PARLIAMENT OF TASMANIA

LEGISLATIVE COUNCIL

REPORT OF DEBATES

Wednesday 11 September 2024

REVISED EDITION

Contents

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The President, **Mr Farrell,** took the Chair at 11.00 a.m., acknowledged the Traditional People and read Prayers.

RECOGNITION OF VISITOR

[11.03 a.m.]

Mr PRESIDENT - Honourable members, before we move on to Orders of the Day it is my pleasure to welcome to the Chamber Lily Obod, who is a work experience student undertaking a placement with the Legislative Council. She joins us in the President's Reserve. Lily is in Year 10 and joins us from the Hobart City High School. I am informed she is an exceptional student with a passion for politics and public service and is enthusiastic about understanding our system of government. I hope Lily enjoys listening to members engaging in debate today and learning more about the procedures of our parliamentary democracy. Lily, I am sure all members will welcome you and help you in any way they can. Thank you for your interest in our in our parliamentary system and the Legislative Council.

Members - Hear, hear.

WORK HEALTH AND SAFETY AMENDMENT (SAFER WORKPLACES) BILL 2024 (No. 24)

Third Reading

Bill read the third time.

SUSPENSION OF SITTINGS

[11.05 a.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That the sitting be suspended until the ringing of the bells.

This is for logistical purposes.

Sitting suspended from 11.05 a.m. to 11.19 a.m.

DISABILITY INCLUSION AND SAFEGUARDING BILL 2024 (No. 29)

In Committee

Continued from 15 August 2024 (page 71).

[11.20 a.m.]

Madam CHAIR - While the minister is getting organised, I remind members where we are up to. It is clause 36. We have postponed clause 28, which we will go back to before we go to the schedules. That will be called by the Deputy Clerk. Because I am such a generous person and chair, I thought we would restart clause 36 because we have had amendments withdrawn and to give the opportunity for a full debate on clause 36 and the amendments proposed.

The member for Hobart has amendments to this clause. I encourage her to read all of them because they are basically the same inclusion into various sections of that clause. I hope that is clear as to the approach we are going to take.

Clause 36 -
Making of reports

Ms O'CONNOR - Madam Chair, I welcome our return to the debate on this extremely important legislation. I have a series of amendments to clause 36 that are in line with the agreement of the Council earlier on this form of words.

First amendment

Page 53, subclause (4), paragraph (a), after "neglect".

Insert ", coercion".

Second amendment

Page 54, same subclause, paragraph (b), after "neglect".

Insert ", coercion".

Third amendment

Same page, subclause (5), after "neglect".

Insert ", coercion".

Fourth amendment

Same page, subclause (6), after "neglect".

Insert ", coercion".

Fifth amendment

Same page, subclause (7), after "neglect".

Insert ", coercion".

I do not think I need to put the arguments for this amendment again. It is self-explanatory. I thank the Council, advisers and the minister for their patience following the last sitting's debate.

I also acknowledge the presence in the Chamber today of some of our wonderful disability advocates and human rights advocates: Tammy Milne, David Cawthorn, Robin Banks and Michael Small, all of whom I have had the privilege of knowing and working with from time to time. It is really lovely to see you here again today.

Ms PALMER - Madam Chair, we are certainly in agreeance and we thank the member for Hobart for bringing on these amendments. Just to bring the House up to speed, because we have had a bit of time in between when we first started this legislation - as to the reason why 'coercion' was not originally included and why we are now in agreement with it being included, we based a lot of our bill off the terminology of violence, abuse, neglect and exploitation as was used in the Disability Royal Commission. Of course, as most of you in this place would be aware, the royal commission began its journey some five years ago and 'coercion' was perhaps not used a great deal at that time, and it was not raised specifically in consultation with this bill. However, I understand that it is a much more contemporary understanding of the dynamics that we now know about when it comes to abuse, particularly in the family violence sector, including coercive control.

We also know that women with disability are over-represented in family violence statistics in Tasmania and across Australia.

We are supportive of these amendments and the amendments that will follow through the rest of the bill because we believe it reflects our community's expectation and certainly more contemporary language.

Amendments agreed to.

Clause 36, as amended, agreed to.

Clause 37 -
Investigation of reports

Ms WEBB - I had a question, but that is all right.

Madam CHAIR - Ministers first, I think.

Ms PALMER - Madam Chair, I move the following amendment -

Page 55, subclause (2), paragraph (a), subparagraph (v).

Leave out the subparagraph.

The reasons the disability commissioner may accept, refer or decline to take a report were included in the draft exposure bill, which was released in August 2023. Through the consultation process we received good advice, particularly from other statutory bodies on the powers to investigate a report or not. Recent feedback has suggested that the subparagraph that provided the disability commissioner with a reason to decline to take action because the action

was not warranted was unnecessary in this clause. The rest of the subclauses provide coverage for reasons a matter may not warrant investigation. This amendment does not cause any lessening of the powers to the commissioner. It continues to allow the disability commissioner to fully consider the right pathway for appropriate investigation of a report.

Amendment agreed to.

Clause 37, as amended, agreed to.

Clause 38 -
Referral of report or investigation

[11.27 a.m.]
Ms O'CONNOR - Madam Chair, I move the following amendment:

Page 57, subclause (2), after "neglect".

Insert ", coercion".

Amendment agreed to.

Clause 38, as amended, agreed to.

Clause 39 -
Information for the purposes of an investigation

Ms PALMER - Madam Chair, I move the following amendment:

Page 59, after subclause (4).

Insert the following subclause:

(5) A person must not, without reasonable excuse, fail to comply with a requirement made of the person under subsection (1).

Penalty: fine not exceeding 50 -

Madam CHAIR - That is not the version that I have.

Ms Thomas - You have the old ones.

Ms Rattray - That is the one I have; I printed it out yesterday?

Madam CHAIR - I apologise. We have a bit of version control going on here. I apologise for interrupting. I will get you to continue, if you are confident you have the right version yourself, which you probably are.

Ms Lovell - Well, she was.

Ms PALMER - I am confident.

Madam CHAIR - That is fine. Could you start again? Sorry, I apologise. Just read it again.

Ms PALMER - I move the following amendment:

Page 59, after subclause (4).

Insert the following subclause:

(5) A person must not, without reasonable excuse, fail to comply with a requirement made of the person under subsection (1).

Penalty: Fine not exceeding 50 penalty units.

This amendment is in keeping with the equivalent provision of the *Anti-Discrimination Act 1998*, section 97(4), which also includes 'without reasonable excuse'. It has been suggested that the disability commissioner requires an ability to apply penalty units for not complying with the requirements of this clause. It has been accepted to date that those penalties are available to the disability commissioner to apply, and are to be found in clause 80 offences. As I understand it, the same ability to apply penalties as can be found in the powers of the senior practitioner at clause 50 should be applied to clause 39. Clause 50 provides that the senior practitioner may penalise a person or provider for not providing any reasonable assistance to the senior practitioner in carrying out their duties and functions. To be absolutely clear that the disability commissioner may compel a person or provider to provide assistance in the conduct of their investigations, penalties included at clause 39 may be beneficial.

Ms RATTRAY - Madam Chair, in regard to the amendment, I am interested in, for clarification, what would be deemed as 'without reasonable excuse'. Is that, for example, 'I am in hospital and I could not do it'? I am looking for some examples of a reasonable excuse, given that there is such a significant penalty attached.

Ms PALMER - I thank the member for the question. It could be personal circumstances, but it is also regarding exempt information - or if the information is not relevant and does not have consent of a person, that would be exempt.

Ms RATTRAY - Exempt information, according to your answer, is not relevant. Would that be considered the only exemption, because it is not relevant, so we are not asking for it? I do not quite see why 'without reasonable excuse' where non-relevant information would actually constitute under that, but maybe I will ponder.

Ms PALMER - I might be able to provide some clarification looking at the offences section of the bill.

Without limiting subsection (1), it is a reasonable excuse to refuse or fail to provide information by answering a question or otherwise or to produce the whole or part of a document if to do so would disclose or provide exempt information.

A person is not liable to any penalty under the provisions of any other Act because the person, when required to do so under this Act -

provided information that is not exempt information; or

produced a document that does not contain exempt information; or

answered a question if the answer does not disclose exempt information.

Ms RATTRAY - That is more helpful to have that explanation but I am interested in your previous response about information that is not relevant. Who decides whether the information is relevant? Is it the person who is providing the information or is it the person who is receiving the information? We may have different views about what is relevant and what is not - given, as I have said, that this has a significant penalty. I am not opposing the clause or the amendment. I am simply looking for clarification.

Ms PALMER - In answer to your question about who makes that decision, that sits with the commissioner. To try to give you a practical example of this, it is things like individualised health information. That is actually protected by the *Personal Information Protection Act*. That is a practical example of where it goes. The decision is made by the commissioner but it also looks at other legislation.

Clause 39, as amended, agreed to.

Clause 40 agreed to.

Clause 41 -
Procedure on completion of investigation

Ms RATTRAY - Madam Chair, clause 41 is 'procedure on completion of investigation'. It talks about how the -

… Commissioner, as a result of an investigation, may take further action or make recommendations to such persons as the Commissioner thinks fit, including, but not limited to, disability service providers, defined entities and other persons and organisations that provide services that affect people with disability.

I have three questions to start with. Given that I only have three chances, I will ask them all. Define 'further action', I think that is a useful one to have for clarification, and how does this work in practice or how would it work in practice that the commissioner would make recommendations and then organisations would have to comply, if you like? My third question is on NDIS providers, of which there are many. Does it mean there is a deregistration of a provider? I note in clause 58(4) that it refers to an NDIS provider. Why have we used the reference to an NDIS provider in clause 58(4) on page 80, but it is not used in clause 41 on the completion of an investigation where it talks about disability service providers and this is the same area relating to an NDIS provider? Three questions. Is there any that you would like me to repeat? I was trying not to go quickly. Thank you.

Ms PALMER - Madam Chair, I thank the member. I have some good answers to your three questions.

Your first question was to define 'further action'. Examples of that would be you may make a report to the police, a report to the NDIS Quality and Safeguards Commission or you might make a report to the Anti-Discrimination Commissioner.

The second question: how would this work in practice? The commissioner would be the person who would be making the report to the police, going to the Anti-Discrimination Commissioner or going to the NDIS Quality and Safeguards Commission.

The third question was on NDIS providers. With regard to that, the scenario would be the commissioner, if need be, would be able to report to the NDIS Quality and Safeguards Commission and it would then be its role to review the situation with the provider. That sits under then the NDIS, but our commissioner would be the one who would channel the information through and then, just like the police, would be responsible for how they respond.

With regard to our NDIS providers, that would be the responsibility of the NDIS Quality and Safeguards Commission to take the appropriate action as it saw fit.

Does that answer your questions?

Madam CHAIR - She has three calls. She has two more anyway.

Ms RATTRAY - Madam Chair, it is very useful to have that explanation. It is clear the commissioner does not deregister an organisation or a provider, but how do they receive the feedback? Does that come back from that higher authority who undertakes the role of reviewing, assessing, looking at whatever action has been taken by the commissioners. Is there some sort of mechanism, because if a provider is not doing the right thing and the commissioner makes the assessment and sends that off, you would want to be very sure that does not happen for any length of time? How do they get that information back? Does the commissioner have an acknowledgement of the action or recommendation that they have put in place? Does it then come back to the commissioner for information or to know that there has been a follow-up and whether or not action was taken?

Ms PALMER - Once we have our commissioner set up, one of the things that we will be doing is establishing the policies and protocols via procedures with, for example, the NDIS. We need to get our commissioner set up so that we can put that into place. Consideration in that will be a feedback loop and seeing what it looks like. That will be part of what we need to do once we have our commissioner in place.

Ms Rattray - There are currently numerous private NDIS providers. It may be a husband and wife providing disability services.

Madam CHAIR - Order.

Ms WEBB - Madam Chair, I appreciate the answer provided about the commissioner having feedback on actions taken as a result of recommendations or other actions under this clause. Is there expected to be an element of public visibility about further actions taken and

some public accountability or reporting on that, say, as part of the commissioner's annual report or in some other form, so that that could be captured?

Ms PALMER - Yes, that would be captured through the annual report.

Clause 41 agreed to.

Clause 42 -
Disability service standards

Ms O'CONNOR - Madam Chair, I have a question relating to this clause in Part 5, Disability Services Regulations. It talks about establishing a prescribed setting and prescribing the disability service standards. I appreciate that there are many moving parts in this legislation, but is it possible to give the Council some indication of the proposed time line for development and tabling of those regulations?

Ms PALMER - At the moment, we have national standards and we will be using those national standards. We anticipate that will be imminent.

Ms RATTRAY - Madam Chair, following on from the question asked by the member for Hobart about those national disability standards, in subclause (3) it says the regulations may adopt the standards 'either wholly or in part'. I am interested in why the entirety would not be adopted.

Second, where it says 'whether the standards are published or issued before or after the commencement of this Act': Could I please have some clarification of 'published or issued'? Does that mean where they are published? That line is not necessarily clear -

Ms PALMER - In answer to your first question about adopting either wholly or in part, we would be looking to adopt wholly, but we just need to have that little bit of flexibility in case there was something that was irrelevant to us here in Tasmania. It gives us that little bit of flexibility, but the intent would be to adopt wholly.

Your question about published or issued - I am advised it is publicly available on the Disability Gateway website.

Ms RATTRAY - Madam Chair, thank you. That is helpful to know where to go and look. While you were on your feet earlier, my understanding is you said that there are a lot of small disability providers now. I see them in our communities where it might be a husband and wife who have taken on a role providing services to those with disability. How are these standards provided to those people?

For instance, across the road from my office, there is an NDIS provider called Pathfinder. I expect that they have a number of employees, and they would have the wherewithal to find out all of these standards that they need to be working under. Is that the same for small operators as well?

I am interested in how those standards are provided, or is that part of their licence to be an NDIS provider under the NDIS scheme? I expect it probably is.

Ms PALMER - Are you talking about unregistered providers versus registered NDIS providers?

Ms RATTRAY - I would not imagine there could be an unregistered provider; otherwise they would not be receiving the funds through the NDIS that a person living with disability receives. Not intimately knowing the system, they would all be registered, but some would be large providers and some would possibly be very small providers.

Do they all have the same requirements to deliver those services and would they clearly understand the standards under which they have to work? Perhaps that is a clearer question than my earlier one.

Ms PALMER - The way it works is that you have providers that are registered with the NDIS and then you have providers that are not registered with the NDIS. This is stepping into a very complex body of work that we are working on with the federal government with regard to reform to the NDIS and safeguarding it across Australia.

It does not matter how big or small a provider is; it is the same standard. They are the same regulations. They fall under the same - it is not jurisdiction, but the same regulations. Yes. It does not matter how big or small they are.

Ms Rattray - Just as long as they understand their obligations.

Ms PALMER - Yes, for sure and the commissioner also has a role to ensure they are aware of what those standards are.

Clause 42 agreed to.

Clause 43 -
Senior Practitioner to be appointed

Ms O'CONNOR - Madam Chair, this is the appointment of the senior practitioner. Could the minister explain why this appointment is simply an appointment by the secretary of the department and why consideration was not given to including a provision or requirement that there be consultation with the commissioner in the appointment of this very significant role that has enormous layers of responsibility attached to it.

Ms PALMER - Madam Chair, I am seeking some advice. The reason it has been set up this way is quite particular. We want a separation of powers between the senior practitioner and the commissioner. For example, someone could complain to the commissioner about the senior practitioner. We wanted them to be quite separate, remembering that one, being the senior practitioner is also a public servant. You could see a scenario, perhaps, where the commissioner could be on the selection panel. The reason they have been kept quite separate is one is a public servant, one is not - and to keep the separation of those powers.

Ms WEBB - Was there a follow-on?

Ms O'CONNOR - Yes, just a follow-up to that, but that is fine. I do not mind.

Ms WEBB - Madam Chair, mine is also sort of following on. It might go to similar territory because you just mentioned in your answer there, minister, a selection panel, but there is no requirement that there is a merit-based selection process applied here in any way that is transparent or apparent. Are we to assume or can you confirm there will be a transparent merit-based selection process that involves, for example, a selection panel for the appointment, because it is a straight-out appointment according to the clause or the section?

The other part of that, because it just says 'appropriate qualifications' in the opinion of the secretary, we really need to be much clearer about understanding what level of qualification and the scope of qualifications would be expected or required in this role. Is there an expectation the person will hold some expertise in regards to human rights and the application of human rights standards to their operations under the role? It is a series of questions on the selection process and then about the qualifications that are expected, given they are not specified here. Will they be specified somewhere else?

Ms PALMER - This will not be any different to the appointment of any state servant which is merit based. It will be the same procedure as with any state servant and we will update the statement of duties to reflect this act, which will obviously have that reflection of human rights.

Ms WEBB - Madam Chair, perhaps we could also have a bit of detail here though, in terms of the record of this debate, about the scope or the level of qualification expected to be held by the person who is appointed to this role, so we can have an indication about what is envisaged, given it is not specified.

Ms PALMER - This person will need to be a very experienced allied health professional. They will need to have knowledge and experience and skill in positive behaviour support. I think that answers your question.

Ms WEBB - That is not very specific in terms of a level of qualification that I was asking about.

Ms PALMER - I am advised the current position is currently an AHP 4 and we are making it an AHP 6, so it will be at the most senior level.

Ms WEBB - Madam Chair, one further clarification: when you describe the fact it will be recruited the way other State Service positions are recruited, can I clarify, is it the expectation this is an internal recruitment from existing state servants or when recruitment is occurring, will there be an open process where external applicants are also considered as part of the recruitment process?

Ms PALMER - This will be a completely open process.

Ms RATTRAY - Madam Chair, thank you. Minister, is it envisaged the role will be a part-time or a full-time position?

Ms PALMER - Yes, it will be a full-time position.

Clause 43 agreed to.

Clause 44 -
Functions and powers of Senior Practitioner

Ms PALMER - Madam Chair, I move the following amendment.

Madam CHAIR - Probably move both because they are very similar and linked.

Ms PALMER - Yes -

First amendment

Page 63, subclause (1), paragraph (e).

Leave out ", to the greatest extent possible,"

Second amendment

Same page, same subclause, same paragraph, subparagraph (i), after "are protected".

Insert "to the greatest extent possible".

In clause 44(1)(e), the application of 'to the greatest extent possible' was meant to be for the protection of the rights of the person and the compliance of the disability service provider. To the greatest extent is commonly accepted terminology with the intent to ensure that action was taken as far as practicable, not as a limitation. I will be moving an amendment so that the term 'to the greatest extent possible', is to apply to the protection of the rights of the person with disability only in subparagraph (e)(i). This then means that the disability service provider must comply with guidelines and standards without the qualifier 'to the greatest extent possible'. This then gives a clear intent that the provider cannot say they complied with the guidelines and standards only to the greatest extent possible but could not fully comply.

Amendment agreed to.

Clause 44, as amended, agreed to.

Clause 45 -
Senior Practitioner may determine restrictive practices

[12.06 p.m.]

Ms O'CONNOR - Madam Chair, thank you. Minister, while I understand that Part 7 provides a range of checks and balances of decisions and actions of the senior practitioner, I think it would be helpful for the purposes of the debate to have a very clear flow process, if you like, of how restrictive practices will be regulated to prevent their unnecessary or unauthorised use - a simplified explanation of what accountability there is for the senior practitioner's decisions and actions and a step-through flowchart of how restrictive practices will be regulated.

Ms PALMER - I will seek some advice.

Madam CHAIR - Second call.

Ms O'CONNOR - Minister, while you are getting advice, as you are very aware, people with disability, their families and advocates need to have access to very clear information about this legislation and how it will impact on them and what their rights are under the act. Specific to the use of restrictive practices, you could also explain to the Council how that will be communicated with people the legislation affects.

Ms PALMER - If it is allright with the member for Hobart, I might address your second question first.

We have a dedicated role in the office of the senior practitioner. It is the dedicated role of a trainer and their responsibility will be to work with families and providers to ensure that there is a clear communication of what those expectations are.

Ms O'CONNOR - And also people's rights in relation to the use of restrictive practices?

Ms PALMER - Yes. It will be a specific role within the office of the senior practitioner to be responsible for doing that.

Also, you asked about a flowchart. I can tell you that we have a flowchart that is already publicly available on the website of the Office of the Senior Practitioner, which shows authorised and unauthorised -

Ms O'CONNOR - Unauthorised what?

Ms PALMER - Restricted practices.

Ms O'CONNOR - So it is really clear about that?

Ms PALMER - Yes, it is publicly available and on the Office of the Senior Practitioner website.

Ms O'CONNOR - With the chair's indulgence, would that, to some extent, explain to people who went to that website what the senior practitioner's powers are and what the accountability or restraints on those powers are?

Ms PALMER - I can tell you that the flowchart you will find on the Office of the Senior Practitioner website came out of the consultation on the bill. It was identified through that consultation that this was a need, which is why it is now on the website.

With regard to the second part of your question, the closure report on the consultation sets out the limits on the Office of the Senior Practitioner.

Ms O'Connor - Is that readily accessible to people who may be looking for that information?

Madam CHAIR - Order. You have one more call.

Ms PALMER - It is probably not clear enough on the website. We will be doing dedicated updates to that website to ensure this is really clear and accessible. We want to do everything we can so there is no confusion, that families and providers feel supported, and most importantly, Tasmanians with a disability know that information is there, accessible and readily available.

Ms WEBB - Madam Chair, this is an observation about proposed section 45, subsections (2) and (3), where it talks about 'notice of the making of a determination' and the 'list of all practices and interventions determined', being put on the website. It does not specify that the format is accessible. I would assume, given what you have just said in answer to those other questions, that it is our intention that anything put on these websites is in an accessible format. There are some inconsistencies in the bill. Sometimes it is specified, such as over the page in 47(3)(b) where it says 'in accessible formats'. I would assume on the record here that we would be clear that in this proposed section 45, we would assume an accessible format is expected in (2) and (3). Would that be correct?

Ms PALMER - That is my expectation as a minister. Everything that is done from here has to be within the principles of the bill, so yes to an accessible format.

Clause 45 agreed to.

Clause 46 -
Senior Practitioner may issue guidelines

Ms WEBB - Madam Chair, I move the following amendment:

Page 66, after subclause (4).

Insert the following subclause:

(X) The Senior Practitioner is to ensure that a copy of any guidelines issued under this section is published on a website operated by, or on behalf of, the Senior Practitioner in accessible formats.

The intent of this amendment is probably relatively self-explanatory. It is important that guidelines that help people understand the performance and exercise of the senior practitioner's functions and power are issued in a form that people at the core of the legislation - that is, people with disability - are able to access and understand. It would be helpful to ensure that the senior practitioner is seen as accountable to people with disability in the performance and exercise of those functions and powers.

While the senior practitioner is ultimately, in legal terms, accountable to the minister and the head of the State Service, it is most likely that, in terms of identifying concerns or issues about the exercise of the functions and powers by the senior practitioner, it will be people with disability and their carers or families or advocates who identify concerns and raise them.

Having the guidelines very clearly available for people to refer to is important. It is also important for people in the disability services sector, because they will be needing to interact

with, comply with and communicate about the guidelines. That is the intent of the amendment. I hope people will find that it is important to include.

Ms PALMER - I thank the member for moving this amendment. We agree with the addition of requiring publications in accessible formats, and we certainly support this amendment. It is consistent with the intent.

Amendment agreed to.

Clause 46, as amended, agreed to.

Clause 47 agreed to.

Clause 48 -
Delegation by Senior Practitioner

Ms WEBB - Madam Chair, I had marked this with a question. I think it is in relation to this being about delegation by the senior practitioner to others to undertake the functions of the senior practitioner, and the specification in clause 48(2)(a) that it is in the opinion of the senior practitioner that the person has sufficient knowledge and expertise in respect of people with disability.

I want to be very clear in terms of delegating those functions of powers. Having discussed a short while ago the senior practitioner's qualifications, is it our expectation that anyone to whom the powers and functions are delegated would also have to meet that same standard of qualification and experience in order to be able to have the delegation occur? How is this made visible or accountable publicly?

Ms PALMER - I thank you for your question. I am advised they would have to have the appropriate skills and qualifications in respect of the power or the function. An example that I can give you is that this person may need to delegate powers during a time of annual leave, and also where the senior practitioner might need someone to investigate a situation.

Clause 48 agreed to.

Clause 49 agreed to.

Clause 50 -
Persons to provide assistance to Senior Practitioner

Ms O'CONNOR - Madam Chair, this clause provides for a penalty for any person or disability services provider who does not provide full and true answers or render assistance to queries by the senior practitioner. It relates also to another penalty that is a bit further on in clause 55 - the penalty for using a prohibited practice. A penalty of 200 penalty units is given for defying a request of the senior practitioner in relation to the treatment of a person with disability. It is a really serious thing to do, and 200 penalty units - given that a penalty unit at the moment is, I think, $200 or something - is about a $4000 fine for defying a request and an order.

