



AUSCRIPT AUSTRALASIA PTY LIMITED

ACN 110 028 825

T: 1800 AUSCRIPT (1800 287 274)

E: clientservices@auscript.com.au

W: www.auscript.com.au

TRANSCRIPT OF PROCEEDINGS

O/N H-982448

**THE HONOURABLE R.R.S. TRACEY AM RFD QC, Commissioner
MS L.J. BRIGGS AO, Commissioner**

**IN THE MATTER OF THE ROYAL COMMISSION INTO AGED CARE QUALITY
AND SAFETY**

ADELAIDE

10.00 AM, FRIDAY, 18 JANUARY 2019

DAY 1

**MR P. GRAY QC, Counsel Assisting, appears with DR T. McEVOY QC, MR P.
BOLSTER and MS E. BERGIN**

COMMISSIONER TRACEY: I invite the Official Secretary to read the Letters Patent.

[DR J. POPPLE read the [Letters Patent](#).]

5

COMMISSIONER TRACEY: We would like to acknowledge the Kurna people, the traditional owners of the land on which we meet and pay our respects to their elders past, present and emerging. We would like to extend our acknowledgement and respect to any Aboriginal and Torres Strait Islander people present today. This is the first public sitting of the Royal Commission into Aged Care Quality and Safety. Letters Patent which have just been read appoint us as Royal Commissioners and set out the terms of reference for our inquiry. Our remit is broad. It extends to looking at quality and safety issues, directly in residential and community care contexts, including mistreatment and all forms of abuse.

15

The terms direct our attention to the interface between health, aged care and disability services in urban, regional and rural areas. These issues necessarily arise because of Australia's changing demography. We are also required to look at young people with disabilities residing in aged care facilities and do our best to deliver aged care services to the increasing number of Australians living with dementia. Part of our task is to examine substandard care and the causes of any systemic failures that have, in the past, affected the quality or safety of aged care services. We will consider any actions which should be taken in response to such shortcomings in order to avoid any repetition. This will necessarily involve us in looking at past events.

25

There have been a number of inquiries which have considered matters that, in certain respects, fall within our terms of reference. We are not required by the Letters Patent to inquire into matters which we are satisfied that have been, is being or will be sufficiently and appropriately dealt with by another inquiry or investigation or a criminal or civil proceeding. As a general rule, we do not intend to re-examine matters which have been specifically examined in previous inquiries. We do, however, expect to examine the changes and developments which have followed previous inquiries, as well as the extent to which there has been implementation of

30

recommendations from those inquiries. Where we have different views, they will be made known.

5 The House of Representatives Standing Committee on Health, Aged Care and Sport, for example, only issued its report on the inquiry into the quality of residential aged care facilities in Australia in October 2018. Its terms of reference included issues that fall within our own to some extent. The committee has made detailed recommendations which we intend to follow-up during the course of this inquiry. It is also important to acknowledge that, as of 1 January 2019, the regulatory
10 framework has altered, and a new commission, the Aged Care Quality and Safety Commission, has assumed the functions of two previous regulatory bodies and has commenced work. Further changes are planned for implementation during the next 12 months. It will be important to acknowledge that events before this year took place in the context of the previous regulatory framework. We propose to follow the
15 progress of the implementation of the new regime to form a judgment about its efficacy.

COMMISSIONER BRIGGS: A key feature of our task is a focus on the future and what the aged care system in Australia should be. A world class caring system in
20 which those receiving aged care and their loved ones can have confidence. One that is simple to understand, easily navigated and accessible to all, a system which has services that are compassionate, fit for purpose, customised to individual needs and to the highest standards in terms of quality and safety, a system in which aged care services are delivered effectively and that can be sustained into the future.

25 An important part of the Royal Commission's work will be to examine existing policy, regulations and practices in order to consider reform and change to deliver better outcomes to those receiving aged care in Australia now and into the future. We are directed to consider what the Australian Government, the aged care industry,
30 families and the wider community can do to strengthen the system of aged care services so as to improve the provision of these services. It is important to recognise that there are many positive examples of high quality care within the aged care sector. We recognise that the sector engages thousands of dedicated people who provide quality and compassionate aged care services every day, often in difficult
35 circumstances whose work is complemented by the important contribution of families and volunteers.

