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VICTORIAN ROYAL COMMISSION INTO FAMILY VIOLENCE

MELBOURNE

THURSDAY, 16 JULY 2015

(4th day of hearing)

BEFORE:

THE HONOURABLE M. NEAVE AO - Commissioner

MS P. FAULKNER AO - Deputy Commissioner

MR T. NICHOLSON - Deputy Commissioner

1 MS ELLYARD: Good morning, Commissioners. The focus of today's  
2 evidence is financial abuse and financial empowerment, so  
3 taking a different slant on family violence to the slant  
4 that has been adopted thus far. I want to begin by  
5 outlining what I might call the themes of the evidence  
6 that you will hear today and then I will go on to  
7 summarise some of the material that the Commission has  
8 already received from other sources that's relevant to  
9 this topic.

10 So, the themes of the evidence that you will hear  
11 today are firstly financial abuse is often not recognised  
12 either by victims or by support workers as a form of  
13 family violence and where it is identified it's often  
14 given less priority than other forms of violence such as  
15 physical violence. But although it's given that less  
16 priority, the evidence is that in many ways economic  
17 violence or financial violence has just as profound and  
18 potentially just as long-term effect on victims as other  
19 more overt forms of physical or sexual violence.

20 In addition, even if family violence does not  
21 take the form of financial abuse, the aftermath of family  
22 violence can include profound economic consequences for  
23 victims if they leave unsafe relationships.

24 The evidence will include a range of short and  
25 mid-term potential solutions that might take the form of  
26 recommendations the Commission is minded to make, but part  
27 of the theme of today will be that the long-term solution  
28 to many of the issues that arise in this space is economic  
29 empowerment and a pathway out of poverty so as to protect  
30 those who have been victimised in this way from being  
31 revictimised in the future.

1                   So, having summarised the themes, the witnesses  
2                   that you will hear from today are, firstly, we are going  
3                   to hear from Julie Kun, who is from the Women's  
4                   Information and Referral Exchange. She will be speaking  
5                   generally about matters of economic abuse and how they are  
6                   and are not identified by victims and workers. Secondly,  
7                   we will hear about the particular issues of economic abuse  
8                   as they affect older people, and we will hear that  
9                   evidence from Jenny Blakey and Pam Morton, who are from  
10                  Seniors Rights Victoria.

11                  Then after a short break we will have a  
12                  concurrent session with three people giving evidence about  
13                  what we might call short and mid-term solutions to some of  
14                  the problems associated with economic violence. We will  
15                  hear from Professor Denis Nelthorpe, Emma Smallwood and  
16                  Peter Gartlan, who are going to bring a range of legal and  
17                  financial counsellor perspectives to these topic.

18                  Then after the lunch break we will hear firstly  
19                  from Adam Mooney who is from Good Shepherd Micro-Finance  
20                  about some mid to longer term financial solutions. Then  
21                  we will move very much into the theme of empowerment and  
22                  long-term solutions and we will hear firstly from  
23                  Dr Cumberland, who the Commission heard from on Monday,  
24                  and then secondly from Jocelyn Bignold from McAuley Family  
25                  Services, each of whom will talk about longer-term themes  
26                  of how victims of family violence, particularly economic  
27                  violence, can be assisted to move out of poverty, most  
28                  particularly through employment opportunities and  
29                  educational opportunities.

30                  The Commission has had the benefit of a large  
31                  number of submissions and consultations that have

1 commented on these issues and some of the key submissions  
2 that you have already received have been from the Women's  
3 Information Referral Exchange, from McAuley Family  
4 Services, from the Council of Single Mothers, from the  
5 Women's Legal Service and from Seniors Rights Victoria,  
6 amongst others.

7 There are a number of recent pieces of research  
8 in this area that are also able to inform the Commission's  
9 work and they include a report commissioned and produced  
10 by the Women's Information Referral Exchange last year and  
11 Ms Kun can speak to that, and a report also produced last  
12 year by the Wyndham Community Legal Centre and  
13 Good Shepherd, which both with Dr Cumberland and Professor  
14 Nelthorpe can speak to. There is also an earlier report  
15 from Good Shepherd in 2013 on economic abuse. So, in the  
16 very recent past it appears this topic has had some  
17 greater focus and priority.

18 Thinking then about some of the recommendations  
19 that might flow out of the evidence you are going to hear,  
20 there is a high degree of unanimity amongst those who have  
21 made submissions about what some of the solutions might  
22 be, and that's a useful starting point for the Commission.

23 Firstly, there's a theme of professional  
24 development, greater education for members of the legal  
25 system, including judicial officers, lawyers, court staff  
26 and police, on the particular issues associated with  
27 economic abuse as opposed to other forms of family  
28 violence.

29 Secondly, there are themes about the way in which  
30 banks, utilities and government departments might better  
31 respond to issues of economic abuse. There are a number

1 of submissions which recommend changes to Banking Industry  
2 Codes of Practice, changes to hardship provisions for the  
3 Essential Services Commission, changes to the way in which  
4 utilities companies and government agencies such as  
5 VicRoads and Civic Compliance respond to victims of  
6 economic abuse.

7 There are also some specific recommendations  
8 about power of attorneys as they relate to elder abuse,  
9 requirements for lawyers to receive training about how to  
10 respond to cases where they are dealing with the transfer  
11 of property between adult children and elderly parents,  
12 and there's also a suggestion that there be a review of  
13 the Victims of Crime Assistance Act to deal with economic  
14 abuse. So, those are some of the recommendations that  
15 underline the evidence that the Commission will receive.

16 I note that we won't be hearing today, although  
17 we will hear a lot about, the role of banks and the role  
18 of Centrelink. Both the Australian Bankers Association  
19 and Centrelink have assisted the Commission through the  
20 provision of information and I can indicate that both of  
21 those organisations have indicated a willingness to  
22 provide further information to the Commission in the  
23 future. They are not here today, but you will have the  
24 opportunity through the witnesses who are here today to  
25 hear about some of the themes and issues that might  
26 require more information or a different response from  
27 banks and Centrelink and, as the work of the Commission  
28 proceeds beyond the public hearings, it will be possible  
29 to investigate those matters and seek further information  
30 from Centrelink and from the banks.

31 One of the documents that the Commission has

1 available to it at the back of its folder is a witness  
2 statement in the form of a case study from one of the  
3 women whom the Commissioners had the opportunity to meet  
4 as part of the community consultation process. I want to  
5 spend a little time before we call evidence referring to  
6 and reflecting on parts of the story of that witness which  
7 raise a number of themes that are relevant to this topic  
8 of financial abuse and financial empowerment.

9 I note of course this is a case study. It is  
10 based on a person the Commission has had the opportunity  
11 to meet, but necessary identifying features have been  
12 altered to protect her identity and so what I'm going to  
13 read out and what might ultimately be made available  
14 publicly will be entirely based on fact, but with  
15 necessary identifying features removed.

16 The experience of that witness, as the  
17 Commissioners who met with her will recall, was that she  
18 arrived in Australia having married overseas as part of an  
19 arranged marriage and arrived in Australia with the  
20 intention to work, hoping to work in her chosen profession  
21 from her country of origin, which was nursing.

22 Having arrived in the country, she discovered  
23 that it was necessary for her to do some retraining,  
24 expensive retraining. Her husband refused to give her the  
25 money associated with that training and insisted instead  
26 that she get a job. She agreed to get a job, hoping that  
27 out of the work that she was doing it would be appropriate  
28 and possible for her to save the money she needed to do  
29 the training.

30 But over time it became apparent to her that her  
31 husband's approach was that any money she earned couldn't

1 be spent on her, it had to be spent on him, and indeed  
2 over time he, although he had a good job as a civil  
3 engineer, stopped working and insisted that she be  
4 entirely responsible for not only matters to do with  
5 cooking and cleaning at the home, but entirely responsible  
6 for the financial stability of their family. She worked;  
7 he took all of the money.

8 One of the particular parts of her statement that  
9 I draw your attention to is paragraph 8. She was plainly  
10 a woman who was doing well at work. She was competent.  
11 She was well liked. But she had this terrible secret of a  
12 husband who was entirely unsupportive and, although she  
13 didn't realise it, becoming abusive.

14 She says at paragraph 8, "When my husband stopped  
15 working, that is when his behaviour really started to  
16 change. I wasn't allowed to answer my phone after work or  
17 to call the other people I was working with to discuss  
18 shifts. If I did, he would scream and yell at me. He  
19 knew what time my shifts at work were and if I was one  
20 minute late from work I would have to call to tell him,  
21 otherwise he would get really angry and yell at me. He  
22 didn't let me go out with my friends. I was only allowed  
23 to talk to his friends and their wives. When I first  
24 moved here I used to visit my sister a lot as she lived  
25 nearby, but now I was hardly allowed to see her either.  
26 He wouldn't even let me talk to my parents who still lived  
27 in India. I felt isolated and alone because of this. He  
28 refused to do some things for himself. He told me it was  
29 my job as his wife. For example, he needed medicine every  
30 day, but unless I stopped preparing dinner and put the  
31 tablet in his hand he wouldn't take it, even if I left it

1 right in front of him. Later he would blame me in front  
2 of the GP if his medical results from bad."

3 Down at paragraph 13 she notes that, "People at  
4 work noticed the drop in my performance. I think they  
5 were privately concerned for me, but I didn't talk about  
6 my life at home with them. I didn't understand at the  
7 time that a marriage was supposed to be any different to  
8 what I was experiencing. I thought this is just how  
9 marriage is supposed to be. However, when I spoke to the  
10 other people that I worked with, I began to see that they  
11 were really happy in their marriages and their lives. In  
12 contrast, I grew to realise that the marriage that I was  
13 living in was like being in hell. There was something  
14 wrong with my marriage, that the way my husband was  
15 treating me was not right. My manager knows that  
16 something wasn't right with me. She spoke with me and  
17 asked what was wrong. She was worried that it was  
18 something that was wrong in the workplace. I said no, it  
19 wasn't, but I didn't want to say what the real problem  
20 was."

21 As the case study goes on, we learn that in the  
22 end the role of this woman's workplace was pivotal to her  
23 ultimate escape from a situation of family violence.  
24 That's a theme that is very much going to be taken up this  
25 afternoon. This woman was placed in a circumstance of  
26 economic abuse. Someone was taking all of her money,  
27 giving her no opportunity to earn for herself, spend money  
28 on herself. She describes how she wanted to send money  
29 home to help her parents who are ill. He prevented that  
30 from happening. When she wanted to go home to visit her  
31 parents who were ill, he would only do that if she



1 transferred all her money in her account to him.

2 But, through the support of her manager at her  
3 workplace and ultimately the support of her colleagues,  
4 she was ultimately able to escape. She was given support  
5 from her manager, she was given opportunities to go to  
6 counselling, she was given leave from her workplace at  
7 short notice when she needed to make new arrangements for  
8 how to live and she was ultimately supported to keep  
9 working and to do the training that she needs as a nurse.

10 Ultimately, that case story is a very positive  
11 example of the way in which access to funds, access to  
12 employment and a degree of autonomy can help women and men  
13 move out of economically violent relationships. Those  
14 themes will come up very much in the evidence that we  
15 hear.

16 So, if the Commission pleases, what will now  
17 happen is Mr Moshinsky will call first the evidence of  
18 Ms Kun and then the evidence of Ms Blakey and Ms Morton.

19 COMMISSIONER NEAVE: Thank you Ms Ellyard. Yes, Mr Moshinsky.

20 MR MOSHINSKY: I call Ms Kun to give evidence.

21 <JULIE VANESSA KUN, affirmed and examined:

22 MR MOSHINSKY: Ms Kun, thank you very much for coming this  
23 morning. You are the Deputy CEO and Business Development  
24 Manager of the Women's Information Referral Exchange, also  
25 known as WIRE?

26 MS KUN: Yes, that's correct.

27 MR MOSHINSKY: Have you prepared a witness statement?

28 MS KUN: Yes, I have.

29 MR MOSHINSKY: Are the contents of that witness statement true  
30 and correct?

31 MS KUN: They are.

1 MR MOSHINSKY: Could you just very briefly outline for the  
2 Commission what your professional background is?

3 MS KUN: Yes. My background is as a social worker and I have  
4 over 23 years experience in the community services sector.  
5 I have worked in a variety of fields including culturally  
6 and linguistically diverse, indigenous women, aged and  
7 disability. I have also worked at the Australian Services  
8 Union where I worked on gender related campaigns of the  
9 equal pay campaign for the community services sector and  
10 family violence entitlements for workers. Since 2012  
11 I have been working as Deputy CEO of WIRE.

12 MR MOSHINSKY: Thank you. Can you please explain for the  
13 Commission and describe for the general public a bit about  
14 WIRE. What does WIRE do, how does it operate?

15 MS KUN: WIRE has been operating for 30 years and we are a  
16 State based service and we are a service that supports  
17 women, we are run by women and we support women. We have  
18 a women's support line and a women's information centre.  
19 We are based upon giving information, information support  
20 and referral to all women. We don't provide advice. We  
21 provide a space where women can tell us their stories, be  
22 heard, validated and we will work through what their  
23 options are.

24 We are a women specific service, not a family  
25 violence specific service, but because we are a women  
26 specific service 25 per cent of our calls are family  
27 violence related.

28 MR MOSHINSKY: Does WIRE also operate a women's information  
29 centre?

30 MS KUN: Yes, we do, we have a women's information centre and  
31 I should say that our mission is for a society in which

1 women are safe, respected and have access to full  
2 empowerment and equal opportunity.

3 MR MOSHINSKY: In about 2011, through the calls that WIRE  
4 received, were there some emerging themes that you were  
5 picking up around economic abuse?

6 MS KUN: More and more we were getting women call us and saying  
7 that they were living in dire poverty and they were  
8 ringing up regarding the poverty they were in, how they  
9 were going to get enough food for the next week and pay  
10 the rent. But as we sort of examined their stories we  
11 noticed this singular theme that they had left  
12 relationships or were still in relationships where there  
13 was financial abuse. The women themselves weren't saying  
14 they had been or were in financially abusive  
15 relationships. What they were identifying was the  
16 poverty. So we thought that there was a real disconnect  
17 of this experience happening to a lot of women, but it not  
18 being labelled and it not being dealt with as a form of  
19 family violence.

20 MR MOSHINSKY: So initially did WIRE take some steps in  
21 response to those emerging themes?

22 MS KUN: We did. We actually got some State Government funding  
23 and we developed some workshops and we had two sets of  
24 workshops. One was on financial abuse in the context of  
25 family violence that was aimed at community sector workers  
26 and the other was aimed at women that were experiencing  
27 financial abuse. What we found was that the ones for the  
28 community services sector, they would book up in days.  
29 The community services sector had an idea what we were  
30 talking about and knew that it was a concern, but we  
31 weren't getting women that were experiencing financial

1 abuse coming in to do the workshops. So for us it was  
2 successful in one way. On the other hand, it really  
3 resonated for us that we are not using the right  
4 terminology and we are not reaching women that really do  
5 have a need.

6 MR MOSHINSKY: After that stage with those responses, did WIRE  
7 later take some other steps?

8 MS KUN: We did, because what we were seeing in the community  
9 services sector was there was a lot of ad hoc funding  
10 being made available to reach out to women that were  
11 experiencing financial abuse, sometimes even replicating  
12 the workshops that we had delivered in 2012, and they were  
13 getting exactly the same result, is that the women weren't  
14 coming.

15 So in 2013 we got funding to do some research  
16 into financial abuse and specifically how do we use  
17 language that resonates with the women that are  
18 experiencing financial abuse. That was really pivotal in  
19 us changing in such a way that we were actually reaching  
20 out to women experiencing financial abuse, and through  
21 that research we actually had contact with 202 women.

22 MR MOSHINSKY: Can I just interrupt you. Can you explain with  
23 the change in language, what did you change to and what  
24 worked better?

25 MS KUN: What we were using before was financial abuse in the  
26 context of family violence, which means probably a lot to  
27 us in this room, but very little and even very little to  
28 someone who is experiencing financial abuse. So what we  
29 started doing was describing the feelings that the women  
30 may be having or describing the behaviour that the  
31 perpetrator was using. We used terms like "money problems

1 with my partner", "I don't know where all the money has  
2 gone", those sort of terms. Women were ringing up our  
3 researcher, Prue Cameron, and saying, "Look, I don't know  
4 if I'm experiencing financial abuse, but those  
5 descriptors, that's what's happening to me." I think in  
6 every instance bar one, the person that called up really  
7 was experiencing financial abuse.

8 MR MOSHINSKY: I would like to ask you about the research study  
9 that you referred to. Who conducted the research study  
10 and how was it done?

11 MS KUN: It was conducted by Prue Cameron. It had two  
12 phases: one that we did focus groups and we had focus  
13 groups with 59 women, and the second part is we did an  
14 on-line survey in which we reached over 140 women. But a  
15 lot of time with the methodology was spent getting the  
16 wording right and testing with women so that we could  
17 actually get the women in to do the research.

18 MR MOSHINSKY: If I could ask you to have a look at your  
19 witness statement. In paragraph 28 you have set out some  
20 of the key findings from the report.

21 MS KUN: Yes.

22 MR MOSHINSKY: Could you take the Commission through what were  
23 some of the key findings from the report?

24 MS KUN: Yes, there were lots of findings that we had, and one  
25 is that financial abuse, it's a result of the values and  
26 the beliefs that we have in society, a belief that many  
27 men, many perpetrators have, that they have a right to  
28 manage the money and they have the right to control women,  
29 and also that many women also saw them handing over their  
30 financial control as a sign of their love and trust of the  
31 man and thinking that once they've done that everything

1 will be okay, and of course it wasn't. So that was one of  
2 the findings.

3 The other one is that it's really unrecognised  
4 and the thing that women kept on saying is, "I went to my  
5 lawyer, I went to my bank, I even went to some of the  
6 community services, I went to Centrelink, I went to Child  
7 Support Agency and none of them really understood what was  
8 happening to me. I didn't know what was happening to me  
9 and they didn't know what was happening to me." So it was  
10 chaotic and they weren't able to get the help that they  
11 needed.

12 Also, financial abuse is very much linked to  
13 emotional and psychological abuse and that many of the  
14 women said, "I can't be experiencing family violence  
15 because he didn't physically hit me. Yes, sometimes I was  
16 scared, but he didn't actually hit me." So that was the  
17 one of the barriers that women faced in terms of getting  
18 assistance as well.

19 The other thing is that women often after leaving  
20 the relationship found it very hard to find safe and  
21 affordable housing, and even if they did remain in the  
22 family home they often couldn't keep it because they  
23 didn't have the resources to do so. So a lot of women  
24 spoke about becoming homeless and having to sleep on their  
25 parents' couch for a year and a half, two years, before  
26 they could afford housing.

27 The other thing we found is that we had women  
28 telling us that 10, 13 years after they had left the  
29 relationship, that the abuse was still continuing, that  
30 through legal mechanisms, through CSA, the perpetrator was  
31 still managing to control their lives by using really

1 government and authorities to be the tool for their abuse.

2 MR MOSHINSKY: CSA is?

3 MS KUN: Child Support Agency.

4 MR MOSHINSKY: Were there findings about the confidence levels?

5 MS KUN: Yes. One of the things that we found is that women

6 often - they did have financial skills, but the

7 perpetrators would often tell them or they were told all

8 through their life growing up that money was not an issue

9 that they were to be involved in, that they didn't have

10 the skills, women aren't good at maths, all those sort of

11 things. So they lacked a lot of confidence in financial

12 matters, which made them far more vulnerable to financial

13 abuse.

14 MR MOSHINSKY: Thank you. In your statement you talk about

15 three specific timeframes that financial abuse can occur.

16 MS KUN: Yes.

17 MR MOSHINSKY: Can you just outline what are the three

18 timeframes that you refer to?

19 MS KUN: Yes. There is of course during the relationship, so

20 that's when women are having their money taken, they are

21 not allowed to work, that they are being coerced into

22 signing loans for which they don't receive the assets, so

23 when that form of abuse is happening. There's also after

24 the relationship, and that's as I just talked about, when

25 women are being dragged continuously and vexatiously

26 through the courts and are not having their child support

27 payments paid and this dragging on for 10, 12, 13 years.

28 There's also as a consequence of the

29 relationship, and that is that as a result of the

30 financial abuse they have limited economic resources and

31 also because often they've been prohibited from working or

1           they've been sacked from a job because the perpetrator has  
2           made it so difficult or they are so stressed that they've  
3           got limited opportunities of going back into employment.

4   MR MOSHINSKY: Taking each of those three in turn, I want to  
5           ask you some questions about what your proposals are for  
6           the Commission as to recommendations it might make.

7   MS KUN: Yes.

8   MR MOSHINSKY: Taking the first one, the period during the  
9           relationship and the financial abuse that can occur at  
10          that stage, are there things that you think should be done  
11          differently to what we are doing at the moment?

12   MS KUN: Yes, one of the things, and it comes in a bit of the  
13          frame of being preventative, is really acknowledging that  
14          there is a gendered component here and that we in society  
15          see women as being less mathematically capable. So there  
16          needs to be training available for women about financial  
17          capability so that they can understand that they can  
18          control the finances, and also I would add in our schools  
19          as well that that needs to start really, really early, and  
20          for men also to understand that they don't have a  
21          God-given right to control the finances and to control  
22          women.

23                I think with that education and training, when  
24          women come into the relationships they will be more able  
25          to see the red flags that financial abuse is happening  
26          because one of the things that we heard over and over  
27          again is that it is a slow, creeping thing and that by the  
28          time they've gone, "Uh-oh, what's happening here," they  
29          are well down the track and it's really hard to extricate  
30          themselves from that relationship. So, the earlier it can  
31          be identified, the earlier it can be stopped.



1                   So one of the things that we think is very  
2           important is diagnostic tools to be available for women on  
3           how to diagnose financial abuse, but also for people in  
4           the legal sector, the banking sector, the community  
5           services sector and all financial sectors as well, so when  
6           they are speaking to women they can also get those red  
7           flags and then take appropriate action.

8   MR MOSHINSKY:   What are some of the red flags that you are  
9           referring to?

10   MS KUN:   The red flags - I will give one that's maybe for the  
11           banking industry is a woman being cajoled or really not  
12           looking comfortable when they are signing a loan, or the  
13           woman having absolutely no input into decision making for  
14           financial matters.

15                   The other ones are things - some of them that  
16           were raised in the example you had is that slowly - one of  
17           them is the woman is not allowed to know what the family  
18           finances are, they are not allowed to have a look at the  
19           bank statements or the perpetrator says that they can but  
20           there's always a reason why it can't be done for that day,  
21           that the man says, "If you don't let me have control of  
22           the finances, that means that you don't love me." All  
23           those things are early red flags that financial abuse is  
24           happening and is going to continue.

25   MR MOSHINSKY:   Talking about the next period after the  
26           relationship, are there any suggestions you have of what  
27           could be done differently in that period?

28   MS KUN:   I think we really need to look at our legal system.  
29           I think it's one of the saddest things that a legal system  
30           that is there to protect victims is often used by  
31           perpetrators as their tool for continuing the abuse. We

1 need to have stricter regulations regarding vexatious  
2 litigants. I know that everyone has a right to take an  
3 action, but when that action is taken over and over and  
4 over again, we need to have a gendered framework here and  
5 have an awareness of family violence and say, "What is  
6 going on? Is this being used as a tool for perpetrating  
7 family violence?" If it is, as a government, as a  
8 society, we should have the power and the authority to  
9 stop that.

10 Other things that need to happen is more  
11 coordination between Centrelink and the Child Support  
12 Agency. Over and over again we would hear women say,  
13 "Look, payments were stopped, I stopped getting my child  
14 support payments. That affected my Centrelink. Then  
15 I had a massive overpayment to pay." Centrelink will say,  
16 "If we stop people's payments they will get it  
17 eventually," but we are talking to women in dire poverty.  
18 They can't wait to get a back payment four months down the  
19 track for \$3,000. They need the money now to make sure  
20 that there's food on the table that week.

21 I know that federal Human Services are actually  
22 looking at some of this, but really putting on a gendered  
23 lens and a family violence lens when they are looking at  
24 how perpetrators are using their systems to perpetrate  
25 violence.

26 MR MOSHINSKY: In relation to crisis accommodation, are there  
27 any proposals?

28 MS KUN: Yes, one of the things that we find is we get quite a  
29 few women ringing up WIRE saying, "I rang up a family  
30 violence service trying to get assistance and they've  
31 taken me through a whole lot of safety screening and

1 because I'm physically safe they're saying that they're  
2 unable to assist." So, one of the things that we are  
3 recommending that we really see how significant financial  
4 abuse is, it doesn't just have an affect on the women, it  
5 also has an effect on their children if they're being  
6 starved of resources as well, and the emotional impact of  
7 the abuse. There was one woman in a research that said  
8 for about two years every day she got up, had a shower and  
9 vomited in the shower before she got the kids ready for  
10 school, just because of the stress and anxiety of ongoing  
11 court cases and really knowing that even though she had  
12 left the relationship, that perpetrator was able to pick  
13 her up and throw her around like a rag doll by using the  
14 legal systems that were available to him.

15 The other thing is that a lot of people - most of  
16 the refugees, when you go into them, they say you have to  
17 give up whatever your routine is. For women that can mean  
18 giving up their employment. Once they have severed that  
19 employment, again they lose economic independence as well,  
20 which just makes it so much harder for them to recover  
21 from the financial abuse and the family violence that they  
22 have been experiencing.

23 MR MOSHINSKY: Turning then to the third aspect, financial  
24 abuse as a consequence of the relationship, does WIRE have  
25 any proposals for what could be done better?

26 MS KUN: Yes. One of the main things - the theme that came out  
27 through our research, and it's a statement of the blinding  
28 obvious, is that women are economically worse off after  
29 being financially abused. That happened in 100 per cent  
30 of cases. But there is no long term - this is something  
31 that can affect them right up into old age, that they have

1 limited superannuation, that they have had limited access  
2 to the employment because their abusive partner prevented  
3 them from working. So one of the things that's really  
4 important is, yes, you have to give people access to  
5 proper government payments that allow them to live week to  
6 week, but in order for them to get financial security and  
7 to have independence in their financial means, I think  
8 employment is the gateway for that.

9 So we do need employment programs that assist  
10 women who have experienced family violence into the  
11 workforce. I think that means more than just giving them  
12 employment assistance. What they also need is  
13 psychological support from people that understand the  
14 trauma, the trauma focus that one needs to have to recover  
15 from family violence.

16 MR MOSHINSKY: I just want to ask you some questions about some  
17 work you did at an earlier stage of your professional  
18 career when you for a number of years held the position of  
19 organiser and industrial advocate at the Australian  
20 Services Union. Could you tell us about the work that you  
21 did there on seeking a family violence entitlement?

22 MS KUN: Yes. We worked with the Domestic and Family Violence  
23 Clearing House to achieve the world first family violence  
24 workplace entitlements that was in an industrial  
25 agreement. That end result took - it took two years of  
26 work to the Domestic and Family Violence Clearing House to  
27 get it to us and from us it took about six to eight  
28 months. So that work was working with employers so that  
29 they could see that there was a need for employers to take  
30 responsibility for the family violence that's happening in  
31 the community and have provisions in their workplace so

1       that employees that are experiencing family violence can  
2       get the support that they need to extricate themselves  
3       from that violent relationship, but also that perpetrators  
4       of family violence can see that the community does not  
5       tolerate their behaviour. It doesn't matter where they  
6       go; if they go to work, that they will see through the  
7       work that their employer is doing that family violence is  
8       not tolerated and conversely the people that are  
9       experiencing family violence can see that they are being  
10      supported.

11   MR MOSHINSKY: What were some of the reactions initially that  
12       you had from employers and how did you get this over the  
13      line?

14   MS KUN: Sometimes it was so sad you had to laugh. We got a  
15       lot of employers saying to us, "It's not my  
16       responsibility. I'm not the one that's perpetrating the  
17       violence." My comeback was, "Well, you have parental  
18       leave. Are you responsible for every child?" I was  
19       nearly invariably talking to men. "Are you responsible  
20       for every child that is born in your agency? How is this  
21       any different, that we take responsibility that women need  
22       time away to care for their child, but we won't take  
23       responsibility that women need time in order to extricate  
24       themselves from a family violence relationship and to  
25       recover from it."

26               So it really was also talking about: let's work  
27       through this logically as well of looking at what are the  
28       benefits. How will they be perceived as an employer.  
29       That you will be perceived as a good employer and that  
30       usually comes back in kind from your employees. But  
31       I used to do lots of presentations and I always ended,

1 after I gave all the reasons and there were economic  
2 reasons and all those sort of things, but always ended  
3 with the line, "Because it's the right thing to do."

4 MR MOSHINSKY: In your statement at paragraph 41 you give an  
5 example of a woman who attended WIRE. Can you just tell  
6 us about that by way of example?

