd, 513 million. That's the consolidated income statement?---Sorry, where are - - -

PN4543

Then - - -?---Sorry.

PN4544

I beg your pardon?---Where are you looking at with - oh, I see.

PN4545

Yes?---At 28, yes, down the bottom.

PN4546

Yes?---I see it.

PN4547

So there is an improvement there, between 2024 and 2025, in profit and in revenue?---A very small one, yes.

PN4548

For the group?---For the group, yes.

PN4549

Yes?---For pathology - sorry, for - in Sonic Healthcare Ltd - - -

PN4550

This is the whole - - -?---Shop.

PN4551

Yes. And if you turn, now, please, to page - turn back to page 261. You get the operating and financial review for Laboratory, which I understand is pathology as - what Sonic means when they're referring to pathology. And you can see there, the Australia and New Zealand laboratory segment has grown 5.5 per cent. This is just revenue?---Correct. In that table, yes.

PN4552

Yes. And radiology by 10.2 per cent?---Yes.

PN4553

So what's the difference between laboratory and radiology, if you know, in terms of which of those segments - is all of Sonic Healthcare a member of Australian Pathology, or do you really just work with radiology or with laboratory?---Okay, so I - I don't work with radiology at all.

PN4554

I see?---I - I only work with pathology.

PN4555

Okay, so laboratory?---So in this - - -

PN4556

Yes?---In this table, for this purpose, we'd be talking about the line that says Laboratory Australia and New Zealand.

PN4557

Okay. And you can - - -?---Radiology is something separate, and a separate business line for bill.

PN4558

Yes. And you can see that the organic revenue growth by laboratory market - so that's what we're interested in - in Australia is - well, it's top of the list, but it's not top of the numbers, because the UK is speeding ahead, with 13 per cent?---Yes.

PN4559

But it's second-highest?---In that - those dot points, yes.

PN4560

Yes. I don't know if there's another pandemic happening in the UK, but something is happening there. And just having a look, please, at page 253 of that document?---Yes?

PN4561

This is the financial history. And what's interesting about this is, it sets out the base business revenue and then, separately, the COVID-19 revenue, and then total revenue. And you can see that the pandemic was - brought in a lot of revenue for Sonic Healthcare. I assume that's the case for quite a lot of the pathology companies, as well; that that was a effect across the sector?---Certainly in Australia, one of our key, I suppose, protection points was to test people, to identify people that had COVID. So there was a large surge in that part of testing, and there was minimal testing in other parts of pathology services.

PN4562

Yes, but the surge was so large that it, nevertheless, didn't - it wasn't offset by the reduction in other testing, was it?---Originally, it very much was, yes.

PN4563

What do you mean by 'originally'? What do you mean by - - -?---Well, when - when the COVID, or SARS-CoV-2, pandemic started - - -

PN4564

Yes?--- - - - people stayed at home. So they didn't visit their GP, and they didn't go and get their normal testing. And so they might have, you know, needed to have testing for their diabetes care, or whatever. In the first part of the pandemic, in the first year, which was 2020, there was significantly reduced testing in other parts of the business, yes.

PN4565

And that wasn't offset by an increase in testing for COVID - - -?---In the - in the beginning, no. No, it was not.

PN4566

And what - - -?---In the beginning, it was very challenging.

PN4567

And what about at the end of, say, 2022?---At the end of - we were still - we still had lockdowns in 2022, though, so it was a bit up and down.

PN4568

Yes, I see?---Quite volatile, would be the word I would use.

PN4569

Nevertheless, for Sonic, at least, the base business revenue continued to increase, quite separately from the COVID-19 revenue. You can see that if you compare base business revenue with COVID-19 revenue, that first line?---So - so isn't this all of their revenue, though?

PN4570

Yes, it is?---This is not their - just their pathology revenue.

PN4571

No, that's correct?---Yeah. Okay. I'm right.

PN4572

So - - -?---Yeah.