But there has been a rising torrent of concern that the aged care system is faltering in certain areas of safety and quality and that it may not be fit for purpose. We need to
40 ensure that all Australians have confidence that the system will deliver for them and for their families. The recitals to the Letters Patent record the bases upon which our inquiry is to proceed. They have required us to commence our work as soon as practicable and we have done so. An official secretary was appointed in October last year. In consultation with us he has established the Office of the Royal Commission
45 here in Adelaide. Counsel Assisting and solicitors assisting have also been appointed. The Letters Patent that have been read out replaced Letters Patent issued on 8 October 2018 following the return of Letters Patent by Justice Joseph McGrath.

Since the earlier Letters Patent were issued and the respective appointments of the officeholders, the official secretary, the assistant secretaries, commission staff, solicitors and Counsel Assisting and we have been working to discharge the tasks required by the Letters Patent. We have begun the process of gathering and
5 analysing information. We have met with consumer groups, key government agencies and other stakeholders. We have requested information from approved aged care providers. We have developed a process and platform so that members of the public can provide submissions to us. An inquiries line has also been established.

10 We have only a short time within which to complete our inquiry. We are required to submit an interim report not later than 31 October 2019 and a final report not later than 30 April 2020. This timing has necessarily meant that some of our requests have included short response times, including over the holiday period. These short response times will be a normal part of our requirements so that we can meet our
15 deadlines. We have consulted with experts and researchers and will continue to do so. We intend to release consultation, research and background papers during the course of our work. From the beginning of our inquiry we have engaged with consumer groups, aged care providers and various government stakeholders.

20 This early engagement has helped us understand the key themes and issues and is assisting to focus our inquiries. We will continue this engagement throughout this Royal Commission and we encourage you to participate. The likely major themes to be addressed by the Royal Commission include: quality and safety; access and inclusion; young people with disability; interfaces and transitions; future
25 challenges and opportunities; and how to deliver quality care in a sustainable way. We will look at the expectations of Australians for quality and safe care, how and where care should be provided, and the workforce implications, amongst other things.

30 Aged care providers have been asked to provide information to us. In late November 2018 we wrote to all providers approved under the Commonwealth Aged Care Act 1997. First, we wrote to the largest 100 providers. A week later we wrote to the remaining 1882 approved providers. We invited providers to make written
35 submissions about each aged care service or outlet they operate by 7 January 2019 for the largest 100 providers and by 8 February 2019 for all other approved providers. We asked providers to respond comprehensively to a series of questions. The purpose of the request was to seek information on a number of specific matters and to give approved providers the opportunity to identify the areas they think need to be changed and how those changes might be made. We do not propose to publish
40 the information received in response to these requests. However, we may publish aggregated data.

We asked providers for information about occasions since 1 July 2013 where their service or outlet had provided substandard care, including cases of mistreatment and
45 all forms of abuse. We asked for tabulated information about whether those occasions of substandard care related to dignity, choice and control, clinical care, medication management, mental health, loneliness, disengagement, disconnection or

boredom, personal care, nutrition, restrictive practices, end of life care, governance and management and any other area that the service provider may have identified. We asked providers for information about complaints that had been made to or about their services or outlets in relation to substandard care. We will compare this information to information we obtain from regulators.

We have also asked providers what, if anything, their services or outlets have done to ensure that the services they provide are of high quality and safe, to ensure that those services are person-centred, including through allowing people to exercise greater choice, control and independence in relation to their care. To improve engagement with families and carers on care-related matters, to deliver aged care services in a sustainable way, including through innovative models of care, increased use of technology and investment in the aged care workforce and capital infrastructure and to take account of the wide diversity of older Australians and the barriers they face in accessing and receiving high quality aged care services.

