

COMMISSION OF INQUIRY
INTO FORENSIC DNA TESTING IN QUEENSLAND

Brisbane Magistrates Court
Level 8/363 George Street, Brisbane

On Wednesday, 19 October 2022 at 9.45am

Before: The Hon Walter Sofronoff KC, Commissioner

Counsel Assisting: Mr Michael Hodge KC
Ms Laura Reece
Mr Joshua Jones
Ms Susan Hedge

1 THE COMMISSIONER: Yes, Ms Reece?

2

3 MS REECE: Commissioner, Mr Murdoch KC seeks to announce
4 his appearance.

5

6 MR C MURDOCH KC: May it please the Commission, may I seek
7 your leave to appear for Mr Doherty today.

8

9 THE COMMISSIONER: Yes, you have leave. Thank you,
10 Mr Murdoch.

11

12 MR HICKEY: Commissioner, before we move to the
13 substantive part, may I raise two issues. First, could
14 I correct the record on something I said to the
15 Commissioner before lunch yesterday. I raised a concern
16 that we hadn't been put on notice about the substance of
17 Ms O'Connor's evidence.

18

19 As it transpires, an email was sent by the
20 Commission's solicitors to a variety of instructing
21 solicitors. I'm instructed, notwithstanding that, my
22 instructor didn't receive it. So the long and the short of
23 it is, I didn't know it existed, nor did they, but it is
24 obvious that some correspondence was sent, so I would want
25 the record to reflect that.

26

27 THE COMMISSIONER: Thank you, that's good of you.

28

29 MR HICKEY: The second thing, as a matter of courtesy, is
30 that I am joined by Ms Derrington of counsel, who has been
31 instructed also to appear for Ms Allen and Mr Howes.

32

33 THE COMMISSIONER: Thank you, Mr Hickey, Ms Derrington.
34 Yes, Ms Reece?

35

36 MS REECE: Commissioner, I call Michel Lok.

37

38 THE COMMISSIONER: Mr Lok, I will take it that you are
39 still under your former oath or affirmation.

40

41 MR LOK: Affirmation, yes, Commissioner.

42

43 <MICHEL LOK, recalled, on former affirmation: [9.47am]

44

45 <EXAMINATION BY MS REECE:

46

47 MS REECE: Q. Mr Lok, you have previously given evidence

1 at the Commission and you are or were the general manager
2 of Community and Scientific Services at Health Support
3 Queensland?

4 A. Yes, I was.

5
6 Q. And that was for a period from October 2017 until June
7 2021?

8 A. Correct.

9
10 Q. You previously gave evidence at the Commission of
11 Inquiry on 30 September?

12 A. Yes, I did.

13
14 Q. There are just a few matters I wish to ask you today.
15 They're across two topics. One is funding and the other is
16 the Workplace Edge involvement, or the involvement that you
17 had in the Workplace Edge piece of work that was done with
18 the DNA Analysis Unit towards the end of 2017 and into
19 2018.

20
21 I'll turn first to the funding questions, though.
22 Mr Lok, what was the funding structure or the funding
23 arrangements for DNA analysis as part of HSQ in the time
24 that you were in that position?

25 A. Well, the Forensic and Scientific Services was
26 allocated a budget as part of the Health Support Queensland
27 budget. Health Support Queensland's budget was comprised
28 of two revenue sources - one was fees and charges from
29 various clients, which many of the business units in HSQ
30 provided services to hospitals, so that revenue formed the
31 larger part of HSQ's revenue source; and then the other
32 functions in the department, including operational units
33 that I looked over, were largely funded from government
34 budgets through the Department of Health.

35
36 Q. And FSS, or the DNA Analysis Unit in particular of
37 FSS, was budget funded?

38 A. Correct, largely. They did receive some funds by way
39 of grant or fee for service from the police, for the DNA
40 area, and in some other parts of the labs from other
41 clients, but substantially probably 85, 90 per cent of
42 their budget was budget-dependent funding.

43
44 Q. The fee for service was around reference samples, as
45 opposed to crime scene samples?

46 A. Correct.

47

1 Q. A smaller amount of the total volume of the work done
2 by the lab?

3 A. Correct.
4

5 Q. There had been a block funding arrangement with QPS
6 for some time, when you arrived in that position, of
7 \$3 million a year?

8 A. Correct.
9

10 Q. That had not increased over time?

11 A. Correct.
12

13 Q. Was there any discussion in the time that you were in
14 that position with police as to any increase in the funding
15 for that service that was being provided?

16 A. No, we didn't. I think in my previous testimony I did
17 talk that internally we considered whether, as a medium to
18 longer-term strategy it would be better to move the entire
19 operations of FSS, and that's not just DNA labs but all of
20 the labs, on to a fee for service basis. The benefits of
21 that obviously are that as your volumes increase or
22 decrease, you could adjust your resourcing commensurate
23 with that increase or decrease, and it would have
24 alleviated those problems, for example, of that \$3 million,
25 which just didn't grow over time.
26

27 There are downside risks to that, and one of those
28 risks would have been that, for the lab, it was exposed to
29 uncontrolled revenue loss, and therefore it would have had
30 to shed resources, and to shed resources in the public
31 sector is not a simple exercise. There's industrial
32 arrangements to let staff go if you no longer require them.
33

34 Q. Are you talking about loss of positions?

35 A. Correct, correct. So on balance at that stage we
36 thought it was premature --
37

38 THE COMMISSIONER: Q. Sorry, I'm not following this.
39 You're discussing whether to change to a financing method
40 which would involve FSS being paid for each service it
41 performs; is that what you mean?

42 A. Effectively. What you would do is instead of getting
43 from government \$60 million, \$70 million, whatever the
44 number might be, that would go back through appropriations
45 to the purchasing departments, and then they would pay
46 a fee for service for the tests that we actually performed
47 for them.

1
2 Q. Go to the purchasing department of who?
3 A. Sorry?
4
5 Q. The purchasing department, you said?
6 A. So --
7
8 Q. What is that?
9 A. The police would be a purchasing department --
10
11 Q. Yes, I see.
12 A. Yes.
13
14 Q. But I understand in a general way - and you might be
15 able to help me understand it more specifically - that
16 within government, you can fund a unit, like FSS, by giving
17 it a budget of X million dollars, and then it does its
18 work?
19 A. Correct.
20
21 Q. And if it's not enough, then there are processes for
22 increasing it from time to time, annually or otherwise; or
23 you can fund it by saying, well, police can pay per
24 service, they can be billed per month or per quarter or
25 something of that kind. But when you ask police to pay per
26 service, then the payment is actually a journal entry
27 within treasury, isn't it, or within the government
28 department? So police have a journal, notionally, in which
29 they pay, in inverted commas, FSS, but it's the government
30 paying itself, of course, isn't it?
31 A. Yes, it is, Commissioner, yes.
32
33 Q. So it's simply one method of funding over another -
34 one method of bookkeeping over another method of
35 bookkeeping, because whether the money is funnelled through
36 the police paying per service or whether it's given
37 directly to FSS, it's the government money that's being
38 spent, ultimately, to pay a scientist's salary and to pay
39 for the use of equipment?
40 A. I would agree with you, it's sum neutral for the
41 government, but what it does is it shifts the risks of
42 volume, for example, between the different agencies and the
43 responsibility for seeking that additional funding, if
44 government was willing to pay for it.
45
46 Q. Yes.
47 A. It also shifts the appetite for certain types of

1 testing from one agency to another.

2

3 Q. So what you are saying is the method, while, as I've
4 said, it is just bookkeeping, also has a real effect,
5 because - I'm trying to understand this, so you can help me
6 with it. For example, if we had the police paying per
7 service, then FSS could charge a sum per service which it
8 knew would amply cover the costs, so they would have no
9 trouble with their budget, and police would then have to
10 decide whether - they would have to think carefully about
11 how they use the service. So you then have to make
12 a decision at a policy level as to who is the better judge
13 of the requisite usage. Is that how it works?

14 A. Correct, Commissioner, it's what we currently do with
15 Hospital and Health Services.

16

17 Q. Yes, tell me about that, for example?

18 A. Health Support Queensland previously would provide
19 medications, drugs, that were used in hospitals, and they
20 were undertaken on a fee for service basis, so they would
21 be supplied and paid back to HSQ for that, and the benefit
22 of that is it allowed the hospitals to consider their
23 consumption of those drugs in a more appropriate way. If
24 that fee wasn't there, they may be less inclined to review
25 their consumption, allowing drugs to go beyond their expiry
26 dates or other wastage, or perhaps continue to use one drug
27 which may be generics, which may be particularly suitable
28 and at a lower cost. So it shifts the incentives and the
29 strategy behind how you use the government funding to
30 achieve the best outcome.

31

32 Q. So it gets down to this, then: if you were sitting
33 there making this decision which model you're going to use,
34 you would ask who is in the best position, taking into
35 account all relevant factors pertaining to the subject
36 matter, who is in the best position to make a decision
37 about how much work is done - in our case, how much work is
38 done?

39 A. I would say how much work is done, which work is done,
40 because there could be alternative testing methodologies
41 which may be preferred, or even who's testing. So some of
42 that testing could be done by other laboratories.

43

44 Q. Yes, of course.

45 A. Which is one of the risk factors I mentioned a little
46 while ago was a concern for FSS. I would hesitate to say,
47 Commissioner - that was a very conceptual conversation and

1 it was - it followed a request from the CE to get an
2 explanation of what was discussed in module 1 about, what
3 is all this different funding going into FSS from? And we
4 compiled that list and had a conversation along those
5 lines.

6
7 Q. Yes, I understand. Thank you for that. I think
8 I understand it now. It's a behavioural change mechanism?
9 A. Yes.

10
11 Q. Not a financial mechanism?
12 A. Correct.

13
14 THE COMMISSIONER: Thank you. How interesting.

15
16 MS REECE: Q. Mr Lok, you've spoken of the risk if the
17 model had changed, in that there might be an unexpected
18 loss of revenue or income. Was there any suggestion or
19 indication in the time that you were in your position as
20 general manager of that part of Health Support Queensland
21 that the demand for processing of samples was decreasing
22 rather than increasing?

23 A. No, demand was increasing.

24
25 Q. So what was the risk as you saw it - that police might
26 go to a New South Wales lab?

27 A. Correct. That's what was being expressed to me.

28
29 Q. By whom?

30 A. By Mr Csoban and possibly by Ms Allen. I didn't pay
31 too much stock in that because the government has very
32 strong employment policies. FSS was a significant sized
33 lab, and if the police went to an alternative lab for the
34 bulk of its services, it would leave the government with
35 a significant problem, with 60 or 70 scientists not having
36 a job. So I didn't pay too much stock into it, but I think
37 we needed to acknowledge that there was a potential there
38 that police could, and have the power under its legislation
39 to, seek testing from other labs.

40
41 Q. When Mr Csoban and Ms Allen raised that with you, do
42 you understand - did they --

43
44 THE COMMISSIONER: Raise what, Ms Reece, I'm sorry,
45 I missed it?

46
47 MS REECE: The risk posed by the work going to New South

1 Wales.

2

3 THE COMMISSIONER: Yes.

4

5 MS REECE: Q. Do you remember the detail of those
6 conversations, what the concern was?

7 A. Not really. It was very early in my tenure there.
8 I hadn't yet formulated an understanding of the
9 relationship with police at that time. These propositions
10 were floated by me in a few of the conversations I'd had.
11 As I said, I didn't think they had too much merit, and it
12 didn't even take into account whether New South Wales would
13 want to take on Queensland's testing work. They might do;
14 I don't know. But I think, you know, it was just a factor
15 that just bubbled up.

16

17 Similarly, there was also not infrequent references,
18 not just by the DNA lab but by other laboratories there,
19 that they were all disadvantaged because there had been
20 some staffing cuts several years previous, and it just
21 seemed to be stuck in their mindsets that this was
22 a problem. We had to move on beyond that.

23

24 Q. Just going back to that last part of what you were
25 saying, did you understand that there had been some funding
26 cuts prior to your arrival?

27 A. No. Under the previous government, there was
28 a contraction of the workforce in the Queensland public
29 sector, significant. Queensland Health suffered a large
30 number of job losses, and the labs were not immune from
31 that. It ran through the entire breadth of the portfolio,
32 and each of the laboratories probably shed two, three FTE
33 each during that period of time. As I said, by the time
34 I started there, that was almost three or four years
35 previous. I think we'd moved beyond.

36

37 Q. So when you say people would reference it, in what
38 sense would they reference that loss?

39 A. The reason why they had backlogs was because they had
40 staff cuts three or four years ago.

41

42 Q. It probably goes back to what you were discussing with
43 the Commissioner before, but doesn't the block funding
44 model put financial pressure regarding which samples are
45 tested or how many are tested in the lab - it really puts
46 that pressure squarely on the lab itself, doesn't it?

47 A. Look, I think the reality is - in part, yes, I don't

1 dispute that. If you've got a limited resource or
2 a contracting resource, it places pressure on your
3 organisation to be able to deliver the things it's doing.
4 This is not something, you know, unique to the DNA lab.
5 You know, it's right across the public service, and
6 certainly in hospitals and so forth we constantly hear
7 about the challenges of meeting the demand for services
8 with the budgets that they have.
9

10 So what that requires you to do is to think smarter
11 and look at alternative ways in which you can deliver your
12 services to meet your customers' needs in a potentially
13 lower-cost manner.
14

15 So there is an expectation that you look at your work
16 processes, you eliminate waste, you identify opportunities
17 to re-allocate resources from lower priorities to greater
18 priorities within your budget. These are things which are
19 incumbent in managing budgets.
20

21 Q. At the time that you worked at HSQ there was only
22 limited access to additional departmental funding?

23 A. Nobody had surplus moneys sloshing around. The
24 department itself was running a tight deficit budget, and
25 so what you needed to do was to budget in a harsher way,
26 shall I say, to allow you some capacity to really
27 prioritise the rest of your money into emergent or high
28 pressures. So the budget models basically said: "This is
29 the allocation you're going to get. Work it through. If
30 you've really got a pressure point you don't think you can
31 meet, pop a business case together and we'll see whether we
32 can fund it from whatever limited amount we've got for that
33 year to re-allocate."
34

35 Q. Were you ever brought a business case about the
36 potential increase in pressure on the lab due to the
37 impending change of process that was occurring in February
38 2018 with the switch --

39 A. No, I don't think there was, as yet, a proposition to
40 make a change in that case. We're talking about the
41 Workplace Edge proposition?
42

43 Q. No, I'm talking about the change of process --

44 A. Oh, the Option A, Option B?
45

46 Q. No. More that there was going to be a change of kit.
47 I'm just getting the detail. We've split these modules

1 somewhat, so I'm just getting the details sent to me, but
2 there was an impending change that was going to put
3 pressure on the lab --

4 A. Yes, the PP21.

5
6 Q. -- particularly on the analytical team?

7 A. Yes.

8

9 THE COMMISSIONER: Q. There was a change imminent in
10 which they were using a particular chemistry set for what
11 they call volume crime, which is the bulk of their work,
12 property crime, which is regarded as low priority, but it's
13 a mass of work, and they were using a particular chemistry
14 kit for that, and it became necessary to change the
15 chemistry kit for another one, and that other one, it was
16 anticipated, would involve a lot more work, for various
17 reasons, it would increase the time spent per sample, and
18 so there must have been concern at the time that their
19 backlog would blow out and other things would follow.
20 That's what Ms Reece is asking about.

21 A. Thank you, Commissioner. I'm aware of that, thank you
22 for reminding me or prompting me. It was actually in the
23 FSS business plan, if I recall, that that transition
24 process was under way, so I think it had started some time
25 earlier in 2017 in anticipation, because the stocks of the
26 previous kit were expiring - were exhausting.

27

28 Q. That's right.

29 A. So I was aware of that process being changed over, but
30 I was not aware that it was going to result in an increase
31 in workload arising. That was not brought to my attention.

32

33 MS REECE: Commissioner, I'm indebted to you for that
34 intervention.

35

36 Q. Mr Lok, the kit that was running out was the ProFlex -
37 Profiler, I'm sorry, and the PowerPlex 21 was going to be
38 used for P3 samples?

39 A. That's right.

40

41 Q. I think I may have got that first one wrong, but in
42 any case, there were two kits - one was running out, the
43 other one was going to be introduced - and you didn't
44 understand that the introduction of that second kit was
45 going to increase the work being done in the lab?

46 A. I didn't understand - it wasn't pointed out to me that
47 that was going to be a consequence of the change. I think

1 the key thing that was being brought to my attention was
2 that there was a lot of work in transitioning from one kit
3 to another and validations and those kinds of things, and
4 that the unit that was doing that had limited capacity to
5 do so. So it was more in context of a timing to make sure
6 that we got there before the supplies had been exhausted,
7 rather than it was then going to cost - take more effort to
8 test.

9
10 Q. So a change management challenge perhaps --

11 A. Sure.

12
13 Q. -- rather than a resourcing challenge in the long
14 term?

15 A. Sure. Mmm.

16
17 Q. All right. Thinking back to that 2017/2018 period, do
18 you recall what the deficit outlook was for Health Support
19 Queensland?

20 A. Yes, again, just reflecting over documents, it was in
21 the order of 8 to 10 million dollars that HSQ, midway
22 through the 2017/18 year, was forecasting. It appeared at
23 the time that the budget was actually set above the budget
24 allocation for some reason, and it was the expectation of
25 the CEO and the executive leadership team that we should
26 endeavour to bring the budget back into line.

27
28 Q. And that included an expectation that managers should
29 avoid any non-essential expenditure to bring you back in
30 line with the budget?

31 A. That's correct. I mean, by and large, we shouldn't -
32 we just needed to be a little bit more disciplined in what
33 we were spending money on, and if it was discretionary and
34 not necessary, then don't do it.

35
36 Q. Do you recall the particular budgetary position of FSS
37 at that time?

38 A. It was in surplus. I don't recall the exact amount,
39 but it was in surplus.

40
41 Q. What impact did that have on the following year's
42 funding arrangements or budget?

43 A. Again, the following year's forecast was similarly
44 a deficit outlook, with a tight budget guidance about what
45 the budget would be for the coming year, so the budget
46 methodology that was undertaken for the 2018/19 year, the
47 subsequent year, was to take the allocations - to take the

1 expenditure that was incurred by the business units,
2 whatever they had spent in that year, and use that as the
3 base for their budgets for the following year, on the
4 assumption that if you produce that level of activity with
5 that amount of money, that's what you're going to get for
6 next year to run the same level of activity for the same
7 amount of money.

8
9 And the consequence of that, obviously, was that the
10 surplus which FSS had at the time, which may have been due
11 to staff vacancies and other factors, or a higher amount of
12 revenue from some other sources, and so forth, was not
13 available to them, so they didn't have that resource
14 available to add extra staff in who may have been, you
15 know, not in the - gaps in recruitment.

16
17 THE COMMISSIONER: Q. Do you mean if they had a budget
18 of 100 and they had a surplus, they didn't spend it all,
19 they spent 80 of the 100 and had 20 left over, in the
20 following year, they'd be allocated, what, 80?

21 A. \$80 million would be their starting point and again,
22 with all budget processes, the opportunity to come back --

23
24 Q. I'm just using a made-up number, of course.