Ms Rattray - No.

Ms O'CONNOR - $400.

Ms Rattray - No.

Ms O'CONNOR - $40,000.

Ms Rattray - $40,000. I am not sure what school -

Ms O'CONNOR - Well, I actually failed maths all through high school.

Madam CHAIR - There was a former president who was no good at maths, either. He made similar errors.

Ms O'CONNOR - Yes, good.

Ms Rattray - We cannot be good at everything.

Ms O'CONNOR - I am very good at many things. Well, just forget that because that is actually a very significant fine. It has four zeros on the end of it.

Clause 50 agreed to.

Clause 51 agreed to.

Clause 52 -
Authorisation to use restrictive practices

Ms WEBB - Madam Chair, I move the following amendment:

Page 73, after subclause (5).

Insert the following subclause.

(6) If the Senior Practitioner grants an authorisation for the use of a restrictive practice under subsection (1), the Senior Practitioner must notify the Commissioner of that fact within 5 days after the granting of the authorisation.

Members will note that this is simply calling for there to be notification of that granting of authorisation by the senior practitioner to the disability services commissioner. The intent of that is that a whole range of functions of the disability commissioner require being well informed about the current state of play, as it were, to do things like advocate systemically for people with disability, undertake research into matters related to the operation objects of the act, and promote, monitor and review the wellbeing of people with disability, et cetera. That is from the functions of the commissioner - being informed about the use of restrictive practices and the granting of authorisations.

I have similar amendments relating to other actions by the senior practitioner. Notification to the commissioner allows the commissioner to do their job appropriately. It does not specify what has to be included in notification, so it does not require that, for example, full

personal details or inappropriate amounts of personal information are included in that. My assumption would be that what notification looks like would be determined later in terms of a policy or procedure, and it is simply that the commissioner needs to be aware of the activities being undertaken by the senior practitioner in a timely way, rather than having to wait for an annual report, because there will be an annual report of the senior practitioner to the secretary, which is then made public. But that means that information is not current and really the commissioner would benefit from a more ongoing and current understanding of these actions being taken on restrictive practice, which is such a sensitive area when it comes to the rights of people with disability. That is the intent of the amendment. The amendment does not give the disability commissioner any kind of jurisdiction over the senior practitioner or oversight in any formal way. It is about information provision, so the commissioner can do their role. That is the intent. I am happy to expand on any parts of that in more detail but hopefully that gives members the understanding of the intention there.

Amendment agreed to.

Ms WEBB - Madam Chair, thank you for your indulgence. My question relates to 52(4)(a), at the bottom of page 71 where (4) relates to the 'authorisation for the use of a type of restrictive practice in relation to a person with disability may only be granted by the Senior Practitioner under subsection (1) if the Senior Practitioner is satisfied that -

> (a) the type of restricted practice will be used only for the primary purpose of ensuring the safety, health or wellbeing of the person or other persons; and …

Why have we expanded the wording there into health and wellbeing, which is a much broader concept than safety? We would all understand that restrictive practice is a really significant thing to contemplate using. We would understand why we would have safety as a threshold for utilising restrictive practice either of the person or of other people, but health and wellbeing is a really broad concept and quite a low threshold to be then contemplating the use of restrictive practice to achieve health and wellbeing. Why have we expanded into that area? It is quite different too.

I have some notes here to compare it to other instances where we have had a different threshold. For example, in clause 56(2)(a), on page 77, where we are talking about restrictive practice and a defence for using an unauthorised practice. Here, we have a threshold of, for example, serious harm. Looking back, another example, clause 8(2)(g). Let me look to compare the language. This, again, relates to various acts required or acts able to be done:

> (2)(g) restrictive practices should only be used where they are proportionate and justified in order to protect the rights or safety of the person with disability or others.

Rights and safety are there, but here we have expanded into health and wellbeing. Could I have some clarity on that?

Ms PALMER - I am getting some advice because there were a couple of questions in that. I can give you a practical example of when you were talking about their safety, health and wellbeing, if somebody was having 100 cups of tea a day, we know that is bad for their health;

it might be they are restricted to only having 10 cups of tea in a day. That is the example that has been given to me to show an example of health as I have been advised.

Ms Webb - Are you sure you want to give that example? I would have a little think about whether you want to give that example. I will certainly have something to respond to in relation to that.

Ms PALMER - It is in that obsessive-compulsive behaviour area.

Ms Webb - Sorry, but you cannot jeopardise their rights to choose to have cups of tea just because someone decided 100 is too many. That person is competent to make a decision.

Madam CHAIR - Order, the minister is still getting some advice in relation to that question.

Ms PALMER - To clarify the example I gave, we are talking about people who might have an obsessive eating or drinking disorder, someone who may have no sense of fulfilment. It could be someone who does nothing else all day other than consuming food or a fluid, which would then be considered a health risk to them.

Ms WEBB - My question still stands and I have not had an answer to it. I will take a second call.

Madam CHAIR - This is your last call on this one because you moved the amendment to the first one?

Ms WEBB - I would have preferred to have had an answer to that. Okay, I will try again and we will hopefully get a response.

Safety is probably relatively straightforward to determine. If someone is about to be in imminent harm of their safety - or in serious harm - and this is used, as I said back in clause 8, as a threshold, the senior practitioner is authorising a restrictive practice, which we know is a significant, serious thing to be authorising as a constraint on someone's human rights. They are authorising restrictive practice to ensure the safety of the person from what we would expect to be serious harm or the safety of others. That is a threshold that is in other parts of the act and easy for people to understand. However, it is allowable under this clause for a restrictive practice to be used for the primary purpose of health or wellbeing, which are much lower thresholds to meet and we have no indication from here.

You have provided an example of somebody who is obsessively eating or drinking, which is a highly questionable example still, but even if that were the example, that is fine as an example to put forward. Do we know where the line will be drawn in terms of a decision about fulfilling the person's health or wellbeing needs, remembering we are talking about authorising a restrictive practice? If I am a person with disability who has a few too many Mars bars, is it going to be decided to authorise a restrictive practice because that is not healthy for me? If I have another aspect of wellbeing such as not enough sunshine, is there going to be a restrictive practice where I am tied up outside in the sun to get my vitamin D because that is for the benefit of my wellbeing? Health and wellbeing provide us with, especially without any further criteria, no understanding about a minimum threshold in which a restrictive practice can be authorised to give effect to it. It is unacceptable to have a lack of clarity on that, particularly when you

look at (4)(b), which comes just under it and says 'the type of restrictive practice that is the least restrictive of the person's freedom of decision and action as is practicable in the circumstances'. Again, there is quite a bit of leeway in 'practicable'. The first thing my mind goes to is at what point does 'practicable' become 'convenient'? Is it the least restrictive that is convenient for the person, or the provider or those around the person with disability, at the time? These are sensitive questions for people with disability when we are talking about applying restrictive practice, therefore putting aside human rights in that sense.

Knowing this is my last call on this clause, others might follow it up if we do not receive a satisfactory answer here. I have to better understand what is the threshold that we are talking about here, where health or wellbeing can be invoked in order to authorise a restrictive practice. Not just an example, but a threshold indicator.

Ms PALMER - I will seek advice.

Ms Webb - It would be good to know why it was included - an explanation as to why that was included there.

Ms PALMER - As the member set out in her question, restrictive practices have to be the least restrictive and it has to be clarified in the behaviour support plan. The behaviour support plan is signed off by an accredited practitioner and it is done in consultation with the person with disability and also with their independent person as part of that conversation. I have some detail here on the behaviour support plan. If a disability services provider that is providing a disability service to a person with disability proposes to use a restrictive practice in relation to the person, the disability services provider must ensure that a behaviour support plan is prepared for the person with disability by a behaviour support practitioner that:

- states the circumstances in which the proposed type of restrictive practice is to be used for behaviour support
- explains how the use of a restrictive practice will be a benefit to the person with disability
- demonstrates that the use of a restrictive practice is the option which is the least restrictive of the person as is possible in the circumstances
- includes strategies to reduce or eliminate the need for a restrictive practice to be used on the person with disability
- takes into account any previous behaviour assessments and other relevant assessments
- includes the changes to be made to the environment of the person to reduce or eliminate the need for the restrictive practice to be used on the person

That was your third call, was it not?

Ms Webb - It was, yes. Thank you for the answer. It does not answer the threshold question, but I appreciate that you have provided that information.

Ms O'CONNOR - Madam Chair, is it possible that those thresholds could be set by way of regulation or standard? Having had the privilege of your job for a while, one unnamed person

who is a client of a disability service provider had an addiction to Red Bull and would drink it a lot, loved it. There was an effort made by that provider to restrain that addiction. It was a caffeine addiction, I think. How would that do as an example of behaviour which can certainly cause you harm, if you are drinking 10 cans of Red Bull a day?

Ms Rattray - It would rot your teeth.

Ms O'CONNOR - Rot your teeth, rot your guts, rot your brain.

Madam CHAIR - You can also have a cardiac arrest.

Ms Webb - Is that safety rather than -

Ms O'CONNOR - This is where the ambiguity may lie because I certainly know from that provider's point of view, a fantastic Tasmanian-based provider, they were really worried about this participant's health and would do everything possible to steer them in the direction of healthy choices for the time that they spent with that person, but it was a challenge. I am interested in where the threshold is, just to follow up on the member for Nelson's question.

Madam CHAIR - If you are still speaking, you probably still need to be on your feet. Because there is no-one on their feet, I cannot hear you.

Ms O'Connor - Sorry.

Ms PALMER - Part of what we are doing with this bill is that in the area of restrictive practice, the behaviour support plan has to be signed off by an accredited practitioner and it has to be done in consultation with the person with disability and with an independent person. The provider also does have a duty of care.

With what I was reading out for the member for Nelson before, when we are looking at these behaviour plans, we are looking at what strategies can be used to reduce or eliminate the need for restrictive practice. At every point we are trying to find what is the least restrictive practice and how we can work towards eliminating it.

With the example you have just put forward from your experience, you would be working with the person with a disability and their independent person to find a way to not need to have a restrictive practice; you would find a way through that.

Ms O'CONNOR - Madam Chair, I know, minister, that in developing a behaviour support plan under clause 57, which relates to what you just said about the person with a disability being involved in the process of applying a potentially restrictive practice, there is no need under clause 57 for the provider to consult, as far as I can see, the person with disability. I note a potential double standard there. When we get to 57, I will ask about that.

Going back to the participant I was talking about before, could a restrictive practice be putting a lock on the fridge? I know there is some detail on what the range of them are, but some of the restrictive practices that are applied would be relatively benign, even though you are depriving a person of a freedom and a right.

Back to the question, why in this instance is the person with disability to be consulted in the application of a restrictive practice regimen, but under clause 57 there is no requirement to consult them in the development of the behaviour management plan?

Ms PALMER - The NDIS act and rules have a requirement to consult on the behaviour management plan, so that is in this bill.

Ms O'Connor - Where is it? Is it in the NDIS act?

Ms PALMER - The NDIS act and rules have that requirement. On page 14, 'restrictive practice' means:

> (a) regulated restrictive practice within the meaning of the NDIS Rules; or
>
> (b) a practice or intervention determined by the Senior Practitioner under section 45 to be a restricted practice.

That is where the reference to the NDIS rules is. It starts on page 14 and goes over to page 15. With regard to the behaviour support plans, on page 9:

> ***behaviour support plan*** means a plan prepared in consultation with a person with disability that specifies the evidence-informed strategies to be used in supporting the person's behaviour, including proactive strategies to build on the person's strengths and increase their life skills.

Ms O'CONNOR - Thank you, minister. I will ask you again about why it is not included in clause 57 when we get there.

Ms THOMAS - Madam Chair, just to try to help, I thought about this from a different perspective. I appreciate the member for Nelson's questions about this and the inclusion of health and wellbeing. Although thresholds are not defined or described, I am not sure they are for safety either. I understand that concern, but one of the things I come back to is that clause 8 talks about the following principles which reflect the United Nations Convention on the Rights of Persons with Disabilities that have been observed in the operation and administration enforcement of this act.

If you think about the fact that the senior practitioner must have regard to all of those things from paragraph (a) to (g) in relation to granting an authorisation under the clause for the use of a type of restrictive practice, they must have regard to all of those things but also the principles. I think we can be assured that in the application of this act, those principles apply across all of these clauses, so when a senior practitioner is giving consideration to the application of any of these sections, they also ought to be turning their mind to those principles. That gives us that assurance that the human rights of people are at the centre of the decisions that the senior practitioner will make.

I also think a senior practitioner, whilst we look at it from the perspective of protecting the rights of people, would be considering, 'What would I need to satisfy the tribunal of if there was an appeal made about a decision I made to grant authorisation for use of a restrictive practice?' They would need to satisfy the tribunal that they gave regard to each of those things, because from (a) to (g), all of these things need to be considered. It is not 'or'; it is 'and', so they

must give regard to each of those elements in making that decision. They must give regard to whether the use of a restrictive practice will promote or reduce the safety, health and wellbeing of the person, and to any alternative method that is reasonably suitable, and the consequences to the person with disability.

In a roundabout way, I am trying to say that I am comforted by the fact that these are 'and'. There will be a judgment call for the senior practitioner to make, but they will be making it with regard to the principles that underpin all of the sections of the act, and also knowing that they would need to be able to demonstrate, should they make a decision that is appealed to a tribunal, good reason. I am comforted by that.

Clause 52, as amended, agreed to.

Clause 53 -
Provisions in respect of authorisations by Senior Practitioner

Ms WEBB - Madam Chair, I have a fairly straightforward question on this clause. Clause 53(3) says:

> An authorisation granted under section 52 has effect for such period, not exceeding 12 months …

I wondered about the rationale for the selection of 12 months, and whether that is to align with other requirements elsewhere? It seems like quite a long time potentially for an authorisation to apply.

Ms PALMER - I thank the member for the question. The 12 months aligns with, first of all, the length of the behaviour support plan. Also, TASCAT has up to two years, but through our consultation process it was thought that was too long. The feedback from the consultation was that one year was more appropriate. That is where the 12 months came from.

Clause 53 agreed to.

Clause 54 -
Review, amendment and revocation of authorisation for the use of restrictive practices

Ms WEBB - Madam Chair, I move the following amendment:

Page 75, after subclause (3).

Insert the following subclause.

> (4) If the Senior Practitioner amends or revokes an authorisation under subsection (2), the Senior Practitioner must notify the Commissioner of that fact within 5 days after the amendment or revocation.

It is the same argument and rationale as the previous amendment I moved - so the commissioner is up to date with what is happening in this area and can undertake their role fully. I do not need to reiterate the same arguments again.

Mr EDMUNDS - Madam Chair, I am sorry I did not raise this the first time around, but I am wondering if the language in these amendments with the five days might create headaches around the Christmas period and Easter and weekends?

Should it possibly say, 'business days'? Or is this an office that might be constantly rolling over that period? I am sorry I did not raise it on clause 52 but perhaps it is still worth asking the question.

Madam CHAIR - Maybe that is a question for the member moving the amendment. If anyone else has got any questions for the member on the amendment, they should ask them so she does not use up all the calls.

Ms WEBB - My understanding is it reflects five working days, implied from OPC. I do not want to verbal OPC here, but I am trying to rack my brain about interactions about it. It is working days, not calendar days when it is in legislation.

Amendment agreed to.

Clause 54, as amended, agreed to.

Clause 55 -
Use of prohibited practice

Ms PALMER - Madam Chair, I move the following amendment:

Page 75, subclause (1), definition of *prohibited practice.*

Leave out all the words after "punitive".

Insert instead "approaches that is of a type, or class, of practice or intervention that is prescribed for the purposes of this definition.".

This amendment to clause 55 allows for the NDIS Quality and Safeguards Commission's Practices Proposed to be Prohibited List to be adopted by making them regulations. This has the benefit of being easily updated to include any other practices the senior practitioner would propose to be prohibited or that are nationally agreed to be prohibited. The clause was originally drafted with the intent for the senior practitioner being able to prohibit a provider from using a practice that did not meet the threshold detailed in clause 55(1) (a) and (b). This was consistent with what was understood to be intended by the NDIS Quality and Safeguards Commission and the recommendation made by the Disability Royal Commission in relation to prohibiting practices. The NDIS Quality and Safeguards Commission was extensively engaged in the consultation on the bill and the current wording of the clause.

However, greater clarity is required to make it very clear what a prohibited practice is, and this change provides that clarity. The amendment ensures there will not be any confusion for people with disability, their families and carers and for disability service providers that some practices are never to be used and are considered an abuse.

Amendment agreed to.

Clause 55, as amended, agreed to.

Clause 56 -
Use of unauthorised restrictive practice not permitted

Ms PALMER - Madam Chair, I move the following amendments:

First amendment

Page 77, subclause (2), paragraph (a).

Leave out "serious harm".

Insert instead "harm, that was both serious and imminent".

Second amendment

Same page, same subclause, paragraph (b).

Leave out "serious harm".

Insert instead "harm, that was both serious and imminent".

In the current *Disability Services Act 2011*, unauthorised restrictive practices are not to be used unless there is a risk of serious harm to the person. Currently in guidelines, the senior practitioner also requires a provider to demonstrate there was an imminent need to use the practice to keep a person with disability or another person safe. The intent of this amendment is to raise the threshold to use an unauthorised restrictive practice and to give a sense of imminence that a disability service provider must be able to demonstrate that the use avoided serious harm that the person would have been immediately exposed to should the practice not have occurred.

Stakeholders have raised with me since the tabling of the bill the need for imminence to be more present when referring to the use of another authorised restrictive practice. I am comfortable to make the amendment now as it brings into legislation something that has always been -

Sitting suspended from 1.00 p.m. to 2.30 p.m.

QUESTIONS

Sustainability Strategy

Ms WEBB question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

[2.31 p.m.]

My question goes to the progress of the state's sustainability strategy. It was announced on 9 October last year that since the August 2023 launch of the discussion paper for

consultation, 5000 people had visited the website with more than 150 online contributions and 27 submissions made at that stage. Due to the high community interest, the consultation was extended until 20 October 2023.

The published time frame for the strategy's development stated the release of the final Tasmanian Sustainability Strategy was to occur later in 2024 along with the commencement of implementation.

(1) Is the strategy on track?

(2) When will the final strategy be released?

(3) When can we expect its implementation to commence?

ANSWER

Mr President, the reply comes through the Premier's office. The department is currently working through feedback from a discussion paper released last year, which will then be provided to the government for consideration. It is important to note that most of the components of positive action that combine to form the sustainability strategy are already underway. For example, the Climate Change Office in ReCFIT is progressing Tasmania's Climate Change Action Plan 2023-25, including the development of sector-based Emissions Reductions and Resilience Plans. The Department of Natural Resources and Environment Tasmania is developing a new Threatened Species Strategy to provide a contemporary framework to maximise the conservation and recovery of our threatened species and prevent others from becoming threatened.

Ms Webb - I am letting the Leader know I will be resubmitting the three questions and hope to get an answer to each of the three questions:

(1) Is the strategy on track?

(2) When will the final strategy be released?

(3) When can we expect its implementation to commence?

Bushfire Preparedness - Parks

Ms O'CONNOR question to MINISTER for PARKS and ENVIROMENT, Mr DUIGAN

[2.33 p.m.]

Minister, you would be well aware of the devastating fires that went through the Tasmanian Wilderness World Heritage Area in 2016 and again in 2019. You would also be aware that we have just endured the hottest year on record. Are you able to outline to the Council what steps Parks is taking to be prepared for what is likely to be a very hot bushfire season in protected lands?

ANSWER

Mr President, I thank the member for the question. I share those concerns on Parks and fire preparedness. Tasmania has a very large area of reserve land and fire presents a substantial risk to those reserve lands. Firefighting bushfires is a combined effort from all of our state's fire agencies. Tasmania has the resources required to respond to a typical fire season, along with the systems and escalation arrangements to respond to events that are beyond typical. The Parks and Wildlife Service has a range of skilled and experienced fire management specialists. I would briefly take this opportunity to thank and welcome home the 12 Parks staff who were recently in Canada helping with substantial fire events in that country and are now safely back in the state. That is great.

The Parks specialists include fire management officers, fire operations officers, fire crews, winch-capable crews and incident management teams. In addition to our skilled team, Parks utilises new and emerging technologies to be able to detect fires early to allow for rapid response. That is a key and increasingly important tool in the Parks armoury. Fighting a small, emerging fire is possible, while fighting a landscape-scale fire is very difficult.

Parks staff are currently undertaking medical and fitness assessments in preparation for the upcoming fire season. Final fire crew numbers for the upcoming season will be confirmed following completion of the training and assessment sessions. There were 116 personnel last season who were trained to fight fires in remote areas - arduous firefighters; and 27 tanker-based firefighters - moderate firefighters; 143 firefighting personnel in total across the Parks staff.

In addition, Parks had 61 people trained to undertake roles in incident management teams, including incident controllers, planning officers, logistics officers, public liaison officers and operational officers. If needed, we can call upon additional interstate fire crews through the National Resource Sharing Centre.

During the peak bushfire season, Parks also has a dedicated winch-capable helicopter to pre-position in areas of greatest risk and respond to bushfires when required. PWS has deployed remote cameras with weather stations to assist with the detection of fires and to monitor existing fires. These cameras are part of a statewide network of cameras deployed by the agencies. The cameras and weather stations allow Parks to check and monitor conditions in remote areas, critically saving time and assisting to manage the risks associated with staff deployment when working in remote and often rugged areas.

Importantly - and somewhat recently - satellite technology also assists with early detection of fires arising from lightning strikes and other sources. These satellites provide information on ignition location and fire intensity, and are an increasingly important tool in allowing Parks to detect fires early and triage the most important fires to deploy those resources to.

Planning specialists can rapidly determine the likelihood of each fire growing and moving based on vegetation flammability mapping and weather conditions at the time, allowing Parks to prioritise response. Public and staff safety are obviously a priority, and PWS closes parks and reserves when safety issues are identified. Campfire restrictions were introduced in a number of parks and reserves across the north of the state and down the east

coast. These measures also help to protect Tasmania's significant reserves and add to the aspect of community safety.

Bushfire Preparedness - Accidental Fires - Tasmanian Wilderness World Heritage Area

Ms O'CONNOR question to MINISTER for PARKS and ENVIROMENT, Mr DUIGAN

[2.38 p.m.]

Thank you to the minister for that thorough answer. What can Tasmanians who will be visiting parks and the Tasmanian Wilderness World Heritage Area (TWWHA) in coming months and over summer best do to make sure the risk of an accidentally lit fire within the TWWHA is mitigated to the greatest extent possible? What is the best advice that is coming to you as minister for this fire season in terms of the level of threat? What is the Bureau of Meteorology's advice to Parks and what are we looking at this season?

ANSWER

Mr President, I thank the member for the question. The fire restriction advice is provided by the Tasmania Fire Service, and Parks follows that advice. As I mentioned in my previous answer, there are specific rules regarding campgrounds and so on, and those are updated. Obviously, we would encourage people to be conscious of those restrictions and be engaged with the process and where to find the most up-to-date information when they are travelling, particularly in those sensitive areas. A lot of times those will have fuel-stove-only restrictions and things of that nature. We would expect that people would be knowledgeable about their responsibilities when they are going into our parks and the TWWHA.

In terms of what we are hearing about the upcoming fire season, I would have to take that on notice. I have not had a briefing on that; I am happy to take that one on notice and provide an update shortly.

Ms O'Connor - Could you do that later today or tomorrow?

Mr DUIGAN - Tomorrow.

Ms O'Connor - Thank you.

SUSPENSION OF SITTING

[2.41 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That the sitting be suspended until the ringing of the division bells.

This is for logistical purposes.

Motion agreed to.

Sitting suspended from 2.41 p.m. to 2.53 p.m.

DISABILITY INCLUSION AND SAFEGUARDING BILL 2024 (No. 29)

In Committee

Resumed from above (page 23).

Clause 56 -
Use of unauthorised restrictive practice not permitted

Madam CHAIR - I believe the minister was just talking about an amendment she had nearly got through, so, when she is ready.

Ms Rattray - I thought she had finished.

Ms PALMER - To finish where I left off from, I will restate my final point that I am comfortable to make this amendment now as it brings into legislation something that has always been a consideration of the Senior Practitioner.

Amendment agreed to.

Clause 56, as amended, agreed to.

Clause 57 -
Behaviour support plan to be prepared

Ms WEBB - The question I had on this was answered for me in an earlier discussion, so I do not have a question. Thank you.

Ms O'CONNOR - Madam Chair, regarding clause 57, this goes to a question I foreshadowed about the application of restrictive practices. There is a requirement for the person with disability to be consulted. In the development of the behaviour support plan that is to be prepared, there is no specific provision for the person to be consulted. I note that in the interpretation section where it defines restrictive practice, it talks about the NDIS Rules and then there is a definition of behaviour support plan, which is a plan prepared in consultation with a person with disability that specifies the evidence-informed strategies to be used in supporting the person's behaviour, including proactive strategies to build on the person's strengths and increase their skills. Is it simply a matter of drafting that in clause 57 there is no explicit reference to consultation? I wonder why you would not just make it clear in there as well, seeing as it prescribes the structure.