We asked providers for information about services they provided to people younger than 65. We also asked them what, if any, changes their service or outlet could make to provide services of higher quality and greater safety and to improve individual outcomes and what changes, if any, they considered should be made to the interface between the aged care system and primary health, acute care and disability services and related regulatory systems. Finally, providers were asked what other changes, if any, to the aged care system would assist them to provide services of higher quality and greater safety to Australians, including to people with disability residing in aged care facilities and to the increasing number of Australians with dementia.

At this time, we have not, unless requested, compelled providers to provide this information. Instead, we have asked for providers' assistance and cooperation in the provision of their responses. It has been our hope that providers would and will continue to assist us. Inevitably, providers who do not engage with our requests draw attention to themselves and to their practices. Any provider can also make a separate submission to the Royal Commission should they wish to do so, and we welcome this. A significant focus of our work will be on understanding how the aged care system currently works. We need to understand both what is wrong with it and what works well in order to understand the changes that need to be made in the aged care system to ensure that in the future people receiving care, the Australian community and the Australian Government have the best quality care and the best regulatory and policy framework possible.

We will look to the future, canvassing demographic pressures, community expectations, technology, risks and opportunities. We will consider aged people's position in society, what they want and how they are perceived. We will give voice to them. We will look at experiences here and overseas and draw on lessons and ideas that may improve our aged care system. The Letters Patent direct us to make recommendations about any policy, legislative, administrative or structural reforms that we consider necessary. A policy and research program has been developed to assist us to make recommendations that would provide a sustainable aged care

system of high quality that is safe and meets the expectations of the Australian community.

5 Community engagement will be another feature of our work. We have commenced roundtable and informal discussions with a range of stakeholders. We may conduct targeted surveys and other opinion-gathering exercises. We will visit some services. I had the privilege to meet with representatives of young people with disabilities on 22 November 2018. On 27 November a series of roundtable discussions were held. I met with several consumer and advocacy groups to hear from them about what they 10 consider some of the key issues in the aged care sector to be. I met with key departments and government agencies to gain an understanding of how the existing system works in practice and to learn about the changes that came into effect from 1 January 2019 and those that will come into effect in 2020.

15 I met with representatives from the Australian Bureau of Statistics and from the Australian Institute of Health and Welfare to discuss the available data and how data may be accessed. We intend to conduct further roundtable discussions and community consultations in various locations across the country during our inquiry. This will be a key feature of our work. Some of these events will be by invitation; 20 others will be open forums. We encourage active participation in these processes. We want to hear from as many people as possible during the Royal Commission.

COMMISSIONER TRACEY: Public hearings will be an important part of our work. We expect to hear and receive evidence in a series of public hearings to be 25 conducted over the course of this year. We are a national Royal Commission and aim to hold a public hearing in each capital city and in some regional centres. There will be opportunities for applications for leave to appear to be made and for witnesses to be heard at these hearings. Counsel assisting the Royal Commission will identify individuals to give evidence as witnesses before the Commission. They 30 will also decide the order in which witnesses are to give evidence and which documents are tendered during public hearings. We wish Counsel Assisting to place appropriate emphasis on hearing from the public about their experiences of aged care services including whether they have been able to access services appropriate to their needs and about the quality and safety of those services.

35 We wish to hear from a wide range of people who are receiving aged care services directly, families, carers and members of the aged care workforce, including from those who can bear indirect witnesses to the experiences of aged or disabled relatives or friends. Cross-examination of witnesses will be by leave only. No general open-ended right of examination, cross-examination or tender of evidence will be given to 40 any person other than counsel assisting. A practice guideline directed to these issues and the issue of leave to appear has been published on the Royal Commission's website. Practice guidelines about our approach to the conduct of our inquiry, the production of documents, claims of legal professional privilege, the publication of 45 direct contact information for individuals, names and identifying information, and expert reports, witness statements and post-hearing submissions have also been published on the website.