25 A. That's fine. But they had the opportunity to come
26 back if there were particular unavoidable pressure points
27 that they could not resource within that budget envelope to
28 seek funding for that. So as I described before, you have
29 a very tight budget, you allocate most of it as a baseline,
30 you keep back just a little bit so you can actually hit the
31 main priority pressure points that are identified in that
32 budgeting process.

33
34 THE COMMISSIONER: Thank you.

35
36 MS REECE: Q. Part of the reason why the FSS had
37 underspent was because of part-time work arrangements for
38 some employees?

39 A. Look, I think it's largely from gaps in recruitment
40 rather than part-time employment. I think the approach
41 that was taken with part-time employment was that when you
42 had two or three people returning from mat leave often and
43 on part-time arrangements, they might only occupy
44 a percentage of the full-time equivalent, and so the
45 balance of that, a temporary employee was employed to fill
46 that difference. So you still had - if you had four
47 positions, you still had four people, or the equivalent of

1 four people, working, but you actually had five people
2 doing it because four of them were only occupying the
3 equivalent of three full-time roles. Does that make sense?
4

5 THE COMMISSIONER: Q. Yes, you have a number of work
6 positions and you can fill them with one person for one
7 unit of pay or two people for one unit of pay?

8 A. Correct. Correct.
9

10 MS REECE: Q. Wasn't there also a practice at HSQ at the
11 time, where there had been a partial FTE dormant, for that
12 partial FTE to be absorbed into other work units?

13 A. I'm not aware of that.
14

15 Q. All right. In the time that you worked at HSQ, you
16 don't recall ever receiving a formal submission or business
17 case seeking actual operational funding for the DNA lab?

18 A. No, I don't. I did have a number of conversations
19 over probably two or three successive budget years, because
20 they were all tight; they were all really, really difficult
21 budget years, and the resourcing in various labs at FSS,
22 you know, each felt they needed additional resourcing, and
23 at the end of the day, the requirement, it's quite clear,
24 you need to put a business case together so we can actually
25 understand why you have that pressure, what you've been
26 able to do to try and address it, what some of the risks
27 are if we don't resource it, and what the resourcing
28 request actually is.
29

30 So it's just a budget discipline that you need to put
31 together so that you can actually consider that, because
32 it's not just the labs who were seeking additional funding,
33 it was maybe the health contact centre and maybe the linen
34 service. So there were different parts of the organisation
35 that each had their own pressures in meeting their budget
36 expectations.
37

38 Q. So it's fair to say that you had discussions with
39 executive directors and probably managing scientists or
40 that level, but you weren't receiving, then, that formal --

41 A. I then didn't get the propositions. So I think -
42 I believe I made it fairly clear about what was needed to
43 actually get additional resourcing, but I did not receive
44 the proposals. You know, I really didn't have the time, in
45 my role, to go and write business cases for individual --
46

47 THE COMMISSIONER: Q. No, it wasn't your function.

1 A. Mmm.

2

3 Q. But then assuming that extra work was expected, more
4 than previously, because of the introduction of this
5 different chemistry kit to a large part of their work, then
6 one thing that might have been done, if there was going to
7 be a backlog as a result, was to petition, by means of
8 a business case, to get more funding to cover the new
9 workload?

10 A. Yes.

11

12 Q. And the other thing was that, historically, from about
13 2005, police would pay \$3 million to the lab out of their
14 budget, and that sum hadn't increased ever, and indeed till
15 today, however many years it has been, it hasn't increased
16 from that sum. So an argument might have been presented to
17 increase the amount that police should contribute and ask
18 them to increase their budget?

19 A. I think that's a fair comment, Commissioner. I think,
20 you know, reflecting upon it, we may well have been able to
21 go to police, engage with them about the resourcing in the
22 lab, and put it to them exactly as you've described. We
23 didn't do that. We did consider, when we started
24 developing an MOU that we engaged the police on at a later
25 point, that that might be a first step towards that and
26 maybe put some of the resourcing matters into the MOU.

27

28 We did have a couple of conversations around that MOU
29 and we got a very clear impression that police really
30 didn't want this MOU to be about funding. So as we moved
31 forward, we tried to create it more so it was a document
32 about clarifying what those funding arrangements were, so
33 it was clearly said. But what we really wanted the MOU to
34 do was to set some targets and expectations in the MOU so
35 we both knew that the lab had a capacity to do 10,000
36 tests; that's how many tests you need to plan for and
37 manage within police.

38

39 Q. Now, that goes back to your earlier point, that if you
40 made it a fee for service, then the burden would be on
41 police to choose how much service they needed, and they're
42 in a pretty good position to make that judgment, since
43 they're the evidence-gatherers. I've heard the \$3 million
44 contribution by police expressed by police as "all you can
45 eat", like going to a buffet for \$10 and you eat as much as
46 they want. So they pay their \$3 million, and in return for
47 that they expect to have all the tests that they want done

1 done, and the burden is then on the lab.

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Now, the MOU was an attempt, without resorting to a fee for service model, to place some burden on the police to choose what degree of testing they required, taking into account the limited capacity of the laboratory. Was that the purpose of it?

A. Yes, that's correct. It was to be clear about what was possible, what the expectations were, and to put some articulation into that so that we both had the common understanding, but also to put some performance metrics in there, because I know that was an issue of concern for both the laboratory and for police. So, you know, it was a give and take. That's what an MOU is - it's two parties trying to have a common understanding about what the service arrangements were. In the absence of it, it's not very good.

Q. Yes, yes, I'm beginning to understand the issue. So on the one hand, there is potentially unlimited demand by police but limited capacity, so one has to reach a position, either through a financial model or by bargaining through an MOU, to temper the demands of police to reflect the capacity of the laboratory, and so the effort undertaken to achieve a memorandum of understanding was directed specifically to that?

A. Yes.

Q. But can you give me a time frame - when was the MOU - when did you begin in general, '17 or - just after you started, was it?

A. Yes, it was after I started. There had been conversations about getting an MOU with police probably for years prior to my arrival, and then a view that police weren't interested in an MOU, which - I don't know whether that's true or not.

Q. Well, all you can eat - why would they be?

A. In earnest, I guess probably by mid-2018 we started on the journey. It was around - not long afterwards that the Queensland Audit Office commenced their audits of initially the coronial system and then the forensic system, and in the forensic system they identified really there were gaps in coordination, common understandings for planning purposes and so forth. And from our perspective, it was exactly what we were trying to achieve through the MOU. So certainly in responding to the QAO's recommendations around

1 improved governance, we highlighted the fact that we'd
2 started this journey on an MOU and we saw that working
3 towards putting in place a governance structure to
4 oversight what was actually occurring.

5
6 Q. So, to put a time on it, you were working on that when
7 the Queensland auditor made his report?

8 A. We had already commenced starting it.

9
10 Q. And you still worked on it?

11 A. Sorry?

12
13 Q. And you worked on it thereafter?

14 A. It had its ebbs and wanes in terms of priority and
15 progression, but certainly we had a draft together before
16 the audit office --

17
18 Q. I think I've seen a draft, but you obviously never
19 reached a conclusion?

20 A. No, it was a little frustrating. I think we did get
21 agreement in principle with the police at a liaison group
22 meeting that we'd organised around the need for it. The
23 proposition of developing an MOU I worked up with
24 Commissioner McCarthy, I think, who was the then assistant
25 commissioner for the support command. He was very
26 supportive of doing it. He left the service due to ill
27 health and there was a temporary arrangement and others
28 took on afterwards. I just didn't get a sense that there
29 was the same momentum for an MOU at that point, and then,
30 sadly --

31
32 Q. Who on the Queensland Health side was involved in the
33 process?

34 A. I was driving the process.

35
36 Q. Yes.

37 A. Paul Csoban probably left by that stage, so by the
38 time - Craig Russell may have been around, but probably
39 John Doherty, when we were really trying to get an
40 agreement progressed, was the executive director, and
41 Cathie Allen would have been involved in supporting the
42 development of a schedule. So the idea was the MOU would
43 be a head agreement, high-level stuff, governance,
44 collaboration, those sorts of elements, with individual
45 schedules detailing what the arrangements would be for DNA
46 testing, for forensic chemistry, and so on.

1 Q. But it was being done at the executive director level?

2 A. Well, I probably was driving it, Commissioner.

3

4 Q. Yes, I see.

5 A. And I had engaged, through our legal department, Crown
6 Law to actually do the drafting on the MOU.

7

8 THE COMMISSIONER: Thank you. Ms Reece, sorry.

9

10 MS REECE: Thank you, Commissioner.

11

12 Q. Mr Lok, I understand from what you've just said that
13 there was quite significant discussion between yourself and
14 QPS about the development of the MOU, and that was in the
15 aftermath of the Queensland Audit report in 2019; is that
16 your recollection?

17 A. So we had a number of conversations. We did meet and
18 present the draft, which we'd emailed obviously prior to,
19 and that had been referred off to police's legal
20 department, but the indication we got from I think it might
21 have been Assistant Commissioner Chelepy at the time, or
22 possibly Superintendent McNab, was that they were generally
23 agreeable to the principles - so in principle were agreed
24 with the MOU, but finalising it I think was - it just
25 didn't get finalised, and certainly once the pandemic
26 stepped up in early 2019 [sic], police priorities were in
27 other places. So we respected that and we didn't press
28 hard to try and progress the MOU.

29

30 Q. During those discussions with police, though, did the
31 discussion turn to the funding model?

32 A. I think police's view was that the MOU should not be
33 about funding. And our view was it needed to have some
34 funding elements in it, but in the schedules, so that there
35 was a common understanding about what the financing was for
36 those particular elements of program.

37

38 Q. When you say it was their view, that means that you
39 did broach the topic with them and that their response
40 was --

41 A. That it was - it was not put as a specific item. It
42 just came up in the conversation. It was the sense that
43 I got from the conversation. It wasn't a specific
44 conversation about funding arrangements. It was just that
45 they did not see this as being an MOU, like a service
46 agreement with a price for a quantity per se.

47

1 Q. And did you get a sense of whether there was any
2 appetite on the part of the police to pay more for the
3 service that was being provided?

4 A. I didn't get a sense either way on that, although -
5 no, I didn't get a sense either way on that. I don't think
6 the police had a lot of extra capacity to purchase more
7 services.
8

9 Q. How are you aware of that?

10 A. I guess it's just an observation or a conclusion.
11 I don't have any basis for making that statement, other
12 than our own pressures on budgets.
13

14 Q. Sure. The general across-government pressure that you
15 were talking about before?

16 A. Yes.
17

18 Q. I understand. You did have discussions from time to
19 time with John Doherty, for example, about the DNA lab in
20 particular around workloads and backlog testing and the
21 pressures that that was placing on staff, and encompassed
22 in that is the concept of a turnaround time; is that
23 accurate?

24 A. Yes.
25

26 Q. Laboratory management, or the DNA lab management - the
27 solution that they were suggesting was that additional
28 funding was required?

29 A. Correct.
30

31 Q. That's true, isn't it?

32 A. Yes.
33

34 Q. And you recall these references to previous budgetary
35 cuts or loss of staff, but you say that the difficulty here
36 was that no formal request was made for assistance; is that
37 right?

38 A. That's right, because, as I described previously, if
39 there's a pressure in a business area that's unable to be
40 resourced, it needs to be documented in a business case.
41 It's a discipline to make sure you're very clear about what
42 your needs are and that you've understood that you don't
43 have alternative options, or if there are alternative
44 options, there may be particular consequences of those.
45 But it gives the opportunity for it to be considered
46 amongst other priorities for extra resourcing.
47

1 Q. The message that was being sent to not just the DNA
2 lab manager but all FSS managers was that they needed to
3 look within to find efficiencies?

4 A. Yes.

5
6 Q. To recoup costs from clients where possible, which
7 isn't really quite this model, but to eliminate unnecessary
8 costs and waste. So it's really asking them to --

9 A. That's the messaging that was provided. It's part of
10 the discipline of good management, and particularly in more
11 challenging budget times. Again, it wasn't just the DNA
12 lab. So the public health labs were seeking additional
13 funding for various functions and activities. The same
14 applied to them. The coronial services had budgetary
15 challenges and pressures. The same applied to them. It
16 required you to actually look back at what you're doing,
17 identify what you actually need to deliver, look at ways -
18 so, you know, the re-allocation of resources, there was
19 some success from identifying roles which were currently
20 not filled in other parts of the organisation that were
21 support services or something of that area, that perhaps
22 they didn't really require or it wasn't as great
23 a priority, and so that resource funding could be diverted
24 into areas of priority within the budget. So there were
25 examples of that.

26
27 There were examples where waste was found in the
28 budget, and that was, again, a saving that could be applied
29 elsewhere. So there were a number of items found that
30 could be saved in the budget.

31
32 And at a later point, FSS introduced solar panels onto
33 the roof using a capital investment to actually find ways
34 of saving on their power consumption and generate some of
35 their own electricity, which saved money on the budget. So
36 there are ways in which you can do that to actually find
37 efficiencies and savings in your budget to meet your own
38 pressures.

39
40 If you can go no further and you can't redesign what
41 you're doing in a way that actually will succeed and you
42 can't find a new instrument which processes more at one
43 time and makes a workplace saving, then you need to put
44 your submission through to sort of say, you know, "To
45 achieve the clients' outcomes without these risks
46 occurring, we need this requirement."
47

1 Q. At that time, within the lab or imposed on the lab,
2 though, as part of those broader principles that you're
3 talking about, there was an expectation, wasn't there, that
4 they should look at or review workflows, systems and
5 processes to see whether there could be efficiencies
6 achieved?

7 A. Sure. Yes.

8

9 Q. Looking back on that period, that's at least one of
10 the factors that was at play, wasn't it, in January 2018?

11 A. I don't dispute that. I think in my evidence I said
12 previously - although I never saw the reports and so
13 forth - I think it's meritorious that people are looking at
14 their practices and so forth to ensure that they're
15 actually (a) efficient and (b) meeting the customers'
16 needs, the clients' needs. So the concept of doing work to
17 actually see if there's a different way of doing something
18 and achieving an effectiveness is meritorious. How you get
19 there and what you do about it are different things.

20

21 Q. One of the inherent challenges in taking that approach
22 in a workforce or in a workplace like the DNA lab at the
23 time is that it is premised somewhat on working
24 relationships being functional within that work unit?

25 A. I think if you're going to make significant changes,
26 you do need to engage your workforce in a process, which
27 the Workplace Edge process was endeavouring to do.
28 Otherwise you will not achieve a successful change process,
29 yes.

30

31 Q. And what was your impression of the ability of the DNA
32 lab, as a workplace, to engage in that kind of change at
33 the time?

34 A. Look, at the time, back in 2017/18, I didn't have
35 a detailed understanding of the workplace relationships and
36 interpersonal conflicts, and so forth. I was aware of and
37 involved in one of those more complex case matters, but
38 I didn't have a feel for the entire workplace until
39 probably middle of 2018, after I returned from my leave
40 break, and got a clearer picture or a sense about some of
41 the challenges that the lab had in place. And I guess that
42 was starting to emerge following the first phase of
43 Workplace Edge's work as well, that there were some serious
44 issues in that laboratory that needed to be dealt with
45 before you could actually do anything about making change.

46

47 Q. I'll ask you some questions about that in a moment.

1 A. Sure.

2

3 Q. I'll just ask a few final questions about the
4 budgetary or funding considerations. No, I think I've
5 covered that, Mr Lok, so I'll move on to Workplace Edge.

6

7 Workplace Edge was a consultancy group?

8 A. Yes.

9

10 Q. That was engaged by HSQ?

11 A. Correct.

12

13 Q. They were engaged to support a plan to re-integrate
14 Ms Amanda Reeves to her substantive position?

15 A. They were engaged to do a number of things, but there
16 were two parts to the process. The first part was mostly
17 centred around re-establishing Ms Reeves back into the DNA
18 laboratory, where she had been previously temporarily
19 placed into another role; and then, secondly, to work with
20 the staff to develop - to look at opportunities for
21 organisational structural change that may enable the
22 laboratory to be more productive, more efficient and
23 support staff better.

24

25 Q. You were involved in liaising with the consultants,
26 Workplace Edge?

27 A. Yes. I had no involvement in the selection of the
28 consultants, but once they were engaged I became their
29 principal point of contact, as the chief executive who had
30 actually appointed them exited HSQ that same week. So
31 I had carriage of the project and its implementation and
32 monitoring the implementation of that project.

33

34 Q. What was the plan with that first stage of the work
35 that they were doing, the re-integration of Ms Reeves?

36 A. So as best as I can recall, the approach involved
37 a number of discussions, interviews with Ms Reeves and the
38 members of the DNA management team to get an understanding
39 of what the issues, what the challenges were, what barriers
40 might be there for that re-integration, and then to look at
41 protocols and processes that could be put in place to start
42 to build a day-to-day relationship that would enable her to
43 be productive in her role and continue to participate, and
44 then idealistically, perhaps, in retrospect, to work to
45 build - to do some team building amongst that group,
46 because Amanda Reeves, of course, was one of the
47 supervisors and a member of that management tier.

1
2 THE COMMISSIONER: Q. What was the problem, why did she
3 need to be re-integrated?

4 A. Because prior to my arrival, I understand that
5 Ms Reeves was removed from her regular role and placed in
6 a temporary role, and it came to bear that - again, my
7 understanding - that the department - she had complained
8 recently to the department that due process hadn't been
9 followed and that her concerns were not being --

10
11 Q. Do you know why she was removed from her usual role?

12 A. I did read a lot of material after I commenced in the
13 job, and I think within the first few days I requested from
14 Shaun Mulholland some documentation around what the
15 circumstances of Ms Reeves' previous circumstances were.
16 So, yes, I have a broad understanding of that.

17
18 Q. What is your understanding now, do you recall?

19 A. Yes, Ms Reeves had concerns regarding some of the
20 scientific processing in relation to --

21
22 Q. Sperm microscopy?

23 A. -- sperm microscopy. Project #181, I think it was,
24 and didn't believe that her concerns were being adequately
25 addressed. She had elevated her concerns through the
26 organisation to the director-general, I believe, going by
27 memory, and had also lodged a PID, public interest
28 disclosure, in relation to her concerns. There had also
29 been a workplace incident involving Mr McNevin, which
30 Livingstones had undertaken a workplace review of to see
31 whether there were disciplinary actions that should be
32 taken as a consequence of that, and that was unresolved
33 from Ms Reeves' perspective.

34
35 And so for a number of these reasons, I presume - and
36 I think the concern that Ms Reeves' view about the
37 scientific process which had not - which did not conform
38 with the laboratory's view of the scientific process meant
39 that she wouldn't be able to continue in her role as
40 a reporting scientist until that situation had been
41 resolved, and so therefore she was assigned alternative
42 duties, I think.

43
44 Q. So leaving aside the Mr McNevin issue, you understood
45 she had raised an objection to certain technical processes?

46 A. Correct.
47

1 Q. And, as a result, management came to the view that
2 while she held those views, she could not continue in her
3 normal role?

4 A. Correct, that's as I understood it.

5
6 Q. Yes, thank you.

7 A. So as a consequence of that, I understand the
8 department's HR department was asked to look into the
9 matter, after it had been referred to the director-general,
10 found that those industrial processes around the treatment
11 of Ms Reeves and her placement in that role was
12 inappropriate, and that she should be returned back to the
13 workplace, which is why I think the previous CE sourced
14 a consultant to assist with a re-integration project, and
15 that's when I commenced at HSQ, once we'd reached that
16 point.

