



**TRANSCRIPT
OF PROCEEDINGS**

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PRODUCTIVITY COMMISSION

INQUIRY INTO DISABILITY DISCRIMINATION ACT

**MRS H. OWENS, Presiding Commissioner
MS C. McKENZIE, Commissioner**

TRANSCRIPT OF PROCEEDINGS

AT PERTH ON TUESDAY, 1 JULY 2003, AT 9.13 AM

Continued from 30/6/03

MRS OWENS: Good morning and welcome to the public hearing for the Productivity Commission inquiry into the Disability Discrimination Act 1992, which we'll refer to as the DDA. My name is Helen Owens and I'm the presiding commissioner on this inquiry. My associate commissioner is Cate McKenzie. The hearing will have breaks for morning tea. We're going off at lunchtime for a forum and there will be afternoon tea at the end of the day. We need to stick fairly closely to our timetable. You're welcome to take a break and re-enter at any time.

On 5 February this year, the government asked the commission to review the DDA and the Disability Discrimination Regulations 1996. The terms of reference for the inquiry ask us to examine the social impacts of the DDA on people with disabilities and on the community as a whole. Among other things, the commission is required to assess the costs and benefits of the DDA and its effectiveness in achieving its objectives. We've already talked informally to a range of organisations and individuals with an interest in these issues and submissions have been coming into the inquiry following the release of the issues paper in March.

The purpose of this hearing is to provide an opportunity for interested parties to discuss their submissions and their views on the public record. We've already held hearings in Darwin, Brisbane, Hobart, Canberra and yesterday in this room. There will be hearings in the remaining capital cities over the next three weeks. We will then prepare a draft report for public comment, which we will release in October this year, and there will be another round of hearings after interested parties have had time to look at the draft report.

We like to conduct all our hearing in a reasonably informal manner, but I remind participants that a full transcript is being taken. For that reason, and to assist people using the hearing loop, comments from the floor cannot be taken because they won't be heard by the microphones. But if anyone in the audience does want to speak, I'll be allowing some time at the end of the proceedings for you to do so. If you think you would like to take up the opportunity, please identify yourself to the staff. Participants are not required to take an oath, but are required under the Productivity Commission Act to be truthful in their remarks. Participants are welcome to comment on the issues raised in their submissions. The transcript will be available on the commission web site in Word format following the hearings.

I now invite the first participant today, the Association of Independent Schools of WA. Welcome, and I have to say we're very pleased with the interest that the Association of Independent Schools around the country is taking in our inquiry and particularly pleased to see you back again, Audrey, in a different city. So would you both like to give your names and your positions, or the capacity in which you're appearing today, for the transcript.

MS JACKSON: Audrey Jackson. I'm the executive director of the Association of

Independent Schools in Western Australia.

MR MACK: My name is Les Mack and I work for the Aboriginal Independent Community Schools. I'm the coordinator of the support unit for those schools in the Perth office.

MRS OWENS: Good, thank you, and thank you for appearing, and I think that what we'll be doing today is focusing more on the issues in relation to WA and in particular to the Aboriginal Independent Community Schools. We did cover a lot of the more generic issues from the National Council of Independent Schools when we were in Canberra. But I was wondering, do you want to make any opening comments? How would you like to run this? Do you want to draw out some key points?

MS McKENZIE: And also if there are any other issues that you didn't feel were raised at the time of the first - the National Association submission, raise them if you'd like to.

MS JACKSON: Thanks, Helen and Cate. I think I'd like to make a brief opening statement and I don't want to touch on any of the general issues that were raised by the NCISA submission. In Western Australia we suffer from the tyranny of distance, and this means that whenever we're considering the availability of services to assist students with disabilities to achieve their educational potential, we can't just think about the Perth metropolitan area. We have member schools that are located on the edge of the Western Desert and we have member schools that are located in Esperance. So we literally go from the north to the south of the state and from the east to the west.

For the schools that are located in the metropolitan area, access to support services is somewhat easier and any funding that they derive from Commonwealth targeted programs, and we've spoken about those before, goes further than it does when you're in a country school and you not only have to consider the availability of the support, but you've also got to consider the cost of getting that support to your school. Of course, this is a particular issue for the Aboriginal Independent Community Schools, which are located, many of them, in remote regions of the state, and I think perhaps it would be appropriate at this point if Les gives you a brief description about those schools. Thank you.

MR MACK: There's 15 schools that identify as Aboriginal Independent Community Schools in WA and they're defined by the fact that their system of governance is that they're community controlled. That is, for most of them, their governing bodies and membership is entirely Aboriginal, whereas for I think a couple there may be a minority of non-Aboriginal people who are members of the governing body. As Audrey said, the member schools for the Association of

Independent Schools is spread throughout Western Australia. With the Aboriginal Independent Community Schools it's the same with the school which is in the most northern part of the state is Wongutha, which is located between Kununurra and Halls Creek, and the most southern school is located just north of Esperance, Wongutha. We also have schools in the goldfields, a school in the Murchison, two schools which you define as desert schools in the Great Sandy Desert east of Newman, a school in the Pilbara which has three campuses east of Port Hedland, and five schools in the Fitzroy valley and two schools in the Metropolitan area. So in terms of them being representative of I guess the diverse nature of Aboriginal, you know, socioeconomic environments, I think they're a fair representation.

MS McKENZIE: Are those schools both primary and secondary or just primary?

MR MACK: They mainly have a primary focus, but most of the schools go up to year 10. The school just north of Esperance called Wongutha has a vocational focus, and it offers programs for students who are over 15 years of age.

MRS OWENS: There are big areas where there don't seem to be any schools near Newman and out of Carnarvon and so on. How are the children in those areas taught?

MR MACK: Well, in the Kimberley there's a significant presence of Catholic schools as well as Education Department schools, and in other areas of the state essentially the main provider is the Education Department, or the Department of Education and Training as it's called here.

MRS OWENS: How are the independent schools funded? Are they funded by the WA government?

MR MACK: They're funded by a range of grants which is available to all non-government schools including other independent school and the Catholic sector. That includes some state grants based on the enrolment levels, which is probably about 20 per cent of their funding, I think. Then there's a series of Commonwealth grants. The mainstream grant is called the general recurrent grant, which again is based on enrolment figures and also targets in a very broad sense the SES status of the different school communities. The third significant source of funds is what is called the indigenous - it comes through the indigenous education strategic initiatives program, again a Commonwealth program. That's based on a per capita formula. The schools which are outside the metropolitan area get a grant which is weighted because there are factors - - -

MRS OWENS: The remoteness.

MR MACK: Yes, concerned with isolation, yes.

MS McKENZIE: And then disability funding as far as those schools are concerned is the same as disability funding for other independent schools.

MR MACK: Yes.

MS JACKSON: It is, but there's a problem, and it's the problem we come back to every time. It's the issue of definition of disability, because for many of these schools the most significant issue is conductive hearing loss. That is not considered to be a fundable disability, so it's a problem that needs I think to be resolved, because there is no doubt that conductive hearing loss leads to language development delay - it leads to the acquisition of literacy. It simply means that in the classroom, if you're a teacher, you would never really be sure about how much a particular student was genuinely hearing. I hope I've got that right.

MRS OWENS: So this comes back to the issue you raised in Canberra about the different definitions for our purposes for the Disability Discrimination Act. It's a very broad definition which would, I presume, embrace this.

MS JACKSON: Yes.

MRS OWENS: Whereas when we're talking about government funding, the definition is obviously far more specific.

MS McKENZIE: Why is not picked up? Is it because they don't regard it as a permanent disability, or it's not visible or - - -

MR MACK: Well, I guess if we're talking about - I mean, I'm not familiar with all the range of funds available for disability services. The one that I am familiar with is through the Commonwealth targeted programs initiative, and the bucket of money is very limited. So the committee that manages that program has to use, you know, the wisdom of Solomon in order to spread that money in a way and target, you know, students who are of the greatest need, and students who need assistance from an aid almost on a 24-hour basis as well as, you know, capital infrastructure and so on, they are given the priority.

MS McKENZIE: So it's the highest needs getting the funding.

MR MACK: Yes, that's right, whereas students who are highly mobile and so on but are hearing impaired, even though it's, you know, perhaps can be described as on epidemic proportions, it's not seen as the same kind of need. So essentially it's a limited bucket of money. I think that is the greatest factor.

MS JACKSON: Well, that's part of it, but in terms of the non-acknowledgment of

conductive hearing loss, it happens to non-Aboriginal children as well. But in a metropolitan area or even country areas, it's treatable. You can treat it and the hearing will recover. But it's the issue of remoteness that makes this a problem, and there needs to be an acknowledgment of the impact of this particular health problem on learning. It's one of the problems that I think you must have come up against in people making submissions, that we have got neat little buckets and we've got health, we've got education, and they don't talk to each other and they don't maximise services, and I think the issue here is a prime example of that.

MS McKENZIE: They're interconnected issues. You can't really separate them.

MR MACK: I guess the point that Audrey has just made was highlighted during the annual conference of the Aboriginal Independent Community Schools. Those schools meet, you know, to discuss wider policy issues at the beginning of every year, and that provides essentially the direction for the support unit. One of the forums for that conference included representatives from the Commonwealth and state health agencies as well as the Department of Education, Science and Training, and it was interesting listening to community representatives discuss issues concerning the access to health services, which I think is essentially linked to this issue of conductive hearing loss, and it would appear that people are just not talking. There's assumptions about how the health services should be rolled out, and decisions are made probably in isolation. But there's no real discussion at a community level about the most appropriate way of delivering these services.

This is highlighted by a point made by community representatives and the principals from Parngurr Community School. You see on that map in the handout that we gave to you it is located in Eastern Pilbara region, the Great Sandy Desert, where in order to have the children's hearing tested to make an assessment in terms of their status regarding conductive hearing loss, it required them to drive to a community called Jigalong which is a four-hour drive and on the basis of advice they'd been given in terms of the health services being present. But of course they didn't turn up that day and it meant that they were away for something like three days in order to have the children's hearing heard.

Now, that could have been resolved fairly easily by a number of phone calls, but it seems really, on the basis of those comments from - and comments made by the representative from the schools that I work for, but also the reflective comments from the state managers of both - you know, there's the Commonwealth and state health agencies - was that, "What's happening in terms of basic communication?" - those sort of fundamental issues and that seems to be lacking. So what we're talking about is communities that have got phones, have got faxes, have got email services, but no-one is using them.

MRS OWENS: That communication is just not occurring.

MR McKENZIE: What about language issues? When I was in Alice Springs it was explained just how many different languages and dialects there are and that presents a problem for provision of interpreters and has some consequences when one is looking at things like seeking medical assistance to test for hearing loss, going to hospital to have your disability treated in some way and so on and so on. Is there a similar problem in the West?

MR MACK: Yes, I think there is. In the Kimberley the common language is Kriol there, although for older people their first language would be the vernacular, the original language, but - - -

MR McKENZIE: Kriol is a - you have to explain to me.

MR MACK: Kriol is a new language, I suppose, and it's come out as a result of a contact history through the pastoral industry, primarily. It's a language spelt K-r-i-o-l. It's not a pidgin in that a pidgin is a language which is just made up on the spot almost between two different language groups and they make do, but it's a language in its own right that has evolved, essentially, in the last three quarters of last century.

MR McKENZIE: So it's quite a recent language.

MR MACK: And primarily I think it started in the north and Northern Territory and it spread to Northern Queensland and Western Australia to the Kimberley region.

MR McKENZIE: And does it take words from - some words from English and some words from other languages.

MR MACK: Yes. The structure - what I understand, the structure is akin to Aboriginal languages. English words are used, but they will have a different meaning. You know, my limited linguistic training, you know, one of the examples is the word "drowned" in English means, you know, you've expired, but in Kriol it means you've put your head under water. But I think one of the issues is probably of a cross-cultural nature, in terms of that inevitable connection between the two groups, the health professionals and it does take a while sometimes to tune into Kriol, if you're a Kriol speaker, and understand what people are saying and there's also assumptions made about the use of language and being polite and those sorts of things. "Yes" doesn't always necessarily mean yes. It sometimes saying yes in order to please somebody.