We will invite counsel assisting to explain the hearing process in more detail in a few moments. The Letters Patent require us to establish appropriate arrangements for evidence and information to be shared with us by people about their experiences, including people receiving aged care services, their families, carers and others who
5 provide care and support. We recognise that some people will need special support to share their experiences and are putting in place arrangements to provide this support. Members of the public, including people receiving care, have been given and will continue to have the opportunity to provide written submissions. Again, it is
10 our expectation that those submissions will help inform the direction of our inquiries and assist us in our consideration of the various issues relevant to our terms of reference.

A web-based form for making submissions has been developed and made available on the Royal Commission's website. Submissions may be made anonymously and
15 people may choose not to provide contact details. The form includes questions about the person making the submission, the type of aged care services the submission addresses, and whether the submission is made about the person's own experiences or whether the submission is made on behalf of someone else. There is the opportunity to address instances of the delivery of substandard aged care services.
20 People making submissions are asked to identify which of the terms of reference the submission is about. The form allows individuals to provide comments about the recommendations they would like us to consider making.

The public submissions process is intended to be as accessible as possible. If people
25 are not comfortable using the online form, they can contact the Royal Commission by post, email or telephone. The submissions portal will remain open until at least the middle of this year. In order to be able to review and consider the submissions, it will be necessary for us to close submissions some months before our final report is due. We will announce a date for the closing of submissions in the second half of the
30 year. Submissions and information received by the Royal Commission may be published on the Commission's website or otherwise disclosed. Individuals may request that their submissions not be published or that their submissions be published anonymously. In some cases, the Royal Commission may consider that a submission or information should not be published. Usually, this will be for reasons of fairness;
35 sometimes, there may be other reasons.

The Royal Commission is an investigative body, and like any other such body, the Commission will decide when and to what extent information that has been gathered is disclosed. Similarly, the Royal Commission will decide when and to what extent
40 to disclose the particular courses of action it proposes to take. As has been observed by previous Royal Commissions, premature disclosure of these matters may prejudice our work and prevent us from finding the truth. Having spoken about submissions and the publication of information, it is important now to address concerns that have been raised with us about confidentiality and non-disparagement
45 provisions in settlement agreements, employment agreements and severance agreements.

Public submissions to the Royal Commission are very important to our work. It has been said that provisions which impose obligations of confidentiality or non-disparagement could be a barrier to participation in the Royal Commission's processes. We expect many approved providers will cooperate with the Royal
5 Commission, and in the event that confidentiality or similar contractual clauses may be available to them, that they will waive reliance on such clauses. However, it is worth noting that we have extensive powers of compulsion under the Royal Commissions Act 1902, and that we may, if necessary, exercise those powers to secure information that may inform our inquiry. Contractual confidentiality or
10 similar clauses do not excuse production in answer to a summons, requirement or notice issued by us. Likewise, they do not excuse the obligation to answer a question in a hearing.

We would be gravely concerned if any operators in the aged care sector or
15 government bodies were to instruct their staff not to talk to the Royal Commission or to withhold information from us. Anyone who wishes to make a submission or tell us their story and who has a concern about doing so should tell a Commission officer of their concerns before making the submission or telling their story, so that appropriate steps can be taken, where appropriate, to protect their interest. It would
20 be unlawful for an employer to take punitive action against an employee or former employee who has assisted us. Under section 6M of the Royal Commissions Act, it is a criminal offence for a person to injure another who has appeared as a witness or produced a document or given information or a statement pursuant to a summons requirement or notice issued by the Royal Commission.

25 Suing someone would almost certainly fall within this prohibition against industry – against injury. Were an employer to seek to deter a person from assisting us, this may give rise to an offence. If, for example, an institution or individual sought any form of legal redress against a member of the public or of their staff acting as a
30 whistle-blower seeking to volunteer information to us, that would result in very close attention being given to the lawfulness of that conduct and the motives behind it. As indicated, when this hearing was announced, we do not intend to entertain any applications for leave to appear or to hear from witnesses this morning.