7 MS KUN: We had an industrial officer from another union ring  
8 us up and said that she was working with a woman that was  
9 at the point of being sacked by her employer; that she had  
10 forged some sick leave certificates when she wouldn't come  
11 into work because she had bruising from the family  
12 violence that she was experiencing; that her manager did  
13 know about it, but he was unable to support her because  
14 the employer had said that the manager was the one that  
15 needed to prosecute the case against her.

16 She refused to go to ring up a family violence  
17 service because she was concerned that they would tell her  
18 she would have to leave her partner and she said adamantly  
19 it doesn't matter what happens, she was not going to leave  
20 her partner ever.

21 So, we spoke to her. We wrote a letter for her  
22 to her employer saying what had been described to us was  
23 family violence, going through some of the obvious things  
24 about, "This is why she did what she did," and that she  
25 needed their support rather than being sacked. We also  
26 made some referrals so that woman could continue on in her  
27 relationship, which was her choice, but to do that with a  
28 safety plan in place.

29 As a result of that, she wasn't sacked, she did  
30 have the time docked for the sick days she had taken and  
31 she also was able to get some counselling for herself and

1 her male partner also got counselling. We actually did  
2 hear from her only about six, eight months ago, her saying  
3 that after the counselling that their relationship was a  
4 lot better and that also her workplace relationship was a  
5 lot better because more people were aware of what had  
6 happened to her and were giving her support rather than  
7 saying, "You're a tardy worker" or "a fraudulent worker".

8 MR MOSHINSKY: Just finally, in your statement you have a  
9 proposal that you put forward of a recommendation the  
10 Commission might consider around family violence  
11 entitlements.

12 MS KUN: Yes. I think that all State Government services, all  
13 State Government employees and also State Government  
14 authority employees should have access to family violence  
15 workplace entitlements that are in their agreements, and  
16 that the government should also be having a campaign to  
17 support other employees that are outside of their  
18 jurisdiction to also implement family violence and  
19 workplace entitlements.

20 MR MOSHINSKY: Do you want to just very briefly outline the  
21 reasons why you think that's important?

22 MS KUN: Yes. Some of the other reasons that I have just  
23 stated is that, in terms of awareness and prevention, by  
24 having these entitlements in workplaces it clearly shows  
25 to women that they have support with their employer. It  
26 also shows the perpetrator that their actions are not  
27 tolerated and won't be tolerated by the employer.

28 The other thing is that we do know that people do  
29 get support through their workplace, it is a significant  
30 place where women get support. For some women it's the  
31 only safe place they have. It may be the only place that

1       they can look on-line for resources and know that they are  
2       not going to be checked, their browser history is not  
3       going to be checked, where they can have 10, 15 minutes to  
4       themselves. So work is an incredibly important place for  
5       women to get support about family violence.

6               I should also add that if we want women to be  
7       financially secure, which again makes them less vulnerable  
8       to financial abuse, then being able to maintain their  
9       employment is critical. So, you can imagine if the woman  
10      that I had in my previous example lost her job, first of  
11      all she would probably be with her abusive husband 24/7,  
12      which would not be in her best interest, but that abuse  
13      would probably escalate as she was no longer bringing in  
14      money and the impact that that had as well.

15              We did find with our research that 57 per cent of  
16      the women we researched said their major barrier to  
17      leaving an abusive relationship was that they didn't have  
18      the money to leave. So if women can have independent  
19      access to money through employment, it gives them far more  
20      options with leaving. And employment, apart from knowing  
21      that very few of us are going to win Tattsлото,   
22      employment is a major way to have economic empowerment and  
23      financial security.

24   MR MOSHINSKY: Thank you. Those are my questions. Do the  
25              Commissioners have any questions?

26   DEPUTY COMMISSIONER FAULKNER: Ms Kun, just in relation to the  
27      last topic we have been discussing, which is family  
28      violence leave entitlements, we have been informed that a  
29      number of employers provide leave entitlements already.  
30      I suppose I'm interested in what the important thing for  
31      you is. Is it the formalisation? Is it extra leave?



1 I understand most of the systems I have heard of it is  
2 some form of personal leave which already exists, such as  
3 sick leave or carer's leave being opened up. So what is  
4 it that distinguishes what you are looking for?

5 MS KUN: All workers bar casual have access to sick leave and  
6 personal leave, but there is nothing in that that says  
7 it's family violence related. I think you are asking  
8 women to make a pretty big jump to say that they are  
9 eligible for that leave if they're experiencing family  
10 violence because you will get women that were saying, "I'm  
11 not sick and I may be prosecuted by my employer if they  
12 find out that I'm not sick or in fact what I'm doing is  
13 getting the locks changed."

14 The other thing, I think the major thing that it  
15 does is that it puts it out there in the open. I used to  
16 describe this family violence entitlement, it puts the  
17 spotlight on family violence in the workplace. Often when  
18 employers bring it in, they do it with an awareness  
19 campaign and that really does - it brings out women who  
20 never thought they could get support in the workplace to  
21 come out and get support. If you just sort of say, "Oh,  
22 yes, and they can get it in their sick leave or they can  
23 have it as part of their carer's leave," as I said, it  
24 really makes the woman have to connect so many dots. It  
25 doesn't quite fit the definition of what sick leave is and  
26 what carer's leave is, so it's not quite right in that  
27 area.

28 DEPUTY COMMISSIONER FAULKNER: Can I just follow up very  
29 quickly. If a company or a department had a policy which  
30 said, "We call your leave personal leave and these are the  
31 categories of things that can entitle you," would that

1 meet the objective? So, if you are sick and you have a  
2 doctor's certificate, if you are attending to matters  
3 relating to family violence, if you are caring for  
4 somebody, if it was that specific, is that meeting the  
5 test or not?

6 MS KUN: I think it meets part of the test. The other part of  
7 the ACTU's family and violence entitlements clause that  
8 they have put forward is also for workplaces, their HR  
9 people or whoever they nominate to have training around  
10 family violence so women know that not only do they have a  
11 support person that they can speak to, but that that  
12 person knows what to do.

13 Again, when I was talking to employers - and  
14 I spoke to a lot of really good employers - there was a  
15 fear of, "And what happens if a woman comes to me and says  
16 I'm experiencing family violence? What do I do?" It's  
17 sometimes that fear that prevents people extending the  
18 hand to provide help, because they are not quite sure if  
19 they will do the right thing. It's really through  
20 training that can be provided to employers that they can  
21 see, look, they can make referrals to Safe Steps, to 1800  
22 Respect, to WIRE, there are places that they can refer  
23 women to and there are things that they can say so that  
24 they know that they are supported.

25 COMMISSIONER NEAVE: I wanted to follow up your comments about  
26 the coordination between Centrelink and child support.  
27 I wanted to understand what the problem was. Am I right  
28 in thinking that you were describing a situation in which  
29 a woman might be entitled to a Centrelink payment because  
30 she's not receiving any child support and then the Child  
31 Support Agency follows up the issue and she then receives

1 a back payment and she then has to repay that. So that's  
2 one issue.

3 MS KUN: It is Family Tax Benefit Part A. So when child  
4 support isn't being paid, then that Family Tax Benefit  
5 Part A will go up. But then the woman fights the fact  
6 that they are not getting the child support and then that  
7 may come back to them in back pay or it starts again and  
8 it just - women that are being abused by men through using  
9 CSA and Centrelink, they can't judge their income from  
10 financial year to financial year, so there's always this  
11 big threat that they are going to have to pay a huge  
12 amount back or they have underestimated and they need  
13 every cent they can get. So we really need those two  
14 areas of Human Services to talk to one another and  
15 understand what the perpetrators are doing and limit the  
16 impact that it has on the women and children.

17 COMMISSIONER NEAVE: What about the issue of following up child  
18 support liability? How much support do women get if they  
19 are not receiving their payments? It's not the Child  
20 Support Agency anymore, it's done through the tax system,  
21 isn't it? I'm not quite sure.

22 MS KUN: There are several ways you can do it. You can go  
23 through the Child Support Agency or the Child Support  
24 Agency can say, "We will collect it from that person's  
25 employer." But there are several ways they can do it. In  
26 fact, most people where there is no family violence just  
27 have an understanding, so they don't go through CSA, they  
28 just get a letter that says, "This is how much you should  
29 pay." So there are several mechanisms that are available.

30 But very recently, as in a month ago, we were  
31 informed that at CSA now that at particular trigger points

1       they will ask women are they experiencing family violence.  
2       But what we still hear is that even though that question  
3       might now be asked, and this research was done before that  
4       part of the family violence strategy was implemented, is  
5       that the people that you are speaking to on the phone -  
6       and keep in mind now that Human Services is trying to get  
7       everyone to do everything on-line - that they don't  
8       understand the complexity of financial abuse, that they  
9       try to make it as simple as possible, and it's not simple.  
10      It's really complex. There's a complex web of abuse going  
11      on and that needs to be taken into account.

12                Again, I should mention because more and more  
13      they are being told you have to go on-line to sort your  
14      things out. In order to understand the complexity of  
15      what's going on, women want to have a face-to-face  
16      conversation. They want to speak to someone on the phone  
17      in length about what their situation is.

18                The last thing I will say about Centrelink is the  
19      thing that we heard over and over and over again, and  
20      I can just think of one woman who said, "I rang up  
21      Centrelink three times and three times was told different  
22      things. I don't know what to do." That's a really common  
23      response that we have. For woman that are emotionally and  
24      psychologically going through an incredibly hard time,  
25      they are being financially abused and they can't get  
26      consistent information.

27   COMMISSIONER NEAVE: Thank you.

28   MR MOSHINSKY: Could I just ask the witness a follow-up  
29      question just about Centrelink and CSA. Is another issue  
30      delay sometimes? If the child support payments aren't  
31      paid, is there sometimes a delay before the Centrelink

1           payment starts?

2   MS KUN:   Yes.   One thing that woman said often happened is the  
3           perpetrator would say, "I've had a change of circumstance,  
4           so I want to appeal the amount of money that is currently  
5           being paid," and they would then stop paying.   Then they  
6           would go through an appeal process and it may be found out  
7           that the appeal was unwarranted, but for three months that  
8           child support has stopped for however long that appeal  
9           takes.   So there's this long delay that the women have in  
10          getting money and they really are starved of resources and  
11          the stress that they go through.

12                 We heard from women who are saying, "There's no  
13          money in the bank."   They are now actually living on their  
14          visa just hoping that the appeal goes their way, knowing  
15          that the perpetrator is going to appeal again in six  
16          months time and 12 months time and 18 months time; it's  
17          just never ending.   Again, I think CSA need to look at  
18          those records and say, "This is happening every six  
19          months.   Is there a system of behaviour here that says  
20          family violence is occurring."

21   MR MOSHINSKY:   Thank you.   If there are no more questions from  
22          the Commissioners, may I ask that the witness be excused?

23   COMMISSIONER NEAVE:   Thank you very much, Ms Kun.

24   MS KUN:   Thank you for your time.

25   <(THE WITNESS WITHDREW)

26   MR MOSHINSKY:   I call Ms Jennifer Blakey and Ms Pam Morton to  
27          give evidence.

28   <JENNIFER BLAKEY, affirmed and examined:

29   <PAMELA MARGARET MORTON, sworn and examined:

30   MR MOSHINSKY:   Ms Blakey, can I start with you.   You hold the  
31          position of Manager of Seniors Rights Victoria?

1 MS BLAKEY: I do.

2 MR MOSHINSKY: Have you prepared a witness statement?

3 MS BLAKEY: I have.

4 MR MOSHINSKY: Are the contents of that witness statement true  
5 and correct?

6 MS BLAKEY: They are.

7 MR MOSHINSKY: Could you just briefly outline what your  
8 professional background is?

9 MS BLAKEY: Yes. I'm currently the Manager at Seniors Rights  
10 Victoria and I have been the manager there for almost five  
11 years, and prior to that I worked as a manager in the drug  
12 and alcohol sector, mainly responsible for community and  
13 family services related to drug and alcohol use, and prior  
14 to that I worked in the community legal services centre  
15 sector, including as the Manager at Fitzroy Legal Service.  
16 So I have overall about 30 years experience in the  
17 community sector. A lot of that was in community legal  
18 centres.

19 MR MOSHINSKY: Thank you. Ms Morton, what's your position at  
20 Seniors Rights Victoria?

21 MS MORTON: I'm currently the Acting Principal Lawyer at  
22 Seniors Rights Victoria.

23 MR MOSHINSKY: Can you outline briefly what your professional  
24 background is?

25 MS MORTON: Yes. I have over 30 years experience as a legal  
26 practitioner in a range of different areas in the  
27 profession - private practice, corporate practice,  
28 community legal sector and local government. I'm also a  
29 former Manager of the Ethics Department at the Law  
30 Institute of Victoria and a lecturer at the College of  
31 Law.

1 MR MOSHINSKY: Thank you. I'm going to be asking questions  
2 primarily to Ms Blakey, but if at any time you want to  
3 supplement or add an additional comment please feel free  
4 to do so.

5 MS MORTON: Thank you.

6 MR MOSHINSKY: Ms Blakey, could you please tell us a bit about  
7 Seniors Rights Victoria? Just briefly, when was it  
8 established, what does it do as an organisation?

9 MS BLAKEY: Seniors Rights Victoria was established in 2008 and  
10 it was set up as the statewide organisation to respond to  
11 and hopefully prevent elder abuse. It's part of the State  
12 Government strategy in responding to elder abuse.

13 We sit as a program within COTA, Council on the  
14 Ageing Victoria. What we do is we have a helpline that  
15 people can ring and our priority is to talk to older  
16 people about their situation, and through that helpline  
17 the person can then get additional assistance either with  
18 a lawyer or an advocate. An advocate is someone who  
19 doesn't have a legal background but may have a social work  
20 or nursing or sort of caring background to work with  
21 the older person.

22 So the older person can then receive advice, and  
23 that is usually done with a lawyer and advocate. So we  
24 are very pleased that we have a system which brings  
25 together two professions to work with the older person,  
26 the emphasis being on engaging with the older person and  
27 identifying what their needs are and being able to respond  
28 to that.

29 From then we undertake case work. So we have a  
30 community legal centre within our service, and that's  
31 where we have the lawyers engaged in that aspect. We also

1 have community education, where we provide a lot of talks  
2 to older people directly and also to professionals who  
3 work in the field. We have communications, and we  
4 undertake work around policy and law reform.

5 MR MOSHINSKY: Is there an age bracket that your services or  
6 assistance are directed at?

7 MS BLAKEY: Indeed there is. We work with older people over  
8 the age of 60, but over the age of 45 if someone comes  
9 from an Indigenous background, recognising the shorter  
10 life expectancy of Indigenous people. We will also work  
11 with people under the age of 60 if they have an illness  
12 which is age related, such as early onset dementia.

13 MR MOSHINSKY: I was wondering if you could provide an  
14 explanation or a description of what is elder abuse to the  
15 Commission?

16 MS BLAKEY: Yes. Elder abuse has been defined by the World  
17 Health Organization as any act which causes harm to an  
18 older person that's carried out by someone they know and  
19 trust, such as a family member, a friend or a carer or  
20 even a neighbour. We see it as it can be a single act or  
21 it may be a series of acts or it may have quite a long  
22 history in terms of the abuse that's occurring. But it is  
23 primarily based in that relationship of trust.

24 There are different types of elder abuse.

25 There's financial abuse, emotional or psychological,  
26 physical, sexual, social and neglect. What we find is  
27 frequently one form of abuse is co-occurring with another  
28 form of abuse.

29 MR MOSHINSKY: This Royal Commission, as you know, is about  
30 family violence. Does family violence coincide with elder  
31 abuse?



1 MS BLAKEY: We see elder abuse as a form of family violence.

2 We looked at our statistics through some research that we  
3 did with the National Ageing Research Institute and  
4 discovered that of the alleged perpetrators 92 per cent  
5 were a family member. So that very clearly said to us  
6 that carers, friends, neighbours much lower. When it  
7 comes down to who the alleged perpetrator is, it's a  
8 family member. That means that it is a form of family  
9 violence, which is not often understood or recognised.

10 MR MOSHINSKY: There are some aspects of elder abuse which are  
11 in common with other forms of family violence, but there  
12 are also some differences. What are some of the  
13 differences between elder abuse as a form of family  
14 violence and some of the other types of family violence  
15 that the Commission is looking at?

16 MS BLAKEY: I think the main issue is that it is an older  
17 person and the abuse is occurring between generations. So  
18 it is an intergenerational aspect which is the most  
19 striking and obvious feature. So most of the people who  
20 contact us are in their 70s or 80s, sometimes 90s, and  
21 even we have had 100s, and the alleged perpetrator is  
22 usually in the age range of 40, 50 and sometimes in their  
23 60s. So it is primarily between generations.

24 MR MOSHINSKY: Sorry, just to clarify, so are you saying in the  
25 majority of cases of people who contact you the person  
26 carrying out the abuse is the adult child of the person  
27 who is being abused?

28 MS BLAKEY: Yes. Yes, I said earlier that 92 per cent of the  
29 cases are a family member, and when we look at the  
30 characteristics of those perpetrators 40 per cent are the  
31 adult son and about 26 per cent is the adult daughter. So

1 two-thirds of the abuse is occurring from an adult child.

2 MR MOSHINSKY: Is elder abuse as a form of family violence less  
3 or more likely to be reported than other forms of family  
4 violence?

5 MS BLAKEY: Much less likely to be reported. I will just go  
6 back a step and say, whilst there's the generational  
7 aspect, intergenerational aspect, which is important,  
8 there is also a gender aspect. So it's important to note  
9 that about 72 per cent of the people who contact us are  
10 women, the remainder being men. So it's gendered not as  
11 starkly as family violence as we generally understand it,  
12 but there still is that issue.

13 We find that in terms of the perpetrators  
14 approximately 60 per cent are male and approximately the  
15 remainder, 40 per cent, are female. It varies slightly  
16 with types of abuse. The other thing which I think is of  
17 interest to note is in some types of abuse where it is the  
18 male who is the victim then it can be 50 per cent female  
19 and male in terms of the perpetrator.

20 So to go to your question again, sorry?

21 MR MOSHINSKY: Reporting. How often is elder abuse as a form  
22 of family violence reported?

23 MS BLAKEY: There is a great reluctance to disclose from the  
24 older person, so that makes it hard to really know the  
25 extent of the problem. That occurs for a variety of  
26 reasons: one, people don't recognise that it is a form of  
27 abuse. They don't really understand that's what's  
28 occurring to them. They just see it as something that's  
29 happening within the family. So there's not that  
30 awareness of it and therefore then identifying it and  
31 doing something about it, and knowing where they can go to

1 talk to someone about it.

2 The other thing is the complexity of the family  
3 dynamics, so that if it is an adult son or daughter the  
4 parent can be very reluctant to disclose. There's a sense  
5 of shame, there's a sense of embarrassment, there's a  
6 sense of wanting to try and help and support the older son  
7 or daughter or protect them. There's a reluctance to  
8 engage the police. People say, "I don't want the police  
9 involved. I don't want my son and daughter to be charged  
10 by the police." There is a reluctance to engage in legal  
11 solutions. There is a sense of protecting and supporting  
12 the son or daughter in whatever way they can.

13 So there's a sense, I guess, of that  
14 protective - what we call a protective love as a parent in  
15 being very reluctant to then take action against the  
16 family member, usually the adult child.

17 MR MOSHINSKY: Seniors Rights Victoria has conducted some  
18 analysis and prepared a report of the data that it has  
19 accumulated through people contacting the helpline. Can  
20 you explain briefly the process of preparing that report?  
21 How was that gone about?

22 MS BLAKEY: Yes. As I said, we engage with the National Ageing  
23 Research Institute, which is associated with Melbourne  
24 University, to look at our statistics because we have been  
25 collecting statistics and only been able to analyse in a  
26 fairly limited way for some time. So they undertook this  
27 analysis for it, and it was for a two-year period, so it  
28 was the '12/'13, '13/'14 financial year period.

29 They looked at the advice calls that were  
30 received. So we get calls into the helpline which are  
31 just information level, and then if there is an advice

1 component needed for the older person then an advice  
2 appointment is made. So it is at that level where we are  
3 looking at particular circumstances of the person.

4 So there were 755 older people who were within  
5 that two-year period, and, as I said, they reported  
6 multiple forms of abuse, and of the types of abuse which  
7 were most prominent were financial abuse and psychological  
8 and emotional abuse, often co-occurring. So approximately  
9 37 per cent reported financial abuse, and close to  
10 36 per cent reported psychological or emotional abuse.

11 MR MOSHINSKY: Perhaps if I could ask you just to read out the  
12 order that appears - you have a table in your witness  
13 statement after paragraph 19. If you could just read out  
14 what were the list of types of abuse in order of how often  
15 they occurred - just the names, not the numbers.

16 MS BLAKEY: Yes. So, in terms of financial abuse, the  
17 percentage of clients who reported this type of abuse were  
18 61 per cent. For psychological and emotional abuse, the  
19 percentage of clients who reported this type of abuse was  
20 close to 60 per cent. For physical abuse, it was close to  
21 16.5 per cent; for social abuse, 8.5 per cent; for  
22 neglect, one per cent; and sexual abuse, less than  
23 one per cent. So very low reports on neglect, sexual  
24 abuse and social abuse, neglect and sexual abuse  
25 particularly. We wonder whether that sort of abuse is  
26 picked up in other services rather than necessarily coming  
27 to ours. So the level of disclosure may again be  
28 underreported.

29 MR MOSHINSKY: I want to now ask you some questions about  
30 financial abuse, which was the most common occurrence of  
31 the calls and advice sought, closely followed by

1 psychological and emotional abuse. Can you give us some  
2 examples? What are the sorts of types of situation that  
3 people encounter that they bring to your attention? What  
4 are we talking about?

5 MS BLAKEY: There's a range of examples, and it can be from  
6 taking money from the person directly, so taking money out  
7 of their purse. It can be forcing the person to go down  
8 to the bank and taking money from their account. It can  
9 be using their credit card or their PIN card, getting  
10 access to that and taking money.

11 The more extreme examples and unfortunately the  
12 examples we see are where people have signed over their  
13 house or gone guarantor on a loan. They may not be aware  
14 that that's what's been done. It may have been done where  
15 they have had papers put in front of them and they have  
16 trusted the person and they have said, "Yes, I will sign,"  
17 or, "Yes, I will help out." This is particularly an issue  
18 when people come from a culturally and linguistically  
19 diverse background. They will have perhaps not had the  
20 language skills and have relied on their adult children  
21 and members of their family to interpret and translate and  
22 conduct affairs for them. So, if something is put in  
23 front of them and they've been asked to sign, they have  
24 signed it and then suddenly later they find that the house  
25 is not theirs, it is mortgaged to the hilt for some other  
26 reason, there's been no repayments and they have to leave.  
27 Pam, would you like to add to that?

28 MS MORTON: Yes. We have often had some extreme cases where  
29 older people have been taken to a lawyer that's been  
30 initiated by their son or daughter and told in the car on  
31 the way to that appointment that they need to sign the

1 papers, and if they refuse their child will no longer  
2 provide any assistance or care to them. Often an older  
3 person will arrive - in a couple of cases we have had they  
4 have actually only been discharged from hospital that  
5 particular day and they are on their way home from  
6 hospital via a lawyer's office.

7 We've found that their son or daughter has  
8 actually initiated a transfer of property through their  
9 own lawyer, advising them that mum or dad wants to  
10 transfer the house to them. The lawyer has not made any  
11 independent enquiries and taken it as a transactional  
12 arrangement, prepared the necessary documents.

13 They are then confronted with often a frail older  
14 person arriving, answering a question that they have not  
15 sought independent legal advice and then signed a transfer  
16 without fully understanding what that is, and discovering  
17 some time later that they have lost ownership of their  
18 home and as a consequence also have significant problems  
19 with Centrelink, and in the most extreme case we have had  
20 a person has lost their pension as well as a result of  
21 that. So these are quite serious issues.

22 We also have other issues where people sell their  
23 property to move into a care arrangement with family  
24 members, and either applied the proceeds of sale towards  
25 reducing their son or daughter's mortgage, sometimes the  
26 money is used to construct a granny flat or renovate the  
27 property to make additional separate facilities for the  
28 parent, and there's also situations where those  
29 arrangements fall down significantly through a breakdown  
30 in relationship, but because it's an informal arrangement,  
31 there have been no plans for what would happen if the

1 arrangements fail, there's no discussions or independent  
2 advice ever obtained about how the older person can get  
3 their money back, then they are in a very difficult  
4 position of having lost the most significant relationships  
5 in their lives and having no access to money. It's very  
6 difficult to work through those issues.

7 MR MOSHINSKY: I was wondering if you or Ms Blakey might be  
8 able to just expand about the problem that people have  
9 experienced regarding assets for care arrangements.

10 MS BLAKEY: This is the assets for care arrangement that Pam  
11 was explaining, where there is that, "Mum, dad, come on,  
12 sell the house. We will look after you. Come and live  
13 with us. Everything will be fine," and that happens and,  
14 as Pam was saying, there is nothing documented. So it is  
15 very unclear. Is it a gift? Is it a loan? What  
16 happened?

17 There is no evidence to sort of explain what the  
18 arrangement is, and there has been no discussions about  
19 "What happens if, my son, you lose your job," or, "What  
20 happens if the relationship, your marriage, breaks down,"  
21 let alone the whole other issues around if there's been  
22 gambling problems or businesses go bust and money just  
23 keeps getting poured into these sorts of things or  
24 addictions.

25 MR MOSHINSKY: What goes wrong? What are the sort of scenarios  
26 that play out after that type of informal arrangement  
27 takes place, from the older person's point of view?

28 MS BLAKEY: From the older person's point of view is that they  
29 will then have lost their money. It will be very  
30 difficult for them to claim the money back. They could  
31 end up that they have lost the relationship. There can be

1 a breakdown in the relationship. They can become very  
2 abusive. We have had situations where the older person  
3 has actually moved out to live in the shed because they  
4 couldn't cope with living in the family home, that they  
5 are spoken to and treated very poorly and very badly; and  
6 then people who leave because they can't even stay there  
7 and they have to find public housing and they have lost  
8 that relationship. Pam, is there anything else to add to  
9 that?

10 MS MORTON: We often find particularly with our clients from a  
11 culturally and linguistically and diverse background that  
12 particularly for older women, who may not have English as  
13 their first language, they are unable to read English,  
14 they are very heavily disadvantaged through these  
15 arrangements because they often have no paper trail to  
16 prove payments and arrangements that have taken place. So  
17 they have no access to records, and it makes it very  
18 difficult to pursue those cases from a legal point of view  
19 through either VCAT or through a court, and that is a  
20 significant issue for them.

21 We have had other cases where people have had the  
22 necessary paper trail, where we have successful outcomes,  
23 and we have recently had a case through the Victorian  
24 Supreme Court of Appeal in September last year which led  
25 to a significant result in identifying an equitable lien  
26 in an arrangement where money was paid into family  
27 members' mortgage, and it's given people some sort of  
28 legal precedent that sets up the rights and  
29 responsibilities that can arise from the payment of funds.

30 MR MOSHINSKY: I was wondering if you can address another  
31 category of case where the adult son or daughter moves



1 back home, and what are some of the scenarios that you see  
2 in that circumstance?

3 MS BLAKEY: This is another frequent scenario for us, and it  
4 was interesting that the research that was done by NARI on  
5 our stats showed that - one of what you might call the  
6 risk factors - there was a much higher incidence of the  
7 younger adult returning to live at home compared to the  
8 general population of similar age group. Usually that  
9 scenario occurs not because of the interests of the older  
10 person but it is in the interests of the adult child who  
11 needs a home and it may be that they are - their  
12 relationship, their marriage has broken down, and it may  
13 be in fact because of family violence within that  
14 relationship. So you may have an adult son who has been  
15 the perpetrator of family violence in his intimate partner  
16 relationship returning home and still has those  
17 characteristics.

18 It may be that the business - they have become  
19 unemployed, the business has gone bust or it may be that  
20 there are ongoing drug and alcohol issues. So we are  
21 talking about people in their 50s and 40s and 60s who are  
22 still having those issues or mental health issues. So  
23 they need somewhere to go, otherwise there is again that  
24 sort of approach to, "Mum, dad, if you don't put me up,  
25 I have got nowhere to go, I will live on the streets and  
26 it will be much worse and I will end up in gaol." So  
27 parents say, "Yes, come and stay here," even though it is  
28 to their detriment, and the situation becomes very abusive  
29 and exploitative.

30 MR MOSHINSKY: Are you able to give some examples of how that  
31 can turn sour and impact on the older person in that

1 scenario?