PN4573

So my question then is, are you saying that this continued increase in base business revenue, separate from COVID-19 revenue, is, to your understanding, a peculiarly Sonic thing? That ACL and Healius, for example, would not have experienced - - -?---Well - - -

PN4574

- - - a pattern, like this, of growth in revenue?---So Sonic - this - these numbers that we're looking at now are for Sonic Australia, all of their business. So that includes general practice, radiology, their clinical trials unit, and probably other units that I haven't raised. Both ACL and Healius - Healius particularly, now - are single - single clinical stream. So they only deliver pathology services. So this would include general practice visit revenue, radiology revenue - it's not just pathology revenue.

PN4575

So we have to be careful when we're looking at Sonic Healthcare and financials, then, and extrapolating more broadly?---Correct.

PN4576

But the conversations you have with people at Sonic is really only in the laboratory cohort?---It is. It is, 100 per cent, only in the pathology stream of business.

PN4577

All right. Now, the decision expressing the preliminary view of the Fair Work Commission in this matter was published on 16 April, and it has been publicly available since that time; you understand?---The preliminary view - do you mean the interim view that the Commission delivered?

PN4578

Yes?---Is that what you're talking about?

PN4579

Yes?---Yes.

PN4580

Yes. And in your statement, at paragraph 17, you say that:

PN4581

*Private pathology businesses have not budgeted for even a moderate change to the relevant award rates.*

PN4582

?---That's because there hasn't been a final decision of the Fair Work Commission.

PN4583

No, that's right. Is it your evidence that - so do you have actual knowledge of the fact that none of ACL or Healius or Sonic have made any provision in their forward budgets for an increase in labour costs?---Oh, I don't know what they have put in their forward budgets, sorry.

PN4584

So how do you know, then, that private pathology companies haven't budgeted for an increase in labour costs, even internally?---Because they're all listed companies on the ASX, and there are rules about what they have to say around unexpected revenue or cost. So they would have to make declarations. And until there's a final decision of the Fair Work Commission, they won't be able to do that. And that's just the rules of how the ASX works.

PN4585

Okay, so your evidence that private pathology businesses haven't budgeted for an increase in labour costs is based on what - - -?---Their public - what they have said publicly.

PN4586

Okay. Companies don't necessarily publish their management budgets to the ASX?---No.

PN4587

That's not part of their reporting obligations. And in fact if companies do consider that there will be a material change in, for example, their forecast growth or their dividend payments, or anything that might materially affect the share price, they would have to disclose that to the market; you understand that?---That - that's what I am talking about, yes.

PN4588

Yes, okay. And they - - -?---I do understand that.

PN4589

All right. And the fact that no publicly listed company has published a release to the Australian Stock Exchange saying, 'We are worried about this preliminary decision', or words to that effect - you take from that that they have not budgeted for an increase in labour costs?---Well, there hasn't been a final decision of the Commission, is my understanding.

PN4590

No?---So - yeah.

PN4591

My question, though, is about your evidence that they have not budgeted. That's an inference you're drawing from the absence of a public disclosure to the Australian Stock Exchange?---I'm just rereading what I've written, because I think you're trying to suggest that I've said something that I haven't.

PN4592

Take your time.

PN4593

DEPUTY PRESIDENT GRAYSON: I think it was paragraph 7, not 17, perhaps?---Oh, okay. Is it?

PN4594

MS BURKE: Did I say '17'? I'm very sorry.?---Yes, you did.

PN4595

I meant paragraph 7?---I'm looking - okay. Still my understanding that until the Fair Work Commission makes a final ruling, they won't be able to make the steps that are necessary, or take the steps necessary, as listed companies.

PN4596

Okay, but they might have, behind closed doors, prepared some draft budgets about what it might look like if that decision is confirmed?---I don't know. You'd have to ask them.

PN4597

Okay. All right. Ms Wett, I need to just put a couple of things to you. Your role in giving evidence to the Commission in this proceeding is as a representative for Australian Pathology's interests; that's correct?---That is correct.