17
18 MS REECE: Q. Not to labour the point, Mr Lok, but when
19 you say "inappropriate", the decision-maker involved in the
20 placement of Ms Reeves in that different role was
21 Paul Csoban, wasn't it?

22 A. I believe it was, yes.

23
24 Q. And Paul Csoban was very much involved in the
25 engagement with Workplace Edge?

26 A. I think he was involved in the process, because, for
27 me, it was a project around - it's his division, his
28 business group; it was also a project around getting the
29 management team to accept and understand that Ms Reeves had
30 a right to be employed in the role that she was supposed to
31 be in, and this project was about getting that to occur and
32 improving, or at least getting protocols in place to
33 improve, the relationships between all players in that
34 thing.

35
36 So, yes, I was aware - actually, I wasn't specifically
37 aware at the time that Paul had made that decision himself,
38 but certainly I was aware that he had views about
39 Ms Reeves' history that may have, you know, not been ideal.

40
41 So I ran the project largely from my office, rather
42 than through his office, but he was involved because he was
43 one of the managers, senior managers, in FSS that needed to
44 work in an environment with Ms Reeves returning into her
45 workplace, so he had to be part of the solution.

46
47 Q. So the idea was not that he would lead it but that he

1 had to be part of it in order for it to have effect?

2 A. He had to, yes.

3

4 Q. He did then, though, have to take carriage of it in
5 your absence at a certain point?

6 A. Yes. No, look, I think in retrospect, this is
7 probably something I could have anticipated and taken
8 action on, but I took unplanned leave at very short notice
9 and probably didn't have enough time to organise all the
10 loose ends that should have been done. So I suspect
11 Workplace Edge migrated to Mr Csoban for direction as they
12 were progressing through the project.

13

14 Q. And from your perspective, he had some views about
15 Ms Reeves which you thought were - I can't remember the
16 word you used?

17 A. Look, I don't think he had the most fond view of
18 Ms Reeves, but I think he accepted that action had to be
19 taken, the action that was being taken needed to be
20 performed. I don't think he was necessarily aware of the
21 department's views as to why that needed to be done, but he
22 was being directed that, "This was going to occur and you
23 needed to be on board with achieving this."

24

25 Q. When you did go on leave, you had already received
26 a draft organisational review?

27 A. Yes.

28

29 Q. If I could just ask Mr Woolridge if document
30 [FSS.0001.0083.4017] could be shown, please. Scroll down,
31 Mr Woolridge, to the first organisational chart, which is
32 on page 2, and just highlight or zoom in on that chart
33 there. Mr Lok, can you see that in front of you on the
34 screen?

35 A. I can.

36

37 Q. You may not be intimately aware of it, but that was
38 the chart, the organisational chart, in January 2018?

39 A. Yes.

40

41 Q. You may recall that the managing scientist was an HP7?

42 A. Correct.

43

44 Q. And then the two team leaders underneath were HP6s?

45 A. Correct.

46

47 Q. With six HP5s?

1 A. Correct.

2

3 Q. And a large number of HP4s and HP3s underneath that?

4 A. Correct.

5

6 Q. Mr Woolridge, could you please go to page 6 of that
7 same document, and again the same plan. Do you recall this
8 particular table, Mr Lok, one of the proposed restructures
9 of the work unit?

10 A. Yes, I do. I do. Look, I do recall this paper, I do
11 recall seeing it prior to going off on leave. It was
12 consistent with the terms of reference of what the
13 consultants were asked to do. It was perhaps a bit
14 premature, and in the meeting that we had with the
15 consultants at the time, we focused very much around the
16 fact that we needed to actually provide feedback to staff
17 on the observations from the consultations and interviews
18 that they had actually performed prior to Christmas to
19 validate that, to ensure that we were actually on the same
20 page and start to build the workforce and that we should
21 not, should not, be presenting options and charts and so
22 forth for them to consider, because we actually want staff
23 to have a voice and a say in what may follow.

24

25 So they were certainly engaged to do some work around
26 organisational structures and so forth, but at this point,
27 that was not to be part of the work that they would take
28 forward to the workplace at this time. This was their
29 ideas coming from their observations of what they had
30 undertaken.

31

32 Q. This was sent to you --

33 A. About the 10th, I think it was.

34

35 Q. -- 10 January?

36 A. Yes.

37

38 Q. And the results of the consultation with staff were
39 presented on 23 January?

40 A. I thought it was about the 18th, but, yes, at a later
41 point, yes.

42

43 Q. So your expectation of this process would have been
44 that this organisational review would have occurred after
45 the process with the staff?

46 A. Yes, look, I don't - I wouldn't have had - and
47 I didn't necessarily have a problem with the consultants

1 coming up with some formulated ideas at this time. I mean,
2 that's not a - it's perfectly fine, but it wasn't actually
3 the time, nor were we making choices about options at that
4 stage.

5
6 To be fair, at the time, I probably didn't have a full
7 appreciation of what you're showing on the screen now,
8 about the streams and the different stages. I knew - I had
9 a broad idea about the different stages of DNA testing, but
10 not the three streams on the left-hand side in the column -
11 in the rows. But at that point, that wasn't the issue.

12
13 The issue for me was we needed to give the staff
14 feedback on what the consultants heard from them in a way
15 that staff would then say, "Yes, that makes sense, that
16 sort of resonates with us", and we could then sort of say,
17 "Okay, so where do we go from here? What are some things
18 we could do to address some of these things and actually
19 make some improvements?" And then perhaps at a later
20 point, some of these ideas could be floated and they may
21 resonate, they may fall in a terrible heap and burn. But
22 that's the process of engaging with the team to do that --

23
24 THE COMMISSIONER: Q. So what you expected was that
25 through interviews with staff, they would identify the
26 issues as they existed?

27 A. Yes.

28
29 Q. From people in a position to do that, rather than
30 people festering with these issues. Somebody, having
31 spoken to them all, would identify the issues and
32 crystallise them?

33 A. Yes.

34
35 Q. And then the next stage would be to confront those
36 issues and address them, which would require another stage
37 of dealing with communications with staff in some way, but
38 first you identify the issues, you write down what they
39 are. I guess then to confront them, you put them to staff
40 to see if they agree that they are the issues. But it
41 doesn't matter about what I think about the next process.
42 What matters is that you were being looking at the
43 identification of the issues and addressing the issues as
44 they are, and if, later, it emerged that a restructuring
45 should be part of addressing those issues, well, that's
46 a good thing to look at and that could be considered, but
47 you don't do it ahead of time.

1 A. Yes. Correct. That's as I would view it,
2 Commissioner.

3
4 Q. I understand.

5 A. I didn't have a problem that they were starting to
6 think about possible solutions, and so forth, but we really
7 needed to get some validation back from the workforce and
8 then try to involve them in this next step of coming up
9 with their thoughts about, "Well, what could be done about
10 it?"

11
12 Q. Validation from the workforce - by that, you mean that
13 once the issues have been identified by the external
14 consultants, it's necessary to discuss them with the
15 workforce to ensure that the final crystallisation of the
16 issues is accepted by everybody?

17 A. Exactly, Commissioner, and that was the purpose of
18 the - was intended to be the purpose of the presentation
19 that took place, 18th or the 23rd or whatever date it was.

20
21 Q. To get consensus?

22 A. To get - that people actually said, "Yes, those are
23 the set of issues and so forth that we think are correct."
24 It sort of says, "Yes, we've been heard. Okay, how can we
25 now move forward from this?"

26
27 Q. I understand.

28 A. So that was the kind of concept, I think.

29
30 THE COMMISSIONER: That makes sense, yes.

31
32 MS REECE: Thank you, Commissioner.

33
34 Q. Mr Lok, when you first saw this draft report, I think
35 you've said in your evidence now that maybe it wasn't until
36 later that you appreciated the implications of some of what
37 was said in it?

38 A. Yes, I think I had been at HSQ for only a couple
39 of months at that stage, and so the nuance of exactly how
40 the major crime was worked wasn't all that familiar to me.
41 In some ways it didn't have to be, if a solution was found
42 which actually involved the workforce to come up with ideas
43 and solutions. So just looking at that in retrospect, it's
44 probably not something I would have at the time had
45 a fulsome understanding of or appreciation of, the notion
46 of case management versus production line processing.
47

1 Q. The implication of this flow chart or this
2 organisational chart here is, isn't it, that rather than
3 being teams of evidence recovery, analytical and reporting,
4 for example, the teams were then restructured under crime
5 types?

6 A. Yes.

7
8 Q. With officers fulfilling those different roles
9 underneath the leadership of an HP6?

10 A. Yes.

11
12 Q. Mr Woolridge, if you could zoom out again and down to
13 the "Implications", which is the next paragraph, Mr Lok,
14 the reduction in supervisors - we looked at an
15 organisational chart before where there were six HP5s?

16 A. Mmm-hmm.

17
18 Q. The reduction here was down to five HP5s. Your
19 understanding at the time was that Ms Reeves was an HP5
20 senior scientist in the reporting team?

21 A. Yes.

22
23 Q. Did you have any understanding at any stage that there
24 was a plan to make Amanda Reeves' position redundant?

25 A. I don't believe that was the approach that the
26 consultants were taking here. I think they took on board,
27 from some of their feedback that was written in their
28 report, that there was a sense from the staff that there
29 was perhaps too many managers for the number of staff
30 involved. They also looked, as I recall, in the roles of
31 the reporting scientists versus intelligence and the
32 potential opportunities to integrate those two,
33 particularly with some of the challenges that they were
34 having in the workforce in the intelligence group in terms
35 of the numbers of people. And so a solution could be found
36 which might address those and so they had those themes
37 I think in their thoughts. I genuinely don't think they
38 were targeting Ms Reeves to sort of say, "Let's build
39 a strategy to eliminate Ms Reeves from the structure."
40 I don't believe that was the case.

41
42 Q. When you went on leave, you asked Paul Csoban to
43 involve Theresa Hodges prior to the engagement with staff,
44 the presentation?

45 A. Did I ask him to talk to Theresa? I don't recall
46 specifically. I know she was - she did see the
47 presentation. I don't know whether it was because I had

1 requested that. I may have done. I don't know.

2

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I was concerned - looking at the presentation that was given, was the fact that the consultants picked up basically the items almost verbatim from the report and dropped them into presentation slides. That's not how - that shouldn't have - they should not have done that. They should have interpreted those things for the audience that they were about to engage with and adjusted it accordingly, and I don't think they did that and I think that set a bad tone.

Q. It has a tendency, don't it, to potentially identify people within a small workplace?

A. Yes, it does, yes.

Q. And to leave individuals feeling targeted?

A. Yes.

Q. So you're aware that there was some interaction between Theresa Hodges and Paul Csoban prior to the presentation being made?

A. Yes, looking back at my emails - I was on leave at the time, but looking back, I could see that there was an exchange of emails between Theresa, possibly the CE and Mr Csoban about the proposed presentation.

Q. And you're aware that in the aftermath of that presentation, Ms Reeves, Ms Rika and Ms Caunt, among others, each expressed their concerns about the presentation in various ways?

A. I'm aware that those are the three that I was copied in to or directed - emails were directed to me whilst I was on leave. I didn't review them at the time, but I was certainly contacted about them in the day or two following, probably from Andria Wyman-Clarke, who'd been asked by the CE to look into those particular complaints.

Q. By the time you arrived back from leave, Ms Wyman-Clarke was fulfilling that role and Workplace Edge were no longer undertaking that work?

A. Yes, I think we reached a consensus that we'd probably done more damage through that presentation than the value that we had obtained prior to that, that we needed to have a culture in the group - needed to address some of the culture issues in the group before we could actually constructively take change forward, and so Andria undertook

1 to prepare a bit of a plan around how we might address some
2 of the culture challenges, and we'd be best if we paused
3 and then stopped the Workplace Edge consultancy.
4

5 Q. After that point, did you have any discussions with
6 Paul Csoban, Cathie Allen or anyone at the DNA lab about
7 implementing any organisational change that was mooted in
8 that draft review?

9 A. Look, I don't recall that, other than, you know, for
10 me, we had closed the consultancy. It was quite clear that
11 we couldn't move forward with workplace change in that
12 environment, so any of the propositions that were put in
13 this draft report prior to my taking leave, we couldn't
14 progress those.
15

16 Q. And you're aware that in the aftermath of that,
17 a psychologist was engaged to provide counselling and
18 support to some staff members?

19 A. Yes, I believe that was the case.
20

21 Q. And that was coordinated through human resources?

22 A. Yes, yes.
23

24 Q. I'm sorry to go back slightly in time - I'm sure
25 you'll be glad to know I'm almost finished. If I can go
26 back to - this is prior to you arriving at HSQ, but you
27 were aware of a New Zealand lab reviewing the process that
28 Ms Reeves was concerned about?

29 A. Correct.
30

31 Q. And did you read that report yourself?

32 A. I did. Again, I was very new to the organisation and
33 didn't have a strong understanding of the science involved,
34 but, yes, I did.
35

36 Q. Were you given to believe that it had addressed the
37 concerns that Ms Reeves had been expressing?

38 A. Yes, that's the impression I took from it, that they
39 had asked for our process to be reviewed by ESR, I think it
40 was, or ESC.
41

42 Q. ESR.

43 A. ESR, and that ESR had formed the view or provided an
44 opinion that the process that we had in place was adequate.
45 Again, I wasn't completely across the nuances of Ms Reeves'
46 concerns specifically about that process, but I assumed -
47 maybe it's an assumption I shouldn't have made - that they

1 were aware of the reason why we had asked for that review,
2 rather than it just being, "Can you do a review for us?"
3 It may have made a difference in terms of their thinking
4 about the approach that they might take.
5

6 Q. And again, your reading is somewhat down the track?

7 A. Yes, I got the report - not that late down the track.
8 I think I got it not long after I started and I was
9 progressing the Workplace Edge commencement, I sourced -
10 sourced documents. It may have been amongst those. But
11 I did get it at a reasonably early stage, I think, and it
12 was also the subject of an RTI at a later point as well.
13

14 Q. So at the time you were progressing the Workplace Edge
15 consultation or consultancy, your understanding was that
16 that report had addressed the concern that she raised?

17 A. That's right, I got the - I formed the view that, you
18 know, she had raised concerns, which she's entitled to do
19 and I think is a healthy thing to do. It may not have been
20 handled well, what her concerns were internally within the
21 organisation. She raised those issues further in the
22 organisation to get redress on those. A scientific review
23 was undertaken by ESR. The workplace incident was
24 undertaken, an investigation was done and found, I think,
25 that the matters could not be substantiated. So I guess
26 I had formed the view that she'd raised concerns, they'd
27 been investigated, they were found not to be valid, so we
28 needed to now move on.
29

30 Surprisingly, not every complaint which is not found
31 substantiated is satisfactory to the complainant. It's
32 a reality that many aren't satisfied with those processes.
33 You know, the better the investigation, the better the
34 feedback, the better the outcome. Sometimes when people
35 have been taken through that process, understand what
36 you've done and why you've reached those conclusions, they
37 may still not agree with you, but they'll accept it. But
38 if they don't know why, they don't have the details - and
39 I understand again, reflecting upon this, Ms Reeves wasn't
40 given details about the ESR review at the time, wasn't
41 given a copy of the Livingstones report, not that that's
42 commonly done. She may well not have understood, not
43 appreciated how the investigations were undertaken and
44 rightly didn't believe her matters were addressed.
45

46 Q. Just a couple of questions arising out of that. Is it
47 your understanding that Ms Reeves was never shown a copy of

1 the ESR report?

2 A. I suspect, I don't know, but I suspect she may have
3 been the applicant for the RTI to get a copy of it.

4

5 Q. So she might have seen it later?

6 A. Yes.

7

8 THE COMMISSIONER: Q. But she was never offered it?

9 A. No, and in hindsight, you know, we would could have
10 made an administrative release of that report, redacted, of
11 course, appropriately, to alleviate that concern and
12 I think that was done later when, having released that
13 RTI - and once an RTI is released, it gets published,
14 another workplace person sought one of those documents, and
15 that was administrative --

16

17 Q. What was the hesitation in giving her a copy of the
18 ESR report?

19 A. I don't know.

20

21 THE COMMISSIONER: Thanks.

22

23 MS REECE: Q. To be fair, again, Mr Lok, that was before
24 you started in your position?

25 A. It was.

26

27 Q. Were you aware that it was Paul Csoban, assisted by
28 Cathie Allen, who engaged ESR to carry out that review?

29 A. I would suspect that was the case.

30

31 Q. And has it ever been suggested to you, Mr Lok, that in
32 fact ESR were not briefed with the issue that Ms Reeves had
33 actually raised?

34 A. No, I wasn't aware of that prior to the Commission,
35 no.

36

37 Q. You're aware of it now?

38 A. Yes.

39

40 Q. When you talk about Ms Reeves not being satisfied with
41 the outcome of a process, you've also said in your evidence
42 that there was this period where she had been placed on
43 different duties, and I think your assessment of that was
44 that that had been a wrong action or an unfortunate action
45 that had been taken; is that correct?

46 A. Yes, look, commonly when you get a workplace dispute,
47 an incident, and someone feels that they've been aggrieved

1 by another party, particularly in harassment cases and so
2 on, you don't usually take the person who is the alleged
3 "victim" out of the workplace. You normally actually take
4 the alleged "perpetrator" temporarily out of the workplace
5 so that you can sort out the problems and so forth. So
6 it's an unusual step to do the reverse. It's not never
7 done, but it's rarely done, and in this case it wasn't done
8 with the support of the employee. So sometimes you do it
9 because the employee actually wants safety and so therefore
10 you move them into another role whilst processes are
11 undertaken. In this case, it was quite clear I think, from
12 my readings, that Ms Reeves didn't particularly want to be
13 removed out of that workplace, but she was.

14
15 Q. You've spoken before about the concern that she might
16 be going to court, I think, going to give evidence, at
17 a time when she had concerns about the process?

18 A. Yes, I think the logic, as I recall it being explained
19 to me, was along the lines that she's a reporting
20 scientist, if she's asked in a court case about explaining
21 the process, and so forth, and says that she doesn't agree
22 with it or undermines the policy, that whilst that may be
23 relevant in that particular case, it may bring into
24 question the DNA testing across all cases being presented
25 by the laboratory.

26
27 So until such time as that had been either validated
28 or not validated, it was probably unwise to place her in
29 a role where she may be exposed to that kind of inquiry.
30 So I think that was the line of reasoning that was
31 explained to me.

32
33 Q. That was coming from Paul Csoban, wasn't it?

34 A. I don't know where I - I may have read it, it may have
35 been explained to me by Paul, it may have been explained to
36 me by Gary Uhlmann. I don't recall where I got that from,
37 but that's as I understand it.

38
39 Q. The chain of logic there is that this is a woman who
40 goes to court to report on DNA cases in criminal trials?

41 A. Correct.

42
43 Q. That she has raised a concern which has been addressed
44 by a report; that was the second step?

45 A. Yes.

46
47 Q. She doesn't accept or is concerned about that report

1 and is therefore still a risk; was that the chain of logic
2 that was being conveyed to you?