MRS OWENS: But that happens in any language.

MR MACK: Yes, that's right, that's true, but - and then people just generally

feeling uncomfortable; the treatment of women by men and so on. Often there's a history of treatment without any explanation to the community about what's happening, so if there's any testing in terms of people's ears, for example, student's ears, it's necessary for that to be explained what's going on and why.

MRS OWENS: Is it an issue with attendance at schools? Do the kids turn up?

MR MACK: Yes. I think - well, with the Aboriginal independent community schools I'd say that attendance is relatively high, but there is a pattern of high mobility within the community group.

MR McKENZIE: And is that something that the independent schools have worked out strategies to cope with?

MR MACK: I think it's a work in progress, to be fair. One of the issues for all of the communities is the requirement to attend funerals. This is a particularly important cultural issue for the desert communities, but affects all of the communities. For example, three weeks ago I was working at Parngurr and my work required me to meet with the communities but I wasn't able to because they were at Jigalong attending a funeral which had just finished and they were en route to a place called Warralong, which you can see also on the map, closer to the coast, to another funeral and had - the majority of the community members had not been at the community for a period of three weeks. So a part of that is the requirement to attend funerals, but also the ceremonial life - - -

MR McKENZIE: Ceremonial obligations was the other thing that was mentioned too.

MR MACK: - - - that's required to follow those events.

MS JACKSON: I think that because they are community schools and their councils are community members, there's very much a commitment to the school as part of the community and so when the community is there the students will attend school, but they have these other obligations that count. With the two schools that are in Perth the Aboriginal Community College in Culunga, they probably have different attendance issues because they aren't as structured around one particular community. But from visiting the schools, certainly the attendance is good when there aren't those cultural issues that have to be addressed.

MRS OWENS: Can you give me just a snapshot of what one of these community schools would be like? How many kids would go to it? How many teachers would be there? Do they have support staff for particular kids that may have disabilities? What do they look like?

MR MACK: Well, they range. There's not a standard building, because the history - you know, they've commenced at different points. The Strelley group of schools, which include Strelley Warralong and Woodstock started in the late 70s. I can provide you with a time line if you like, of those schools.

MRS OWENS: I'm just trying to get a flavour.

MR MACK: So consequently its infrastructure and so on is quite different to the more recent schools .

MS McKENZIE: Do you mean less, more or just different?

MR MACK: Less and more and different. That's what I mean. For example, Strelley was trying to grapple with the issue of mobility. They have got classrooms which could be transported relatively easily. They're called Lullah units and they're not much bigger than a modest-size caravan but they can be easily put on a fairly light truck and transported.

MS McKENZIE: So the school goes with the community basically?

MR MACK: That was a period that they endeavoured to do that sort of thing, in the 80s. So when you gave a look at their infrastructure you would say this is pretty poor, but because they spent money on that in the late 80s, early 90s, they haven't invested in other types of capital works whereas, say, if you compare it to a school like Ely in the eastern Fitzroy Valley area up in the Kimberley, its classrooms you would say are fairly standard, although you can see over 15 years it's evolved.

MS McKENZIE: Which is better?

MR MACK: I would say Ely's is better, easily. The schools have generally started with very simply accommodation. They very proudly show their early classrooms, which were often spinifex-bound shades help up by timber, and then as they have developed and got themselves organised so their facilities have evolved. Depending on their enrolments - I'm just trying to remember what the different schools' enrolments are - does determine their staff, but Parngurr, for example, a school that I was speaking about earlier, has three qualified staff, which includes a principal who has a teaching role as well as the administrative role and he works with the upper primary plus some secondary-age students, a primary school teacher, pre-school cum lower primary teacher. In terms of the support staff, they have a number of community members who play a role in terms of the maintenance and upkeep of the grounds and the facilities et cetera but also they have Aboriginal staff who work in the classroom alongside the qualified staff. When I say "qualified staff", from time to time the staff are indigenous and non-indigenous.

MS OWENS: Do those community members that assist in the classroom get any pay for doing that or is it voluntary?

MR MACK: Yes, they do. They're on the payroll.

MRS OWENS: So if there are kids with special needs, some of these community members would come in and help with those children? How do they deal with those kids?

MS JACKSON: I think it would be very difficult for the community members to come in and help. It would depend on the nature of the disability. If we're talking about conductive hearing loss, there are some pretty simple things that you encourage the children to do to make sure that the nasal passages and things are clean. You can set up a program and that will work well, and you would be able to set up a program of having community members work with say an individual child about helping them develop their reading.

Where I would perceive the biggest problem would come would be in areas where we're talking about perhaps intellectual disabilities, even ADD, ADHD, where if you were in a metropolitan school you'd be looking at an individual education program for that child.

MRS OWENS: But you can't do that.

MS JACKSON: No, you can't do that, or it would be extremely difficult. The schools do report that they have children with ADD, ADHD, and perhaps this is where I could ask Les to speak because it is actually related to probably something that's called being foetal alcohol affected.

MS McKENZIE: Yes. That was mentioned in Alice Springs also.

MS JACKSON: Les knows more about that than I.

MR MACK: Not much more probably, but certainly I understand - and to try and prepare myself for this hearing - that there has been some work on foetal alcohol syndrome, but I think there's been some recent work on a condition known as children who are foetal alcohol affected. I think the work may be done possibly by Prof Fiona Stanley's team and in the Kimberleys through the Telethon funded research, but apparently it presents more as ADHD as opposed to foetal alcohol syndrome. But it's early. What I understand is that the work in this area is highly qualified in that it's only early days.

MS JACKSON: One of the things that you may be interested in is that several years ago all the schools in Western Australia cooperated in the WA child health

survey, which was a great document for schools. This was done by the Telethon Institute for Child Health, and they're just in the process of writing up the findings where they replicated that for Aboriginal schools, and this would include the schools that Les and I are particularly familiar with. But that will be an immensely useful resource for schools looking at child health issues, and they then go on and link that to what the impact is in education.

MRS OWENS: Is that available yet?

MS JACKSON: I believe the first volumes of that are available. I was speaking with Sven Silben who works at the institute and he said that was part of it. So I think they intend publishing themes and I think the first couple are being published.

MS McKENZIE: It would be useful if you could mention it to the trust staff and we could follow it up.

MS JACKSON: Yes, we'll do that.

MRS OWENS: Do the children at the independent schools get better or worse than the children that go to the government schools or the other Catholic schools?

MR MACK: In terms of access to health services?

MRS OWENS: In terms of everything.

MS McKENZIE: And disability support.

MRS OWENS: Yes, and access to a decent education, or is that a hard question?

MR MACK: No, there's a number of inter-provider committees and so on that I sit on and I've been a member of those sorts of groups for quite some time, and I think that the heartening thing is that everyone knows that they're in the same boat. The issues that we're all dealing with are the same in terms of preparing teachers for those types of schools, whether they're metropolitan or rural or remote; the types of support that teachers require in terms of in-service professional development support and so on; and then also looking for the appropriate teaching methodologies and trying to work out what works.

It would seem to me, just on the basis of - this is on the academic side - from the data coming in, in relation to the national benchmarks that all Western Australian schools are required to administer for years 3, 5 and 7, that all providers are comparable if they're working with similar types of students. In terms of access to health services and disability support services, I really can't comment on the other providers.

MS McKENZIE: Is there any comment you want to make about the attitudes of children at the various indigenous community schools in respect of other children with particular disabilities? Say, for example, does the attitude of the children vary to a person with a physical disability when compared with one who has got a severe intellectual disability?

MR MACK: I'm just trying to think back to my experience when I was in the classroom and working at remote schools. My experience has been sort of dated. But I think that the attitudes are determined by relationships and the notions of extended family relationships and kin that exist in Aboriginal communities, which is quite different from our environment. The schools - all of the schools - just define themselves as community schools and so they're often including enrolments of large family groups. So in that sense there's not that kind of discrimination. I think it's tougher for those students without disabilities who aren't really members of the groups and somehow are ring-ins to the community.

MS McKENZIE: They're not part of the community kinship.

MR MACK: So that's I think more of an issue.

MRS OWENS: Who are the teachers? Do the teachers come from the communities themselves or do they come from outside?

MR MACK: Generally the qualified teachers come from outside. The schools advertise nationally.

MRS OWENS: So they're not necessarily indigenous people?

MR MACK: It depends on who applies for the positions.

MS McKENZIE: And if they are, they're not always from that community, are they?

MR MACK: That's right, yes. A number of the schools have got community members enrolled in courses that are offered say through Notre Dame University, Edith Cowan University and I think it's called the Hedland College of TAFE, as in Port Hedland. But it may have a different name now. So these are certificate level courses which will dovetail articulated - particularly this is the way Notre Dame works - they articulate it so that people over a period of time can gain a qualification which is recognised and portable, but will eventually get degree status by continued work.

MS McKENZIE: One of the things that was mentioned to me in Alice Springs as

being a difficulty was that a lot of the remote schools go only to the end of primary and then the children - and this includes children with disabilities - if they want to go on with their education, need to go into Alice or somewhere into a much bigger regional centre.

MR MACK: Yes.

MS McKENZIE: That's particularly difficult when often there's not funding for their families to go with them. You said your schools tend to go a bit further, they go to year 10, but still the problem is just postponed.

MR MACK: Yes.

MS McKENZIE: Do you want to talk a bit about that difficulty?

MR MACK: Yes. It's a very real difficulty, and this hinges around the issue of access to educational services, I suppose, and it's an issue for all providers, not just the independent sector. It's an issue that I discussed with other providers. This is a state committee for the national indigenous English literacy and numeracy strategy, which is one of those forums where, when we looked at the data at the beginning of the year and the retention rates beyond year 10 were very low, the question was asked why. The most obvious reason is because there isn't any service that people have access to in their neighbourhood.

An issue for communities which is very real is that often where there is a year 12 service, for example, in towns like Broome, servicing the Kimberley - the Broome High School and I think St Marys offers year 12 in Broome - also for those communities which only have a primary service where there is a secondary service to year 10 in towns like Derby, Fitzroy Crossing Halls Creek and Kununurra, is that often in those major centres life is pretty dysfunctional for Aboriginal communities. There's a lack of social cohesion, there's a lot of alcohol being consumed and all the issues that surround that sort of behaviour. Parents are reluctant to send their children to those centres, even if there are residential facilities, because their children would then be almost obliged to mix with family members, and that puts them at risk. So there's a trend - there seems to be an increasing trend - of parents seeking to send children further afield, away from those sort of influences, to residential facilities.

A couple of the schools that I work for, including CAPDS, which is the Christian Aboriginal Parent Directed School, in Coolgardie and Wongutha, which I've already referred to, have residential facilities, along with Karalundi at Meekatharra. But, yes, in the Kimberley families send their children to those schools but also to schools in the Northern Territory. In fact there are some families in Pornalulu that are sending children to Sydney.

MRS OWENS: But I presume by that, by the time you get to that level, there's not many kids going off further afield. I presume there's not that many getting through to year 12.

MR MACK: No, that's right.

MRS OWENS: It would be quite difficult financially and - - -

MR MACK: Yes. I mean, one of the issues is - part of the issue, in terms of funding - there are some qualified Abstudy opportunities which can cover fees and some travel, but this affects schools like Wongutha, where they enrol students from these remote communities and then they're required to attend funerals, so there's a limited number of times the Commonwealth will pay for return trips, and that affects their retention rate. But also the Commonwealth has it as part of their guidelines and this seems to be open to interpretation, depending on the officers that you speak to, in that students are not supposed to be able to travel across the dotted line to state and territory borders to go to providers outside their jurisdiction, I suppose.

For example, it's closer for students in the Kimberley to attend school in Darwin than it is to attend a school in Perth and therefore, you would suspect, cheaper for the Commonwealth to fund but they're expected to head south.

MS McKENZIE: Can I ask about the issue of petrol sniffing. That was another issue raised in Alice.