Ms PALMER - Behaviour support plans need to be developed in line with the *National Disability Insurance Scheme Act 2013*, the Restrictive Practice and Behaviour Support Rules 2018 and the NDIS Quality and Safeguards Commission's Positive Behaviour Support Capability Framework. Section 20 of the Restrictive Practice and Behaviour Support Rules 2018 details how a behaviour support plan containing a restrictive practice must be developed. It specifically says that states and territories need to authorise restrictive practices and the NDIS act regulates behaviour support plans and practitioners. In developing and reviewing

a behaviour support plan for a person with disability, the specialist behaviour support provider must take all reasonable steps to:

- reduce and eliminate the need for the use of regulated restrictive practices in relation to the person with disability
- take into account any previous behaviour support assessments and other assessments
- make changes within the environment of the person with disability that may reduce or remove the need for the use of regulated restrictive practices
- consult with the person with disability
- consult with the person with disability's family, carers, guardian or other relevant person
- consult with the registered NDIS provider who may use the regulated restrictive practice and other relevant specialists.

This is also reflected in the interpretation section of this bill, which says

> ***behaviour support plan*** means a plan prepared in consultation with a person with disability that specifies the evidence-informed strategies to be used in supporting the person's behaviour, including proactive strategies to build on the person's strengths and increase their life skills.

It was the intent of this bill to show a clear relationship between the authorisation of restrictive practices and the requirement for a behaviour support plan that includes strategies to reduce or eliminate the practice over time. Behaviour support plans and the practitioners that develop them are closely regulated by the NDIS Quality and Safeguards Commission. Evidence-based practice and data-driven decision-making are a recognition that behaviours of concern are often the result of the interactions between the person and their environment and may be affected by multiple factors; acknowledgement of a lifespan perspective and that as people grow and develop, they face different challenges; and commitment to the principles of supported decision-making.

Ms O'CONNOR - Madam Chair, if I am a disability services provider and I go to the new Disability Rights, Inclusion and Safeguarding act and I want to understand what my obligations are, what we are actually requiring of them to do here is to go through the act.

It is not really clear in this clause, which relates to an obligation on them that they need to consult. We are adding a layer here of potential confusion for providers that need to prepare these behaviour support plans.

Minister, would you explain what happens to the behaviour support plan once it is developed? Where does it go? Does it go to the senior practitioner?

Ms PALMER - I am just seeking some advice on one part of your question but when you were talking about the actual plan, yes, a copy of that has to go to the senior practitioner. However, the plan is owned by the person with the disability.

Ms O'Connor - Just by interjection while you are getting more advice for the second part, how quickly does the plan have to go to the senior practitioner? What is the time frame?

Ms PALMER - It is imminent and the behaviour support plan has to go to the senior practitioner to enable the authorisation of the restrictive practice. It would happen very quickly.

In regard to the first part of your question, member for Hobart, I am advised NDIS providers know their obligations and that is part of their registration. Also, part of the senior practitioner's role is to ensure they are on top of it and adhere to it.

Clause 57 agreed to.

Clause 58 -
Senior Practitioner to investigate use of restrictive practices

Ms WEBB - Madam Chair, I am going to move these two amendments separately. The second amendment relates to ones we did earlier, but the first amendment is different. I will move the first amendment first. I move:

First amendment

Page 80, subclause (2), paragraph (a), after "under subsection (1)(g)".

Insert "or section 52".

To explain to members, this is not making any change or particular addition, it is putting consistency into the way we refer to any instances in which a senior practitioner gives an authorisation and then has to notify the person with a disability. This is for completeness. We would be aware that clause 52 is the primary spot in the bill that authorises restrictive practices, but here in 58(1)(g) it also is about written authorisation to disability service providers for the use of restrictive practices; and (2)(a), which is where this amendment goes, is to ensure that the requirement for the senior practitioner to give notice in writing of their authorisation to the person with disability affected by it - is met not just in relation to (1)(g) immediately above it, but also in relation to authorisations issued under clause 52.

Below in (2)(b), we also have reference to proposed section 59, which is another clause that allows for authorisation, but here we are missing any reference back in clause 52; there is no reference to having to give notice to the person who is being affected. Elsewhere in the bill there is a reference to action relating to an authorisation of restrictive practices and it refers to a restrictive practice authorised under proposed section 52 or 58(1)(g). There are other places in the bill where both proposed sections 52 and 58(1)(g) are grouped together because they both have a role in authorisation of restrictive practices. The amendment is being proposed so that it should be clear on the face of the legislation that any authorisation, whether under proposed section 52 or proposed section 58(1)(g), is to be notified to the person with a disability by the senior practitioner.

That is probably a bit confusing in terms of skipping around, but it is completeness more than adding anything different or new.

Ms PALMER - Yes, the government is supportive of this amendment.

Amendment agreed to.

Ms WEBB - Madam Chair, I move a second amendment to this clause as follows:

Second amendment

Page 81, after subclause (6).

Insert the following subclause:

(7) The Senior Practitioner must provide a report to the Commissioner regarding the exercise of any power under subsection (1) in relation to a disability services provider within 28 days after exercising that power.

For members' benefit, this is along the same lines as earlier amendments we made, which is basically about having the commissioner become aware of actions taken by the senior practitioner so they can be up to date with what is happening in the sector on authorisation of restrictive practices and the like. It is in the same vein as those and I hope members will also support the inclusion of this one.

Amendment agreed to.

Ms RATTRAY - Madam Chair, there may well be a very simple explanation. Clause 58(4) says 'The Senior Practitioner may notify the NDIS Commissioner of any matter relating to an NDIS provider'. The clause goes on. I am interested in the fact that we have used 'must' in a number of obligations for reporting and advising, but in this particular subclause, the senior practitioner is not required to notify the NDIS commissioner - it says 'may', not 'must'.

Ms PALMER - The clause says the senior practitioner may notify the NDIS commissioner of any matter, but it might be a minor matter that is not requiring notification, so the onus is on the senior practitioner to make a judgment call of whether it is a matter that should go to the NDIS commissioner or may not need to go to the NDIS commissioner.

Mr Rattray - Do you have an example, while you are on your feet, of a minor matter? Too many coffees at the cottage bakery with one of their clients?

Ms PALMER - I am going to seek some advice because I do not want be stepping into a hypothetical space.

Madam CHAIR - You could just talk about 'may' and 'must'.

Ms PALMER - I am very comfortable with saying to you that the onus is on the senior practitioner to have that judgment call; if it is appropriate for it to go further, then it will. If it is a minor matter as per the judgment of the senior practitioner, then that is a call that they make. I feel a little bit hesitant moving into a hypothetical space on my feet.

Clause 58, as amended, agreed to.

Clause 59 agreed to.

Clauses 60 and 61 agreed to.

Clauses 62 and 63 agreed to.

Clause 64 agreed to.

Clause 65 -
Senior Practitioner may issue directions

Ms RATTRAY - Madam Chair, thank you. Minister, some clarification would be really appreciated on 'may issue directions', as in: 'The senior practitioner may issue directions to disability service providers.'

This is in relation to 'minimum qualifications required to be held by persons who are appointed program officers', 'training to be completed by appointed program officers' and 'any other matter in relation to appointed program officers'. I am interested in how that is going to be undertaken and how they are going to be assessed as being compliant. Is that something that the commissioner will do or a senior practitioner might do? How is that actually going to unfold to meet the obligations of clause 65? Does that make sense?

Ms PALMER - The training? Who is going to assess the training?

Ms RATTRAY - The clause talks about program officers, which is what my query is in relation to. I probably should have got up at clause 61 to talk about program officers but I missed the call. Here is my catch-up opportunity. Program officers is plural. There are going to be a number of them, according to this, and obviously you would need a number to service the various areas right across the state in some of our more rural and regional communities. How is that going to work and be compliant in practice?

Ms PALMER - Madam Chair, I thank the member for the question. The senior practitioner establishes the guidelines on who can and how you become a program officer, and it is the responsibility of the senior practitioner to review and ensure that there is compliance. That training will be developed and distributed in a very flexible manner to take into account things like being in a remote part of Tasmania.

Ms RATTRAY - Thank you, that goes some way to answering my question. There would obviously be a number of program officers already undertaking that type of function for a disability services provider right across our communities. Is there an opportunity for recognised prior learning in regard to what they are already doing? They might not need to do a full six-week course; they might only need to do a course that is two or three modules because they are already undertaking that program officer work.

My second question is around clause 65(2), which says:

> The Senior Practitioner may direct a disability services provider to appoint an appointed program officer if the provider does not have an appointed program officer.

As I indicated to you earlier, minister, I am aware of an NDIS provider who provides services to a number of people with a disability. They are a husband-and-wife team. They may not necessarily have an appointed program officer, but in that case would the senior practitioner decide that one of those two people would be the program officer? Is it the one who is best at putting the program together and submitting that to the senior practitioner?

I know that this is something that may well be fit for purpose for large providers, but I am thinking about the smaller providers. There will be many small providers across the state that perhaps do not have a large number of employees to carry out these particular requirements of delivering services to those with a disability.

Ms PALMER - Yes is the answer to the first part of your question about recognised prior training and learning - that will be reflected in the guidelines.

With reference to the second part of your question, it is a function, not necessarily a new position. It could be undertaken by an existing person.

Clause 65 agreed to.

Clause 66 -
Appointment of independent persons

Ms RATTRAY - Clause 66 is around the appointment of independent persons. Clause 66(1)(a) is identifying, whilst taking into account the will and preference of the person with disability, a person who is suitable to be appointed as an independent person for the person with disability, such as a family member or friend.

My question is, can the independent person be a disability support worker or does it have to be, as suggested, a family member or friend? I know that we talked about this just prior to coming back to this bill. In small communities that I see as I travel around the electorate, the disability support person becomes a friend and that is very much a relationship that they appear to be having when you see them at the local bakery having coffee, and perhaps not cake, but perhaps something else - or you see them at the footy. They actually have them at the local footy; that type of thing.

They might feel more comfortable with having that independent person as their support worker. I am interested in the answer that I know you are going to give me, about why a disability support person is not eligible to be an independent person.

Ms PALMER - I thank you for the question. No, it cannot be a support worker. It is to be someone who is independent of the service provider. I absolutely acknowledge when there are friendships between a support worker and a person with a disability and I certainly acknowledge the importance of those relationships, but this is a safeguarding matter. This needs to be someone who is not a support worker, who is independent of the service provider. To ensure clarity of that, we have included those words, 'a family member or friend'.

Ms RATTRAY - Madam Chair, I appreciate there needs to be that separation but if you have someone who may well have a challenge with their intellectual capacity and they have a really strong relationship with that support worker that may well have been in place for a while, is there any flexibility around that or would there be an opportunity for the disability

support worker to perhaps make some contact with somebody - a family member or friend - or is there an absolute cut-off line, no, you cannot have any input into this area or, yes, there is? They spend a lot of time with these people. I am not saying that families do not, but I am interested in what flexibility there is, if any at all.

Ms PALMER - A couple of things on that. First of all, in the behaviour support plan, there is consultation that includes the service provider. That is the first thing I will say. It is not that they are not part of that; they are. However, the function of the independent person, and I say this with the deepest respect to support workers across Tasmania -

Ms Rattray - Who build significant friendships -

Ms PALMER -They do, but they are support workers. And I do say this carefully and respectfully, but there are circumstances where a support worker - and we are using words like coercion in this bill - where they can use the pretence of a friendship, and that is where we can find that people with disabilities are in a position where they are taken advantage of. That is why we are trying to put a safeguard in.

I understand what you are saying, but what we are trying to do is say that there is an independent person. They are not part of the provider, they are not a support worker, they are not in a position where they are being paid. There can always be friendships, of course there can be friendships. But what we are saying is that for this position as an independent person, it cannot be someone who is a provider or a support worker. It is just another level of safeguarding that we are trying to put into this field.

Ms Rattray - And I think that is really important to have that on the public record.

Ms PALMER -Yes, and that is in no way a reflection of support workers in general, but you know, this is what we are dealing with across Australia. That is why we have this in this bill.

Ms WEBB - Madam Chair, I had a question to clarify here, as part of the record of debate. The wording in 66(1)(a) talks about 'that person is to … identify, whilst taking into account the will and preference of the person with disability, a person who is suitable to be appointed'. The wording of 'whilst taking into account the will and preference' is specific as opposed to 'with the consent of' or something more explicit like that. I just wondered whether you could provide some explanation for us here as part of the debate as to whether we are to take that wording to mean that the person with disability needs to effectively consent to the person who is being appointed as their independent person, or perhaps explain the parameters around to what degree 'taking into account of the will and preference' amounts to consent. If that is not clear, is it a problem if the will and preference of the person with disability cannot be discerned? I seek some explanation around that.

Ms PALMER - The words 'will and preference' are specifically written that way to reflect a supported decision-making framework versus actual consent.

Clause 66 agreed to.

Clause 67 agreed to.

Clause 68 -
Community visitor scheme

Ms RATTRAY - Madam Chair, clause 68, about the community visitor scheme, says: 'The regulations may establish a scheme for a community visitor or visitors', and then it goes on to talk about the 'selection, appointment and removal of community visitors'. I am interested in the purpose and how this community visitor scheme will operate or function? Something like this may be fine for larger communities. I am not quite sure. I would like some clarification on how it is going to be implemented and for what purpose.

Ms PALMER - Madam Chair, I thank the member for the question. As an additional safeguarding measure, the bill makes provision for the creation, by regulation, of a community visitor scheme to promote safeguarding protections for people with disability with an elevated risk of abuse or harm, which aligns with other safeguarding roles and is consistent with national best practice and rules. The regulations may make provision in relation to the administration of the scheme, information sharing, appointment or removal of community visitors, functions and powers, and reports to be provided to the minister or laid before parliament.

It is important to note this is a recommendation. It is recommendation 16.4 of the NDIS review. State and territory governments with the support of the Department of Social Services should ensure participants can access high quality, nationally consistent community visitor scheme offerings that interface with the NDIS. It is also the Disability Royal Commission recommendations 11.2, nationally consistent community visitor schemes, and 11.13, integration of community visitor schemes with the NDIS.

All governments in our Disability Royal Commission response support the intent of a nationally consistent approach to community visitor schemes and will work together to consider the best approach to ensuring people with disability have access to CVS as a safeguarding mechanism and the Australian government is committing $4.4 million to drive a nationally consistent approach. In addition, as part of Australia's Disability Strategy, a joint Tasmanian, Victorian and DSS forum is planned to discuss community visitor schemes in the context of both the NDIS review and the Disability Royal Commission recommendations.

Ms WEBB - Madam Chair, it is really positive to be implementing a community visitor scheme. It is a key extra oversight and eyes on what is happening. Where does it sit in relation to the commissioner or the senior practitioner? This requires reports being provided to the minister, which pleasingly, also have to be laid before parliament. That is great to see, but apart from that reporting to the minister, where does it actually operate in the system and who will be doing the regulations that outline all the elements of that scheme?

Ms PALMER - Thank you very much. That body of work is yet to be developed. We have put this into this legislation in light of the recommendations that have come out of the NDIS review and the recommendations from the Disability Royal Commission. We wanted it to be part of the legislation so we have the lever to do that body of work in conjunction with other states and territories.

Ms WEBB - Madam Chair, to clarify, is it anticipated then where it is going to sit in terms of a relationship with the commissioner or relationship with the senior practitioner or whatever it might be; is that going to be determined by the department that is preparing the regulations, for example? Is that what you are saying? How long a time lag, then, are we

anticipating from passage of the legislation through to having those regulations and the scheme in place?

Ms PALMER - I will just seek some advice. Thank you very much. There are a few options in this area. It might sit with the disability commissioner. It could also be a standalone item, or could be aligned with other Tasmanian community visitor schemes. In other spaces there are other visitor schemes and it could be part of that. The work we need to do is to model what are the different options and we are doing that in consultation with other states and territories, because as part of the recommendation it was to have nationally consistent community visitor schemes. You can already see schemes in other states. Some states have them, some do not, and they are different. That is the body of work being done in Tasmania and nationally.

Ms WEBB - Is there a time line?

Ms PALMER - My expectation as a minister is that this work will be happening once this bill goes through and we have the lever. We are already in discussions with other states and territories at an official level and a ministerial level. My expectation is that whilst we do have to work with the pace of what is happening nationally, this is something that we feel is important in Tasmania and we want to see it up and running in line with what is nationally consistent.

Clause 68 agreed to.

Clause 69 -
Grants of financial assistance to promote objects of Act

Ms O'CONNOR - Madam Chair, this is the section of the bill that relates to grants of financial assistance to promote the objects of the act and the obvious importance of advocacy organisations to give full effect to this act and to improve the protection of human rights of people with disability.

The minister is well aware that advocacy organisations have struggled with funding. Autism Tasmania, for example, does not have secure funding - I understand there are other elements to this. Disability Voices Tasmania has received some sort of spot funding here and there, but the lack of sustainability of funding for advocacy organisations in this state continues to be a real issue.

Given there is now a specific provision in the legislation that the minister may be able to grant financial assistance for any purposes consistent with the Objects of this Act, and in subclause (3)(b) it says 'a disability advocacy organisation, disability peak body or disability representative organisation', minister, what do you foresee as being the financial effect of this clause on disability advocacy organisations?

Ms PALMER - I thank the member for Hobart for the question. This was in the 2011 act and the sector wanted it to be back in our new inclusion bill. It enables the minister to be able to fund organisations in that advocacy space through the usual budget process. It is not wanting to commit the government to be funding in a space that is already funded through the NDIS, through what we now know as ILC funding. There are times when advocacy groups

may fall outside of that, and that is my lever to be able to allocate funding through the normal budget process.

Ms O'Connor - Through the normal ministerial budget process, because it does not have to go to state budget.

Madam CHAIR - Order, if they are not on their feet, I cannot hear anybody.

Ms O'CONNOR - Madam Chair, I thought I would clarify that by way of interjection, but that is fine. Minister, you are not talking about necessarily securing an extra allocation of funds through a formal budget and Cabinet process. My understanding of this provision is that it enables you as minister to look at the department's budget and allocate internally, as every minister can and should be able to do. We will confirm that.

Second, I ask for your view, minister, on whether you think that the voices of Tasmanians living with disability are adequately represented in terms of the funding that is provided to advocacy organisations, because I think there is an argument that it does not. We now have a substantially improved disability inclusion and rights framework. It has improved over the past 13 years, but it also creates a whole new set of obligations on service providers, as well as new rights. Do you agree there is a need for increased funding for advocacy organisations?

Ms PALMER - In answer to the first part of your question, yes, as per any minister, there is the opportunity to work with the department within the output group. I am in awe of our advocacy groups and the work that they do. I acknowledge we have Michael Small from Disability Voices Tasmania here.

It is important to remember that every year Tasmania contributes over $280 million to the NDIS. That is our government's contribution to ensure that people with disabilities are catered for in our state. As part of that, an allocation of that $280 million goes into the ILC fund, which is supposed to be set up to support, for example, Disability Voices. Over the past - I cannot remember how many - years, there has been around $35 million that has gone through ILC funding to some of our different disability advocacy groups, as well as groups like New Horizons that may not necessarily fit into that funding model of the NDIS as it has been set up in the past.

There is an avenue. It is a competitive grants process that Tasmania already contributes to as part of our $280 million contribution to the NDIS. Do I think it is a perfect system? No, I do not. Am I in awe of our disability advocacy groups? Yes, I am. Am I advocating on the national stage that I do not think the current setup of the ILC funding grants is working? Yes, I am.

Ms O'CONNOR - Madam Chair, thank you. Minister, I am pleased to hear that you are advocating for reform at a national level. You would agree then - and I am taking from your words - that the current funding arrangement for advocacy organisations through the ILCs is insecure, uncertain and spotty, and therefore it does not provide consistency of advocacy services to people living with disability here. Is there any movement at the national level to get advocacy organisations and peak bodies on a sustainable funding footing? Have you been able to persuade anyone, minister, given that you have right on your side?

Ms PALMER - I was disappointed with the outcome of the latest rounds from the ILC grants, and have advocated very strongly around that. It was disappointing for some of our advocacy groups. Other organisations were successful and they were happy. I can tell you that looking at the process of the ILC grants is part of the work that we are doing with the review of the NDIS. I believe the federal government is about to go out to consultation around what they are calling general foundational supports. They are proposing that it is going to take the place of what we currently have and know as the ILC funding grants.

I think it would be fair to say that all states and territories have made it very clear that while there are so many parts of the NDIS that have worked magnificently and have been life-transforming for people, there are other aspects that have not worked so well. I think it would be fair to say that the federal government has acknowledged that, which is why we are now looking at general foundational supports, which will work in that advocacy space. That is going out nationally for consultation.

Ms WEBB - Madam Chair, I am interested to follow up on this as well. It is positive to hear what you are saying - that there may be those developments at a national level - because ILC grants currently are project-specific; they are entirely not fit for purpose for a peak organisation or a representative organisation.

It is not clear to me yet that general foundational supports are going to be different to that. Is the expectation that they will not be project-specific and, again, unsuitable grants for an ongoing peak organisation, for example, or a representative organisation?

Is clause 69 our stopgap measure, then, for financial assistance? Because the way this is worded does not sound like it would be a stable source of funding for something like a disability advocacy organisation, disability peak body or disability representive organisation, even though it is stated there that those groups could be funded by this grant assistance.

Would it be of a nature that could provide their core operational funding for an extended period of time under this provision, or is that not what you envisage these grants of financial assistance to be? Also, is this going to still just be little project blocks here and there?

Ms PALMER - I think the intent of this is that it gives the minister the lever that they can fund outside of the process of the NDIS and that $280 million annual contribution is supposed to cover funding for advocacy groups. There is a lever that the minister has available to them if they see fit, being careful not to double up on what has already been contributed and how that is supposed to be allocated.

As you say, that is part of the issue that we have, that the ILC funding, which was supposed to be the arm of this, has always been project-based. Therefore, you have organisations trying to mould what they are meant to be doing into a project in order to apply for funding. We have, through the process of the NDIS review, made it very clear - as we have at official levels as well - that it is not working. This is the situation we find ourselves in now, which is why we are advocating so strongly. We hope - and I know others will as well - through that consultation on how our general foundational supports should be set up.

Ms WEBB - Madam Chair, thank you. Minister, I appreciate the answer and I fully acknowledge it is a rock and a hard place because the state government is providing that funding every year - a huge amount - and it is supposed to cover. However, it does not

cover - let us just pick out the peak body function or the representative organisation function for people with disability.

Until now, as you say, it has been organisations that have had to twist and turn and try to mould themselves to grab bits of project funding, which is entirely insufficient. It is not okay to employ staff, for example, on the basis of little blocks of project funding. There is no surety to the core funding operational component of it. Through this though, given that you have put this in here, which, again, I applaud that you have put this in here as a head of power to be able to direct funding into those spaces, while we look and hope to the general foundational funding to come to fruition at a federal level to genuinely cover representative organisations and peak bodies, are you making a commitment that in the meantime this is a way that you will provide operational sustainability to at least one organisation in this state that can operate as a representative body in this area?

If that is not your commitment, this is again going to be expecting groups to try to twist and turn and grab little, perhaps, tiny buckets of funding under this. So, are you leaving them in the same situation or is this a genuine stopgap measure to give surety until the national situation hopefully comes to fruition and is funded appropriately there?

Ms PALMER - Madam Chair, I will seek some advice.

The reason we have this in the bill is to ensure that as a minister I have a lever where I can, through the normal budget process, consider funding for advocacy organisations that is not duplicating what we are already contributing through the $280 million into our NDIS contribution, which then flows through the ILC grants. It is important to acknowledge that we already do contribute there.

I believe it is about $1.3 million that our government already contributes to different advocacy groups. The other role that I play as the disability minister is that I have been advocating very strongly with the federal government and working directly with some of our peak advocacy groups to ensure that they are appropriately funded as per the $280 million contribution that Tasmania makes to the NDIS. We have seen in this latest round of ILC funding grants, as nearly every other state and territory has, that money has not flowed where we have seen it flow or expected it to flow in the past. The bill gives me a way to have some leverage to have funding options through the budget process not duplicated in our NDIS funding.

Ms RATTRAY - Madam Chair, I have a follow-on question in regard to this. Will this scheme have an allocated budget and will we see a line item in the state budget? You have answered a number of questions on the budget. Specifically, will we see a line item under 'grants and subsidies' in the budget in one day's time, to support this part of the legislation, even though it will not have received royal assent? When speaking about those particular groups, it immediately took my mind back to the Tasmanian Amputee Society, which runs on the smell of an oily rag - $4000 because someone does it out of the goodness of their heart.