35 The Royal Commission is a once-in-a-lifetime opportunity to come together as a nation to consider how we can create a better system of care for elderly Australians that better aligns with the expectations of the Australian people. The hallmark of a civilised society is how it treats its most vulnerable people, and our elderly are often amongst our most physically, emotionally and financially vulnerable. Frail and
40 elderly members of our community deserve to and should be looked after in the best possible way, and we intend to do our best to see that it happens. Mr Gray.

45 MR P. GRAY QC: Commissioners, I appear with DR TIMOTHY MCEVOY QC, MR PAUL BOLSTER, MS BROOKE HUTCHINS and MS ELIZA BERGIN. Each of us has been appointed by the Attorney-General to assist this Royal Commission. The Commonwealth Government provides funding for aged care to service providers throughout the country. The people who receive aged care, now and in the

future, are the central concern of this inquiry. It is older Australians and the generations before them who have shaped today's Australia. Older Australians deserve our respect. They deserve the best care we can give them. There is evidence that they are currently not getting it.

5

All the people in the aged care system deserve and require safe and high quality care. That includes people requiring care in their homes and in residential care services, as nursing homes are often called. It includes young people with disability who find themselves in the aged care system, and people from diverse backgrounds. It includes indigenous Australians, veterans, and care leaders. It includes LGBTI people and people regardless of means. It includes people living with dementia and other complex needs. This inquiry is significant for us all.

We, the team of counsel assisting, are all conscious of the challenges of the task outlined in the terms of reference and its importance. This inquiry is a unique opportunity to contribute to creating a better system of care for elderly Australians and others in the system of aged care. Each of us in the counsel team, together with those instructing us, is looking forward to assisting you, Commissioners, to carry out the inquiry with which you are entrusted. We embrace your observation that the way we care for the most vulnerable members of our community defines us as a nation. We will do our best to help you to discharge the heavy responsibility placed upon you.

The terms of reference call for investigation of the extent of substandard care being provided, including mistreatment and all forms of abuse and causes of any systemic failures and any actions that should be taken in response. This will be a key focus of the inquiry. People who have direct experience of the aged care system, their families, care staff and members of the public are invited to contact the Royal Commission via its website or by mail or telephone and provide relevant information. The Commission is interested in hearing from you, whether your experiences have been bad or good.

Submissions from the public have already begun to come to the Royal Commission. We are considering each submission and analysing trends and themes in the information received. In the near future, a program of public hearings to be held at locations around the country will commence. Some of the people who can bear witness are vulnerable and frail. In addition to the public hearings, it is intended that private hearings will be available in particular circumstances. The terms of reference place a marked emphasis on identifying and meeting future challenges. Australians are living longer. There is increased demand for aged care services.

Complex issues are raised by dementia, in particular, and by health care needs, more generally, for older Australians. Further complex issues are raised in relation to people with disability in the aged care system, including younger people. There needs to be appropriate coordination between aged care and disability services and with the health system. Ageing people have particular health needs. Alongside these needs are the other aspects of appropriate care mentioned in the Letters Patent.

These include dignity, choice and control, personal care and proper nutrition. These needs must be met in a safe and appropriate environment where any restrictive practices are appropriate and kept to a minimum.

5 Loneliness and neglect is a major issue. Most ageing people wish to and should be assisted to remain in their homes. The provision of appropriate aged care services raises particular issues in regional, rural and remote areas. Commissioners, you are directed to explore the potential for innovation in the delivery of aged care services. You are also directed to consider ways in which, not only government and the aged
10 care sector can do this, but also families and the wider community. Families face acute challenges when a loved one needs aged care, and families and unpaid carers make a huge contribution. They will have an important place in this inquiry.

The aged care workforce is central and will remain so in the task ahead. The Letters
15 Patent expressly acknowledge the dedication of many thousands of those engaged in the aged care workforce and the critical role of those people in delivering high quality aged care. This must be centred on and tailored to the needs and choice of the person receiving aged care services, whether this is in a nursing home or in their own home. This is what is meant when the terms of references speak of person-
20 centred aged care services. All this must occur in partnership with family and with other carers. Some older Australians are frail and are vulnerable. Some lack family or other support. An inquiry of this kind is of great importance to them. We wish for their voices to be heard and listened to.