MR MACK: Right. In the independent schools there are some instances of it but it doesn't seem to be a major issue. I used to work in Alice Springs and was aware of it, independent to other lands and so on. It's also, I understand, a major issue in the Numajutta lands out at Warburton, east of Kalgoorlie. But, for example, there was a young woman arrived at Yearling from a desert community which is east of Halls Creek out at Balga way and learnt about petrol sniffing there. She came into the community early this year and that was dealt with through community means, so she was sent back to Balga, I think. I don't know the details of the story, but for that community that was the first instance of petrol sniffing they had experienced.

MRS OWENS: Coming back to a particular inquiry which is relating to disability discrimination, how would you summarise the key issues? We've run through a lot of very useful explanation about the schooling and so on, and we talked just very briefly about conductive hearing loss. Has anybody ever thought of any of these issues in the context of discrimination? Is this the context in which these sorts of issues are thought about?

MS JACKSON: In terms of conductive hearing loss in particular in the association,

we have thought about that and, in the submission we made to the Senate inquiry into the education of children with disabilities, we made a significant point about the problems associated with conductive hearing loss. So it comes back in this case to a definitional issue, and once you define some disabilities as being fundable and some not, then I think you are creating discrimination. It really is felt, I know, within a number of schools, having had conversations with the teachers, that there isn't a recognition of the impact of conductive hearing loss on the learning process. So, yes, it is I think within the context of discrimination that it needs to be considered and I think that would also apply to foetal alcohol syndrome, or students who are foetal alcohol affected. If the definitions that are used for funding are such that they deny funding to students for conditions that will impact on their learning, then we have a problem.

MRS OWENS: And ultimately it impacts on their learning, it impacts on their ability to take other opportunities in society.

MS JACKSON: Indeed.

MR MACK: Yes, I think the point that Audrey made is correct. Some time ago when the schools were trying to access CTP funds for children who were - - -

MRS OWENS: CTP?

MR MACK: Commonwealth target program funding - was the issue of actually getting the students assessed, so that in order to apply for the money there had to be a certain quality of assessment of the hearing, but because of their location and limited access to these services, which is really ad hoc in nature, and given particularly those students whose hearing fluctuates because of otitis media, it was very difficult to actually map the condition of the students and describe it in a form which then supported those funding processes.

MRS OWENS: Have you got any suggestions how they could deal with that? They've obviously got this process so that they can substantiate that this is happening. So is there another way around it?

MR MACK: I think there needs to be a preparedness on the part of health services to be more mobile and to understand that these communities - they look like they're a long way away from Perth or Melbourne, and they are, but they're relatively easy to get to. If I was required to go out to the Great Sandy Desert today, I could be there by lunchtime tomorrow.

MRS OWENS: I think you've made a good point, but the other way around it would be for the CTP program to have less rigid requirements.

MS McKENZIE: Yes, and to recognise that this is a very large problem. It's not going to be one in a million cases that will turn up at your door. It's a very large problem.

MR MACK: Sure.

MRS OWENS: It's probably taking something on trust, in this case.

MR MACK: Yes.

MS McKENZIE: Just to further the discrimination issue a little bit, there are of course a number of cases that have dealt with indirect discrimination on the basis that it's indirectly discriminatory, in other words, a disproportionate disadvantage to a person with a disability to be faced with, to have to deal with a situation in a particular form. It is a particular set of facts or circumstances, and it may well be that there is a real question here where you were given a particular set of circumstances but ultimately those who are disabled and living in the remoter indigenous communities have that disadvantage.

MS JACKSON: One of the issues that's implicit in the Disability Discrimination Act standards for education seems to be that there is access to support services, and if we take these particular schools, access to say a visiting teacher of the deaf who could help with programs accessed by health professionals - say speech therapists, psychologists, if we're talking about developmental delay: you can't make the assumption that those are going to be there, and so the standards in themselves won't assist unless there is a recognition of the need to provide the support service that will make those standards operable, and the schools that will suffer most are those that are in the most remote locations.

MRS OWENS: That's a really good point that you've made. I'm just coming back to those spreadsheets that you tabled at our hearings in Canberra, and what you're really saying is that all those cost estimates that you've put in there are going to be much greater when you think about these schools out here in Western Australia. I mean, it's lovely to be able to do it, but it's almost impossible, because you've got all the things you've been measuring, like the cost of having a teacher's aide and the training and so on, and those costs are all going to be much greater, even if you had those people in place.

MS McKENZIE: But the difficulty, I think you're saying really, is there are not those people in place, so it's not going to happen, irrespective of what the cost estimate is. It's not going to happen.

MRS OWENS: You could always say, "We are going to train more people and we are going to have programs to do it," but they'd have to be set up. They would cost

quite a lot of money. I mean, it would cost a lot more to put these programs in place for these kids because they've got to travel, they're going to be specialised programs. So those costs are going to be greater.

MS JACKSON: I think that we've got to understand what travel means. I mean, while Les says that if he had to go to, say, Yakanarra, he could get there by lunchtime tomorrow, that means flying from Perth to Broome - the journey is probably as long as it is flying Perth to Sydney - and then he's got to probably charter a small plane and fly for what, an hour and a half, something like that?

MR MACK: Yes.

MS JACKSON: To get out to it, and the cost of hiring a plane in itself is a significant one. So we do tend to make comments which perhaps gloss over the actual issue that underlines it, and I know that we keep coming back to the issue of dollars, but in some areas, using dollars to train people to provide the services, to understand, as I said at the beginning, the tyranny of distance, is something that's just going to have to be accepted.

MR MACK: I mean, often the excuse used for the lack of access to services, and this was discussed at the conference of the Aboriginal Independent Community Schools earlier this year - really it was actually discussed at a post-mortem of that health panel forum - - -

MS McKENZIE: An unfortunate word for a health panel forum.

MR MACK: Yes, that's right, but it seems that there's - in the Fitzroy Valley there are two education providers, and they manage to deliver, I think, a reasonable standard - not an ideal standard, but a reasonable standard in the circumstances - of educational services in that area. But for some reason the health agencies can't get their act together, and you have to wonder about the nature of the agreements and the sorts of contracts, the framing of the contracts and the management of those contracts, for those providers.

MRS OWENS: The health agencies are funded by the state Health Department?

MR MACK: I don't really know about that, but I guess there's the Office of Aboriginal Health in the state Health Department, but there must be some money that comes through the Commonwealth health services.

MRS OWENS: It sounds like it's an inquiry in its own right, that one.

MR MACK: Yes.

MS JACKSON: I think it is.

MRS OWENS: Well, thank you. I think we've exhausted our questions, but I found it extremely interesting and very informative, and I'm very, very pleased that you came again to talk to us about this issue and responded to our request to give us some information on these indigenous schools, because they are different and we need to think about that. I don't know if there are any simple answers, but we'll certainly take it on board, and having Cate in Alice Springs last week was also, I think, important. We will probably try and built this up into a stand-alone chapter in our report, if we can get enough material together. That's been an enormous help for us, so thank you very much.

MR MACK: Thanks for the opportunity.

MS JACKSON: Yes, and thanks, Cate, for the opportunity.

MRS OWENS: We'll have a break for morning tea.

MRS OWENS: The next participant this morning is the Disability Services Commission. Welcome and thank you for coming, and I'd like you just to each give your name and your position with the commission for the transcript.

MS PERKINS: Thank you. Jenni Perkins; I'm the director of policy, planning and information, which is part of the Disability Services Commission.

MS SOLDATIC: Karen Soldatic, and I am a senior policy officer at the Disability Services Commission.

MRS OWENS: Good. Thank you, and thank you very much for the submission, which we've both read, and I will hand over to you to make a few opening comments.

MS PERKINS: Okay. I guess just broadly, as outlined in our submission, we see from the commission's point of view that the DDA has been very essential legislation. Its national and unifying approach to addressing discrimination, including provision of mechanisms such as standards, has made it quite sort of landmark legislation for us, and overall our experience is that it's been really a force for positive change. It's been a very important context for the work of the commission in terms of our own legislation, which makes provision for disability service plans, which are a requirement in our legislation for public authorities, including state government agencies and local government authorities, to develop plans to address five key outcomes with regard to access for people with disabilities, and we've found that that has been quite complementary to what the DDA context has provided.

In our submission I guess we've sort of identified areas where we believe that there have been significant outcomes that have been achieved through the DDA, and we can outline those later as part of our submission. Overall I guess we sort of have a strong focus with our own DSPs, seeing that we see the benefits as outweighing any of the costs that may have been incurred as a result of the implications of the DDA. If we look at some of the areas where we think it would be helpful to strengthen the DDA around - and I believe these issues have come up elsewhere, but we highlight some of the weaknesses in terms of reliance on a complaints-driven approach and how that may be strengthened - if there was the opportunity for a broader, systemic approach taken in some areas, and possibly also looking at the capacity for more of a community education and capacity-building role within the DDA, that would certainly be complementary to some of the work that we undertake.

We've also outlined, I guess, the areas where, although there have been significant changes or improvements made, there is obviously still a significant amount of work to be done, which is why we reiterate the importance of the DDA with retaining, if not strengthening, its capacity to promote those changes, and I

guess the particular area that we focus on in our submission is in relation to employment. We see that that still remains quite a challenging area to look at, both from the DDA perspective and I guess a broader perspective in terms of how progress in that area can be enhanced.

MRS OWENS: Thank you.

MS McKENZIE: I want to start off by asking you about the disability service plans. Do you want to talk a bit more about them?

MS PERKINS: They were introduced in our legislation that we developed in 1993, and for us that was quite landmark legislation which required all state government authorities, state government agencies and local government authorities to develop disability service plans. The legislation doesn't prescribe the parameters for those plans, but we have a framework that agencies adopt in which they need to look at five key outcome areas for those plans. I always forget which ones those are, but basically those outcomes are that existing services are adapted to ensure the needs of people with disabilities; that access to buildings and facilities is improved; that information about services is provided in formats which meet the communication requirements for people with disabilities; that advice and services are delivered by staff who are aware of and understand the needs of people with disabilities; and that opportunities are provided for people with disabilities to participate in public consultations, grievance mechanisms and decision-making processes.

Currently my understanding is that we've got some 140 local government authorities in WA who all have a disability service plan, and all state government departments do, which is now 21, 22, I think, in our current departmental framework. We see that as being a very significant initiative for WA that has underpinned a lot of improvements in the overall area of access and I guess helped promote general awareness, community awareness, of access. It does not include the private sector. You may be aware that under our act we have to review our legislation once every five years and so we completed a review of our legislation last year, and one of the strong flavours of that review, both from the interest of our minister but also from the community consultations, was an interest to strengthen the disability service plan provision, and there are a raft of recommendations that we are looking at implementing now which basically do put in place a range of approaches focusing on trying to just emphasise the requirement for agencies to make progress in that area, and a significant part of that is to look at extending the provision of those plans to services that are contracted out by government agencies.

MS McKENZIE: So similar requirements would apply?

MS PERKINS: Yes. So the wording of the recommendation is that services are contracted out by government to either develop their own disability service plan or to

adopt the disability service plan of the contracting agency.

MRS OWENS: Given that they had to be strengthened, were there perceived weaknesses in how they were operating before?

MS PERKINS: I think one of the balances has always been - I haven't got the wording, but more like the carrot and stick approach. Certainly our earlier development of the disability service plan and all of our efforts have been very much focused on encouragement, developmental, working alongside agencies. We reviewed a couple of years back a disability service plan initiative and, I guess not surprisingly in one way, the outcome of that was highlighting quite a comprehensive list, particularly from state government authorities and local authorities, where they saw that significant improvements had been undertaken over the last 10 years in the context of disability service plan and 70 or 80 per cent of authorities and state government agencies saw that progress as being very significant. I guess the view from the disability sector and people with disabilities was slightly less so, and acknowledging that, while progress was being made, there was still a need for more progress to be made.

MS McKENZIE: Where did they think that progress had been perhaps not quite as helpful as they might think?

MS PERKINS: Not specific areas but it was a very variable process. So you'll have some areas and some agencies making significant progress and other individual ones maybe not as much. People I think were feeling somewhat frustrated that there was really no mechanism to actually censure agencies who weren't making significant progress. How could we reinforce or enforce such initiatives? So coming out of those sorts of concerns, and similar issues coming out on the review of the act, recommendations have included that we change our legislation to make provision for our minister to be able to name in parliament agencies that have not put forward a plan.