We received a letter from them last year saying they would no longer be able to take any new amputees because they did not have the funds; they were not funded at all. Is that the type of organisation that did not fit under ILC grants? Will that fit under the general foundational support? Or will this particular group - and I expect there are others that are very similar - be able to apply to you, minister, under this bucket of funds that we may see as a line item in

tomorrow's budget under grants and subsidies? This is the one I have chosen. I am sure there are many others that members will have in their patches doing great work on nothing.

Ms PALMER - There is not a specific line item in the budget related to this clause, but it sits in the disability services output group. Groups like the amputees who you just spoke about are able to submit into the community budget process.

Ms RATTRAY - Madam Chair, I have read further on in my notes and I take back the $4000 I referred to as what this organisation has been surviving on. It is looking to have some development funding to provide more services and it is looking for something in the order of $35,000 to $40,000. To clarify, that is for this particular group and I should acknowledge the advocacy of the CEO, Peter Hatters. Thanks, Peter for providing that and congratulations on the work you do.

There will be a line item in the budget for grants and subsidies more generally. We will have to wait and see tomorrow. That will be homework for Committee A. Finally, some homework for Committee A.

In regard to the grants and subsidies line item, which I expect will be explored when we get to Budget Estimates in a week and a bit, the question is, will you be ready for the questions?

Madam CHAIR - We will take that as a statement.

Clause 69 agreed to.

Clause 70 -
Secretary or Commissioner may authorise entry of premises

Ms O'CONNOR - Madam Chair, for consistency, given the Council's decision to include 'coercion', I move the following amendment:

Page 95, subclause (1), paragraph (c), after "neglect".

Insert ", coercion".

Amendment agreed to.

Ms WEBB - I have a question on that.

Madam CHAIR - Sorry, I am just keeping up on paperwork here.

Ms WEBB - Madam Chair, I wanted to check in relation to proposed section 70(1), where it says the Secretary or the Commissioner may authorise a State Service employee or State Service officer to enter premises of a service provider, and the one I am interested in -

Sitting was suspended from 4.00 p.m. to 4.30 p.m.

Resumed from above.

Further Consideration of Clause 70 -
Secretary or Commissioner may authorise entry of premises

Ms WEBB - Madam Chair, I was on my feet asking a question about clause 70(1)(b). I am looking for an explanation, because it seems extraordinary that the secretary or commissioner can authorise a State Service employee or State Service officer to enter the premises of a grant recipient. I understand why we would not be entering the premises of the disability service provider who may be subject to an authorisation for restrictive practice or the like under this act. However, I would not have thought we would normally authorise entry onto premises of grant recipients. So perhaps I could have an explanation as to what the intent of that is?

Ms PALMER - I thank the member for the question. Subclause (1)(b) is to cover if the grant recipient is an individual - so not a disability provider. The actual words 'grant recipient' are a legal definition of an individual in this circumstance. An example of this is if someone has a self-managed fund, they are living in their own home, they are not in a group home. They could have a number of different disability service providers that care for them in their home. This would be a situation where there have been signs or concerns that something may not be right with that individual. This enables the secretary or commissioner to authorise a State Service employee or officer to go and check on that person.

Ms WEBB - Madam Chair, as a follow-up to that, what is the oversight or accountability around the use of this power? For example, would any instances in which such an authorisation has been made to enter premises be reported in annual reports? Is there a way that there can be, for example, a complaint about the use of that power if a person whose premises has been entered feels it has been exercised inappropriately? What is the accountability around it?

Ms PALMER - I will seek some advice.

This would be included in the annual report. Also, if that scenario happened and someone felt that it was inappropriate, they would go to the Disability Commissioner. That is where they would go to say, 'This is what has happened and I have concerns with that.'

Ms WEBB - I will stand rather than interject. I might get pulled up for interjecting.

Madam CHAIR - Member for Nelson, third call.

Ms WEBB - Presumably, though, if it was the commissioner who authorised, as per this section, could the person then, if they had a complaint about it, go to the secretary? Would that be the alternative to going to the commissioner to have a complaint about that dealt with?

Ms PALMER - I will seek some advice.

It is a good question. In the policies and procedures in the regulations, we would need to make it clear with regard to the commissioner. In my thinking, the commissioner is appointed by the minister, so I think that could be an option. We would need to make clear in the regulations what other alternatives there would be as well.

Clause 70, as amended, agreed to.

Clauses 71 to 74 agreed to.

Clause 75 -
Internal review

Ms WEBB - This clause relates to internal review - the opportunity to have reviewable decisions looked at that the senior practitioner or those delegated by the senior practitioner have made.

I am interested in trying to clarify whether this clause sufficiently protects someone from a situation where an internal review is undertaken by the person who made the initial decision. I can see that in some instances that is dealt with explicitly, but if it is the senior practitioner, for example, who made the original decision, then it does not read to me that it is absolutely guaranteed it is not the senior practitioner who does the internal review.

Can you talk us through how this clause ensures that an internal review is never done by the person who has made the initial decision that is being reviewed?

Ms PALMER - I will seek some advice.

In regard to the internal review, it is the senior practitioner who must prepare and implement that process that has to be established for the internal review of reviewable decisions. That process could be when it is set up. It could be the secretary who has to do the review, or if it is delegated, then the person it is delegated to cannot be the person involved in the initial decision-making point.

If the senior practitioner made the decision, that would have to be part of the consideration, because you cannot review your own work. It would need to be reviewed by someone outside that. That is part of the work that needs to be done with the senior practitioner once this is established - to have that internal review process set out.

Ms WEBB - Thank you for that explanation. The other issue I wanted to ask about is in relation to subclause (4), which makes it explicit that when there is an application for an internal review, the reviewable decision does not pause. The implementation of whatever that decision originally was continues while an internal review process is undertaken. However, in the next section under external review, an external review pauses the implementation of a decision while the external review is undertaken.

I am concerned that the same rationale for pausing while an external review of a decision is conducted applies for an internal review. The decisions being made under this act, in some instances, can have significant implications for the person with a disability, even for their bodily integrity. I am trying to understand why we do not respect the fact that the implementation of a decision should be paused while an internal review is done, given that time

transpiring may add to significant consequence for the person with a disability until the internal review is completed. If, for example, the internal review finds the original decision was not made correctly and needs to be reversed, then you have a period of time where it was being implemented and there may be significant consequence to that.

I want to understand the thinking behind why a decision can continue to have effect during an internal review process when we acknowledge that it should not during an external review process.

Ms PALMER - I will seek some advice.

Madam Chair, it is important to remember that the senior practitioner is making decisions in light of what we have previously looked at in the bill with what is the least restrictive, with all the guidelines that the senior practitioner must go through in order to make that decision in the first place. I am advised these decisions are also made based on clinical advice. While the review is underway, it is considered that it is a safer option to keep that in play while a review is being done. If they cannot have resolution with that internal review, then you know there is a bigger problem. That is when it goes to the external review and where it is felt it is appropriate to pause that action.

Ms WEBB - My third call, I think.

Madam CHAIR - Third call, yes.

Ms WEBB - There are many requirements here that help ensure most decisions are going to be good decisions made under this act. We have to assume, because we are allowing for eventualities, that tiny risks may eventuate. I agree with you that we would assume that most decisions are not going to need to be put forward for review. There will not be a request for review from the person with disability or maybe their advocate because they will have been well made, given all the hoops they need to jump through, quite appropriately.

Having said that, what we would assume is, if someone has then called for an internal review in the first instance and with the potential later for an external review, it may well be that something has gone horribly wrong. Where does that leave us if we have not had to pause the implementation of that decision, or the giving effect to that decision, while the internal review is underway? Does that leave the state, for example, at legal risk? Is there liability potentially attached to that?

I accept we are talking about what might be a minuscule chance of anything like this happening. This is why we have the ability to review the decisions for the times it may need to happen. If we are pausing it during an external review, accepting it is appropriate to stop the implementation of a decision during an external review, why would we not be doing that in an internal review? More specifically, I would like to understand that more explicitly than the first answer, if possible. Maybe, it helps to ask, do we have legal advice to say we are not putting ourselves at risk by not pausing a decision at that point?

Restrictive practices are potentially going to involve constraining people. This is going to be things where people might be under restraint, where they might be imprisoned, they might have their liberty constrained under a restrictive practice that has been authorised. If that decision is brought up or called for in terms of an internal review, if we do not pause it while

the internal review plays out, the internal review plays out and finds the decision was not made correctly, then we have restrained someone, perhaps deprived them of their liberty and whatever in the meantime. Is there a legal liability attached to that if we have not given the request for review, paused the decision made?

Ms PALMER - I will seek some advice, Madam Chair.

Madam Chair, a couple of things. First of all, I totally accept the scenario that you are putting forward. However, it could also be in the reverse, could it not? That is the other issue. Asking for an internal review and pausing the actual decision that has been made could also put someone in a dangerous or unsafe circumstance. That is the first point that I would make, recognising what you have said.

The other thing is to remind the House that this can apply to any reviewable decision. It is not just restrictive practices. It could be appointing an appointed program officer. It could be with regard to the independent person. It could be denying the use of a restrictive practice or applying for a condition. It is not just limited to restricted practices.

I just want to check - and I will remain on my feet with your indulgence, Chair - when I read this legislation and look under the external review, I am trying to work out your interpretation that the external review actually puts a pause on that decision. I am looking at clause 76(3):

> Subject to any order made by the Tribunal, an application for the review of a reviewable decision does not, of itself, operate to stay or suspend the decision to which the application relates.

Ms Webb - Maybe I have read that somewhere and misinterpreted it. I am trying to find in my notes where.

Madam CHAIR - Clause 76(3).

Ms PALMER - Clause 76(3). That is what I am reading from there. I want to clarify, acknowledging you do not -

Ms Webb - Yes, I misread that. My apologies if I did misconstrue it. Through you, Madam Chair, would it be correct to say that in either of those circumstances it could be paused if it was deemed necessary? I do not read it to be exclusionary of causing it, just not demanding that it be paused.

Madam CHAIR - We will let the minister finish her explanation because she was drawing your attention to clause 76(3).

Ms Webb - Yes. Thank you. I appreciate that.

Ms PALMER - I am advised that the senior practitioner has the power to revoke a decision at any time.

Clause 75 agreed to.

Clause 76 agreed to.

Clause 77 -
Offences relating to intimidation

Ms PALMER - Madam Chair, I move the following amendments together, if I may.

CHAIR - No, they are on separate clauses. You have to do them separately.

Ms PALMER - Sorry, my bad. I move the following amendment:

Page 107, subclause (2).

Leave out the subclause.

It has been brought to my attention by some of our stakeholders that the inclusion of the clause may appear to provide a defence of offences that would otherwise not be accepted; that there should not be any defence for offences relating to intimidation and reprisals. That is not the intent of the bill. Therefore, I am making this amendment.

Amendment agreed to.

Clause 77, as amended, agreed to.

Clause 78 -
Offences relating to reprisals

Ms PALMER - I move the following amendment:

Page 108, subclause (5).

Leave out the subclause.

This is for the same reasons as I have stated with regard to the previous clause.

Amendment agreed to.

Clause 78, as amended, agreed to.

Clauses 79 to 81 agreed to.

Clause 82 -
Sharing of information

Ms PALMER - I move the following amendment:

Page 118, subclause (7).

Leave out "section".

Insert instead "Act".

I am moving this amendment as it has been brought to my attention that the subclause which previously read, 'A person providing information under this section' is better phrased so that the subclause provides to information-sharing protections across the whole act. This subclause will now read that a person providing information under this act will not breach any ethics or professional etiquette or standards and, having acted in good faith, will not incur civil or criminal liability.

Amendment agreed to.

Clause 82, as amended, agreed to.

Clause 83 -
Confidentiality

Ms WEBB - I have two amendments to this clause. I will do them separately just in case members want to have a different view on them because they are not connected.

I move the following amendment:

First amendment

Page 120, subclause (3), paragraph (f).

Leave out the paragraph.

Insert instead the following paragraph:

(f) the disclosure is -

(i) discussed with the person to whom the information relates in a language and form that the person can understand; and

(ii) made with the agreement of the person without coercion, pressure or undue influence being used to obtain the agreement;

To briefly explain to members, this just strengthens the requirement that a person has given their consent in an informed way to the disclosure of information about that person. For various reasons it was not appropriate to use the term 'informed consent' but we needed something that was clearer than 'agreement'. This amendment requires that if information about a person is to be disclosed, that person has to have had it discussed with them in a way that they can understand and engage with, and has agreed without coercion, pressure or undue influence. It is just a strengthening of that requirement there.

Ms PALMER - Madam Chair, I thank the member for moving the amendment. This amendment provides greater clarity, and it ensures any disclosure of information about a person with disability needs to be done with the person's knowledge and in a format that they understand.

Amendment agreed to.

Ms WEBB - I move thee following further amendment:

Second amendment

Same page, same subclause, paragraph (h).

Leave out "identify the person".

Insert instead "enable the identification of the person to whom the information relates".

This is a fairly straightforward strengthening of the requirement. There is a slightly higher bar to achieve if something is not allowed to enable the identification of a person to whom the information relates, rather than just identifying them. You could meet the requirement not to identify them just by not using their name. However, if you were providing information that had a range of other details in it that enabled their identification through people figuring it out, then that is also not acceptable here, as we are talking about disclosing personal and private information. This is a language change to strengthen the requirement to safeguard people's privacy, if you will.

Ms PALMER - I thank the member for moving this second amendment. Our view is that this proposed change does not change the intent of the clause and it is supported.

Amendment agreed to.

Clause 83, as amended, agreed to.

Clause 84 agreed to.

Clause 85 -
Protection of employees or contractors who assist Commissioner or Senior Practitioner

Ms O'CONNOR - Madam Chair, I move the following amendment:

Page 121, subclause (2), after "neglect".

Insert ", coercion".

Amendment agreed to.

Clause 85, as amended, agreed to.

Clauses 86 and 87 agreed to.

Clause 88 -
Review of Act

[5.03 p.m.]

Ms PALMER - Madam Chair, I move the following amendment:

Page 124, subclause (2).

Leave out the subclause.

Insert instead the following subclause:

(2) The Minister is to cause an independent review of the operation of this Act to -

(a) commence no sooner than 18 months after the commencement of this Act; and

(b) be completed within 3 years after the commencement of this Act.

This amendment responds to feedback that the review occurring after the third anniversary of the commencement of the bill was too open-ended, and that the bill should specify when a review needed to be completed by. The amendment now clarifies when the review should commence and when it needs to be completed.

Over the next couple of years, work will be progressing on the Disability Royal Commission and the NDIS review recommendations. This means a timely review of the act is important. I move this amendment to be more specific about the review of the act.

Mr GAFFNEY - Madam Chair, I had a couple of questions about this when it was in its original form. I had a concern about the third anniversary and that has been addressed by the minister, which is terrific.

My other concern here was the operation of the act. I have been involved in another act where we had that the operation of the act would be reviewed within six months, and the scope and potential scope of the act would be reviewed within three years, because it gave an opportunity for not only looking at the operation of the act but what else could be reviewed that might enhance the act.

At the moment it is purely about the operation of the act, which, to me, is just about the nuts and bolts and the figures. If there was something in the act which is going to be reviewed that had to do with the scope, or of more than the operation, I am interested to see whether people gave that some consideration.

I know why they have drafted it as 18 months and have it completed within three years, but with OPC, 'as soon as practicable after 18 months' to me would say as soon as they can get it done. If you say it has to be done between 18 months and three years, what if they have not quite finished and still have more work to do because they have not been able to solve something, and we are putting some pressure on to get it finished because the act legislates for that to happen? There could be any number of reasons, a prorogation or whatever, which means that cannot occur. Whilst I understand why it is there, I do not think it is good practice to say

it has to be done within this period of time. We know that in this parliament, there are times when it is out of our control. We are legislating for it to be done within such a time.

I was not so concerned about 'as soon as practicable', because if you are going to review something, you are going to get it done as soon as you can. That is the intent, especially with this legislation and the goodwill of the sector, and the fact that the people who they choose are qualified for the task. The minister is not going to choose somebody or some group that is not going to be able to get that review done as quickly as possible.

I was wondering whether you considered the operation to start with to see how the act is running, and then the scope of the act or potential scope of the act, which brings in another element, that could be later on.

Ms PALMER - I will seek some advice.

I will say a couple of things. The way the bill was originally drafted, it was 'as soon as practicable after three years'. I am proposing this amendment based on some strong feedback from stakeholders who wanted it to be prescribed this way. It was important to them that it be this way. I think that no sooner than 18 months gives us a long enough period of time to really ensure that this is running as it should be - and we have the NDIS review and the Disability Royal Commission review to be considered in that time as well - then that 18 months is a considerable period of time to do an independent review. This amendment is based on the feedback that we had from stakeholders.

I also believe that in my second reading speech, I spoke about the review with regard to the scope of the bill. I will seek some more advice.

If I go back to the second reading speech, where I committed to engaging an appropriate reviewer, such as the Tasmanian Law Reform Institute, to review and provide advice to government about an appropriate way forward to regulate restrictive practices in broader settings - that is outside of the operation of the bill - and under an appropriate legal framework consistent with the review of the royal commission recommendations, I think that goes to addressing your comments around scope.

Mr GAFFNEY - I appreciate the minister's response. It is something I was interested in. I am pleased that you have addressed the third anniversary - I think that was too long to review it. With other reviews coming through, like the NDIS review, as you have mentioned, it would be wise to have a review of the scope of this act in light of the other information you are going to get.

Whilst it was mentioned in your second reading speech, it still does not give the opportunity to review the scope and carriage of the act in light of other national reviews that come up in the next three years - only the operation of the act. My gut feeling is that it would have made sense to look at the scope, because there are going to be all these other reviews coming out in the next three years and we want to be able to easily amend, change, improve or strengthen this without having to worry about not having said in our review that we could do that. That is my only concern.

Ms PALMER - I think that this could be addressed in the terms of reference of the review.

Madam CHAIR - The government is the government.

Mr GAFFNEY - You can do whatever you like, minister.

Amendment agreed to.

Clause 88, as amended, agreed to.

Clauses 89 to 91 agreed to.

Postponed clause 28 -
Functions of Commissioner

Ms O'CONNOR - Thank you, Madam Chair and colleagues, for your patience with this one. I expect to lose my training wheels any day now. I move the following amendments:

First amendment -

Page 46, paragraph (i), after "neglect".

Insert ", coercion".

Second amendment

Page 47, paragraph (k).

Leave out "neglect and".

Insert instead "neglect, coercion, or".

Amendments agreed to.

Clause 28, as amended, agreed to.

Schedule 1 -
MEMBERSHIP AND MEETINGS OF DISABILITY INCLUSION ADVISORY COUNCIL

[5.15 p.m.]
Ms RATTRAY - In regard to the membership of the Disability Inclusion Advisory Council, Part 2, clause 1(2):

> A member may serve any number of terms but not more than 2 terms, of whatever duration, in succession.

I am interested in the number - forgive me if I have missed it. What is the number of members, with what level of expertise, or what areas of interest, whatever that looks like, to be appointed to the advisory council?

Ms PALMER - I will seek some advice.

Madam Chair, it will be a minimum of nine and it can go up to 11 on the council. The majority of the members of the Disability Inclusion Advisory Council are people with disability. The council needs to reflect the diversity of backgrounds and experiences of people with disability. The council will have members with appropriate skills, knowledge and expertise in matters relevant to the interests of people with disability.

Ms RATTRAY - I appreciate that. Will they come from across the state, from the regions? I am not trying to be parochial here, but we know it is important that we have statewide representation. The member for Launceston might agree with that.

Ms Armitage - I am still waiting for an answer from June.

Ms RATTRAY - Perhaps I should not have provoked the member. I am interested in where the make-up is likely to be from that and expect there will be some members of the Disability Inclusion Advisory Council who may not have an actual disability, but may have a significant interest in those living with disability. I am looking at the back of the pamphlet.

Ms PALMER - Thank you. If you look at clause 23(3)(b), we talk about -

Ms Rattray - That was about three weeks ago. Sorry, don't poke the bear.

Ms PALMER - If you look at clause 23(3)(b), when we talk about that it needs to reflect the diversity of background and experience of people with disability, we will be looking at, as I have already stated, knowledge and skills and experience. Also, gender comes into that, and where they may be from, what region they might come from. We are looking at a diverse advisory council that will ensure all the voices in the space have a seat at the table.

Schedule 1 agreed to.

Schedule 2 -
TERMS OF APPOINTMENT OF COMMISSIONER

Ms PALMER - Madam Chair, I move the following amendment:

Page 137, clause 5, after subclause (2).

Insert the following subclause:

(X) A person appointed under subclause (2) is to be a person with disability.

As I mentioned in my second reading speech, the commissioner is to be a person with disability. Since the tabling of the bill, stakeholders have suggested that the bill should also state that when a person is acting as the commissioner, that they too are a person with disability. The schedule that deals with the terms of that appointment, including any acting arrangements, is silent on whether a person appointed to act in the absence of the disability commissioner also has to be a person with disability. This amendment clarifies the intent and makes it explicit that any acting arrangements will be undertaken by person with disability.

During the consultation on this bill, many people talked to me about the importance of lived experience and being explicit in that the commissioner had to be a person with disability.

Amendment agreed to.

Ms RATTRAY - Madam Chair, in regard to Schedule 2 clause 4, Removal from office, the minister may remove the commissioner from office if the commissioner is, without good reason, absent from the office of commissioner for an extended period of time. What would an 'extended period of time' look like? Just a ballpark figure of six months, 12 months, two years - whatever that might look like when there was a compiling of the bill? Thank you.

Ms PALMER - I will seek some advice, Madam Chair.

I understand this is a bit of legal terminology, but it is a period of time greater than anticipated from normal leave arrangements.

Ms RATTRAY - Normal leave arrangements - extended holiday, 12-months leave, people decide to head overseas or do something else. Given it is such a significant and key role, we should have some idea of what 'extended leave' might look like. It might well be acceptable to take 12 months secondment somewhere else and come back to the position. We need to have some understanding of what that might look like.

Ms PALMER - Madam Chair, the important wording here is where it says, in (a), 'without good reason'. That is the important thing. If somebody has disappeared, or there is not a good reason why they are not there, then that is the action the minister can take. The keywords are that they are absent 'without good reason'.

Schedule 2, as amended, agreed to.

Schedule 3 agreed to.

Schedule 4 agreed to.

Title agreed to.

Bill agreed to with amendments.

Bill reported with amendments.

[5.25 p.m.]

Ms PALMER (Rosevears - Minister for Disability Services) - Mr President, I move -

> That the bill, as amended in Committee, be taken into consideration tomorrow.

Motion agreed to.

SUSPENSION OF SITTINGS

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That the sitting be suspended until the ringing of the division bells.

This is for logistical purposes.

Motion agreed to.

Sitting suspended from 5.26 p.m. to 5.35 p.m.

JUSTICE MISCELLANEOUS (COMMISSION OF INQUIRY) BILL 2024 (No. 26)

Second Reading

[5.35 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That the bill be now read the second time.

The Justice Miscellaneous (Commission of Inquiry) Bill 2024 implements a number of recommendations made by the Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings. The commission's report contains 191 recommendations, all of which will be implemented by the Tasmanian government with the aim of better protecting children and young people in this state. This bill is another step towards fulfilling that commitment.

Mr President, we thank the victim/survivors who participated in the commission's process. I thank them for their patience. I recognise that while this bill is an important one, there is much work still to be done. We also extend our sincere thanks to everyone else who assisted the commission's work and, by extension, contributed to this important law reform.

I now turn to the amendments contained within this bill, starting with apologies in civil litigation. The first amendments in the bill relate to apologies given in proceedings governed by the *Civil Liabilities Act 2002*. These amendments implement recommendation 17.5 and reflect aspects of related recommendation 17.4.

The provisions in the tabled bill are somewhat different to those in the consultation bill. In the latter, the reforms would have been in Part 10C of the act, which deals with liability of organisations for child abuse. In this bill, the provisions are in Part 4, which deals with apologies. This change reflects stakeholder feedback and other advice taken during the drafting process. I wish to clearly state support of the commission's recommendation 17.4, which begins with this sentence:

> The Tasmanian Government should ensure individual victim-survivors of child sexual abuse who request an apology receive one. Proactive steps

should also be taken to offer an apology to victim-survivors who make contact in relation to their abuse.

Legislation is not the sole tool for promoting trauma-informed apologies. The Department of Justice is progressing other work to supplement the legislation and guide government institutions through this process. This resource will be publicly available. The commission recommended amending the *Civil Liabilities Act* to ensure that an apology in relation to child sexual abuse can be made without amounting to an admission of liability.

It wrote that the Tasmanian government and government institutions should be able to apologise in relation to child sexual abuse without compromising any defence the Tasmanian government may have, for example, based on all reasonable steps having been taken to protect a child from abuse. The commission stated there should be no legal disincentive to apologising.