2 MS MORTON: Generally those arrangements are made without any  
3 notice to our clients, and a son or daughter will arrive  
4 on the doorstep and say, "I just need somewhere to stay  
5 for a few weeks," but invariably that will spread out to  
6 months or years. But during that process, having someone  
7 with so many issues living with an older parent changes  
8 the whole atmosphere of the home and the lifestyle of the  
9 parent.

10 Generally there's a refusal or failure to  
11 acknowledge a need to make financial contributions to the  
12 running of the home. So the adult child will not make any  
13 payments for board or rent. The utility costs of the home  
14 will increase exponentially. We often find particularly  
15 with men in the 50s, 60s age group, they have an  
16 anti-social lifestyle where they will stay up all night  
17 looking at movies or on their computer, and the  
18 electricity costs for the house often treble. There is no  
19 contribution to those costs by the child.

20 There's often drug issues or some form of  
21 gambling. In those cases money is taken from parents  
22 either from their wallet or purse without notice to the  
23 parent, or often they are forced to give money from their  
24 bank accounts. They are often forcibly taken to an ATM,  
25 and sometimes powers of attorney have been inadvertently  
26 given to the adult child and they make online banking  
27 arrangements and can then directly access their parent's  
28 account without proper consent and in situations where the  
29 parent still has capacity.

30 MS BLAKEY: So we have situations where an older person has  
31 bought their house, they have paid off their house, they

1 have their savings and we find \$20,000, \$40,000, \$60,000  
2 has disappeared.

3 In fact, it's interesting that in Queensland a  
4 similar service looked at this issue of financial abuse  
5 and looked at their records, and it showed that over one  
6 financial year, 2013/14, a total of \$56.7 million was  
7 misappropriated from 139 elder abuse victims. We are  
8 talking about houses and savings. So substantial amount  
9 of money.

10 MR MOSHINSKY: Can I turn then to the topic of recommendations.

11 Sorry, before I do that, can I ask you about another  
12 category of case which might be described as a culture of  
13 entitlement, where there are the adult children who are  
14 pressing or actually taking proactive steps to access  
15 assets. Can you describe that scenario?

16 MS BLAKEY: Yes. I think the two situations that we have  
17 described just previously are evidence and examples of  
18 this. There is a sense of, "Well, it's going to be my  
19 money anyway, and you don't need the money, you are old,  
20 you are older, and I need it." So it's taking it before  
21 the person's actually dead.

22 So we say this is a bit of an ageism that's  
23 occurring there in the sense that it doesn't matter what  
24 age the person is, it's their money, it's their property,  
25 it's their right to do with it as they choose. But there  
26 is this sense of, "You need to look after me, you are my  
27 parent, you are going to die, you haven't got much longer  
28 to live, so therefore the money, it's better that I have  
29 it," so that there can be just that sense of greed and  
30 sense of inheritance entitlement about taking the money  
31 and thinking that it's going to be - "Well, it's for me to

1 have."

2 We have examples where that will have obviously a  
3 great impact on the older person, let alone the rights of  
4 that person to their income and their assets. It impacts  
5 on their ability perhaps to provide health care for  
6 themselves in later life and the quality of their life.  
7 It's for that older person to choose do they go on a  
8 holiday or not; do they have health care, residential  
9 health care, which is of a higher quality and more  
10 expensive because they are able to afford to pay it, but  
11 the family member might decide, "Mum and dad, you don't  
12 really need that. You will be okay in this place, which  
13 means there will be more money for us when you die or  
14 money that we can take now to use for other purposes." So  
15 there is this strong sense of ageism and "the money is  
16 going to be mine" and this inheritance entitlement that  
17 you raised.

18 I just want to say one other thing, if I may, and  
19 that is Pam referred to the abuse of powers of attorney.  
20 We see that as quite an issue where someone may interpret  
21 the powers they have incorrectly or they may present that  
22 they have these powers when they don't necessarily have  
23 them, in some instances where the person has not lost  
24 capacity but the adult child or whoever has that power of  
25 attorney represents that they do to whatever institution  
26 they are dealing with to gain access and advantage over  
27 that person's assets. We think that that is a problem in  
28 terms of people understanding what the implications are of  
29 powers of attorney.

30 We also think that it's really important that  
31 people make some planning around their future in terms of

1           handing over decision making, which leads to the  
2           recommendations.

3   MR MOSHINSKY:   What do Seniors Rights Victoria suggest to this  
4           Royal Commission as some of the things that could be done  
5           that are possible recommendations for the Commission?

6   MS MORTON:   One of the matters I raised in terms of lawyers'  
7           conduct in acting on instructions of beneficiaries without  
8           ever having the older person represented separately and  
9           having access to independent advice, transactions they  
10          find themselves in the middle of, really requires further  
11          education of lawyers about their ethical responsibilities.

12                I think a lot of suburban practitioners look at  
13          matters as transactional issues only, and a person will  
14          approach them about a certain matter and they will provide  
15          costs of that matter and it will be assessed purely on the  
16          basis of the documents that need to be provided.

17                Where an older person is not separately  
18          represented I think that there is real need for education  
19          for the lawyer that is involved in the transaction to  
20          assess it further than just purely having people sign a  
21          document.   The consequences of that transaction are  
22          incredibly profound for the older person, who may well be  
23          stripped of assets without full appreciation of it.   There  
24          seems to be an ignorance about the consequences of the  
25          transaction.

26   MR MOSHINSKY:   What about other professionals?   Do you have any  
27          views about whether additional education or training is  
28          required for them?

29   MS MORTON:   Jenny probably could answer this as well, but we  
30          have been involved with accountants to quite an extent.  
31          I will let Jenny make comment on that.

1 MS BLAKEY: Yes. When we talk about our recommendations we  
2 thought about them in different categories. So there's  
3 the prevention, early intervention and how you get the  
4 systems to work better. The issue that you are addressing  
5 is really the early intervention and possibly prevention  
6 end. So we try and identify where is an older person  
7 likely to have contact with a service that might then  
8 identify and be able to respond to elder abuse, because if  
9 we say it's not well recognised within the community,  
10 there is a reluctance for people to disclose, then it's a  
11 very difficult group of people to actually reach out to or  
12 have some contact with.

13 So, if they are turning up to a lawyer to  
14 transfer property, that's one point. If they are going to  
15 their accountant to complete their tax returns, that's  
16 another point. So the CPA has produced a tool for their  
17 members helping them to perhaps identify where elder  
18 abuse, particularly financial abuse, might be occurring  
19 and how they might respond to it.

20 But the other areas of course are in the health  
21 profession. So an older person is likely to go to their  
22 GP. They might go to the hospital. So how do we make  
23 sure that those professionals are trained in this area?  
24 There's been some significant work done with St Vincent's  
25 Hospital here in Melbourne around training of staff and  
26 getting a whole clinical governance approach to  
27 recognising elder abuse.

28 But we think it's really important that GPs  
29 perhaps undertake a financial health check with older  
30 people so that they are able to start to elicit, "Are you  
31 having trouble paying your bills this month? Has anything

1 changed in terms of your finances," to start to softly  
2 engender that discussion which might lead to some  
3 disclosure which then can lead to some referrals to places  
4 such as ourselves or other places to assist the older  
5 person. So it is identifying where are the points of  
6 contact an older person will go where there will be some  
7 level of trust - banks is another area, working with  
8 tellers - to try to make sure there is training with those  
9 staff, that they can pick it up and they can make  
10 referrals.

11 MR MOSHINSKY: What about Victoria Police? Do you have any  
12 proposals in that regard?

13 MS BLAKEY: Yes, we certainly do. I'm on the Victoria Police  
14 Seniors Portfolio Reference Group which is starting to  
15 look at elder abuse. But the experience of the lawyers  
16 and the advocates in working with older people and the  
17 police has been that it's been quite varied. We can have  
18 some scenarios where the police have been excellent in  
19 making sure that the older person is protected. They have  
20 gone and taken out an intervention order or a safety order  
21 straightaway. They have removed the perpetrator from the  
22 property and the older person has been able to return.  
23 That's a very good example.

24 But there have been other examples where it's  
25 been very poor. We had one example where the grandson  
26 called the police to a dispute which was occurring between  
27 the grandparents and the adult son and daughter-in-law,  
28 I think; I forget the exact details. But the police spoke  
29 to the perpetrators because the older couple didn't speak  
30 English. Again that's that ageism about speaking to the  
31 younger person because the older person is going to take

1 longer to talk. They will have to take time to understand  
2 what they are saying; you have to be patient. But they'll  
3 talk to the younger person.

4 So we can have situations where the police have  
5 spoken to the wrong person, and they don't act and we  
6 think that they don't investigate thoroughly enough.  
7 There's a sense of, "It's just a family argument." That  
8 doesn't work anymore. It doesn't work with family  
9 violence between intimate partners. It ought not to work  
10 between the generations in terms of the dispute, and  
11 therefore being much more prepared to act to remove the  
12 perpetrator from the premises and investigate when there  
13 are issues of alleged financial abuse as to whether there  
14 are cases to prosecute.

15 MR MOSHINSKY: Can I just ask you - we don't have too much  
16 longer - to briefly outline are there other  
17 recommendations that you have?

18 MS BLAKEY: Yes. Moving back to the prevention, it's about  
19 having broader community campaigns; so trying to get out  
20 to the community that this form of abuse exists and what  
21 it looks like. There have been some media campaigns which  
22 have been done overseas. New Zealand did one which was  
23 around respectful relationships. There's also been some  
24 work done in the UK which has had excellent little ads  
25 which go to the respect of older people and older people  
26 being people of personality and diversity and richness,  
27 just as anyone else.

28 So there's broad community awareness; there's a  
29 targeting of community awareness with older people; and we  
30 think that again there can be mechanisms where older  
31 people receive information that more information can be



1 sent to them, such as through the Seniors Card.

2 MR MOSHINSKY: Sorry, just expand on that. What are you  
3 proposing there?

4 MS BLAKEY: What we are proposing is that information about  
5 elder abuse go out to older people who receive the Seniors  
6 Card, and it may also be that they receive - we have a  
7 little booklet that was written for older people around  
8 the "Care for your Assets" issue, and that would encourage  
9 people to engage in family conversations.

10 So when a family works well we have these family  
11 conversations, even though they might be hard. But they  
12 are the conversations about, "What will happen when you  
13 get older and what will we do and how will we arrange the  
14 finances?"

15 So if there is going to be a significant  
16 lifestyle change - moving into another family, adult  
17 son/daughter family, giving up of significant assets - the  
18 conversations that occur around that and the documenting,  
19 so that there can be perhaps family agreements, it might  
20 be that that's done through family counselling or  
21 mediation or through going to a lawyer and getting a  
22 formal agreement about arrangements, that sort of  
23 information, getting that information out to older people  
24 and then looking at how we encourage to have the uptake of  
25 that to actually then follow through and make those  
26 arrangements. So that's in answer to that particular  
27 question.

28 So the early intervention is where does the  
29 system work and trying to bring the systems together. So  
30 there needs to be a collaboration across service sectors  
31 because various service sectors are involved. There is

1 not an elder abuse sector. There is obviously an aged  
2 care sector, but it relates to health and housing and all  
3 those sorts of things, and the legal profession.

4 We also think that there needs to be training for  
5 police, as I talked about before. I think there needs to  
6 be some skilling up in the investigations around financial  
7 abuse. I think again there are perhaps some examples  
8 overseas. It would be very interesting to see whether  
9 they translate and can be picked up here.

10 We think that there needs to be a greater  
11 supervision of powers of attorney and guardianship. There  
12 need to be offences, which there are now in the new powers  
13 of attorney legislation but also for guardianship, for  
14 misuse of funds. We think that it would be good that  
15 there was some register and some periodic monitoring of  
16 these, as well as community education. So it's not just  
17 the stick and the carrot. It's also about education as to  
18 what the obligations and responses are; and, again moving  
19 back to prevention in terms of family conversations, who's  
20 the best person in the family - or it may not be the  
21 family, it might be the accountant - to undertake picking  
22 up powers of attorney, financial in future. It may be mum  
23 and dad recognising, "These kids are never going to get on  
24 together. There's going to be fights between them all the  
25 time. Therefore it may be better that it's someone else  
26 who takes up this responsibility." So that planning ahead  
27 for those sorts of arrangements.

28 MR MOSHINSKY: Thank you. I want to see whether the  
29 Commissioners have any questions they wish to ask.

30 DEPUTY COMMISSIONER NICHOLSON: Yes. Ms Blakey, often the  
31 professional that knows the elderly best are actually the

1 personal care providers who go into the homes under the  
2 home and community care program. I wonder, first of all,  
3 are they trained in identifying these type of issues, and  
4 do they?

5 MS BLAKEY: There has been an emphasis in the State Government  
6 in trying to get training to the home and community care  
7 workers, and that's been done through a course that's been  
8 developed and is now an online training course. There was  
9 quite an emphasis on getting people trained through that.  
10 I don't have the numbers. The department will have the  
11 numbers. But I think that there is an issue about how you  
12 maintain that, and how you keep that training up. The  
13 idea was for that module to become embedded in courses.  
14 I don't think it has as yet. It certainly would be  
15 desirable that that occur, so that becomes part of the  
16 base training.

17 So there's an emphasis on training, yes, personal  
18 care workers and also their employers, their managers, so  
19 that the emphasis is on for the personal care worker, home  
20 and community care worker, to be able to recognise - so  
21 the first instance is to recognise - that something might  
22 be going wrong, and then if they have suspicions to go  
23 back to their manager or someone, a social worker, who has  
24 particular skills about, "What do we do about this? How  
25 do we manage it?" They are a crucial way of having  
26 contact with older people and picking up on those issues.

27 We have some concerns about whether that will  
28 still be done in the new consumer directed care scheme,  
29 because what's important is the face-to-face contact, the  
30 development of the relationship and an awareness of other  
31 services, and if the care is only around this specific

1           thing that the person wants, then you might not have that  
2           person who is providing that having an awareness of how to  
3           engage and be aware of the symptoms and the signs of this  
4           abuse occurring.

5   COMMISSIONER NEAVE:   No more questions.

6   MR MOSHINSKY:   Could I just ask one further question.   In your  
7           statement, Ms Blakey, you also refer to the role of the  
8           Public Advocate.   Could I ask you to expand on that?   What  
9           sort of issues arise there that you think are important  
10          for the Commission to be aware of?

11   MS BLAKEY:   We are very concerned about those people who are  
12          least likely to make contact around their situation, and  
13          that would probably be those who are experiencing neglect  
14          because of just the very nature of that condition and the  
15          impact on the older person.   We do have people who contact  
16          us who say, "I'm really concerned about Mrs So and So" or  
17          "Mr So and So", and there is no power to actually go and  
18          investigate.

19                We are not advocating mandatory reporting by any  
20          means.   We think that older people are entitled to make  
21          their choices about what they want to put up with and not  
22          put up with.   But we do want to make sure that they get  
23          access to that information and there is a potential to  
24          investigate, because otherwise it might be that there are  
25          particularly dire circumstances, the person is unable to  
26          leave the home for whatever reason and therefore unable  
27          and may be unable to communicate or so disempowered.   So  
28          we think it is important that there is a body that can  
29          have this ability to investigate what the circumstances  
30          are, and there are again examples overseas.

31                We thought that the Office of the Public Advocate

1 was the appropriate body, because, if the police turn up  
2 doing a welfare check, that can be entirely intimidating  
3 and send the wrong message and drive it underground. But  
4 if you have something which is not at that level of  
5 enforcement, I suppose, but able to investigate, then we  
6 might be able to act on those situations where we hear  
7 reports from people about saying, "We are very concerned  
8 about so and so, and this is what we have seen," which  
9 lead us to think that there is abuse occurring but we are  
10 unable to respond.

11 MR MOSHINSKY: Thank you. Are either of you able to comment on  
12 whether there is an issue that warrants looking at whether  
13 guardianship orders are taken out in cases, whether they  
14 are actually required? Is that an issue that comes up in  
15 your work?

16 MS BLAKEY: There are instances where guardianship orders are  
17 sought and they may not be appropriate. We have had some  
18 experiences of that where that occurs, and also where it  
19 may be that the GP has not conducted an adequate  
20 assessment of the person and so may have produced  
21 something which didn't really represent that person's  
22 capacity and that being used. So there is the possibility  
23 of guardianship orders being misused in that way.

24 I think it's important that - Pam talked about a  
25 couple of instances where older people were taken from  
26 hospital and then to a lawyer for some things to occur.  
27 When people first get out of hospital they may not be at  
28 the brightest point of their time. So we have had  
29 situations where guardianship has been taken out in those  
30 instances but two months down the track, when the person  
31 is more fully recovered, there is no need for a

1 guardianship order at all and the person may be very  
2 unhappy with where they have been placed. So they may  
3 have been put into a care facility when they really want  
4 to be at home and have care provided in the home and  
5 that's a possibility.

6 MS MORTON: We have also had a couple of specific matters where  
7 the respondents who have had intervention orders completed  
8 by their parent as applicant through the Magistrates'  
9 Court have then sought to get orders for administration of  
10 their parents in the hope of taking over their financial  
11 affairs where the parents still have capacity. I have had  
12 a couple of matters where I have gone to VCAT to challenge  
13 the application. That is actually a continuation of the  
14 abuse that the respondent for the intervention order is  
15 perpetrating. It is part of a bigger plan to actually  
16 take over assets and financial resources of a parent. It  
17 is a very sophisticated form of financial abuse.  
18 Fortunately, we have been successful in those several  
19 cases, but I'm sure that in a bigger picture issue it's  
20 happening far more broadly than we are aware of.

21 MR MOSHINSKY: Thank you. Unless there are any further  
22 questions from the Commissioners, I ask that the witnesses  
23 be excused.

24 COMMISSIONER NEAVE: Thank you very much, Ms Blakey and  
25 Ms Morton.

26 MS BLAKEY: Thank you.

27 MR MOSHINSKY: If we could now have a 15-minute adjournment  
28 until 11.30.

29 COMMISSIONER NEAVE: That would be appropriate, yes. 11.30.

30 <(THE WITNESSES WITHDREW)

31 (Short adjournment.)

1 COMMISSIONER NEAVE: Yes, Ms Ellyard.

2 MS ELLYARD: Thank you, members of the Commission. We have

3 three witnesses ready to give concurrent evidence and

4 I will ask that they be sworn in.

5 <PETER JOHN GARTLAN, sworn and examined:

6 <DENIS JOHN NELTHORPE, affirmed and examined:

7 <EMMA MARGARET SMALLWOOD, affirmed and examined:

8 MS ELLYARD: May I start with you, Mr Gartlan. Could you

9 summarise, please, for the Commission your present

10 position and your background, qualifications and

11 experience?

12 MR GARTLAN: Yes, my present position is that I'm Executive

13 Director of the Financial and Consumer Rights Council,

14 which is the peak body for 200 financial councillors in

15 Victoria. My background is largely in the community

16 services sector and I have had over 30 years working in

17 part as a financial counsellor, youth worker coordinator,

18 financial literacy educator, and have worked across a

19 variety of services, including community legal centres,

20 health centres and the like. I have been in this current

21 position for the last five years.

22 MS ELLYARD: Have you made a statement to the Commission that's

23 dated 8 July 2015?

24 MR GARTLAN: Yes, I did.

25 MS ELLYARD: Are the contents of that statement true and

26 correct?

27 MR GARTLAN: Yes, they are.

28 MS ELLYARD: You have attached to that statement a copy of a

29 submission made by your organisation to the Royal

30 Commission containing some specific recommendations that

31 you invite the Royal Commission to consider; is that

1 correct?

2 MR GARTLAN: Yes, we have.

3 MS ELLYARD: Turning to you, Mr Nelthorpe, can you specify your  
4 present position and your background and experience?

5 MR NELTHORPE: I'm currently employed as the Chief Executive

6 Officer of the Western Community Legal Centre, which

7 I have been since 1 July, that centre being a new centre  
8 created through the merger of three existing centres.

9 I was the manager of two of those centres, Footscray and

10 Wyndham. I am a lawyer by profession. I have been

11 working mainly in legal centres for over 30 years and have  
12 worked especially in consumer and debt related law.

13 I have also been involved in working with industry through  
14 industry external dispute resolution schemes and code  
15 practices for at least the last 15 or 20 years, and have  
16 worked generally in the community sector for my working  
17 life.

18 MS ELLYARD: You have made a statement to the Commission that's  
19 dated 7 July 2015?

20 MR NELTHORPE: That is correct.

21 MS ELLYARD: One of the attachments, amongst others, to that is  
22 a copy of a report co-authored by your organisation and  
23 Good Shepherd that was provided to the Commission as part  
24 of a specific recommendation about economic abuse issues.

25 MR NELTHORPE: That's correct.

26 MS ELLYARD: Turning to you, Ms Smallwood, can I invite you to  
27 summarise your present position and your background and  
28 experience?

29 MS SMALLWOOD: I'm currently employed as a lawyer and the  
30 Economic Wellbeing Project Coordinator at Women's Legal  
31 Service Victoria. My current role involves me doing a



1 combination of legal and research work. In relation to my  
2 legal work, I predominantly do duty lawyer services in  
3 Melbourne Magistrates' Court and Federal Circuit Court and  
4 Family Court of Australia, and in respect to my research  
5 work I'm coordinating our research project looking at  
6 economic abuse and the financial impacts of family  
7 violence on women, which has involved at present me  
8 interviewing 30 women about their experience of family  
9 violence and financial hardship. I was admitted as a  
10 lawyer in 2012 and I started working with Women's Legal  
11 Service shortly after.

12 MS ELLYARD: You have made a statement to the Commission dated  
13 10 July 2015?

14 MS SMALLWOOD: Yes.

15 MS ELLYARD: Are the contents of that true and correct?

16 MS SMALLWOOD: Yes.

17 MS ELLYARD: You have attached to that statement one of the  
18 three submissions made by the Women's Legal Service  
19 dealing specifically with economic abuse issues?

20 MS SMALLWOOD: Yes.

21 MS ELLYARD: Can I now invite each of you in turn, again  
22 starting with you, Mr Gartlan, to outline what your  
23 organisation does, particularly as it bears on the issues  
24 of family violence that the Royal Commission is tasked to  
25 consider.

26 MR GARTLAN: As the peak body and professional association for  
27 200 financial counsellors, who I should start by saying  
28 provide free and independent assistance advice and  
29 advocacy to Victorians who are in financial difficulty, so  
30 as the peak body and professional association for those  
31 workers who work across 60 organisations in Victoria, we

1 see I suppose on a daily basis through those workers the  
2 stories that financial counsellors see where people come  
3 seeking advice and assistance, and obviously part of those  
4 stories involve the issues of family violence and economic  
5 abuse.

6 Our role is to I suppose advocate on behalf of  
7 what those workers and agencies see to try to look at  
8 improvements in hardship policies of industry as well as  
9 improvements in the way in which clients can in fact get a  
10 better deal.

11 MS ELLYARD: Mr Nelthorpe, what does your community legal  
12 service, thinking both about the three that have  
13 amalgamated and the one now, do in relation to family  
14 violence?

15 MR NELTHORPE: The Western Community Legal Centre and the  
16 earlier entities have been funded for at least seven years  
17 to provide duty lawyer services in the family violence  
18 jurisdiction at both the Sunshine and Werribee courts. We  
19 provide financial counselling, consumer and debt advice to  
20 clients and in recent times leading up to a report with  
21 Good Shepherd we specifically obtained funds to provide  
22 advice on economic violence by having a lawyer attached to  
23 the Werribee court and asking women who were seeking  
24 family violence orders whether they had additional issues,  
25 economic issues, arising out of the problems in family  
26 violence. So we have been working quite closely in that  
27 area now for some years.

28 MS ELLYARD: Thank you. Ms Smallwood, how does the work of the  
29 Women's Legal Service encounter family violence matters?

30 MS SMALLWOOD: Women's Legal Service is a statewide service  
31 that provides free representation and legal advice to

1 women. We specialise in issues that arise out of  
2 relationship breakdown and family violence. We provide a  
3 daily duty lawyer service in the family violence list in  
4 Melbourne.

5 In relation to my current role coordinating the  
6 Stepping Stones project, we have had a financial  
7 counsellor come and work with our lawyers in-house at  
8 Women's Legal Service to try to address some of the  
9 complex financial and legal issues that arise out of  
10 family violence and relationship breakdown. That's a  
11 pilot project that's been running for just over a year and  
12 has been extremely successful in looking at different ways  
13 of assisting women in an integrated case model.

14 MS ELLYARD: Can I return to you, Mr Nelthorpe. You indicated  
15 that the research project that was undertaken last year  
16 involved stationing a lawyer at the court to endeavour to  
17 elicit from women who were seeking family violence orders  
18 the extent to which economic abuse was part of the picture  
19 for them. Can you tell the Commission a little bit more  
20 about how that project unfolded and to what extent women  
21 did identify or were able with assistance to identify  
22 economic abuse as part of the matrix of what they were  
23 experiencing?

24 MR NELTHORPE: Wyndham Legal Service had noticed that some  
25 women were approaching the service independently of the  
26 family violence service with issues that we believed  
27 either constituted economic violence or arose out of  
28 family violence issues. But the way in which the family  
29 violence duty lawyer scheme operated was that there was  
30 virtually no time to either ask further questions or even  
31 if it was brought up. It was very difficult for the court

1 to address family violence - sorry, economic violence  
2 issues. So we obtained funding and we sought a  
3 partnership with Good Shepherd Family Services to enable  
4 us to have a lawyer attend specifically to ask women  
5 questions or to assist women with those issues.

6 It became obvious that many women did have those  
7 issues and some brought us examples which were fairly  
8 horrific, but many of them did not actually see it as part  
9 of their legal problem. They saw it as ancillary or they  
10 thought there wasn't anything they could do about it, and  
11 in the end I think we assisted at least 30 clients who did  
12 ask for assistance and they were in relation to issues  
13 ranging from mobile - often very practical day-to-day  
14 things, mobile phones, cars, the lease on the rented  
15 premises, joint credit and bank accounts. So, there was  
16 quite a wide range of issues that women then asked for  
17 assistance.

18 MS ELLYARD: In many cases, as I understand it, those women  
19 until they were prompted by questioning hadn't understood  
20 that those issues might be legal issues that had a legal  
21 solution; is that right?

22 MR NELTHORPE: That's correct, and many of them were actually  
23 quite surprised when we suggested that we thought that  
24 they had legal rights that we could assist with, ranging  
25 from seeking to have their name removed from an account or  
26 a debt waived or a motor vehicle transferred into their  
27 name, and it is worth saying that one reason that those  
28 women thought they wouldn't be able to get assistance is  
29 that the traditional answer of both legal centres and  
30 legal aid is that a \$2,000 mobile phone contract or a  
31 motor vehicle worth \$2,000 is a family law property matter

1 that requires an application to the federal Family Court  
2 at \$750 an hour. It would be cheaper to simply buy  
3 another phone.

4 But equally we often found that women were very  
5 scared of being cut off entirely, and if you live out in  
6 the back blocks of Wyndham, without wanting to be unkind  
7 to the area, losing your car and your mobile phone, you  
8 are pretty isolated.

9 MS ELLYARD: This raises the question of the extent to which  
10 financial abuse can occur and the kinds of behaviours that  
11 people might be experiencing but not identifying as abuse.  
12 Mr Gartlan, in your statement at paragraphs 33 and 34 you  
13 summarise some of the ways in which family violence can  
14 appear as economic or financial abuse issues. Could you  
15 summarise, please, for the Commission the types of conduct  
16 and experiences that you have identified there?

17 MR GARTLAN: I suppose in general terms the types of conduct  
18 that occurs are things that we often just take for  
19 granted, and it's really about the intersection of what  
20 happens in people's daily lives, their daily transactions,  
21 when confronted with this terrible situation that women  
22 predominantly have to face.

23 For example, there will be cases where  
24 electricity and phone debts that are in the name of the  
25 women continue to be used by the perpetrator and then the  
26 extreme lengths that a woman needs to go to have their  
27 name removed from the electricity bill when they are being  
28 pursued by the retailer in which in essence the retailer  
29 is taking a largely inquisitorial approach of the woman  
30 having to prove a great amount of detail to get their maim  
31 off the debt.

1                   Likewise, if applying for a payment from  
2                   Centrelink due to escaping family violence, there are  
3                   issues around the way in which Family Tax Benefit B, which  
4                   is a family tax payment made for children, there may well  
5                   be a debt raised at that point, for the simple reason  
6                   being that the perpetrator has failed or not put in any  
7                   form of tax returns for previous years and then the debt  
8                   then becomes the debt of the woman.

9                   Other examples could be obviously where there is  
10                  joint car loans where you find situations where the  
11                  benefit of the asset lies with the perpetrator and, as a  
12                  co-borrower, that a woman is being pursued for these sort  
13                  of debts.