MS McKENZIE: That hadn't been the case before?

MS PERKINS: That had not been. There weren't any of those sort of - - -

MS McKENZIE: It sounds a bit like the sort of stuff that the ombudsman can normally do.

MS PERKINS: Yes, potentially, in that regard. So for us, and I think also during the discussions, we're still seeing the overall flavour. We're seeing that significant change can occur and has occurred through more of that joint developmental approach, and actually demonstrating the advantages in providing access, but wanting to balance that with at least a provision to then come down in a more

heavy-handed way if required.

MS McKENZIE: My recollection from many a submission, just in relation to that part of the plan that deals with consultation and involvement in the process for those people with disabilities, is that there did seem to be quite a lot of consultation with people with disabilities but not so much involvement on advisory boards.

MS PERKINS: That's right.

MS McKENZIE: The percentages were much lower.

MS PERKINS: That's right, and so some of the recommendations coming out of our review of the act, which I should have brought with me but I didn't, actually look at maybe developing more specific guidelines to encourage people more both to undertake the consultation and to set up formal advisory mechanisms. I mean, the figures are difficult, but still I guess it's some 55 per cent in state government agencies and local authorities identifying that they did have ongoing standing committees which engaged people with disabilities.

MS McKENZIE: I think there was a much higher figure.

MS PERKINS: 78 per cent - - -

MS McKENZIE: Yes, 78 or - - -

MS PERKINS: - - - of state government agencies and they consult.

MS McKENZIE: That's right.

MRS OWENS: Can I just ask, under the DDA, if one of your state government departments or one of the local governments had put in place a disability action plan, would that then mean they wouldn't have to put in a DSP, or do they have to - - -

MS PERKINS: Our legislation doesn't exempt, no, so our legislation requires all public authorities.

MS McKENZIE: There might be no reason why they couldn't put in the same plan.

MS PERKINS: We see them as quite complementary in that regard, and certainly during the consultations for the review of the act we did discuss with one of the HREOC commissioners some of the community development activities that we may do which would help sort of encourage the interface between the two.

MS McKENZIE: What about monitoring of the plans? Are there extra recommendations to do with that? Do you monitor that?

MS PERKINS: Not directly, and that's another area, I guess, that's a challenge. Potentially there's interest, I think, for there to be much closer monitoring, and it's a dilemma from a government perspective how you balance the costs of investment in doing that monitoring. We have recommendations that we do make a requirement in legislation that agencies report directly to us each year on what they have completed in their plan. So that's a reporting function. At this stage we don't have the capacity to actually then go out and do - - -

MS McKENZIE: On-the-ground checks.

MS PERKINS: - - - on-the-ground sort of monitoring and whatnot, and I think there are dilemmas around the actual resource implications for that.

MRS OWENS: But what about them reporting on their plans in their own annual reports?

MS PERKINS: That's a requirement under our legislation, and that certainly is a very public and accessible way for people to actually at least be aware of what initiatives each agency is undertaking.

MS McKENZIE: And they have to report to you as well.

MS PERKINS: Yes, that's right. That's what will be the flavour of our new legislative change. In addition to that, we certainly play a role in promoting on an annual basis, in as many forums as possible, the range of initiatives that have been undertaken.

MS McKENZIE: Random inspections - would you think that might be an option? It wouldn't be as costly as having to inspect every single - - -

MS PERKINS: I think it then has implications where you're still setting up a whole - - -

MRS OWENS: A bureaucracy.

MS PERKINS: - - - bureaucracy in order to do that, and whether there are other ways in terms of really just promoting in the public arena what changes have occurred, and presumably also through initiatives such as encouraging agencies to have consumer input in advisory mechanisms. So there's much greater access for the general community to be more aware of what changes are being made.

MS McKENZIE: In a way it's true, because the more involved the general community becomes, and if they have some kind of advisory mechanism, then the more likely it is that they're going to report if plans are not being complied with.

MS PERKINS: Well, that's right, and I think you will get a lot more initiative and innovation if you've got that sort of partnership at that ground level.

MS McKENZIE: I should say, the reason why we're asking all these questions is because quite a lot of submissions made to us during these hearings have said that these plans are a great idea and in fact they're so good that they should be carried through into the Commonwealth arena, and they're thinking about something similar for the DDA.

MS PERKINS: Right.

MS McKENZIE: So we're not asking you to criticise, we're asking because we're really interested in - - -

MS PERKINS: Certainly, as you said, it's been seen as being a very positive initiative at the local level. We have the same challenge, I think, as you have with the DDA in terms of looking at what indicators you use to actually then look at the impact. Clearly that was a dilemma in the evaluation that we undertook a couple of years back, seeing the difficulties we had and working in this area - not necessarily clear benchmark information established early on to sort of see what change has been made. So we've had to rely on a range of qualitative measures in particular to sort of document those changes.

MRS OWENS: Do you document those in your own annual report? Do you have a little summary of what's going on across state and local government?

MS PERKINS: Yes, we do. I think it's located in an appendix in our annual report at this stage, but certainly trying to capture all those different initiatives over the year, and we did provide this data to your process, or through HREOC. It's the 10th year this year for our legislation, which was back in 1993. So we have actually captured all of the improvements that we've been aware of that have been made over that 10-year period, which is quite an interesting document on our own web.

MRS OWENS: You said that it wasn't extending into the private sector, but has there been any thought of going beyond the government contractors? Was that discussed?

MS PERKINS: Certainly, yes, it was raised during the consultations for the review of the act. When we first developed the initiative we did have and we continue to have a range of initiatives where we have worked in partnership with the private

sector. We had an initiative that we called Accessing New Markets. It didn't operate from a registered basis but it identified particular sectors of the private sector, so including hospitality, retail, tourism and a fourth area that's escaped me, and really looked at just working in partnership across those sectors to promote access. The outcome was a number of training and information materials that are now used in some of the training areas for the staff in tourism, for example, and we're continuing those sorts of initiatives. So it's not under the umbrella of our legislation but really promoting the benefits for those sectors and having a wider awareness of access issues.

MRS OWENS: So it's more of a cooperative approach.

MS PERKINS: Much more so, and we see that as being quite successful, and then we rely on the DDA to provide that national framework with regard to compliance for key requirements. But we see there's still a lot of potential for that type of partnership work to be undertaken.

MS McKENZIE: There's still, I would assume you'd say, a good deal to be done. One of the submissions made was concerned with kerbing, to enable people in wheelchairs to get from the road to the footpath. When you did get onto the footpath, if you wanted to access shops there were a number of places where the footpaths seemed to be encumbered by tables, goods from the shop, doors that opened outwards, so it does make it quite difficult - not in every area but in some areas.

MS PERKINS: Well, a lot of the effort that we've focused on is one of the strengths of having all state and local government agencies required to have disability service claims. That has opened up quite a lot of opportunities for us then to work across agencies who have got responsibility for different parts. I mean, you've got interface there across main roads and local government and transport at times, and so again the developmental work that we've sought to encourage and, using some of the DSP work, to actually promote some of the more seamless interface that's required for those issues.

MRS OWENS: We saw some photos yesterday that one of the participants brought along that showed a lot of paths being blocked and access to shops being blocked and so on, so I think there is a little way to go.

MS PERKINS: Yes, and I think that again highlights the challenge that we have or where we'd argue that there is significant evidence of substantial progress being made but enormous gaps, and for many people the issue is the pace of that change and just how it hasn't been rapid enough in terms of addressing some of those fundamental issues. Some of the recommendations coming from our review of the act have sought to help address that by, as I said, providing for that parliamentary

naming for putting in place in our regulations some more extensive guidelines for how people may approach their DSPs and, as I said, that extension across to contracted-out services. It helps to broaden, I guess, the legislation anyway.

MS McKENZIE: Is it anticipated that the contracted-out services would have included in their contract a term which says that they have to comply with - - -

MS PERKINS: They're still drafting the legislation that requires - there's a number of options that we'd need to consider but that is definitely one option. Already in our purchasing guidelines for our state supply, the commission do have some sort of guidelines for buying wisely with regard to addressing the needs of people with disabilities. So we already have some guidelines there in place, and partly this will actually help to emphasise that.

MRS OWENS: Now, generally I think your submission was very supportive of having a Disability Discrimination Act and the role of HREOC and so on, but my impression when I was visiting Western Australia last time was that most people here, if they want to make a complaint, for example, tend to go through the local Equal Opportunity Commission rather than through HREOC - due partly to the tyranny of distance that HREOC is over in Sydney but I think due partly to some degree of satisfaction with the provisions of the local act. But you're still of the view that you do need both processes?

MS PERKINS: Yes, I don't think you can then sort of get away from the fact that the strength of the DDA is that it's got that national focus and it's got the capacity to set standards et cetera which we don't have at a state level. I think we see we've got a sort of three-way relationship across our own DSP requirement and equal opportunity alongside DDA which in our view works quite well, and certainly we have no resident mandate in our context to make mandatory access requirements; we can only work in a developmental, encouraging way. We've just recently actually put out an information pamphlet looking at that interface across our DSP work, what we can do and how we might be able to address access issues, and then the role of equal opportunity and the DDA is a way to help explain that process more easily and I guess to promote both functions.

MRS OWENS: Do you think it might cause some confusion among people in Western Australia having the two acts? I'm not suggesting we get rid of one or the other, I'm just saying we're trying to think about how we can streamline things.

MS PERKINS: I can't comment totally because my interface with that side of it is not as detailed. I mean, a third mechanism being the DSP, t I guess on the surface that may suggest that there's a degree of confusion. I think that one of the important things therefore is to actually be quite clear about what the options are. I certainly think there are a few examples where Western Australians have used DDA quite

successfully and it's been a very important aspect of ensuring a more substantial change and I guess a more substantial hearing across some very significant issues.

MRS OWENS: Do you think HREOC should have a local presence here?

MS PERKINS: I think that would be beneficial in terms of some of the significant issues which do arise which have very much a national context.

MRS OWENS: Like what? What sort of issues do you think have a national context? I mean, there are issues relating to Commonwealth government departments, but you're suggesting broader systemic issues that relate not just to Perth or to Western Australia but everywhere.

MS PERKINS: Well, I'm not suggesting just sort of Perth. I think the strength of the HREOC role is its capacity to look at issues that can result in broader systemic change and its capacity to look at implications, for example, for standards development. I would have thought that that sort of work - and certainly they can play a part in taking a broader community education, building community capacity, to have some sort of capacity to link into more local based issues - would be quite helpful to inform both ways.

MRS OWENS: Someone suggested that HREOC could indeed initiate complaints. It already has the power to run inquiries, but some suggested that could initiate their own complaints. We're getting that feedback from a lot of people.

MS PERKINS: Yes. Certainly in the discussions that we've we are aware that that's one of the fundamental difficulties. It can be an intimidating process for people to take issues through an individual complaint way. I would see in that context that maybe more significant process could be made if HREOC did undertake that role, which I guess would be enhanced if they were to do that, if they therefore had strong links back to more locally based issues.

MS McKENZIE: Are there any other suggestions you have to make which also might make the whole complaints process easier for people to access?

MS PERKINS: I'm probably not across the finer detail in terms of those processes.

MS McKENZIE: No, nor do I expect you to be; it's just if something had come up which made you think, "There's got to be a better way" and "This might be a better way."

MS PERKINS: No, not immediately.

MRS OWENS: You did say in our visit that if there was something significant you

could refer that to HREOC when you wanted a systemic solution. Has there been any areas where that has occurred or where you thought it would be worthwhile bringing HREOC in on an issue at this end?

MS PERKINS: Look, I'm sure there are a lot - not ones that I can bring to mind at the moment but it's something that I'd be happy to follow up on to add to that.

MRS OWENS: I'm still trying to work through this idea of linking the local processes to the HREOC processes and the relationship between the DSPs and disability action plans and cooperative arrangements, and when you'd go one way rather than the other way, and your commission's links to HREOC. I'm just trying to work out in my head how you can bring it all together in a streamlined way where it's very clear what the relative roles and responsibilities are, and when one leaves off and the other one takes over. That's all.