3 A. Again, this occurred prior to my arrival, so I'm not
4 exactly sure of all the details that occurred, but I think
5 it's along those sorts of lines. Looking back at it, you
6 could say, how many cases does a reporting scientist
7 actually testify at, because it's not every case, and in
8 those cases, what's the likelihood that the methodology
9 issue that she had concerns with would even be raised in
10 a court case? I don't know the answer to that, so --

11

12 THE COMMISSIONER: Q. Because some cases might not
13 involve sperm microscopy?

14 A. Correct.

15

16 Q. So there's nothing to be asked about?

17 A. Correct. It may - if I understand, and again - it may
18 be that those cases would never have even been at a court
19 case that she had concern about.

20

21 Q. Yes.

22 A. So I don't know how significant that risk really was,
23 but again, I wasn't there at the time, I wasn't
24 a decision-maker in that process.

25

26 MS REECE: I understand. Thank you, Mr Lok.
27 Commissioner, that's the evidence of Mr Lok.

28

29 THE COMMISSIONER: Thank you. Mr Hunter?

30

31 <EXAMINATION BY MR HUNTER:

32

33 MR HUNTER: Q. Mr Lok, I act for the Queensland Police
34 Service. Can I ask you about the memorandum of
35 understanding, and I'm particularly talking about the
36 memorandum of understanding concerning crime scene samples.

37 A. Mmm-hmm.

38

39 Q. You saw a draft of that memorandum of understanding?

40 A. Crime scene samples?

41

42 Q. Yes. This is the one you were talking about before.

43 A. The one we were proposing to develop?

44

45 Q. Yes.

46 A. Yes, I've seen a draft of it, yes.

47

1 Q. Am I right that the draft version contained some
2 general provisions but then also some provisions that
3 referred to some annexures that were going to set out --

4 A. Correct.

5
6 Q. -- pricing and performance criteria?

7 A. Correct. It was a head agreement with schedules that
8 could be attached at any time or taken off at any time.

9
10 Q. You tasked Ms Allen with providing some detail around
11 those schedules?

12 A. We drafted the head agreement first and got it to
13 a point - and we sort of got a bit stalled, so I gave
14 instructions to John Doherty to proceed to start drafting
15 a schedule for DNA so that we could actually start to
16 engage with Superintendent McNab around what that content
17 might look like.

18
19 Q. But was the task given to Ms Allen --

20 A. He would have given it to Ms Allen.

21
22 Q. Because one of the things you would need to know,
23 I suppose, would be, well, (a) what does it cost to run
24 this lab for a given period? You're nodding - you agree?

25 A. Look, at that stage it wasn't about repricing
26 everything they did. It was about those activities that
27 were undertaken. And, yes, pricing - if you're going to
28 put a price in - again, I don't know what the price was
29 that was being paid for those reference samples, but that
30 would have been probably the starting point. A pricing
31 study probably would have been helpful.

32
33 Q. Well, there was in place a memorandum of understanding
34 with respect to reference samples.

35 A. Okay.

36
37 Q. But I'm talking about this other one --

38 A. Sure.

39
40 Q. -- that you have referred to. What I'm suggesting is
41 that it would have been helpful to know what the lab's
42 throughput was for a given period?

43 A. Yes.

44
45 Q. And also its capacity - that is, what was it capable
46 of doing in a particular period?

47 A. That would be helpful, particularly if the

1 expectations of the customer exceeded the expectations of
2 the lab, yes.

3
4 Q. Were you aware that the QPS had been - I'll rephrase
5 that - that the QPS had, on a number of occasions, asked
6 Ms Allen to tell the QPS what the lab's capacity actually
7 was?

8 A. I don't know whether that's - I'm not aware of that,
9 although it wouldn't surprise me if there had been
10 conversations between the lab and the DNA unit to have
11 conversations about what - and I say that because, in the
12 past, decisions had been made about the numbers of samples
13 that would be sent from a crime scene, so I suspect there
14 was a conversation.

15
16 Q. Do you know whether Ms Allen or anybody else ever
17 actually identified what the lab's capacity was?

18 A. No, I don't know.

19
20 Q. Did you ever see a schedule to go with that MOU that
21 proposed a set of prices?

22 A. I did see a draft.

23
24 Q. Sorry?

25 A. I did see a draft.

26
27 Q. Did you ever see a schedule that proposed a set of
28 performance criteria?

29 A. I don't recall the detail, what was in it. I wasn't
30 particularly happy with the draft. I can't remember why
31 right now. Maybe if it was given to me I could have
32 another read, but I didn't think it really resonated with
33 what we were trying to achieve.

34
35 Q. So there was a schedule with respect to pricing?

36 A. There may well have been.

37
38 Q. All right. Are you able to comment one way or the
39 other on the proposition that no such schedule relating to
40 pricing was ever supplied to the Queensland Police Service?

41 A. I don't know.

42
43 Q. And that no schedule that dealt with performance
44 criteria was ever provided to the Queensland Police
45 Service?

46 A. I don't know. As I said, I had requested a schedule
47 to be started. Work had commenced. A draft had been

1 shared with me about where they were going. I provided
2 probably some feedback on that schedule about things that
3 I would like to see. And I think I had asked that
4 a conversation be commenced with Superintendent McNab,
5 perhaps with the headings that might be in that schedule as
6 a starting point, because when you're doing an MOU, you
7 want both parties to have input, not just us telling you
8 what's going to be in the MOU.

9
10 Q. There would be a negotiating process?

11 A. Yes.

12
13 Q. What you want to charge on the one hand?

14 A. Yes.

15
16 Q. And what the police were prepared to pay, on the
17 other?

18 A. Correct, correct.

19
20 MR HUNTER: That's all I have.

21
22 THE COMMISSIONER: Thank you. Mr Rice?

23
24 <EXAMINATION BY MR RICE:

25
26 MR RICE: Q. Mr Lok, you described a budget method early
27 in your evidence whereby an entity's budget was set
28 according to its previous year's spend. Do I understand
29 that correctly?

30 A. You're correctly interpreting, except that it's the
31 starting point of the budget build.

32
33 Q. That starting point, as you describe it, would you
34 expect that that would be well known throughout all
35 managerial levels of HSQ?

36 A. Yes, look, the budgeting process is never clean,
37 simple and easy, I'd have to say, and it's often delayed,
38 because Health Support Queensland is usually awaiting
39 advice from the department itself about what its allocation
40 is likely to be, so some assumptions are initially made and
41 released. But, yes, the envelopes, if I can use that term,
42 of what the allocations are likely to be are shared with
43 the senior managers, and that would include the executive
44 directors.

45
46 Q. But in terms of the basic approach whereby --

47 A. The methodology, yes. I shared that with my direct

1 reports, yes.

2

3 Q. That method or start point, as you describe it - can
4 you tell us, that would still be applied, would it, to an
5 entity which had underspent for reasons which were
6 apparently of a temporary kind?

7 A. Yes, it applied unilaterally to all entities as
8 a starting point. So if for that particular year you had
9 a major issue happen in a workplace and you lost 10 staff
10 and you were in the process of recruiting and they were
11 about to commence, which actually occurred in one of our
12 business units, then that would be a business case
13 proposition to have that addressed.

14

15 Q. Well, if we take it in stages, even in that scenario
16 where an underspend was evidently of a temporary kind --

17 A. Yes.

18

19 Q. -- the default start point would still apply to that
20 entity, subject to some relief, which is the second stage;
21 is that right?

22 A. Yes, yes, the principle as I described before was if
23 in the current year you undertook this much activity with
24 this amount of resource, this spend, then that was the
25 expectation for the following year. So even if - in
26 theory, even if you were understaffed for that year and
27 produced less, then what the parameter was basically saying
28 is, we're only going to be providing that lesser amount in
29 the following year unless you come back to us with a reason
30 as to why you need to actually deliver back to what you
31 were doing the prior year. Does that make sense?

32

33 Q. Yes. Is that achieved by way of the business case as
34 you describe it?

35 A. Yes, yes.

36

37 Q. So even in the scenario that I've outlined where the
38 underspend was apparently of a temporary kind and had the
39 effect of cutting --

40 A. Yes, if it was so bleeding obvious, then I think that
41 would have been dealt with without the need for a business
42 case. But every business unit, every business unit, had
43 gaps in their recruitment, had various things occur
44 throughout the course of the year, people going on part
45 time, people coming off part time, so that variability was
46 normal through the entire organisation.

47

1 Q. Is the business case, then, the recognised mechanism
2 for relief from the rigours of that budget approach?
3 A. Well, I don't think it's a relief. I think it's extra
4 work. You need to actually do the yards to demonstrate
5 your case that your business line requires that extra
6 resource to achieve whatever it might be that you need to
7 achieve, and the consequences of that, if you don't
8 resource it, is going to be whatever it might be. So in
9 the DNA lab context, it might be that if we do not get
10 additional resourcing, you know, three lab scientists or
11 something, whatever the case may be, then the backlog will
12 increase, there will be longer turnaround times and cases,
13 you know, may be delayed in court because the evidence
14 isn't available at the time it's required. These are
15 significant things, and therefore the additional resources
16 should be supported for that reason - for example. That's
17 very loose, but that's the kind of story that it would be.
18
19 Q. To take the DNA Analysis Unit, I think you've said in
20 your evidence that you understood that demand for its
21 services had been increasing over time?
22 A. As had been demand on almost every service that HSQ
23 provided, yes.
24
25 Q. If I can ask you about the 2018/2019 year, I think
26 that was during the time when Mr Doherty was the executive
27 director?
28 A. Yes.
29
30 Q. He succeeded Mr Csoban, probably sometime --
31 A. Mr Csoban left, I think, middle of 2018. Mr Russell
32 acted in the role for a period of time, five or six months,
33 and Mr Doherty started in January 2019. Was it? Yes.
34
35 Q. Do you recall having any discussion with him about
36 a scenario where demand was increasing, but he was facing
37 a situation where salary spending was reduced by reference
38 to the kind of scenario that I mentioned?
39 A. Yes, I do. We had conversations on a not-infrequent
40 bases around budget and finance. In fact, HSQ had a fairly
41 robust process of accountability meetings to review the
42 performance both in terms of services and expenditures, as
43 well as emergent risks on a regular basis with the chief
44 executive, so those conversations were had. So we had
45 regular conversations around the budget and the challenges
46 that he had on his books.
47

1 But the messaging was as I described before: if
2 you've got those pressures, you need to document them up,
3 put a business case together and we can progress the
4 request through the processes that have been established.

5
6 Q. When you say "the messaging", do you mean from you --
7 A. From me. From me to John and my other managers.

8
9 MR RICE: Thank you.

10
11 THE COMMISSIONER: Thank you. Mr Hickey?

12
13 <EXAMINATION BY MR HICKEY:

14
15 MR HICKEY: Q. Mr Lok, could I ask you some questions,
16 please, about paragraph 14 - I'm sorry. You've given some
17 evidence this morning to the effect that what would be
18 necessary for further funding to be provided to the lab
19 would be for a formal business case to have been put
20 forward?

21 A. Mmm-hmm.

22
23 Q. To you or to somebody in your position?

24 A. Yes.

25
26 Q. Now, there were a number of steps, weren't there, that
27 would be required before such a business case would be
28 approved? For instance, one thing that the management of
29 the lab would be required to demonstrate would be that it
30 had assembled some workload data which demonstrated its
31 existing workflows?

32 A. Correct.

33
34 Q. It would presumably have to demonstrate some data
35 which predicted the likely workflows over future periods?

36 A. Yes.

37
38 Q. It would have to describe to you or to somebody in
39 your position the efforts that had been taken to optimise
40 the existing workflows?

41 A. Yes.

42
43 Q. It would have to demonstrate that those efforts had
44 been in vain?

45 A. No. Sometimes they are successful in achieving some
46 aid. Sometimes they may be opportunities to do some
47 certain things, but they come at a cost or at

1 a consequence.

2

3 Q. Can I put it this way: they would need to demonstrate
4 that whatever optimisations to the existing workflows had
5 occurred had not been sufficient to meet the increasing
6 workload?

7 A. Yes, that's a reasonable statement.

8

9 Q. And that they would have to demonstrate that there was
10 no other resource available to them within their existing
11 pool of resources to meet the existing workflow?

12 A. Yes.

13

14 Q. And then and only then would it be appropriate for
15 a person in the management team of FSS to prepare and
16 present a case for further funding or allocation of
17 resources?

18 A. They are the elements of a business case that you
19 would need to put forward, yes.

20

21 Q. Can I suggest that's because if a person in the
22 management team were to put forward a formal request for
23 additional resources without having undertaken those steps,
24 it would be unlikely that their request would be
25 successful?

26 A. I think if they hadn't demonstrated a reasonable
27 effort to do those things, to show those things - I mean,
28 I described what I would like to see as a robust business
29 case - if some of those things had not yet been completed
30 or were in progress, that may be sufficient. But, yes, the
31 stronger the case, the more likely your bid will be
32 successful.

33

34 Q. And are you familiar with the old tale of the boy who
35 cried wolf?

36 A. Yes.

37

38 Q. And you'd agree with me, wouldn't you, that a manager
39 who persistently or even repetitively sought funding in
40 circumstances where they hadn't been able to identify those
41 particular factors I've just asked you about might
42 ultimately be met with resistance to providing that funding
43 because it was assumed that their requests were without any
44 substance?

45 A. There's a lot in what you just said. I think it's
46 reasonable to get frustrated sometimes in the process, and
47 in an individual laboratory it's difficult for that

1 laboratory to identify whether there might be a saving in
2 another laboratory that could offset it - that's a decision
3 or a judgment that the executive director might have been
4 able to make. But that business case is still required so
5 that it can be considered.
6

7 Q. And really the question behind my question is that
8 a reasonably prudent manager would not put forward
9 a business case until they were absolutely satisfied that
10 they were able to put forward a robust business case that
11 met all of those things that I asked you about a moment
12 ago?

13 A. Yes, I think if you were the executive director or
14 a manager of a business and the proposal that was being
15 formulated lacked substance or wasn't robust enough or
16 didn't have a strong enough case, you would be reluctant to
17 put that forward for consideration because it would
18 probably be rejected at an early point.
19

20 Q. And even then, if all of those things were able to be
21 demonstrated in a business case, what would happen then is
22 that the business case would be put forward and given due
23 consideration?

24 A. Yes.
25

26 Q. Which is not to say, is it, necessarily, it would
27 be --

28 A. Successful, no.
29

30 Q. -- successful?

31 A. No.
32

33 Q. So the mere fact that all of those pieces of
34 information could be demonstrated would not, of itself,
35 mean that the funding would be provided?

36 A. That's true, yes.
37

38 Q. And if the prevailing economic climate was one where
39 it was notorious within people working in the department
40 that cuts had been made and that people were expected to do
41 more with less, it would be less likely, wouldn't it, that
42 such a proposal would be successful?

43 A. I think each business case needs to be looked at on
44 its merits, both in terms of what's required, what's being
45 done and what the risk exposure of not supporting that
46 particular proposition is. So that's the other element
47 which we didn't discuss a few moments ago. You actually

1 need to look at the consequences of not supporting the
2 proposition.
3

4 So if we were reaching a point where we would lose
5 staff through fatigue or a customer was complaining to the
6 minister, for example, of a lack of service, these would be
7 risk factors which would influence, again, the business
8 case itself. But all that being said, it's no guarantee of
9 additional funding from within HSQ. But HSQ also had
10 recourse to the department on a similar basis, and if it
11 could not support a particular proposition from within
12 HSQ's budget, the department could consider responding to
13 that, and, again, the department could at an ultimate point
14 seek to include something like a particular proposition to
15 the government for consideration through the government's
16 budget.
17

18 Q. You gave some evidence to the effect that you didn't
19 recall receiving a formal proposal for additional funding
20 during the relevant period.

21 A. Yes.
22

23 Q. You would agree with me, wouldn't you, that the mere
24 fact that such a proposal had not been submitted does not
25 of itself indicate that people at the ED level or within
26 the management team had not formed the view that funding
27 was necessary?

28 A. That would be a fair statement, yes.
29

30 Q. And indeed in the circumstances of this case, you were
31 aware through conversations that you had with the likes of
32 Mr Csoban and Ms Allen that they considered that additional
33 funds were required, didn't they?

34 A. They did consider that additional funding was required
35 which - yes.
36

37 Q. Sorry, I didn't mean to interrupt you.

38 A. No, I was just going to say that seemed to be the
39 starting point of conversations about resourcing - about,
40 "We have a backlog. We need more staff."
41

42 Q. So the fact that they hadn't provided that formal
43 business case doesn't necessarily demonstrate that they
44 didn't think the funds were necessary, but it might just as
45 likely be the case that they were going through the steps
46 of assembling that information that would be necessary to
47 prepare a business case?

1 A. I would love to think that that was the case, yes.
2 I think it is incumbent to prepare your case. I've got to
3 say, business cases were routinely considered by the ELT
4 from a range of - including other labs in FSS, so, you
5 know, they don't take that long to produce.
6

7 Q. But nevertheless --

8 A. They take time, yes.
9

10 Q. -- they need to be comprehensive and contain the
11 substantiation for the resources sought before they're
12 submitted.

13 A. A reasonable level of substantiation, yes.
14

15 MR HICKEY: Those are the questions, Commissioner.
16

17 THE COMMISSIONER: Thank you, Mr Hickey. Anybody else?
18 Mr Murdoch?
19

20 MR MURDOCH: No.
21

22 THE COMMISSIONER: Yes, Ms Reece.
23

24 <EXAMINATION BY MS REECE:
25

26 MS REECE: Q. Mr Lok, in your earlier evidence,
27 I omitted to take you to the PowerPoint presentation that
28 you became aware of on your return from leave in January
29 2018. The document number is [FSS.0001.0024.0888], and
30 then page 4 of that document, please, Mr Woolridge.
31 Bearing in mind that the scope of the work was
32 re-integrating Amanda Reeves back into her substantive
33 position as a supervisor of a reporting team, the staff
34 perceptions reported here are that the reporting teams were
35 seen by other teams as difficult to work with and tending
36 to engage in conflict more than cooperation. It's a pretty
37 punchy piece of feedback to put in a collaborative
38 mediation in a workplace?

39 A. You have no argument from me on that. As I say,
40 I think the consultants largely picked up text from
41 a report, a confidential report to me, on the progress of
42 their work and some of their conclusions. It is not
43 something we should have put in there. That clearly starts
44 to potentially identify individuals in the workplace, and
45 that's not good.
46

47 Q. This is a pretty small group of people who work

1 together and know each other well?

2 A. Yes, yes.

3

4 Q. You were aware, weren't you, that at this time, and
5 perhaps still, there's a cohort of people in the reporting
6 team who all are about the same seniority?

7 A. Yes.

8

9 Q. If I can take you to slide 8 or page 8, thank you,
10 Mr Woolridge, there's a comment there in the second line:

11

12 *The supervisors seem to be engaged in a lot*
13 *of activity, but that activity does not*
14 *contribute to the output of the Teams.*

15

16 Now, again, the supervisors at that time were Kylie Rika
17 and Amanda Reeves, weren't they?

18 A. They were.

19

20 Q. A very targeted piece of feedback?

21 A. It's also not very helpful because it doesn't actually
22 articulate what they were otherwise doing. But anyway.

23

24 Q. If you could then scroll to page 14, please,
25 Mr Woolridge, do you see there in the second paragraph or
26 dot point, it's reported that there was:

27

28 *A strongly expressed view ... that a single*
29 *integrated Reporting Team, which included*
30 *the Intelligence Team, would only require*
31 *one Team Leader HP6 and one supervisor ...*

32

33 You would agree, wouldn't you, Mr Lok, that the implication
34 from that is that at least one supervisor might lose their
35 job?