PN4598

And in undertaking that role, I think you've said - but tell me if you've got this right or not - you're not giving your opinion about their financial performance based on their financial reports, but rather your subjective belief about what you have been told by those companies?---I don't know that it's my subjective belief, but it's my belief of them, when they speak to me about their businesses, that I trust what they're telling me is the truth.

PN4599

All right. And you haven't done any independent testing of what they have told you - - -?---No.

PN4600

- - - for the purpose of your evidence today?---No, I have not.

PN4601

All right. Thank you. That's the cross-examination.

PN4602

JUSTICE HATCHER: All right. Any re-examination, Mr Tracey?

PN4603

MR TRACEY: No re-examination, thanks.

PN4604

JUSTICE HATCHER: All right. Thank you for your evidence, Ms Wett. You're excused, which means you can simply disconnect from the call?---Thank you so much.

PN4605

Thank you.

**<THE WITNESS WITHDREW**

**[4.03 PM]**

PN4606

MS BURKE: All right. Your Honour, we're just getting Ms Cleland on the line. I think she finished her shift at 4 o'clock.

PN4607

JUSTICE HATCHER: All right. She's here, apparently.

PN4608

MS BURKE: She's here. Excellent. Thank you.

PN4609

MR LETTAU: I think we might need to stop. I think she might be driving a car.

PN4610

JUSTICE HATCHER: Yes. Ms Cleland, are you driving?

PN4611

MS CLELAND: Yes, I am, but can pull over - - -

PN4612

JUSTICE HATCHER: Yes, well, we're not going to take evidence while you're driving, so - - -

PN4613

MS CLELAND: Yep, I'm going to pull over - - -

PN4614

JUSTICE HATCHER: - - - we will log you out - - -

PN4615

MS CLELAND: - - - as soon as I can.

PN4616

JUSTICE HATCHER: We will log you out, and when you are in a position to give evidence without driving a car, we will bring you back in.

PN4617

MS CLELAND: I'm just going to turn around the corner.

PN4618

MS BURKE: Sorry about that, Your Honour. She's very dedicated to giving evidence in this matter. We will just wait a few minutes for her to find a convenient spot.

PN4619

JUSTICE HATCHER: The seat belt is always a giveaway.

PN4620

MS BURKE: But isn't it comforting? Thank you. Your Honour, she's just finding a place to stop. If we could just stand down for five minutes, until we can get her back.

PN4621

JUSTICE HATCHER: All right.

PN4622

MS BURKE: Thank you.

PN4623

JUSTICE HATCHER: Well, we'll adjourn.

**SHORT ADJOURNMENT [4.07 PM]**

**RESUMED [4.11 PM]**

PN4624

JUSTICE HATCHER: All right. We will swear in the witness, please.

**<STANISLAVA CHRISTINA CLELAND, AFFIRMED [4.12 PM]**

**EXAMINATION-IN-CHIEF BY MR LETTAU [4.12 PM]**

PN4625

MR LETTAU: Good afternoon, Ms Cleland. Can you hear me and see me reasonably clearly?---I - I can see people in the courtroom, yes.

PN4626

Okay. Can you just for the record restate your full name?---Stanislava Christina Cleland.

PN4627

And your address?---(Address supplied.)

PN4628

And your occupation?---I am a pathology collector.

PN4629

And have you prepared a statement for use in these proceedings?---I have.

PN4630

Do you have a copy of that statement on you?---I - I do, yes.

PN4631

And have you read the contents of the statement recently?---I have.

PN4632

And the statement is dated 31 October 2025?---Correct.

PN4633

Are its contents true and correct?---As to my knowledge, yes.

PN4634

We tender the statement of Ms Cleland, dated - - -

PN4635

JUSTICE HATCHER: So the statement of Stasia Cleland, dated 31 October 2025, will be marked exhibit HPSS170.