For child abuse proceedings covered by the *Civil Liabilities Act 2002*, section 49N(3) of that act makes the state the proper defendant for an unincorporated organisation that is a government department established under the *State Service Act 2000*.

Furthermore, section 5 of the *Crown Proceedings Act 1993* states that, generally, proceedings may be brought by or against the Crown under the name of the state of Tasmania. *The Civil Liabilities Act* defines child abuse to mean sexual or physical abuse, as well as any consequential psychological abuse.

The bill adds provisions regarding organisations who may be legally responsible for child abuse allegedly perpetrated by an associated individual. Such a person can include an employee, officer or volunteer of the organisation.

The new provisions apply regardless of whether alleged child abuse occurred before or after the commencement of this bill. However, they will not apply to civil proceedings which were finished before the bill received the royal assent. That is for reasons of finality. They will also not apply to those which have started but not finished when the bill receives royal assent. This is because parties to litigation must be able to count on the consistency of the law about their evidence from start to finish.

The bill states that an apology as defined does not constitute an express or implied admission of fault or liability by the organisation in respect of the child abuse. It makes the apology irrelevant to determining fault or liability for the child abuse apologised for. It makes the apology inadmissible as evidence in civil proceedings of the organisation's fault or liability regarding that abuse.

An apology means an expression of sympathy or regret, or of a general sense of benevolence or compassion in connection with child abuse. To be protected, it cannot contain an admission of fault or liability in connection with the intentional act that is the abuse, being the perpetrator's physical actions. This is consistent with the wording of the definition of apology and the wider apology provision in section 7 of the act prior to the amendments in this bill taking effect.

Significantly, the bill expressly states that an apology could include an acknowledgement of the abuse and its impact. It could also include information about the person's time under the organisation's responsibility and information about the past, or future steps to protect against

further abuse of children. This will not force an organisation to make an apology, but it will remove what may have been a legal concern which stopped organisations from doing so.

I now turn to the Criminal Code offences. The bill amends several sexual offences in the Criminal Code in accordance with recommendation 16.9. It talks about position of authority offences. Section 124A of the Code creates an offence of penetrative sexual abuse of a child or young person by a person in a position of authority. As the title of the section suggests, that offence does not extend to non-penetrative sexual acts.

The bill inserts two additional position of authority offences capturing indecent acts with, or directed at, a child or young person, and indecent assault. These are contained in new sections 124B and 124C.

All three of these position of authority offences can only be committed by those aged 18 and over, as recommended by the commission. These amendments acknowledge that there is no real reason to distinguish between penetrative and non-penetrative acts. Neither should be engaged in by a person who is in a position of authority in relation to a child or young person subject to the offence that I will speak about in a moment.

We know that offenders will often try to groom a child or young person prior to engaging in penetrative sexual acts and, as such, it is important that the position of authority offences capture this conduct.

The creation of these new offences necessitates consequential amendments to a number of other acts, such as the *Corrections Act 1997* and *Evidence (Children and Special Witnesses) Act 2001*. Amendments have also been made to include a similar age defence in respect to each of these three crimes. While the issue was not directly addressed by the commission of inquiry, it is an issue that was alluded to by the national royal commission and was the subject of extensive feedback during consultation on this bill.

The vast majority of, if not all, stakeholders supported the introduction of a similar age defence into these crimes. Generally, consent would not be a defence to these crimes. This amendment will provide that consent is a defence, but only where the accused person is not more than two years older than the child or young person. Because these offences can only be committed by those who are aged 18 and over, this defence will only arise where complainants are aged 16 or 17 and the accused aged 18 or 19. This defence is stricter than existing similar age defences in the Criminal Code, such as in section 124(3), and that difference recognises that a smaller age gap is appropriate where there is an alleged position of authority dynamic between the two people involved.

It is important to remember that, from a defence perspective, closeness in the ages of the complainant and accused only matters if there was consent. A person does not consent, as defined in section 2A of the Criminal Code, if they agree or submit because they are overborne by the nature or position of the other person.

Therefore, this defence will involve an assessment of the particular facts of the case and scrutiny of the relationship between the two people involved. This is a difficult area to litigate in, and it is important to strike a balance between respecting the autonomy of young people to have sexual relations with people who are close in age to them while protecting them from exploitation by adults who are in a position of authority in respect of them.

We will now talk about persistent sexual abuse of a child or young person. The bill contains various amendments to section 125A, which creates the offence of persistent sexual abuse of a child or young person. This is a very important crime in our Criminal Code. It is used in cases where there has been repeated, often systemic, sexual abuse of a child. The charge is made out where, during a specified period, the accused commits at least three unlawful sexual acts in relation to a child or young person under the age of 17 years and they were not married to that child or young person.

The charge is a most effective tool because it does not require the prosecution to prove the dates on which any of the unlawful sexual acts occurred nor the exact circumstances of the acts. This is critical for ensuring perpetrators of this abuse are held to account.

As the commission of inquiry noted, young children in particular may not have a good sense of dates and times, making it difficult for them to provide the standard of evidence usually required. This difficulty is compounded in cases where the sexual abuse has continued in a similar way over a lengthy period of time, making it difficult for the child or young person to distinguish between all of the different occasions.

The first amendment is to subsection (1) to specifically include all three position of authority offences as unlawful sexual acts for the purpose of establishing the offence of persistent sexual abuse of a child or young person. That is, the prosecution may rely on any of the offences in section 124A, 124B or 124C to make up the three occasions necessary to prove the crime of persistent sexual abuse of a child or young person.

Section 125A is further amended to remove language referring to maintaining a sexual relationship with a young person and replacing it with 'commits the persistent sexual abuse of a person under the age of 17'. This amendment acknowledges that the current terminology is outdated and could imply some element of consent on behalf of the child or young person. This change has been a long time coming, and, to that end, it would be remiss of us not to mention, as the commission did, the advocacy of the Grace Tame Foundation in this space.

We emphasise that this amendment is not intended to change the substantive law in any way. Section 125A should continue to capture the same conduct it currently does, simply by different and more appropriate name. This also brings the provision itself into line with the previous amendment to change the title of the offence.

The final offence being amended by this bill is section 125E, being the offence of failure by a person in a position of authority to protect a child from a sexual offence. This is a simple amendment to restrict that age of accused persons to those who are at least 18 years of age. As detailed by the commission, it would be inappropriate to hold a child responsible for failing to protect another child from sexual abuse by an adult, and that is not the intention of that offence. This is also consistent with a recommendation of the national royal commission.

We will move on to pre-trial rulings and directions. Recommendation 16.14 of the commission's report relates to improving the process around pre-trial arguments, those being arguments before a jury is sworn. Pre-trial rulings enable legal issues to be resolved prior to the trial proper, which gives the parties certainty about the issues and avoids wasting jurors' time while legal disputes are resolved.

Sometimes the legal issues to be resolved are so significant that, particularly for more complex matters, there may need to be several months between the ruling being given and the trial being held. Other times there is a delay between the conduct of the legal argument and the conduct of the trial simply because of the availability of judicial officers. For example, the delay may be because the judge who heard and ruled on the pre-trial legal argument is sitting in another location or in the civil jurisdiction and is therefore unavailable to hear the trial for some time. Currently, section 361A(1) of the Criminal Code requires the accused to enter a plea before pretrial argument can take place. That requirement means that the trial has formally commenced by virtue of section 351(5).

This creates difficulty when the judge who conducted the legal argument is unable to hear the trial proper for some time. One option to work around this is for the judge who heard the legal argument to formally abort the trial after making a ruling so that it can proceed before a different judge. However, some judges are hesitant to abort trials in this way.

This amendment is intended to remedy this issue by removing the requirement for a plea to be entered before pre-trial legal argument can take place which means the trial will not have formally commenced, in turn making it easier for the matters to proceed before a different judge, if necessary. Fundamentally, this amendment was recommended by the commission with the intention of minimising delay in the trial process for all parties.

The remaining amendments to section 361A relate to the status of the pre-trial ruling. Subsection (2) already provides that if there is a new trial, the pre-trial ruling or order will stay in effect. The proposed new subsection (3) clarifies that, despite subsection (2), the ruling or order may be departed from if it would not be in the interests of justice for the ruling to stay in force or if the ruling is inconsistent with an order made on appeal.

Mr President, I will now talk about trial direction in family violence prosecutions. The bill includes an amendment to section 371A of the Criminal Code, which contains a requirement for a trial judge in certain trials, such as those involving sexual offences, to give a direction to the jury regarding recent complaint.

When there is evidence that tends to suggest an absence of complaint or a delay in the making of a complaint about the alleged commission of the crime, the trial judge is required to warn the jury that absence of complaint or delay in complaining does not necessarily indicate that the allegation that the crime was committed is false, and also to inform the jury that there may be good reasons why such a person may hesitate in making or may refrain from making a complaint.

The amendment extends the application of this section to crimes of family violence. This amendment is not a commission of inquiry-related one. It was contained in a bill that progressed through this place late last year but lapsed when parliament was prorogued. While that bill will be retabled, this amendment was removed and inserted into this bill because initially this bill was going to include some other amendments to jury directions as recommended by the commission. I will return to why those amendments are no longer included in this bill. However, that is why this single amendment to trial directions is contained in this bill.

Tendency and coincidence evidence: the bill amends both the Criminal Code and the *Police Offences Act 1935* to remedy a legal issue which prevents certain evidence being led in some prosecutions, consistent with recommendation 16.13 of the commission. If proceedings

for a summary offence are instituted in the Magistrates Court but discontinued, the prosecution will tender no evidence and an acquittal is entered. Once this occurs, there is no power for the case to be reopened. This is because, in effect, the prosecution, upon being put to proof, is declining to present any evidence to support the charge. The result is that the prosecution has not proved its case and the outcome of the hearing is an acquittal.

Where a proceeding has been finally determined by the entering of an acquittal, complainants cannot seek to later have the case revisited or reopened. The commission did not recommend altering this position. However, the situation is more complex if there are subsequent proceedings and the prosecution seeks to use the evidence relevant to that initial charge's tendency, coincidence or relationship evidence in that subsequent prosecution.

If evidence relevant to the initial charge cannot be led, the fact-finder is arguably deprived of important evidence that would likely strengthen the prosecution case, provide context to the alleged offending and may demonstrate the offending is not isolated. Section 13B of the *Family Violence Act 2004* was introduced in 2017 to remedy this issue in relation to family violence matters and the commission recommended an equivalent provision for sexual offences.

Accordingly, proposed new section 430 of the Criminal Code and proposed new section 39A of the *Police Offences Act* ensure that where the prosecution tenders no evidence for an alleged family violence or sexual offence and the defendant is acquitted for that reason, the evidence that would have been led had that matter proceeded is capable of being used as tendency, coincidence or relationship evidence in subsequent court proceedings for family violence or sexual offences involving the same defendant.

I emphasise that this amendment does not impact the existing rules regarding the admission of tendency and coincidence evidence as contained in the *Evidence Act 2001*. This provision simply means that evidence is available to be used for that purpose. However, it remains subject to all existing admissibility requirements and exclusionary restrictions.

I am pleased I am not a lawyer, Mr President.

I will move on to registrations to work with vulnerable people. The bill implements recommendation 18.2, which relates to the risk assessment process within the registration to work with vulnerable people scheme. Arguably, this is the most fundamental aspect of the scheme. Each applicant is assessed so that the registrar can determine whether the person poses an unacceptable risk of harm to vulnerable people, including children. If the registrar receives information that a registered person has engaged in any behaviour which poses a risk of harm to vulnerable people, they are to conduct another risk assessment. A person who poses an unacceptable risk of harm cannot get or retain registration.

There are certain things which the registrar can and cannot consider when they conduct a risk assessment. These things are set out in the *Registration to Work with Vulnerable People Act* and in ministerial orders for risk assessment which was approved by the Attorney-General. The commission found that, at times, the registrar had adopted too high an evidentiary threshold when assessing whether certain people posed an unacceptable risk to children. Amendments to the *Registration to Work with Vulnerable People Act* within this bill clarify the risk assessment process to further enhance the safety of children and other vulnerable people.

The commission emphasised that risk assessment is a predictive exercise to assess future risk, and it is not limited to facts which have been objectively proved in the past. These amendments ensure that when assessing risk, the registrar must consider whether a particular allegation has been proven on the balance of probabilities, but then must go beyond that to further consider whether the person poses an unacceptable risk of harm, regardless of whether the allegation is proved. For example, a person who has been the subject of separate, consistent allegations from different people at different times may pose an unacceptable risk of harm, even if none of the allegations has been proven in a court.

The commission also noted that there were powers in the act to suspend a person's registration to work with vulnerable people, but that further guidance on when this power could be used was required. The bill amends section 49 and 49A of the *Registration to Work with Vulnerable People Act* to clarify that the power to suspend registration can be used in situations where there would not yet be a power to cancel. In other words, the registrar can suspend registration on less evidence than they would need to cancel. This ensures vulnerable people are kept safe in the short term while preserving the rights of registered persons to only have their registration cancelled upon sufficient evidence, to receive reasons for any decision to cancel and to challenge any decisions to cancel in a court of law.

The commission emphasised the importance of the registrar being able to consider any factor which indicates a person may pose a risk of harm to vulnerable people. The rules of evidence, such as those that restrict the use of evidence of a person's tendency to abuse, do not apply. The commission also recommended it be made clear that once it is determined that a person poses a risk of harm to vulnerable people, their registration must be refused, suspended or cancelled, regardless of other factors, including things such as mental health or employment. Under the amendments in this bill, once a person is deemed to be an unacceptable risk, the registrar cannot consider the impact that not being registered may have on that person. If it is required for the safety, welfare or protection of vulnerable people that person not be registered, then they simply cannot be registered.

We will now touch on sentencing for child sexual offences. The commission emphasised the language used by those involved in the criminal justice process can have a powerful and sometimes devastating effect on victim/survivors, as well as a broader symbolic effect on the understanding of child sex abuse. The commission expressed particular concern about references to consent in the context of a child sexual abuse offence, noting that discussing the notion of consent in child sexual abuse matters perpetuate outdated ideas about where responsibility sits and has potential to reinforce victim/survivors' fears they are to blame for the abuse, which they are not, of course.

The commission's recommendation in part 1 of recommendation 16.18 is to amend section 11A of the *Sentencing Act 1997* to specify that in determining the appropriate sentence for an offender convicted of a child sexual offence, the acquiescence or apparent consent of the victim is not a mitigating circumstance. That is what this amendment does. Importantly, this reflects existing case law. Even if there is consent in cases in which it is no defence, it is not mitigatory. There is no unfairness to the accused because they will be sentenced on a neutral basis. The presence of any apparent consent neither increases nor reduces the severity of the sentence for this type of offence. That is not to say the factual circumstances are irrelevant, but the mere fact of apparent consent will not be mitigatory.

We will touch on an update on the commission of inquiry's work. To conclude, I will provide an update to the Council and all other interested stakeholders about the progress on some other recommendations or other aspects of recommendations.

First, recommendation 16.15, which relates to trials or jury directions. While the commission suggested this recommendation be implemented by July 2026, efforts were made to progress those amendments sooner, acknowledging how important these directions are to the trial process. For that reason, amendments implementing the commission's recommendations were included in the consultation draft of this bill. However, it became evident during consultation on this bill that more comprehensive consultation, particularly with legal stakeholders, needs to be undertaken on these amendments to make sure we get them right. We are hopeful we may still be in a position to progress those amendments this year; however, we will await the outcome of that further consultation and provide an update in due course.

In relation to part 2 of recommendation 16.18, I can advise the DPP has updated his prosecution policy and guidelines to reflect that when consent is not an element of the offence or an available defence, the language of consent should not be used by prosecutors in any sexual assault prosecution. In respect to prosecutions of persistent sexual abuse of a child or young person, the guidelines stipulate that prosecutors must identify any unlawful acts by reference to the crime.

We would like to thank all the stakeholders who met with departmental officers to discuss the contents of the bill or provided a written submission. We are pleased to progress this amendment bill, which we are confident will have positive outcomes for our state.

Mr President, I commend the bill to the House.

[6.07 p.m.]

Ms ARMITAGE (Launceston) - Mr President, this is an extremely important bill and I will add my voice to others here and in the other place in support of full implementation of the 191 recommendations that came from the commission of inquiry. Children and vulnerable people need to be centered in the public policy and legislative response to the findings that the COI made and this bill is another step in that direction. We cannot allow the harm that happened to Tasmanian children in institutional settings to ever happen again. It is up to us to make sure the law is proactive and responsive and provides protection to children and vulnerable people, and is in line with the modern ways in which we understand how abuse occurs.

Offenders must be held to account, and institutions in which any abuse has occurred cannot be able to facilitate abusers or shield them in any way, shape or form. To this end, this bill makes a number of technical yet meaningful changes to existing legislation in order to progress the implementation of the recommendations of the COI. I will speak about some of these now.

First, amending the *Civil Liability Act 2002* enables organisations to make meaningful apologies for past child sexual abuse, without it necessarily becoming an express or implied admission of fault. All liability will have important legal consequences. On the one hand, it is important to many victim/survivors and their loved ones for an acknowledgment of the harm that has been done to them. Apologies are powerful. Saying sorry and meaning it is important.

I am sure in the past there have been organisations and individuals within them who would have wanted to say sorry, but would have been gagged because to do so would have legal consequences. Enabling this change to be made will help facilitate restorative justice to victim/survivors without necessarily impacting the legal intricacies that are involved in civil actions. The bill also makes changes to the Criminal Code, specifically in implementing recommendation 16.9. This is part of the modernisation of the way we think about, approach and apply laws surrounding sexual abuse.

One of the most significant changes is the removal of the references to 'maintaining a sexual relationship with a young person' in section 125A of the code and changing it to 'persistently sexually abuses' or variations of those words. It calls it for what it is: not a relationship, but abuse. It acknowledges that young people do not possess the capacity to consent and that it is in fact abuse, not a relationship, which implies equality of those within it.

Additionally, the bill creates new offences. One of these is an indecent act with or directed at a child or young person by a person in the position of authority. Another is indecent assault of a child or young person by a person in the position of authority. This further helps to reinforce the concept that people in authority over children and vulnerable people owe a significant duty of care to those in their charge. It acknowledges the reality of grooming and ensures that people in positions of authority over children cannot use it as a vehicle to facilitate abuse.

Another extremely important change this bill makes is to extend the operation of section 371A of the Criminal Code to family violence offences. In essence, this would require judges in certain family violence prosecutions to direct the jury that an absence of complaint or delay in making a complaint does not necessarily indicate the complaint is false and that there may be good reasons why a person may hesitate in making or refraining to make a complaint.

This again modernises the way in which family violence is thought about and understood. It acknowledges the reality and insidious nature of psychological, mental and emotional abuse when it comes to complainants of family violence coming forward. It cements the reality that fear plays a major part in family violence, which is reinforced by isolation and perpetrators making their victims feel as if they will not be believed, will not be supported, and have no way out. There are many good reasons why a person in a family violence situation may not make an early complaint; it is important that our laws reflect this and that it is well understood by the judiciary and juries in determining matters of family violence.

Finally, I wish to speak about the implementation of recommendation 18.2, which relates to the assessment process within the Registration to Work with Vulnerable People scheme. As the Leader mentioned, the COI found that at times the registrar had adopted too high an evidentiary threshold when assessing whether certain people posed an unacceptable risk to children. This bill consequently clarifies the risk assessment process to further enhance the safety of children and other vulnerable people.

This is not limited to facts which have been objectively proved in the past. This will require the registrar to consider whether a particular allegation has been proven on the balance of probabilities, but then must go on beyond that to further consider whether the allegation is proved. This bill makes good progress towards full implementation of the commission of inquiry's 191 recommendations.

I acknowledge the victim/survivors who so courageously spoke up and provided evidence to the commission. We would not be able to make these changes without them, and we should never let them down. We should not let the type of abuse and neglect that happened in the past ever happen again.

[6.14 p.m.]

Ms O'CONNOR (Hobart) - Mr President, of course I support this Justice Miscellaneous (Commission of Inquiry) Bill of 2024 and we believe it faithfully reflects the commission's recommendations 16.9, 16.13, 16.14, 16.18, 17.4, 17.5 and 18.12. It is very strong legislation that amends in total something like 20 pieces of legislation.

It sets out that an apology in relation to child sexual abuse can be made without amounting to an admission of liability for the purposes of civil litigation.

It provides further changes to the persistent sexual abuse of a child or young person offences to change other uses of the phrase 'maintaining a sexual relationship with a young person', to 'persistent sexual abuse of a child or young person' - and rightly so.

It extends the position of authority offence, which currently covers penetrative sexual abuse, to also cover indecent acts and indecent assault. It introduces a well overdue similar-age defence provision for the position of authority offences. On behalf of the Greens, I raised this going back to 2022 in debate on the Justice Miscellaneous (Royal Commission Amendments) Bill 2022. I am very glad to see that now, not in response to us raising it because it has been raised by a number of stakeholders, but I am very pleased to see that reform, the absence of which was, in my view, a significant oversight in the original offence. This similar-age defence, as I understand it, was not in the original consultation draft. It has been recommended by the Tasmanian Council of Social Services, Volunteering Tasmania and the Commissioner for Children and Young People.

The Justice Miscellaneous (Commission of Inquiry) Bill removes the requirement for the accused to enter a plea before pre-trial argument can be conducted. It extends the ability to make jury directions in regard to interpreting delayed complaints to family violence offences. My question to the Leader, given that that was not a specific recommendation of the commission of inquiry, is: are you able to explain this? This is not me taking a position on the jury directions provision. Some concerns have been raised by stakeholders, but this is an extra provision that is in an omnibus bill that gives effect to all those recommendations of the commission of inquiry. This is for the Council to understand why that was included.

There are technical amendments to allow for the admissibility of evidence in a second charge in circumstances where two family violence charges are laid and there is an acquittal on the first charge because the prosecution has advised it will not be tendering evidence. Today a number of members were there in the reception room for the domestic and family violence alliance presentation and update. We heard really compelling, moving and challenging testimony from two women who had experienced significant physical and sexual abuse when they were children. Each, in her own way, told a story of how that trauma affected the life she led and the choices that were made and, in one instance, careened into the youth justice system on a pathway to more trouble and in the other, repeated damaging relationships.

I know you were there, Mr President, and I am sure you were struck, like everyone else in that room, by the dignity and the courage of those victim/survivors who came to talk to us

today and once again had to tell their trauma. It is part of what makes providing for the capacity of organisations to apologise without that being the basis for civil claims so important, because it is the recognition of suffering and trauma. It is being open-hearted to listening and taking what we hear as legislators and using it to drive change and make the world a better and safer place for children, for women, for all people.

This omnibus bill also broadens the range of matters that can be considered in a registration to work with vulnerable people assessment. As the minister who introduced this legislation and the structure in the first place - after some struggle, I might say, to get it through Cabinet - it was always the intention that the working with vulnerable people registration scheme would have a capacity to work cross-jurisdictionally to the greatest extent possible, but also to examine other matters, incidents and patterns of behaviour among people who are applying for registration to work with vulnerable people. Obviously, it is a somewhat complex system and it has taken some time to get the working with vulnerable people registration scheme close to just right, but this change today is another step down the path to make sure the registrar for the registration to work with vulnerable people has all the tools available to them to be able to make sure they do not give registration to someone who would prey on children and young people.

It places a larger emphasis on the precautionary approach, as well as a range of other matters relating to that registration scheme. It sets out that alleged consent or acquiescence of a victim of child sexual abuse must not be taken into account as a mitigating factor in sentencing, and that was put very well by the member for Launceston.

Finally, the bill amends the definition of child sexual offence in the *Sentencing Act 1997* to apply to offences against persons under the age of 18. It is currently 17 and, while it was not in the original consultation draft, and reference to it does not seem to have been in any supporting material, I understand that this is because while many child sexual abuse offences in the Criminal Code apply to those under the age of 17, some apply to those under the age of 18. Increasing the age to 18 in this definition would serve to ensure all relevant offending can be captured.

What does it mean to say sorry? We have here in the legislation the definition of apology for the purposes of this act. I know it needs to be that way because that is the exact purpose that we are trying to achieve here, but it is a classic qualified apology. An apology means an expression of sympathy or regret, or of a general sense of benevolence or compassion, which does not contain an admission of fault or liability in connection with a matter.

That is a legal definition of apology for the purposes of achieving what we want to achieve in this act, but we all know that the best apologies we give are unqualified and, if we are at fault, we 'fess up and we take all steps to make it better.

In May of last year, the House of Assembly apologised to victim/survivors of institutional child sexual abuse. We had victim/survivors and their families and supporters in the Long Room, on the lawns of parliament, down at Elizabeth Wharf, in the public gallery and in the Speaker's Reserve, and it was a profoundly moving moment for the parliament.