36 A. I think that's - well, the comment itself I think was
37 drawn or based upon an observation, if I recall, that the
38 teams seemed to alternate with their duties and that the
39 selection of jobs had to wait for the supervisors to
40 actually allocate it to them. So if they hadn't - if they
41 were away from work or something, then the reporting
42 scientist was waiting for their next job, which is not
43 necessarily efficient.

44

45 But the notion of alternating seemed to be disruptive
46 by the consultants, so they certainly formed the view that
47 having them in one team may have been a more worthy

1 approach, and obviously if you're going to recommend that,
2 it suggests that you don't need two reporting supervisors.

3
4 Q. You'd agree that that nuance isn't really expressed in
5 that dot point?

6 A. No, it's not, no.

7
8 Q. And then just quickly, page 19, please, Mr Woolridge.
9 If you can just look at dot point 3 there:

10
11 *Outstanding workload is increasing and*
12 *there is no clear plan to manage this. The*
13 *changeover from Profiler Plus to PP21 and*
14 *the associated business rules are not*
15 *agreed upon with the QPS and this is*
16 *becoming urgent.*

17
18 So that goes back to that issue I raised with you earlier
19 in your evidence, Mr Lok - it seems to be like an impending
20 issue that the lab was anticipating at that point; do you
21 agree that's the implication?

22 A. I agree. As I said, I do recall that this transition
23 was a significant change for the laboratories. It was
24 necessary because of the exhausting of the supplies of the
25 previous product, and it required a fair bit of work to
26 achieve it, so I was aware that it was a concern whether
27 they would make it, in terms of before the supplies ran
28 out.

29
30 Q. It's evident from that, if you accept that dot point,
31 that there was some concern about an increase in workload
32 that might follow?

33 A. Well, it's wrapped within an "outstanding workload is
34 increasing" comment, so maybe it's workload ridden, but
35 I didn't necessarily put those two things as being "and the
36 workload would increase from this changeover". It's just
37 that we had to get this changeover into place.

38
39 Q. Apart from that final slide, the first three that
40 I showed you, they were examples of the slides that caused
41 you concern when you read this document?

42 A. When I retrospectively read it, and I'm sure that
43 Andria Wyman-Clarke read them when she had been asked to
44 look into those particular concerns, and perhaps were also
45 the matters that were raised by Theresa Hodges at the time
46 that she received a copy of that presentation. So, yes,
47 I think those kinds of factors - it was blunt language, not

1 well articulated, and potentially singled out individuals
2 in a small workplace. Not a good thing.
3

4 Q. And you're aware now, from reviewing that
5 correspondence on your return, that Ms Hodges had outlined
6 her concerns about that the day before the presentation was
7 given?

8 A. Yes, yes, re-reading that, it gave the impression that
9 changes would be made to the presentation to address the
10 concerns. But whether that - I don't exactly know what her
11 comments were, but reading that, I don't think it changed
12 significantly from what had been previously put.
13

14 MS REECE: Thank you. Thank you, Commissioner. Might
15 Mr Lok be excused?
16

17 THE COMMISSIONER: Yes. Thank you for your assistance,
18 Mr Lok. You are free to go.
19

20 <THE WITNESS WITHDREW
21

22 MS REECE: Commissioner, is that a convenient time to
23 break?
24

25 THE COMMISSIONER: Certainly.
26

27 MS REECE: We will take the opportunity to establish the
28 link with Mr Doherty.
29

30 THE COMMISSIONER: Where is Mr Doherty?
31

32 MS REECE: I can't remember, I have spoken to so many
33 people. I think he's in Victoria.
34

35 THE COMMISSIONER: All right, we will resume at a quarter
36 to 12. Oh, did you want to tender Mr Lok's proof of
37 evidence?
38

39 MS REECE: No. Thank you.
40

41 THE COMMISSIONER: No, I think you should. I think you
42 should.
43

44 MS REECE: I tender that --
45

46 THE COMMISSIONER: Anyway, we can discuss it later - when
47 we resume, I mean.

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MS REECE: Thank you.

THE COMMISSIONER: All right, we will adjourn until a quarter to 12.

SHORT ADJOURNMENT

THE COMMISSIONER: Yes, Ms Reece.

MS REECE: Commissioner, I tender that proof of evidence of Michel Lok.

THE COMMISSIONER: Yes, exhibit 96.

EXHIBIT #96 PROOF OF EVIDENCE OF MICHEL LOK

MS REECE: I tender the PowerPoint presentation which I took Mr Lok to at the conclusion of his evidence.

THE COMMISSIONER: Yes. Exhibit 98 [sic].

EXHIBIT #97 POWERPOINT PRESENTATION TO WHICH MR LOK WAS TAKEN AT THE CONCLUSION OF HIS EVIDENCE, BARCODED [FSS.0001.0024.0888]

THE COMMISSIONER: That was the presentation as it was delivered. Do you also have a copy of the presentation before it was amended for delivery?

MS REECE: There is a copy. I understand that Mr Csoban might be taken to that.

THE COMMISSIONER: All right. Thanks. Yes, what now?

MS REECE: Commissioner, John Doherty, former executive director of FSS, is to appear via videolink. He's in a waiting room and can be called now.

THE COMMISSIONER: Thank you.

MS REECE: So I call him.

THE COMMISSIONER: Yes.

MS REECE: Mr Doherty, can you hear me?

1 MR DOHERTY: Yes, I can.

2
3 MS REECE: And can you see me?

4
5 MR DOHERTY: Yes.

6
7 <JOHN DOHERTY, affirmed: [11.50am]

8
9 <EXAMINATION BY MS REECE:

10
11 MS REECE: Q. Mr Doherty, you were the executive
12 director of Forensic and Scientific Services from January
13 2019 until September or October 2021?

14 A. That's right, yes.

15
16 Q. And you reported in that role to Health Support
17 Queensland general manager, Michel Lok?

18 A. That's correct, yes.

19
20 Q. As part of your executive director role, one of the
21 business units you oversaw was the DNA Analysis Unit?

22 A. That's right, yes.

23
24 Q. Prior to taking that role, can you briefly tell the
25 Commission what your roles had been then? I understand
26 your background was in forensic science yourself?

27 A. Yes, that's right. I've been a forensic scientist
28 since 1990, and prior to joining Queensland Health I was
29 the executive director of Victoria Police's Forensic
30 Science Service. Prior to that, I was in the Northern
31 Territory, and prior to that I was within forensic labs in
32 the UK.

33
34 Q. And those forensic services will typically include
35 fingerprints, drug analysis, DNA analysis and other
36 forensic sciences?

37 A. Yes, that's right.

38
39 Q. I'll take you to the period that you were in that
40 role. We've heard some evidence in the Commission of
41 Inquiry from the current director-general of Queensland
42 Health, Mr Shaun Drummond. He says, looking back at the
43 period particularly from 2017 onwards, that it has been
44 estimated that approximately \$1 million a year would have
45 provided the ability to the lab to process the samples
46 which in fact weren't processed due to the DIFP process
47 that was introduced. Are you aware of that evidence that

1 he gave?

2 A. Yes, I've seen that.

3

4 Q. And bearing in mind that he's a new director-general
5 and you were in the position of being in charge of that
6 unit in 2019, 2020 and 2021, can you tell the Commission
7 whether in fact that unit received any increase in funding
8 in the time that you were there?

9 A. No increases, no. Only cuts.

10

11 Q. Mr Woolridge, is it possible to turn up the sound?
12 Mr Doherty is quite faint. Thank you. Only cuts, did you
13 say?

14 A. Yes, that's right.

15

16 Q. And prior to you commencing your role as executive
17 director, you are of the understanding that FSS, which is
18 the umbrella organisation that the DNA Analysis Unit sits
19 under, that it had lost part of its funding under the
20 Newman government?

21 A. That's right, yes, it was well known throughout the
22 forensic community that that had occurred, and it was
23 certainly a theme of feedback from staff on my arrival.

24

25 Q. Of feedback from staff on your arrival?

26 A. That's right, yes.

27

28 Q. When you were in the position of executive director,
29 did you attempt to make requests for additional funding
30 and, if not, why not?

31 A. So I made those requests through internal processes,
32 effectively what they call the budget build process. Every
33 year the executive directors are asked to put bids forward
34 for any additional staff or funding that's required to
35 actually meet budget targets, and every year we put forward
36 requests for additional funding for forensic DNA analysis
37 as well as for other teams within FSS, but we weren't
38 successful with those.

39

40 Q. How were you putting forward those requests for
41 additional funding?

42 A. Predominantly there was a series of pro forma
43 spreadsheets that would come out from the finance section
44 where we would have to make bids, effectively, for
45 something that was referred to as MOHRI, which is
46 essentially headcount within that organisation, and
47 obviously dollars associated with that MOHRI as well. But

1 we also got the opportunity to put requests for funding
2 without MOHRI, so I used that process to attempt to get
3 funding for positions that had MOHRI but didn't have
4 funding.

5
6 Q. And can you just briefly explain what MOHRI is?
7 I understand that's an acronym, M-O-H-R-I?

8 A. That's right, yes. It's a way of calculating
9 headcount. It takes into account more than just FTE. To
10 be honest with you, after two and a half years, I still
11 struggle to understand exactly what MOHRI was within the
12 organisation, but, you know, at its crudest level, it was
13 a headcount.

14
15 Q. What were you seeking to achieve through this process
16 of funding requests?

17 A. So predominantly I was looking to balance the salary
18 budget across the whole of FSS, so the requests were
19 actually from multiple areas within FSS. And it became
20 particularly prevalent after my first year that we were
21 going to have significant shortfalls in funding for
22 salaries.

23
24 Q. Did you ever put forward a formal business case to HSQ
25 management for additional staffing, for example?

26 A. No.

27
28 Q. Did you have any success in obtaining any of the
29 funding that you sought in relation to those existing
30 positions that you've spoken of?

31 A. No, I didn't.

32
33 Q. What was the vulnerability or what was the situation
34 with FTEs in DNA Analysis Unit or in FSS as a whole, what
35 was the process or what was the problem you were seeking to
36 address?

37 A. Yes, sure. In the first year that I was there, so
38 2018-19 financial year, FSS delivered a surplus of around
39 \$3 million back to Health Support Queensland, and
40 consequently the following year when budget build was put
41 forward, we bid for all the positions that we'd previously
42 had plus some that had been vacant. But HSQ went down
43 a model of only funding positions that had been occupied
44 the previous year. Now, unfortunately for us, some of our
45 staff had been part time and had increased their hours,
46 we'd also done some additional recruitment because we'd
47 been carrying a number of vacancies. We didn't have

1 funding for any of those positions. So it led to,
2 essentially, a million dollar shortfall in the salary
3 budget across the whole of FSS as a consequence of that
4 \$3 million reduction.

5
6 THE COMMISSIONER: Q. Just so I understand it,
7 Mr Doherty, in the 2018-19 financial year, there was
8 a surplus of about \$3 million, and that was because some
9 staff were absent or on leave or for other reasons, so
10 their salaries weren't being paid. Is that the substantial
11 reason for the surplus?

12 A. Yes, that's right. So salaries weren't being paid
13 from the normal salary budget, so anybody on long service
14 leave has salary paid from a different bucket, so they
15 didn't count.

16
17 Q. Yes.

18 A. Anybody who was part time, a portion of their
19 part-time hours are allocated, so any increase to those
20 hours wouldn't have had funding for the increased hours,
21 and any vacancies that were being carried that were under
22 recruitment also wouldn't have been funded.

23
24 Q. That surplus, while it existed in that year, could
25 that have been used for other purposes within FSS?

26 A. Absolutely, yes, it could have.

27
28 Q. In the forensic DNA unit, I should say.

29 A. I mean, look, the budget as it was built, those funds
30 would have been allocated across the different business
31 units within FSS. Yes, absolutely there would have been an
32 opportunity. And prior to the interim executive director
33 that preceded me, those funds were actually being used to
34 create additional positions, and I believe in forensic DNA
35 analysis they did create additional positions through
36 a process they called Frankensteining, which was basically
37 where they were taking part-time portions - the salary
38 savings from part-time portions and creating whole new
39 positions and recruiting part-time or temporary staff
40 against those. That was a process that was abolished
41 before my arrival by Craig Russell, who was the interim
42 executive director before I arrived.

43
44 Q. Now, you can help me with this because my knowledge of
45 this is imperfect, but is it the case that when you are
46 running a unit like this and you're aware that you're going
47 to have a surplus because some staff aren't there, and so

1 you'll have a surplus for the reasons you've explained,
2 that it would be wise to use the surplus funds that you've
3 got to fill other perceived needs within the unit, rather
4 than just letting it lie there so that, predictably, it
5 will, if it lies there as a surplus, result in some
6 reduction of next year's budget?

7 A. That would be eminently sensible, Commissioner, and
8 that's what had been happening at FSS prior to
9 Craig Russell taking on that role, and he came in to try
10 and make the processes more lean across the whole of HSQ
11 and to deliver those savings back to the HSQ entity.
12 No-one had predicted, having delivered a \$3 million
13 surplus, that we would encounter a \$3 million cut the next
14 year.

15
16 Q. I see. That's the point I was driving at.

17 A. We had no idea --
18

19 Q. In your opinion - yes, in your opinion, hanging on to
20 the surplus was not something that would have given rise to
21 anybody's concern, though it would have meant a real
22 reduction in the following year?

23 A. That's right, and in actual fact surpluses can't roll
24 from one year to the next, anyway, so all we could have
25 done was spend it in that year. The budget is set each
26 year and there is no carry-over of operational (indistinct)
27 dollars.

28
29 THE COMMISSIONER: Thank you.

30
31 MS REECE: Q. Mr Doherty, just on that point of
32 Frankensteining, the approach of Frankensteining had been
33 ceased and the process that followed it was that if there
34 was a part-time position with a partial FTE essentially
35 vacant or available, that was actually being reabsorbed
36 back into other work units?

37 A. It was being reabsorbed back into HSQ centrally. So
38 again just prior to my arrival, if we go back to that MOHRI
39 number, which is the headcount number I was talking about
40 previously, FSS also had an excess of MOHRI due to
41 vacancies and I think HSQ took 10 of those MOHRIs away from
42 FSS and allocated them elsewhere across HSQ. So even if
43 we'd had budget, we didn't have the MOHRI to be able to
44 recruit against all of the vacancies that existed.

45
46 Q. When you were first in your role as an executive
47 director, you were given to believe that it was deemed to

1 be too early into a Labor government term to make requests
2 for additional funding?

3 A. Yes, I think there was a couple of factors, and I've
4 thought on this a little bit more over the last few days.
5 I think it was a combination of relatively early - it
6 wasn't that early into a Labor government, but too soon
7 after Campbell Newman, I should probably say, which was
8 still being very deeply felt across the whole public
9 service. But also we were waiting for a report from the
10 Queensland Audit Office that was going to inform exactly
11 what was happening in the police services stream. They
12 were looking at all the forensic services within FSS, so
13 the coronial services as well as the forensic DNA and the
14 forensic chemistry services.

15
16 Q. The outcome of that report, though, didn't lead to an
17 increase in real funding to FSS, did it?

18 A. No. I actually remember at the time, the report, when
19 it was released, actually pointed to a \$1 million gap in
20 funding for forensic DNA analysis and a real-time reduction
21 in FTE from 65 to 61, and I do recall at the time getting
22 some vibes that the DG was not happy about that commentary,
23 and that, in his view, FSS had been well supported over his
24 time, and I think probably some explanations were put
25 forward to the Queensland Audit Office around how we'd got
26 more efficient, and that was how we dealt with any drops in
27 funding or drops in FTE.

28
29 Q. What impact did that perhaps appetite for additional
30 funding or lack of appetite for additional funding have on
31 you in your executing your role as executive director of
32 FSS?

33 A. Yes, I mean, look, unfortunately I'm used to operating
34 in an environment within the public service where funding
35 is generally tight, and budgets are generally challenging.
36 It was actually pretty good in my first year that we had
37 a \$3 million surplus, because that was unheard of in public
38 service entities that I'd worked in prior to that.

39
40 In terms of impact on me, it was just another
41 management challenge for me to rise to, but of course it
42 was - it was really quite pronounced as we went through the
43 budget build process. That first year, when we had the
44 \$3 million cut, I refused to sign the budget that was being
45 handed down. So as executive director, I'm asked to sign
46 for the budget and accept the budget and I refused to do
47 that, largely because I didn't believe, you know, as a good

1 public servant, that I could deliver on the budget that was
2 handed to me, because I already had obligations that were
3 going to outstrip the budget that was allocated.
4

5 The corporate view was that, well, you manage salary
6 shortfalls by carrying vacancies, but that wasn't tenable
7 in a lab that was basically at capacity. So, you know,
8 I did - eventually I was told I had to sign the document,
9 so I did sign the document, but I wrote a condition on the
10 document that I accept the budget if the organisation
11 accepts that I will be at least \$1 million overspent at the
12 end of the year.
13

14 They didn't accept that and they struck through my
15 comment. Nonetheless, you know, the version that I signed
16 had that comment on it, even if the record doesn't show
17 that.
18

19 Q. And that's the approach that you actually followed,
20 isn't it, that you chose to go into deficit in order --

21 A. Yes.
22

23 Q. -- to maintain the salaries of the scientists and
24 employees who were working in that unit?

25 A. That's right. I mean, we had - we actually have
26 industrial obligations, and the union was certainly very
27 good at pointing those out to the organisation, that when
28 a position becomes available, that it's funded and it's
29 recruited against. So that was very much a theme from the
30 trade unions. It was a very helpful theme for me as I was
31 trying to continue to toe that line within the work group,
32 and it just meant that I personally had the (indistinct) of
33 not being able to deliver against the budget.
34

35 Q. Those sorts of pressures can impact on the ability for
36 a work unit to absorb a part-time worker returning to
37 full-time?

38 A. Yes, I mean, from a budgeting perspective, absolutely,
39 because if they were only funded at 0.5 of an FTE and they
40 were increasing to full-time, I had a shortfall in funding
41 of half an FTE, and, you know, that was a real pressure
42 that was actually realised. I think we'd calculated that
43 by the time I left when we did the budget build the year
44 I was leaving, it was up to six FTEs from within the
45 Forensic DNA Analysis Unit - the equivalent of six FTEs
46 that were unfunded for positions that were actually fully
47 established within that work group but didn't have funding

1 associated with them.

2

3 THE COMMISSIONER: Q. That is, those positions had been
4 filled?

5 A. Yes.

6

7 Q. But not funded?

8 A. Correct, those positions were occupied but not funded.

9

10 THE COMMISSIONER: Yes.

11

12 MS REECE: Q. You used to informally raise funding
13 issues with the general manager, Michel Lok?

14 A. Yes.

15

16 Q. And you used to catch up quite regularly and talk
17 about issues related to funding, culture, management and
18 training?