**EXHIBIT #HPSS170 WITNESS STATEMENT OF STANISLAVA  
CHRISTINA CLELAND DATED 31/10/2025**

PN4636

MR LETTAU: You will now be asked a few questions, Ms Cleland.

PN4637

JUSTICE HATCHER: Mr Tracey.

PN4638

THE WITNESS: Sure.

PN4639

MR TRACEY: Thank you, Your Honour.

**CROSS-EXAMINATION BY MR TRACEY**

**[4.13 PM]**

PN4640

MR TRACEY: Ms Cleland, my name is Mr Tracey. I'm counsel for Australian Pathology. And I'm just going to ask you some questions in relation to your statement. Now, you refer to being employed by Lavery Health as a pathology collector; is that correct?

**<THE WITNESS WITHDREW**

**[4.14 PM]**

PN4641

MR TRACEY: I fear we may have lost the witness.

\*\*\* STANISLAVA CHRISTINA CLELAND

XXN MR TRACEY

PN4642

JUSTICE HATCHER: I think we just disappeared.

<STANISLAVA CHRISTINA CLELAND, RECALLED [4.14 PM]

CROSS-EXAMINATION BY MR TRACEY, CONTINUING [4.14 PM]

PN4643

THE WITNESS: Sorry about that. Hello?

PN4644

MR TRACEY: Hello, Ms Cleland. You can hear me again?---Sorry. Yes, I can. Sorry about that.

PN4645

No problem. So I will just ask that question again, so you can hear it properly. The question was, you are employed by Lavery Health as a pathology collector; is that right?---I am, yes.

PN4646

Yes. And you started in that employment in 2022; is that right?---Yes, I did. Yes.

PN4647

And you worked in various types of rooms as a relief collector back in your first year; is that right?---I did, yes.

PN4648

You did six weeks of training, then two weeks with a mentor, and then after eight weeks you were working independently; is that correct?---I was. In the - yes, I was. Yes.

PN4649

And you were working in what you describe as single staff collection centres, a couple of months after you had started at Lavery; is that right?---Yes, I was, yes.

PN4650

You have now been working there for about three years?---Yes, I have.

PN4651

Over those three years, you would agree that you've developed your skills as a pathology collector?---I have, yes.

PN4652

You describe doing a lot of self-training, I think you say?---Yes, I did.

PN4653

And you would agree that you're now more skilled in your role than you were when you had just finished your training, back in 2022?---Yes, I - - -

PN4654

Yes. Are you aware that other employees, just like you, are still required to work in single staff collection centres on their own after just a few months of experience?---I have had that experience, yes.

PN4655

Are you aware of other employees doing that, too? Other collectors?---I can't say for other collectors, but I have been, from the beginning. I have - I have been working over in single collects and collects with other staff members, as well, but mainly on my own.

PN4656

Yes. Now, you say, you work mainly on your own, but you receive support from other staff who work at the medical centre where you - - -?---I - - -

PN4657

Where you are?---Yes, where - where I work now, I receive help from a nurse that I work with.

PN4658

And I think you've talked about working closely with doctors and dentists who are in that same medical practice, or that medical facility?---Yep. Yeah, the dentists are in a separate one, but occasionally they send me cysts and abscesses that come out of people's mouths. So I have to liaise with them to make sure that they get the paperwork right, or else you can't send any of the - the pathology, without the correct paperwork, obviously.

PN4659

So you would have pretty regular interaction with those other medical staff in the centre, would you?---Yes, I do.

PN4660

Now, in addition to that, you've got some supports that come directly from Lavery Health, as well. Now, I'm just going to go through some of those. You've got the collectors' collection support call centre that you can call them?---Okay.

PN4661

You don't have to agree with me; I'm just checking if you're aware of that?---Okay. Okay.

PN4662

Have you ever used that? The - - -?---No.

PN4663

No? You've got the Medway collections processing portal?---I do.

PN4664

You use that?---Yes, I do.