14                 I suppose my point around these sort of things  
15                 and other times where maybe a perpetrator bankrupts and  
16                 then the debts that are co-borrowed are then pursued by  
17                 the creditor towards the woman are all examples where in  
18                 daily life these sort of matters create real issues, and  
19                 probably the last one to mention is the role of  
20                 infringements where potentially an abuser nominates his or  
21                 her former partner and then receives an account from Civic  
22                 Compliance and has to go through all of the processes in  
23                 regards to that.

24   MS ELLYARD:   To what extent are all of those issues - we spoke  
25                   a little earlier about the extent to which some of these  
26                   things are legal problems that might have a legal  
27                   solution. Are all of the sorts of things you have  
28                   identified there things that have a legal solution or are  
29                   some things that need to be resolved in other ways?

30   MR GARTLAN:   There are things that definitely need to be  
31                   resolved in other ways and I suppose that's where the role

1 of the financial counsellor in part has had a role because  
2 it may well mean advocating on behalf of the client with a  
3 bank or an energy company, and probably at this point it  
4 is worth acknowledging that in recent years companies have  
5 introduced what's called hardship programs and probably in  
6 the banking sector alone there are 5, 6, 700 people who  
7 are dedicated to working with Australians in financial  
8 difficulties.

9 There are particular areas where financial  
10 counsellors and community legal centres would go, such as  
11 those hardship programs, to have these matters addressed.  
12 Others obviously have a more legal approach such as the  
13 infringement system.

14 MS ELLYARD: Ms Smallwood, you have identified as part of your  
15 statement a project through which there has been  
16 co-location of a financial counsellor and a lawyer within  
17 the Women's Legal Service. How has that worked to deal  
18 with this demarcation line between issues that are legal  
19 issues and issues that might need to be resolved in other  
20 ways?

21 MS SMALLWOOD: It's been incredibly successful, both with the  
22 two professionals engaging in some cross-cultural learning  
23 from each other and understanding better what each other  
24 do and that communication between the professionals is of  
25 great benefit to the women who they assist. It means the  
26 women aren't having to retell their stories to multiple  
27 professionals. It means they are not getting conflicting  
28 advice from multiple professionals who might deal in a  
29 particularly siloed area, be it financial counselling or  
30 the legal system. It also just means in practical terms  
31 women only have to go to one office, they have to remember

1           one phone number, and it provides a much more holistic  
2           response for women.

3 MS ELLYARD: To what extent has it improved outcomes? For  
4           example, identifying circumstances where it might be  
5           better to pursue a legal option or sometimes where it  
6           might be better to pursue or not pursue another option to  
7           deal with particular financial issues?

8 MS SMALLWOOD: There certainly have been cases and learnings,  
9           particularly from our financial counsellor, in relation to  
10          she has over 20 years practice in generalist financial  
11          counselling where she may have previously pursued a  
12          particular option in terms of reducing a debt in a  
13          particular way, but after having some cross-cultural  
14          learnings with a family lawyer she has approached the  
15          situation differently and presented a range of options to  
16          the client.

17                So, because these issues are complex and the  
18          legal and financial problems intersect, it's really  
19          important that each woman is given the range of options  
20          that are available to her. So she may be able to achieve  
21          a financially better outcome through formal legal  
22          processes, but given the length and difficulty in  
23          approaching those legal processes she may instead choose  
24          to pursue an option with a financial counsellor, which  
25          might not be the optimum result, but for her it's going to  
26          be less onerous and enable her to get on with her life  
27          quicker.

28                So each woman, depending on her circumstances and  
29          also depending on the violence that's perpetrated against  
30          her, will make a different decision about the options.  
31          But it gives her a much more holistic service and one



1           where she's given as many options as possible.

2   MS ELLYARD:   From your perspective, is that co-location or  
3           multi-disciplinary approach something that should be the  
4           standard in dealing with financial abuse issues?

5   MS SMALLWOOD:   Yes, absolutely.

6   MS ELLYARD:   Can I invite the other members of the panel to  
7           comment on this issue of the extent to which lawyers and  
8           financial counsellors can work together, each meeting  
9           different parts of the problem?

10   MR GARTLAN:   Yes, I think it's probably worth saying from my  
11           point of view that they are probably not as separate as  
12           the question is being presented to us.   Financial  
13           counsellors are trained in particular areas to do with  
14           debt, whether it is debt recovery law or credit law,  
15           bankruptcy law, and the simple reason for that is that  
16           there are not too many lawyers working in those areas  
17           because there is not too much money to be made working in  
18           the area of debt.   So, as a result, financial counsellors  
19           are engaged in that.

20                   However, I think the experience that Emma  
21           Smallwood is talking about from Women's Legal Service has  
22           demonstrated that in the area of economic abuse and  
23           financial counselling it does work well where the  
24           financial counsellor is actually situated within an area  
25           where women are going to seek assistance.   Traditionally,  
26           financial counselling works across geographic based areas  
27           in Victoria and I think what we are all saying here or  
28           suggesting is that if financial counselling has a role,  
29           which it is currently not funded to do, then that role  
30           could in fact include such places as community legal  
31           centres and health centres and the like.

1 MS ELLYARD: Mr Nelthorpe, you mentioned there is financial  
2 counselling offered as part of the services that your  
3 organisation provides?

4 MR NELTHORPE: Yes, and our legal service would be one of the  
5 few that has that capacity. I think there are a couple of  
6 issues worth mentioning. One is that the siloing of  
7 services is inevitable and, to the extent that we have  
8 lawyers working in family violence, the chances that they  
9 will have a significant knowledge of debt and credit law  
10 is pretty low, and you also mentioned earlier that there  
11 are some problems which might have a legal, but might have  
12 a non-legal solution. Most lawyers will think of the  
13 legal, which is why when you even ring a legal service  
14 with some of these issues the front desk will say, "That's  
15 a property dispute." It might actually be a really  
16 practical day-to-day dispute, but the chances are you  
17 won't even get to the lawyer; you will be referred  
18 elsewhere.

19 So I think the idea of having the financial  
20 counsellor, having had a long experience of working with  
21 financial counsellors, as paralegals I don't think it is  
22 unfair to say that they are often far more experienced in  
23 dealing with these issues than the lawyers.

24 MS ELLYARD: Are there particular issues for family violence  
25 matters from the point of view of financial counsellors?  
26 Mr Gartlan, what would you say about whether clients who  
27 approach a family counsellor with a family violence  
28 context are offering a more or less complex set of  
29 problems than the average client?

30 MR GARTLAN: Our involvement in these issues varies. It varies  
31 because of probably the nature in which the service is

1 currently run, in that financial counsellors on the whole  
2 are under a lot of demand because there are a lot of  
3 people that are under financial difficulty. So, I suppose  
4 there is an emphasis on trying to resolve the principal  
5 issues as quickly as possible and as expeditiously as  
6 possible, and using whatever tools we have at our disposal  
7 to do so.

8 What we have really discovered over the last few  
9 years in respect to women who have been impacted by  
10 violence and economic abuse has been that the amount of  
11 time that it takes to resolve these matters is longer and  
12 the reason why it takes longer is particularly if there is  
13 an intersection with family law issues, but also because  
14 the nature of the presenting issues are often that safety,  
15 care for children and other obvious more important and  
16 immediate issues are what's presented to a whole range of  
17 other services.

18 So, sometimes issues like debt and issues like  
19 maximising income get put to one side unintentionally by  
20 agencies that are set up to support women principally.  
21 I suppose in examples of where this has worked well with  
22 Denis Nelthorpe's agency and obviously with Women's Legal  
23 Service, as well as some agencies across Victoria that  
24 receive philanthropic funding for these particular issues,  
25 is that they are isolated. But when we are able to have  
26 the time to work effectively we can address quite a few  
27 issues that I suppose in one way you could say looking at  
28 resolving debt is the starting point to economic  
29 empowerment because once you start to resolve the debts,  
30 then you can start also to start having the conversations  
31 in respect to future planning and future economic

1 aspirations.

2 MS ELLYARD: I think you have identified that part of the  
3 problem historically has been that issues of economic  
4 matters are not given the same degree of priority or taken  
5 up with the same degree of urgency as perhaps other issues  
6 affecting a woman such as immediate issues of safety. Is  
7 that part of the situation?

8 MR GARTLAN: That's right. Let me give you an example. For  
9 example, Centrelink deals with these issues constantly and  
10 how Centrelink, as I understand it, have established  
11 themselves is that their senior social workers will take  
12 on applications for what they call crisis payments from  
13 women who have fled these situations. They fall into the  
14 tens of thousands in Victoria annually and they have a  
15 very good approach with highly professional staff, but  
16 they do not - when they are having these  
17 conversations - enquire into what a woman is paying bills  
18 on or are there particular bills that potentially they may  
19 not be paying.

20 So in my view that's one example where there is a  
21 complete gap in the way in which we could in fact have a  
22 role to in fact look at these issues. I think Emma  
23 through her experience with the intervention order  
24 application process would have a couple of other things to  
25 say in regards to that sort of gap.

26 MS ELLYARD: Before I come to you, Ms Smallwood, can I invite  
27 you, Mr Nelthorpe, to expand on something you said earlier  
28 about the project based at Werribee court. It appeared  
29 from what you said that many of the women who turned out  
30 to have economic abuse issues hadn't identified those  
31 matters as part of their intervention order application;

1 is that correct?

2 MR NELTHORPE: No, I think it would be certainly no more than  
3 one or two out of the total, and it actually required the  
4 additional lawyer sitting down with them while they were  
5 waiting for their case to be called, to go into a  
6 discussion and then say, "Given what you've said," but we  
7 also had some women who said that the inability to resolve  
8 some of those issues had meant that they were still with  
9 the partner and this was why they were back seeking a  
10 further order. So it was really quite common for women to  
11 take the view that they couldn't do anything and they  
12 couldn't escape from those issues.

13 MS ELLYARD: Turning to you, Ms Smallwood, does that accord  
14 with your experience, the extent to which economic issues  
15 particularly are included as part of applications for  
16 intervention orders?

17 MS SMALLWOOD: Yes, certainly. They are included much less  
18 frequently.

19 MS ELLYARD: We know that economic abuse is listed as part of  
20 the definition of family violence under the Family  
21 Violence Protection Act. From your perspective, why is  
22 it, given the prevalence of economic abuse, that it  
23 appears so infrequently as part of the bases on which  
24 someone is seeking an intervention order?

25 MS SMALLWOOD: I think there's multiple causes, that it's not  
26 listed in the application and that the behaviour isn't  
27 sought - that the intervention order doesn't seek to  
28 specifically address the economically abusive behaviour.  
29 Obviously and rightly so, priority is given to physical  
30 safety. Unfortunately, sometimes in a busy court that can  
31 mean at the expense of redressing some of the behaviours

1           that are economically abusive and financially damaging to  
2           the victim.

3 MS ELLYARD: It must sometimes be the case, though, that those  
4           economically abusive behaviours have a direct impact on  
5           safety and that, for example, they might prevent the woman  
6           from clothing and feeding herself and her children or they  
7           might affect where she is able to live?

8 MS SMALLWOOD: Absolutely, and the research shows that  
9           financial hardship is a key determinant in women leaving  
10          or returning to violent relationships. Certainly in our  
11          research, housing is a key issue that women have mentioned  
12          over and over again, that if they knew they had somewhere  
13          safe to go they would have left. If they'd had  
14          information about debunking some of the myths the  
15          perpetrator had told them about what he would do to her  
16          financially about bankrupting her, she would have left.  
17          So it certainly has an impact for physical safety as well.

18 MS ELLYARD: From your perspective, to the extent that you see  
19          applications for intervention orders that are brought by  
20          police rather than brought by women themselves, does  
21          economic abuse ever feature there?

22 MS SMALLWOOD: It does rarely. In Melbourne Magistrates' Court  
23          we are seeing more police applications that feature  
24          economic abuse and in some instances feature only economic  
25          abuse. But it's new and it is not common.

26 MS ELLYARD: And from your perspective, to what extent do  
27          intervention orders that get made at the moment respond  
28          directly to issues of economic abuse or provide particular  
29          solutions for economic abuse problems rather than physical  
30          safety problems, for instance?

31 MS SMALLWOOD: Extremely rarely do they specifically address

1 those behaviours or problems that are created from those  
2 behaviours. There is generally two general type clauses  
3 that relate to economic abuse or financial hardship. So,  
4 that's in relation to a perpetrator returning property  
5 within two days and it is also in relation to a  
6 perpetrator not damaging a victim's property. It is  
7 usually the case that those clauses, if they are included  
8 in the intervention order, are too broad to have any real  
9 enforceability when the police look to a breach of an  
10 intervention order when it is reported by a victim.

11 MS ELLYARD: For example, there is a case study that's included  
12 in one of the reports about a man who was permitted under  
13 the intervention order to attend in the company of police  
14 to take away his property and proceeded effectively to  
15 empty the house out of furniture. Was that a case where  
16 there was really no remedy because of the way the  
17 intervention order was drafted?

18 MS SMALLWOOD: So there's a few issues there. One of them is  
19 the broad wording of the specific clause of the  
20 intervention order that related to property, and another  
21 is this co-morbidity of financial abuse and what I would  
22 call systems abuse where, and it has already been  
23 mentioned today, but where perpetrators are effectively  
24 using the financial and legal systems that are there in  
25 order to perpetrate further abuse against the victim.

26 So I think it is important to acknowledge the  
27 close linking of those two types of abuse, particularly  
28 when the ability to commit further physical abuse has been  
29 stopped, they continue to do that. So in that case  
30 certainly that perpetrator used the broad definition in  
31 that clause to go and empty out the house.

1 MS ELLYARD: To what extent do you see there being a role for  
2 intervention orders to solve some of the short-term  
3 economic issues associated with family violence?

4 MS SMALLWOOD: I think there is some role in limited  
5 circumstances of intervention orders providing more  
6 assistance to victims of violence than they currently do.  
7 So that would be in the form of hopefully more specific  
8 clauses on intervention orders, and therefore more  
9 enforceability in relation to preventing specific  
10 economically abusive behaviours where they can be  
11 identified. So, that might be continuing to rack up a  
12 utility debt where a woman has left her home or draining a  
13 bank account which is the woman's only access to income.  
14 It might be those short-term specific economically abusive  
15 behaviours that can be prevented by an intervention order,  
16 but it of course has limitations and on its own won't be  
17 successful.

18 MS ELLYARD: For example, it might be possible for a magistrate  
19 to include a term on an intervention order that directly  
20 prohibits a respondent from accessing a bank account or  
21 directs him to return certain particular pieces of  
22 property, and in those circumstances it will be possible  
23 to prove a breach if he doesn't do it.

24 MS SMALLWOOD: Yes, that's right, particularly in relation to  
25 personal property or even potentially a car. There is  
26 potentially value in that, because I think it is important  
27 to acknowledge that often women do leave the home when the  
28 police take out an intervention order and they never  
29 return because of fear for safety. So they are leaving  
30 without any of their possessions and that has huge  
31 long-term repercussions for that woman. So, any gains



1           that can be made in that intervention order in relation to  
2           a return of even some of her things that she can continue  
3           her daily life with would make a huge impact.

4 MS ELLYARD: But I think one of the things the Commissioners  
5           have heard throughout the consultation process is that  
6           very many women had the experience of being told by  
7           magistrates, "Those are property law issues. Go up the  
8           road to the Family Court." I see Mr Nelthorpe nodding.  
9           Is that your experience?

10 MR NELTHORPE: There are two, and I have discussed this with a  
11           number of magistrates. There is first a concern about  
12           what some magistrates see as a fairly, even narrow wording  
13           in terms of economic abuse or, alternatively, a fear that  
14           it will sort of somehow open the floodgates and they  
15           inevitably then also say they are concerned about the  
16           crossover with property law.

17                   I must say I think that is really a good  
18           indication of overly legal thinking when you are talking  
19           about really practical day-to-day matters. But when you  
20           add that to very crowded lists, the fear that they are  
21           going to have some sudden long discussion about economic  
22           or about property issues only heightens their sort of  
23           concern about whether that's going to interfere with  
24           actually completing the list itself.

25 MS ELLYARD: Ms Smallwood, have you had experience of seeking  
26           these kinds of specific economic abuse related terms in  
27           intervention orders?

28 MS SMALLWOOD: I have.

29 MS ELLYARD: What has your success rate been?

30 MS SMALLWOOD: Varying. I have had some success in relation to  
31           the types of examples I was talking about, but obviously

1       there are also magistrates that have the exact hesitations  
2       that Denis was talking about. But I think we can think  
3       about it in terms of intervention orders can be made to  
4       exclude a perpetrator from a home without affecting his  
5       legal ownership of that home, if the title is held  
6       jointly, and so there is no reason that we can't extend  
7       that thinking to personal property.

8               We are not asking the Magistrates' Court to make  
9       alterations to property. What we are talking about is  
10      dealing with abusive behaviour and safety. So that's what  
11      I would argue. But, yes, I would certainly say that it's  
12      not a widespread practice that clauses are included in  
13      intervention orders that deal with those economically  
14      abusive behaviours.

15   MS ELLYARD: What would be required in order to make it a more  
16               widespread practice?

17   MS SMALLWOOD: We would ask that the Magistrates' Court, the  
18               Chief Magistrate at the Magistrates' Court provide some  
19               direction in relation to how economic abuse can be  
20               incorporated into intervention orders.

21   MS ELLYARD: Can I turn to another topic which I think each of  
22               you have raised in a different way in your statements,  
23               which is how to resolve issues of joint debt where a debt  
24               is owed jointly and severally both by a perpetrator of  
25               violence and the victim of that violence. Perhaps  
26               starting with you, Mr Gartlan. How frequently is that  
27               amongst the list of issues that the family violence  
28               victims present with?

29   MR GARTLAN: To financial counselling services it occurs quite  
30               a bit and what we see is in typical circumstances joint  
31               loans in a co-borrower relationship, where both the

1 perpetrator and the person abused have a separate and  
2 joint responsibility to pay for that particular loan, and  
3 typically it would be a car loan in which the motor  
4 vehicle is secured over the loan so that should the person  
5 not pay, then the property could in fact be either seized  
6 and sold and then the residue will be pursued to either  
7 party.

8 What we see often happen, and I think there's a  
9 number of examples particularly in the  
10 Good Shepherd/Wyndham Legal Service submission, is that  
11 there are many people, particularly women, who end up  
12 being the ones being pursued for those debts where in many  
13 circumstances they have not been the beneficiary of this  
14 particular loan. So, a car loan would be a typical  
15 example.

16 MS ELLYARD: Just to tease that out, you mean the woman ends up  
17 continuing to make the payments, but she's not the one  
18 with the car in her possession.

19 MR GARTLAN: That's right, or the woman is the one who is  
20 pursued for the debt because the creditor is able to find  
21 where that debtor is and then pursue the woman for that  
22 payment. This seems to happen in quite a few instances.

23 MS ELLYARD: This is a matter where as a matter of law the  
24 person who lent the money is perfectly entitled to pursue  
25 either person. As a matter of practice, what facility  
26 exists for a woman who isn't receiving the benefit of the  
27 loan to escape from it?

28 MR GARTLAN: I suppose the first thing anyone in financial  
29 counselling would do would be to examine the circumstances  
30 in the very beginning upon which the contract was first  
31 signed and to see whether or not there was any unfair or

1 undue influence that a creditor should have picked up on  
2 and if that was the case, then I suppose we would go and  
3 use the services - we would put in a dispute with the  
4 client to the Financial Ombudsman service to have that  
5 matter looked at from that perspective.

6 But on the assumption that that was not the case,  
7 we would then rely, I suppose, on the hardship programs  
8 that are run by the banking sector to put in a proposal  
9 that our client, a woman in this circumstance, who has not  
10 been a beneficiary and is being pursued for the debt,  
11 based on their circumstances is unable to pay and we would  
12 then require the credit provider, the bank, to consider  
13 either waiving the debt or come to some other arrangement  
14 that allows the woman in the situation to not have her  
15 credit file affected, number one, that's very important,  
16 and number two, if there is going to be some sort of  
17 repayment proposal, that it's minimal in accordance with  
18 the capacity to pay, or in a lot of circumstances where  
19 poverty is at stake here is to request a simple waiver,  
20 which in effect would mean that both the abused woman and  
21 the perpetrator would in effect not be liable for the  
22 debt. So, there is a conversation that needs to be had in  
23 those circumstances.

24 MS ELLYARD: Ms Smallwood, what is the role that joint debts  
25 play in family law proceedings, assuming people get to  
26 family law proceedings? How are those sorts of things  
27 taken account of?

28 MS SMALLWOOD: At the moment it's very difficult to deal with  
29 joint debts by way of the family law system. It's  
30 something that rarely happens because women who have only  
31 debt or minimal property and debt are unlikely to access

1 the family law system because it's very legalistic and  
2 onerous and can be lengthy and enforceability is a real  
3 issue in terms of getting an order.

4 Also, adding the lender to the family law  
5 proceedings has great difficulty involved in it, so it's  
6 unlikely that women in those circumstances will currently  
7 access the family law system. So they are more likely to  
8 try and engage in those conversations with the lender and  
9 often women have reported to us that the response from the  
10 lender is, "You need to get consent from the perpetrator  
11 in order for us to deal with the loan in the way you are  
12 proposing." So that poses a huge range of issues and puts  
13 women potentially, in terms of their physical safety, at  
14 risk.

15 MS ELLYARD: You mentioned already, Mr Gartlan, the issue of  
16 banking practices and the existence of hardship  
17 provisions. I know Mr Nelthorpe has some evidence to give  
18 about this later. But can I start firstly with you,  
19 Ms Smallwood. In your statement you include a couple of  
20 examples where it seems to you that long before we get to  
21 the question of hardship it ought to have been obvious to  
22 a credit provider or a bank that the person taking out the  
23 loan wasn't going to get the benefit of it. I wonder  
24 could you summarise those examples for the Commission?

25 MS SMALLWOOD: Yes, certainly. So we have had quite a few  
26 cases where a woman often in relation to a car has entered  
27 a loan agreement for a car that she has no licence to  
28 drive. In some circumstances she can't speak English when  
29 she's entering that loan agreement. In some circumstances  
30 her husband is in the lender's office and putting pressure  
31 on her in front of the lender. In other circumstances she

1 is returning multiple times to increase a loan over a very  
2 short period of time when she has limited understanding of  
3 the loan.

4 There was a case where one of our clients was  
5 heavily pregnant and suffering physical abuse at home  
6 during the time. So there are real questions raised in  
7 those cases about whether the lending should have occurred  
8 or whether there was any concerning practices before  
9 hardship is even considered.

10 MS ELLYARD: From your perspective, Mr Nelthorpe, are there  
11 ways in which banks ought to be able to do a bit more to  
12 identify cases where people seeking loans or engaged as  
13 their customers might be experiencing financial abuse or  
14 under pressure in that way?

15 MR NELTHORPE: First, can I just go back. There's one other  
16 example that I would like to add to the two, and I think  
17 it raises a particular issue and there are a number of  
18 these in the Wyndham study. And that is that quite  
19 frequently the male perpetrator has a very poor credit  
20 record and can't borrow to get either a car, which may be  
21 needed to support the family, so the woman will be either  
22 pressured or asked to go and borrow because she has a good  
23 credit record.

24 When the family violence occurs and there is a  
25 split-up, the perpetrator will drive away in the car and  
26 say to the woman, "You value your credit record. If you  
27 don't keep paying, you're the one who is going to suffer  
28 because they won't know where I am and I've got the car."  
29 We frequently have problems even asking for a waiver  
30 because the woman will say, "Yes, but that will leave me  
31 with some damage to my credit record," and we're left

1 saying, "Yes, but you can't afford to put food on the  
2 table. Your credit record is not as important as all  
3 that." So there is this real issue, a growing issue,  
4 around the misunderstanding of credit records.

5 Clearly in some of those cases the financial  
6 institution should have been able to recognise that, as  
7 Emma said, there are cases, and we had a terrible one  
8 where a young woman was brought from overseas in an  
9 arranged marriage, arrived here with not enough language  
10 to pass her licence test. I don't even know she was old  
11 enough to get a licence. A car was bought in her name.  
12 It didn't even go to the perpetrator; it went to the  
13 perpetrator's family. That only came out in the course of  
14 not only trying to get a family violence order, but to  
15 help her hide from the entire family.

16 So in some instances - and obviously there are  
17 legal remedies for women in those circumstances, but if it  
18 truly is a case where prior to the family violence the  
19 family was having difficulty because they're living in an  
20 outer urban area, they don't have transport, the male or  
21 the partner can only get work if there is a car, then it  
22 may be very difficult for the institution to pick that up.  
23 So there are some issues, as I said, particularly around  
24 credit reports, where there's a need for a great deal more  
25 education of women.

26 MS ELLYARD: I understand you to mean by that that there are a  
27 number of women who are so worried about the long-term  
28 impacts of having a poor credit rating that they are  
29 willing to put up with a great deal, including perhaps  
30 years of payments for an asset that they don't have,  
31 rather than risk a poor credit rating.

1 MR NELTHORPE: Not only that, in circumstances where - I will  
2 give an example of one of our clients who is an African  
3 woman who has three or four young children. She has no  
4 particular skills. She's renting. Her chances of getting  
5 a home loan are frankly near zero, but she's so concerned  
6 about her credit report that she kind of objects to us  
7 trying to get a waiver of the debt. Our staff are sitting  
8 there going, "Very frustrating".

9 MS ELLYARD: The Commission heard on Monday from a witness who  
10 as part of her experience of family violence had kept on  
11 paying a number of infringements, traffic related  
12 infringements that were incurred by her abusive partner  
13 after she had left the relationship. Mr Gartlan, your  
14 submission to the Royal Commission deals specifically with  
15 this issue of infringements. I wonder could you spell out  
16 a little to the Commission what the issues associated with  
17 infringements and family violence are?

18 MR GARTLAN: So, this was a submission that was a joint  
19 submission from the Federation of Community Legal Centres  
20 and our peak body and in effect gave numerous examples of  
21 women who had ultimately been held liable for infringement  
22 debts, whether it is through fines or speeding fines or  
23 other sort of traffic infringements, and unfortunately  
24 they have been pursued where maybe they did not incur  
25 those particular debts. So in circumstances, for example,  
26 where the car is in the name of the woman, but is being  
27 driven by the man, in those circumstances, and fines have  
28 been incurred.

29 The system itself is very difficult when these  
30 fines come and what we have had to struggle with has been  
31 how best can we deal with those situations. I suppose one



1 of the ways in which financial counsellors and community  
2 lawyers have done this has been through applying to the  
3 Magistrates' Court under what's called special  
4 circumstances, in which special circumstance is defined  
5 currently as one in which someone has a mental or  
6 intellectual disability or is at risk of homelessness, but  
7 it does not currently include circumstances in which  
8 physical or financial abuse are at stake.

9 So the submission in essence is basically saying  
10 that the family violence needs to be recognised as a  
11 special circumstance in those situations where in fact the  
12 debt was not incurred by the woman, but she is being  
13 pursued for it under those circumstances.

14 MS ELLYARD: This raises an issue about which you give some  
15 extensive evidence in your statement, Mr Nelthorpe, and  
16 I think we need to begin with a bit of history about a  
17 project that you have been engaged in over the last few  
18 years in relation to debt, including perhaps infringement  
19 debt, and the implications of that project for the family  
20 violence system. So I wonder if you could summarise for  
21 the Commission, please, the process by which you developed  
22 what has become known as the Bulk Debt Project and then  
23 what its applicability might be to victims of economic  
24 abuse.

25 MR NELTHORPE: The Bulk Debt Project was based on my experience  
26 of looking at the way in which legal centres, legal aid  
27 and financial counsellors were dealing with a particular  
28 type of debt which was for clients who had no assets, were  
29 on long-term Centrelink and there was not that much  
30 likelihood of change, either in the short or long term.

31 Now, my observation is that one of the problems

1 with the legal system and perhaps bureaucracy is that we  
2 often make simple things complex or we find it difficult  
3 to apply simple solutions, even to simple problems.

4 I formed the view that in relation to many, many cases,  
5 the legal centres and the financial counsellors were  
6 forced into very long-lasting negotiations over how  
7 unrecoverable debt would be repaid and - - -

8 MS ELLYARD: Can you give an example of the kinds of solutions  
9 that you are talking about that in your view were not  
10 necessarily appropriate? I'm thinking about someone who  
11 might have owed \$5,000 to a credit provider of some kind  
12 but had no capacity to pay immediately.

13 MR NELTHORPE: For instance, and I include myself in this, but  
14 legal centres have been negotiating debts for uninsured  
15 drivers ever since legal centres were started and we would  
16 either dispute liability despite the fact that our client  
17 ran up the bum of a car at a red light, which wasn't  
18 terribly helpful, or we would negotiate a payment  
19 arrangement which the insurers would accept, which was \$20  
20 a month on a \$50,000 debt that was going to last for  
21 150 years. I presume the client got outside and thought,  
22 "Well, that bloke wasn't much use," and nobody really got  
23 anywhere.