19 A. Yes, we had a whole raft of things we spoke about,
20 yes.

21

22 Q. And how did Mr Lok respond to your discussions, or
23 what was his response to issues of funding that you would
24 raise with him?

25 A. Certainly, to my face, he would say that he supported
26 my position and he supported the FSS's position, although
27 I believe it was him that crossed over my comment on the
28 budget acceptance. But, I mean, he did say that he
29 supported the position, but I did - you know, through that
30 budget bidding process that I've previously spoken about,
31 he did block a number of them actually getting through to
32 the financial section. Certainly on the surface he said
33 that he supported that kind of budget management.

34

35 In terms of actually bidding for new funding, he was
36 very firmly of the view, when it came to police services,
37 that police should pay for any deficit. There's actually
38 a really pronounced example of that deficit within forensic
39 DNA analysis, and that's around their funding model for
40 volume crime cases. I don't know if you want me to go into
41 that right now, but I'm more than happy to.

42

43 Q. Sure.

44 A. It certainly demonstrates - I think there was
45 a ministerial task force in around 2005. One of the
46 outcomes of that was \$3 million of block funding from
47 Queensland Police to go to Queensland Health to fund volume

1 crime cases. Volume crimes are crimes against a property,
2 so basically burglaries, thefts and the like. So FSS
3 received \$3 million of funding back in 2005 - I believe it
4 was 2005 - to process those cases, to meet the budget
5 shortfall that FSS obviously had at that time.
6

7 When I left in 2021, that was still \$3 million of
8 funding. It hadn't increased a single dollar over that
9 period of time. And I think I've done a basic calculation
10 of, you know, CPI, it should have been least \$4 million.
11 So FSS was having to - and there would also have been
12 a significant increase in the number of cases coming to the
13 laboratory over that period of time as well. So the lab
14 was having to do a lot more work with essentially less
15 money.
16

17 Q. There had been a change in process, though, hadn't
18 there, in 2008 with the removal of the function - a large
19 part of the removal of the collection or evidence recovery
20 function?

21 A. Yes, so Queensland Police took the evidence - a large
22 part of the evidence recovery process in-house.
23

24 Q. So your view that the demand was such or the time was
25 such that there should have been an increase to that block
26 funding - that takes into account that process change in
27 2008?

28 A. No, it doesn't. But, again, if we just look at the
29 growth, I think the QAO report talks of something like
30 a 23 per cent growth over four or five years in real terms
31 in terms of volume crimes --
32

33 THE COMMISSIONER: Q. Which report did you mention,
34 Mr Doherty?

35 A. It's the Queensland audit report.
36

37 Q. Oh, the audit report?

38 A. The audit report 2018-19. That talked about an
39 increase in volume crime that's clearly not commensurate
40 with the funding that was allocated. Michel Lok's view was
41 very much that Queensland Police would have to pay for that
42 somehow.
43

44 MS REECE: Q. He would express that view to you in the
45 meetings that he had with you?

46 A. Yes.
47

1 Q. Did you ever hear him say that to police management
2 himself?

3 A. I was actually trying to recall, because one of the
4 outcomes - and I can't, but one of the outcomes from the
5 QAO findings was that we needed to have a better governance
6 arrangement with Queensland Police, and the vehicle that
7 they were choosing to do that was a memorandum of
8 understanding, and police were reluctant to engage in that
9 process largely because they thought it was a money trap,
10 was the informal feedback that I was getting. You know, so
11 they - they didn't - they took their time, I think, to
12 consider the MOU. But I don't know whether they got that
13 through some means other than Michel sharing it with them,
14 but certainly I don't recall it being formally tabled to
15 them that that would have to be a process.
16

17 Q. So the discussions that you had with him about police
18 paying really were between the two of you; I think that's
19 the substance of your evidence?

20 A. Yes.
21

22 Q. One of the issues that you identified in the time that
23 you were the executive director was that there was
24 insufficient operating funds?

25 A. Yes.
26

27 Q. And an example of that is that you were aware that
28 people had to ask permission to get a pen or to access
29 stationery?

30 A. Yes, within - different teams applied operating
31 pressures in different ways, and certainly within forensic
32 DNA analysis I was aware that the stationery cabinet was
33 basically overseen by the admin team, and anybody who
34 required items of stationery had to seek permission. It
35 certainly wasn't applied that way across the whole of FSS,
36 but those budget pressures after that first year, the cuts
37 were not just to salaries. As I said, there was around
38 about a \$1 million shortfall in salaries. But there were
39 pressures for operating expenditure as well across the
40 board.
41

42 Q. So you saw that as a move that responded to budget
43 pressure, but is your view that it was a reasonable
44 measure?

45 A. Well, yeah, personally I would probably never impose
46 such a sanction on well-educated scientists, but at the
47 same time I didn't think it was a big enough issue that

1 I would tackle it. It was probably before I - when I first
2 became aware of it, it was before I became aware of other
3 cultural issues within the work group. But, yes, actually,
4 I'd seen it applied elsewhere within public service
5 entities as well, I've seen it applied in Victoria Police
6 as well, so it's unfortunate that some managers choose to
7 do that sort of thing. It's certainly not my style to do
8 that sort of thing, but I don't think I could - you know,
9 as executive director, I can't go in dictating to each of
10 the individual teams how they will manage stationery within
11 their areas.

12

13 Q. Your observation of measures like that, though, across
14 that broad experience that you've had, is that they can be
15 demoralising for staff?

16 A. Absolutely, yes. So staff generally feel untrusted
17 around getting access to stationery. Though I can add,
18 a similar thing happened in Victoria Police when I was
19 there and staff were also commenting on the quality of the
20 stationery as well, that they weren't allowed to buy pens
21 that were capable of writing for more than a week. I don't
22 think I heard that particular complaint in Queensland, but
23 like I say, unfortunately, it's not - when you're under
24 tight operating pressures, unfortunately these are the kind
25 of things that managers choose to implement and, yes, the
26 staff think they're unfair and it's probably not the way
27 I would have gone.

28

29 Q. That probably is a point at which we can move to
30 cultural issues. You did a lot of work in the time that
31 you were executive director to effect cultural change in
32 the forensic DNA Analysis Unit?

33 A. Yes.

34

35 Q. Can you explain to the Commission why you did that,
36 what was the outcome that you were seeking to achieve?

37 A. Yes, sure. I've always had quite an open and
38 approachable management style in terms of walking the shop
39 floor and interacting with staff. I find that that's
40 a really good way to engage with staff. And so, you know,
41 when I arrived at FSS, I pretty much announced to the whole
42 department that I had an open-door policy and if anybody
43 had any issues they wished to raise with me, just feel free
44 to knock on my door or make an appointment to come and see
45 me and discuss those concerns.

46

47 And that was taken up quite extensively by a number of

1 people from within Forensic DNA Analysis Unit, and some of
2 them became regular visitors, often to tell me about how
3 they feared for their safety and that the culture wasn't
4 good and relationships were pretty fractured. And a lot of
5 it centred around an incident that occurred prior to my
6 arrival involving someone called Amanda Reeves and how
7 management had handled that process and how people didn't
8 feel safe about how that process was managed at that time.
9 They would often cite examples, you know, fear of
10 retribution if they made any formal complaints, just like
11 Amanda encountered.

12
13 So it was difficult for me because I wasn't aware -
14 I'm still not fully aware of what happened with Amanda
15 Reeves. That was something that, like I say, happened
16 before my time, and Andria Wyman-Clarke, who was the
17 general manager of HR at the time, was managing that
18 process away from me when I first arrived at the
19 organisation. But people were basically telling me that it
20 wasn't a safe workplace, and sometimes they also raised
21 some technical issues with me that I didn't have the
22 technical expertise - although I'm a forensic scientist,
23 I'm a forensic chemist, so I have a reasonable
24 understanding of DNA processes, but not to the technical
25 level that some of these concerns were being raised.

26
27 And people would say that they were afraid to raise
28 them through official channels. But at the same time, none
29 of them were willing to go on record to allow me to
30 actually tackle them directly, so I had to try and find
31 other means to tackle it.

32
33 It became pretty clear to me that the workplace
34 culture needed some attention. There were clearly
35 deep-rooted issues and relationship problems with staff,
36 and having attempted to - so these were conversations I was
37 having with Michel Lok quite regularly as well, without
38 going into the details with him of who had been telling me
39 what, but I certainly told him there were cultural concerns
40 at FSS, and unfortunately not just in forensic DNA
41 analysis; they were actually quite prevalent across the
42 whole of FSS, but I will stick to just DNA analysis for the
43 purposes of this evidence.

44
45 Again, there was unfortunately a lack of corporate
46 support for me to tackle issues with culture through the HR
47 area. I did reach out for assistance but often didn't get

1 responses.

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In the end, I decided to go my own way, take another risk on budget, because I needed operating dollars to engage with a consultant, but it was - you know, it was so important to me to try to fix the culture within that work group that I was willing to take the financial risk of spending something like \$25,000 on bringing this consultant in on their initial piece of work.

Q. When you say you felt a lack of support and so you went down that path, what were the other options that might have been available to you to manage that situation?

A. Yes, so generally in FSS I found a lack of accountability on managers from within the organisation, and so I discussed with Mr Lok and with some HR people how I might go down performance management pathways. So I'm not specifically talking about anybody in the police services stream here, because actually I had bigger problems elsewhere, and there just was generally a lack of support for performance-managing people out of the organisation or remedying behaviours.

There was even a very pronounced example of a blatant breach of a lawful direction actually being ignored, and again the approach - that one went all the way to the chief executive at the time, Dr Bristow, for resolution, and he dismissed it and decided not to take any further action.

THE COMMISSIONER: Q. Mr Doherty, what was the lawful direction?

A. He directed one of the senior managers to undertake a task in a certain way. Because it's outside of the DNA area I don't know how much information you want, but it certainly wasn't in the DNA area. But it was a medical doctor that he was directing, and the medical doctors basically believe they have their own authority to do as they wish in the interests of their independent standing as medical practitioners, and so they simply refused to obey the direction.

THE COMMISSIONER: Thank you.

MS REECE: Q. When you say that people were coming to you from the forensic DNA lab coming to you saying they feared for their safety, you didn't understand that to mean their personal safety but the safety of their employment?

1 A. Yes, that's what I understood it to be, yes.
2 Certainly no-one was suggesting they were going to be
3 assaulted.

4
5 Q. They were scientists who were coming to see you,
6 weren't they?

7 A. Yes.

8
9 Q. You did act on some of the scientific concerns that
10 they raised with you?

11 A. Yes. There was at least one issue in particular
12 around DNA limits of detection, which I think is linked
13 with a matter that the court's already heard about with
14 respect to an Options Paper that was presented to
15 Queensland Police before my time, and again it was
16 a technical item that I wasn't fully across, so I did
17 consult with my equivalents in other jurisdictions.
18 I believe I reached out to New South Wales Health, to
19 Victoria Police and to Forensic Science South Australia for
20 advice on whether our limits of detection were appropriate,
21 and the feedback I got from those jurisdictions was that
22 they were appropriate, actually they were slightly more
23 generous than theirs in some cases. But obviously they
24 hadn't done a full review of the technical method; they'd
25 just looked at that one aspect, and perhaps that was the
26 reason --

27
28 Q. That issue was raised by Kylie Rika?

29 A. Yes.

30
31 Q. It arose out of a disagreement about whether there was
32 a three-person mix or a four-person mix in a particular
33 profile or a particular sample?

34 A. Yes, I believe at the time, Kylie said that she'd been
35 given a direction from Justin to stick to the standard
36 operating procedure and therefore, you know, stick within
37 the limits of the limit of detection. Kylie believed she
38 could interpret this result outside of the standard
39 operating procedure because she said that she had some
40 expertise that allowed her to actually work at that lower
41 threshold level. So she came to seek advice from me on (a)
42 the direction from Justin Howes to follow the standard
43 operating procedure, but (b) also to challenge the
44 technical work.

45
46 When I received the response from other jurisdictions,
47 I informed Kylie, as well as others, that our limits of

1 detection appeared to be in keeping with other
2 jurisdictions. I think she just said, "It wasn't the limit
3 of detection that was actually the issue; it was the way
4 the management team have decided to apply it across
5 casework samples."
6

7 It was at that point that I kind of formed the view
8 that there were some differences of approach to scientific
9 and technical aspects within the work group, but I did take
10 comfort from knowing that they had a quality manager
11 actually within the DNA group, so not just Helen Gregg,
12 who's outside of the group, more as an adviser to the
13 executive director, but also within the group there were
14 also members of the specialist advisory group under the
15 National Institute of Forensic Science around forensic DNA
16 procedures.
17

18 So, look, I took comfort from the fact that there were
19 lots of inputs into the technical side. But nonetheless
20 I did investigate with Michel Lok whether we could get an
21 expert from Forensic Science South Australia and I think it
22 was Duncan - Duncan McCarthy [sic], is it, I think he's
23 given evidence to this inquiry as well.
24

25 Q. Duncan Taylor?

26 A. So I had spoken to the director of Forensic Science
27 South Australia about possibly being able to do a review,
28 but then COVID hit and it basically became impossible to do
29 that. But I didn't feel that the technical issues that
30 were being raised were so urgent at that time that they
31 needed - they needed some response that would require me to
32 request an exemption around COVID restrictions. In any
33 case, even if I had been granted that, I'm not sure the
34 other jurisdictions would have sent anybody.
35

36 Q. You said earlier, when I started asking you about
37 this, that your understanding was that this issue that
38 Ms Rika was raising at that stage was linked to another
39 process which has been spoken of in the Commission, the
40 Options Paper issue. How do you understand those two - the
41 DNA insufficient for further processing process, or
42 approach, and the limit of detection issue that Ms Rika was
43 raising with you - how do they interact?

44 A. So, I mean, look - and perhaps again it's my naivety
45 from not being a forensic DNA expert, but, to me, what
46 I was hearing is that when something fell below that
47 threshold for the limit of detection, it was no longer

1 counted as being a contributor to that mixture. So it
2 might well be if you only look above the limit of detection
3 you'll see a three-person mixture, but if you include some
4 peaks that are below that limit of detection, you might be
5 able to say it's a four-person mixture, and perhaps the
6 person that the police are (indistinct) is actually that
7 fourth person that has now been excluded by the limit of
8 detection.
9

10 Sometimes reworking those samples might give an
11 opportunity to get that fourth person into the mixture, or
12 you might lose the opportunity; a four-person mixture might
13 become a three-person mixture. So I think the things - as
14 I saw it at the time, those things were linked insofar as
15 the limit of detection was influencing how many
16 contributors there might be to a mixed profile.
17

18 Q. Do you specifically recall any of the scientists
19 raising with you that there was a threshold operating in
20 the lab under which certain samples were not being
21 processed further?

22 A. No.
23

24 Q. No?

25 A. No.
26

27 Q. All right. Do you recall Ms Angelina Keller coming to
28 you and asking you or telling you about some concerns she
29 had with the processing of bones?

30 A. Yes, I do remember her coming to have conversations
31 with me about mortuary processes overall in relation to
32 disaster victim identification cases. It included bones,
33 but not just bones. She talked to me about other DVI
34 samples, so that could include tissue as well as bones.
35

36 Q. When these scientists were coming to talk to you and
37 they were telling you their concerns, telling you that they
38 didn't feel safe, that, you say, impacted on your ability
39 to address those concerns that they had, because of their
40 need for confidentiality?

41 A. Yes, that's right. For example, the things that
42 Angelina Keller was raising with me would have been very
43 obvious to Cathie, or indeed anybody else in forensic DNA
44 analysis, that it had been Angelina that had raised those
45 issues because there weren't that many people who were
46 previously attending the mortuary but were no longer
47 allowed to attend the mortuary. You know, it would have

1 been pretty obvious. So in order to protect her safety,
2 I had to try to find other ways to deal with some of these
3 issues.

4
5 Q. You had a number of people coming to you. How many
6 scientists were coming to you regularly? You spoke of
7 a group who regularly saw you, or a number of people who
8 regularly saw you.

9 A. Yes, I think there was - there was probably around
10 four or five who were regular visitors.

11
12 Q. Each of them told you that they didn't feel they could
13 speak openly about their concerns in their workplace?

14 A. Yes, all of them probably except Kylie, who did say
15 that sometimes she was happy to tackle those issues
16 directly, and, you know, often actually did voice her
17 opinions openly, but certainly the others weren't willing
18 to go on record.

19
20 Q. As a result of that cumulative experience, did you
21 form any concerns about what they were saying about their
22 perception, at least, of the safety of their employment,
23 their ability to talk freely in their workplace?

24 A. I mean, look, it was pretty obvious to me when I was
25 talking to these people that they genuinely did have
26 concerns around retribution in terms of management action
27 against them. It didn't matter - I never saw any evidence
28 of that actually occurring in the time that I was there,
29 but, you know, they would again reference the previous
30 experiences of Amanda Reeves, or at least their perceptions
31 of what had happened to Amanda, and they would basically
32 say they're next in line if they dared challenge Justin or
33 Cathie.

34
35 Q. You in fact once raised this with Cathie herself,
36 didn't you?

37 A. Correct.

38
39 Q. You told her that there were staff who had that fear
40 of repercussions or retribution if they spoke out?

41 A. Yes, so although I was happy to meet with staff
42 privately and have conversations with them, I was never
43 going to effect any change unless Cathie knew that I had
44 been meeting with some of her staff and that issues were
45 being raised. So I did take the opportunity to raise that
46 staff did have concerns regarding that, yes.

47

1 Q. Do you recall what her response was when you raised it
2 with her?
3 A. I believe - I believe her response at the time was,
4 "Show me what consequences people have suffered as
5 a consequence of raising issues." And, you know, there was
6 nothing on record that I could point to, and certainly
7 I had no information of actual consequences; only the
8 perceived risk of consequences. And I actually think that
9 that was probably a reasonable response from Cathie at that
10 time and, you know, even to this day I didn't see any
11 direct repercussions to anybody as a consequence of raising
12 concerns.
13
14 Q. They were raising with you, though, weren't they,
15 their perception of how Amanda had been treated --
16 A. Yes.
17
18 Q. -- when telling you that that's why they were afraid?
19 A. Yes.
20
21 Q. Did you pass on that information to Cathie?
22 A. No. No. It was pretty clear to me that - you know,
23 I didn't know enough about the Amanda Reeves situation, and
24 any time I mentioned Amanda I think Cathie would get upset,
25 so we basically didn't talk about that process very much.
26
27 Q. You formed the view, Mr Doherty, that Cathie Allen,
28 Justin Howes and Kylie Rika were all having a bad effect on
29 each other; is that a fair summary of your evidence?
30 A. Yes. At the same time as Cathie was saying - or,
31 sorry, that Kylie was saying that she didn't feel she could
32 raise issues with Justin and with Cathie, at the same time
33 Cathie was saying they didn't feel like they could have
34 a good conversation with Kylie, that she was actually
35 causing them angst. You know, I think as far as I could
36 see, it actually flowed in both directions.
37
38 Q. The power didn't flow in both directions, though, did
39 it? They were both senior to her?
40 A. Correct, yes.
41
42 Q. In terms of decision-making on scientific issues, the
43 person who was really the arbiter of any such matter was
44 Cathie Allen, wasn't it?
45 A. Certainly in those early stages, yes, although
46 I understand there were internal processes through their
47 quality system to actually arrive at technical decisions.