MS PERKINS: Yes, I share with you that it's a logical thing to look at in terms of seeing that interface, but I guess the strength for us of our DSPs is that they are across those five outcome areas and all agencies are looking at those five outcome areas, rather than just taking a particular part of an area.

MS McKENZIE: And they are systemic, you're not just looking at one disability, one individual.

MS PERKINS: That's right. It's very much looking at a whole raft of your approach to service delivery to ensure that that is very broadly focused. We're actually seeking to extend our framework, I guess, to include a sixth outcome area which we have closed on a commitment to, which is looking at employment for people with disabilities. That's within the commission's own disability service plan, because under the legislation we're also required as a state government agency to have our disability service plan. That's certainly an area where we may be keen to promote that across other agencies.

MS McKENZIE: That's the problem about monitoring. You can have to monitor yourself.

MS PERKINS: Well, I guess we don't see we have a monitoring role but we have a role to actually sort of collate the changes that are occurring. But, yes, you're right. In terms of the contents within those disability service plans, they still operate and are strengthened by having that broader framework which is possible through an approach to national standard development and guidelines, which we obviously don't develop but we're reliant on DDA providing that national context.

MRS OWENS: If your action plan was to have a clause about employing more people with disabilities, are you talking about just ensuring your processes are fair

and reasonable processes and ensuring that once people have got the jobs they are given the appropriate assistance or that reasonable adjustments are made, or are you talking about going one step further and perhaps having some affirmative action?

MS PERKINS: We're looking at both really. I mean, the outcome we're wishing to achieve is that we have a stronger representation of people with disabilities in our workforce and we're wanting to look at what range of activities and initiatives we can undertake in order to promote that.

MS McKENZIE: And it's each organisation - - -

MS PERKINS: We haven't called that affirmative action in that context as such, but it's driven by wanting to look at what are the processes in the recruitment approaches that we can have in order to achieve that.

MS McKENZIE: And each organisation might adopt a different resolution of that area, dependent on that - - -

MS PERKINS: Yes, certainly, and I guess it's clear that the way that we scope our disability service plans is around us identifying, "Look, these are the outcome areas." At the moment there are formally five, we're adding our own, looking at that sixth area, but we're not then prescriptive in terms of the initiatives. That is very much geared towards the particular requirements of that agency. Ideally what input that had from their advisory committee or consultative process is to highlight what are the local and most relevant issues.

MRS OWENS: But if you added the sixth area to your plan, you'd conceivably be going around to the other agencies saying, "This is what we've done and this is how we're working," sort of setting it up as really - well, "standard" is not the right word but as an approach that others might consider adopting.

MS PERKINS: Certainly that's the direction that we would like to take in terms of at least having taken the initiative and the lead and seeing how it may be applied. But we would hope that we'd be able to encourage other agencies.

MRS OWENS: Have you started doing that yet or is this just still on the drawing board?

MS PERKINS: It's been our outcome area for the last 18 months and as part of the development we are doing, coming to grips with the implications of the recommendations coming out of our review of the act - they didn't make specific recommendations at our outcome areas but we will look at trying to sort of build that area.

MS McKENZIE: The only other question I wanted to ask you was about standards under the DDA. One of the recommendations you've made, I suspect, is to try to cover this vacuum where standards take a long time to prepare and where they're known - among the other things you've suggested, the areas in which standards could be made a bit broader. But also you suggest some sort of interim standards or guidelines that should fill that vacuum. Do you want to talk to about that?

MS PERKINS: Yes. I was going through that I see, I guess, in terms of including that in our submission that it is somewhat problematic. I think it was more just that trying to come to grips with the dilemma of the necessity of developing the standards is a very long-term process. In that context, what do you do to try and fill that vacuum and how can you sort of ensure that there is progress being made and what guidelines are there? So one idea was, "Is there an opportunity for interim standards?" I must confess, though, in having said that, that I can see that the risk of doing that is that you'll go through just as long a process in order to get there to get there - - -

MS McKENZIE: To get the interim?

MS PERKINS: - - - to get the interim, and it becomes extremely problematic. I don't think there are any easy solutions in terms of how you do achieve that.

MRS OWENS: I suppose what HREOC has done is they've got guidelines and they've also got frequently-asked questions which - really standing in for that, at least people have got something they can go and look at.

MS PERKINS: I think that's been really important to have in certain areas and certainly has helped to fill a void there.

MS McKENZIE: But it's with a different material, if you like. The standard of course is a different creature.

MS PERKINS: That's right, yes.

MS McKENZIE: It is a very difficult area, but at least you've raised another matter for us to think about.

MS PERKINS: We can explore that, and it's just highlighting the importance of the fact that ultimately having a standards framework across a number of areas certainly strengthens what can be achieved.

MRS OWENS: People are certainly saying there are advantages of certainty and so on, but to be traded off against some degree of rigidity unless you have a process through which to update the standards.

MS PERKINS: That's right, and I think we do note in our submission that it is important to do that, because there is a risk otherwise that you're setting lower benchmarks which then don't get moved forward.

MRS OWENS: As you can see I think from our questions, I think we're both very interested in the interaction between the Disability Discrimination Act and the acts within each state, and in your case your own act and DSPs. I don't know of any other state that's got the equivalent of your disability service plans.

MS PERKINS: Not precisely. I think there's a couple of other states that have recently implemented similar frameworks, possibly not quite as extensive.

MS McKENZIE: But they're only just beginning.

MS PERKINS: That's right, and we've had ours in place since 95. The first plans were developed around that time.

MRS OWENS: We're trying to work through whether disability action plans under the DDA should be mandatory; if so, how are they enforced and so on. So there are those sorts of issues which we're thinking about, and the other set of issues which is related is if there is a potential for unjustifiable hardship, whether that should be linked in some way to developing an action plan. So we're thinking about all those sorts of areas, and we're just interested in yours as a model.

MS PERKINS: I'd certainly be happy to follow back up with sort of going back and giving a bit more careful thought to the interface across disability action plans.

MS McKENZIE: Yes, if you'd like to add a little extra submission it would be very helpful to us.

MS PERKINS: Yes, I'd be very happy to do that. As I said, I think to date we've seen them as being quite complementary and certainly we've been happy to promote locally the importance of disability action plans as well for key areas.

MRS OWENS: I thought the other area in your submission that was good, that was very helpful, was your attachment on employment and the references you've made to the Americans with Disabilities Act. I might just draw your attention to our discussions we had in Canberra with the Australian Chamber of Commerce and Industry, where there was a discussion about some of these employment issues. One of the points that were raised with us there was that, as the labour market tightens over time, it may become easier for people with disabilities to get into the labour market because it's a tight market. I don't know whether you would see it in that way.

MS PERKINS: They're saying it would be easier to get into the market. Is that - - -

MS McKENZIE: I think they also thought employers might want to do more to help people with disabilities to access that labour market because there would be such a need for labour.

MS PERKINS: Okay, sorry. I see what you mean.

MRS OWENS: So we wondered whether that was wishful thinking or whether this is potentially a real prospect.

MS McKENZIE: Have you any data or any feeling about this?

MS SOLDATIC: I think to look at that issue would be to go and look in a period of Australian history where there was almost full employment, and maybe then you could assess whether under those conditions which they're predicting are to be similar in the future - what the employment participation rate of people with disabilities was then and whether similar historical conditions - what kind of outcome would that produce for people with disabilities.

MS McKENZIE: That's one possibility, but you'd have to look at that with some care. First, if that situation existed some many years ago, you'd have to look at the position of people with disabilities at that time. There might have been greater institutionalisation, there might have been less public visibility, there might have been not the reasonable adjustment that could be made even at that time. You'd have to add in a few extra factors but I agree: that would be at least a really good start for a measure.

MS SOLDATIC: I think too it would depend on the kind of skills and so forth that they're actually discussing, how the labour market is going to expand in that area, because generally people with a disability have a lower educational attainment rate comparatively to people without a disability, therefore the skill base of the labour market that they're actually looking for will have an impact on whether people with disability could be included or not as well.

MRS OWENS: A very good point. Thank you for that. Any other questions?

MS McKENZIE: No, they're all the questions.

MRS OWENS: Are there any other issues that you want to draw to our attention?

MS PERKINS: No, I think that about covers us. As I said, we're quite happy to

follow back up on the actual interfaces between the two approaches to the plans.

MS McKENZIE: It's a really excellent submission, and a really helpful discussion as well.

MS PERKINS: Okay, that's good.

MRS OWENS: Karen, did you have anything else that you wanted to say? You've obviously been thinking about the education issues.

MS SOLDATIC: My main area is actually looking at employment and welfare reform issues and things like that so, no, not at this stage.

MRS OWENS: Thanks very much. We'll now break and we'll resume at 2.30.

(Luncheon adjournment)

MRS OWENS: The next participant this afternoon is Debbie-Lee McAullay. Could you please repeat your name and the capacity in which you're here for the transcript?.

MS McAULLAY: Debbie-Lee McAullay.

MRS OWENS: And you come as an individual?

MS McAULLAY: I've come as an individual.

MRS OWENS: Okay, thank you, and thank you so much for taking the trouble to write a submission for us. You raise a very important issue and I was wondering did you want to highlight any of the major points in your submission. We can have a little discussion about it.

MS McAULLAY: As I said, I actually pointed most of my main concerns out in my letter. The problems I've come across have been, first, being labelled as having a disability, and then also through the CRS I've had problems as well. So it's basically overall.

MRS OWENS: You were initially working at Telstra and that's when you got the initial disability?

MS McAULLAY: Yes.

MRS OWENS: Then you went on to workers compensation, and then after that you found that whenever you applied for jobs the fact that you'd been on workers compensation then became an issue in trying to get jobs. Is that largely the problem?

MS McAULLAY: Yes. I was diagnosed - I had a lump come up in my wrist in October 1994 and they tried treating it with cortisone injections. Given my age and status, I didn't want workers compensation against me, and then in December, because it didn't sort of go away, it just got worse and had to have it operated on, I wasn't left with any choice but to fill in workers compensation. Then unfortunately at that time, because most of Telstra was an entity of its own, you couldn't go to Comcare and other areas where generally, if you had workers compensation, they would assist you.

MRS OWENS: They were self-insuring, weren't they?

MS McAULLAY: Yes. So you didn't have any recourse, and it didn't matter which department I went to: as soon as they found it was Telstra they just said they couldn't help you, "We can't interfere. They have their own guidelines. So it was a bit of a nightmare. Now it's not - it's outsourced to GIO - so it's a bit easier for other

people, but unfortunately it wasn't of any use to me back then.

MRS OWENS: What was the job you were doing at that stage?

MS McAULLAY: When I first started Telstra in 1992, I was employed in the paging bureau, which was just typing all day. People would ring in thinking they were ringing an office or an individual. We would answer their greetings, take their messages and input it into the computer and transmit it to a paging - - -

MRS OWENS: And the lump came up on your wrist which then - - -

MS McAULLAY: The left wrist, yes.

MRS OWENS: - - - for a while - that meant you had problems doing typing.

MS McAULLAY: It was only tiny - yes. They stated it as RSI, and even though I spoke to the supervisor at the time as well as management, I let them know that I had it. We had like an occupational health safety rep as well, I spoke to her, and they just left me doing the same job. They sort of didn't want to know about it.

MRS OWENS: So you eventually left Telstra.

MS McAULLAY: I was forced to basically leave. They kept pushing me around to different places. They would put me in an area like for mobile phones, but it was to do with the paperwork. Every time you'd alter something with a mobile phone you'd fill in a piece of paper, and I would just have to file a piece of paper away all day every day. That was just what they did, and wherever - - -

MRS OWENS: It sounds really great.

MS McAULLAY: Yes. They just put me wherever just to totally - there was no job really. I was just pushed around because I couldn't - my doctors had continually said to them, "Look, she can't do the typing," because I was rehabilitated back to work. I had a lot of breaks and it just didn't work, and then I had a lump come up in the right wrist as well, and they just said, "Look, it's not going to work. She needs to be moved out," and then they sent me to rehabilitation, CRS, in 1997 for an assessment, and they agreed as well. Government doctors also assessed it and agreed that, yes, I wasn't faking, it was a disability, and that I would have it for life now that it hadn't ceased. The way I was explained, because it had been left so long the lump got that big that when they actually cut the lump out of my left wrist, the scar tissue sits on the tendon for your thumb. So as soon as you move that, that's what causes the problems.