PN4665

And that assists you in identifying what tests to do and how to put the results into the system?---Yes, that's the electronic side of it. I still have to manually put in the tests that have to be done.

PN4666

Yes. Have you got the Prime internet portal? Are you familiar with that?---Yes, I do. I use that very regularly.

PN4667

What does that do?---That tells you the tubes and procedures that you need to do with certain collects.

PN4668

And you agree, you're required to follow those procedures?---Yes.

PN4669

And it's your responsibility to do that; it's not another collector's responsibility. It's yours, isn't it?---Correct, yes.

PN4670

So as I understand it, you've also worked in what you've described as multi-staffed collection centres; is that right?---Yes, I have.

PN4671

If there are other collectors in those centres, you're still fully responsible for what you do there; you don't defer to them, do you?---No, I'm responsible for the collects. It's just easier, if you're not sure of a collect, where you can discuss with another collector - tubes, certain collect - ways to collect from people, as well. That was more in my earlier days. It was on and off, in between single collections and just assisting. But most of those rooms where it was a multi system - multi-people collect, I was in a room all by myself, anyway. So - but there was an option to walk out of my room and ask a question.

PN4672

The information that you need to ask about is available on the Prime portal, isn't it?---Yes, it is.

PN4673

So another collector would just be telling you what's already on the Prime portal, I suggest to you?---If you go to the Prime portal, it is very hard to distinguish on some of the things on where it is put down. So for a new collector, you would have trouble figuring out the Prime.

PN4674

Right?---Just the way it's situated - the way it's put in - in context. It took me a while to figure it out: put it that way. It took me about six or seven months to figure out what a lot of it meant.

PN4675

But you now use it quite easily?---Yes, I do. Some - some is still a bit confusing, but yes, I can figure it out.

PN4676

I mean, you also, I think, speak to your supervisor two or three times a month. You know you've got a supervisor available, many times - - -?---Yes, I do. Yes.

PN4677

And they can assist you in operating that portal, for example?---Yes, if I do have questions about it, yes, but usually, when I'm using it, the patient is sitting in the chair, and usually - and my boss isn't, sort of, sitting around waiting for me to call them up and ask them what tubes I need. I can always ask after something is done, or (indistinct) see if I've done it correctly.

PN4678

And then that will help you do it correctly the next time, if you've got - based on what your supervisor tells you?---Yes. Our collections do change quite often. We do get updates and upgrades, yeah. So there's a lot of reading to do in keeping up your skills and what tests you're doing.

PN4679

And that reading and keeping up your skills, all your duties - they're the same thing whether you're at a multi-staffed or a single staffed centre, aren't they?---That's correct, yes.

PN4680

You've got to work independently at both kinds of centre, don't you?---Definitely, yes.

PN4681

When I say 'independently', subject to all of the supports that I've talked about?---Yes. Yes, so you - you're reading the referral, and you're ascertaining what tubes you need, and what collects. If you're in with your own computer, you can look it up all on Prime. Memory does serve you sometimes. But if there - something changed, we've read up on it, and we can adjust to the change.

PN4682

I understand. So as I understand it, you don't perform urine drug screens or alcohol testing; is that right?---That is correct, yes.

PN4683

That's in your current role?---I - I am trained to do it, yes, but I do not do it at this centre.

PN4684

That's the sort of thing that would be done at a multi-staff centre; is that right?---Yes, because (indistinct) two collectors. So one - while one person is doing the urinary drug screen, the other person can do collects from other people that are coming through. Because the - the urinary drug screen usually takes about 15 to 20 minutes.

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PN4685

That makes sense. Now, just multi-staff centres - they usually have a higher volume of work than single staff centres; do you agree?---In some instances, yes. If you do the ratio to the people, probably not. You can - I can do in between, say - on a bad day, three collects, because I've already got one (indistinct) or it's holiday season, or whatever. But I can get up to 20 a day by myself. And in a multi-collect, they're ranging from at least 20 to maybe 40. I have worked at a centre that has done 120 a day. That was a (indistinct) multi-person. That was four people working.