1 But, yes, as the managing scientist, Cathie would have had
2 ultimate authority on endorsing technical approaches.
3

4 Q. None of those quality management systems had any
5 ability to veto or challenge the managing scientist,
6 though, did they?

7 A. They certainly had the opportunity to challenge
8 a standard operating procedure, so something that was
9 published. If something's in a standard operating
10 procedure, it's effectively, you know, a process that
11 people must follow, and they did actually have a process
12 for challenging the SOP. But I'm not aware that it was
13 used by Kylie or any of her team to raise the issues that
14 they were bringing to me as technical issues.
15

16 Q. Once when you were speaking to a reporting team
17 member, they informed you that there was a member of the
18 analytical team who was trying to build up the courage to
19 come and talk to you; do you recall that?

20 A. Yes.
21

22 Q. And was that about a flexible work arrangement or
23 something like that?

24 A. I wasn't actually sure, because I never got to speak
25 to that person, and I don't even recall which of the people
26 who had previously visited had mentioned that, so, no,
27 I didn't actually get to the bottom of it. So I only have
28 the one-sided interpretation of the person who was telling
29 me at the time that somebody else --
30

31 Q. Yes, I appreciate that it was at some remove from the
32 person who actually perhaps had that concern, but what you
33 were told was that the manager of the analytical team was
34 best friends with Cathie Allen, and that this individual
35 felt there would be no chance of them surviving any process
36 where they complained about something, because Cathie Allen
37 would support (indistinct)?

38 A. That's certainly how it was phrased to me, yes.
39

40 Q. Did that give you a sense that perhaps the issues in
41 this workplace extended beyond the reporting team?

42 A. Yes.
43

44 Q. That it wasn't the case that it was simply a group of
45 reporters who were unhappy; that it went further than that?

46 A. Well, it was a reporter that was telling me that, but
47 it was never backed up with an actual approach from

1 somebody in analytical.

2

3 Q. When you instigated this cultural change program, you
4 engaged an external consultant, Tess Brook?

5 A. Yes.

6

7 Q. From 1st Call Consulting. She did some confidential
8 one-on-one interviews with employees?

9 A. Yes.

10

11 Q. And there were a number of issues which then arose
12 from those interviews, which turned into workshops?

13 A. Yes.

14

15 Q. And the three big issues were navigating differences
16 of scientific opinion; approaching new and novel practices;
17 and team culture and how you structure a management team so
18 it's safe for everybody to participate in management
19 decisions. Those were the three chosen issues?

20 A. Yes, the first three, yes.

21

22 Q. Sorry?

23 A. It was the first three. There was actually a longer
24 list of things, but we had to prioritise, so we picked the
25 top three based on however many people had given that
26 particular piece of feedback or how serious we thought that
27 was. So Tess and I met to discuss which were probably the
28 three priority areas based on - because the conversations
29 she was having with people were confidential, so I wasn't
30 privy to who had said what, but she obviously was aware of
31 that, so she and I tried to determine which were the top
32 three for tackling, but eventually we planned to work
33 through the whole list, through those management team
34 structures.

35

36 Q. One of the aims of the cultural change or one of the
37 cultural change workshops was in relation to navigating
38 scientific difference. Any navigation of scientific
39 differences in a workplace like this occurs within
40 a certain power structure, doesn't it?

41 A. Predominantly we were actually talking about peers
42 interacting with other peers, so reporting scientists with
43 other reporting scientists, in this case.

44

45 Q. So that workshop was more focused at that peer-to-peer
46 level, okay, and then the other management - were any of
47 the other sessions really aimed at any issue of difficulty

1 communicating on scientific issues with management?
2 A. Well, I guess that was obviously put across as the
3 reason why we were trying to come up with workflows to
4 tackle how to have a civil conversation with another person
5 around a difference of opinion. The idea of experts being
6 independent essentially, although they work for the same
7 organisation, is that sometimes there is a divergence of
8 opinion on certain things, and in most organisations, two
9 experts will get together and discuss where the differences
10 are and actually reach an agreement on a single position.
11 But that wasn't happening in this work group. They were
12 simply reaching a stalemate where they weren't agreeing
13 with each other and didn't really have a process, in some
14 cases, to actually navigate past that.
15
16 Q. Those differences, in fact, were something of an
17 obstacle to bringing together that group?
18 A. Yes.
19
20 Q. And effecting cultural change?
21 A. Yes.
22
23 Q. And towards the end of the process, you observed or
24 you formed the view that while progress might be made, it
25 didn't take much to undo that and people would revert to
26 hurts and hark back to issues that had happened previously?
27 A. Yes, that's right.
28
29 Q. And your impression was that trust was a huge issue in
30 that workplace?
31 A. Yes. It was actually openly discussed by some people
32 that they didn't trust others within the team, although
33 they wouldn't actually mention - they wouldn't name them.
34 In those early cultural meetings, there were certainly some
35 people saying, "I don't trust everybody in this room."
36
37 Q. Part of the other challenge of that piece of work was
38 that COVID-19 reared its head and much of it had to be done
39 virtually?
40 A. Yes. When I first engaged with 1st Call, it was
41 before all the lockdowns, but obviously by the time
42 I actually began to start running sessions, I think Tess
43 did most of her interviews either by phone or in person
44 prior to lockdowns. By the time we actually came to
45 workshop these issues, we were having to do those
46 virtually, so the program actually got extended quite
47 significantly.

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Q. As part of this same approach, or the same cultural change plan, you set up cultural management team meetings which would be held monthly?

A. Yes.

Q. The cycle was that there would be a management team that would be "Administrative Issues", or I think there were a number of different topics or subject matters which each team meeting would cover, and "Culture Management" was one of them?

A. That's right. There was effectively three different streams of meetings, so there was a strategic meeting where they would talk about scientific and technical issues and projects they were working on to improve the science for the future. There was an operational meeting where they would discuss operational performance, things like turnaround times and backlogs. Then the third one was a cultural meeting. And then because they were having meetings every week, in the fourth week they would go back to an operational meeting, and if it was a five-week month they would have another cultural discussion.

Q. What was the intention of those cultural management team meetings?

A. Because it was pretty clear that relationships were fractured and there were some cultural issues within the work group, I felt like it wasn't sufficient to have a single meeting with culture as a topic on it, because what generally happens in those kind of meetings is it gets glossed over, they concentrate on the operational part, which they were really good at, and they gloss over the strategy and they gloss over the cultural part. So by having a meeting that was entirely dedicated to culture, they couldn't avoid the elephant in the room and they actually had to start having conversations about workplace culture and how it can be improved, because the power was in everybody in that room to effect that change.

Q. Those meetings were intended - the intention was that everyone was at an equal level during the meeting. What does that mean in reality? What does it mean that you can have a meeting where HP5s, 6s and the 7 are on the same level?

A. Yes, so the idea is that everybody obviously in those meetings had the authority to raise any issue without fear of somebody shutting them down because they were their

1 manager. You know, the managers had no more authority to
2 veto things that were being discussed than anybody else in
3 the room. So the idea was it was going to be a safe space
4 for the HP5s to raise issues with the HP7 or the HP6s and
5 to actually have an open discussion between everybody in
6 the room to see, maybe all the HP5s felt one way about
7 something, but the HP6s and 7s had a different view. By
8 giving everybody equal footing, you didn't succumb to the
9 opportunity for people with authority to actually suppress
10 the discussion.

11
12 So the idea was that the discussions could occur with
13 everybody on an equal footing, and that's certainly how
14 they operated whilst I sat in the meetings, and I sat in
15 those meetings right up till I left in September of '21.

16
17 Q. As part of that same cultural change program you
18 instigated, Paula Brisotto was involved in a body of work
19 developing values within the DNA group, which you thought
20 was very positive?

21 A. Yes, certainly the feedback I was getting from Paula
22 and from her team, who all seemed very enthusiastic, was
23 that they were enjoying working collaboratively together,
24 so there was representation from across the whole forensic
25 DNA analysis team, coming up with a vision for how the DNA
26 analysis would actually express its vision for the future
27 based on my vision for the whole of FSS, and, you know, it
28 was certainly a very positive piece of work that resulted
29 in the document that was basically going to become their
30 mantra for how they interact with each other and how they
31 treat each other in the workplace.

32
33 Q. Your impression was that she was a person who people
34 or many people trusted within the management group?

35 A. Yes.

36
37 Q. And you were aware that sometimes people would go to
38 her and ask her for advice on how to speak to Justin and
39 Cathie?

40 A. Yes.

41
42 Q. That suggests, doesn't it, that there was a difficulty
43 in communicating with those senior members of staff, if
44 another member of staff had to provide communication
45 advice - doesn't it?

46 A. I guess if you kind of - you know, Justin and Paula
47 were both HP6s at the same level, but Paula obviously

1 wasn't involved in the reporting stream, she oversaw the
2 other streams of the business. So you could say, you know,
3 if you're a reporter and you want to raise an issue and you
4 feel like you're not going to be able to have that
5 conversation with your manager, who can you go to to
6 actually get some advice on whether you're even barking up
7 the wrong tree, and I think Paula was - so people could
8 test things out on Paula before they had those
9 conversations with Justin and then escalate it to Cathie if
10 necessary.

11
12 Q. Flexible work arrangements were one of the things that
13 individuals would raise with you?

14 A. Yes.

15
16 Q. Quite frequently, as I understand it?

17 A. Yes.

18
19 Q. Your view was that the flexibility was a default
20 position, that if possible it should - that it was best to
21 try to make it work?

22 A. Yes.

23
24 Q. Why did you take that view?

25 A. I mean, look, I've always believed that a happy
26 workforce is a productive workforce. So if the business
27 can find a way to flex to the individuals within the work
28 group, it's generally going to be more productive, is my
29 experience.

30
31 I personally hold the view that if you're asking
32 someone to choose between their job and their family,
33 I hope they will choose their family every time, because
34 family - you know, it's far more important than the work
35 that we do - I'm not saying the work we do isn't important,
36 but people as far as I was concerned should be putting
37 their families first.

38
39 So sometimes that's not actually possible, because the
40 demands of the business actually do make it difficult to
41 give the exact definition of flexibility that the person
42 has asked for, but that doesn't mean there aren't other
43 ways to find flexible ways of working for people that will
44 still meet the business needs. Generally I would try to
45 approach these things from the point of view of, let's give
46 the employee what they want if we can, and if not, let's
47 try to find a solution that works for both.

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Q. Cathie didn't share that same approach, did she?
A. I think Cathie's approach was more focused on the business needs rather than the individual's need. So I think that's just the - that's the nature of how Cathie managed the section. She was very focused on the business requirements and her obligation to deliver the business. So, yes, we would differ in that respect.

Q. When you arrived at FSS or when you first knew of forensic DNA through your role as executive director, it was Cathie's view that reporting scientists would become unavailable to attend court if they were permitted to finish their work day at 2.30, and that was a ground to refuse a flexible work arrangement?

A. Yes.

Q. You essentially disagreed, and you trialled it to see whether flexibility could be deployed for these scientists who could be called to court, and your ultimate view was that there wasn't an issue?

A. Yes, I guess if your mantra is "people first", then you want to know that the potential risk to the business is actually real and not just theoretical, so, you know, if the reason being put up is, "Well, they won't be available to attend court", let's see if that actually causes issues for those particular individuals. Let's count how many times they missed a court attendance. Often courts will give you more than a day's notice that you're required, and in my experience, the vast majority of staff would find something that worked to allow them to attend to their court obligations.

I would have to say, as well, this issue again is not one that was unique to Queensland. I had the exact same issue in Victoria Police, and it's largely because forensic DNA analysis has a large proportion of females in the workforce, so 80 per cent or more females in the workplace, there's a lot more access to flexible work to allow for caring for children, and some managers' views are that the business suffers as a consequence of those part-time arrangements.

Q. Your feeling was that towards the end of the time that you were at FSS, Cathie was coming around to your way of thinking?

A. Yes, towards the end, those forms were coming to me

1 supported by Cathie, and, like I said, through the values
2 work that Paula Brisotto had done, we'd very much defined
3 that the people first culture was what we wanted within the
4 organisation. So, yes, I believe Cathie came round to that
5 same way of thinking.
6

7 Q. Some of the people who came to see you expressed the
8 belief that management would be obstructive in a flexible
9 work arrangement request even though they had not
10 personally experienced that?

11 A. Yes, so there were times, I'm assuming staff talk
12 amongst themselves about their experiences with applying
13 for flexible work arrangements, and some staff who had
14 never actually even applied for one before thought it was
15 going to get blocked on the way through, presumably based
16 on what they were being told by others, not from actual
17 experience.
18

19 Q. It's fair to observe, isn't it, though, Mr Doherty,
20 that there had been some inflexibility previously with
21 flexibility in work arrangements?

22 A. Yes.
23

24 Q. Particularly around those court hours?

25 A. Yes.
26

27 Q. There was also some controversy about Christmas Eve
28 which I won't go into, but there were some longstanding
29 issues in that workplace around flexible work arrangements?

30 A. Yes.
31

32 Q. I'll take you to the Working for Queensland surveys.
33 Your evidence is that while you would see the responses
34 from those surveys in your time at FSS, you wouldn't see
35 the free text responses from the employees?

36 A. That's right, yes.
37

38 Q. And that you asked for those responses but didn't
39 receive them?

40 A. Yes, that's right.
41

42 Q. The free text responses are where the employees can
43 actually say what they think rather than give a score or
44 agree or disagree on a set set of questions?

45 A. Yes.
46

47 Q. As such, the ability to understand what issues were

1 being raised was limited by that lack of provision of the
2 free text responses to you?

3 A. Yes.

4
5 Q. I'll just take you to reworking of samples. You
6 became aware very early in your tenure at FSS that
7 incorrected results - that is, results given at an
8 intelligence stage that later changed at reporting stage -
9 were causing friction between the lab and QPS?

10 A. Yes.

11
12 Q. And there would be regular meetings with QPS which you
13 would attend with Cathie?

14 A. Yes.

15
16 Q. And Inspector David Neville and Superintendent Bruce
17 McNab would also attend?

18 A. Yes.

19
20 Q. And you would provide updates on incorrects and
21 discuss that issue?

22 A. Well, Cathie would, yes.

23
24 Q. You were really there to facilitate the discussion
25 because of the difficult relationship between Cathie Allen
26 and David Neville?

27 A. Yes.

28
29 Q. Your understanding of that issue is that you were, at
30 the time, looking for a way to address QPS's concerns about
31 the impact of incorrects on their cases?

32 A. Yes.

33
34 Q. Because in some cases, that incorrect could mean that
35 a result which had been acted upon at an early stage might
36 then be withdrawn, so an evidentiary basis for a case might
37 be withdrawn, effectively?

38 A. Yes.

39
40 Q. In early 2019, it was decided that Cathie Allen would
41 be the arbiter or the decision-maker for reworking, in that
42 she would be made aware of reworks and the possibility,
43 then, of incorrects, because any request for reworking
44 a sample brings with it that potential for an incorrect,
45 and that she would justify to QPS why reworking was done?

46 A. Yes.

47

1 Q. As you understood it, this was intended to be an
2 administrative process so that Cathie was to be made aware
3 of the rework and the potential for an incorrect?

4 A. Yes.

5
6 Q. And she was choosing, so that she was aware - you were
7 aware that some people saw this as a controlling action?

8 A. Yes.

9
10 Q. Was it ever the intention to deter people from seeking
11 reworking of a sample if they were concerned that a sample
12 hadn't been correctly processed or interpreted?

13 A. I guess it depends what you mean by that. Certainly
14 it wasn't meant as a block to giving QPS the best possible
15 evidence for their case, but clearly it was a control
16 measure that was put in place to ensure more consistency
17 was applied in the criteria for reworks, so decision-making
18 was consistent across forensic DNA analysis because the
19 decisions were all being made by the managing scientist.

20
21 THE COMMISSIONER: Q. Perhaps you can assist me with
22 this. What do you mean by an administrative process,
23 because the position that we are talking about is one in
24 which scientist A says, "I interpret the profile this way,
25 and this is contrary to what QPS has been told, but in my
26 opinion what QPS has been told should be changed." So
27 that's the position we're talking about, isn't it?

28 A. No. So my interpretation is that a case might well
29 return a mixed profile and the scientists can't agree
30 whether it's a three- or a four-person mixture, so they ask
31 to rework the exhibit to go back and re-analyse it to
32 determine if they can get a different outcome. So that
33 might actually happen before intelligence reporting or it
34 might happen after intelligence reporting but before
35 statement issuing. So it could happen at either of those
36 stages, I believe.

37
38 Q. But at the end, what we're facing is a difference of
39 opinion in interpretation between --

40 A. Yes.

41
42 Q. -- some scientists?

43 A. That's right.

44
45 Q. So what is the administrative process which would be
46 applied to resolve the conflict, as you understood it then?

47 A. It would basically be a representation from the

1 scientist through the line management to Cathie with
2 a request to rework the item and a decision from Cathie as
3 to whether that was authorised or not.

4
5 Q. But you have a result, result A, which shows
6 something, an interpretation of a particular kind, and then
7 you have a second scientist who has reviewed the data and
8 comes up with interpretation B; is that correct?

9 A. Yes.

10
11 Q. So the question for her is, should there be a further
12 processing of a sample in order to attempt to resolve the
13 conflict; is that as you understood it?

14 A. Yes.

15
16 Q. On what basis did you understand she would make that
17 decision?

18 A. I didn't actually know, because I assume she would
19 have much more insight into the technical aspects of the
20 processing than certainly I would, so --

21
22 Q. Do you know what her current experience was in
23 analysing profiles?

24 A. I imagine it had been some time since she'd been on
25 the bench, but I couldn't tell you - I couldn't tell you
26 any more.

27
28 THE COMMISSIONER: Yes, thank you. Yes, Ms Reece.

29
30 MS REECE: Q. Mr Doherty, you spoke of criteria, and
31 I know you said you're not sure what they were. Was it
32 ever suggested that one criterion for whether a sample
33 rework should be authorised - the potential for it to have
34 a negative effect or negative impact on a police case?

35 A. No, absolutely not.

36
37 Q. In your view, that wouldn't be a legitimate reason to
38 prevent a scientist from asking for a rework on a sample,
39 would it?

40 A. No.

41
42 Q. But it would be reasonable for a managing scientist to
43 know that there was a potential for that, because they have
44 to deal with the fallout, but not to stop it?

45 A. Correct, yes.

46
47 Q. You didn't direct Cathie to institute that process,

1 did you? She came to you with a proposition and you agreed
2 to it?

3 A. That's right, yes.
4

5 Q. And by "the process", I should be clear, I mean the
6 process of seeking her permission to rework, that the
7 scientists had to seek her permission to rework samples?

8 A. That's right, yes. I believe it was in my first week
9 actually at FSS, and I actually don't recall issuing very
10 many directives in my time there, or in fact anywhere that
11 I've been.
12

13 Q. I just have one final topic to talk to you about, and
14 it's briefly your understanding of the production line
15 approach to DNA analysis, and we have heard some evidence
16 across the course of hearings which goes to the question of
17 a production line approach perhaps as opposed to a case
18 management approach. I understand that you have seen both
19 approaches in the time that you've worked across various
20 forensic labs?