Parliament is at its best when, across all corners of the House, there is a resolve to right wrongs. The motion was to express our deep and unreserved sorrow for all that victim/survivors of institutional child sexual abuse suffered, the trauma they endured, and the fact that the

trauma was compounded by the inaction of authorities. We committed as a parliament to working together and across the community to deliver on the recommendations of the commission of inquiry, and here we are, Mr President.

The Premier at the time, Mr Rockliff, said to a packed Chamber:

> Mr Speaker, the Tasmanian Government and the Tasmanian parliament unreservedly apologises to all victims and survivors of child sexual abuse in Tasmanian government institutions. Members of the Tasmanian parliament are united in this House today. We failed you. We are all accountable and we are sorry.
>
> Our institutions have a responsibility to ensure the safety and wellbeing of children, and our institutions have clearly failed in that responsibility. No child should ever experience sexual abuse or any other form of abuse. No child who has been abused should ever experience a response that rejects or minimises their experience. No child should be silenced or punished.

He said:

> We are deeply sorry that our institutions violated your trust when they should have been places where you were safe, secure, supported and protected.
>
> … we have failed you and we accept responsibility for that failure.

That is not a qualified apology. That came straight from the Premier's heart. I know what it meant to the victim/survivors who were listening.

Next up was the Leader of the Opposition, and she said:

> There is no apology that can take away the weight you bear, the loss of your innocence, and the sadness that remains with you, but I hope that by making this apology today we can help ease the burden of your trauma. We are deeply sorry - sorry for your pain, sorry for your suffering, sorry for the appalling treatment you endured after already experiencing one of the worst things a child can experience, and sorry for failing you when you should have been protected.
>
> No-one should suffer as you have suffered and along with our sincere apology, we offer you our ongoing compassion and support. We offer our vow that we will work continuously to ensure this never happens again and that Tasmania's children are protected, as they should be, in a community that always puts them first.

And I got up after that and said:

> In here, we feel and accept your anger towards all of us across political boundaries who could and should have done more. You sure do have the right to be angry, and you don't need anyone in this parliament to tell you that. Every child has the right to feel loved, safe and wanted, but you are not kept

> safe, not by all the adults around you, not by those you had a right to trust and not by the state of Tasmania, which too often placed you directly in harm's way: in classrooms with paedophiles dressed up as teachers; in foster homes out of sight and mind, and in danger; in youth detention, overseen by predators with too much power, too few managers and senior bureaucrats who cared enough, or had the courage to speak for you, and too little government oversight; in public hospitals, where you were admitted to get better and were instead preyed upon by those your parents unknowingly entrusted you to. To your parents, your families: we are so, so sorry. Your trust too was betrayed and your child not kept safe in the arms of the state.

At one level that is just a whole lot of words. Heartfelt sentiments, of course, but at another very significant level, what that apology meant to victim/survivors was very significant.

When we stepped out of the parliament and immersed ourselves into this community that had come to hear the apology there were many, many tears. It is the tears of trauma, of course, but it struck me that they were the tears of the relief of finally having the state of Tasmania acknowledge the depth of its failure and give an unreserved apology. The flow-on from that is the legislation that we debate today - which is strong and necessary legislation.

I close with some correspondence I have received from a victim/survivor. We are about to enact this legislation, where the civil liability component of it is very significant, but there is also the question of what happens in the courts. The trauma is often compounded by the experience of dealing with the court system. This letter came in and it was originally written to the Attorney-General. It has been de-identified but it tells you a story of a court system, a justice system which is not delivering justice.

> Dear Mr Barnett, I am writing to you in your capacity as Attorney-General and Minister for Justice. I am a complainant in a criminal trial. The accused has been charged with persistent sexual abuse of a child or young person. The accused was an employee of the Tasmanian government and my high school teacher when he started to sexually abuse me. I reported the crime to police in August of 2018. It took about seven months for police to substantially complete the investigation and forward the file to the Office of the Director of Public Prosecutions for actions under section 125A(7) of the *Criminal Code Act 1924*. Everything up to then essentially proceeded as I thought it should. Then the delays started. As at 1 May this year, it has been five years and eight months since my first meeting with the police; four years and 11 months since the police substantially completed the investigation; four years and two months since the accused was charged.
>
> It took the Director of Public Prosecutions about eight months instead of the expected three months to give his written authority. Four years and one month since the accused's first appearance in the Magistrates Court of Tasmania; three years and five months since the accused's first appearance in the Supreme Court of Tasmania; one year and 10 months since I received my preliminary advice notice as a witness from the Supreme Court of Tasmania asking me to be available for a trial sometime after 25 July 2022. So far, the matter has been listed for court 31 times.

A victim/survivor, whose evidence was such that the Director of Public Prosecutions agreed to move to charge - the matter has been listed for court 31 times, and it is nearly six years since this woman was first interviewed by police. The question that she asks of the Attorney-General, or she would like us to put to the Attorney-General, is: how many of the Supreme Court of Tasmania's current pending cases, criminal appeal and non-appeal, have been waiting more than 24 months for a trial, and of those, how many have been waiting more than 36 months or 48 months and longer for a trial? What steps has the Tasmanian government taken to date to address the criminal case backlog, and what steps is the Tasmanian government planning to take to address the criminal case backlog?

We have a long way to go, because while this legislation is very important - it is a very significant bill that gives effect to those core recommendations of the commission of inquiry - it is not enough. If we are serious - if we say sorry and the House of Assembly said sorry; the Premier apologised to victim/survivors of past abuse in institutional settings - it has to be more than words.

We have an issue here with the way the justice system responds to people who have experienced sexual abuse as children. I know we have another bill that will come forward, the Evidence (Children and Special Witnesses) Amendment Bill. That is welcome, but there are delays here that are inexcusable. Perhaps the Leader of Government Business could address that in part, but if you are unable -

Mrs Hiscutt - It sounds like it should be a question on notice.

Ms O'CONNOR - Or at Estimates, coming up. It is a bigger question than you might be able to answer on the advice that you have available to you today. Anyway, I will be glad to support this legislation. Well done to the minister and his advisers and the Department of Justice. Thank you for the briefing, and thank you for your commitment to seeing the commission of inquiry recommendations delivered on, as Tasmanians expect.

Mrs Hiscutt - Could I ask the member to adjourn the debate while we have the dinner break?

[6.36 p.m.]
Ms O'CONNOR (Hobart) - Mr President, I move -

That the debate be now adjourned.

Motion agreed to.

SUSPENSION OF SITTINGS

[6.37 p.m.]
Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - I move -

That the sitting be suspended until the ringing of the division bells.

This is for the purpose of a dinner break.

Motion agreed to.

Sitting suspended from 6.37 pm until 7.33 p.m.

JUSTICE MISCELLANEOUS (COMMISSION OF INQUIRY) BILL 2024 (No. 26)

Second Reading

Resumed from above.

[7.33 p.m.]

Ms O'CONNOR - Madam Deputy President, I had concluded my contribution and adjourned the House at the Leader's request, so I am done.

Ms RATTRAY (McIntyre) - Madam Deputy President, I have a few brief comments about this bill.

First, I note the department has done an excellent job in such a timely manner. I have been around this place a long time now and it often takes a very long time to get legislation. Something is talked about and does not necessarily happen in such a timely manner and I want to congratulate the people who are involved in this. I am sure you probably eat and sleep it at times and it is probably a really challenging area to be dealing with day in, day out. I want to acknowledge that. I leant over to my colleague, the member for Hobart, and said exactly that when we first opened, because I have seen things take a very long time and the timeliness of getting this to us is really significant.

I am not going to talk too much about the reasons for the bill. It is really clear everyone understands it is from the commission of inquiry and those recommendations. It has been also covered very well with a significant second reading speech. There is not much more to say about that.

One of the areas that particularly interests me, as I am dealing with somebody who has had their registration to work with vulnerable people card suspended for a charge that was not proceeded with, is that trying to re-establish the vulnerable people card has been very difficult. We will talk more about this when we get to clauses 32 and 33 of the bill. I wanted to flag if there have been no charges proceeded with and the person has had to go through that, then the person who is the registrar being asked to reissue that card cannot necessarily take into consideration the effect it has on the person reapplying - even though the charges have not been proceeded with. I am not prepared to tell the backstory of anything; I probably only know half of it. Often people who seek your help do not always give you all the information. I am not saying that someone is all right or all wrong; there is possibly something in the middle, but I am interested in procedural justice, acknowledging we would never want to put a vulnerable person at risk again. I also think we have to be mindful of the people who, through no fault of their own, or who make some remark, whatever it might be, that is perceived as being the wrong thing and ends up with them having their card suspended. I am flagging that. There may well be some further information I may follow up at another time. I received some advice from one of my learned colleagues when I was talking about this over the break and that may be a pathway. We need to be mindful of that.

With those few remarks, I am ready to congratulate the department and those involved in this Justice Miscellaneous (Commission of Inquiry) Bill 2024 that covers 20 pieces of legislation. It is a significant body of work that continues to build on those recommendations from the commission of inquiry, rightly so.

[7.38 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I had a little bit of information to seek. It looks like a bill that everybody is firmly in agreement with. I have an answer to one question from the member for Hobart.

The section 371A amendment remains in this bill only to avoid having to move it back to the original bill it appeared in. It was moved from a justice miscellaneous bill that passed in the other place before parliament was prorogued. Most of this was in the second reading speech, but for clarity it was initially moved into the bill because this bill contained other commission of inquiry jury direction amendments, including other amendments to section 371A. However, as the second reading speech noted, those other jury direction amendments were removed from this bill to allow further consultation on those amendments.

In contrast, this particular jury direction amendment is ready to proceed and it was going to cause further delay and confusion to move it back to another justice miscellaneous bill. This is an important amendment that is needed for family violence amendments and, therefore, we are attempting to progress it without any unnecessary delay.

I think the other question from the member for Hobart will be answered during the GBE process.

I commend the bill to the House.

Bill read the second time.

JUSTICE MISCELLANEOUS (COMMISSION OF INQUIRY) BILL 2024 (No. 26)

In Committee

Clauses 1 to 3 agreed to.

Clauses 4 and 5 agreed to.

Clauses 6 and 7 agreed to.

Clauses 8 and 9 agreed to.

Clauses 10 and 11 agreed to.

Clauses 12 and 13 agreed to.

Clauses 14 and 15 agreed to.

Clauses 16 to 18 agreed to.

Clauses 19 and 20 agreed to.
Clauses 21 and 22 agreed to.

Clauses 23 and 24 agreed to.

Clauses 25 and 26 agreed to.

Clauses 27 to 29 agreed to.

Clauses 30 to 32 agreed to.

Clause 33 -
Section 28 amended (Risk assessments)

Ms RATTRAY - Madam Chair, this is the clause that I referred to in my relatively brief offering through the second reading contributions regarding working with vulnerable people registration and issuing of those registrations. Just to flesh it out, because I know the Leader would not have had time to source an answer from what I was referring to because we went straight into a vote.

It is just around this clause 33(a)(1AA) and (a) where it talks about:

> (1AA) Without limiting what the Registrar may consider as part of a risk assessment, a risk assessment of a person requires consideration of each of the following questions, separately, in relation to the person:

This is the person who is reapplying for their card or to have the suspension undone.

> (a) whether or not any allegations of previous harm by the person are proven on the balance of probabilities;

Can I have the general term of what that means? As I talked about, there is somebody who had a charge against them and it was completely dropped - nothing further after some time and quite a bit of stress. However, now they are not able to gain their Working with Vulnerable People Card again.

Mrs HISCUTT - I am just seeking some advice on that.

You talked about the balance of probability. Balance is the balance of probabilities of the risk of a person based on their history as to what may happen to a child. We put the child as paramount in this situation. If the person, the perpetrator, or maybe there is a shadow there, if that is looked at and cleared, that is fine, but whilst there is something there, the child has to take precedence on the balance of probabilities.

Ms RATTRAY - I completely understand that because that is exactly what it says in (b), where there is an unacceptable risk of harm to a vulnerable person, so I understand that. But if there is nothing left hanging over that person who had a charge put on them and there was no conviction, it was not proceeded with, there was nothing, is that where somebody could have

their registration to work with vulnerable people card re-established or unsuspended if that is the appropriate word? That is what I am really looking for.

Mrs HISCUTT - I am just looking for some advice, Madam Chair.

What I am hearing is that if there is a charge and it has been cleared and the person is declared innocent -

Ms Rattray - Well, it was not proceeded with.

Mrs HISCUTT - It was not proceeded with and the person is - well, there is a difference between proceeded with; I will have to check on that.

The registrar will still have to look at it and on the balance of probabilities would have to make a decision on (a), so the decision would be in the registrar's hands.

Clause 33 agreed to.

Clauses 34 and 35 agreed to.

Clauses 36 and 37 agreed to.

Clauses 38 and 39 agreed to.

Clauses 40 and 41 agreed to.

Clauses 42 and 43 agreed to.

Title agreed to.

Bill reported without amendment.

[7.52 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That the third reading of the bill be made an order of the day for tomorrow.

Motion agreed to.

EVIDENCE (CHILDREN AND SPECIAL WITNESSES) AMENDMENT BILL 2024 (No. 28)

Second Reading

[7.52 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That the bill be now read the second time.

On 31 August 2023, the Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings delivered its final report titled *Who Was Looking After Me? Prioritising the safety of Tasmania's children* to the Governor. On 26 September 2023, the final report was tabled in each House of the Tasmanian parliament.

The commission's final report made 191 recommendations, with 54 of those recommendations requiring legislative amendments for implementation. One of these 54 recommendations is recommendation 16.11, which reads:

(1) The Tasmanian Government should introduce legislation to amend the *Evidence (Children and Special Witnesses) Act 2001* to simplify the legislation to clarify when special measures are available to adults who are complainants in trials relating to child sexual abuse and allow them to:

a. have a support person present when they give evidence in court

b. give their evidence at a special hearing before the trial unless the judge considers that this would be contrary to the interests of justice, regardless of whether the accused consents

c. be shielded from the view of the accused person by a screen or partition if they choose to give evidence in court.

(2) The Tasmanian Government should ensure courts, public defence counsel (such as Tasmania Legal Aid) and the Office of the of the Director of Public Prosecutions are appropriately funded to carry out this recommendation.

The Evidence (Children and Special Witnesses) Amendment Bill 2024 implements the legislative aspects of recommendation 16.11, which is one of the short-term recommendations of the commission.

The bill makes three key reforms to the *Evidence (Children and Special Witnesses) Act 2001*. Importantly, these amendments clarify when special measures are available to adults who are complainants in trials relating to child sexual abuse.

First, the bill amends section 4 of the act to expand the availability of support people to a broader range of eligible witnesses, including the cohort of adult complainants in proceedings relating to child sexual abuse, as recommended by the commission. Currently, the act provides entitlement to a support person for a child or a prescribed witness in section 4 and through the special witness pathway through section 8. This means that some adult victims of child sexual offences may not have the option of a support person. The bill addresses this issue by replacing the reference to 'prescribed witness' in section 4 with 'affected person', while retaining the reference to 'all children'.

The replacement term 'affected person' is much broader than 'prescribed witness'. It includes a prescribed witness, being a witness in respect of whom a witness intermediary order has been made because of a communication need. 'Affected person' also includes an 'affected child' and third, an adult in respect of whom a child sexual offence was committed or is alleged

to have been committed when the person was a child. This was identified as the best way to broaden section 4's application without unintentionally omitting other witnesses already protected by it.

Further, section 8 of the act also provides that a support person can be provided for special witnesses where the judge has made such a declaration because the person is unable to give evidence satisfactorily in the ordinary manner. The bill does not change this provision.

Second, the bill provides that consent from the accused is not to be required when a judge is making an order under section 6A that a special hearing is to occur as recommended by the commission. A special hearing is where evidence can be given and recorded by audiovisual link before the trial. It is played during the trial and the witness does not attend.

In a prescribed or specified proceeding, a judge may make an order to hold a special hearing to take and record a witness's evidence in full if the judge is satisfied that it is in the interests of justice to hold a special hearing and both parties consent to the special hearing. This last part of the provision in section 6A is being amended to provide that only the witnesses consent.

Third, the bill provides explicit statutory recognition of the use of screens, one-way glass or other devices for an affected person. This allows their view of the defendant to be obscured if they choose to give evidence physically in the courtroom where the defendant is seated. In particular proceedings, Tasmanian courts currently make arrangements so that witnesses are shielded from the defendant. The bill intends to support the existing practice of the courts. Broad wording has been used to ensure that existing devices - for instance frosted glass - can continue to be used and that appropriate upgrades can be made as required in the future. The bill inserts a new provision, section 7AA, to legislate this special measure for an affected person.

As outlined above, importantly, this term covers children in particular proceedings, adults in child sexual offence proceedings, and a prescribed witness who is assisted by an intermediary because of a communication need. An amendment is also made so that a judge can order this measure in respect of a special witness through section 8 of the act.

Importantly, the amendments will apply in relation to proceedings that have commenced before or after the commencement of the amending bill. This means that once the provisions commence, the enhanced support will be available to witnesses in any applicable proceedings that are on foot.

The second part of recommendation 16.11 relates to ensuring appropriate funding of legal aid, the Director of Public Prosecutions, and the courts to carry out the recommendation. The provisions in the bill will commence on proclamation so that courts and legal stakeholders can be prepared for the changes. Any funding impacts are being identified and managed by related budget planning that is underway. Targeted consultation occurred on the policy being implemented by the bill during consultations with many stakeholders on both this bill and the Justice Miscellaneous (Commission of Inquiry) Bill 2024.

The department met with legal and non-legal stakeholders. We are pleased the feedback received in these forums was supportive of these targeted reforms. Recommendation 16.11 was a short-term recommendation of the commission. We are pleased we are able to progress this

bill to make that intention. This is an important bill that will assist witnesses when giving evidence in proceedings, including victims of child sexual offences.

The bill simplifies the legislation to clarify when special measures are available to adults who are complainants in trials relating to child sexual abuse. The government notes that the commission also noted wider issues with the act, which will take more time to address.

The commission report's text supporting recommendation 16.11 stated provisions should be redrafted so the protective measures that apply to children, adult victim/survivors of child sexual abuse, and people who are using a witness intermediary are much clearer. They should be simplified and rationalised.

The government's response acknowledged that the act has been amended on many occasions in its more than 20-year life span.

The amendments have all worked towards increasing the support and options available for vulnerable people in court. However, the scale of the amendments has resulted in the act being complex and technical. With this bill we make an important start. The work to simplify this essential legislation will be undertaken as a matter of importance. However, it needs to be undertaken methodically and carefully to ensure there are no unintended consequences and the rights currently available to vulnerable people are not lost. In the interim, we are pleased by the general agreement of stakeholders that this act is working well.

Member for Launceston, do you still do a bit of intermediary work?

Ms Armitage - Independent person? Yes.

Mrs HISCUTT - Nice to know.

I commend the bill to the House.

[8.02 p.m.]

Ms FORREST (Murchison) - Mr President, I acknowledge the work done by the Department of Justice in response to the commission of inquiry. It is a huge legislative workload to be done and this is only a small part of it. As the Leader said in her contribution, there is a lot more to come.

I also acknowledge all the victim/survivors that have been deeply impacted by that harrowing experience of appearing before the commission of inquiry and all those who gave evidence in whatever standing they had. Without the work and evidence of those brave people, we would not be here now and we would not be making these changes that are really needed.

I say that in terms of the legislation that we had just a moment ago, the Justice Miscellaneous (Commission of Inquiry) Bill, and I did not speak on that because I found the second reading speech so comprehensive, which is really important because that was a very complicated bill.

When I was trying to line up the second reading speech with the bill at a previous time, I found, going backwards and forwards, the second reading speech was very thorough. I do

thank the Department of Justice representatives for the amount of effort and work they are putting into this.

I also thank the commission of inquiry committee that is overseeing the implementation of the recommendations by the government. We will also monitor the work of the implementation monitor at a later time and any matters related to this. It has been receiving evidence from a number of ministers to date. Part of the evidence is on the website. Not all of it is up yet. We publish them in *Hansard* as and when we can.

We did have to reschedule the Minister for Health because of the storm in the north-west and he had duties elsewhere in the state with major hospital facilities out of action. I have the privilege of being on that committee, and hearing a lot of the work that is being done and getting a lot more context around some of these things.

I rise to speak on this bill because it is critically important we make it possible - I will use that word - for children and victims of sexual and childhood abuse to appear before the court in a way that is as safe as it can be for them. Courts are terribly intimidating spaces, even for a person who is a witness, who has done absolutely nothing wrong and is not there to face a jury or a magistrate or anything like that. They are still daunting places if you are not in the profession.

I imagine for some people walking into parliament is probably a bit confronting and intimidating too, but yes, we take it for granted now. The member for Prosser might still need a bit more time to take it for granted when he walks in the door. I know I certainly did when I first came in and I thought, 'Wow'.

These very important institutions like parliaments and courts are intimidating by nature, but because they do such important work, it has to be done well. We must take into consideration any avenue to create a safer space, particularly for children and young people who are victims of sexual abuse, to be able to give evidence in a way that they feel able to. It must be retraumatising - there is no way you can give evidence about these things and not be retraumatised. But we must try to create a space and environment that is the least retraumatising environment possible. We owe those victim/survivors that. This goes a way toward that and, as has been indicated, we know there is a lot more work to do.

To reiterate recommendation 16.11 - that the Tasmanian government introduce legislation to amend the *Evidence (Children and Special Witnesses) Act 2001* to simplify the legislation, and to clarify when special measures are available to adults who are complainants in trials relating to child sexual abuse, allowing them to have a support person when they give evidence in court - one would think that would be a no-brainer in many respects, but we understand that the courts work a bit differently. However, it is an absolutely crucial point.

In relation to witnesses giving their evidence at a special hearing before a judge, unless the judge concedes it will be contrary to the interests of justice, regardless of whether the accused consents - I think that is really important, because the accused could withhold consent and then basically force a witness to do it in a way that was not safe for them, which might make them unable to give evidence. There is also the option of being shielded from the view of the accused person by a screen or petition if they choose to give evidence in court.

The other aspect of this recommendation under paragraph 2 was to ensure that the Tasmania Legal Aid and the Office of the Director of Public Prosecutions are appropriately funded to carry out this work. Legal Aid has struggled for years.

Ms O'Connor - Decades.

Ms FORREST - Yes, decades, to be adequately funded. All power to Kristen Wylie, who is the current director of Legal Aid. She is a friend of mine and a very capable woman -

Ms Rattray - Based on the north-west coast.

Ms FORREST - Yes, she lives in Stanley. Those before her as well have fought really hard to get adequate funding. It is a shame that we have to have a commission of inquiry demand, and basically legislate, funding to give effect to that. It is vital that very vulnerable people have access to Legal Aid or to legal assistance in a way that can support them, because if they do not, it makes it impossible for those people to not only achieve justice, but to even participate in the process.

I do not want to go too much into all the details of the bill. This is a fairly simple bill in itself and, as we know, there is a lot more work to come. If members are interested in what else is coming, they can look at the *Hansard* for the commission of inquiry evidence on the Department of Justice's scrutiny. That was one of the first days we did and is certainly up and available for members to read if they wish.

The most important thing with this particular process is acknowledging it is an old piece of legislation that is gradually being improved as we are more aware of the vulnerabilities of children and adults who are victims of child sexual abuse - any forms of sexual abuse for that matter. We need to continue to contemporise our legislation to ensure we are offering and delivering the safest form of justice we can for these people and, most of all, making it possible and as easy as we can - not that it will ever be easy - for them to provide that evidence in the form and framework that enables them to do so and have their voices heard.

A lot of these people have been silenced for far too long. There are still some people out there in the world who think - I have heard this said to me a number of times: 'Why do they wait so long?' It is difficult to bite my tongue and not slap them. Clearly, they have not had any experience of abuse or had a loved one with an experience like that. I urge people, if they do not fully understand the impact of trauma, to inform themselves.

If you want a good book to read, read *The Body Keeps the Score*. I do not know if anyone has read that, but if you have not, it is an incredible book. I have forgotten the guy's name who wrote it, but you can look it up. It tells you about the intergenerational impacts of trauma. That is just one body of work on the subject that is very informative.

We do not know anyone else's story. I do not know the member for Huon's story; I do not know the member for Prosser's story; I do not know the member for Launceston's story. We do not know anyone's story, so we always need to keep that in the back of our mind when dealing with these very sensitive issues. For people who are impacted by this sort of abuse and horror, we must ensure that we have the most effective mechanisms we can to enable them to be heard, to be believed and to seek and achieve justice. I support the bill.

[8.13 p.m.]

Ms O'CONNOR (Hobart) - Mr President, I will make a brief contribution as the Greens justice portfolio spokesperson. I want to say how much I appreciated the member for Murchison's insightful and warm contribution just then.