MRS OWENS: So did CRS then retrain you to do something else?

MS McAULLAY: No. All they were asked to do by Telstra was to submit a report, which they did, and then that was it. They submitted that, no, I couldn't do the job. We did a lot of assessments to the type of jobs I could be retrained to do, but ultimately it was up to Telstra to decide, and then they just come back to me and said, "You find a job in Telstra you can do, or you don't have a job."

MS McKENZIE: So basically - am I right in my understanding of your submission that Telstra didn't actually help you to find another a job in Telstra and they seemed to have a - - -

MS McAULLAY: No.

MS McKENZIE: And not even to find another - I mean, there must be many jobs in Telstra that don't involve typing.

MS McAULLAY: That was the problem, that there wasn't actually, because most of it's all phone work. They couldn't find one or they just didn't want to. At the time I got my lump come up in my wrist, another lady actually had one come up shortly after, and she was too frightened to actually tell them about it because she'd seen what had happened to me. I don't actually know what happened to her in the end, but she was still persevering with it. The problem is, the longer you leave it, the bigger it gets and that's when the damage is done.

MS McKENZIE: But I still can't believe there couldn't have been jobs that - - -

MS McAULLAY: I had a case manager, because you're supposed to have one, and in all the years from 1994 to when I left in 1998 I never met her once. I rang that many times to arrange a meeting with her, and she just never rang me back. She was never available, and I never once spoke to her or saw her in person. Then of course when I did leave and the union put me on to the union lawyers at that time, Telstra had, or accidentally, lost half of my file, so it's been an ongoing - and then they reckoned that Personnel would have copies, but they don't have a filing system. They just have it in a warehouse in boxes and it could take them years to actually find it, because they don't label them in any way.

MRS OWENS: It would be really nice if they had them electronically filed away, wouldn't it?

MS McAULLAY: Yes.

MRS OWENS: You would have thought that Telstra by now would have caught up with that technology.

MS McAULLAY: You would think, given that they are one of the frontrunners, but - - -

MS McKENZIE: Then with other jobs you've tried to apply for, it's your workers compensation history that - - -

MS McAULLAY: Because a lot of them ask that question on the form.

MRS OWENS: What sort of jobs are you applying for?

MS McAULLAY: I've applied for all types. When I was in school I did like a two-year business certificate studies - I did that in one year, so I was specialised in business studies. So I've mostly always done administration and clerical work. Then when I left Telstra I bought my own business, so I've run that myself as well as taught myself the GST, the BAS, and done all the accounting work and things like that myself, and after that I've looked for work in every avenue. Administration work - but the problem is I've got to be careful what I - I don't like to apply for a position that I know is going to aggravate my hand too much.

MRS OWENS: Of course.

MS McAULLAY: I know that there isn't anything that doesn't aggravate it, but I've learned to tolerate it. But there are things - like if I pick up pots in my house, you know, I don't use my left hand, which is the weakest. I'll use my right. Just little things, you change the way you do things. So I wouldn't apply for a job where I just constantly type all day because I know that would just irritate it too much. So I've applied for positions that were multiskilled, you could move around into different areas - Centrelink, Taxation Department, child support, Retravisation, places like that, you know, just doing point of sale cash.

MRS OWENS: And they also know, once they find out that you've got a workers comp history - - -

MS McAULLAY: They all have that form. I do really, really well, and you get short-listed and then comes this form, "Have you ever had workers compensation?" and then all of a sudden my name has gone from being highly rated in the top whatever to non-existent.

MRS OWENS: So they ask you this question before they offer you the job?

MS McAULLAY: Yes.

MRS OWENS: So it's part of their criteria for selection.

MS McAULLAY: A lot of them, when you actually - like, if you go in to apply for jobs in Coles, in the actual forms they actually ask that specific question.

MRS OWENS: Do they ask on the application form, "Have you got some sort of disability?" or is it more just, "Have you had workers compensation?"

MS McAULLAY: Some of them will ask, "Do you have a disability?" or "Do you identify as having a disability?" which CRS advised me I didn't have to because I could put, "I'll discuss it," you know, "I have had previous problems, but I will discuss it at an interview. I'm cleared." Any position I sort of applied for, I would ask my GP how it would affect my wrists and things like that, as well as ask him what type of jobs he thought would be suitable, given the injury that I have. I don't like to waste an employer's time as well as my own applying for a job that I know at the end of the day I couldn't do. So, yes, they word it - some of them say, "Do you have a disability?", "Do you acknowledge having a disability?", "Have you ever had workers compensation?" and then another question was, "Do you have a weakness in your arms, your back, shoulders and neck?" and I have to answer that question.

MS McKENZIE: So when you answer the question that you'll discuss it, or you have some problems but you'll discuss it - - -

MS McAULLAY: I answer the question and I also word it like CRS have explained to me, that I would explain in detail at an interview and it wouldn't restrict my ability to do this position. But it just doesn't go any further.

MRS OWENS: Have you managed to get your doctor to write something to that effect, because that would be quite useful?

MS McAULLAY: I have rehabilitation - the first person I saw in 1997, when I applied for a number of positions up until he actually transferred out, I would go to him and he'd actually write a letter and submit it with my applications saying that I was suited and that that type of work wouldn't - - -

MRS OWENS: Aggravate.

MS McAULLAY: Yes. So I just didn't have any luck. Then because he moved and I was given - when I went back to CRS, because I wasn't told in 1997 that they could retrain me or that Telstra were obliged to retrain me, and if you asked Telstra, their idea was "we're not obligated to do anything", and because they were a law unto themselves, they could do what they liked at that time. So I went back in 2002 after I'd spoken to the guy who I'd previously seen in 1997 and who had said, "If you're having trouble, come back and we can help you." Unfortunately it wasn't him, it was someone else, and in that time, as I explained, I'd had seven different case managers. In a year, they've done nothing - no job trials, no retraining, no on-the-job work,

nothing; no courses, just nothing.

MS McKENZIE: Have you thought of complaining under any anti-discrimination legislation, whether the DDA or - - -

MS McAULLAY: I went, because they were looking at settling just to have this over and done with, and CRS submitted an account to the other side, and I queried them when I found out how much it was, which was nearly 2 and a half thousand dollars. I said, "What's this for? You haven't done anything." You know, I haven't had any courses. I'd travel down there once a month because they'd ask - you know, and have a meeting, and I'd travel down there and see them. I didn't get training allowance or travel allowance or anything, and I'd been the one that incurred all the expenses basically, and most of the time it was me ringing them and I was applying for my own jobs and just letting them know when I was applying for positions and things like that.

I spoke to the manager and I didn't get any success out of him either. They asked me originally what would I like to do and I said, "Well, I love doing admin work, but since 1998" - you know, we're talking now nearly five years - "I haven't been able to get past this injury and I don't think I ever will, and it's not through not being able to do it." I said, "So I feel I need to be retrained. It's the only way someone is going to give me a job." They asked me what I was interested in and I said social work and things like that and they looked in and said, "It's a four-year course. That's too long, we won't look at that." They said, "What else?" I said, "Well, I have an interest in being a travel agent," and they said okay. We looked at that and I got all the costs and they said, "That will restrict you from finding a job," and I said, "Well, I'll do it externally at home by correspondence." I said, "That way I can still look for work."

So they were happy with that, and then we got the costing back for the courses, which was an all-up, extensive course, it was everything you needed. It was nearly \$2000, and they turned around and said, "No, we don't have the right to approve a course over \$1000 and we can only approve a course if we think you'll get a job," and that was the management. Then I had a conversation with him about three weeks ago, because they said, "We don't feel we can do anything else for you," and I thought, "Well, you haven't done anything anyway." He said, "We're prepared to take you back on, but we will issue costs. If you get any settlement, we will issue costs. We're bound under the Disability Act to seek costs if you get a settlement."

MS McKENZIE: So you actually complained under the Disability Discrimination Act. Is that right?

MS McAULLAY: Yes.

MS McKENZIE: This was all part of some sort of conciliation, was it, or - - -

MS McAULLAY: This is just through the rehabilitation. I said to him, "Well, you're seeking costs of 2 and a half thousand dollars which the insurance company will have to pay, which is ultimately Telstra, but you're begrudging me paying a course that is \$2000." He said, "Well, you go and pay for your own." I said, "Well, then, what are you getting paid for?" and they wouldn't allow me access to the file. He says, "We make phone calls, so every time we get a phone call, we get reimbursed." I said, "Well, what about when I make a phone call?" You know, I said, "I drive to see you" - because I live out of Perth - "I ring you up. I do all the running around and yet" - he says, "Well, you don't get reimbursed, but we do."

MS McKENZIE: But was this a complaint under some sort of Comcare - - -

MS McAULLAY: This is through the Commonwealth Rehabilitation Service.

MS McKENZIE: That is a complaint through the Commonwealth Rehabilitation Service, okay.

MS McAULLAY: And every area I went to, to find out where I could complain above that, and I just got nowhere. They just don't listen. They just close the doors basically. They say, "Go to the manager," which I've already done and didn't have any success, and they just say there isn't anywhere else to go. So I'm sort of at a stalemate. I've tried to find where else I can go over and above that but I haven't found anywhere yet and no-one sort of wants to know either.

MS McKENZIE: No-one mentioned the Human Rights - - -

MS McAULLAY: No.

MRS OWENS: And there is the Equal Opportunity Commission in Western Australia.

MS McKENZIE: It's a Commonwealth body, so - - -

MRS OWENS: They can't help you, it's Commonwealth.

MS McAULLAY: With different areas they deal with different things and they all kept saying, "Well, go to the manager," and I've done that but his attitude is, "Yeah, well, you can come back but we will issue more costs." I thought, well, if I knew - I said, "When I started coming here you were full of promises." "Yes, well, we will retrain you, we will help you get a job, we'll put you in on-the-job training, unpaid work and things like that," and I said, "That's not a problem," because they said, "Sometimes you have to do up to three months." I said, "That's not a problem to

prove myself," and they promised all these things. I said, "Now, at the end of the day you've done nothing and you issue a bill for 2 and a half thousand." Actually they did have - it was called Equal - a section that investigates the CRS and they sent out letters asking people to give a response as to how they'd been dealt by CRS and would I take part, and I did.

They did a phone link-up with me because I couldn't make it the day that they were having it, and I got a copy back of the report and there was probably, out of the 25 responses that I got a copy of, there was probably one person that said something good about CRS. Everyone else had the same dealings that I'd had, that they got promised everything and got nothing, and yet when I asked them - because they kept saying to me, "Oh, we're bound, we can't approve courses of \$1000 or more and all this," and yet my ex-husband, he got injured at Centrelink and he came under Comcare, and I mentioned that to them, and he's doing externally a four year university course for criminology and they're paying for it, and I said, "And he's older than me, so that's a lot dearer than this course I want to do," and they said their hands aren't as tied as what ours are. I said, "Well, you're saying he can do this but you're telling me I can't do that, and they're paying the whole bill."

MS McKENZIE: It doesn't make any sense.

MS McAULLAY: No. I had an in-depth conversation with the manager, as I said, about three weeks ago and I just said, "Look, I would hate" - I said, "It's all right for you to sit there at the end of the day and preach to me but you've got a job, you get paid to do your job. I haven't had a job since 1998." I said, "I didn't think I would be 37 and unemployable with my education and my background, and that's what I've come up against, and then to come to you - and you're no different - you'll take me on as a client but you're only interested in getting money out of me. You don't really want to rehabilitate me. You have done nothing in a year and as soon as if it ever settles, you don't want to know about it because you won't get any more money." He said, "Ultimately we're bound by the Disability Act to seek costs." I said, "Even if you don't do anything?" He said, "That's your opinion." I said, "Well, maybe one day if you're in my situation and you feel it's fine that you can't get a job and you go to an area that is specifically designed to help people with a disability get back into work and they treat you in the same way that you have treated me, you'll know how I feel," and he just didn't have an answer for that.