24 So probably about seven years ago I introduced a  
25 letter which suggested, "We will concede liability, we  
26 will concede quantum, but our client is on Centrelink  
27 income which in Victoria is protected by the Judgment Debt  
28 Recovery Act. You have no real prospect of recovery and  
29 your industry says it will acknowledge financial hardship.  
30 Why don't you waive the debt?"

31 Now, that wasn't just intended to benefit the

1 client. It was also intended to benefit our services by  
2 ceasing to have two-inch thick files. But it was also  
3 saying to industry, "Look, even if you get \$40 out of this  
4 over a year, you sent five letters, 10 phone calls and you  
5 wasted a fortune." In the end, the insurance industry  
6 actually agreed with that. They have just brought out on  
7 1 July their most recent industry Code of Practice which  
8 quite specifically says that a waiver is an appropriate  
9 response to unrecoverable debt.

10 So, with the Bulk Debt Project I was trying to  
11 persuade one recalcitrant insurer to cooperate and  
12 I thought, "They wouldn't do it for one." I tried a large  
13 number, I thought I would try maybe if I put 100 debts  
14 together and thought, "Well, if I'm going to do that,  
15 I may as well include some banks and some energy companies  
16 and whatever." So I received funding and the idea was  
17 that I would ask for people who met a very specific  
18 criteria, so it had to be long-term Centrelink, largely,  
19 no assets, renting. I would then refuse to negotiate  
20 individually, I would only negotiate in bulk, and that  
21 I would front whoever the creditor was and say, "Look,  
22 I have 50 of these. I think you should do the  
23 economically sensible thing."

24 At the end of the first project, which worked  
25 surprisingly well even from my perspective, Victoria and  
26 New South Wales Legal Aid and the national Legal Aid  
27 organisation said, "Like that. We will construct a  
28 website for you, give you some assistance and we will run  
29 the project nationally." That meant we were able to  
30 really look at very large numbers and we were able to go  
31 round and visit all of the creditors and we were able to

1 say things like the way I was putting to some of them, "Do  
2 you go to the football or the cricket at the MCG or the  
3 SCG?" They'd say "Yes." I'd say, "Did you see the Salvo  
4 shaking his tin?" "Ye." "Would you ever say to the  
5 Salvo, 'Give me the tin; your clients are causing our  
6 shareholders losses. Sorry, but we need the tin.'" They  
7 all laugh and say, "No, we wouldn't do that." I said,  
8 "But every time you get a payment out of one of these  
9 clients you are actually forcing them to head straight for  
10 the Salvos or the St Vincent de Paul."

11 In one instance I was able to show a major debt  
12 collector, who was known as being pretty hard-nosed, that  
13 in a series of cases his organisation had two or three  
14 payments from two or three clients. I was able to show,  
15 because the financial counsellor came from the  
16 Salvation Army, that they had had double that number of  
17 payments from the Salvos going the other way. It's pretty  
18 hard not to give a waiver in those circumstances.

19 So the project was aimed at in the long-term  
20 coming up with a process that had a single entry point, a  
21 set of criteria that everyone could accept and in the long  
22 run wanting industry to accept that unrecoverable debt  
23 should be dealt with simply.

24 The end result, aside from assisting about 3,000  
25 clients with \$20 million-odd of debt that the real impact  
26 was that an organisation like Westpac set up an email for  
27 all the financial counsellors saying, "If you have people  
28 who meet the bulk debt criteria, send it in." All we said  
29 was, "We will give you one paragraph." I, for instance,  
30 refused to give financial statements for someone in those  
31 circumstances. You give a very simple set of material.

1           They give a 24-hour turnaround and waive the debt. So  
2           files that used to be an inch thick and take a year can be  
3           turned around in 24 hours.

4 MS ELLYARD: So what are the implications for that kind of  
5           approach in your view for people who are experiencing  
6           economic abuse or carrying in particular debts arising out  
7           of a violent relationship?

8 MR NELTHORPE: What we need is it's not just a matter of  
9           financial hardship. We need someone in each of the major  
10          service providers, including government, and I would  
11          include Civic Compliance in that, we need to know that we  
12          can have a worker ring and say, "This is the problem.  
13          There's a family violence order or there's evidence of  
14          family violence. We need you to take a specific step."

15                 It may not be waiver. In my statement I give the  
16          example of a woman who has fled. She needs a new  
17          telephone number. She wants a silent number. The  
18          telecommunications provider gave that, but then very  
19          helpfully put her address and phone number in the White  
20          Pages, because they didn't understand.

21                 In another instance the woman was living at home.  
22          She wanted to flee. She needed a bank account to get  
23          Centrelink. A worker set her up with the bank account.  
24          But the bank, again not really understanding, sent the  
25          details of the account to her current address which was  
26          where her partner was and he opened the letter and  
27          discovered the account.

28                 So what I believe we need is a set of protocols  
29          around, "These are the sort of problems that women in  
30          family violence have. We need to be able to ring someone  
31          in your company or your government agency, know that you

1 have trained that person" - and I have had companies talk  
2 to me about this since the Wyndham report - "so that I can  
3 ring and say, 'This is what we need done. This is the  
4 problem we need solved, and we need you to make sure that  
5 it remains confidential.'"

6 This is not a matter of law. Interestingly, the  
7 Bulk Debt Project, particularly once it went national, was  
8 not built around changing law. It was around getting  
9 industry or individual corporations to acknowledge the  
10 need to deal with problems in a sensible way.

11 Whilst there is a need for law to assist victims  
12 of family violence, we also need service providers,  
13 including government agencies - and can I just go back to  
14 the infringements. The current way for a woman whose  
15 partner has driven her car up and down and incurred 5,000  
16 in fines, and in the outer urban areas with toll fines  
17 that's common, is that woman is told, "You have to  
18 nominate your partner, get him to sign and tell him they  
19 are going to chase him." She has a family violence order.  
20 It won't surprise you to know, and legal centres see this  
21 all the time, I can't think of a single woman who has been  
22 silly enough to say she would do that.

23 So we need to be able to go to those agencies and  
24 say, "You need to change your system." Civic Compliance  
25 needs to say, "No, a woman in that situation with a family  
26 violence order does not need to get the partner to sign or  
27 the ex-partner to sign." The State Government is owed  
28 I think 1.1 billion in unpaid fines. "The 5,000 is not  
29 that big a deal. Not only will we not require her to sign  
30 but we won't go and chase him for the debt."

31 MS ELLYARD: Because that will protect her safety.

1 MR NELTHORPE: And, if she did nominate him and they did chase  
2 him and he came back and seriously assaulted her, the  
3 State Government would incur the cost of the health system  
4 and quite possibly the 150,000 a year for putting him in  
5 gaol. We need agencies to be practical. Like I said  
6 earlier, sometimes it's not as complex as people make out.  
7 Just applying some commonsense wouldn't go astray.

8 MS ELLYARD: Mr Gartlan, to what extent is the kind of process  
9 that Mr Nelthorpe is talking about consistent with or  
10 would require an extension of the kind of hardship  
11 provisions that you have referred to as now existing in a  
12 number of banks?

13 MR GARTLAN: I don't think it's going to take too much, and, as  
14 Denis is saying, there are quick and easy, simple  
15 solutions. Currently there is of course - hardship  
16 provisions are embedded in law and also embedded in  
17 industry codes of practice through such things as the  
18 Banking Code of Practice, which is an industry owned code  
19 which goes above black letter law.

20 But in these particular instances I think it's  
21 important that there already is a mechanism that is there,  
22 and that is the hardship programs that operate  
23 particularly within the banking system and the utility and  
24 telecommunications system.

25 Our practical experience - and the financial  
26 counselling sector every year assesses the efficacy or  
27 otherwise of these programs, and we rank. So we have a  
28 rank the bank report and we have a rank the energy company  
29 report, and we rank them in accordance to how they deal  
30 with Victorians or Australians in financial difficulty.  
31 Banks are terribly interested in terms of what position

1       they are in in the scheme of things.  Never let it be said  
2       that competition policy isn't alive in this space because  
3       it is.

4               I think that the work that's done not by just the  
5       financial counselling sector but by the community legal  
6       services sector as well is such that there's real  
7       opportunity to introduce the issues of family violence and  
8       economic abuse into those hardship programs.  What  
9       currently is missing at the moment is the training for  
10      those teams as well as an effective mechanism to deal with  
11      those applications.

12  MS ELLYARD:  Isn't a potential limitation, though, that it  
13      still would be coming through the prism of hardship?  So  
14      if you take it through the hardship lens a woman who had  
15      capacity to pay but was nevertheless receiving no benefit  
16      from the payments that she was making might not qualify if  
17      it was viewed through a hardship principle?

18  MR GARTLAN:  It's possible.  That is always a possibility.

19      I suppose our experience is working with vulnerable and  
20      disadvantaged consumers who have come to us because,  
21      despite the fact that they often want to pay debts, they  
22      simply cannot for whatever reason.  So I acknowledge that  
23      in those circumstances it is possible that through that  
24      prism there may well be some people who are excluded.

25              However, that's not to say that industry, through  
26      the Australian Bankers Association, other peak bodies for  
27      energy companies, cannot look at that particular issue in  
28      terms of developing guidance for their member banks and  
29      utility companies about how to deal with that.

30  MS ELLYARD:  Mr Nelthorpe, in the model that you are envisaging  
31      would it still be linked to hardship or would there be a



1 place for women who could pay but really as a matter of  
2 morality shouldn't be required to pay because it is not  
3 really their debt to take advantage of this sort of  
4 scheme?

5 MR NELTHORPE: I think there's two answers to that. It may be  
6 that a family violence specialist could work within the  
7 financial hardship team. But I also think there are going  
8 to be issues that maybe are not related to financial  
9 hardship. So the family violence contact point needs to  
10 have power over and above that.

11 An example I can think of was a woman in Tasmania  
12 in the Bulk Debt Project who had a partner who had  
13 extensive business dealings - he used family trusts, he  
14 used companies - and he eventually left her absolutely  
15 destitute. She was living in Office of Housing, and the  
16 response from the relevant bank was, "She's in a  
17 relationship where there's potentially millions of dollars  
18 in assets." Our answer was, "Yes, except that she doesn't  
19 have the capacity to pursue it in the Family Law Court.  
20 She's destitute." I heard about six months ago that they  
21 finally conceded defeat. But it took two and a half,  
22 three and a half years.

23 So my view of this is that, yes, it's linked to  
24 financial hardship but it needs to be separate and it will  
25 need to be someone within each organisation - and I want  
26 to say government as well as industry - who are trained to  
27 deal with and understand these issues.

28 By the way, one example, again, I know that there  
29 have been a number of instances where a woman who fled a  
30 violent relationship had her address unintentionally  
31 disclosed by an energy company. You don't have to be in

1 financial hardship to suffer family violence. The idea  
2 that we need someone within the energy companies to make  
3 sure that can't happen, not only for low-income  
4 disadvantaged but for any person fleeing family violence,  
5 is important.

6 MS ELLYARD: So we are talking about this at two levels, then:  
7 an increased awareness of family violence issues generally  
8 so that service providers, whether government or  
9 non-government, understand the implications of family  
10 violence for all of their customers, but at the same time  
11 also a particular approach based on the hardship  
12 provisions where people are unable to pay debts; is that  
13 fair?

14 MR NELTHORPE: I think the most important part of the financial  
15 hardship is that there are protocols, so there is broadly  
16 agreement around certain descriptors of financial  
17 hardship. I think what we need in the family violence  
18 area is protocols that will be followed by both government  
19 and industry so that you not only have a - so the entry  
20 point is the financial hardship team. But what we also  
21 need is the protocol that says in certain circumstances,  
22 say with telecommunications or energy, this person needs  
23 their address and their details to remain secret so that  
24 they can't be discovered by an ex-partner. So it's around  
25 protocols as well as an entry point.

26 MS ELLYARD: Ms Smallwood, in your statement you make the point  
27 that, while all of the schemes talked about by Mr  
28 Nelthorpe and Mr Gartlan are sensible and you support  
29 them, they are all perhaps arising out of an underlying  
30 difficulty relating to the accessibility of the family law  
31 system, which is the system that ought to provide a remedy

1 for many of these cases. I wonder could you expand for  
2 the Commission on what you mean when you talk about  
3 the family law system being relatively inaccessible?

4 MS SMALLWOOD: That's right. At the moment the problem with  
5 the family law system and women who are experiencing  
6 financial hardship after family violence accessing it is  
7 that it's extremely lengthy, it's costly, it's difficult  
8 to navigate on your own. It's virtually impossible to  
9 navigate for our clients on their own because of the types  
10 of forms that they need to complete, the way in which they  
11 need to complete them, the types of evidence that they  
12 need to give and the way they need to give it.

13 In addition to that, there's very little pro bono  
14 assistance for anyone in family law matters. They are not  
15 currently funded by legal aid. It's very difficult for  
16 women to get assistance with them. So, if you can't  
17 afford a lawyer, it's unlikely that you are going to be  
18 able to pursue any of these small property or issues  
19 related to economic abuse in the Family Court .

20 Where there are mechanisms, that would largely  
21 remedy a lot of these issues. So there are mechanisms in  
22 the Family Law Act to apportion debt between the parties;  
23 to split superannuation, which is of huge benefit to  
24 women; to divide what little assets are left, which can  
25 be - there's research to say that women who have access to  
26 a property settlement are at a much greater advantage in  
27 terms of regaining their economic stability.

28 In regards to spousal maintenance for women who  
29 have no income immediately following separation, there is  
30 a mechanism in the Family Law Act that allows for that.  
31 But, because of the difficulties in accessing that system,

1 women aren't currently gaining the benefit from that.  
2 Particularly vulnerable and disadvantaged women are not  
3 able to access that system.

4 So, while absolutely we support and call for  
5 industry and service and government department change in  
6 terms of policy, we also call for law reform in the  
7 systems that are set up to assist women to access their  
8 entitlements and to recover from economic abuse.

9 MS ELLYARD: So thinking about the way you have described the  
10 entry point to the family law system as being quite  
11 legalistic, very much dependent on documents and the  
12 gathering of evidence, what kind of reform suggestions  
13 would you have to make that system less inaccessible?

14 MS SMALLWOOD: So I think there's a range of options that are  
15 available to the family law system in order to reform it  
16 and make it more accessible. Some of things that we have  
17 previously suggested as possible reforms are a tribunal  
18 type system. In our other Royal Commission submission we  
19 have talked about a one court model where women can have  
20 all of the legal issues that arise out of family violence  
21 met by one judge in a much less legalistic way but in a  
22 way that still recognises and addresses the power  
23 imbalances that are created by family violence.

24 We have spoken before about a special list in the  
25 Family Court or the Federal Circuit Court that would deal  
26 with small property claims. There's also a range of  
27 immediate options in terms of simplifying process and  
28 making the system more accessible. So I think there are a  
29 range of options that are available, but it takes having a  
30 look at that system and how it's inaccessible at the  
31 moment.

1 MS ELLYARD: Would either of the other two members of the panel  
2 wish to comment on that issue of the underlying structural  
3 deficiency being the family law system and its  
4 accessibility to potential litigants?

5 MR NELTHORPE: I certainly support a lot of what Emma has just  
6 said. A lot of the issues we are talking about are about  
7 day-to-day living. It's the mobile phone. It's the cheap  
8 car. The Family Court currently simply doesn't have a  
9 mechanism to deal with those very simple issues, and it  
10 can't be that difficult. So whether it be a special list,  
11 whether it be the one court, but for an incredibly large  
12 proportion of women with family violence and family law  
13 disputes there is no simple way of dealing with what  
14 should be a relatively simple problem.

15 MS ELLYARD: Mr Gartlan?

16 MR GARTLAN: I'm fine. I will leave that question, thank you.

17 MS ELLYARD: Can I invite the Commissioners to ask any  
18 questions that they have of these witnesses?

19 COMMISSIONER NEAVE: Yes, I have a question for Ms Smallwood.  
20 The first is simply a factual question, and then I want to  
21 pursue some of the solutions that you have raised. You  
22 act as a duty lawyer in the Melbourne Magistrates' Court  
23 and you of course have the support of the other lawyer who  
24 is there to assist you in the context of financial abuse  
25 claims. How long do you have to advise clients in the  
26 Melbourne Magistrates' Court when you appear as a duty  
27 lawyer?

28 MS SMALLWOOD: Denis's project actually has the two lawyers,  
29 the financial abuse lawyer, so I don't have the benefit of  
30 that, although I think that would be great. So it varies  
31 day to day. In the Melbourne Magistrates' Court if we are

1 lucky we might have half an hour with a woman, but it is  
2 often less than that. That's probably not nearly enough  
3 time to canvas all of the issues. There's lots of issues.  
4 But it does enable us to identify where there is an  
5 ongoing family law issue or a victims of crime issue or  
6 some other legal issue that needs to be pursued and we can  
7 refer.

8 COMMISSIONER NEAVE: So all of those issues would have to be  
9 dealt with at best in half an hour, is what you are  
10 I think telling me; is that right?

11 MS SMALLWOOD: Yes.

12 COMMISSIONER NEAVE: Going back to your one court model, the  
13 real constraint on that is the constitutional structure in  
14 Australia. We are going to address this issue later in  
15 another module, that is the relationship between the  
16 Family Court and the Magistrates' Court. But do you have  
17 a view on magistrates exercising more powers under the  
18 Family Law Act, is that a solution that one might look at,  
19 or are there too many problems with that?

20 MS SMALLWOOD: I don't have a particular view on that, and  
21 I know my colleague is giving evidence in relation to the  
22 interaction in relation to our principal lawyer who is  
23 probably better placed to talk about that. I think what  
24 we raise broadly in the economic abuse submission is  
25 really the inaccessibility and potentially looking at the  
26 range of options that are available. But I certainly do  
27 acknowledge that limitation.

28 COMMISSIONER NEAVE: Thank you.

29 MS ELLYARD: Perhaps, given we have a bit of time, I might  
30 invite the panel: are there recommendations contained in  
31 any of your individual submissions that we haven't yet

1 covered or drawn attention to in the course of the  
2 evidence that you would like to bring to the attention of  
3 the Commission?

4 MR NELTHORPE: There is just one that I would like to elaborate  
5 on a little, and I think a lot of my work has been with  
6 industry and with corporations, if you like. We haven't  
7 explored it a lot, but I actually think the role of  
8 government departments and agencies in recognising the  
9 needs of women in family violence needs to be worked on as  
10 well. It strikes me as sort of someone who is not heavily  
11 involved in the actual delivery of case work that the  
12 family violence orders are not sufficiently recognised  
13 outside of the Magistrates' Court and the parties to the  
14 dispute. I think that it would be really helpful if  
15 virtually every government department was required to  
16 examine the extent to which a family violence order might  
17 impact on the way in which they carry out their role or  
18 the way in which they deal with a particular person.

19 Whilst we have mentioned VicRoads and Civic  
20 Compliance, I have no doubt there are others. Just one  
21 example of the inability of government agencies sometimes  
22 to show any sort of customer service is recently a  
23 financial counsellor put up - the car registration is a  
24 lump sum that you haven't been able to pay it in  
25 instalments for years and years and years. Someone put up  
26 one of those Change.orgs. 70,000 people signed up.

27 Why that agency couldn't figure out the need to  
28 introduce that customer service mechanism is beyond me.  
29 But I think it's an indication that sometimes - I don't  
30 want to be unkind, but sometimes I think government  
31 agencies don't think of themselves as needing to comply

1 with normal sort of customer service benefits. So I would  
2 strongly urge that in terms of looking at economic  
3 violence we not only consider sort of industry and service  
4 providers but government agencies.

5 MS ELLYARD: Can I just tease that out a little. I think you  
6 are talking about an intervention order where it exists  
7 being in effect regarded by government departments as  
8 proof of a set of circumstances that they should take into  
9 account when dealing with the person who is the  
10 beneficiary of that order; is that right?

11 MR NELTHORPE: That's right. It may mean that either you say,  
12 "Well, in VicRoad's case it might be that a woman says,  
13 "I have this order. I'm the one with the vehicle. It may  
14 be in his name. I'm the one with the vehicle. I want you  
15 to forward any notices about that vehicle to me, or I want  
16 you to allow me as the person who is not currently the  
17 registered owner to pay it." It may even be that they  
18 find a way to transfer ownership of a vehicle below a  
19 certain amount and say, "If the parties disagree with  
20 this, they have the right to go and make an application to  
21 the Family Court."

22 But there needs to be at least an examination of  
23 what practical steps can be taken. It could be the Office  
24 of Housing. I'm sure there are all sorts of departments.  
25 If they were to recognise the impact - it may be there can  
26 be some supporting material, but they ought to have a  
27 capacity to respond to those orders other than in a very  
28 bureaucratic way.

29 DEPUTY COMMISSIONER FAULKNER: Can I just follow that point,  
30 which is it is obvious from the work that you have done,  
31 Mr Nelthorpe, that you have carefully advocated over a



1 very long period of time with utilities and banks. Is it  
2 that the advocacy is not there or has it fallen on deaf  
3 ears in relation to government?

4 MR NELTHORPE: I think it is probably a bit of both. There's  
5 not as much advocacy, but I have to say that trying to  
6 advocate with Civic Compliance is a fate worse than death.  
7 I think trying to get them to look at something  
8 practically would be very, very difficult. I know many of  
9 our colleagues have tried that. So I think there is  
10 probably not as much advocacy. But I also think it can be  
11 very, very difficult.

12 DEPUTY COMMISSIONER FAULKNER: Thank you.

13 MS ELLYARD: Can I just follow up with you, Ms Smallwood,  
14 whether you think there might be any consequences from  
15 Mr Nelthorpe's suggestion that the intervention order  
16 might take on a life and a value and a meaning beyond its  
17 present meaning as between the parties, the court and the  
18 police. From your perspective, working as you do as a  
19 duty lawyer, if an intervention order was to have those  
20 broader ramifications do you think it would have a bearing  
21 on the extent to which people sought them or people  
22 consented to them being made against them?

23 MS SMALLWOOD: There are a couple of things. As I said before  
24 it is really important to always acknowledge the  
25 co-morbidity of systems abuse and financial abuse, and  
26 particularly perpetrators engaging in legitimate legal or  
27 bureaucratic processes in order to further abuse a victim  
28 of violence. So there is potential where a broad  
29 intervention order is made without any specific clause  
30 that goes to redressing an economically abusive behaviour  
31 that there is of course potential that it would be used by

1 a perpetrator to further abuse a victim, as we have seen  
2 with the child support system is common.

3 The other thing I would just say is that I would  
4 not like to see a situation where it was only women who  
5 were in receipt of an intervention order that were treated  
6 in a particular way or who had policies in relation to  
7 family violence open to them. So there's many reasons why  
8 a victim of violence won't apply for an intervention order  
9 and there is potential with that government policy being  
10 put in place that only those who are in receipt of an  
11 intervention order get the benefit of a family violence  
12 policy. So that's something to consider as well.

13 I suppose in terms of what I was speaking about  
14 earlier, if the Magistrates' Court is minded to turn their  
15 mind to the actual economically abusive behaviour where it  
16 is drawn to the court's attention and make an order in  
17 relation to that then that does limit the ability for a  
18 perpetrator to engage in that systems abuse and use an  
19 intervention order to potentially perpetrate further  
20 abuse. It is complex and it needs to be looked at.

21 MS ELLYARD: Were you in court when the witnesses this morning  
22 were giving evidence?

23 MS SMALLWOOD: Yes.

24 MS ELLYARD: So did you hear the evidence of Ms Kun about the  
25 particular experiences of women dealing with the Child  
26 Support Agency and repeat applications for reassessment  
27 and the delays and problems associated with that?

28 MS SMALLWOOD: Yes.

29 MS ELLYARD: Is that something that you have seen in your work  
30 too?

31 MS SMALLWOOD: Yes, absolutely.

1 MS ELLYARD: Would there be a role for some kind of proof of  
2 family violence in limiting the extent to which people can  
3 engage in that particular form of systems abuse by  
4 constantly re-victimising the woman economically by  
5 refusing to pay or applying for reassessments?

6 MS SMALLWOOD: Yes, potentially. It has not been a specific  
7 area of our research, but it has certainly been something  
8 that many women have raised with us and it does seem to be  
9 a particularly fraught area.

10 MS ELLYARD: Thank you, Ms Smallwood.

11 COMMISSIONER NEAVE: I just do have one follow-up. As you  
12 would know, about 90 per cent of intervention orders are  
13 granted with the consent of the other party. What is your  
14 view about whether giving intervention orders a broader  
15 operation might reduce the extent to which people are  
16 prepared to consent to those orders?

17 MS SMALLWOOD: I think that there is a broad risk, and I think  
18 in this discussion about economic abuse and the role of  
19 intervention orders generally that's something to consider  
20 in terms of the process of consent and whether a  
21 perpetrator wouldn't consent to an intervention order  
22 because she was seeking a specific order in relation to  
23 economic abuse but would otherwise consent to an  
24 intervention order that deals with physical safety. So  
25 I think it is something to consider, certainly.

26 COMMISSIONER NEAVE: Thank you.

27 MS ELLYARD: Were there any other matters that the panel felt  
28 haven't been dealt with that you wanted to raise?

29 MR GARTLAN: Maybe just moving the conversation a little bit  
30 towards those women who do not seek intervention order  
31 applications or are subject to issues around the Family

1 Court, but just to make the broad comment that from our  
2 experience women present in a whole range of different  
3 environments and of course the legal environment is a  
4 terribly important one.

5 But equally environments around community health  
6 services, family violence centres and other community  
7 organisations such as financial counselling agencies  
8 et cetera see on a daily basis issues of economic abuse  
9 and family violence. It just seems to me that the role of  
10 a financial counsellor currently could in fact improve no  
11 doubt outcomes, economic outcomes for women who are  
12 impacted by family violence and economic abuse.

13 Currently the service system does not really  
14 allow for dedicated workers such as - for want of a better  
15 expression - the family violence financial counsellor to  
16 work effectively with agencies outside of the court  
17 system, so, for example, with Centrelink or with family  
18 violence centres or community health centres where these  
19 issues will emerge, because I think from a practical point  
20 of view questions of economic empowerment often start with  
21 the simple issues of addressing the day-to-day reality of  
22 being unable to pay bills or loans or have debts that they  
23 are not really required or should not be required to pay.

24 Advocates can have an important role in that.  
25 Currently, unfortunately, outside of Women's Legal Service  
26 Centre and a couple of other isolated areas that are  
27 funded by philanthropic trusts, there is no overall  
28 approach to this issue. I would like to take the  
29 opportunity of making that comment and saying that in  
30 terms of the road of economic empowerment the role of a  
31 financial counsellor is not being used at the moment.

1                   Another example would be that the Department of  
2           Human Services have an excellent family violence risk  
3           assessment framework and practice guide. It goes for  
4           110-odd pages. There is no mention in that risk  
5           assessment guide of looking at the issue of debts. So  
6           I think there is some work that could be done where real  
7           gains could be made that would have a real positive impact  
8           on people we are trying to help here.

9   MS ELLYARD: I think in the last part of your statement,  
10           Mr Gartlan, you have identified a particular  
11           recommendation that you invite the Commission to take up  
12           in terms of the funding of what you have termed family  
13           violence financial counsellors.

14   MR GARTLAN: I just think, as an example, financial counselling  
15           could be incorporated in a whole range of different  
16           solutions and I think that there could be real benefit  
17           made by piloting, using the experience of Women's Legal  
18           Service through their project and others in which you look  
19           at financial counselling being embedded where women go for  
20           assistance and, as I said, such things as community health  
21           service, particularly in regional and rural Victoria, and  
22           linking in with Centrelink social workers who deal with  
23           thousands of applications for crisis payments every year  
24           and a range of other examples I have in my submission.

25   MS ELLYARD: Thank you, Mr Gartlan. Thank you members of the  
26           panel. If there are no other questions from the  
27           Commission, I will ask that the panel be excused.

28   COMMISSIONER NEAVE: Thank you very much, Mr Gartlan,  
29           Mr Nelthorpe and Ms Smallwood.

30   MS ELLYARD: If that is a convenient time.

31   COMMISSIONER NEAVE: Yes. 2 o'clock.

1 <(THE WITNESS WITHDREW)

2 LUNCHEON ADJOURNMENT

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1 UPON RESUMING AT 2.00 PM:

2 COMMISSIONER NEAVE: Thanks, Mr Moshinsky.

3 MR MOSHINSKY: Thank you. The next witness is Adam Mooney. If

4 I could ask for him to be sworn, please.

5 <ADAM WILLIAM MOONEY, affirmed and examined:

6 MR MOSHINSKY: Thank you, Mr Mooney. You are the Chief

7 Executive Officer of Good Shepherd Microfinance?

8 MR MOONEY: That's right.

9 MR MOSHINSKY: Have you prepared a witness statement for today?

10 MR MOONEY: I have.

11 MR MOSHINSKY: Are the contents of your statement true and

12 correct?