21 A. Yes.
22

23 Q. Your view is that both of them have their issues?

24 A. Yes.
25

26 Q. In short, the risk with a case management approach can
27 be confirmation bias?

28 A. Yes. That risk exists in both, but yes.
29

30 Q. Confirmation bias - because if you have the same
31 scientist all the time across all the samples, their own
32 bias can come into play. Is the corollary of that that if
33 you have more scientists working on it, it's more likely to
34 be a more robust process?

35 A. Yes, because there are more eyes on - so
36 a confirmation bias in this context would largely be when
37 scientists are taking a case management approach, you have
38 the same scientist doing the initial work and doing the
39 interpretation, and a second scientist basically verifying
40 that the results are correct. That's where confirmation
41 bias often plays its part, because if you don't have
42 processes to ensure that people randomly choose who's
43 reviewing the technicalities of their case, they often go
44 to the same people all the time and, you know, for example,
45 if I'm asking you to review my cases on a regular basis,
46 you might well say, "Oh, that's John, he gets them right
47 all the time" and so you go in with this confirmation bias

1 that I will have got the right answer.

2
3 It's actually a big issue in forensic science across
4 the board, and there are multiple papers on it and multiple
5 experts across the globe who actually talk about
6 confirmation bias. It's possibly more risky in
7 a case-based approach that confirmation bias has a bearing
8 on the individual case, whereas obviously in the item-based
9 approach or the production line approach, because there is
10 more than one person doing the initial interpretation and
11 more than one person doing the technical review, there are
12 lots more opinions being thrown at the case overall, so the
13 risk of confirmation bias is actually better managed in
14 that context.

15
16 Q. The risk in that model, though, with the multiple
17 scientists is this exact issue that arose with incorrects,
18 isn't it, and so it really highlights, I suppose, that
19 there are risks inherent in both models which need to be
20 identified and managed depending on which process is
21 imposed?

22 A. Yes. I personally see this as a challenge for
23 forensic science generally across the globe, is to manage
24 the risks around bias in interpretation. I think it's
25 particularly pronounced in complex DNA interpretations,
26 where one person might say it's a three-person mixture and
27 another might say it's a four-person mixture and they're
28 presented with exactly the same data but do come to
29 different conclusions. Often in those scenarios, you
30 either rework or you get a third person involved in the
31 interpretation, preferably on a blind process so they don't
32 know which expert has said which. So, yes, I see that as
33 a challenge across the whole forensic science community.

34
35 Q. I just want to, at the end of your evidence,
36 Mr Doherty - you were sent some transcript. In fairness to
37 you, you were sent some transcript references where
38 individual scientists who have come before the Commission
39 have mentioned your name. Have you had a chance to look at
40 those references?

41 A. Yes.

42
43 Q. Is there anything you want to say in response to the
44 scientists' evidence?

45 A. I guess the only thing is - largely they've got the
46 flavour of some of those conversations correct, but some of
47 the minutiae sometimes are a little out. So I accept it,

1 and that was the risk of having one-on-one conversations
2 with people, that you've only got one viewpoint being
3 presented to the Commission. I mean, they're largely
4 correct, but there are a couple of - probably a couple of
5 areas where I would have expressed it differently.
6

7 THE COMMISSIONER: Q. So the substance of it is
8 something you'd largely accept, but the detail of it is
9 something that, if it mattered, you would wish to have
10 a different view put forward?

11 A. Yes. I mean, by way of example, evidence from Kylie
12 Rika saying that I said disciplinary processes always come
13 down in favour of the manager would not have been what
14 I would have said. I would have said people who lodge
15 grievances do find those processes difficult, particularly
16 if there isn't a large body of evidence to support an
17 outcome, and they would come down often in favour of the
18 person being accused. Now, obviously that would be the
19 manager in the case that Kylie mentioned. But just a small
20 point of clarification that, you know, the benefit of the
21 doubt is often given to the person who's being accused of
22 wrongdoing in the absence of evidence of that wrongdoing.
23

24 Q. I understand, and I don't think I'm going to be making
25 findings about who said what at those meetings, because the
26 significant thing is that there were meetings of that kind.
27 A. Yes.

28
29 Q. If it comes to matters of detail, then I'll remember
30 that you don't accept the detail, and if it's necessary,
31 we'll come back to you, but I don't think that's going to
32 happen.

33 A. Thank you, Commissioner.
34

35 THE COMMISSIONER: Anything else, Ms Reece?
36

37 MS REECE: No, thank you, Commissioner. I notice the
38 time. It's 5 minutes past 1. I anticipate there will be
39 some cross-examination.
40

41 THE COMMISSIONER: Yes. How long will you take,
42 Mr Hunter, do you think?
43

44 MR HUNTER: I think five or 10 minutes, tops.
45

46 THE COMMISSIONER: Yes, and, Mr Rice, do you have some --
47

1 MR RICE: Five minutes.

2
3 THE COMMISSIONER: Mr Hickey?

4
5 MR HICKEY: Similarly, Commissioner.

6
7 THE COMMISSIONER: We could continue for 20 or 25 minutes
8 if you wish, Mr Docherty, and it's your convenience that
9 matters here. Would you prefer to finish this in
10 20 minutes or so, or would you prefer to come back in an
11 hour and a half?

12
13 THE WITNESS: No, I'm ready to keep going. It's 5 past 2
14 here.

15
16 THE COMMISSIONER: Yes, let's finish it then. Thank you.
17 Mr Hunter?

18
19 <EXAMINATION BY MR HUNTER:

20
21 MR HUNTER: Q. Mr Doherty, I appear for the Queensland
22 Police Service. Just on the subject of the conversations
23 that are attributed to you or the statements that are
24 attributed to you by staff members, was Ingrid Moeller one
25 of the staff members who would come and speak to you?
26 A. I think I only saw Ingrid once, but, yes, she did come
27 and talk to me.

28
29 Q. On the occasion that you saw her, did she raise
30 Ms Allen's behaviour with you?
31 A. Yes.

32
33 Q. She says - I'm inviting you to comment - that when she
34 raised Ms Allen's behaviour with you, you said to her that
35 you believed that Ms Allen could be rehabilitated?
36 A. I guess this is a matter of point, as I was just
37 making to the Commissioner, that the theme of that comment
38 is probably correct, but I don't think I would have said
39 Cathie could be "rehabilitated". I probably would have
40 said Cathie's management style can be worked on and
41 I believe Cathie can become the kind of manager that people
42 would want. I can't tell you exactly what words I would
43 have said, but something along those lines.

44
45 Q. Do you recall what specific aspect of Ms Allen's
46 behaviour was being raised with you by Ms Moeller?
47 A. Ms Moeller didn't pull her punches. She outright

1 accused Cathie of being a bully, and I believe - again, she
2 would talk about how inflexible Cathie was, and I believe
3 that I just basically said that, you know, if that
4 behaviour was correct, I'm sure it could be corrected. But
5 Ms Moeller clearly stated she didn't believe so, and that
6 was pretty much the last time I saw her. I think she
7 probably lost a bit of faith in me because I was shown to
8 be supporting Cathie, as far as she was concerned.
9

10 Q. Did I understand you to say a moment ago that the
11 position at the laboratory was that in the event that there
12 was a dispute between scientists about a particular
13 conclusion, there would have to be an approach to Ms Allen
14 to approve the rework?

15 A. If that was how they - you know, if they hadn't
16 resolved it through a third person, which was the
17 alternative process, was for a third person to be involved
18 in the interpretation, then, yes, it would be an approach
19 to Cathie for a rework.
20

21 Q. Were you aware that the situation had arisen on
22 a number of occasions where the Police Service would be
23 given an indication - particularly in the case of a mixed
24 profile, the police would be given an opinion upon which
25 they, the police, would act, only to some time later be
26 told that another scientist had looked at the matter and
27 did not agree with the initial opinion?

28 A. Yes.
29

30 Q. Was that a situation where an approach would need to
31 be made to Ms Allen to have the matter reworked?

32 A. Yes.
33

34 Q. Do you know whether the Police Service was ever told
35 that there was a protocol in place for resolving conflicts
36 of that sort?

37 A. Oh, I don't know specifically about resolving
38 conflicts, but certainly they were aware that there was
39 a process in place for reviewing incorrects, because it was
40 a topic that Inspector Neville raised on a regular basis,
41 was the risk to QPS around uncorrected results. So
42 certainly they were aware they were being managed by Cathie
43 directly, and they would interact with Cathie directly
44 around any uncorrected results.
45

46 Q. Let's be clear about this. Did you ever convey that
47 information - that is, the process - to Inspector Neville?

1 A. No.

2

3 Q. Were you ever present when anybody else ever conveyed
4 that process to Inspector Neville?

5 A. No.

6

7 Q. But you were present when Inspector Neville raised
8 a concern that the Police Service regarded itself as being
9 potentially exposed by the giving of one opinion followed
10 by a different one?

11 A. Yes.

12

13 Q. Can I just ask you about the funding arrangements.
14 Now, I know you weren't at the laboratory when the
15 \$3 million annual sum was arrived at, but your
16 understanding was that that occurred in 2005?

17 A. It was out of the ministerial task force, so, yes, it
18 was well before my time, I know that, but whether it was
19 2005 or later I couldn't be certain.

20

21 Q. Sure, all right. I guess what I'm getting at is,
22 there was the agreement about the \$3 million and there was
23 then, subsequent to that, a change in procedure whereby the
24 sampling was done by the QPS and no longer by the lab?

25 A. Yes.

26

27 Q. Do you agree with me that the police taking over that
28 sampling function would have been a significant cost
29 saving, would have resulted in a significant cost saving,
30 to the laboratory?

31 A. Yes, absolutely.

32

33 MR HUNTER: Thank you. Those are my questions, thank you,
34 Commissioner.

35

36 THE COMMISSIONER: Thank you. Mr Rice?

37

38 <EXAMINATION BY MR RICE:

39

40 MR RICE: Q. Mr Doherty, I represent Queensland Health.
41 I just want to revisit your evidence concerning the budget
42 process. You arrived and took up your position as
43 executive director in January 2019; correct?

44 A. Yes.

45

46 Q. So that would it be right to say that for that
47 financial year 2018/2019, the budget process had been long

1 since completed with a budget allocated for that particular
2 financial year, which you joined halfway through; correct?

3 A. Yes, absolutely, yes.
4

5 Q. Now, you spoke of participation in what you describe
6 as the budget build process. Now, that would have been,
7 would it not, for the 2019/2020 year?

8 A. Yes.
9

10 Q. If I understood correctly, as part of that process,
11 you identified and put forward a request for such staffing
12 as you thought were necessary for FSS for that financial
13 year?

14 A. Yes.
15

16 Q. That request was not met, as I understand, because as
17 it turned out, the budget process was such that FSS was
18 allocated, or to be allocated, a budget for 2019/2020 based
19 on what it had spent in 2018/2019?

20 A. Correct yes.
21

22 Q. But you knew, at least from your perspective, that
23 that would inevitably lead to FSS being run in deficit for
24 the 2019/2020 year?

25 A. Yes.
26

27 Q. I take it that is the path that you - I was going to
28 say "chose" to go down; perhaps that's not quite right -
29 the path that you felt it was necessary to go down. Is
30 that more correct?

31 A. Yes, like I say, I didn't actually have any choice.
32 It was, you know, the budget - the budget build process, as
33 far as I would say, nominally we had some input into it,
34 but eventually, you know, finance - general manager of
35 finance and CEO at the time of HSQ were the ones that were
36 really making the decisions on how funds were allocated
37 within Health Support Queensland. I think the department
38 looked at allocation to HSQ, and then HSQ looked at
39 allocations down to the lower levels within that
40 organisation.
41

42 Q. So far as DNA analysis is concerned for the 2019/2020
43 year, does the upshot of that mean that there were
44 positions being occupied for which there was no budget
45 funding?

46 A. Yes.
47

1 Q. You would have been aware by virtue of your position,
2 wouldn't you, that a process of advancing a business case
3 was available to managers such as yourself?

4 A. Yes.

5
6 Q. I take it from what you said that you didn't go down
7 the path of advancing a business case for any component of
8 FSS during the time that you occupied that position?

9 A. Correct, because I was basically told that it wouldn't
10 be supported.

11
12 Q. I think you did identify a couple of reasons, and
13 I didn't mean to be critical. I just want to get the
14 facts. There were a couple of reasons, I think, that you
15 may have advanced. One is that you thought, I think you
16 said, it was too soon after a change of government from the
17 Newman government to go down the path of asking for more
18 money?

19 A. Yes.

20
21 Q. And there was some connection with an anticipated
22 report from the Queensland Audit Office; do I understand
23 that correctly?

24 A. That's right.

25
26 Q. For the years 2020/2021, we're getting into the
27 emergence of COVID in March 2020; correct?

28 A. Yes.

29
30 Q. Did that intrude on the budget process for that coming
31 financial year?

32 A. I believe there were further savings dividends, as
33 they like to call them, handed down in that year as well,
34 so again the budget position became tighter again.

35
36 MR RICE: Thank you.

37
38 THE COMMISSIONER: Thank you. Mr Hickey?

39
40 <EXAMINATION BY MR HICKEY:

41
42 MR HICKEY: Q. Mr Doherty, is that how you pronounce
43 your surname?

44 A. It'll do. It's "Doherty". You need an Irish accent
45 to say it properly.

46
47 Q. No, no, I understand. I act for Cathie Allen and for

1 Justin Howes. Could I take up with you, please, the issue
2 that my learned friend Mr Rice has just been talking with
3 you about, and that is funding. The notes that I had taken
4 in particular of the evidence that you gave about funding
5 are these, that first you'd said that during the relevant
6 period that you were the executive director, there were no
7 increases, only cuts; second, that it was well known within
8 the forensic community that there had been cuts made by the
9 Newman government; and, third, that it had become clear to
10 you from the first year that we - that is, the FSS
11 generally - were going to have a salary shortfall. Do you
12 recall giving evidence about those three points?

13 A. Yes.

14

15 Q. Those issues were matters I presume that you discussed
16 generally with Cathie Allen?

17 A. Yes.

18

19 Q. In the course of your interactions with her, you
20 impressed upon her that that was the corporate environment
21 within which she was expected to manage her role?

22 A. I guess it depends - I might need a clarification on
23 what you mean by the question. She was certainly aware
24 that I was prepared to go over budget on salaries, a little
25 less leeway on operating expenditure.

26

27 Q. In any event, she was aware that your expectation of
28 her was that generally the prevailing circumstance was that
29 the organisation was being asked to do more with less?

30 A. Yes.

31

32 Q. Now, you gave some evidence to my learned friend the
33 counsel assisting Ms Reece about the Working for Queensland
34 forms; do you recall that?

35 A. Yes.

36

37 Q. In particular, you were talking about the fact that
38 you had not been able to have access to the free text
39 responses. You made requests for those to be provided to
40 you of HR, didn't you?

41 A. Yes. On multiple occasions, for both surveys that
42 were held during my time.

43

44 Q. As you understood it, it was within HR's power to
45 provide that information?

46 A. Yes. I believe they even told me they had that
47 information but that it wouldn't be passed on.

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Q. And, indeed, it wasn't passed on to you?

A. Correct.

Q. Now, could I ask you finally then, please, some questions about the reworking protocol. Do you recall being asked about that by the counsel assisting and also by Mr Hunter a few moments ago?

A. Yes.

Q. I think initially what you suggested - and you were asked some questions about this by the Commissioner - was that it was an administrative process, and you then clarified what you meant about that. Can I just ask you some questions about that process?

A. Yes.

Q. It was the case, wasn't it, that there was a concern within the lab about situations in which QPS would be provided with a result which was different from one which had previously been communicated to them?

A. Yes.

Q. The difficulty about that was because it potentially would leave QPS in a situation where it had commenced to bring proceedings against somebody who ultimately it might be decided was in fact not implicated in the crime at all?

A. Correct, yes.

Q. As a matter of administrative expedience as between the lab and QPS, it was necessary from the lab management's perspective to have some understanding of the frequency with which that kind of thing might occur?

A. Yes.

Q. And to understand the reasons why that kind of thing might occur?

A. Yes.

Q. Because of that and because of those discussions that you've mentioned that were held with Inspector Neville and others, was it not the case that you in fact asked Ms Allen to create this system by which she would keep track of the occasions upon which the reworking would occur?

A. No. No, I didn't ask her to create the system. I believe she came to me with the system. It was in my first week, so I wouldn't have had time to ask her to

1 create a system and then authorise that within three or
2 four days of having arrived in the organisation.
3

4 Q. Can I suggest to you that you're misremembering that
5 and that in fact you had come to her office and stood in
6 the doorway of her office and discussed that with her and
7 asked her to create that process?

8 A. Certainly not my recollection.
9

10 Q. In any event, that process was not one, was it, where
11 although it's being said Ms Allen was the arbiter of what
12 should happen in respect of reworking, in fact she didn't
13 stand in the way of reworking where that was asked to
14 occur, did she?

15 A. No, I don't believe so. I wasn't aware of anything.
16

17 Q. Indeed, it was simply that the request had to be made
18 so that somebody was the central repository within the lab
19 of the occasions upon which a reporting scientist had
20 identified that it was necessary for a reworking to occur?

21 A. Yes.
22

23 Q. You're not aware, for instance, of her applying her
24 own independent scientific value judgments on whether or
25 not a reworking should occur?

26 A. No, I'm not aware, no.
27

28 Q. If it was requested, that's what would happen?

29 A. I believe so.
30

31 Q. And it was Ms Allen's role to liaise with Inspector
32 Neville or anybody else at QPS around the reasons that sat
33 behind why a different result from that which had
34 previously been advised was now being presented to them?

35 A. Yes.
36

37 MR HICKEY: Thank you. Thank you, Commissioner, those are
38 the questions.
39

40 THE COMMISSIONER: Thank you, Mr Hickey. Does anybody
41 else have any questions. Mr Murdoch?
42

43 MR MURDOCH: No, Commissioner.
44

45 MS MCKENZIE: No, Commissioner.
46

47 THE COMMISSIONER: No re-examination, Ms Reece?

1
2 MS REECE: No, thank you, Commissioner.
3
4 THE COMMISSIONER: Thank you, Mr Doherty, for your
5 evidence. Feel free to cut the link, if you wish.
6
7 <THE WITNESS WITHDREW
8
9 THE COMMISSIONER: Thank you. So, Ms Reece, that's it for
10 today; is that right?
11
12 MS REECE: It is, Commissioner. Ms Wyman-Clarke was
13 slated to be called today, but we won't be calling her.
14
15 THE COMMISSIONER: Yes. You want to tender Mr Doherty's
16 proof?
17
18 MS REECE: Yes. Thank you, Commissioner.
19
20 THE COMMISSIONER: Exhibit 97 - 98, I'm told. Oh, yes,
21 it's exhibit 98.
22
23 **EXHIBIT #98 PROOF OF EVIDENCE OF JOHN DOHERTY**
24
25 THE COMMISSIONER: And what's happening tomorrow?
26
27 MS REECE: Tomorrow is Mr Csoban and Ms Brisotto, and
28 Mr Hodge will take both those witnesses.
29
30 THE COMMISSIONER: Good, thank you very much. Adjourn
31 until 9.30. Shall we do 9.30?
32
33 **AT 1.24PM THE COMMISSION WAS ADJOURNED**
34 **TO THURSDAY, 20 OCTOBER 2022 AT 9.30AM**
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