Obviously, this is necessary legislation which progresses recommendation 16.11 of the commission of inquiry to clarify the operation of special measures for children and affected persons who are witnesses at trials relating to child sexual abuse. The bill clarifies that both the child and adult witnesses are entitled to have a support person present in court. It removes the requirement for the accused to consent to the witness giving evidence in a special hearing prior to the trial in the absence of the accused, and it explicitly provides for the use of screens, one-way glass partitions or other devices to obscure the view of an affected person or a special witness from the defendant at the judge's or the prosecution's application.

We regard this bill as an accurate reflection of and response to the commission of inquiry's recommendation. The minister and advisers will be well aware that the second part of the recommendation goes on to say the government should ensure courts, public defence counsels such as Legal Aid and the Office of the Director of Public Prosecutions are appropriately funded to carry out the recommendation.

I am sure all of the Council would like to have a response to that second part of the recommendation, because enacting legislation is important. It is just one aspect of a reform agenda, and that is a fact that the commission of inquiry recognised.

In closing, in response to the member for Murchison's observation, and it is an accurate observation that we do not know anyone else's story, I knew my late sister's story. She was sexually abused as a child, but I did not know that when she was a child, and it goes to exactly what the member for Murchison was saying - the way that trauma affects an abused child impacts on every decision they make about their lives.

It is coupled with a profound self-loathing and desire to self-harm and all of this trauma makes it nearly impossible for the victim - my sister did not survive - to disclose, to come forward, and I read into the *Hansard* on the previous debate a letter from a woman whose paedophile teacher abused her in high school some 20-odd years ago. It was not until my sister, who was abused by a family friend when she was about six or seven years old, was in her early twenties and suffering a psychotic episode, that the truth or a measure of the truth came out. Even then, there are people in my family who did not believe her.

We need to be ever mindful that every person is on their own journey or trajectory, through life. We make of it what we can. Our life can be very hard and it is particularly difficult to navigate through if, as a child, your trust was abused, you were abused, your parents failed you and -

Ms Forrest - The system failed you.

Ms O'CONNOR - The system failed you - well, it was not in an institutional setting, but my sister is dead now. She took her life. It happened in the '70s, you know - parties, drugs, alcohol, remote parents, children running wild, children unprotected. It was a very different time then. That is not to say, of course, that these things are not happening today; we know they are. We need to make sure, as we are seeking to do here today through this bill, that the

justice system acknowledges the truth of trauma and how it affects people's capacity to voice their trauma and to direct the course of their life.

For some people like my sister, it is impossible. It was impossible for her. Vale Christie. This is good legislation and I am very glad to be supporting it.

[8.18 p.m.]

Ms ARMITAGE (Launceston) - Mr President, I will make a couple of brief remarks in support of this necessary and very important bill.

First, this bill enacts further changes which were recommended by the commission of inquiry, which include the following: enabling special measures to be available to adults who are complainants in trials relating to child sexual abuse and allowing them to have a support person present when they give evidence in court; complainants giving their evidence at a special hearing before the trial, unless the judge considers that this would be contrary to the interests of justice; complainants being shielded from the view of the accused person by screen or petition if they choose to give evidence in court; and ensuring that the courts, public defence counsel and the Office of the Director of Public Prosecutions are appropriately funded to carry these functions out.

This bill expands the availability of support people to a broader range of eligible witnesses and, importantly, provides support to adults where they are providing evidence relating to child sexual abuse.

This is an important function because it legislates the recognition of the trauma and the vulnerability from child sexual abuse in people and that can affect people as they mature into adults. Everyone deserves to have their story heard and people who have suffered this type of abuse should have the support they need when they tell it. The bill also permits the use of screens, one-way glass or other devices for the affected witnesses when they are providing evidence.

Given the nature of abuse in this context, witnesses and complainants retelling their stories bring up a whole range of emotions which deserve sensitivity, understanding and support. Importantly, being provided privacy at a moment of vulnerability will not only help people tell their stories in these circumstances, but improve the quality of evidence that they are able to provide.

Our understanding of the deeply emotional and traumatic effects that child sexual abuse has on a person from the time they are children to the time they have grown into adults is being better understood by psychologists and health professionals. It is appropriate that the law, informed by good public policy, should follow suit. It is investigations like the commission of inquiry that help us to gain a clearer and fuller picture of the far-reaching effects that child sexual abuse has, not just on the victim/survivors, but also on their families, their friends and their loved ones.

It is a whole-of-community problem and it is incumbent on us to make laws in this place that not only reflect community sentiment but put into practice the best, most modern understanding we have of the nature of child sexual abuse and prevent, deter and appropriately sentence perpetrators. This is yet another important step to full implementation of the

commission of inquiry's recommendations and I believe it will have a meaningful effect for complainants and witnesses to proceedings. I support the bill.

[8.22 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I have one response here for the member for Hobart. I will repeat a paragraph out of the second reading and add a little bit to it for you.

The second part of recommendation 16.11 relates to ensuring appropriate funding of legal aid, the Director of Public Prosecutions and the courts to carry out the recommendation. The provisions in the bill will commence on proclamation so the courts and legal stakeholders can be prepared for the change. Any funding impacts have been identified and managed by related budget planning that is underway. It is anticipated that the reforms being progressed in the bill can be implemented within the existing budget measures -

Ms O'Connor - The commission of inquiry did not think so, but -

Mrs HISCUTT - but this will be measured. The role of a support person is often carried out by a witness assistant officer who is attached to child sexual offence proceedings and is usually present for the whole trial. An increase in the use of support persons under the act and therefore the role of witness assistant officers may have a resource impact and this will be monitored to ensure appropriate funding is provided.

It is a shame that we have to be dealing with something like this.

Bill read the second time.

EVIDENCE (CHILDREN AND SPECIAL WITNESSES) AMENDMENT BILL 2024 (No. 28)

In Committee

Clauses 1 to 3 agreed to.

Clauses 4 and 5 agreed to.

Clauses 6 and 7 agreed to.

Clauses 8 and 9 agreed to.

Title agreed to.

Bill reported without amendment.

[8.25 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move that the third reading of the bill be made an order for tomorrow.

Motion agreed to.

FARM DEBT MEDIATION BILL 2024 (No. 33)

Second Reading

[8.26 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That the bill be now read the second time.

It gives me great pleasure to introduce the Farm Debt Mediation Bill 2024 to the Council today. The introduction of this bill delivers on an election commitment that the government implement a legislated farm debt mediation scheme in Tasmania supporting a key recommendation from the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, which advocated for the enactment of a national scheme of farm debt mediation. Specifically, this bill is modelled closely on the NSW farm debt mediation legislative framework, which has led the way for a harmonised national approach of farm debt mediation.

Currently, a Tasmanian farming operation can be foreclosed by a creditor without any form of mediation or negotiation. This can obviously have a severe impact on a farmer and their family, especially when the farm is also the family home. The requirements outlined in the Farm Debt Mediation Bill have been developed to create a more level playing field in situations that may otherwise involve a significant power imbalance in favour of the creditor. The bill does this by establishing an efficient and equitable mediation process for matters involving farm debts as an alternative to an expensive court process. Even in a situation where a farm business cannot be saved, the farm debt mediation scheme can help facilitate a dignified exit for farmers. The parties may enter this mediation process, or if they choose not to participate, then the bill provides for safeguards and mechanisms for the resolution of the matter, which I speak further to below.

I will now talk about the bill in more detail. Farming operations that the bill applies to include those businesses primarily involved in agriculture, aquaculture, or cultivating and harvesting. The bill enables farmers to request creditors enter into mediation before defaulting on a loan related to farming operations. It does this because when mediation occurs early, farmers are in a stronger bargaining position at a time when their emotional stress is lower and they may have more options available to them. Importantly, if a creditor does not agree to mediate under the scheme, the farmer may apply for a prohibition certificate, which prevents the creditor from taking foreclosure action under the scheme for six months once issued. If a farmer defaults on a loan, the bill requires a creditor to provide an invitation to mediate with the farmer and to attempt to engage in mediation in good faith with the farmer, before taking any enforcement action.

Under the bill, a satisfactory mediation is one that has achieved a resolution or has proceeded as far as it reasonably can in attempting to achieve resolution that has failed to resolve the matter. If a farmer does not wish to mediate under the scheme, the creditor can apply for an exemption certificate. Once issued, this certificate states the scheme does not apply

to this debt for three years, allowing the creditor to take foreclosure action. Creditors are only required to offer mediation once per farm debt as there needs to be balance in this process. If both parties agree to mediate, the mediation process utilises a neutral and independent mediator to assist farmers and creditors to communicate effectively, reach agreement on the issues and to achieve their own resolution of the dispute.

The bill clearly defines the role of the mediator and what they can and cannot do to support this process. The farmer and creditor will be responsible for paying an equal share of the mediation fees and any of their own costs associated with attending mediation.

The bill also establishes a farm debt mediation commissioner. The commissioner will oversee mediator accreditation and administration of the scheme, including the issuing of certificates. The commissioner will have the power to require farmers and creditors to provide information to determine the application of the farm debt mediation scheme. Farmers, creditors and mediators will have access to request a review of certain decisions made by the commissioner consistent with administrative law principles.

The government undertook public consultation on the key principles of the farm debt mediation scheme. Submissions were received from the Tasmanian Farmers and Graziers Association -

Ms Rattray - It is just called TasFarmers now, no more graziers.

Mrs HISCUTT - Okay. Yes. And the Mediator Standards Board and the Australian Banking Association amongst others. This consultation has informed the development of the board before you here today. The agricultural sector is a vital contributor to the Tasmanian economy. However, farmers and their assets are vulnerable to financial challenges due to harsh climate conditions and changing commodity prices. I was about to say, member for McIntyre, don't we know.

In addition, due to the unique set of pressures faced by farmers, they are more vulnerable to experiencing mental health challenges caused by financial pressures and isolation. The farm debt mediation scheme aims to provide the long-term viability and resilience of farm businesses in Tasmania. This will also help support the primary industries sector as a whole.

Helping farmers manage financial stress and supporting them to take early action will help promote positive mental health and resilience in rural communities. The government is committed to helping Tasmanian farmers and believes that farmers, through our legislated farm debt management scheme, should be given the opportunity to present their case with an independent mediator and work to achieve a resolution before any enforcement action is taken by their creditors.

I commend this bill to the House.

[8.33 p.m.]

Ms RATTRAY (McIntyre) - Mr President, one farmer following another farmer. Congratulations to the Leader, who is definitely a farmer and was able to present this. I think she has quite a few pairs of gumboots and probably a good pair of Blunnies.

I rise to support this with a few questions attached. Interestingly, New South Wales has had this arrangement for 30 years. I had no idea we were that far behind New South Wales. I always thought we were well in front; that was quite a surprise this morning. When it comes to farming I know they do everything on a big scale, but we have some pretty niche markets in Tasmania and we have good red dirt in a lot of areas. We grow good products and we have good hardworking farmers: male, female and others. We are very fortunate and this is a great initiative and very much supported.

I want some understanding of how many farmers we might have or envisage to be wanting or needing to use this opportunity for mediation. I have some significant questions on the cost of mediation. We heard that this morning in the briefing - which I acknowledge and for which I thank those from the department - around how much it would cost. If you are already in financial stress - and I know that always comes with some money - at the moment people can use free services and then we head off into a direction where we have to pay for a mediation service. I would hope that does not stop people from looking at their situation early.

I expect that most farmers would have an accountant of some description. I am not sure whether people still do their own books. I know my mum still writes up the GST, because it is what she likes to do, but we certainly do not do the books at home for the farm. She feels she really contributes and so she does - otherwise somebody else would have to do it.

It is interesting working out when you need to spend money and when you do not, and when you have to pay a tax bill and when you do not. Quite often now, you buy cattle and you do not pay for them until you sell them. They do not tell you upfront that the interest each month is really quite significant. I know a few people who thought they were buying some cattle and one of the local rural companies was very generous and said 'you do not have to pay for them until you have sold them'. They did not tell them they would be receiving an interest account every month, which was quite significant. Effectively, you lose part of your herd in interest while you are waiting for them to grow out. It is quite easy to get into financial hardship without realising it.

One of the questions that I am particularly interested in is whether we have any idea how many people who farm, and have challenges, would use this arrangement into the future. We are going to appoint another commissioner. This whole state will be full of commissioners before we know it. I am really interested because I am sure they do not provide their services free of charge. I am absolutely certain they do not.

Does this commence as a part-time position and work up to a full-time position – if the need is there? How does that work? Is it off the side of someone's desk in the departmental secretary's office? How is that to work and where will they be based? I expect there are not too many people farming in the CBD of Hobart or perhaps in the member for Elwick's electorate. We could have it based in the member for Prosser's electorate, no problem at all. We do not have the rich red soil that they have up in the north-west and north-east, but it still grows and they still contribute quite considerably to the state's economic value.

This supports the growth of the agriculture sector in the future, especially if you are going to take a leap of faith, borrow a lot of money, and get into farming. Although, for the member for Murchison, her King Island community must be facing some challenges at the moment. I really feel for them when you know something that is your brand has been given the notice they have been given.

Ms Forrest - I just hope Saputo behave better than JBS Swift did.

Ms RATTRAY - I hope so too.

Ms Forrest - They have a different corporate reputation, I will say. But JBS were not good corporate citizens.

Ms O'Connor - Not anywhere in the world.

Ms Forrest - Not anywhere in the world, but certainly not on King Island when they did what they did there.

Ms RATTRAY - I acknowledge the challenges for the member for Murchison - and I feel sure that you will - but I do not want to stand here and talk about the farming community and not acknowledge those challenges.

Ms Forrest - Saputo owns a couple of the dairy farms on the island too.

Ms RATTRAY - We certainly have. We have lost our milk processing, vegetable processing in the north-east, timber processing, our clay mine. There is not much else to lose. Again, you have big companies who do not particularly have the community social fabric at heart. They have no heart. They are bean counters and can make figures look any way they like to justify a decision. If you put all the advertising for your product for two of your sites against one site, it makes that site look not viable. That is what happened many years ago. Advertising all to Scottsdale with nothing to Ulverstone. Anyway, Phil O'Keeffe and I may catch up one day. You never know.

In my paperwork, I had the press release from July where the minister for Small Business and Consumer Affairs, Madeline Ogilvie - well, that needs to be changed, but I do not have an updated one at the moment - was talking about this issue and saying what a positive thing it is and how the government supports the rural sector. I do not disagree with that. I am going to support this into the Committee stage and would hope that the Leader has some comments around those issues that I raised in my contribution to the second reading speech.

It will not be lost on anyone in this place that dealing with big banks is challenging. I know some of those questions were raised through the briefing session this morning about the imbalance there is when someone is quite vulnerable. Emotions are running high and then they deal with someone who is representing a large bank. We no longer have a bank manager on site in our rural communities. Sometimes they wander around, I know one who drives in and out and is very good in a particular one of the big banks that I know of. In a couple of other banks there is no-one. We do not even have an ANZ bank in the town anymore; they have gone. There are limited opening hours for the Commonwealth Bank and less than limited for Westpac. That is just in the town where my office is. I see the frustration when you are one minute past 1 o'clock and want to go to the Commonwealth Bank and speak to someone. Too late. It is hardly worth the three people who drive out from Launceston to work there if it is only open from 9.30 a.m. to 1 p.m., but that's another story again - no locals employed in the local bank. Thankfully, there are locals in Westpac across the road.

How people are going to work through that will certainly be one for those people involved in this, but I support the government's initiative in bringing this and thank them for bringing it

forward. Again, it was a pleasure to see the farmer in our House present this bill on behalf of the government.

[8.44 p.m.]

Mr PRESIDENT - The member for Launceston.

Ms Rattray - The non-farmer.

Ms Forrest - Townie. She is a townie, not a non-farmer.

Ms ARMITAGE (Launceston) - I quite like farms.

Ms Rattray - I know you do.

Ms Forrest - But you are still a townie.

Ms ARMITAGE - I have friends with farms.

Ms Forrest - You have friends with farms.

Ms Rattray - You have visited the odd farm.

Ms ARMITAGE - I have visited the odd farm.

Ms Forrest - Seen a few cows from time to time.

Ms ARMITAGE - I can recall at one stage, 2 o'clock every morning was my rostered-on time to give milk to a little calf that had lost its mother. I have done my bit from time to time.

Ms Forrest - I could tell you some calf-feeding stories.

Ms Rattray - Was it out the back of St Leonards?

Ms ARMITAGE - No, it was not. This cow lived a happy life and did not go off to the butcher's. I must say this cow's name was Maggie and she survived. It was very nice. I think she only died recently and had a very happy and long -

Ms Forrest - I had a pet steer like that. He lived to a ripe old age after I left the farm. His name was Andy and Dad used to put me on his back so I could ride him around the paddock.

Ms ARMITAGE - Unfortunately, my husband had a farm as well and he tells me that his cows used to play up on him when he came to pick them up because they went on the truck and I do not believe they came back. I am pleased to say he did not have the farm when I married him because I would not have let any of the cows go on the truck.

Mr President, back to the bill. I will just make some brief remarks on the bill as I believe it will make a positive tangible difference to farmers who might be experiencing financial distress. As has been mentioned, Tasmania does not currently have a legislated farm debt mediation scheme, and this bill is a way to bring our state in line with other jurisdictions which do. I understand that the bill is modelled on the New South Wales scheme, which also

establishes the farm debt mediation commissioner. Additionally, the bill implements three other major policies:

1. It will introduce a requirement that a creditor invites a farmer to mediate before taking enforcement action relating to farm debt, which is very important.

2. It will introduce a financial penalty for creditors if they operate outside of the provisions of the act.

3. It will allow farmers to initiate formal mediation at any time, even when loans are not in default.

Financial circumstances for so many at this time are challenging, to say the least, and for people in rural and regional areas, especially farmers whose finances are tied up in so many different aspects of running a farm. Finding support and the right kind of support can also be very challenging. I can recall another friend with a farm and the difficulties that they have been having, particularly with weather. Sometimes I think we actually forget when we city dwellers consider the weather that we need to think about the farmers and what it is doing to their crops and to their farms.

This bill introduces a suite of measures to facilitate mediation and interaction between farmers and creditors in good faith. It will ensure that debt enforcement actions are an option of last resort and it will hopefully have the effect of parties renegotiating and voluntarily entering into agreements which are fair and mutually beneficial.

We rely on our farmers to feed our families. Farmers do a very difficult, very special job and it costs money. It takes time and so often they are beholden to the climate, the weather and so many other factors that are simply out of their control. It must be devastating to have to manage challenging financial conditions with everything else that they need to balance.

This bill, I believe, is a step in the right direction to making things better - not just for farmers but also for creditors. I believe this bill will likely have the effect of preventing needless enforcement measures and legal actions where things take much longer to resolve and which can tie up our court resources.

It was interesting the member for McIntyre mentioned mediation and cost. I was looking at West Australia. We always tend to look, in this case at New South Wales which has had it a long time, but Western Australia has also had it a long time. Looking up mediation, they say mediation usually runs for four to six hours. However, it is requested that parties set aside a full day for mediation in case their dispute takes longer to resolve. Second mediation can be arranged to finalise the dispute, if required. It says, 'How much does mediation cost?' The cost of mediation is $125 per party per session. I am just looking at West Australia - their facts and their questions and these are their answers.

Ms Rattray - We might send them to Western Australia to mediate at that price.

Ms ARMITAGE - 'Do you know who attends mediation?' and it goes on. Yes, this is the farm debt mediation scheme, Western Australia, frequently asked questions. Very pleased to hear -

Ms Forrest - They are rolling in cash over there. They can probably afford to do it for nothing.

Ms ARMITAGE - It is nice to see that it is a very reasonable amount, though.

Ms Rattray - A lot different than the $6000 or up to $6000 that we were quoted this morning.

Ms ARMITAGE - Yes. It was very pleasing to hear in the briefings. I thank the Leader for the briefing. Sometimes you look at the briefing and you think, 'Do I really need to go to the farm debt mediation briefing?' but then when you actually get there, you do learn things that you would not have known. It was really good to hear that they can apply to get help up to, I think, $3000 for mediation. Obviously, it is a lot more costly in Tasmania than in Western Australia, but it is pleasing to see that it is a great help to farmers in those situations.

I also want to hear more about how these new legislative measures will be communicated to the people who they might affect. How will they know about it? I know sometimes we put it in newspapers, but not very many people buy newspapers now and not many people watch television.

I can recall one of the big banks made a change to one of my bank accounts and I did not know about it until I saw a change on my bank statement. When I asked them how they notified people, they said they only had to put it in one newspaper, and I do not read *The Australian* all that often. That was their way and that was the one paper to notify everyone. How many other people would have read *The Australian*? In fairness to them, they did give me my money back.

Ms Rattray - I would suggest if you wanted the rural people to know something, you would put it on the 12 p.m. ABC rural report.

Ms ARMITAGE - I am sure the Leader is listening, and as a farmer I am sure she is quite aware as well, but it would be good to know how it will be communicated so that people who need it are aware and can access it. In any event, I believe this is a good policy. It brings Tasmania in line with other jurisdictions that have enacted farm debt mediation schemes. As I said, from hearing the amount, it is probably not the same as Western Australia with their $125 per session per person, but I thank the government for bringing this forward. I support the passage of the legislation.

[8.51 p.m.]

Mr EDMUNDS (Pembroke) - Mr President, I note the comments from the member for McIntyre about the power imbalance. My question, and I think this was raised by Rural Business Tasmania and TasFarmers, is about how this information will be communicated, and general communication about the scheme as well. Also, given the age of the commitment and the consultation - I believe it is quite a few years old, possibly from 2018. Is that correct?

Ms Rattray - They had Tasmanian Farmers and Graziers Association in the second reading speech, and it has been a while since it has been called that.

Mr EDMUNDS - Yes. Given the age of the commitment at least, which I think, based on the *Hansard* from the other place - and I am happy to be corrected - was from the 2018

election, how is that engagement still relevant? How, if it needs to be updated, has it been updated?

[8.53 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I have some more information to come but I will start with what I have.

Before I launch into the Leader's response, as the member for Montgomery I say that a farmer's payday comes but once or twice a year. I pose a bit of a question to members that I will get an answer to later.

Talking about our pet cows, member for McIntyre and member for Launceston, my grandson helped me load up a semi-load of cattle to go to the mainland, and about two weeks later he said to me - Meema is my name - 'Meema, have those cows come back from their holidays?' I gave him an answer, but I will talk to members later about how I should have answered that. Back to the Leader's role.

Ms Rattray - If we are declaring, my pet calf was named Sam. Full disclosure.

Mr Gaffney - He came back in Woolworths, aisle 8.

Mrs HISCUTT - I will talk about that later. The member for McIntyre asked three or four questions, to which hopefully I have the answers.

What is the anticipated demand for the Tasmanian farm debt mediation scheme? Demand for farm debt mediation nationally has experienced a steady rise since 2018-19 when there were 163 mediations. APRA data shows that the number of new instances of farm debt mediation has decreased annually since then, with 83 new farm debt mediations taking place in 2022-23.

Based on data from other Australian jurisdictions, it is anticipated that there may be between eight and 17 farm debt mediations in Tasmania each financial year, or around one to two each calendar month. There would be a review after 12 months to determine and assess the uptake of that particular scheme.

Who will pay for the FDM? The Tasmanian government will bear the cost of administrating, monitoring and enforcing the scheme. Ongoing funding of $63,000 per year has been provided for this in the budget to cover the expected salary costs involved in administrating the program. The cost of mediation will be split equally between parties, with the option for both parties to agree to alternative cost-sharing arrangements early in the mediation process.

Based on information provided by the NSW Farm Debt Mediation Scheme, we estimate the average cost of mediation to be between $1500 and $3000 per party based on 10 to 20 hours of mediation at $300 per hour. As cost may be a prohibiting factor to some farmers wishing to enter into mediation, the Tasmanian government will establish a financial support program offering up to $3000 in funds to support eligible farmers into mediation under the Tasmanian farm debt mediation scheme.

You also asked about why there is a farm debt mediation commissioner, or you mentioned the commissioner -

Ms Rattray - I talked about the role of the commissioner.

Mrs HISCUTT - You did.

Ms Rattray - Part-time, full-time? Off the side of a desk?

Mrs HISCUTT - In New South Wales and Queensland, farm debt mediation schemes are run by statutory authorities. Tasmania does not have an equivalent statutory authority. Therefore, the Department of State Growth will be responsible for administering the farm debt mediation scheme.

The Department of State Growth also manages the extensive loan portfolio of the Tasmanian Development Board, and the secretary of State Growth is nominated chief executive of the TD Board by virtue of their position. As a vehicle used to support industry development, the TD Board is often a creditor to the Tasmanian farm businesses. This means that State Growth could be involved in a mediation process as a creditor, where the secretary and staff may hold additional information relevant to mediation around a loan that a normal creditor may not hold, creating a potential conflict of interest.

To avoid this potential conflict of interest, the bill provides for the creation of an independent statutory officer, the farm debt mediation commissioner. The commissioner is created under the legislation to act independently of the department for any reviews to avoid any perceived conflicts. The commissioner will be appointed by the minister to remove the direct conflict of the secretary and align with the processes of other jurisdictions.