25 Our elderly deserve compassionate, high quality and safe care that is protective of their wellbeing and that respects their dignity. There are very many dedicated and able people working in the aged care sector and the Letters Patent recognises their vital ongoing contribution, but where there have been fatal, it is important that those failings and the context in which they have occurred are examined and understood.
30 Any systemic defects must be identified and appropriate recommendations made to address and remedy them. This is ultimately to the benefit of the organisations and businesses in the sector as well as to all Australians.

Since the Letters Patent were issued, you, the Royal Commissioners and the Official
35 Secretary assisted by an Assistant Secretary Operations, an Assistant Secretary Policy and Research, Solicitors Assisting from the Australian Government solicitor and a small team of staff and consultants have taken the following steps: premises in Adelaide from which the office of the Royal Commission will conduct its work have been established; a number of research papers and papers from experts and
40 researchers have been commissioned; requests for information have been issued to providers; meetings have been held with consumer groups and various government stakeholders; an internet portal has been developed and built through which members of the public may make submissions to you; notices requiring the production of documents to the Royal Commission have been issued; five practice
45 guidelines have been released; a process to allow for the receipt and review of material and information has been set up, and a process by which evidence will be

heard throughout the year in a series of public hearings to be held around the country has been devised.

5 Commissioner Briggs, you referred earlier to the Royal Commission's request to provide us to provide information on certain matters. I will mention the responses which have been received to date. Requests were sent to 1982 approved providers in late November last year. To date, responses have been received from 83 providers relating to approximately 2000 services and outlets. Responses continue to come in. 10 The information from aged care providers is being reviewed and analysed. Although these are early days, preliminary observations about the tenor of the responses received are that the highest recording of complaints and incidents relate to residential care. Incidents being reported include elder abuse, medication 15 mismanagement, overuse of psychotropic medications, issues of food safety, not responding in a timely manner to residents requiring assistance, and inadequate wound management leading to death. It also appears that record keeping and record management is an issue for some providers.

This information and further responses expected from providers will assist in consideration of the various issues relevant to your terms of reference. As already 20 mentioned, submissions are invited from the public. On Christmas Eve, the online submissions portal was made public. We hoped that family and friends will, as they visit their loved ones, discuss of making of submissions to the Royal Commission. To date, over 300 submissions have been received by the Royal Commission from members of the public from people in all States and Territories of the 25 Commonwealth. Approximately 81 per cent of these submissions have been concerned with the provision of care in a residential facility. The most common concerns are about substandard or unsafe care and staffing issues, including staff ratios, with about 54 per cent and 59 per cent of the submissions raising these issues respectively. 30

A significant number of these responses highlight what is regarded as substandard or unsafe aged care services. Also significant are concerns about aged care for people with dementia, the importance of person-centred aged care services, end of life care, medication management, nutrition and the sustainability of aged care services. It is 35 noteworthy that examples have been received of good aged care service models. In addition to this, approximately 5000 submissions were made to the Department of Health before the terms of reference of the Royal Commission were announced. The Commission expects to receive these submissions from the Department of Health in the near future and will treat these submissions as submissions to the Royal 40 Commission itself. We encourage anyone who wishes to make a submission about aged care in Australia to complete the online form.

We anticipate that the themes and issues identified in these submissions will help 45 inform and direct the Commission's work. In the near future, a program of hearings to be held at locations around the country will commence. However, the work of the Commission will not be limited to what is learned in those hearings. A considerable research program is planned and has commenced. The Commission will also learn

from the reports of multiple inquiries into aged care that have gone before. The relevant reports from recent years include the report of the Productivity Commission in 2011 entitled Caring for Older Australians and the 2017 aged care legislated review into subsequent reforms by Mr David Tune AO PSM. They include a further
5 productivity commission report in 2018.