13 MR MOONEY: They are.

14 MR MOSHINSKY: Could I start by asking you just briefly to

15 outline your professional background?

16 MR MOONEY: Sure. I'm the CEO of Good Shepherd Microfinance in

17 Australia. I have been in this role for three years.

18 Before that I worked with Reconciliation Australia as the

19 director of the Reconciliation Action Plan Program for

20 four years. Before that I was in banking and finance for

21 about 13 years as head of community development finance at

22 ANZ. I have also worked in Microfinance internationally

23 in Cambodia, in Bangladesh, but also for a short time in

24 North Korea, and before that I was involved in finance and

25 accounting in the role of Chief Financial Officer for the

26 largest business unit within ANZ, the personal and rural

27 banking business.

28 MR MOSHINSKY: Thank you. You have qualifications including a

29 Masters in International Development, a Masters in Applied

30 Finance, a Bachelor of Business Accounting.

31 MR MOONEY: That's right.

1 MR MOSHINSKY: Could I ask you to just briefly explain what is  
2 Good Shepherd Microfinance? We do have another witness,  
3 Dr Cumberland, who is the CEO of Good Shepherd. How does  
4 Good Shepherd Microfinance fit into the Good Shepherd  
5 structure?

6 MR MOONEY: Good Shepherd Microfinance is a subsidiary  
7 organisation of Good Shepherd Australia New Zealand, our  
8 parent. We were established only three years ago. We  
9 were carved out from an existing entity within the  
10 Good Shepherd network of five organisations in Australia  
11 and New Zealand specifically to get scale to put  
12 significant focus on inclusive finance and microfinance  
13 and to have significant impact.

14 MR MOSHINSKY: Could you explain the concept of microfinance  
15 briefly? What is microfinance? It may not be a term  
16 that's familiar to everyone.

17 MR MOONEY: Microfinance is I think an emerging initiative and  
18 discipline that I suppose started back as a recognised  
19 discipline in 1981 where Mohammed Yunus and the Grameen  
20 Bank in Bangladesh started to look at market failure as to  
21 why there are so many people around the world that can't  
22 get access to small loans, particularly for business  
23 purposes, but also for consumption as well.

24 At the same time that Mohammed Yunus was setting  
25 up this effort in Bangladesh, the Good Shepherd Sisters  
26 here just down the road here in Collingwood established  
27 the very first no interest loan scheme as well. So,  
28 I think this is a joint recognition of leadership in  
29 microfinance. But microfinance typically around the world  
30 is the making available of inclusive financial services:  
31 small loans, savings accounts, remittance capabilities,



1 insurance, micro-insurance and other mechanisms where  
2 banks and other financial service providers either aren't  
3 interested or find it uneconomic or unable to reach people  
4 on low incomes with their services. So it's filling a  
5 vital gap and it's proven over time to be remarkably  
6 effective in enabling economic mobility of people on low  
7 incomes.

8 MR MOSHINSKY: Could you tell us a bit about the microfinance  
9 that Good Shepherd Microfinance provides? What sort of  
10 loans do you provide, what sort of amounts are we talking  
11 about, to how many people?

12 MR MOONEY: Good Shepherd Microfinance, as I said, was  
13 established three years ago, but we took on some mature  
14 programs to get scale. We have moved from 34 years ago  
15 from \$20,000 of loan capital that was offered particularly  
16 for women escaping domestic violence to where we are  
17 today. We are a large organisation. We have over  
18 \$200 million worth of economic resources at our disposal.  
19 \$130 million of those is a capital pool that the National  
20 Australia Bank has made available for us to reach large  
21 numbers of people. The majority of that funding comes  
22 from Federal and State Governments as well, to take us up  
23 to \$200 million.

24 What we offer is small loans, no interest loans  
25 for people on low and limited incomes that typically have  
26 a Centrelink concession card or pension card, that also  
27 are in a relatively stable situation, residential stable  
28 situation for at least three months, and also are able to  
29 afford and to understand and commit to repaying the loan  
30 back over time. So, the no interest loans program is for  
31 essential items, fridges, washing machines, dental care

1 that's not covered by Medicare, other essential items that  
2 we see are really important in somebody's dignity,  
3 somebody's opportunity and establishing hope for the  
4 future. That's up to \$1,200.

5 We have a low interest loan program, again in  
6 partnership with National Australia Bank, up to \$3,000,  
7 which is typically for motor vehicles, second-hand motor  
8 vehicles, to enable people to be mobile, to find work, to  
9 undertake other training and development opportunities.  
10 We also offer increasingly insurance cover for people on  
11 low incomes that are often buying a fridge or a washing  
12 machine that want to have their whole of house contents  
13 covered. We have energy inclusion programs. We are also  
14 now in the last 12 months moving into the advisory  
15 microfinance and inclusive advisory services by offering  
16 financial inclusion action plan advice at a national level  
17 and we have just been contracted by the Federal Government  
18 to do that.

19 The important point for us that I really want to  
20 make is that we are a national organisation, but we do  
21 this through our microfinance network, our own  
22 microfinance network that offers these programs in 669  
23 locations through 250 capable and very well respected and  
24 very effective provider partners.

25 MR MOSHINSKY: About how many clients are there who take up  
26 these loans?

27 MR MOONEY: Over the last five years we have reached 170,000  
28 people who have availed themselves of these loans, around  
29 roughly anywhere between 30,000 to 35,000 people a year.  
30 We have just had a new contract awarded to us through the  
31 Federal Government, a \$33.3 million five-year contract

1       which I think recognises the value and the impact that we  
2       have achieved so far, and that State Governments  
3       increasingly are investing in inclusive finance. The  
4       Victorian Government alone has invested over \$8 million  
5       just over the last - or committed to invest \$8 million in  
6       three inclusive finance stores called Good Money over the  
7       next four years.

8   MR MOSHINSKY: You referred to the funds that you have  
9       available. Are you able to actually utilise all those  
10      funds in practice?

11   MR MOONEY: That's a good point. I think NAB has made  
12      available \$130 million worth of capital and they are  
13      saying "at no interest to us", which I think in the last  
14      few years in telling this story at Harvard Business School  
15      or wherever else, there's quite a disbelief that this is  
16      actually going on. So, NAB are effectively foregoing  
17      about \$23 million worth of return that they could generate  
18      if they applied that equity to other similar pursuits.

19           So far, of the \$130 million we have only been  
20      able to apply \$30 million worth of capital to our lending  
21      programs. Where we need additional investment is in the  
22      area of operating expenditure. So, to be able to go  
23      beyond the 6 per cent of the market that we are currently  
24      reaching in the demand for small and inclusive finance  
25      loans, to be able to go to 50, to 100 per cent, we would  
26      need a significant increase to that. I think NAB is very  
27      much saying, "Here's some capital," but through  
28      philanthropic investment, through other partnerships we  
29      have emerging, as well as relationships with all levels of  
30      government, we are still seeking to reach that additional  
31      level of operating expenditure which will see us use the

1 whole of the NAB capital of \$130 million.

2 MR MOSHINSKY: Is what you are saying that you need more to  
3 obtain funding to cover additional operating expenditure  
4 in order to have people on the ground who can deal with  
5 applications and work with people who are applying for  
6 loans?

7 MR MOONEY: That's right. At the moment our footprint,  
8 I mentioned 669 locations, which is serviced by 1500  
9 microfinance workers all around Australia. We are at a  
10 stage now where 90 per cent of the Australian population  
11 live within 20 minutes of one of these locations. But  
12 really what we have, we have great people, 1300 of those  
13 1500 are actually volunteers, retired accountants or  
14 bankers, who want to invest in their community. So there  
15 are effectively 250 paid workers who are managers that  
16 train the volunteers to be able to offer these programs.  
17 So, for us to go beyond the 6 per cent and to know  
18 that - we already know that we are having a significant  
19 impact. For us to be able to realise economic mobility  
20 for large numbers of people all around Australia, the  
21 three million people that are financially excluded, or  
22 17 per cent of the Australian population, to reach a  
23 significant number of these people we would need somewhere  
24 in the vicinity of between 50 to \$100 million annual  
25 commitment to operating expenditure.

26 MR MOSHINSKY: Has there been an evaluation, a quantitative  
27 evaluation carried out of the no interest loan scheme?

28 MR MOONEY: There has indeed, in March last year.

29 MR MOSHINSKY: Can you tell us who carried that out and what  
30 were the findings?

31 MR MOONEY: That was carried out by the Centre for Social

1 Impact and over 18 months and they spoke to 710 of our  
2 clients in a detailed conversation and what that found  
3 first and foremost was that our targeting was very, very  
4 effective in that 95 per cent of the clients that we had  
5 serviced were living at or below the poverty line.

6 Secondly, that four out of five of clients that  
7 we had offered a no interest loan to were, in their own  
8 words, realising economic mobility, and that is that they  
9 are moving away from financial crisis and hardship to  
10 stability, to a position of income generation and towards  
11 longer term resilience. All four out of five aren't going  
12 point to point from crisis to full resilience, but they  
13 are heading in the right direction using objective  
14 measurable characteristics. That's the second key point.

15 The third key point is that around about half of  
16 our clients are also through the process, through the  
17 conversations that our 1500 microfinance workers have  
18 directly with the clients, is they are building their own  
19 awareness, their own capacity, their own financial  
20 capacity, but also the way that we interact with our  
21 clients, it's not about - it's not a transactional aspect.  
22 There is a financial transaction involved, but it is very  
23 much one of strength-based community development where we  
24 ask the client, "What are your dreams and aspirations for  
25 the future and what happens within your world?" From  
26 those two questions we are able to tailor a scenario where  
27 the client feels in control, the client understands the  
28 process and the client has built their own capacity.  
29 That's a third point.

30 The fourth point is very much a diversionary  
31 aspect that we have been able to achieve. As you know, as

1 some people may know, there's been a burgeoning sector in  
2 exploitative fringe lenders in Australia. As the banks  
3 have left the small amount finance market from lending  
4 below \$5,000 progressively over the last 20 years, it's  
5 been filled by opportunistic and in many cases  
6 exploitative fringe lenders and increasingly consumer  
7 leasing companies that are offering very expensive forms  
8 of credit and doing that in a way that is entangling large  
9 numbers of people. So for us - - -

10 MR MOSHINSKY: If I can just interrupt you, are you referring  
11 among them to what's known as "payday lenders"?

12 MR MOONEY: Payday lenders, absolutely. So payday lenders and  
13 consumer lease companies that are out there offering a  
14 weekly rental for an item that in some cases you never  
15 ever own and you might pay up to three to five times the  
16 value of the item if you bought it outright.

17 But the real important part of our evaluation is  
18 that four out of five of our clients that have previously  
19 accessed payday loans stopped accessing payday loans as a  
20 result of accessing our program. So that has a very  
21 significant economic and human consequence.

22 MR MOSHINSKY: I want to then tie in the discussion we have  
23 been having with the subject of family violence, which of  
24 course is what the Royal Commission is looking at. Are  
25 you able to comment on ways in which the provision of  
26 microfinance products can assist in the context of family  
27 violence?

28 MR MOONEY: Absolutely. There are four key areas that  
29 microfinance will optimise the conditions to either avoid  
30 or to mitigate or to in some cases address family  
31 violence. First and foremost, the conversation with a

1 microfinance worker and the availability of small credit  
2 reduces the stress and anxiety that many people might feel  
3 about being trapped in a situation of economic abuse. So  
4 being able to, on their own terms, access fair, safe,  
5 inclusive finance reduces stress and anxiety in the short,  
6 medium and longer term.

7 It also assists - and we have wonderful case  
8 studies that we are always hearing about - it assists  
9 women in particular to leave threatening or violent  
10 situations and to set up house at short notice. Of the  
11 669 locations that I mentioned, more than 10 per cent of  
12 those have a dedicated family violence program that is  
13 able to offer immediate finance to women fleeing domestic  
14 violence or in a threatening situation. So, instant money  
15 to be able to pay for removalists' costs to move at short  
16 notice and being assisted by the police or other case  
17 workers to set up house at fairly short notice is a  
18 substantial advantage.

19 Our conversations, of the 400,000 people impacted  
20 that I mentioned earlier, there are at least 1 million  
21 conversations that have happened between the microfinance  
22 worker and the client. As part of those conversations,  
23 those interviews, the loan application process, the  
24 microfinance worker is in a fairly unique situation in  
25 that they see the whole economic situation. They are able  
26 to see the bank statements, Centrelink statements,  
27 utilities bills and others, and over time we have come to  
28 learn to be able to identify early indicators of where  
29 economic and financial abuse might be occurring.

30 For example, we have heard earlier today about  
31 situations where, through to a poor or impaired credit

1 record of a male partner, the good credit record of a  
2 female partner has been exploited to be able to get a  
3 vehicle that the male partner has then taken. To be able  
4 to look at a bank statement and see there is a direct  
5 debit each month to Toyota Finance and that it is not  
6 matched by direct debits from BP or Caltex, there's no  
7 petrol, no fuel - this is a simple example - but there are  
8 many, many ways that you can identify where financial  
9 abuse is occurring.

10 So that is the third significant part of where  
11 microfinance can be an early intervention in a safe and  
12 non-threatening way before it gets to the crisis point.  
13 So I think that's a really important point.

14 The last point is, of course, that microfinance  
15 alleviates the economic consequences, severe economic  
16 consequences. If somebody goes to a payday lender or a  
17 consumer lease company and takes out very expensive forms  
18 of credit, of course we know that adds stress and anxiety  
19 to the family on the very expensive servicing cost of that  
20 quite expensive but also burdening economic consequence.

21 MR MOSHINSKY: Has Good Shepherd Microfinance recently prepared  
22 an on-line resource relating to financial abuse for its  
23 microfinance workers?

24 MR MOONEY: We have, that's right.

25 MR MOSHINSKY: Could you tell us about that and also whether  
26 that's been made available to others?

27 MR MOONEY: Absolutely. This was only launched last month by  
28 the Minister Assisting the Prime Minister for Women,  
29 Michaelia Cash, at our conference in Sydney only last  
30 month. It was done so with the support of ASIC and the  
31 Office for Women within Prime Minister and Cabinet. It



1 was a \$10,000 grant, so our costs more than absorbed that  
2 grant that we received.

3 But this is really about us capturing the essence  
4 of what it means to be part of a connected, well-informed  
5 network, bringing the strengths of our network together,  
6 telling stories about how to identify economic abuse and  
7 financial abuse, but also accessing experts like many of  
8 those experts who have appeared today or earlier this week  
9 at this Commission.

10 What we have done, this module that we have  
11 developed, this is a training and education module  
12 specifically for our microfinance workers, our 1500  
13 microfinance workers, through our Good Learning platform  
14 to be able to access an on-line program called "Women and  
15 money, an introduction to financial abuse". The aim of  
16 this program is to better equip microfinance workers to  
17 identify, to look at the manifestations of financial  
18 abuse, but also to refer those involved, those being  
19 exploited through financial abuse, to the right channels.

20 We certainly don't put ourselves out as being a  
21 one-stop shop and saying, "Here is the simple answer to  
22 deal with this issue," but making sure that there is a  
23 safe conversation in a non-threatening way and asking a  
24 couple of questions about that direct debit or even  
25 through the process of finding out that a partner, a male  
26 partner, is very strictly against the female partner  
27 working or generating some sort of economic independence,  
28 being able to understand that and know that it happens and  
29 know how to refer that is really, really important.

30 While our target market for this audience for  
31 this training program is our microfinance network, we have

1 already had approaches by energy companies, by telcos, by  
2 banks as well, to make this available right across their  
3 own hardship teams but also their front-line teams. NAB,  
4 of course, was one of the first, when they knew that we  
5 were developing this, to be able to equip their staff to  
6 identify economic abuse and to know how to deal with that  
7 in an inclusive way and an enabling and positive way for  
8 the client.

9 MR MOSHINSKY: Can I ask you about indigenous communities?

10 Could you tell us briefly about the interaction that  
11 microfinance has with indigenous communities and any  
12 trends that you have been seeing?

13 MR MOONEY: What I failed to mention earlier is that of our  
14 total of 170,000 clients reached so far, 70 per cent are  
15 women and again roughly a quarter of our clients are  
16 Aboriginal people, right across Australia. We have  
17 dedicated remote microfinance programs, but also in the  
18 general programs many Aboriginal people present due to the  
19 overrepresentation of lower socioeconomic status and  
20 conditions.

21 So, we do have a large number of Aboriginal  
22 clients. There is certainly a different - my experience  
23 with Reconciliation Australia and also as co-chairing the  
24 Indigenous Financial Services Network and also working at  
25 ANZ and developing ANZ's reconciliation action plan back  
26 in 2007 gave me an insight into Aboriginal perspectives  
27 and cultural perspectives on money and how money is very  
28 much, for all of us, a means to an end, but particularly  
29 in Aboriginal communities where there is a deemed cultural  
30 obligation for any money that a family member, an extended  
31 family member has access to, to be imposed upon, and it's

1 colloquially known as "humbugging" where, you know,  
2 "You're good for it, you've had your income, I now would  
3 like to have some of that for my sporting clinic or a  
4 football or to buy a boat," or whatever it may be, and  
5 I think that some of our programs, whether it's the AddsUP  
6 Savings Program or other programs that I have seen, for  
7 example the First Nations Foundation My Moola Program,  
8 which I personally think is a leading example of  
9 Aboriginal personal development in the context of economic  
10 development, enables women in particular, but all  
11 Aboriginal people, to have a non-threatening conversation  
12 with their family members, extended family members, to say  
13 that the individuals have not got access to the funds  
14 because it is going into a max savings account or it is  
15 going into some other investment that will strengthen the  
16 identity of the family and at a much broader level  
17 strengthen the identity of the Aboriginal nation and clan  
18 that is in question.

19 This is something that we really need to  
20 understand, that much more so than in the Western world  
21 Aboriginal people see economic development as a means to  
22 strengthen identity and culture, generally speaking, much  
23 more than a sort of western philosophy, and I think  
24 understanding that and asking Aboriginal people, "What are  
25 your dreams and aspirations for the future and how can  
26 money play a role in that," it's a means to an end rather  
27 than an end in itself, which is an important distinction.

28 MR MOSHINSKY: Thank you. Could I invite the Commissioners, if  
29 they have any questions, to ask them?

30 DEPUTY COMMISSIONER NICHOLSON: Mr Mooney, you spoke about the  
31 banks, I think you said vacating the area of small loans

1 to people below \$5,000. You have worked in the banking  
2 field. Why is that?

3 MR MOONEY: There's a range of reasons. I think one is a  
4 relative view that banks have moved away from being a  
5 public good where government owned banks in the past to  
6 becoming more of a private good and a private service or  
7 certainly privately owned.

8 There is also I think the realisation through use  
9 of technology that there has been either a realisation or  
10 a hypothesis that people on low incomes either don't want  
11 to service a loan or can't service a small loan or that  
12 it's uneconomic for the bank with the world, certainly at  
13 the moment, post global financial crisis. What we have  
14 seen is a significant restriction of banks in lending  
15 below \$5,000, again around the world, because of an  
16 unintended consequence of higher prudential capital  
17 requirements through Basel II and Basel III, and I don't  
18 want to get overly technical in bank terms, but higher  
19 prudential capital that is required and therefore with  
20 limited capital to lend, and using technology, banks are  
21 inadvertently driving financial exclusion by  
22 oversimplifying the human exchange. Where 20 years ago  
23 you would come in, you would sit down and have a  
24 conversation with the bank manager, now everything will be  
25 done through what's called an auto credit scoring model  
26 where you put in your income and your statement of  
27 financial position, you will estimate your expenses, but  
28 what will then happen, that nobody really knows about, is  
29 that the bank's auto credit scoring capability will ignore  
30 what you have estimated in expenses and will override with  
31 an average for that State or for that postcode. So

1 someone on a low income in a higher income postcode will  
2 be knocked out of that process and I think technology has  
3 a significant role to play in being able to improve that  
4 exchange.

5 DEPUTY COMMISSIONER NICHOLSON: I'm interested because if the  
6 banks aren't going to reoccupy this area of lending, you  
7 spoke earlier about the NILS program meeting about  
8 5 per cent of demand, which I wasn't quite sure what you  
9 meant by that demand. If you can clarify that. Then,  
10 secondly, what potential is there for NILS to perhaps  
11 occupy the area of lending that the banks have vacated?  
12 If it is only 5 per cent, we have a long way to go.

13 MR MOONEY: We have, indeed, and NILS is by far the biggest  
14 microfinance program in the country. The 5 per cent is  
15 simply an analysis that we have done to be able to look at  
16 the need for small amount finance for people that meet our  
17 criteria, that have Centrelink income that are  
18 ready - basically now that are in a stable situation, have  
19 lived in their place for three months or more and can  
20 afford it. We know there are 3 million people that are  
21 financially excluded, but we see that there are roughly  
22 380,000 people within any given year that would need a no  
23 interest loan. Their circumstances would enable us to  
24 lend to them within that year. So that's I think the  
25 first part, Deputy Commissioner.

26 The second part is what potential is there for  
27 NILS to fill the gap that the banks have left, and by no  
28 means do we see no interest loans as the panacea to fill  
29 that gap. I think that within the three million  
30 financially excluded in Australia, 17 per cent of the  
31 adult population, there are varying levels of capacity to

1 pay and to service a loan and actually pay interest.  
2 There is also, from a really important perspective, there  
3 is also different human purposes for which this  
4 consumption - we will talk about a commodity being money,  
5 but if you look at water or energy, one of the things that  
6 I'm starting to think about a lot more is the Achilles  
7 heel of microfinance being people saying, "You shouldn't  
8 be charging people on low incomes any interest at all,"  
9 but moving to a more rational pricing to say, "Well, this  
10 person does have some capacity to pay," but where there is  
11 low capacity to pay for something for survival or safety  
12 orientation, my view is, our view is, that it should be  
13 given away for free or heavily discounted.

14 Where on the human purpose we move up from  
15 survival, safety to more resilience orientation and  
16 recreation orientation, where there is medium or high  
17 capacity to pay, that's where the banks are already  
18 operating. That's their sweet spot.

19 So what we need to do, I think, is for energy  
20 companies, for water companies, for telcos, banks and  
21 financial services to price appropriately so that we can  
22 make these programs more sustainable, that we are not  
23 always going cap in hand either to government or to a bank  
24 to say, "We need you to give away all of this capital for  
25 free," but I think we need to understand that continuum,  
26 that desire and believe in people's capacity to control  
27 their own future and to be agents in their own future to  
28 move from crisis and hardship to stability, to income  
29 generation and longer term resilience.

30 The very last point, Deputy Commissioner, I would  
31 like to mention that's happened post global financial

1 crisis, and David Murray mentioned this to me as part of  
2 the financial system inquiry, is that when he was the  
3 Commonwealth Bank CEO seven or eight years ago, the  
4 average institutional investor in a Commonwealth Bank  
5 share held that share for seven years. Today the average  
6 shareholding is seven months. This short-termism within  
7 the financial services sector and the pressure that's  
8 being put on chairs and CEOs to outperform their sectoral  
9 colleagues and to return to pre-GFC returns on equity is  
10 driving short-term behaviours that's leading significantly  
11 further aversion and movement away from these inclusive  
12 finance programs.

13 DEPUTY COMMISSIONER FAULKNER: Just to follow on, Mr Mooney,  
14 you mentioned a couple of things that I want to pursue.  
15 The purpose of my question is to find out: the group of  
16 people who are experiencing family violence are assisted  
17 by your program. There are others who are still using  
18 payday lending. I want to understand is there a gap that  
19 is still there because either they can't meet your  
20 criteria or that it's a problem that just doesn't seem to  
21 have a solution where you are looking to expand further  
22 into helping people with family violence issues? What's  
23 the gap so that payday lending can become smaller and  
24 smaller and smaller?

25 MR MOONEY: We are being quite constructive and entering into  
26 discussions with the payday lenders, with Cash Converters  
27 and Money3, for example, where Money3 have said they want  
28 to refer clients to us that meet our criteria. That's  
29 starting to happen. We would like to be able to track  
30 that a lot more. The area where the payday lenders are  
31 really moving into and dramatically impacting women is

1 where there has been a societal casualisation of the  
2 workforce where companies or even schools, if you are a  
3 teacher, a nurse and you only get short-term contracts,  
4 that makes you less likely to get bank finance because of  
5 that variability of income over time, whether you are  
6 coming back from maternity leave or some other sort of  
7 part-time arrangement. The banks' systems need to catch  
8 up with that variability of income and to be less  
9 conservative. This is where the payday lenders are  
10 actually stealing a march right now. They are  
11 significantly capturing that market. We are working on  
12 that with NAB at the moment about how we enter that market  
13 and do that very sustainably.

14 But I think this is where the payday lenders and  
15 to an even greater degree the consumer lease companies  
16 like Radio Rentals, Rent The Roo and others are really  
17 creating a market for themselves by reaching those people  
18 and offering very expensive forms of rental with a one  
19 dollar buy option at the end of it that is deliberately  
20 being financially engineered to overcome some of the  
21 regulations, the price capping in the small amount credit  
22 contract market.

23 There have been significant improvements in the  
24 last two years by both sides of politics federally to cap  
25 pricing for the payday lenders at 20 per cent upfront fee,  
26 plus 4 per cent a month. There had been some difficulty  
27 in applying that for some, but I think ASIC is doing a  
28 great job in catching up.

29 The burgeoning sort of effectively unregulated  
30 part now is consumer leasing companies that are preying on  
31 and are directly targeting people on low incomes through



1           Centrepay enablements and other mechanisms to go into town  
2           and hold up the Centrepay direct debit authority with the  
3           Coat of Arms saying "This is a government scheme, sign  
4           here," and they will then pay between three to five times  
5           the value of the item, may not even own it, and the simple  
6           mechanism that they are using to get around the capping of  
7           the small amount credit contract regime is this one dollar  
8           buy option so that they can say, "This is a lease, it's  
9           not a loan."

10                   The Assistant Treasurer is very interested in  
11           this. We have met with the Assistant Treasurer and this  
12           we are hoping is going to be captured in a payday lending  
13           review that the Assistant Treasurer is leading over the  
14           next six months.

15   COMMISSIONER NEAVE: Can I just ask you about credit cards,  
16           because I have no idea what the figures are on people who  
17           don't pay their credit card off every month. That must be  
18           another area where these people are going, is that right,  
19           these people who are in desperate need?

20   MR MOONEY: It is, Commissioner. For those that are  
21           creditworthy, this perpetual opportunity to draw down on  
22           still expensive debt, 20, 30 per cent in some cases, where  
23           interest rates overall have come down very substantially  
24           in the last little while, I think credit cards are being  
25           used - in my observation, I still keep an eye on global  
26           financial indicators for the small amount credit market  
27           and credit card loss rates can be anywhere from 1, 2 to  
28           3 per cent if you're managing it well and, depending on  
29           the point in the cycle, if you're in Spain or Greece or  
30           somewhere, certainly Greece, credit cards will be  
31           absolutely maxed and probably losing 20 to 30 per cent of

1 the portfolio, but somewhere in between that through  
2 economic cycles but also good management sees loss rates  
3 in that mechanism in that range.

4 We have done some mystery shopping ourselves and  
5 gone to a lot of banks over the last couple of years and  
6 said, "I'm a person on a low income. I need to set up  
7 house at short notice. I need a fridge, a washing  
8 machine. What can you do?" They will say, "Well, we only  
9 need \$1,500. How about a credit card?" That's always the  
10 first option. "We don't do personal loans below \$5,000.  
11 How about a credit card?" So we'll say, "Look, I don't  
12 trust myself with perpetual credit, I'll just be  
13 entangled," using more lay terms, and that then leads in  
14 some cases, this is probably a year ago, has led to a  
15 direct referral to a payday lender. These are Australia's  
16 biggest banks.

17 I have shared that through the ABA consumer panel  
18 which I sit on and there was shock and horror. Some of  
19 the banks have taken action immediately to rectify that,  
20 but it still goes on. So it's a really important point  
21 that you raise, Commissioner.

22 COMMISSIONER NEAVE: I am sorry, I don't know what Centrepay  
23 is. You mentioned Centrepay.

24 MR MOONEY: Centrepay is the payment mechanism for Centrelink  
25 that enables the payments of benefits to individuals, to  
26 income support and other mechanisms and there is a direct  
27 debit capability that some of these larger organisations  
28 like Radio Rentals and others that have access, in some  
29 cases even superior in their prioritisation list to even a  
30 NILS loan. So sometimes we will find out in pursuing an  
31 overdue no interest loan that there's also a Radio Rentals

1 contract or another contract that has led to the person  
2 approaching financial crisis and unable to make the  
3 payments that they need to pay.