Where will the commission be based? The minister will consider the location of the commissioner, amongst a number of other factors, when appointing the commissioner. That is yet to be determined.

Your last question was about how much taxpayer money will the farm debt mediation commissioner cost? In New South Wales and Queensland, the farm debt mediation schemes are run by existing statutory authorities. Tasmania does not have an equivalent - I will just check.

Ms Rattray - That is what you have already said.

Mrs HISCUTT - There is just a little bit of preamble there that was the same. To carry on, the use of the FDM scheme is likely to be small-scale with low numbers of mediations carried out annually. As such, the administration of the scheme needs to be proportionate to the anticipated workload. This level of demand is not considered to be large enough to justify a standalone administrative body. The bill therefore provides for the creation of an independent statutory officer, the farm debt mediation commissioner. The creation of this office allows the commissioner to complete their duties in an independent manner. The statutory office will be held by an existing State Service employee at no additional cost. Another question here. Why has it taken so long to deliver on the commitment to establish a legislative framework?

Mr Edmunds - That was not the question. The question was, given the length of time, how contemporary is the bill based off that consultation? It was not a criticism, it was just an acknowledgement. How can we do things well?

Mrs HISCUTT - The Tasmanian government committed to implement a farm debt mediation scheme as part of the 2021 Accelerating Agriculture election commitment. It has taken some time to develop a scheme appropriate for the Tasmanian context, as this is an important issue that impacts the lives of our farmers and primary producers. It was vital to ensure the scheme delivered is robust and fit for purpose, so this commitment arose from the 2019 banking royal commission.

The member for Launceston asked why not subsidise the program further, as in Western Australia.

Ms Armitage - Sorry, what did you say I asked?

Mrs HISCUTT - You are talking about the cost in Western Australia.

Ms Armitage - Yes, the cost.

Mrs HISCUTT - It was heavily subsidised programs such as those in Western Australia and Victoria. The scheme moves almost all of the cost of mediation from the creditor, often a large bank, and the impacted farmer to the taxpayer. This heavily subsidised, FDM scheme was established to fulfil an election promise. There has been no mandate from the Tasmanian electorate to provide a similar subsidised FDM scheme.

As such, it was considered appropriate to establish the FDM scheme which protects farmers but does so with minimal impact on the Tasmanian budget. The Western Australian scheme is voluntary and is not legislated. As mentioned already, we will have grant funding for farmers for their first 12 months and this will be reviewed.

It goes on to say that in New South Wales, there was an additional financial support for farmers. Farmers and creditors must pay their own fees associated with attendance and an equal share of the mediation fee unless agreed otherwise. Queensland's model for fees is similar to that in New South Wales and there is no additional financial support. There is also no capacity for the parties to come to an alternative agreement for costs.

In Victoria, after each party has contributed their fee - which is $195 per party per session - the government subsidises any additional cost. South Australia has adopted the same model. The Victorian and Australian model was not preferred in Tasmania because it relies on the government, not the parties, choosing mediators and settling fees. This would have a much higher administrative burden for the government and would reduce the ability of the market to moderate prices. Instead, the preferred model is to support farmers through a grant program. This model leaves the parties, especially farmers, with more control over who is appointed as a mediator.

How will the government communicate to the existence of the program? The Department of State Growth has been working with Rural Business Tasmania on the development of the farm debt mediation scheme. They provide existing support for farmers in financial stress through the delivery of the Rural Financial Counselling Service. We will continue to work with them to educate farmers on the scheme, as they are often a first point of contact for farmers in financial stress.

We will also utilise Business Tasmania's network, which is very strong and growing alongside other service providers, engaging with farmers, for example, Rural Alive & Well. Mr President, as an aside, RAW is at nearly every rural function I go to.

Ms Forrest - They are cooking the barbecue, Mr President.

Mrs HISCUTT - They do. We will also be advertising the scheme in *Tasmanian Country* and other regional publications. There is funding to do that work, particularly for advertising and promotion. I will just check before I finish and that is it. I thank members for their contributions in support of this bill.

Bill read the second time.

FARM DEBT MEDIATION BILL 2024 (Bill No. 33)

In Committee

Clause 1 and 2 agreed to.

Clause 3 and 4 agreed to.

Clause 5 agreed to.

Clause 6 -
Mediation

Ms RATTRAY - Thank you, Madam Chair. I appreciate the responses provided in the reply to the Second Reading contributions about the mediation and, at the briefing this morning, I indicated that I recently had some dealings with the mediator in regard to Consumer Building and Occupational Services (CBOS) on construction and building. I took the opportunity to follow up with their mediation. There are not a lot of independent mediators in Tasmania and I am expecting that a mediator who deals with CBOS issues would also be someone who would deal with farm debt mediation as well.

If you can confirm that - I know that on the CBOS website there is a list, but it is not necessarily that easy to find one that you can afford. The information I received was that three hours of joint mediation is $1100, and this is just recently, and an hourly rate of $220 applies if over three hours. I know that you indicated in your response that it is expected that it could well take up to six hours to get a result and then, on top of that, they write a report which costs extra.

I expect that a financial institution would require a report. If I were the farm person, I would want a report and so there is an additional cost for the report-writing. We need to clearly understand how available an independent mediator is going to be and that is just the question: has that been looked at to this point in time? Has somebody done a bit of a ring around to see who or how many available independent mediators there are and where they are located?

Mrs HISCUTT - We have taken several measures to ensure there is a sufficient number of mediators, including:

(1) Allowed the commissioner to accredit for their own accord so they can recognise interstate accreditation.

(2) Allowed online mediation.

(3) Have consulted with the Mediator Standards Board, who confirm there are a number of mediators who would be willing to mediate in Tasmania.

Ms RATTRAY - I thank the Leader. Online mediation?

Mrs HISCUTT - Webex.

Ms RATTRAY - Webex. Get on your screen; where the person is on their screen, somebody else is on a screen. That might work. I expect that would not be at the same cost level as a face-to-face mediation where everyone comes together - perhaps I am just assuming that and should not have, but that is one question.

My second question is about 6(2), 'The regulations may prescribe that any process of a specified kind is, or is not, mediation for the purposes of this act'. Am I to take it from that that there will be some regulations drafted and presented to the Subordinate Legislation Committee regarding the process of undertaking mediation? Is that what I am to take from that or are the regulations that may be prescribed referring to something else? That is the only thing I can glean from that at this point in time, but I will be apprised of that by the Leader.

Mrs HISCUTT - Thank you. Regarding your first question about the cost, due to associated travel costs, online mediation may differ overall from participating in face-to-face mediation. Mediators will be responsible for setting fees for their mediation, but there should be less cost given there are no travel costs.

Will there be regulations? There is no current intention to make regulations. This section allows for flexibility if and when required.

Clause 6 agreed to.

Clause 7 -
Farming operation

Ms RATTRAY - Clause 7 is around farming operation and what is eligible. I asked a question in regard to contracting that is undertaken in the delivery of agriculture activities. I ask for clarity, is it correct that anyone who owns a contracting business but does not own a piece of land is not eligible under this farm debt mediation scheme? It talks about the cultivation or harvesting of timber or native vegetation, but to my understanding that is only on the property that is owned by the farmer or whatever that entity looks like for the land, not a contractor.

As we know, contracting services are vital to agriculture options and opportunities that you have on a farm, and the infrastructure for the contractor is equally expensive - in some cases more expensive. The farmer has a small John Deere and the contractor has a whopping big one with a lot of money invested in it. If the farming community is not doing well, they cannot afford to pay the contractors, so they are also at the mercy of the commodities, weather and everything that is attached to farming in our state.

I want to get that on the record so that people do not think they might be eligible as well.

Mrs HISCUTT - There has to be a secured mortgage to the land for the scheme to be engaged in. You talk about contractors - they can move on to the next part of town or the next part of the country, but the land cannot. It has to be secured to the land.

Ms Rattray - We won't go anywhere if there is no work.

Mr GAFFNEY - I am interested in why subclause (2) is in the bill. It reads:

> A farming operation does not include a business undertaking that primarily involves wild harvest fishing or the hunting or trapping of animals, birds or reptiles in the wild.

I thought that would be covered under subclause (3), which reads:

> The regulations may prescribe that any business undertaking of a specified kind is, or is not, a farming operation for the purposes of this Act.

I do not understand why it is there when 7(1) describes what a farming operation is. I want to understand why subclause (2) is there.

Madam CHAIR - Plenty of snakes on the farm at Ryanna, I can tell you that.

Mrs HISCUTT - For the avoidance of doubt, it is important to make very clear what is in and what is out. The policy reason is that the royal commission recommended nationally consistent principles. Those practices would not typically be associated with a mortgage, so they are out.

Mr GAFFNEY - I was trying to think of an example, and I was thinking that perhaps if somebody had a large tract of land and they hunted feral deer, it could not be considered a farm because it would not then be able to be mediated through a mortgage situation.

Mrs Hiscutt - A deer farm is different to wild deer.

Mr GAFFNEY - Yes, I am talking about wild deer farming. It would not need qualifying. I suppose that it would not be a farming operation. I can understand now why it is there, but that would be the reason, which I think is a better reason than the one you gave me.

Clause 7 agreed to.

Clause 8 agreed to.

Clause 9 -
Relationship of Act with other laws

Mrs HISCUTT - We have a government amendment here, Madam Chair.

> Page 15, subclause (2), after "duty of the"
> *Leave out* "Reserve Bank"

Insert instead "Australian Prudential Regulation Authority".

The amendment is requested due to being made aware that Division 2 of Part 2 of the *Banking Act 1959* of the Commonwealth that is referred to in clause 9(2) of the Farm Debt Mediation Bill 2024 has been updated. As a result of this update to the *Banking Act 1959* of the Commonwealth, clause 9(2) of the Farm Debt Mediation Bill 2024 should refer to the Australian Prudential Regulation Authority and not to the Reserve Bank.

Amendment agreed to.

Clause 9, as amended, agreed to.

Clauses 10 and 11 agreed to.

Clause 12 -
Commissioner's functions and powers generally

Ms RATTRAY - Madam Chair, I have a question in regard to clause 12, Commissioner's functions and powers generally, given we received some information that could be between seven and 16 requests for mediation, hence the commissioner may have a role in anything after that. What skills will the minister responsible be looking for when they appoint the State Service officer? Do they have to have some finance background? Do they have to have some agriculture background? Do they need to know anything about farming, banking, mediation or anything? What might be on the list for those State Service employees who are going to be putting their hand up for this very important role?

Mrs HISCUTT - It would probably more than likely be a senior public servant. It would be up to the minister to appoint a person who is capable of doing the job, who has the information and the experience necessary to do the job. The minister will look at the public service people who are available for that and pick one that the minister reckons has suitable qualifications for the job.

Ms Rattray - No actual skill or area of skill set required?

Mrs HISCUTT - Not set in concrete, but the minister will look at those people and make sure they have the skills necessary to be the commissioner, who should and will have a good idea of what they are doing, yes.

Clause 12 agreed to.

Clause 13 agreed to.

Clauses 14 and 15 agreed to.

Clause 16 agreed to.

Clauses 17 agreed to.

Clauses 18 and 19 agreed to.

Clauses 20 and 21 agreed to.

Clause 22 -
Accreditation of mediators

Ms ARMITAGE - Looking at clause 22, the accreditation of mediators:

> (1) On the application of a person, in an approved form, or on the Commissioner's own initiative, the Commissioner may accredit or reaccredit any number of persons that the Commissioner considers appropriate as mediators …

I ask, Leader, with regard to mediation, I noticed the national accreditation to be a mediator is reasonably involved. If the commissioner can just accredit a mediator, will they need to have the requirements that the National Mediator Accreditation System standards meet or because of a lack, can the commissioner just find someone they think meets the needs? Obviously, it is a fairly important role and even to be reaccredited, I notice you have to do professional development of so many hours to keep your accreditation. With regard to the mediation and the fact the commissioner can just appropriate to act as mediators, could you explain what requirements are and whether they will be accredited as per the National Mediation Accreditation System standard?

Mrs HISCUTT - The commissioner will be responsible for determining the accreditation requirements. However, as has been done in New South Wales, the National Mediator Accreditation System will be considered when determining mediator accreditation requirements. Your good self also remarked that the commissioner can accredit on their own initiative. The intention is that the commissioner would be able to recognise accreditation in other jurisdictions.

'Own initiative' is based on OPC's drafting advice and I think you will find if you look further in, 22, 23 and 24, talk about the standards the accredited mediator should be up to.

Clause 22, as amended, agreed to.

Clause 23 agreed to.

Clause 24 -
Creditor-initiated mediation

Ms RATTRAY - In regard to clause 24, I am taking this opportunity to use this clause to ask the question on creditor-initiated mediation. I probably could do with some of that.

It says:

> A Creditor under a farm mortgage may give a farmer who is in default under the farm mortgage a notice inviting the farmer to participate in mediation in respect of the farm debt concerned.

Nearly every farm that I know would probably have more than one person as the owner of the farm. The Hiscutts, two owners; the Rattrays, two owners. It is very singular. Is that just

because it is the way that the legislation is written? If I am going to mediation with my partner who is a farmer and I am part of the name on the title, there would be two people going to mediation. Would the creditor ask both people to come to the mediation session or just one?

It may well be that is just how it is written and that is how it would be written in law, but I am interested to know. I would not like to see that the creditor would say we can only bring one part of who owns the property, the farm, to a mediation session. Does that mean the creditor is unable to bring two persons? How does that work? As I said, I think most properties in this day and age would be in two names if they are a partnership.

Mrs HISCUTT - In the clause 5 Interpretation on page 8, it does say what a farmer is:

> **farmer** means a person (whether an individual person or a corporation) who is solely or principally engaged in a farming operation and includes -
>
> (a) person who owns land cultivated under a share-farming agreement; and
>
> (b) the personal representatives of a deceased farmer;

So, yes.

Ms RATTRAY - That is fine. That talks about in the farm and the farmer, but it does not answer my question about whether two people can go to the mediation or whether it is just one person. That is my question. And thanks for taking me back to page 8. I expect that partnerships and two people would want to go to mediation, not just one because two sets of ears are better than one for listening as well.

Mrs HISCUTT - I am seeking more clarification, Madam Chair.

The *Acts Interpretation Act* means that if it is singular, it means the plural, it is the same thing. So, it is in the *Acts Interpretation Act*. So, you can go, your partner can go, I can go with my partner. If you are partners with children, you can take them all along with you.

Ms RATTRAY - It does just speak in the singular but thanks for taking me back to the *Acts Interpretation Act* and page 8.

Ms ARMITAGE - Madam Chair, I would appreciate if the Leader could show me in clause 23 or 24 where it actually states the standards that the mediator requires. My answer to clause 22 was if I looked in clauses 23 and 24, that it actually states what qualifications they need. Well, I might be blind, but I cannot actually see it, and this is a very important role.

I have not seen anything here about the national standards or professional development. I note that in order to renew your accreditation, you are required to complete 25 hours of mediation and 25 hours of professional development every two years. The fact is that the commissioner, who we do not even know who it is yet or what qualifications they will have, can actually accredit a person in this very important role. So, if you could show me in one of the sections you said what qualifications they have to have, that would be really great. Thank you.

Mrs HISCUTT - We are looking for some more clarity now, Chair.

It is not spelt out in the act for flexibility as national standards or schemes could emerge like CA versus CPA in the accounting profession, and that allows that to be added by the commission, with the commissioner, with the need to change the act. The commissioner will be experienced and skilled. I draw your attention back to clause 22(2)(b) that says 'whether or not the person holds the qualifications, skills, knowledge and experience'.

Ms ARMITAGE - My last question and my last call on this.

They will not, necessarily, be nationally accredited, but you made a comment in the answer that I was given previously that I would find the answer in clauses 23, 24 and 25 about their experience - sorry, I was actually reading on clause 22. I was told if I looked further, I would actually see -

Mrs HISCUTT - I apologise. I meant clauses 22, subclauses (2), (3) and (4). That is what I meant, not clauses.

Ms ARMITAGE - Okay. Regardless, they will not necessarily be nationally accredited. They can be at the commissioner's own initiative as long as he or she considers that they have the necessary skills. That is a bit concerning to me considering the important role they are handling, but obviously that is the government's decision.

Mrs HISCUTT - Yes. It is whether or not the person is a suitable person to be accredited or reaccredited as a mediator, whether or not the person has the - this is clause 22(2)(b) - qualification, skills, knowledge, et cetera.

Amendment agreed to.

Clause 24, as amended, agreed to.

Clause 25 agreed to.

Clauses 26 and 27 agreed to.

Clauses 28 and 29 agreed to.

Clauses 30 and 31 agreed to.

Clauses 32 and 33 agreed to.

Clauses 34 and 35 agreed to.

Clauses 36 and 37 agreed to.

Clauses 38 and 39 agreed to.

Clauses 40, 41 and 42 agreed to.

Clauses 43 and 44 agreed to.

Title agreed to.
Bill reported with amendment.

[9.47 p.m.]
Mrs HISCUTT - I move -

> That the bill, as amended in Committee, be taken into consideration tomorrow.

Motion agreed to.

FORESTRY (MISCELLANEOUS AMENDMENTS) BILL 2024 (No. 20)

Second Reading

[9.48 p.m.]
Mrs HISCUTT - Mr President, for members' comfort, I will read the second reading speech then adjourn the bill, and then we will finish for the day.

Mr PRESIDENT - That is a good plan, Leader. I think some members had a flashback to the TFA.

Mrs HISCUTT - I move -

> That the bill be now read a second time.

The purpose of the Forestry (Miscellaneous Amendments) Bill 2024 is to amend the *Forest Practices Act 1985* and the *Private Forests Act 1994* to improve and streamline Tasmania's private forestry management arrangements and to ensure that our private forest resources are managed effectively and efficiently. There are 11 amendments in total, which can be grouped under three desired outcomes:

(1) Reducing red tape and improving the efficiency of the private timber reserve application process

(2) Making the private forest service levy fairer and more equitable

(3) Modernising and clarifying other aspects of legislation relating to private forests and Private Forests Tasmania (PFT).

Mr President, the amendments contained in this bill enhance the management of our forests. Indeed, the amendments serve to streamline processes and are in line with the Tasmanian government's policy to reduce administrative costs, reduce red tape, and update what are now superseded references to the *Private Forests Act 1994*.

Apart from minor consequential amendments, legislation pertaining to private forestry has not been substantially amended or updated in 20 years. Consistent with the government's commitment to cutting red tape, the PFT board has undertaken a legislative reform project to

identify miscellaneous legislative changes resulting from internal reviews and issues raised by private forestry stakeholders.

A private timber reserve is private land set aside for forestry purposes, registered on a landowner's title. A private timber reserve secures the right to use the land for forestry purposes in the long term. However, any forestry operation on the land is still subject to regulation under the forest practices system. Currently, a private landowner can voluntarily apply under Part 2 of the *Forest Practices Act 1985* to have their land declared as a private timber reserve.

The application is in two parts: Part 1 to be completed by the applicant, the landowner; and Part 2 to be completed by a person authorised by the Forest Practices Authority (FPA) board, providing details on vegetation cover and on any natural or cultural values on the land. Following a detailed assessment by the FPA board, the board recommends to the Governor that a private timber reserve be declared on that land.

The introduction of a new Section 4ZB will bring clarity to land boundary size. A minor boundary extension will be defined as an existing private timber reserve that is proposed to increase in size by no more than 10 per cent or 40 hectares, without any part of a new boundary being within 50 metres of a neighbouring property. A minor boundary extension will be limited to one such extension every three years. The proposal is for such an application to be assessed and determined by the FPA board in much the same way, however, without requiring the public notification phase and the opportunity for objections or appeals from prescribed persons, keeping in mind that this is private land. The removal of these requirements is achieved through the proposed amendments to sections 6 and 7 of the *Forest Practices Act 1985*.

Sections 10 and 11 of the *Forest Practices Act 1985* outlines the process for the FPA board to recommend to the Governor that a private timber reserve be declared. Sections 13 and 14 provide a similar process for revocation of private timber reserves. There is no legal or practical reason why the declaration of a private timber reserve needs to involve the Governor. No public policy for this extra layer of regulation could be found.

The amendments focus on streamlining this process by enabling the FPA board to declare a private timber reserve. This will reduce the time it takes to process applications and result in efficiency gains for the applicant, PFT, and the FPA. The legal status and land use provisions that apply to the private timber reserves will not change.

The provision of compensation as outlined in section 16 of the *Forest Practices Act 1985* is repealed. More modern compensation provisions apply and are currently in force under section 41 of the *Nature Conservation Act 2002* and the *Public Land (Administration and Forests) Act 1991*. The repeal of this provision will have no practical impact on landowners, and compensation for losing access to timber on their land will remain under the *Nature Conservation Act 2002*.

The bill also clarifies and aligns the definition of forestry rights, so rights holders under the *Forestry Rights Registration Act 1990* will be recognised by the *Forest Practices Act 1985* in a similar way to rights holders under the *Forest Management Act 2013*.

Amendments to the *Private Forests Act 1994* include a suite of amendments to section 6 of that act, which aim to modernise and update PFT's legislative functions. This underpins the

objectives of PFT to facilitate and expand the development of the private forest resource in Tasmania in a manner which is consistent with sound forest land management practices.

Sections 25B(b) and (c) are amended by the definition of 'nett area of forest operation' to remove the requirement for landowners to pay the levy where the first rotation planting is on previously cleared ground (non-forest).

A new section, 25K, is inserted in Division 1, whereby PFT may, in such circumstances as it determines, waive all or part of a levy payable. The levy will no longer be a financial disincentive to farm foresters to establish a new plantation, and will encourage the integration of more trees into the agricultural landscape.

The *Private Forests Act 1994* contains several references to 'Stakeholder Minister', particularly in relation to consultation requirements when drafting PFT's ministerial charter, which is section 19A; corporate plans, which is sections 19D and 19E; annual reports, which is section 32E; quarterly reports, which is section 32G; and requiring the provision of information, which is section 32H.

'Stakeholder Minister' is no longer defined in the *Government Business Enterprise Act 1995*, so removing the reference from the *Private Forests Act 1994* will have no practical or legal consequences and is considered a routine administrative tidy up.

An outdated legislative requirement for written quarterly reports will be removed from the *Private Forests Act 1994* to enable more contemporary and flexible reporting arrangements. The formal requirements for annual reporting will remain. Additionally, the bill will modernise the passing of PFT's board resolution without a meeting being convened to accommodate modern forms of communication, such as email.

The final amendments relate to consequential amendments to the *Private Forests Act 1994*, including grammatical and spelling errors in identified superseded legislative requirements. Extensive consultation was undertaken during the review undertaken by PFT, including face-to-face meetings with key stakeholder groups. These amendments, as noted earlier, serve to improve and strengthen Tasmania's forest management arrangements in relation to private forestry and to ensure that our private forest resources are managed effectively and efficiently.

This is an important bill and wish to I thank OPC for its work in delivering this bill to the parliament. Mr President, I commend this bill to the House and move -

That the debate stand adjourned.

Debate adjourned.

MESSAGE FROM THE HOUSE OF ASSEMBLY

Tasmanian Budget 2024-25 - Estimates Committees of the Council - Request for Ministers in the Assembly to Attend

[9.58 p.m.]

Mr PRESIDENT - Honourable members, I have a message from the House of Assembly:

> Mr President, the House of Assembly doth agree to the following Resolution communicated to it by the Legislative Council on 10 September 2024:
>
> > Resolved that the Legislative Council having appointed two Estimates Committees reflecting the distribution of Government Ministers' portfolio responsibilities, requests that the House of Assembly give leave to all Ministers to appear before and give evidence to the relevant Council Estimates Committee in relation to the Budget Estimates and related documents.
>
> Michelle O'Byrne
> Speaker, House of Assembly
> 11 September 2024

RACING REGULATION AND INTEGRITY BILL 2024 (No. 10)

Council Amendments Agreed To

The House of Assembly advised that it agreed to amendments made by the Legislative Council.

EXPUNGEMENT OF HISTORICAL OFFENCES AMENDMENT BILL 2024 (No. 35)

First Reading

Bill received from the House of Assembly and read the first time.

[10.00 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

> That the second reading of the bill be made order of the day for Tuesday next.

Motion agreed to.

ADJOURNMENT

[10.00 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

> That at its rising the Council adjourn until 11 a.m. on Thursday, 12 September 2024.

Motion agreed to.

Mrs HISCUTT - I remind members of our briefing tomorrow starting at 9 a.m. It is a briefing on a housing proposal as requested by the President, followed by the Justice and Related Legislation (Miscellaneous Amendments) Bill.

Members, I would like to flag that tomorrow when we come back from being in the other place for the Budget, if we are working on any particular bill, I would like to finish that bill before we move.

Mr President, I move -

> That the Council do now adjourn.

The Council adjourned at 10.02 p.m.