MRS OWENS: So maybe they should be getting reimbursed according to the outcomes they achieve in terms of getting people back to work.

MS McAULLAY: That's what I feel, yes, because he said, "Every time we pick up the phone and make a phone call, we're working for you," and I said, "Well, you must have had to make - " and then it actually went up again in a month, and they hadn't done anything. They'd phoned two areas, made two phone calls, and it was

\$300. I said, "What, you get \$150 for a phone call, do you?" I said, "I live out of Perth and it's only cost me 99 cents to ring you," and they just can't warrant it. They give you the big leaflets that tell you, you have a right to look at your file and all these things and they wouldn't show me. I said, "Well, you show me what you've done." They said, "Oh, we take you on but you have to do all the work." I said, "Well, what are you getting money for then?" I said, "You haven't pointed me in a direction for a job interview, for an on-the-job training, for a training course, for anything." All I do is travel down here and they say, "What jobs have you applied for?" - and I tell them all the jobs I've applied for, and that's it, and then when that person goes and I get another case manager, I start from scratch again, because, as I said, in a year I had seven different ones, because that was, like, starting from scratch seven different times.

MRS OWENS: Did you get to meet some of these case managers? You said that earlier with Telstra you never got to - - -

MS McKENZIE: Telstra, you never met the case manager.

MRS OWENS: You never met the case manager.

MS McAULLAY: In the rehabilitation the person that sees you, they just classify. That means your case manager, yes.

MRS OWENS: So you go in and have a meeting with them and they're the case manager, and each time you go in, there would be a different person.

MS McKENZIE: You'd have another one. But then they wouldn't know about your problem on a continuing basis.

MS McAULLAY: No, you've got to go back from scratch. Yes, you've got to start again and that's why they say it's so expensive because I've had so many different case managers and they have to read the file to see where I'm at, and that's what they charge you for.

MRS OWENS: Can we just go back. You mentioned in your submission earlier that you did apply for other jobs and that whenever you applied they'd ask you to fill in a form and you had to state whether you'd had workers compensation benefits.

MS McAULLAY: Yes.

MRS OWENS: Did you ever think at that stage of complaining - did you ever think that you had a very good chance of getting a job and that that was the factor that knocked you out?

MS McAULLAY: I think the jobs I applied for - I mean, with my background I could, like - there was nothing - I applied for jobs, that, like - in Telstra I was a level 2. I applied for level 1s. I tried for checkout operator jobs. I tried for anything and everything that I could do with my eyes closed, and everybody that sees them, the job agent says the same thing, "I can't believe you've had a problem finding a job and you are short-listed," and then when the official forms come out and you have to fill that in and they ask that particular question and then they say, "Yes, we'll ring you," and they just never ring you and you might ring - - -

MRS OWENS: So you think that that is the factor.

MS McAULLAY: That's what I've come up across. In the beginning you sort of think, well, a lot of people applied for jobs and fair enough but then when it continually happens and that is the one question that's being asked, you've just got to start to query it.

MS McKENZIE: But you didn't make a complaint to any anti-discrimination body like the Human Rights Commission.

MS McAULLAY: They didn't - because they don't come out and say to you, "It's because of your disability."

MS McKENZIE: No.

MS McAULLAY: They just say, "Oh, the owner didn't like you." I said, "Well, why doesn't he like me?" The last breath before I filled in that last form is, I was his first preference.

MRS OWENS: Well, that's interesting.

MS McAULLAY: So, you know, I come across it - - -

MS McKENZIE: But the form changed everything suddenly.

MS McAULLAY: Yes, the same as when I was a single mother I had that problem. They couldn't discriminate but one guy said to me, "I'd love to give you the job but you've got young children at home and you're the sole care-giver because you're a sole parent, and if they're sick you have to stay home and look after them."

MRS OWENS: I think that might be called discrimination.

MS McKENZIE: Yes.

MS McAULLAY: Yes, this is before they brought all this out that you can't do this

and you can't do that. So you just start to begin to wonder. As I said, I can't even get a checkout operator job which - - -

MRS OWENS: Which you're very well qualified for.

MS McKENZIE: Which you can do.

MS McAULLAY: Yes, over-qualified for, and you've just go to start to wonder what it is. If it's not me, it's not my presentation, it's not my resume - even the lady that works with the CRS in getting people jobs, she said, "Your resume, it's wonderful. I can't see why you haven't been able to find job." I said, "No kidding."

MRS OWENS: And you're very articulate, very well presented. I would think you'd be terrific in all sorts of jobs where you have to deal with the public.

MS McAULLAY: But that's what most people - they all said customer service, which Telstra was mainly customer service, and my rehabilitation, when we did the vocational courses and tests and that, they all came out customer service jobs, and I like to work with people. When I bought my own business I was working with people and I was the customer service one and I got along really well with everybody, and as I said, when the GST and that came in I self-taught myself, which most people can't do it, and I do that and kept up with things so that - yes, I mightn't have been in office for a few years but I still know what goes on.

MS McKENZIE: Yes, that's good.

MRS OWENS: So you've shown initiative and perseverance, I think, beyond where most people would have gone.

MS McAULLAY: I could apply for, like, 10 jobs a week and just hear nothing. Hear nothing, or you do - "Yes, yes, yes, come in, come in, have an interview. That's fine, loved the interview, good marks," and then all of a sudden when you get these forms - - -

MS McKENZIE: Get to fill out the form.

MS McAULLAY: Yes.

MS McKENZIE: I mean, what that tempts you to do is not tell the truth in the form, really.

MS McAULLAY: But CRS said you're obliged to because if they find out that you've lied, it's grounds for dismissal. So I think that when you look at the forms and in any government department - a lot of jobs I have applied for are government jobs

because I have worked for the government before - but the question for Torres Strait Islander or Aboriginal is optional to answer. It says in brackets it's optional, you're not bound to answer it if you don't want to. The same as, "Do you acknowledge yourself as women's rights?" - that's optional. But the worker's compensation one isn't, and having an injury isn't optional, it's a must, and I just think that it's unfair that they ask that question before they give you a job.

I think that you should be bound that you go in there the same as anybody else and you should be treated as anybody else. At the end of the day, when it comes to personally knowing you've got the job, for their own records they may need to know but, I mean, you've already got the position, so there isn't much they can do about it because they're basing you. But that's every job, as I said. It doesn't matter what type, whether it's a checkout operator at Coles, Action, Woolworths, all of them ask that particular question now.

MRS OWENS: And it's before they make the decision. I agree, it may be appropriate for them to know after you've been employed so that they can make necessary arrangements in the job.

MS McAULLAY: If you need something specific or if it's down the track and it does start to irritate - as I said, there isn't anything that won't irritate it. So, I mean, I know any job is going to irritate it but that's the price I pay because I just don't - prior to this I'd been employed from when I left school, like apart from a short time when I was with my kids and stuff but it was only temporary because I always went back to work, and it's just really hard.

MS McKENZIE: In some ways what you raise are service issues; in other ways they're connected with discrimination because they're to do with what's happened to you because of having your - - -

MS McAULLAY: Disability.

MS McKENZIE: - - - wrist problem, and also because of having a past history of worker's compensation which, in a lot of cases, has been looked at as basically evidence of having a disability under various pieces of discrimination legislation. You don't get worker's comp unless you have an injury.

MS McAULLAY: It was a last-ditch effort. I didn't want to and neither did my doctor but for two months we tried treating it and the lump was just growing. So it just wasn't going to cease and there was just no choice. As I said, I do have a lump in my right wrist and they recommended taking that out, and I said, "No, you're not taking it out." They told me when they operated that my wrist would be okay and it's worse now, you know. I would have been better off just putting up with the lump. So I said, "No, you're not touching it, it can stay there."

MRS OWENS: Has it just stabilised now?

MS McAULLAY: Mainly in winter you get a lot more problems out of it. They start to inflame and if you do something repetitive, like, you might sit there and weed your garden, that's repetitive. You might iron. It's just anything; the way you make the bed, the way you lift it up, simple things like that, and it can be painful and the lump will flare up for, like, two weeks or something. There isn't anything but as I said, I've learned to live with it because it's been 1994.

MRS OWENS: But it shouldn't preclude you from doing a whole range of jobs.

MS McKENZIE: Absolutely.

MS McAULLAY: No, I think if I'm prepared to go out - a lot of people say, "Look, I've got an injury, I'm staying home," but if I'm prepared to put in the effort to find a job, then it shouldn't be held against me because there's something wrong with me. I think the title "disability" - and as I said, I came up with this not only with CRS but in some government interviews. "Disability" - they look at you like there's just something wrong with you, and I said, "I do have a brain, that's not the issue. Don't speak to me like I'm a simpleton. I'm not stupid," but people just see the word "disability" and they just think that you're brain-dead. They start to talk down to you and it's like, prior to that they were talking to me one-on-one, but then all of a sudden they just don't have an interest in you. They just don't think you have any capabilities.

MS McKENZIE: I mean, the discrimination material is directly relevant to our inquiry and the service provision issues are - they're connected, and even though strictly they're not perhaps within the Disability Discrimination Act, although sometimes services will be, but even though they may not be within that act, we sort of list issues like this that are, you know, closely connected with what we're doing, and we'll make a list of them in our report so that they can be raised.

MRS OWENS: But I think you've raised an important systemic issue, which is about the questionnaires and asking those questions before employing you.

MS McAULLAY: It's an invasion of the - same as, like, some of them, not so much me, but, I mean, there is a question - they ask you if you've ever suffered with depression or mental health issues, and you're bound to answer those as well, which I suppose comes under disability as well, because they classify it as a disability, and they're bound to answer that as well. I just think that if they think, you know, women's groups and Aboriginals can be an optional question, then so should disability. They're sort of invading one's privacy.

MS McKENZIE: But even - I'm troubled, I have to say, if in fact people think that by making a question, instead of mandatory, optional, you can somehow escape the provisions that deal with asking discriminatory questions. I think they need to think again, because of course if you take into account the fact that someone hasn't answered that question and - - -

MS McAULLAY: You've got something to hide.

MS McKENZIE: And make assumptions, in other words.

MS McAULLAY: Yes.

MS McKENZIE: Then you may well be in trouble as far as our discrimination rules are concerned.

MS McAULLAY: It's just a hard question to get around, you know? People just hear "disability" and they just, you know, they think "disability" - you know, in the olden days they might think of someone that has got cerebral palsy or, you know, disabled that way. They can't decipher between the two, that it's just a weakness, it's not actually a mental thing, and it's just really hard. So a lot of areas I complained to and they said, "There's nothing we can do about it. We don't write the act." Then when I saw the ad, I thought, "Well, I will write in a letter," because for years I'd always said, "Someone needs to change this. Someone needs to change this," and finally one day the ad was in the paper.

MS McKENZIE: It's really helpful that you've come forward and made a submission to us, because that's the way we take into account, you know, people's views. I mean, we will make a report, a draft one for a start, in October and then have another round of hearings where people can talk about what we've put and respond to it, and then eventually a final report.

MRS OWENS: Thank you very much. That was very valuable.

MS McKENZIE: Very helpful.

MRS OWENS: So thanks for coming.

MS McAULLAY: Thank you.

MS McKENZIE: We'll just break for a minute.

MRS OWENS: The last participant this afternoon is the Department for Planning and Infrastructure. Please give your name and your position with the department for the transcript.

MS BREDEMEYER: My name is Liz Bredemeyer. I'm the principal consultant for Access Mobility, Department for Planning and Infrastructure, and the reason that I felt I should make a submission here today is because one of the earlier submissions done yesterday by the Association for the Blind alluded to the fact of the good work of Planning and Infrastructure, but they were talking about the disability services plan and I thought that I should provide an opportunity to clarify for you. The disability services plan is done under the state legislation. We have a disability services plan but that's not the work that I'm doing that they accredited for doing a great job. So I thought I should clarify it for you.

MRS OWENS: Yes.