PN4686

Right. And so I take it that the volume of patients would vary from day to day, regardless of whether you're in a multi- or a single staff centre?---That is correct. That - some (indistinct) are just full-on all the time.

PN4687

Yes. And what I'm suggesting - - -?---But (indistinct) - - -

PN4688

But what I'm suggesting to you is that it's a greater volume at the multi-staff centres, on average?---Yes, because you have (indistinct) collectors. So it moves a bit quicker.

PN4689

Okay. Now, if you could just look at paragraph 14 of your statement, if you have that handy. If you don't, I can read it out to you.

PN4690

DEPUTY PRESIDENT GRAYSON: I'm sorry, Ms Cleland. Did you just say, 'because you have more collectors'? Was that the evidence you gave? You just cut out?---Well, yes, I did say there was more collectors. No, can you please read out my statement.

PN4691

MR TRACEY: Sure. So you say at paragraph 14 - this is just to quote you:

PN4692

*I currently work in a room within the Park View Medical Centre in Parramatta, New South Wales.*

PN4693

That's where you've just been working today?---Yes.

PN4694

And then you say:

PN4695

*It's a single staff collection centre. I have worked permanently at this site for around two years.*

PN4696

That's correct, isn't it?---Correct.

PN4697

Now, paragraph 16, you say:

PN4698

*I currently work Monday to Friday. [Your] hours of work are 9 till 4 on Mondays, Wednesdays and Fridays and 9 till 2 on Tuesdays and Thursdays. These are the opening hours of the collection room.*

PN4699

?---Correct.

PN4700

That's all still the case?---Yes, it is.

PN4701

So as I understand it, you've just finished a shift at 4 o'clock, being a - - -?---Yes.

PN4702

Being a Wednesday today?---Yes.

PN4703

Now, you say:

PN4704

*[You] open and close the collection room on Monday to Friday, and am the only pathology collector rostered on those days.*

PN4705

So do I understand what you're saying there that on Tuesday, Wednesday and Thursday, there are other pathology collectors rostered?---No. No, I'm the only person that collects pathology. I actually open the medical centre for the doctors.

PN4706

So - - -?---So - - -

PN4707

So just to be clear, do you - - -?---The - - -

PN4708

Did you close today, on a Wednesday?---I - I closed my office, but I actually open the medical centre. So - - -

PN4709

I see. I think I understand?---The Park (indistinct) Medical Centre - - -

PN4710

Yes?---So when the staff come in - the doctors, the nurses, the reception - I've already opened it up, turned off the alarms, and opened up my room - my collection room. And then I close my collection room when I'm finished.

PN4711

Right, and you do that every day, do you?---Every day, yes.

PN4712

Right. Now, in paragraph - no, I withdraw that. I think I've covered those questions. Thank you, Ms Cleland.

PN4713

DEPUTY PRESIDENT GRAYSON: Ms Cleland, I'm not sure whether you can see who is talking. This is Deputy President Grayson. Did you say you had your statement there or not?---I thought I did, but it's - I must have left it in my office.

PN4714

All right. Well, I have a couple of questions - - -?---I thought I - - -

PN4715

- - - about it, but hopefully you can answer without your statement in front of you. You talk about being a relief pathology collector, and travelling between single staffed and multi-staffed correctional - not correctional centres - collection centres. Can you tell me what that looked like: would you be in a different centre every day, or would you change during the day, or was it kind of week to week? What does being a relief PC look like? Or what did it look like for you?---It looked pretty complicated. You would have your schedule given to you on - via Chronus, and you pretty much were at a different centre all the time. So I would be travelling to Emu Plains. Sometimes I would be in Penrith. Sometimes I would be in Granville. Sometimes Blacktown. So I travelled all over - and Mount Druitt. And then you get the phone call in the morning, 'Can you go here instead of there?' And sometimes, if you had a short hour - like, a four-hour shift, they'd say, 'Oh, when you finish shift, can you go here?' So - or, 'Can you do home collects today?' So it was - every day was - well, 'Am I actually going to go where I'm going?' Because people call in sick, so you had to travel around.