They also include the Australian Law Reform Commission's report in 2017 on a national legal response to elder abuse and the reports which arose from incidents and practices at the Oakden Older Persons Mental Health Service in South Australia
10 including the report in 2017 by Ms Kate Carnell AO and Professor Ron Paterson ONZM examining the adequacy of the then regulatory framework. Most recently, a House of Representatives standing committee has reported in October 2018 on its inquiry into the quality of care in residential aged care facilities in Australia.

15 As the Royal Commission's own research tasks are completed, it is intended the papers outlining the research findings will be made available for download from the Commission's website. Where the Commission considers it necessary, in particular in the case of papers concerning structural, policy and regulatory reform, papers will be released for comment and discussion. No comment will be sought where papers
20 are purely factual in nature. There will be further roundtable discussions with stakeholders. There will be discussions with the bodies representing providers of aged care. There will be public meetings explaining the work of the Royal Commission and seeking information.

25 Commissioners, you have a number of compulsory powers that you can use as part of the Commission's information gathering processes. These powers include the power to issue notices requiring the production of documents and things and the power to issue notices requiring individuals to give information or a statement in writing. The
30 power to issue notices requiring a person to give information or a statement in writing is a new power. The Commission will be the first Royal Commission to exercise this power. We expect this power will be exercised in preparation for the public hearings.

Commissioner Tracey, you have invited us to explain the process of public hearings.
35 We, the team of counsel and solicitors assisting you, have been working on the details of the program for national public hearings. At each of these hearings, we intend to provide an opportunity for direct testimony to be given by people receiving aged care, or their families or other carers about their experiences with the aged care system. In addition, most hearings will have a focus on particular themes relevant to
40 the terms of reference. The detail of these themes will develop during the course of the inquiry. Further themes may emerge as a result of what is learned from earlier hearings, submissions, roundtable discussions, public meetings and research. We expect to be able to call evidence from staff involved in providing aged care, experts, advocacy bodies, workforce representative bodies, professional bodies, aged care
45 sector representative bodies, aged care providers and government bodies in that a regard. Dr McEvoy will now outline in more detail the approach we propose to take.

DR T. McEVOY QC: Commissioners, public hearings, together with roundtables and community consultations, will be conducted throughout this year and into next year. As you have said, we plan for them to be held in each State and Territory capital city and also in regional centres throughout the country. We hope that
5 community roundtables will be held in more disparate locations and the Royal Commission will release details of these opportunities as soon as they can be organised. As you have indicated, Commissioners, there are a number of issues which you will have to consider. As I will elaborate, the first hearing will be focused on providing an overview of the system as it presently operates and the context in
10 which it operates.

At each of the public hearings, including the first, we hope you will be able to hear from people receiving care or, where more appropriate, from their close relatives or friends. Later hearings, as well as learning about the lived experience of people, will
15 explore particular issues. Without intending to limit the areas for inquiry we expect the following will be covered: young people living with disability in aged care residential services, access and inclusion, including availability and affordability of care, together with diversity issues, including aged care for indigenous Australians and LGBTI Australians. The treatment of people with dementia, including physical
20 and chemical restraints, staff ratios and training and the potential for diversionary therapy and behavioural supports, person-centred care, including complex care needs, mental health, nutrition, choice, family involvement and end of life care.

Responses to loneliness and neglect and the role of community visitation. Quality
25 and safety systems and the regulatory framework, including causes of and responses to mistreatment, neglect and substandard care. Access to and navigation of the aged care system, including accommodation bonds, transitions, interface between health and aged care services and home care. Remote rural and regional issues, relating to aged care, future challenges, demographics, complex care needs, the demand profile,
30 workforce issues and delivering quality care in a sustainable way, including staffing ratio implications, fiscal issues, sustainable investment in workforce and infrastructure, innovation and, where appropriate, improved use of technology.