4 COMMISSIONER NEAVE: What are the limits on one's ability to  
5 direct debit a Centrelink payment? Are there limits and  
6 what are they?

7 MR MOONEY: There are limits. I can get the precise details to  
8 you, but we've had really constructive conversations with  
9 Minister Marise Payne about Centrepay reform. In fact,  
10 the Minister chose our location to announce some reforms  
11 only a month ago. I think that my view is that that's  
12 heading in the right direction, that some noxious - these  
13 are the words of a media outlet - noxious lenders have  
14 been pruned from getting Centrepay access where they don't  
15 have a credit licence or so on, so I think there's  
16 significant positive reform there.

17 The other thing I failed to mention,  
18 Commissioner, I'm sorry, is that of the 170,000 people  
19 that we have reached so far, we confound the sceptics with  
20 a loss rate ourselves, a long run loss rate of only  
21 3 per cent. So, NAB's delighted that we are managing  
22 their capital so well and only seeing loss rates of  
23 3 per cent each year, again which confounds the sceptics  
24 that say that people on low incomes aren't good for it or  
25 don't want to repay a loan. So it is working from an  
26 economic perspective, a human perspective and from a  
27 banking perspective.

28 COMMISSIONER NEAVE: Are there any comparative figures  
29 comparing that loss rate with loss rates of loans advanced  
30 by banks or credit cards or payday lenders?

31 MR MOONEY: I think that we are better overall. Our loss rate

1 of 3 per cent is better overall than - maybe it's not  
2 banks in Australia, I think the banks in Australia credit  
3 card loss rates and personal loan loss rates would hover  
4 between 2, 3 to 5 per cent, again depending on the cycle,  
5 sometimes up to 10 per cent. Overseas more generally  
6 I think we would be double, twice to three times better  
7 credit managers than the typical banking small amount loss  
8 rate.

9 COMMISSIONER NEAVE: Thank you.

10 MR MOSHINSKY: Commissioners, if I could ask for Mr Mooney to  
11 be excused.

12 COMMISSIONER NEAVE: Yes, Mr Mooney. Thank you very much.

13 MR MOONEY: Thank you.

14 <(THE WITNESS WITHDREW)

15 MS ELLYARD: The next witness is Dr Cumberland, whom you heard  
16 from on Monday, but who is being recalled and I will ask  
17 her to return to the witness box. I'm in the Commission's  
18 hands about whether you think it is necessary for her to  
19 be resworn.

20 COMMISSIONER NEAVE: I don't think we need for her to be  
21 resworn. Thank you.

22 <RHONDA LEA CUMBERLAND, recalled:

23 MS ELLYARD: Dr Cumberland, thank you for coming back. When  
24 you gave evidence on Monday you gave evidence about,  
25 amongst other things, the development of the statewide  
26 family violence system and the focus that was agreed upon  
27 at that early stage on women's safety as being the goal  
28 that should be encapsulated in whatever reforms were done.  
29 When we think about issues of economic abuse, how are we  
30 to understand that term "women's safety" and did that  
31 focus 10 years ago on safety take account of financial

1 abuse matters?

2 MS CUMBERLAND: I think that women's safety didn't take any  
3 account of financial abuse matters and certainly not to  
4 the extent that we are talking about financial abuse and  
5 economic abuse, financial inclusion as we talk about it  
6 today. I think we were well aware 10 years ago that the  
7 term "sexually transmitted debt", those sorts of phrases  
8 were around then, but there is no doubt in my mind that we  
9 didn't really capture the full significance of economic  
10 abuse.

11 We did, when the legislation and the definition  
12 of "family violence" was being redrafted, we did have  
13 success in having it included there. But I think one of  
14 the things I have reflected on is that over a period of  
15 time you do see the evolution in thinking and in how some  
16 of the policy and strategies can have an impact and  
17 I think we are just now seeing this concept coming to its  
18 rightful place.

19 MS ELLYARD: One of the things that one can see from looking  
20 at - and you mentioned this on Monday - the early reports,  
21 for example, of domestic violence organisations, is the  
22 extent to which there were economic disadvantages for  
23 women who came into the family violence system 10,  
24 15 years ago. I wonder could you comment on, now with  
25 the benefit of hindsight, the way in which that first  
26 model of response to family violence operated to the  
27 economic detriment of women?

28 MS CUMBERLAND: I think it completely took away probably even a  
29 lifetime's achievement, even for younger women, a lifetime  
30 of their achievement as a citizen with economic  
31 independence and rights and entitlements. I think that we

1 could see that an incident of family violence, even one  
2 incident, but certainly repeat incidents could just wipe  
3 out what a woman had achieved over her lifetime to that  
4 date.

5 Now we know, from what women tell us, that of  
6 course women recover and we have seen many women speak  
7 about astonishing recovery levels, but if we look deeply  
8 we can see it can last a lifetime. It can hold you back  
9 for a lifetime, such a disruption to your economic  
10 stability at any one time through a severe family violence  
11 incident.

12 So I think that that's absolutely made us rethink  
13 this notion of the objective being about safety, because  
14 we concede now that it's a limitation in many ways to stop  
15 at that point and for us now our concern is to extend our  
16 hopes and aspirations for women to include something like  
17 their full participation in society, their full worth,  
18 their full ability to contribute and participate as free  
19 citizens.

20 MS ELLYARD: So if we think about the way in which the family  
21 violence system operates at the moment, to what extent  
22 does it operate in a way that goes beyond that goal of  
23 safety to empowering the woman, if I may use that phrase,  
24 to fully participate in society?

25 MS CUMBERLAND: I think this is the new frontier and I think  
26 that we are seeing - as we talk about it, I think I have  
27 spoken about this idea, we have to talk it into being, we  
28 have to talk this reality into being, and as we talk about  
29 economic abuse, economic inclusion, women's full  
30 participation in society, we know already that this is  
31 building an awareness in women, it's building an awareness

1 in our services and in our workforces, and it's absolutely  
2 something that's giving us a lot of hope and so much work  
3 to do. But I would argue, yes, we don't have systems, we  
4 don't have structures, we don't really have any way of  
5 measuring any impact, but it will come. We will talk it  
6 into being.

7 MS ELLYARD: One of the things you say in your statement at  
8 paragraph 22 is that many women enter the social support  
9 system because of family violence and effectively stay  
10 there. They never graduate out again. What are the  
11 factors that lead that to occur?

12 MS CUMBERLAND: I have been distressed as I've worked in this  
13 field to see how many women do become trapped in the  
14 system. Again it's an unintended consequence, but we do  
15 think about crisis and resolving a crisis situation, and  
16 professionals who work in this area, any practitioner will  
17 know that once you've stabilised the crisis, the more that  
18 you move into a hardship circumstance or something that's  
19 stable, the system soon tires of you and forgets about  
20 you. It's in that forgetting and in that fatigue that  
21 women's capacity to get out of the system, that genuine  
22 empowerment of women fails to take place, and it does mean  
23 for long periods of time. You often only have sort of  
24 small windows to get the re-engagement to happen, to get  
25 the reconnections to happen. Once those windows close,  
26 it's highly unlikely that women can re-engage to the  
27 extent that they could have if there were an earlier  
28 intervention.

29 MS ELLYARD: So if we were to think about some practical  
30 examples of this, would one such example be a situation  
31 where a woman is successful in leaving a violent

1 relationship but as a result loses her employment and then  
2 is supported on benefits in a new and safe location for a  
3 period of time. Absent some active efforts by others and  
4 her, she will remain then in that cycle of being on  
5 benefits. Is that one example of what you are talking  
6 about?

7 MS CUMBERLAND: That's right. We have seen regrettable, deeply  
8 regrettable cases where women have spoken about their  
9 experiences where, if they are employed, they are treated  
10 differently from a woman who doesn't have a job.  
11 I totally understand that the service system starts to  
12 structure around - they see that as women most in need are  
13 women who don't have employment. We will have to change  
14 that mindset. We will really have to think deeply about  
15 what that has meant and what unintended consequences that  
16 has built.

17 So, for me, when women are trying to keep their  
18 employment it should be a number one assessment factor  
19 that we respond to and reinforce and support, rather than  
20 it's something that - isn't it terrible to say - but it  
21 has excluded her from being supported.

22 MS ELLYARD: I have invited you and I think you have had the  
23 opportunity to look at the case study that has been made  
24 available to the Commissioners today and which was  
25 referred to this morning. Have you had the opportunity to  
26 look at that?

27 MS CUMBERLAND: I have.

28 MS ELLYARD: One of the issues experienced by that woman was  
29 that very issue of being turned away from services because  
30 she was in employment and the message being given to her  
31 that they were a service that existed for unemployed



1 women. Is her experience an isolated experience?

2 MS CUMBERLAND: I regret to say it sounds like it isn't.

3 I know that for employed women and women with access to  
4 independent wealth, we always did think in the family  
5 violence service system that those women had a number of  
6 options more than a woman who was on a low income or no  
7 income at all. We definitely did speak about that in  
8 terms of how we would prioritise service delivery.

9 But I am very surprised to see how fixed it has  
10 become. I think it just flies in the face of all the  
11 things that we've been talking about in terms of safety,  
12 weighing up an individual woman's circumstances, looking  
13 at her decision making, what she would like to have  
14 happen, how we empower her. I think that these are all  
15 matters that we do have to address.

16 In the case that you have shown me where this  
17 woman was turned away because she had a job, when you look  
18 at the series of setbacks that occurred with that  
19 rejection, so it wasn't just "We can't help you now," she  
20 lost her nerve, she lost her confidence, she stayed in a  
21 situation that she should have got out of, she was ready  
22 to take that step, and it just reminds us, doesn't it,  
23 that what we say at every point can have a dramatic  
24 impact. You might think it's just a word or two, but that  
25 response set her back over many months, from what I can  
26 see.

27 MS ELLYARD: The other thing and perhaps the more hopeful thing  
28 that that case study shows us is the hugely beneficial  
29 role that her having that job ultimately played. Although  
30 it was a setback in some ways, the presence of a  
31 supportive workplace and a supportive manager was

1 instrumental ultimately in her escaping her violent  
2 situation.

3 MS CUMBERLAND: In the case study she calls her workplace her  
4 family, her second family, and she found her manager was  
5 perhaps the most - one of the most supportive persons that  
6 she had met. We think in the family violence reform we  
7 have absolutely got to target and work with employees,  
8 work in workplaces. We are fairly confident that a new  
9 capacity for support and intervention is happening at  
10 workplaces.

11 But what I thought more broadly is that the whole  
12 system of our economy, of economic inclusion, we have been  
13 talking about women as victim survivors, we know we are  
14 talking also about researchers, artists, doctors, women  
15 who can start their own small businesses, we are talking  
16 about women who can make wonderful contributions. They  
17 are educated; half our education system has been devoted  
18 to their education and to their training.

19 To me this is a given, instant and effective  
20 empowerment system. It's right there waiting for us to  
21 link the family violence service system into it in such a  
22 way that this empowerment can be made accessible to the  
23 women who report family violence.

24 MS ELLYARD: It seems that one of the barriers, perhaps  
25 historically or perhaps currently, to engaging in that  
26 process of empowerment has been a very understandable  
27 reluctance to do anything that might be seen to be blaming  
28 the victim for being in difficult circumstances and a  
29 reluctance to put pressure on a victim who is in a low  
30 point which might be unfair. How are we to strike the  
31 balance between not punishing people for being in

1       difficult situations, but creating the necessary impetus,  
2       with assistance, for them to move out of that difficult  
3       situation?

4   MS CUMBERLAND:  I think we have assessment capacity to do just  
5       that and I think that we do have to say why it's so  
6       important.  No doubt - Adam was speaking just before me -  
7       there's a way that you can assess victim survivors and you  
8       can assess that everything for them should be freely  
9       given, and that is the state at which they are and that is  
10      the best you can do for them.

11               But we also know, and women report this to us  
12      through our service systems, that something that was hard  
13      won, something that they have earned, can have enormous  
14      impact on their self-esteem and their feeling of  
15      self-worth.  If family violence does nothing else, it  
16      takes all of that away systemically over years and years  
17      and years.

18               So I think the service system has to be prepared  
19      to move its mind on this, to have an open mind and to  
20      start to put in place challenges for women, challenges not  
21      that blame them.  Every challenge I have doesn't blame me  
22      for something that I have done; it respects me as a  
23      thinking, capable person, able to do things and able to  
24      contribute.  So if we put challenge in that context as a  
25      respect for that person's capability, not something that  
26      blames them, I am sure we can overcome this tension.

27   MS ELLYARD:  Perhaps it might be that different responses are  
28       needed for different cohorts of women, because I think  
29       it's clear from what you have said that there are some  
30       women who experience a great loss of economic capital and  
31       independence through coming into the family violence

1 system because they have previously had a degree of  
2 economic power. On the other hand, there is a cohort of  
3 victims who have perhaps never been in a position of  
4 economic independence and who have been vulnerable because  
5 of that history of economic disadvantage.

6 Thinking particularly about that latter group,  
7 one of the functions of your organisation deals with this  
8 concept of intergenerational poverty. What are the  
9 particular challenges and solutions to assisting women who  
10 have come through that experience of life and who haven't  
11 got a point to return to but will be starting up for the  
12 first time, perhaps?

13 MS CUMBERLAND: We've found in our work with younger women in  
14 particular that if a young woman disengages from, say, the  
15 school system or any kind of external structure, a  
16 workplace or a school system, if she disengages we have  
17 about three months to get her to re-engage. If we don't,  
18 she will be three times more unlikely than a male to  
19 re-engage with any public structure. That means to return  
20 to a school, to return to a learning opportunity, to  
21 return to somewhere where she may seek employment. Her  
22 sense of failure, of course, makes her completely  
23 vulnerable for some kind of power and control to be  
24 exercised over her.

25 So, for example, those experiences in your  
26 background absolutely place you at a different point and  
27 the way that services can support you over time is  
28 absolutely something that we need to be prepared for. A  
29 woman with that sort of background will need further  
30 support.

31 But what I'm saying is that we just have

1 assessment tools. We do have the sophistication. We have  
2 risk assessment and other social assessments that I am  
3 sure we can start to elicit the relevant information and  
4 respond appropriately. But I do think in terms of  
5 principle, in terms of principle we have to look at this  
6 question of empowerment and we have to look at the  
7 question of dependency, and over the whole system and over  
8 the whole structure we do have to be mindful that our goal  
9 is empowerment, not that dependency which often is created  
10 when we stop just at the safety objective.

11 MS ELLYARD: What exists presently by way of other programs,  
12 perhaps from the Commonwealth Government, to assist with  
13 this goal of empowerment, thinking particularly about  
14 employment? Are there presently structures that assist  
15 women with employment and training that could be taken  
16 advantage of by family violence services to reintroduce  
17 women to work?

18 MS CUMBERLAND: There is an enormous change happening around  
19 women and employment and economic growth. There's changes  
20 to child-care structures and who is eligible and how much  
21 child-care is going to be available. There is a lot of  
22 incentive and new awareness that women will be an enormous  
23 source of growth in our workforce and in our economic  
24 growth overall.

25 So, again I am confident and the research that  
26 does exist will tell us that we can again link family  
27 violence reform to this amazing new potential to resource  
28 and support women around their empowerment at a national  
29 level.

30 MS ELLYARD: Can I turn to the topic of education. Do you have  
31 views on the role that education can play in this

1 longer-term goal of empowerment?

2 MS CUMBERLAND: It is often the one, isn't it, that people just  
3 cite, "If you could only have one choice, if you could  
4 only pick one thing, what would you choose?" And people  
5 often say "I would choose education" to be something that  
6 empowers and gives the full dignity to every life. Again,  
7 we have to look at the gendered way education is  
8 experienced in Australia. Half the population, women and  
9 girls, do very well, really, in school right up until the  
10 stage in secondary school where you have to choose a  
11 profession or a profession pathway. Girls go one way and  
12 boys start to go another.

13 It doesn't really impact in tertiary results. We  
14 are still getting terrific results for women and girls  
15 right across the education sector and for women in  
16 tertiary results. Enter the job market and everything  
17 changes, and women go into lower paid work and gender  
18 stereotyped work and that's where a lot of the economic  
19 inequality and the wage inequality and wealth inequality  
20 starts to occur.

21 So I think that we have to really look at these  
22 education pathways that start to develop when girls are  
23 around about 15 and 16. Really I'm a big supporter of  
24 maths and science for girls, but absolutely our economy  
25 and the full benefit of women's participation will be  
26 limited if we have such a high rate of gender segregation  
27 in our workforce. It's something I think educators and  
28 people who run education institutions could really  
29 examine.

30 MS ELLYARD: Why is it, do you think, that there is now this  
31 awareness of the importance of economic issues and the

1 importance of economic empowerment? What has brought  
2 about this new frontier, if I can use the words that  
3 you've used previously?

4 MS CUMBERLAND: Well, when truth and right are on your side,  
5 they will emerge and they will just come through, and it  
6 is right that women can fully exercise their skills, their  
7 creativity, the full human capacity. We all do that in  
8 the work that we choose to do.

9 But I think also what's happened in the family  
10 violence service system is that we have been overwhelmed  
11 with the lack of hope, the sense that we are going around  
12 in circles, the sense that we have built systems that  
13 really aren't systems at all, but are just disconnected  
14 pieces that can go anywhere at any time.

15 I think when we've looked at things where we  
16 haven't got the success that we wanted, we haven't seen  
17 the benefits that we had hoped for, something we thought  
18 about 10 years ago, it starts to push you and it starts to  
19 push your thinking. There is no doubt that at  
20 Good Shepherd and with other not-for-profits that we have  
21 been working with we have pushed this boundary and pushed  
22 our horizon.

23 The Sisters say to us, and we're delighted that  
24 they are there to tell us when things get tough, that you  
25 can often look at a situation and see the problem, and  
26 they will really encourage us to look at that same  
27 situation and see the abundance, see what you have. When  
28 you work with women in family violence, those women are  
29 the abundance. They are the strength. They are the  
30 resource that you are deeply looking for. It's right in  
31 front of us. That's the potential, that great human

1 potential that we've been seeing and it's given us great  
2 hope and a great desire to push forward.

3 MS ELLYARD: You have mentioned that Good Shepherd and a number  
4 of other organisations, not-for-profits, have started to  
5 develop in this area and focus on this. To what extent  
6 would a shift to a greater understanding of these economic  
7 empowerment issues require changes from within the  
8 specialist sector?

9 MS CUMBERLAND: Yes, I expect change, and I expect serious  
10 change. I think any time you start to talk about money  
11 you are talking about power, and there will be change. A  
12 small step that we've taken at Good Shepherd, so just one  
13 change that we've introduced, we have received funding to  
14 train our staff, all staff, in financial coaching so that  
15 no matter at which point someone enters Good Shepherd for  
16 a service response, it could be an adolescent girl, it  
17 could be a woman escaping violence, it could be a woman  
18 who has come to our service over a Child Protection  
19 matter, but she will receive a response that includes an  
20 aspect of financial coaching. That will mean that  
21 awareness will be raised around this issue, her capacity  
22 and where she's at will be talked about and that principle  
23 of always, always staying in charge of your own financial  
24 matters, managing your own money, valuing your financial  
25 independence will be a principle that we'll be able to  
26 reinforce right across the organisation. There is nothing  
27 stopping us from reinforcing these kinds of interventions  
28 and skills right across the family violence service system  
29 as a place to start.

30 Adam spoke about microfinance. We would be very  
31 supportive of building on microfinance, on no-loan schemes



1 in a dedicated family violence package. Some of the loans  
2 and the criteria for eligibility are restricted now, but  
3 we could build a dedicated financial response for family  
4 violence that did address making money available for bonds  
5 and rent, that did address transport, that also addressed  
6 them in the white goods that we currently have, but  
7 immediate work for helping kids in school. We could put  
8 together a whole set of responses that we could fund in a  
9 family violence response, a dedicated response.

10 Again, we could do that across the system in  
11 Victoria and our microfinance programs go national. We  
12 would need a funder. We would need partners in that  
13 scheme. We would need a bank. But we would love to have  
14 the challenge to set it up.

15 MS ELLYARD: At the risk of descending from high matters of  
16 principle to something more prosaic, what's the economic  
17 argument for the empowerment of women?

18 MS CUMBERLAND: It is pretty straightforward. I'm not allowed  
19 to talk about the moral argument, but I will talk about  
20 the economic one.

21 MS ELLYARD: We have been talking about the moral one. What's  
22 the economic one?

23 MS CUMBERLAND: Women in the workforce will pay tax, women in  
24 the workforce will contribute their skills, and we are  
25 very confident the arguments are there that if most of  
26 your citizens are contributing to the economy, you can  
27 measure economic growth by virtue of that kind of full  
28 participation.

29 The Federal Government has recognised this, and  
30 I'm sure it's what's behind many of the incentives and  
31 changes that they are making to the welfare sector in

1       general. But in our submission we do really address this  
2       question that family violence reform will have to be  
3       sustained and resourced by some kind of plan, and we  
4       really do hope that an economic strategy or an economic  
5       policy is called for by the Royal Commission or considered  
6       by the Royal Commission in addition to the other  
7       recommendations that will be made around the moral  
8       imperatives and the social imperatives.

9               We think an economic statement or an economic  
10       policy or strategy that starts to build these links  
11       between the family violence service interventions,  
12       recognising women as full contributors to the society, the  
13       employment that they could enter into, the employment  
14       growth that that could cause and how that could impact  
15       across the State, we think some kind of argument along  
16       those lines would really be new and would really answer a  
17       lot of the questions that people will ask and already are  
18       asking, "How much is this going to cost and how are we  
19       going to pay for it?"

20              So if we looked at those arguments I think that  
21       they would be compelling, that we have a social crisis  
22       that we've all talked about as being huge and crossing  
23       over sectors, crossing boundaries. So if we really  
24       brought that together and looked at it in a positive way  
25       that, if we could turn it around, what positive impact  
26       could it have, I think we could get a measure, an economic  
27       measure, where that impact could be recorded.

28   MS ELLYARD: At the end of your statement you talk about what's  
29       going to be involved moving forward and the need for a  
30       kind of paradigm shift. Is what you've just been talking  
31       about part of this idea of starting to think about this

1 social problem in a very different way and to respond to  
2 it in quite a different way?

3 MS CUMBERLAND: Let's respond to it in a different way. If we  
4 change our mindset, all sorts of different options will  
5 start to become clear to us. I was thinking as the  
6 Commission opened the other day, a number of social  
7 problems are addressed in this way, but we try to say, and  
8 our sector has tried to do the same thing, "Family  
9 violence costs the society this amount," and I remember  
10 when those first figures came out we thought it was  
11 \$14 billion.

12 Of course, we started to make those calculations  
13 or get researchers or get some companies to try to do  
14 those calculations because we thought if we could say it  
15 cost \$14 billion, surely they will give us six or seven to  
16 kind of fight it, and then they've saved seven. That's  
17 what we all thought. We've done it on smoking, on alcohol  
18 and drugs, in a whole range of ways to try to see, if we  
19 could do that measure, would it have an impact on how  
20 seriously we tried to tackle the problem.

21 For some reason I have never seen that connection  
22 happen. We have all been thrilled with the results, if  
23 you like, because it backed our hunches, family violence  
24 is enormously costly, let alone the harm, but the cost to  
25 the economy, but we have never really linked that cost  
26 with the effort that we are trying to do to prevent that  
27 harm. I don't know why it's the case. I think it might  
28 be because we haven't really put this middle story into  
29 the equation. I would really like us to have another go  
30 at that and see if we can be the first sector or provide a  
31 model for others to see how we can genuinely start to see

1        what a cost really is and we can put plans and strategies  
2        in place to directly meet that. But we will only be able  
3        to do it if we broaden our thinking and our strategic  
4        thinking and we will only be able to do it if we do have  
5        some economic imperatives.

6                We have women on our side, we have thousands of  
7        them, we have enormous amounts of harm. I do think we  
8        have wonderful capacity to reduce that harm and to prevent  
9        it, but ultimately to make that case that we could impact  
10       on the economy of Victoria and by that of course I mean an  
11       empowerment system for women. That's some of the thinking  
12       I would like us to pursue.

13 MS ELLYARD: One of the other things that you note at the final  
14       section of your witness statement is I think economic  
15       empowerment is one of the two key issues you see as being  
16       the new horizon, but you have also identified I guess  
17       another new trend, perhaps, that you think will be part of  
18       the next wave of change, which is the role of men.  
19       I wonder if you could comment on that?

20 MS CUMBERLAND: I have recently been with Adam Mooney, the  
21       previous witness, and we travelled together earlier this  
22       year. We went to the Women's Bank in New York and we went  
23       to the Bill and Melinda Gates Foundation. We found  
24       wonderful men working on gender equality, on the  
25       empowerment of women and girls. It's because I haven't  
26       encountered it very often in my career - I just haven't.  
27       I have worked in different places where I probably  
28       wouldn't encounter it, but when I see it, it's new, it's  
29       something that is very powerful to me and I'm sure it is  
30       having a power more broadly across the community.

31                Before coming in today it was young men in good

1 money and young men in our microfinance programs who wrote  
2 to me about some stories of women that they were working  
3 with, telling me about the work that they're doing and how  
4 important they think this Royal Commission is. Ken Lay,  
5 the Premier, the head of the army; when men speak about  
6 this issue it is new, but it is powerful. We have  
7 wonderful men who are wanting to find solutions, as we  
8 are, I have no doubt, and I want to work with those men  
9 and I want us to put all of our resources together to make  
10 these changes that we know we can.

11 MS ELLYARD: Thank you, Dr Cumberland. Are there any questions  
12 from the Commissioners?

13 DEPUTY COMMISSIONER NICHOLSON: I had two or three.

14 Ms Cumberland, in other areas of social policy it's now  
15 being recognised that the very manner in which you go  
16 about stabilising crisis can determine the chances of  
17 ongoing economic participation. I'm wondering whether you  
18 want to comment on how we go about stabilising crisis in  
19 family violence at the moment and whether it hinders or  
20 enhances the chances of ongoing economic participation.

21 MS CUMBERLAND: And isn't that some of the most valuable  
22 thinking for us to take heed of? It completely resonates  
23 with my experience. I would say that we have a lot to do  
24 in that area. I totally agree that the immediate response  
25 can have a lasting impact and how we do it is critical.  
26 When we look at the family violence service system,  
27 though, and we do see a system in crisis, we see an  
28 undertrained workforce, we see real mistakes being made,  
29 we see too many mistakes being made like turning away  
30 women who have jobs, like trying to - as I said the other  
31 day - manage demand rather than meeting it, that's a

1 mindset question as much as it is a resource question,  
2 then we must accept that there is a lot of room for  
3 improvement on the quality of the first response and how  
4 that leads to what will come later.

5 DEPUTY COMMISSIONER NICHOLSON: Perhaps in that vein I'm  
6 wondering when a woman comes into a family violence  
7 service and an assessment about her circumstances is  
8 undertaken, does it take into account her education  
9 achievements, her qualifications, her work experience or  
10 her employment aspirations?

11 MS CUMBERLAND: In my experience, no. If the point is should  
12 it, I totally agree it should.

13 DEPUTY COMMISSIONER NICHOLSON: The other question I had was to  
14 do with particularly that cohort that counsel talked about  
15 of women who may not have been in the workforce for some  
16 time. As you know, the Commonwealth Government has a  
17 major responsibility in providing employment assistance.  
18 When a person approaches Centrelink to get that employment  
19 assistance, they are assessed as to what are the barriers  
20 to employment and what type of employment assistance they  
21 will get and what level of resourcing.

22 My understanding is that there is a job seeker  
23 classification instrument, there's a tool that's used for  
24 that assessment, and it is my understanding that it  
25 doesn't refer in any way in particular to family violence.  
26 Would you suggest that it should? I'm taking into account  
27 what you said when you were a witness in a previous  
28 session, that the sort of employment assistance needs to  
29 be trauma informed.

30 MS CUMBERLAND: Yes. Is your question, though, that if that  
31 assessment included family violence? I'm not sure for

1           what purpose that would be taken up.

2   DEPUTY COMMISSIONER NICHOLSON: I'm concerned that if, as you  
3           say, the sort of employment assistance that cohort of  
4           women would need needs to be what you call trauma  
5           informed, then the first thing to do is actually to  
6           identify that there has been family violence in this  
7           lady's life.

8   MS CUMBERLAND: And from there we could improve our first  
9           response and from there we could ensure - - -

10   DEPUTY COMMISSIONER NICHOLSON: Well, if the job seeker  
11           classification instrument isn't identifying that, it's not  
12           going to allocate resources sufficient for what you need.

13   MS CUMBERLAND: In the context of what I have said, in the  
14           opportunity that you are outlining, I would completely  
15           agree that that could be a very good benefit reaching  
16           thousands of women again.