PN4716

And do you know whether that was normal for relief collectors or not? If you don't know, you don't need to answer?---No, I'm - that was normal for me.

PN4717

Okay. You also gave some evidence about drawing blood from juveniles or - I think - children. I don't think you specified. There's some evidence that some people do that when people are over five, and some as long as they can sit up. Is there a particular - do you bleed any child, or is there a rule for that?---Young - youngest child I bled was four years old - a four year old female. She - she could sit up, and she - she was really great. Didn't even have to hold her. So yeah, depending on the child, and the fussiness, usually, 95 per cent of the time, the child doesn't need to be held, but we do have a nurse to restrain just in case or the parent restrains just in case, just so that they don't pull away, bend their arm or anything like that. It's (indistinct) precautionary. And it is done differently, obviously, it's done with pillows and - instead of just on the chair.

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PN4718

All right, so it could be a child of any age but for you it's only been youngest four. Have I understood that correctly?---Correct, yes.

PN4719

Okay, and one final question and I'm sorry, it's a very long paragraph in your statement. It's paragraph 38. I might repeat it to you and if you need me to repeat it again let me know. But you say:

PN4720

*In my collection centre I'm responsible for seeing every patient, taking every sample and separating, freezing and labelling them, entering data on the Medway system, completing paperwork, completing daily paperwork, keeping a record of any person that comes into the collection centre, receiving deliveries, rotating stock, keeping the room clean and maintaining hygiene standards, keeping everything stocked and placing stock orders, liaising with doctors and liaising with couriers and ensuring tests are ready for them to collect. All these things are my responsibility and I must complete all these tasks myself.*

PN4721

Now, I understand that's in a single staff centre. Given you've worked in multi-staff centres, are those jobs done in those centres as well?---Done in those centres as well, yes, but usually they have two people rotating stock, two people doing paperwork, so yes, so virtually instead of one person doing everything they have two people or maybe even a third person can do it. So they tend to rotate on what's going on and they work together as a team.

PN4722

And when you say two people, would those jobs be done by pathology collectors or receptionists or other people within a multi-staffed collection centre or would they just be the - done by a pathology collector?---It's all done on the pathology collectors.

PN4723

Okay, thank you.

PN4724

JUSTICE HATCHER: Are there any questions arising out of that?

PN4725

MR TRACEY: Just one, very brief one if I may: just in relation to your answers to Deputy President Grayson, Ms Cleland, in relation to paragraph 38, I suggest to you that all of those duties that the Deputy President read out to you from your statement are required to be performed by a pathology collector working in a multi-staffed centre. That's true, isn't it?---Yes, yes.

PN4726

Yes, thank you. That's all.

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PN4727

JUSTICE HATCHER: Anything from you, Mr Lettau?

PN4728

MR LETTAU: Nothing further, Your Honour.

PN4729

JUSTICE HATCHER: Right, thanks for your evidence, Ms Cleland. You're excused, which means you can disconnect from the call?---Thank you very much.

PN4730

Thank you.

**<THE WITNESS WITHDREW**

**[4.33 PM]**

PN4731

All right. Do you we need to do anything with the order for production that's sought?

PN4732

MS BURKE: Mr Tracey and I are about to have a discussion so we don't need to trouble the Bench this afternoon.

PN4733

JUSTICE HATCHER: All right. So we'll resume at 10 am in the morning.

PN4734

MS BURKE: Thank you.

PN4735

JUSTICE HATCHER: All right, we'll now adjourn.

**ADJOURNED UNTIL THURSDAY, 13 NOVEMBER 2025**

**[4.33 PM]**

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XXN MR TRACEY

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