Details of public hearings will be published on the Royal Commission website in
35 advance of each hearing. Those details will include the scope and purpose of the hearing. The scope and purpose information will serve to notify the public and interested parties of the focus of the hearing. We expect some hearings may focus on case studies, each of which will be used to explore topics connected with the case study. At the time the details of a hearing are published, applications for leave to
40 appear will be called for. Applications must be in writing, using the form available on the Commission's website. The process for seeking leave to appear is outlined in practice guideline 3.

We do not anticipate that the Royal Commission will grant any person unconditional
45 leave to appear. Practice guideline 3 indicates as much. It is anticipated that most grants of leave to appear will be confined to the hearing of the particular inquiry in which the person has a direct or substantial interest and subject to conditions such as

limiting the particular topics or issues upon which the person may examine or cross-examine a witness. Counsel Assisting will support leave to appear being granted to those persons and entities who are directly involved in the events or issues that are to be examined in a particular hearing. Similarly, Counsel Assisting will support
5 applications for leave to appear made by witnesses for the hearing or case study within which they are to give evidence.

The grant of leave to appear will not give an automatic entitlement to cross-examine witnesses or to tender documents. Practice guideline 3 sets out the process to be
10 followed in this regard. It is expected, Commissioners, as a general rule, that the Royal Commission will receive the evidence of each witness in the form of a written statement to be supplemented by oral evidence where necessary. Staff of the Royal Commission are working to develop processes and protocols to enable the Royal Commission to receive evidence from people who are themselves receiving care.
15 This is a sensitive matter and, if necessary, such evidence may be taken outside the environment of the public hearing setting.

It will be necessary to strike a balance between two important objectives. First, the public must be informed as fully as reasonably possible of the matters brought to the
20 Commission's attention. Secondly, there must be appropriate measures put in place to protect the privacy of care recipients and their families. It is likely that the Royal Commission will use pseudonyms, redactions and measures of that kind to balance both these objectives. The following practical matters should be noted: first, further information about the Royal Commission is available on its website:
25 agedcare.royalcommission.gov.au. The website indicates information about how to contact the Commission, how to make a submission and various guidance about the Commission's processes.

Secondly, the transcript of today's proceedings and of all public hearings will be
30 published on the website as well as information about the dates, times and locations of public hearings. Thirdly, public hearings will be webcast and accessible from the Royal Commission's website. Fourthly, the Royal Commission is an inquiry. It is not adversarial litigation and it will not be conducted in that way. Let me say something, finally, about the immediate future of the inquiry. The team assisting the
35 Royal Commission has given careful thought to how to commence the public aspect of the Commission's work in a way which will best identify its subject matter as a precursor to later hearings which will focus on systemic issues, defects and ultimately on reforms.

40 The Royal Commission's first substantive hearing is scheduled to commence on 11 February here in Adelaide, continuing into the week of 18 February. At that hearing, we expect that you, Commissioners, will hear evidence about the key features of the aged care, quality, safety and complaints system and about how that system works in practice at a general level. There will also be information about the challenges faced
45 by the aged care system. This would include accounts from consumer advocacy bodies, health care provider peak bodies, national aged care provider peak bodies and regulators. We intend for the hearings to explore how the aged care system was

operated and monitored prior to 1 January 2019 and how the system is expected to be operated, monitored and regulated in the future under the aegis of the newly-formed Aged Care Quality and Safety Commission.

5 Importantly, Commissioners, we also expect to be able to call evidence from people receiving care. The February hearing is not intended in any way to be a comprehensive sample of the experiences of those receiving residential care and people otherwise engaged with the aged care system. But it is important to hear from those who have a direct lived experience of the aged care system from the outset if we can. The perspective of people receiving care is going to be central to this inquiry. It is now for the Royal Commission to explore what has happened in the past so that it can direct attention to how real and tangible improvements can be made to the provision of quality and compassionate aged care in Australia for all Australians on a secure and sustainable basis into the future. If the Commissioners please.

COMMISSIONER TRACEY: The formal opening of the inquiry is now concluded. Please adjourn the Commission.

20

MATTER ADJOURNED at 11.06 am UNTIL MONDAY, 11 FEBRUARY 2019