MS BREDEMEYER: The issues here are: the work that I'm doing is a result of a successful complaint under the DDA to the Human Rights and Equal Opportunity Commission. This particular complaint was conciliated and resulted in an agreement between the then minister for transport in the Western Australian government and HREOC. It's subject to review and has got an ongoing plan of about 20 years, and that's the role that I in fact do. So some of the papers that I've tabled here today are public documents, and one is in fact a speech that I gave here in Western Australia on 19 March to do with the celebration of the Disability Discrimination Act, and it gives an overview of the sort of things that we've done and the recognition we've got. The recognition I think is an important thing because we've received prime minister's award and premier's awards et cetera for this innovative program that we're doing.

The other thing is, there are ongoing consultative processes. I'm the chair of a consumer advisory committee made up of known people with different disabilities. We meet at least monthly and sometimes fortnightly and we go on site visits et cetera. In Western Australia, you may know, there's a multi-billion project going on for the south-west railway line and we work with those architects and project officers and access consultants and look at the concept stage, the 15 per cent and then the 85 per cent, and we give feedback on the whole process, all the way.

MRS OWENS: And there is response to that feedback?

MS BREDEMEYER: A huge response. The access consultant comes with the architects and the project officers and then it's the various government agencies, whether it's New MetroRail or the buses or whatever it is, the people building the stations. They are an integral part of that.

MS McKENZIE: So is it the actual transport infrastructure you're looking at or is it

rolling stock as well?

MS BREDEMEYER: Thanks for asking that. It is actually the infrastructure, it is the rolling stock as well, and our organisation takes in the release of land, the use of land and the planning of livable neighbourhoods. So it's the whole lock, stock and barrel in Western Australia we now look after.

MS McKENZIE: That have to do with that sort of infrastructure, living infrastructure?

MS BREDEMEYER: Yes. So we look at it from the accessibility - and, of course, since the accessible public transport standards came in in October of last year that has made a terrific difference but prior to that - - -

MS McKENZIE: You look wider than that. Is that right?

MS BREDEMEYER: We definitely look wider than that. Sometimes the standards don't provide enough clarity, but if we can get sign-off by our consumer group, then that I guess helps our particular agency. So I would suggest that we're probably one of the better states in Western Australia in the way that we in fact work hand in hand with the agencies.

MS McKENZIE: Can you give me an example of how it all works with a particular new development?

MS BREDEMEYER: I'll give you a range of the diversity of it. The Western Australian Planning Commission is sort of a right-hand person of our agency. Our director-general goes to those meetings and there are private sector people there et cetera, but we provide advice to the director-general. An example of that could be the release of new land and what that purpose is going to be. If there are in fact wetlands involved and the environmental groups come and I can see this proposal - it comes to me - then I can say, "If you're going to have wetlands and their available for tourism, then you have to ensure access for people with disabilities, so you should put in there boardwalks, you need to consult with the local community" - and most local governments, or a lot of them, in Western Australia have got their own disability group.

MS McKENZIE: So it's all sorts of public uses.

MS BREDEMEYER: No, it's hugely - - -

MS McKENZIE: It's not even just transport or new suburbs, for example.

MS BREDEMEYER: Yes. We also work hand in glove with the cyclists, lobby

groups and the pedestrian environment for principal shared pathways. I understand there's been another submission here about kerb ramps and traffic lights et cetera. We work extensively with the Main Roads Department and the Association for the Blind, the Deaf Society - all of those particular groups - and, to give you another example, we're soon introducing, in the next two years, the smart card or smart ticketing. So I went with the consultant from the WA Government Railways and the bus area, TransPerth, to the Association for the Blind at a special public meeting and Blind Citizens Australia, and we talked them through what it means for them in smart ticket. While they don't have to pay a fare, some of them may well want to use smart card technology, and that's available for them and it works by proximity. So we talked them through the processes, asked them what they needed to make it easier for them, and we've done that with other community groups as well. That just gives you an idea about the diversity of the role that we play.

MS McKENZIE: What was the complaint that originally led to this agreement, if it's possible for you to - - -

MS BREDEMEYER: No, no. There were a number of complainants and they took it through the Sussex Street Legal Centre, I understand. Two of the original complainants were on the original consumer advisory committee so, if you like, we worked with the people who were affected and broadened our base. I wasn't there at that particular time, but it was a comprehensive action plan.

MS McKENZIE: So was the original complaint about transport or about buses?

MS BREDEMEYER: It was about buses and getting access to buses. The plan is called Going Out and Getting There because they felt that they would go out and weren't really assured of getting there. So as a result of that we've now got accessible buses - not on every route but in fact the new buses have ramps, and if in fact they aren't on a particular route, people can phone on a help line a journey planner and can be assisted. A good one to share with you would be: one of the sheltered workshops recently moved into a different suburb, so - people contact me if they've got an access issue - I was contacted and we arranged for a particular bus to call there to take these people to and from their workplace, and we make sure that it's an accessible bus.

MS McKENZIE: So really, even though the complaint was about accessible transport, the resolution, if I'm right, that you reached through conciliation was much broader than the complaint.

MS BREDEMEYER: Much, much broader, and the government of the day saw it as a terrific threat, I think, that somebody complained, but the momentum has gathered and we do a range of things across the agency and in Western Australia. We take in maritime as well as the trains, and aviation. You name it, we do it all.

MRS OWENS: What about the school buses? Are they accessible?

MS BREDEMEYER: The school buses run under a different policy program, but there are special buses put on routes for people who need specialist treatment. So, yes, the school buses are accessible for those who need it, and that's right throughout the state. If that can't provide that accessibility, then the department co-funds taxis et cetera in the same way that people who live in isolated areas.

MS McKENZIE: We were at a lunchtime forum today and one of the questions or one of the matters raised related to one of the airlines, North-West from memory, where concerns were expressed about whether or not that airline was going to provide accessible travel for people with disabilities, obviously looking primarily at people with physical disabilities. Would that be an area that you might actually get involved in?

MS BREDEMEYER: I know certainly that there's an exemption in for airlines at the federal level and a number of other smaller in different states were asked whether they wanted to be party to that exemption and followed that line. So I've certainly spoken to our aviation people here to bring that to their attention, because they need to be part of that if they want to see how they can comply in the future.

MS McKENZIE: The conciliated outcome of the complaint, which obviously was much broader than the original complaint - am I right to understand you when you say that some of that is public and some of that is not? Is that how it works?

MS BREDEMEYER: There is a report there that is called Going Out and Getting There, and that is completely a public record.

MS McKENZIE: That arose as a result of that?

MS BREDEMEYER: That arose as a result of that, and written into the agreement was that the plan be reviewed, and there's a yellow page document there, an evaluation of the plan to date - that was done about two years ago - and so it's a renew all the time, having a look, "How can we get it better?" and we consult with the consumer group.

MS McKENZIE: Is that why you said it wasn't a disability services plan, because it was in fact completely different and far wider?

MS BREDEMEYER: Yes, well, the disability services plan done under the Disability Services Commission is quite separate and looks at a whole lot of employment issues across the agency as well, whereas this is purely about our service delivery.

MRS OWENS: Are there common elements between the two plans?

MS BREDEMEYER: Yes, there are, and Helen Granville from the Disability Services Commission serves on both of those. I did try to get them combined with our area under universal design, but that's still being looked at.

MRS OWENS: Can I just ask you about your speech that you gave back in March, Liz?

MS BREDEMEYER: Yes, certainly.

MRS OWENS: You're talking here about the successes and you refer to some successful outcomes such as the central area transport system, accessible low-floor buses, accessible rail cars, tactile ground surface indicators, accessible bus stops and so on. Are there any initiatives that deal with people with hearing impairment as well that you would say are also successes, like announcements at railway stations and on trains and buses?

MS BREDEMEYER: We actually have used the LED, the light-emitting diode, for people who have got a hearing disability, but there are public announcements on all the CAT buses that the next stop will be such and such made by the driver. But we've recently had a meeting with the Deaf Society and we have consulted with them also - the access consultants came with me. What we've come to agreement on is that - we've looked at issues on an information module on the platform that if there is an emergency or if somebody is being harassed - there is a particular area that they go to; this is where they get all the information - they can press a duress button. The process that would happen as a result of that is the cameras, the CC TV, would hone in on them and announcements would be made - but by letting the Deaf Society know that in fact the cameras are on them and what they need to do in that response. So we talked about Emergency Assist. So it's actually text messaging on a phone that a deaf person may have. That goes straight through to the police service here in Western Australia and then it comes back in a text message that in fact their call has been received and that it will in fact be dealt with. I don't know if that happens in other states, but that's something that's just been introduced here.

MRS OWENS: Not to my knowledge.

MS McKENZIE: But it may.

MRS OWENS: So that's going to be another success in your next speech.

MS BREDEMEYER: Yes, I would say so. So you can hear that we're very passionate about it, and I've now got two women working in my area who have also

got hearing disabilities, and that's taught us a lot about hearing disabilities, I can tell you.

MS McKENZIE: Are there any failures? We've talked about the successes. Are there any area where you think that success is still to come, if that's a better way to put it?

MS BREDEMEYER: I think some of the areas in principal shared challenges, the principal shared pathways issue is a really challenging one because some of principal shared pathways even go through private land and of course people who are in - have got a mobility disability, in wheelchairs of various types of mobility scooters, they are a bit shocked at the high speed that cyclists go at, and so there's conflicting demands at different times about really who gives way to who, and we've just resolved that because I'm about to take on all the cyclists as well as the access and mobility area, and so I'm sure we'll see synergies.

MRS OWENS: You will. I'm sure you'll manage that one.

MS BREDEMEYER: But I'll just leave that material for you because I think Western Australia is really quite leading and I've been successful in getting - I'm Western Australia's representative on the Accessible Public Transport national advisory committee, and I've been successful in getting my colleagues from the other states to come here at the end of July, and we're having our meeting here, and we're taking them around in an accessible bus, and we're also going to have our country coach there that has the hydraulics on the outside of the bus to lift wheelchairs up, and we're going to take them out to one of the stations that's really good, and then give them a free travel pass to get around.

MS McKENZIE: You have an accessible tourist coach, do you?

MS BREDEMEYER: Yes. We have 16 about to be rolled out. They were launched just six weeks ago. It's hydraulics and a lift that are on the outside of the coach, halfway along, and then there's tie-down points for the wheelchairs. So you could take one larger wheelchair and then perhaps a smaller one on any one coach.

MRS OWENS: Then you can have the WA tourist people advertise Australia-wide that that's available.

MS McKENZIE: Other states and territories, hearing some of the submissions, have said that people are very upset that that isn't available to them in their states and territories.

MS BREDEMEYER: Well, that's why I guess people were coming from the other states, to see what we've got here. But when I've been to their meetings in the other

states, they've never had any show and tell so we're trying to do a bit better over here. We've got something to show, I suppose.

MRS OWENS: Congratulations.

MS BREDEMEYER: Thank you.

MRS OWENS: Thank you very much.

MS McKENZIE: Excellent submission.

MRS OWENS: And thank you very much for doing this at the end of today. We really appreciate it and we appreciate your department allowing you to do it too at such short notice.

MS BREDEMEYER: Yes.

MRS OWENS: Is that all that you wanted to raise with us, Liz?

MS BREDEMEYER: Yes, that's fine. Thank you very much for hearing me.

MRS OWENS: Thank you very much indeed.

MS BREDEMEYER: And you've tabled these documents?

MRS OWENS: Yes, we will.

MS McKENZIE: Thank you. That concludes today's proceedings. Thank you for coming, and I now adjourn the proceedings and we will resume the hearing in Adelaide on 3 July at 9.30 am.

AT 3.29 PM THE INQUIRY WAS ADJOURNED UNTIL
THURSDAY, 3 JULY 2003

INDEX

	<u>Page</u>
ASSOCIATION OF INDEPENDENT SCHOOLS WA: AUDREY JACKSON LES MACK	838-854
DISABILITY SERVICES COMMISSION: JENNI PERKINS KAREN SOLDATIC	855-869
DEBBIE-LEE McAULLEY	870-883
DEPARTMENT OF PLANNING AND INFRASTRUCTURE: LIZ BREDEMEYER	884-890