17   DEPUTY COMMISSIONER NICHOLSON: So perhaps a different way of  
18           asking the question is would trauma informed employment  
19           assistance, how different would that look from the type of  
20           employment assistance that a woman typically gets now  
21           through the Commonwealth Government's jobactive system?

22   MS CUMBERLAND: If there is no assessment around family  
23           violence, you can imagine that she just joins a queue and  
24           takes her turn. If there's an assessment and an  
25           understanding of family violence, then again there's no  
26           doubt it follows that the response would be more effective  
27           and could absolutely be - again, anything that's effective  
28           and takes into account her lived experience will reduce  
29           the potential of retraumatising or revictimising that  
30           woman. So, as a broad statement I generally support  
31           everything that we can do to embed into the current

1 systems work and policy change that can prevent that  
2 revictimisation.

3 COMMISSIONER NEAVE: To what extent does the refuge model that  
4 was developed in the 70s and 80s still have validity today  
5 and how does it need to be modified?

6 MS CUMBERLAND: It needs to be modified considerably. It's not  
7 something that resonates with the reality in many women's  
8 lives. There are many other ways that we can ensure high  
9 security other than sending women into very remote places,  
10 into communities where they are not to know anyone. They  
11 have to pick a place where they could go to a supermarket  
12 and make sure that they couldn't be recognised, for  
13 example. How on earth could they meet that expectation?

14 We mainly send them to places where no one will  
15 know them, and we send their children to places where no  
16 one will know them. I fully hope that we stop doing that.  
17 So high security refuge needs to change completely. We  
18 can make sure the security is offered, but not in that  
19 way, not in that practice.

20 We do have to really think about the blurred  
21 lines between the refuge housing accommodation now and the  
22 broader homelessness sector. We do have to make sure that  
23 housing for women and children is appropriate. That is a  
24 big challenge, but it cannot be that these places become  
25 unsafe places for women and children to be in.

26 So we will always need something that is women  
27 specific. You can't just run accommodation for women  
28 escaping violence and run the risk that sort of a mixed  
29 gender facility - you just have to put policies and  
30 procedures in place that again start to build this web of  
31 rules and regulations that we then have to start to check



1 and monitor and comply with and all of a sudden you have  
2 systems that just don't work.

3 So when we think about the responses that we  
4 make, and attention to this gender organising principle is  
5 essential, not just from a philosophical point of view,  
6 but from a practical position. It really is the only way  
7 that things can work. Every time we think of a policy or  
8 we think of a specialisation or a segmentation or  
9 something different that we want to add to the system, we  
10 have to ask ourselves, "How do we pull it all back  
11 together again at the point where we have to report on  
12 whether or not it's working?" They are the balancing acts  
13 that we have to juggle at all times.

14 MS ELLYARD: If the Commissioners don't have any further  
15 questions, I ask that Dr Cumberland be excused.

16 COMMISSIONER NEAVE: Thank you very much, Dr Cumberland.

17 <(THE WITNESS WITHDREW)

18 MS ELLYARD: The next witness is going to be appearing  
19 remotely. She will be dialling in on a mobile device from  
20 overseas. I wonder whether the Commissioners would be  
21 willing to take a two or three minute break just to ensure  
22 that the link is working and that everything is in place.

23 COMMISSIONER NEAVE: Thank you, Ms Ellyard. We will take five  
24 minutes.

25 (Short adjournment.)

26 MS ELLYARD: Thank you, members of the Commission. Ms Bignold,  
27 I gather, is on the line. Ms Bignold, can you hear us?

28 MS BIGNOLD: I can hear you, yes.

29 MS ELLYARD: Can you see us?

30 MS BIGNOLD: I could see you as you entered. I can see the  
31 Royal Commission.

1 MS ELLYARD: Thank you. We are in the Royal Commission room  
2 and the Commissioners are on the Bench. I will ask that  
3 you be sworn in before we go through your evidence.

4 MS BIGNOLD: I can see you now.

5 MS ELLYARD: Thank you.

6 <JOCELYN MARY BIGNOLD, (via videolink) affirmed and examined:

7 MS ELLYARD: Ms Bignold, thank you very much for making  
8 yourself available this afternoon our time, very early  
9 morning your time. I understand that you are dialling in  
10 on a mobile device and there might be some glitches in the  
11 sound and video, but please let me know if you can't hear  
12 or see me at any point. Can I ask you to tell the  
13 Commission, please, your present job title and what the  
14 responsibilities of that job involve?

15 MS BIGNOLD: I am currently the CEO of McAuley Community  
16 Services for Women and we provide accommodation and  
17 support services to women and their children who are  
18 fleeing family violence and women who have had long  
19 histories of homelessness and mental illness.

20 MS ELLYARD: You have made a statement to the Commission which  
21 is dated 13 July 2015?

22 MS BIGNOLD: Yes. That's correct.

23 MS ELLYARD: Are the contents of that statement true and  
24 correct?

25 MS BIGNOLD: Yes.

26 MS ELLYARD: You have also attached to your statement a copy of  
27 the submission made by McAuley Community Services to the  
28 Royal Commission.

29 MS BIGNOLD: Yes, correct.

30 MS ELLYARD: I want to ask you to expand upon some of the  
31 evidence in your statement about the way in which your

1 service has thought about and worked on the area of family  
2 violence and employment. In your statement you make it  
3 plain that family violence is a workplace issue. In what  
4 ways is it a workplace issue?

5 MS BIGNOLD: What I mean by that is it is an issue for all of  
6 us, including the workplace. So what we understand from  
7 research, or from the research from Ludo McFerran at the  
8 University of New South Wales, is that two-thirds of women  
9 from her study - two-thirds of participants in her study  
10 report that they are in the workplace. Also, studies from  
11 the US indicate that between 10 and 30 per cent of  
12 workplaces have employees who are experiencing family  
13 violence in that current year. So, it says to us that  
14 employers are experiencing the impacts of family violence  
15 in their workplace and perhaps not realising it.

16 MS ELLYARD: One of the points that you make in your statement  
17 and one of the focuses of the McAuley Works program has  
18 been on employer education in the sense of making  
19 employers more aware about what they can do to support  
20 employees who are experiencing family violence. You deal  
21 with that at paragraphs 54 and following in your  
22 statement.

23 Can I invite you to outline for the Commission  
24 the issue that arises if a woman needs a day off to go to  
25 court because of intervention order matters, for instance,  
26 what's really going on for her in the broadest sphere that  
27 the employer needs to understand if the employer is to  
28 respond appropriately?

29 MS BIGNOLD: I relate an experience that we had as an employer  
30 when we had a young woman employed to do a role completely  
31 unconnected to family violence. She was very

1 professional, she was outgoing and did her job very, very  
2 well. When the intervention order finished, the behaviour  
3 of the perpetrator began again. So we had no indication  
4 that she had experienced family violence before, she  
5 hadn't declared it in advance, she was just a normal  
6 employee that we were very happy with. So we of course  
7 supported her to go to court, to get the intervention  
8 order reissued. But the police were dealing with 30 other  
9 cases, actually had the intervention orders in their divvy  
10 van, they were driving around with that, not able to serve  
11 the intervention order until they found him.

12 So, for the whole three weeks that she was at  
13 work she was very, very agitated. She withdrew into  
14 herself. She wasn't able to concentrate on her job. She  
15 became pale. She was fearful of her family who lived in  
16 the house with her. She was fearful of her pets. So that  
17 whole, what we thought might be one day in court, meant  
18 for three whole weeks she wasn't able to do her work.

19 That got us worried about what other employees  
20 would be experiencing if they didn't realise the extent of  
21 what's needed to support an employee.

22 MS ELLYARD: So you make the point in your statement that  
23 supporting an employee in relation to family violence is a  
24 lot more than giving them the day off so that they can go  
25 to court.

26 MS BIGNOLD: Maybe. For us it's more about having an employer  
27 understand the issue of family violence and what it can  
28 mean for the employee, him or her, and then how to support  
29 her effectively. I guess if the system is operating well  
30 it might simply mean one day off. But at the moment it's  
31 not; it's overburdened. So employers have to understand

1 the implications so that they don't start to performance  
2 manage her out.

3 MS ELLYARD: I take it, and you make this point, that one of  
4 the main reasons to engage with employers to improve  
5 awareness is so that women don't lose their jobs in  
6 circumstances where a more understanding employer would  
7 not sack the woman.

8 MS BIGNOLD: Absolutely. We feel that this is a much earlier  
9 point of intervention. We are hoping that if similar  
10 types of programs are effective we won't see these women  
11 in homelessness services or family violence services. We  
12 might see them in information referral, but not at refuge.

13 MS ELLYARD: So the employer education program that you have  
14 described in your statement is the second arm of the  
15 McAuley Works program, with the first arm being an  
16 employment program for women. Can I ask you to explain to  
17 the Commission how it was that McAuley Works came to be  
18 set up in 2010 and what the impetus for it was?

19 MS BIGNOLD: The main reason was women themselves were asking  
20 for assistance to employment. We had case managers who  
21 were dealing with homelessness and legal issues and  
22 family, quite a whole range of the normal sort of case  
23 management issues that you would deal with. To work or  
24 navigate the employment services you need almost a  
25 different language again, and the range of systems that  
26 case managers needed to navigate and support clients to  
27 access was really too difficult. So we established the  
28 employment program itself. What we were also finding was  
29 that job services were not helping women at that point  
30 that they wanted to get work.

31 MS ELLYARD: One of the points that you make at paragraph 39 of

1 your statement is that many of the women whom your service  
2 encountered wanted to work but in various ways they were  
3 being actively discouraged by the system from working.

4 Can you explain to the Commission the various ways in  
5 which they were being kept out or discouraged from  
6 working?

7 MS BIGNOLD: Because they were coming with multiple issues they  
8 were eligible for the usual exclusions.

9 MS ELLYARD: So, for example, a woman who had young children?

10 MS BIGNOLD: Exactly. So they were either voluntary  
11 participants and didn't have job search requirements or  
12 when they came - they were the typical PSP, what was  
13 previously known as the PSP or (indistinct). I'm just not  
14 familiar with the current language. It's changed.

15 MS ELLYARD: So these were women who either because they had  
16 caring responsibilities for young children or because they  
17 had some diagnosable or identified condition would have  
18 been eligible to receive Centrelink payments and not  
19 placed under any obligation to seek employment?

20 MS BIGNOLD: Even if it wasn't diagnosable. If it was multiple  
21 issues. For example, if they were experiencing family  
22 violence and homelessness, not even a mental health  
23 diagnosis, then they would be actively encouraged to go  
24 home and sort out their problems, is what some of them  
25 said.

26 MS ELLYARD: And in what way was that sometimes not in their  
27 interests? If they were able to stay at home and not  
28 work, why was there a need in your view to encourage them  
29 to get work?

30 MS BIGNOLD: Women were coming to us seeking employment in  
31 order to get out of a violent situation. They thought

1           that the job and the money were their keys to leaving a  
2           relationship.

3   MS ELLYARD:   Does that mean in your experience that, although  
4           perhaps Centrelink, social workers or other people were  
5           encouraging them not to work, women themselves identified  
6           that getting a job would be their pathway out of their  
7           difficult situation?

8   MS BIGNOLD:   Absolutely.   Yes, without a doubt.

9   MS ELLYARD:   So what then was the way in which the employment  
10           program set up by McAuley Works was structured?   What did  
11           it offer women?

12   MS BIGNOLD:   It was really based on a case management model.  
13           We were outreach.   The team had laptops.   We had vehicles.  
14           We went to where the women were, obviously not in their  
15           houses but local libraries, sometimes McDonald's, places  
16           where we could access the internet, and we started with an  
17           assessment of their needs, including a risk assessment and  
18           a resume.   They were the first starting points.

19                   Then we built their job search capacity, their  
20           capabilities, interview practice, job search; we actually  
21           helped them job search.   They were the ones who applied  
22           for the jobs.   They were the ones who went to the  
23           interview.   So we offered very practical assistance.   We  
24           linked them with (indistinct) for clothing.   We supported  
25           them post placement.   We didn't do reverse marketing.   So  
26           we didn't go looking for the job and place them in a job.

27   MS ELLYARD:   When you talk about reverse marketing, you mean  
28           you are distinguishing your program from programs where  
29           the employer would have known that this was a woman being  
30           assisted through a job search program?

31   MS BIGNOLD:   That's right.   It was up to the woman to choose to

1 disclose or not to disclose family violence, for instance.  
2 MS ELLYARD: In your statement at paragraphs 47 and 48 you give  
3 one particular example of a success story for the program  
4 of a woman who had some mental illness issues and was on  
5 the disability support pension, but who was assisted  
6 through this program. Can I get you to tell that woman's  
7 story, please?

8 MS BIGNOLD: Yes. She was absolutely amazing. If you had a  
9 look at her history you would never imagine that she would  
10 actually work. So this particular one had five different  
11 psychiatric diagnoses, and I'm not even sure how you get  
12 that many. She was living in our longer term  
13 accommodation and she was desperate to work. She also  
14 wanted to be in theatre or some sort of arts type job,  
15 which was a bit unrealistic for her current situation.  
16 But the team were very keen that she had the opportunity  
17 to do both, for the practical job that would be bread and  
18 butter - is the background noise to - - -

19 MS ELLYARD: It's a little bit distracting. I don't know  
20 whether you have control over the background noise, but if  
21 you do - - -

22 MS BIGNOLD: I can actually move just outside. They are not  
23 actually open for another hour. It's okay.

24 MS ELLYARD: You were saying that this particular woman was  
25 very keen to work but she had perhaps unrealistic  
26 expectations about where her first job could come from.  
27 So what approach was taken to work with her?

28 MS BIGNOLD: The team helped her develop two different resumes.  
29 One was for her dream job and the other was for the job  
30 that she needed, the practical everyday job, which she got  
31 I think on the railways. I'm not quite sure where it was.



1           That was the one that enabled her to pay rent, food and  
2           got her out of our homelessness service. But we've kept  
3           her aspirations alive for her other job.

4 MS ELLYARD: So the result for that woman was no longer  
5           receiving the pension?

6 MS BIGNOLD: It was incredible, yes. She was completely off  
7           disability pension.

8 MS ELLYARD: Is that a kind of an extreme example perhaps  
9           that's not replicatable or do you think that there's the  
10          potential for a substantial cohort of women to be assisted  
11          in that way?

12 MS BIGNOLD: She, herself, was quite extreme in her number of  
13          diagnoses, but the approach and women's ability to get  
14          jobs, absolutely replicable, yes.

15 MS ELLYARD: What were the outcomes from the McAuley Works  
16          program? What success rate did you have and how were you  
17          measuring that success?

18 MS BIGNOLD: At different points we have had different success  
19          rates in terms of different evaluations will show  
20          different rates of success. What's quite difficult to do  
21          is track it over the period of time, and that's because we  
22          have had two different government contracts and funding  
23          from philanthropy or trust funds. So the innovations at  
24          one stage we had close to 70 per cent success rate. In a  
25          different evaluation it's lower than that. Certainly we  
26          were able to get women into work placements. I haven't  
27          got those two documents, the two evaluations in front of  
28          me today.

29 MS ELLYARD: One of the things you say in paragraph 53 of your  
30          statement is that at the end of the 2013/14 financial year  
31          there had been 201 referrals and, of those 201 referrals,

1 134 women had found jobs, and that as at the date of your  
2 statement 90 of those women were still in jobs, and that  
3 88 women had accessed vocational education and training  
4 programs and 45 women were no longer, although they had  
5 previously been, receiving Centrelink payments.

6 MS BIGNOLD: Yes, that's right.

7 MS ELLYARD: You estimate that taxpayers had saved about  
8 \$1 million, I take it, associated with those women no  
9 longer receiving benefits.

10 MS BIGNOLD: Correct. Yes.

11 MS ELLYARD: You indicated that part of the problem with  
12 reviewing the success of the program had to do with the  
13 way the program was funded. Could you explain the way in  
14 which this program received its funding and what those  
15 difficulties were?

16 MS BIGNOLD: The difficulty for the program is that, generally  
17 speaking, job services are a national responsibility, it's  
18 a Federal Government responsibility, not a State  
19 Government responsibility. So the State Government were  
20 at different times funding different little pockets of  
21 employment services, not a universal system. So we were  
22 able to take advantage of those sort of pockets of  
23 funding, but nothing systemic. You need to be part of the  
24 systemic funding stream for it to be successful.

25 MS ELLYARD: So you have identified in paragraph 67 of your  
26 statement that some funding was received from the State  
27 Government but that there was also philanthropic funding  
28 and also some Federal Government funding and trust  
29 funding.

30 MS BIGNOLD: The trusts are happy to fund innovation or pilots,  
31 that type of - trialling new things. So they were very

1 happy with those programs - that program and those  
2 results. But they were never going to fund it on an  
3 ongoing basis. So the real challenge in the future is how  
4 do you take the successful components - we have been able  
5 to demonstrate what is successful about what we have been  
6 doing, but how do you take those pieces of success and  
7 move it into a federal program.

8 The funding model - national programs are based  
9 on outcomes within 14 weeks. They are looking at case  
10 loads of 120. We were doing case loads of 40. It's those  
11 sorts of comparisons that you need to examine, really.

12 MS ELLYARD: Was the nature of the cohort that you were working  
13 with one of the reasons why your case loads were lower?

14 MS BIGNOLD: Absolutely, and the nature of - we were outreach.

15 A very, very practical response.

16 MS ELLYARD: Is the McAuley Works program in operation at the  
17 moment?

18 MS BIGNOLD: This year we have just closed it as of 30 June.

19 MS ELLYARD: Why?

20 MS BIGNOLD: Funding. No funding. Lack of funding. What we  
21 want to do is have talks with either Federal  
22 representatives, and some corporates have shown an  
23 interest in the type of sponsorship, but that's so early.  
24 The conversation is in such an early stage that I can't  
25 talk about it anymore.

26 MS ELLYARD: Did the closure of the program mean that the  
27 workers previously working in that program are no longer  
28 employed by McAuley Services?

29 MS BIGNOLD: That's right.

30 MS ELLYARD: Can I invite you to reflect a little bit more for  
31 the Commission on the implications of uncertain funding

1 streams for the way in which organisations such as yours  
2 are able to plan and deliver programs?

3 MS BIGNOLD: It's not just for us. It's loss of continuity,  
4 loss of experience in the sector at large, loss of a  
5 successful program for women. So we had - I can't  
6 remember exactly, but I think up to nine referring  
7 agencies referring into that program, all community sector  
8 agencies, so none of them could afford to pay for the  
9 service of course. Exactly as you said, it's difficult to  
10 plan, it's difficult for workforce retention, difficult to  
11 get a long-term analysis of what's going on. But this is  
12 a particular area of expertise that the community sector  
13 is not generally contracted to supply.

14 MS ELLYARD: Perhaps it's obvious, but could you spell out what  
15 in your view is the solution to those problems that you  
16 have identified caused by uncertainty of funding?

17 MS BIGNOLD: I think one of the things that I would be  
18 interested in exploring is real dialogue with government  
19 about what's needed. Obviously no one sector can manage  
20 the scale of the issue itself. But we still don't have,  
21 in my view, genuine dialogue with government. So there's  
22 an awful lot that governments can do and support community  
23 services to do, and there's an awful lot that the  
24 community services know.

25 If I join all of the dots, when I think about  
26 what employers can do very, very simply at an early  
27 intervention stage, there's so much that each of the three  
28 sectors can do together. But how to have that serious  
29 dialogue, it's an extremely difficult and complex thing to  
30 do but there must be a way of doing it.

31 On our own we couldn't get access to the right

1 people to speak to about what we were finding in the  
2 employment service, partly because you are so busy doing  
3 the work but also the job services themselves are changing  
4 so frequently. Every time you would initiate a  
5 conversation the staff would be gone, government  
6 (indistinct) would be gone. So some sort of sustained  
7 serious conversation around how the sectors can work  
8 together I think would be of value.

9 MS ELLYARD: When you talk about the participants to that  
10 conversation being, I think you have said, government, the  
11 community sector and employers, what level or levels of  
12 government are you talking about?

13 MS BIGNOLD: If you were just taking the employment services  
14 themselves you would have to include State and Federal and  
15 the community services system. I don't know if you would  
16 include corporate - at that early stage, yes, I guess you  
17 would, because they have a lot to lose from family  
18 violence. The 2009 report into family violence indicated  
19 what each of the sectors was actually spending in family  
20 violence. So they are all stakeholders. They all should  
21 be at the table.

22 MS ELLYARD: Does the question of who is at table partly depend  
23 on whether we are thinking of programs like the McAuley  
24 Works program as primarily an employment program or rather  
25 as part of a family violence response?

26 MS BIGNOLD: Both, really. The conversations that we are  
27 having with employers and what we know about family  
28 violence and the prevalence of family violence, as I have  
29 said, employers have a huge role to play in the early  
30 intervention area. What we are hearing in some of the  
31 conversations is that they understand the need for

1 policies and quite a lot of them are adopting policies,  
2 but they don't always know how to have a conversation,  
3 they don't always know how to address it. There's still a  
4 fear of invading someone's personal space. I have lost  
5 the thread of what you were asking. Can you go back to  
6 the question?

7 MS ELLYARD: You have mentioned that one of the difficulties  
8 with funding is that employment programs are largely a  
9 Commonwealth initiative, but it is also apparent that your  
10 employment program grew very much out of a response to  
11 women experiencing homelessness and family violence, which  
12 are State Government or at least cross-governmental  
13 funding responsibilities. So is part of the complication  
14 about funding programs like this this complicated question  
15 of whether you define it as an employment program or  
16 whether you define it as a homelessness and family  
17 violence support program?

18 MS BIGNOLD: I probably need to do a bit of thinking about  
19 that. Employment is a national issue. Family violence is  
20 a national issue. We have a national plan for reducing  
21 family violence against women and children. So where is  
22 the employment - I actually need to go back to the  
23 national plan to see what it does say about employment and  
24 take it from there. It's not an either/or. You need to  
25 be addressing it from both the national level and some of  
26 the localised solutions, I think. But it's both. It is  
27 an employment problem and a family violence problem.

28 MS ELLYARD: Thank you, Ms Bignold. I will just ask you to  
29 wait while I ask whether the Commissioners have any  
30 questions for you.

31 DEPUTY COMMISSIONER NICHOLSON: Ms Bignold, I have two

1 questions. But I will say that the results that you  
2 achieved are really quite remarkable and far superior, as  
3 far as I am aware, of anything that the Commonwealth  
4 Government's employment services have achieved for similar  
5 cohorts. So it's very, very significant.

6 My first question was: what were the critical  
7 elements to that success? You have mentioned low case  
8 loads. You have mentioned a capacity to outreach to where  
9 people were. I'm wondering whether your local knowledge  
10 and community support your organisation agendas had a role  
11 to play and whether the fact that you had some capacity to  
12 bring other health and welfare services to bear on the  
13 work were also part of that successful elements.

14 MS BIGNOLD: Tony, you would be well aware obviously your own  
15 research shows that some of the elements of the model that  
16 we have been using is successful. So co-case management  
17 was critical. That's where you mean with the other social  
18 aspects.

19 So where we could possibly manage it, if we  
20 couldn't get it from the referring agency - that would be  
21 the preferred option. So any referring agency, so another  
22 women's family violence service for instance, if they  
23 referred one of their people that they were case managing,  
24 we would do the employment component and they would  
25 continue to case manage on other aspects.

26 That didn't always match up as well as we wanted.  
27 So our case managers were broader than what we really did  
28 want them to be in some instances. So they would attend  
29 court to support a woman and then sort of take her the  
30 next day to the interview, for instance.

31 The resume was incredibly useful as a tool to

1 help women increase their self-esteem. The fact that we  
2 were mobile and supporting women before her interview,  
3 after her interview, after placement into a job - or a  
4 safe placement, she got the job - she could come back. So  
5 quite often a lot of women, especially around family  
6 violence, wanted to test their employment capacity in  
7 casual work.

8 So we had some women coming back over the years.  
9 So they would start a casual job, come back and say, "Yes,  
10 okay, I can do a few more hours" or "now I want to do a  
11 certificate in aged care" or something, or child-care.  
12 They would come back and start that and then go into  
13 another job. So they kept coming back. So we have had  
14 more job placements than women in jobs. So the placement  
15 rate was higher than actual numbers of women, you will see  
16 from the evaluation. That's because women would come back  
17 and have a new placement, their needs, what they were  
18 asking for.

19 Similarly to the Child Holding Second Step  
20 program. So that's another one that we are familiar with  
21 and drew on in terms of their practical response. So  
22 ringing them if we knew that they were down and  
23 encouraging them to keep going, but also very jobs  
24 focused. This was an employment program. Women were  
25 welcome to be part of it so long as they wanted to look  
26 for work.

27 DEPUTY COMMISSIONER NICHOLSON: The second part of my question  
28 was just thinking about what might be able to be designed  
29 in the future that might be a little more sustainable. If  
30 a woman in a family violence service who has had great  
31 difficulty in finding work attracted a package of funds to



1 support her in that ambition, would an organisation like  
2 yours be able to construct a service outreaching to women  
3 in local family violence services in that way?

4 MS BIGNOLD: I'm thinking about that right now, Tony. The  
5 State Government are distributing packages of an average  
6 of \$3,000 per woman who's experiencing family violence.  
7 But there's no core. So I'm not quite sure. So the  
8 package itself would be valuable, but you still need some  
9 core. You need some capacity to coordinate or - we have  
10 nothing. We only have the packages at this stage. We  
11 have nothing to build it into.

12 DEPUTY COMMISSIONER NICHOLSON: So what you are identifying is  
13 that packages alone might not be adequate without some  
14 core funding for an employment service provider such as  
15 yourself?

16 MS BIGNOLD: I believe so. I think we need go back to the  
17 drawing board. There are enough models, yours included,  
18 which are identifying the same sorts of things that we  
19 saw. So I think it's time to go back. I understand that  
20 the Federal Government have just recently funded a women's  
21 employment program, but I haven't been able to find any  
22 detail about that. It's really time to go back to the  
23 drawing board and say, "If this is our objective, what are  
24 the things that we need from an evidence statewide basis  
25 to make it successful?" I know the components, but how do  
26 you build the funding model that goes with it? Of course  
27 that has to be sustainable.

28 DEPUTY COMMISSIONER FAULKNER: Ms Bignold, I wanted to just go  
29 back to something that's a little more peripheral. You  
30 talked earlier about the work that you do in assisting  
31 business organisations to recognise domestic violence, to

1 set up domestic violence or family violence packages - not  
2 packages, training programs and policies, I suppose. So  
3 I'm wondering in all the time when you are dealing with  
4 organisations that are seeking this do they ever recognise  
5 the other side of their responsibilities in relation  
6 to they must be employing men who are using domestic  
7 violence and do they ever see any responsibility to  
8 understand how they might be able to mitigate the  
9 behaviour of men who are perpetrating?

10 MS BIGNOLD: That's not really been part of our conversations  
11 to date. It's certainly something that we are aware of.  
12 First of all, Patricia, we don't advise on the policy. We  
13 are not in any way dealing in the legal issues of policy  
14 or EBAs, for instance, employer bargaining. We leave that  
15 to people like Ludo McFerran and the unions. So we see  
16 ourselves as coming in a little bit alongside after that  
17 or that we can advise that that's a process that they take  
18 to embed some of their practices.

19 What we are finding is that every single  
20 conversation that we are having is really around what  
21 family violence actually is. So it's very early in the  
22 employers' thinking about this issue. So they haven't  
23 really got to, "What do we do with the men," and those  
24 conversations. Saying to employers (indistinct) social  
25 enterprise for us. We do a fee for service for the  
26 training. It's a very long lead-in time because they are  
27 coming back and back and back to have more of a  
28 conversation about, "What is family violence? What does  
29 it mean?" In some respects it's a very grassroots  
30 conversation before they will even get to the training.

31 DEPUTY COMMISSIONER FAULKNER: Thank you.

1 MS BIGNOLD: But certainly that really needs to be an aspect of  
2 it, though, is what do they do with perpetrators,  
3 especially when we know that stalking is one of the  
4 high-risk areas, and stalking can be done through  
5 electronic means, through emails at work and that sort of  
6 thing. So it's something that we really need to get our  
7 heads around.

8 DEPUTY COMMISSIONER FAULKNER: Thank you.

9 MS ELLYARD: If the Commission have no further questions,  
10 I will ask that the witness be excused with our thanks for  
11 making herself available at such a difficult time of day  
12 where she is.

13 COMMISSIONER NEAVE: Thank you. No other questions, and thank  
14 you very much, Ms Bignold.

15 MS BIGNOLD: Thank you. It's really important work.

16 <(THE WITNESS WITHDREW)

17 MS ELLYARD: That concludes the evidence on this topic.

18 COMMISSIONER NEAVE: Thank you.

19 ADJOURNED UNTIL FRIDAY, 17 JULY 2015 AT 9.30 AM